













08:25AM 1 that's perfectly fine. No problem.

08:25AM 2 Mr. Webb answers, "Absolutely not." Again,  
08:25AM 3 no problem, no issue. But then in the separate  
08:25AM 4 sentence, he makes a comment that was obviously made in  
08:25AM 5 jest. It's irrelevant to whether or not Sabre hid the  
08:25AM 6 fact that it was going to talk to Mr. Horton from  
08:25AM 7 Ms. Blaise-Shamai. And more importantly, it's highly  
08:25AM 8 inflammatory and would be unduly prejudicial even if it  
08:25AM 9 were relevant.

08:25AM 10 The last e-mail, the October 1, 2001,  
08:25AM 11 e-mail, begins with an e-mail from Hallerberg to Webb  
08:25AM 12 attaching a news story in a travel publication called  
08:25AM 13 "The Beat." And that news story contains an interview  
08:25AM 14 with American's Blaise-Shamai about American's Direct  
08:25AM 15 Connect strategy.

08:25AM 16 Mr. Hallerberg asks Webb if the statements  
08:26AM 17 AA made about Direct Connect were accurate and about  
08:26AM 18 AA's motivations. You can see that inquiry. And  
08:26AM 19 Mr. Webb responds with his view where he disparages AA's  
08:26AM 20 comments in "The Beat." All of that, of course, is  
08:26AM 21 fine.

08:26AM 22 Then in three totally unrelated e-mails to  
08:26AM 23 "The Beat" or to American or to Direct Connect,  
08:26AM 24 Mr. Hallerberg sends Webb an e-mail with a single  
08:26AM 25 sentence asking about what Blaise-Shamai's name meant,

08:26AM 1 in suggesting Blaise-Shamai means BS. The comments  
08:26AM 2 about her name or the first initials of her name are  
08:26AM 3 wholly irrelevant to Direct Connect or what Sabre  
08:26AM 4 thought of Direct Connect.

08:26AM 5 Then Webb responds with a vulgar comment  
08:26AM 6 about Blaise-Shamai using words and terms that are  
08:26AM 7 extraordinarily offensive to women, if not also to men.  
08:27AM 8 That comment has zero to do with Direct Connect, with  
08:27AM 9 American, or Sabre.

08:27AM 10 And then Hallerberg responds with a single  
08:27AM 11 sentence reacting that it was funny. This also has no  
08:27AM 12 relevance to Direct Connect, AA, or Sabre.

08:27AM 13 These three e-mails, Judge, are -- contain  
08:27AM 14 language that is hot button and so inflammatory that a  
08:27AM 15 jury cannot set it aside and decide the case on the  
08:27AM 16 evidence.

08:27AM 17 And I want to quickly talk about the  
08:27AM 18 Supreme Court decision in *Coastal*, which was a case  
08:27AM 19 involving an oil and gas lease that has been given by  
08:27AM 20 some Hispanics.

08:27AM 21 After a jury verdict for the plaintiffs, on  
08:27AM 22 appeal, *Coastal* argued that the trial judge erred in  
08:27AM 23 letting in a memo, an internal *Coastal* memo that  
08:27AM 24 referred to the plaintiffs' ancestors as mostly  
08:27AM 25 "illiterate Mexicans," even though the memo also



08:27AM 1 commented on some title issues that were in dispute.

08:28AM 2 The Court said the comment about illiterate  
08:28AM 3 Mexicans was not relevant to the lease, and it also  
08:28AM 4 noted it presented a clear danger of unfair prejudice.  
08:28AM 5 So it reversed the jury trial and ordered a new trial,  
08:28AM 6 an entire waste of the Court's time, the jury's time,  
08:28AM 7 and the parties' time.

08:28AM 8 In a separate concurring opinion by Justice  
08:28AM 9 Johnson, joined by Chief Justice Jefferson and Justice  
08:28AM 10 Medina, they wrote that this kind of evidence has no  
08:28AM 11 place in a trial, and noted also that the plaintiff  
08:28AM 12 there had failed to offer the alleged relevant portions  
08:28AM 13 in the memo, just like American has failed and refused  
08:28AM 14 to do here.

08:28AM 15 And this is what Justice Johnson wrote, and  
08:28AM 16 I quote, "This Court has long recognized that it is not  
08:28AM 17 acceptable advocacy to attempt to inflame the jury with  
08:28AM 18 irrelevant evidence of or reference to such hot-button  
08:29AM 19 matters as sex, race, ethnicity, nationality, or  
08:29AM 20 religion. Texas courts have not hesitated to treat such  
08:29AM 21 irrelevant evidence and comments as incurable error."

08:29AM 22 These select excerpts that are the subject  
08:29AM 23 of this motion are just those very types of comments,  
08:29AM 24 and American intends to use them for that very purpose.

08:29AM 25 During depositions, American's counsel not

08:29AM 1 only asked the witness about them, they insisted that  
08:29AM 2 the witness read the comments out loud. And at the  
08:29AM 3 first hearing on this motion, in order to prejudice  
08:29AM 4 Judge Cosby, Mr. Yetter represented at Page 47, lines 5  
08:29AM 5 to 8 of the reporter's record, that American had found  
08:29AM 6 four other Sabre e-mails with the "C" word in them.

08:29AM 7           After Judge Cosby ruled, we asked American  
08:29AM 8 to identify those four e-mails. It turned out there  
08:30AM 9 were none. This is the only e-mail of that type. So  
08:30AM 10 American misled Judge Cosby in suggesting there were  
08:30AM 11 five separate e-mails containing similar or containing  
08:30AM 12 the same word.

08:30AM 13           Your Honor, I'll close by saying you, the  
08:30AM 14 jury, and the parties have way too much invested in this  
08:30AM 15 case to have it decided on hot-button words that are the  
08:30AM 16 subject of this motion. And if AA is permitted to use  
08:30AM 17 them, it will -- it will create incurable error and  
08:30AM 18 justice will not be served.

08:30AM 19           MR. YETTER: Good morning, Judge. This is  
08:30AM 20 an issue that Judge Cosby dealt with at length. I'm  
08:30AM 21 sure the Court has a copy of Judge Cosby's order, which  
08:30AM 22 is four pages that he typed up -- or he had his staff  
08:30AM 23 type up -- where he carefully went through the arguments  
08:30AM 24 on both sides.

08:30AM 25           In essence, Your Honor, what Sabre has

08:30AM 1 asked, would ask Judge Cosby to do, and is asking you to  
08:31AM 2 do is to take some of their critical documents -- and  
08:31AM 3 there's a number of documents in which they use curse,  
08:31AM 4 coarse, or foul language, and that those documents are  
08:31AM 5 directed to American.

08:31AM 6 And, Your Honor, what you're going to hear  
08:31AM 7 in this case is that Sabre is going to say that we  
08:31AM 8 wanted to be partners with American and that we never  
08:31AM 9 had any ill intent to American, and we never wanted to  
08:31AM 10 hurt American. And intent is part of this case. Every  
08:31AM 11 one of our -- there are two key causes of action:  
08:31AM 12 Antitrust and tortious interference. Both have elements  
08:31AM 13 of intent. And what Sabre wants to do, what it asked  
08:31AM 14 Judge Cosby to do, who said that it was inappropriate,  
08:31AM 15 and what they're asking you to do, Your Honor, is to  
08:31AM 16 take out the evidence of their intent, to American, out  
08:31AM 17 of this case, in which intent is something the jury has  
08:31AM 18 to decide.

08:31AM 19 This jury is not that sensitive to bad  
08:31AM 20 language. It happens every day in everyday occurrences.  
08:31AM 21 In fact, Sabre extensively voir dired the jury on bad  
08:31AM 22 language. And any person on the jury that said they  
08:32AM 23 couldn't put it past them, that they would fixate on bad  
08:32AM 24 language and not be able to decide the case on evidence,  
08:32AM 25 they were dismissed for cause. And so this jury is not

08:32AM 1 a jury in which they've never heard words like this.

08:32AM 2 But the key point, Your Honor, is that  
08:32AM 3 these words go to the heart of what we're trying to  
08:32AM 4 prove. We are -- we have to prove as the plaintiff for  
08:32AM 5 an antitrust case to -- for the treble damages, flagrant  
08:32AM 6 and malicious. That's our burden. We have to prove for  
08:32AM 7 a tortious interference claim intentional acts that hurt  
08:32AM 8 the plaintiff. We have to prove for an exemplary  
08:32AM 9 damages claim maliciousness or a heightened bad intent.

08:32AM 10 What Sabre has asked -- what Sabre asked  
08:32AM 11 Judge Cosby to do is take three e-mails from their top  
08:32AM 12 executives and essentially to sanitize them because  
08:32AM 13 these e-mails reflect their true intent.

08:32AM 14 Now, Judge Cleveland, one thing you should  
08:32AM 15 know is that these e-mails, why they use foul language  
08:33AM 16 directed apparently to a person, isn't directed to that  
08:33AM 17 person; it's actually directed to American.

08:33AM 18 So for example, Your Honor, the second and  
08:33AM 19 third e-mails that they talked about that -- in which  
08:33AM 20 they mention an American executive or American managing  
08:33AM 21 director by the name of Blaise-Shamai, the men that put  
08:33AM 22 that in there have never met her. And so this is the  
08:33AM 23 e-mail that says -- that talks about whether to give  
08:33AM 24 notice, whether to tell Bridget about our planned  
08:33AM 25 discussions with Horton.

08:33AM 1 And the response is on August 24th, 2010.  
08:33AM 2 And the response is, No way. Don't do that. In fact,  
08:33AM 3 tell her that we're going -- that we're -- instead,  
08:33AM 4 we're going to roll over her. He's never met the woman.  
08:33AM 5 This is not an issue of it's a personal attack, because,  
08:34AM 6 Your Honor, he doesn't know her.

08:34AM 7 He was reflecting -- and this is at the  
08:34AM 8 time in August 2010 where Sabre is -- you're going to  
08:34AM 9 hear this opening, Your Honor, that Sabre's going to  
08:34AM 10 allege in this case that they gave American notice of  
08:34AM 11 all the actions that they were taking at time.

08:34AM 12 In fact, this e-mail says, Should we give  
08:34AM 13 notice to this -- one of their negotiating counterparts.

08:34AM 14 Absolutely not. Instead, tell her  
08:34AM 15 something entirely different.

08:34AM 16 So, Your Honor, these are  
08:34AM 17 critical -- critically relevant e-mails that if the jury  
08:34AM 18 don't see them, the jury doesn't know the facts. That's  
08:34AM 19 what Sabre -- with all due respect, that's what Sabre  
08:34AM 20 asked Judge Cosby to do. And that, with Judge Cosby's  
08:34AM 21 background in this case, is what he said was  
08:34AM 22 inappropriate.

08:34AM 23 Judge Cosby dealt with the *Coastal* case,  
08:34AM 24 and the *Coastal* case is nothing like this case. In  
08:34AM 25 *Coastal*, they talked about a racial slur that was in the

08:34AM 1 document that has nothing to do with the case. These  
08:34AM 2 documents, these three documents, Your Honor, go to the  
08:34AM 3 heart of the case, are by top executives and they  
08:35AM 4 reflect Sabre's intent to harm American. That is what  
08:35AM 5 we must prove in this case. It is an element of our  
08:35AM 6 case.

08:35AM 7           And these e-mails, whether they use bad  
08:35AM 8 language or other sort of colorful language -- because  
08:35AM 9 there's other e-mails that are just as vivid, but they  
08:35AM 10 use different language -- they all have to go to the  
08:35AM 11 jury, otherwise the jury isn't seeing the facts of the  
08:35AM 12 case. And as I said, Your Honor, this jury that is  
08:35AM 13 impaneled has been voir dired extensively on the use of  
08:35AM 14 bad language, and none of them said that they'd have any  
08:35AM 15 problem deciding this case on the facts and not being  
08:35AM 16 unduly prejudiced or swayed by any sort of bad language  
08:35AM 17 by either side.

08:35AM 18           So with all due respect, Your Honor, we  
08:35AM 19 believe that Sabre's motion to reconsider is not well  
08:35AM 20 taken and that Judge Cosby's very careful order should  
08:35AM 21 be upheld. Thank you.

08:35AM 22           THE COURT: Very well. I think it's  
08:35AM 23 unfortunate that some people tend to express themselves  
08:35AM 24 this way. I can't see that these comments tend to prove  
08:35AM 25 or disprove anything, and I'll grant the motion.

08:36AM 1 MR. DUGGINS: Thank you, Your Honor.

08:36AM 2 THE COURT: We'll be ready in just a few  
08:36AM 3 minutes, Counsel.

08:36AM 4 (Break taken from 8:36 a.m. to 9:01 a.m.)

08:59AM 5 (Jury present)

09:01AM 6 THE COURT: Good morning, ladies and  
09:01AM 7 gentlemen. There's a new face in the courtroom. What's  
09:01AM 8 he doing here? My name is David Cleveland. I'm a  
09:01AM 9 senior district judge, and I will be presiding during  
09:01AM 10 the rest of this trial. Judge Cosby has other dockets  
09:01AM 11 and other cases to try, and he will be working at that.  
09:01AM 12 So I look forward to working with you during this trial.

09:02AM 13 Now, Counselor, are you ready to make your  
09:02AM 14 opening statement?

09:02AM 15 MR. YETTER: Yes, Your Honor, for American,  
09:02AM 16 I am.

09:02AM 17 THE COURT: All right.

09:02AM 18 OPENING STATEMENTS BY PLAINTIFF

09:02AM 19 MR. YETTER: Good morning, folks.

09:02AM 20 MEMBERS OF THE JURY: Good morning.

09:02AM 21 MR. YETTER: I'm really glad you're back.  
09:02AM 22 I know you probably have some mixed feelings, but I  
09:02AM 23 missed you. And you're so important.

09:02AM 24 This is a very important case. And so  
09:02AM 25 today, unlike two weeks ago, I'm going to talk about the

09:02AM 1 facts. And we're going to hear some things -- I'm going  
09:02AM 2 to tell you a story that is pretty amazing, and in some  
09:02AM 3 ways shocking, at least it was to me. But it's fact.  
09:02AM 4 And I'm telling you this story so that you know what's  
09:02AM 5 coming, because in this trial, we're going to prove up  
09:02AM 6 everything I tell you and more.

09:02AM 7 And I want you to be patient with me,  
09:03AM 8 because there's a lot here both sides are going to talk  
09:03AM 9 about. But there's a lot to talk about. So let's talk  
09:03AM 10 about the facts, and let's get started.

09:03AM 11 Several years ago, six years ago, in fact,  
09:03AM 12 in a boardroom of a very powerful company, a decision  
09:03AM 13 was made to bring American to its knees by a series of  
09:03AM 14 attacks in order to get what this powerful company  
09:03AM 15 wanted. And these attacks hurt not only American, but  
09:03AM 16 us consumers, because this is a story about how a very  
09:03AM 17 powerful company in a very secret way spent years -- the  
09:03AM 18 top executives spent years planning how to crush new  
09:03AM 19 competition and how to preserve their monopoly.

09:03AM 20 And they hatched a plan that wasn't just  
09:03AM 21 one thing or two things or three things. They had a  
09:04AM 22 plan in which they were going to hide or drop our  
09:04AM 23 flights in their display. The GDS is a display.  
09:04AM 24 They're going to hide them or drop them. They were  
09:04AM 25 going to double our fees overnight. They were going to



09:04AM 1 organize industry boycotts. They were going to threaten  
09:04AM 2 exclusion of us from the GDS. They were going to use  
09:04AM 3 false excuses to blame American. And they were going to  
09:04AM 4 use secrecy and deception and more, more, more.

09:04AM 5 Now, what American needs to do and what  
09:04AM 6 American was trying to do is innovate and compete and  
09:04AM 7 cut its cost, as it needs to do that. Every good  
09:04AM 8 company needs to do that. And we wanted to sell our  
09:04AM 9 tickets to corporate travelers through innovative new  
09:04AM 10 technology. Other companies do this. Other airlines do  
09:04AM 11 this. Other airlines do it successfully. And consumers  
09:04AM 12 should decide whether this is good or not good, and not  
09:05AM 13 powerful companies who -- who launch secret attacks.

09:05AM 14 It's all about choice. That's what, ladies  
09:05AM 15 and gentlemen, you're going to hear in this case. It's  
09:05AM 16 all about choice. This is where you come in, because in  
09:05AM 17 our state, we depend on juries like you together to do  
09:05AM 18 what the law requires. We will not have fair, vigorous  
09:05AM 19 competition in our state unless jurors like you enforce  
09:05AM 20 our laws. And you, ladies and gentlemen, you can make a  
09:05AM 21 difference in the business. This is very important  
09:05AM 22 business, the airline business, and you can make a  
09:05AM 23 difference by your decision over the next few weeks.

09:05AM 24 So like every good story, I want to tell it  
09:05AM 25 in chapters. And I will tell the first chapter about

09:05AM 1 how Sabre came up with this plan. Because it wasn't a  
09:05AM 2 simple plan; it was a complicated and secret plan to  
09:06AM 3 kill Direct Connect.

09:06AM 4           There's two ways that you can sell tickets  
09:06AM 5 to corporate travelers. The old way is the GDS way we  
09:06AM 6 talked about in voir dire. The new way, we believe the  
09:06AM 7 better way, the innovative way, is through what's called  
09:06AM 8 Direct Connect. It's new technology and there's  
09:06AM 9 advantages to it. It can cut your costs. It can allow  
09:06AM 10 you to be more personalized with your consumers. It can  
09:06AM 11 allow you to be more flexible. You can give new  
09:06AM 12 products. You can give more cheaper tickets and  
09:06AM 13 products. And these are advantages that are used by  
09:06AM 14 other airlines, like Southwest Airlines and Air Canada,  
09:06AM 15 to their great benefit. That's what American wanted to  
09:06AM 16 do.

09:06AM 17           But the GDSs in the old model have lots of  
09:06AM 18 control, because, as we saw, there's lots of corporate  
09:06AM 19 business travelers. Remember this case, ladies and  
09:06AM 20 gentlemen, it's not about us when we're traveling on  
09:06AM 21 vacation; it's about us when we travel for business.  
09:06AM 22 And there's millions of folks that travel for business  
09:07AM 23 every year and those folks, their companies, their  
09:07AM 24 corporations, have arrangements with travel -- big  
09:07AM 25 business corporate travel agencies. And there's only a

09:07AM 1 handful of them, but there's maybe a dozen big ones,  
09:07AM 2 like American Express. And remember some of these  
09:07AM 3 names: BCD and CWT. I know we talked about them a lot  
09:07AM 4 about two weeks ago and it probably seems like two years  
09:07AM 5 ago, but you'll hear a lot of them. And there's only  
09:07AM 6 three GDSs: Sabre, by far, is the biggest; and also  
09:07AM 7 Travelport; and also Amadeus. Amadeus is small. You  
09:07AM 8 won't hear a whole lot about them in this case, because  
09:07AM 9 it's -- in the United States, they're very small.

09:07AM 10 But all of those GDSs have deals with every  
09:07AM 11 major airline in the United States, because the major  
09:07AM 12 airlines in the United States have to be in the GDSs for  
09:07AM 13 them to survive. Remember, there's only one big airline  
09:07AM 14 in the United States, and it happens to be here in our  
09:07AM 15 state, that doesn't have to deals with all the GDSs.  
09:07AM 16 Who is that? Southwest.

09:08AM 17 So Sabre, the biggest GDS in the United  
09:08AM 18 States is a very powerful company. You're going to  
09:08AM 19 learn a lot about them that most people don't know,  
09:08AM 20 because they're not very well-known. They're owned by  
09:08AM 21 some private groups, which are big financial companies  
09:08AM 22 that own them privately, so they're not a public  
09:08AM 23 company. And what the evidence is going to show is that  
09:08AM 24 it's run by a group of executives, six, in particular,  
09:08AM 25 that you'll see here. And you're going to see -- as we

09:08AM 1 talk today, you're going to see what role these  
09:08AM 2 executives had in this plan to attack American and  
09:08AM 3 American Direct Connect, because the evidence is not  
09:08AM 4 going to be, ladies and gentlemen, that this was done  
09:08AM 5 somewhere down at the lower levels by some managerial  
09:08AM 6 level folks.

09:08AM 7 Let's see what role they have. And  
09:08AM 8 what's -- why Sabre's so powerful is because they have  
09:08AM 9 control over access to corporate travelers. Corporate  
09:08AM 10 travelers, as we talked about before, are the folks who  
09:08AM 11 work, for example, for PepsiCo or IBM or GE, and there's  
09:09AM 12 many, many of them and they pay much more than we do  
09:09AM 13 when we travel on vacation. They pay for business, and  
09:09AM 14 they have to have flexibility, so they'll pay more, and  
09:09AM 15 they're critical for the airline.

09:09AM 16 And for American to get to these important  
09:09AM 17 business corporate travelers, they need to get to the  
09:09AM 18 travel agencies that their companies have deals with.  
09:09AM 19 So their travel agencies -- there's several of them, but  
09:09AM 20 the ones you're going to hear about here are BCD;  
09:09AM 21 American Express, same people that make the credit card;  
09:09AM 22 and CWT, Carlson Wagonlit Travel. To get to these  
09:09AM 23 travel agencies, these corporate travel agencies,  
09:09AM 24 American has to go through a gate. That gate is Sabre.  
09:09AM 25 That's where they have their power.

09:09AM 1 We need corporate travelers to survive.  
09:09AM 2 American takes lots of us for vacation, lots of places,  
09:09AM 3 but we -- because we can flexible, we pay the lowest  
09:10AM 4 fares, and they're very important travelers, but we need  
09:10AM 5 corporate travelers, because they pay the premium fares.  
09:10AM 6 Without them, we can't survive. And of all of those  
09:10AM 7 corporate travelers that we carry, 70 percent,  
09:10AM 8 70 percent, 7 out of every 10, are booked through  
09:10AM 9 agencies or corporations that use Sabre. So do the  
09:10AM 10 math, and what you'll see at trial is that American has  
09:10AM 11 two-and-a-half billion dollars of corporate business  
09:10AM 12 travel that goes through Sabre. And that, ladies and  
09:10AM 13 gentlemen, is what we had at risk in this case. That's  
09:10AM 14 not total, that's every year, two-and-a-half billion  
09:10AM 15 dollars.

09:10AM 16 So this is a cartoon, and it's just a  
09:10AM 17 cartoon, but what it reflects is what we believe the  
09:10AM 18 evidence is going to show you, is that these airlines  
09:10AM 19 are struggling. American, clearly. They want to do  
09:10AM 20 better. They want to be successful. They want to give  
09:10AM 21 good service to their customers. They want to sell more  
09:10AM 22 tickets. They want to sell better, cheaper products,  
09:11AM 23 but they have a problem and that is that they have some  
09:11AM 24 companies that are supposed to work for them that are  
09:11AM 25 actually siphoning off critical profits on the airlines

09:11AM 1 and making them less flexible and less adaptable.

09:11AM 2 Now remember, we talked about this in voir  
09:11AM 3 dire, monopoly is the power to do two things: One,  
09:11AM 4 exclude your competitors; or two, control your prices.  
09:11AM 5 Ladies and gentlemen, the evidence you're going to hear  
09:11AM 6 at trial is there has not been another successful GDS in  
09:11AM 7 this country in 25 years. So we want to sell more  
09:11AM 8 seats. We want to carry more people on your planes, and  
09:11AM 9 when we want to fill them up at the back, it helps to  
09:11AM 10 put them -- we're willing to sell them the very cheapest  
09:11AM 11 tickets at a low cost, but we can't, as we'll see during  
09:11AM 12 this trial, because of the restrictions that Sabre has  
09:12AM 13 put on us. We want to sell those Web-only fares at the  
09:12AM 14 last minute. Remember what Southwest has? DING! fares.  
09:12AM 15 We want to do that. We want to fill up, even if they're  
09:12AM 16 very low prices, because we can be very surgical about  
09:12AM 17 it and we can fill up the backs of our planes. So our  
09:12AM 18 relationship with Sabre, instead of being as helpful to  
09:12AM 19 us as we wish it could be, restricts us. And so unlike  
09:12AM 20 Southwest, who can cut its costs and who can have more  
09:12AM 21 innovative products and sell more tickets, even if  
09:12AM 22 they're cheap tickets, American can't do that.

09:12AM 23 Because we can't do today what Southwest  
09:12AM 24 can do every day, is sell tickets, only on their Web  
09:12AM 25 site, like DING! fares.

09:12AM 1 So what happens, ladies and gentlemen, when  
09:12AM 2 we -- what we'll hear in evidence during the trial?  
09:12AM 3 What happens when the middleman holds the power, when  
09:12AM 4 the distributors of products rule? Well, let me give  
09:13AM 5 you an analogy of what we think we're going to hear at  
09:13AM 6 trial, ladies and gentlemen, is that if you had a bakery  
09:13AM 7 and you had to use a distributor, like the trucking  
09:13AM 8 company, to get your bread to the supermarkets, they'd  
09:13AM 9 have a lot of power.

09:13AM 10 And if there was only one big, powerful  
09:13AM 11 trucking company in your town, you'd have to use them  
09:13AM 12 and you'd pay \$1 a loaf, or whatever they charged, to  
09:13AM 13 get your bread in the supermarkets. But what if every  
09:13AM 14 week you had a little bit of bread left over and you  
09:13AM 15 said, I don't want it to go to waste and I can make some  
09:13AM 16 money on it. I'd like to sell that to customers that  
09:13AM 17 come to me directly, that walk in. I want to sell  
09:13AM 18 directly to some customers that walk in and then I don't  
09:13AM 19 have a pay that \$1 distributor fee for every loaf, but  
09:13AM 20 instead, I can sell it at half price and I don't have  
09:13AM 21 waste, and everybody loves a bargain.

09:13AM 22 And why is that good for me? Because I'm a  
09:13AM 23 baker and I'm selling my products, just like an airline  
09:14AM 24 selling its products, more of them, even if they're half  
09:14AM 25 price. But if that big trucking distributor has so much

09:14AM 1 control over you, because there's only one big one  
09:14AM 2 around, that it can say, well, wait a minute, I don't  
09:14AM 3 like you selling your bread without paying me a dollar a  
09:14AM 4 loaf. Then they can say, you know what, if you want to  
09:14AM 5 sell half-price bread, then you have to sell it to all  
09:14AM 6 the supermarkets at half price, too.

09:14AM 7 Well, why would they do that? Because they  
09:14AM 8 know that the airline -- excuse me, that the baker, and  
09:14AM 9 likewise the airline, would never sell another  
09:14AM 10 half-price loaf again, because if they had to sell to  
09:14AM 11 everybody at half price, they'd go out of business.  
09:14AM 12 That's what we're going to hear happened here.

09:14AM 13 So let's move back. Let's talk about the  
09:14AM 14 chronology, now, of the story. Six years ago we needed  
09:14AM 15 a new contract. American and Sabre had been partners  
09:14AM 16 for decades. We looked at them as a partner. We wanted  
09:15AM 17 them to help us to go forward into a new era of  
09:15AM 18 distributing our tickets to corporate passengers. And  
09:15AM 19 we went to them and we said, we want to be able, at some  
09:15AM 20 point, to do Direct Connect, and we want you to help us.  
09:15AM 21 We were open about that. And we told them what we  
09:15AM 22 wanted, but instead, Sabre decided secretly not to help  
09:15AM 23 us, but to crush Direct Connect.

09:15AM 24 So 2002, what was the history? In 2002, we  
09:15AM 25 used to sell Web fares and we used to sell them on our



09:15AM 1 Web site. And Sabre was not happy about that. They  
09:15AM 2 didn't -- at AA.com. They didn't like the competition,  
09:15AM 3 and so they stopped it. But remember, ladies and  
09:15AM 4 gentlemen, this is about corporate business travelers.  
09:15AM 5 Because we have already -- American has already  
09:15AM 6 accomplished Direct Connect for vacation travelers, and  
09:15AM 7 what's it called? It's called AA.com, and it works and  
09:16AM 8 it works beautifully. It is one of the -- it was -- we  
09:16AM 9 and Southwest started it on our Web sites the first year  
09:16AM 10 and they're considered -- ours is considered, as is  
09:16AM 11 theirs, one of best in the world.

09:16AM 12                   And what does it do? It can sell -- it  
09:16AM 13 sells our tickets to folks that want to come for the  
09:16AM 14 best, cheapest price, and it can do a hotel and it can  
09:16AM 15 do a car and there's no booking fees. This is from the  
09:16AM 16 Web site, and you have guaranteed low price. And this  
09:16AM 17 is for people that travel for vacation, and all we  
09:16AM 18 wanted to do when we told Sabre, in 2006, is do the same  
09:16AM 19 thing for corporate travelers, so that we could be  
09:16AM 20 flexible and innovative with our other very important  
09:16AM 21 group of travelers, business corporate travelers.

09:16AM 22                   Sabre didn't like that. Why? Because if  
09:16AM 23 they don't get \$1 a loaf, if we sell direct, it might  
09:16AM 24 hurt their profits.

09:17AM 25                   So we want to go direct, instead of having

09:17AM 1 the old way of doing it, where the money goes to Sabre,  
09:17AM 2 Sabre pays the money to the travel agent, travel agents  
09:17AM 3 get the corporate business travel. We want to go  
09:17AM 4 direct. And we think it's better, because it  
09:17AM 5 can -- it's new and innovative technology, it can cut  
09:17AM 6 our costs and it can give us better products and lower  
09:17AM 7 prices and we can get more loyalty from our corporate  
09:17AM 8 business travelers. And loyalty for a business is  
09:17AM 9 important. We all work for businesses that we want our  
09:17AM 10 customers to be loyal to us. Ladies and gentlemen, when  
09:17AM 11 we see the evidence, I want you to think about how loyal  
09:17AM 12 Sabre was to its customer, American.

09:17AM 13                   Direct Connect threatened Sabre's profits.  
09:17AM 14 Every company operates for profits, but what we believe  
09:17AM 15 you're going to hear in this case, is evidence that  
09:17AM 16 Sabre had a plan -- remember it's owned by some private  
09:18AM 17 equity groups. They didn't want to own it forever, they  
09:18AM 18 wanted to sell. They wanted to sell in five years. And  
09:18AM 19 they had a plan, and it's going to come into evidence,  
09:18AM 20 called Project Sovereign, and this plan was that we have  
09:18AM 21 a five-year exit. They wanted to exit Sabre and sell  
09:18AM 22 the Sabre stock. They owned it privately and they  
09:18AM 23 wanted to sell it to some other buyer, or to the public.  
09:18AM 24 And what they say in this plan is in five years,  
09:18AM 25 potential competitors, "Are unlikely to be as viable a

09:18AM 1 threat the next time around." So in 2006, they're  
09:18AM 2 saying that in five years, we're going to have the  
09:18AM 3 potential competitors going to be less of a threat, only  
09:18AM 4 if they can do one thing: Delay or destroy American's  
09:18AM 5 Direct Connect. Because if they can do that, then they  
09:18AM 6 can sell the company and the executives -- sometime it  
09:18AM 7 all comes down to money, folks -- the executives have  
09:18AM 8 good stock deals and they'll make lots of money. And so  
09:19AM 9 the decision was made six years ago, that we are going  
09:19AM 10 to delay or destroy Direct Connect.

09:19AM 11 So instead of doing -- instead of following  
09:19AM 12 business, even tough competitive business -- we live in  
09:19AM 13 a tough world -- Sabre decided to cross the line. They  
09:19AM 14 decided to cross the line from just business to what we  
09:19AM 15 believe, you're going to hear, is illegal conduct.  
09:19AM 16 Before we signed the contract -- I want to show you  
09:19AM 17 couple of e-mails that tell you what the intent of Sabre  
09:19AM 18 was. Before we signed the 2006 contract, Sabre, not to  
09:19AM 19 us, but to themselves, was fuming mad at us, because we  
09:19AM 20 said we wanted to sign a contract that lets us, helps us  
09:19AM 21 do Direct Connect in the future. Sabre said that's a  
09:19AM 22 threat. And so what Sabre said is, American -- this is  
09:19AM 23 the top man at Sabre, Sam Gilliland, July of 2006,  
09:20AM 24 roughly six weeks before we signed the contract. They  
09:20AM 25 are so mad at American they said, you know what, let's

09:20AM 1 start a boycott. Let's boycott our biggest and oldest  
09:20AM 2 customer. This is secret. We had no idea this was  
09:20AM 3 going on. We didn't learn this until this lawsuit.  
09:20AM 4 Let's ask the corporate travel team -- that means  
09:20AM 5 Sabre's internal corporate travelers, they traveled on  
09:20AM 6 American for decades and we're going to move 90 percent  
09:20AM 7 of our travel to another airline. We need to move fast.  
09:20AM 8 American needs to feel it, starting now.

09:20AM 9 So, ladies and gentlemen, when you have a  
09:20AM 10 long-time customer and you decide you're going to move  
09:20AM 11 business away from them and you do it secretly, you do  
09:20AM 12 it just to hurt them.

09:20AM 13 Now, here is a fellow you're going to see  
09:20AM 14 few times. His name is David Gross. He is an executive  
09:20AM 15 at Sabre. He's a lawyer. He's now a business guy. And  
09:21AM 16 he is the Sabre executive that they appointed to be the  
09:21AM 17 American relationship executive. In other words, he's  
09:21AM 18 the fellow that's supposed to be our advocate. He's  
09:21AM 19 supposed to fight for us at Sabre to get us the best  
09:21AM 20 deals to do -- so that we have a good -- we have good  
09:21AM 21 experience. This is the Sabre advocate for American.

09:21AM 22 Before we signed this contract, everyone at  
09:21AM 23 Sabre had decided this was the last time that American  
09:21AM 24 was going to be a threat, because American wanted to  
09:21AM 25 innovate, and innovation threatened Sabre. And so what

09:21AM 1 they decided in this contract is we're going to stop it  
09:21AM 2 once and for all.

09:21AM 3 And so what this fellow who is supposed to  
09:21AM 4 be our relationship man said, if they -- if  
09:21AM 5 American -- there has to be a price for this  
09:21AM 6 brinksmanship. In other words, American is saying, we  
09:21AM 7 really, really want to deal with Direct Connect. We  
09:21AM 8 need a contract that helps us do that.

09:21AM 9 If they come back, they have -- you  
09:22AM 10 have -- make sure you lay out the broken glass.

09:22AM 11 What was the broken glass they laid out?  
09:22AM 12 It was a trap in the contract that they intended to use  
09:22AM 13 to hurt us. So in this contract on September 1st, 2006,  
09:22AM 14 they put a trap in there that was a termination clause.  
09:22AM 15 A lot of contracts have termination clauses. That's  
09:22AM 16 pretty normal. This one is different.

09:22AM 17 And they put it in, and you might be  
09:22AM 18 thinking, well, why did American sign a contract with a  
09:22AM 19 trap in the termination clause? Well, let's talk about  
09:22AM 20 that.

09:22AM 21 So they put a termination clause in there,  
09:22AM 22 and that termination clause is supposed to be controlled  
09:22AM 23 by American. So this termination clause means do we end  
09:22AM 24 the relationship. And the way they said -- the way it  
09:22AM 25 was set up is that American was the only one that could

09:22AM 1 turn that switch. And we would never want to end the  
09:22AM 2 relationship, because if we're outside the GDS, we're  
09:22AM 3 dead. That doesn't mean we're not going to have tough  
09:22AM 4 negotiations to try our very best to get the very best  
09:23AM 5 deal, but if we're outside the GDS, we're dead.

09:23AM 6 So this termination clause, instead of  
09:23AM 7 being -- the switch being for American, Sabre said, you  
09:23AM 8 know what, when we negotiate this, we are going to use  
09:23AM 9 this termination clause and we're going to turn it  
09:23AM 10 against American and we're going to say, no matter what  
09:23AM 11 American does, that they flip switch. And then we're  
09:23AM 12 going to use it to blow up the contract. Because we're  
09:23AM 13 going to put so much pressure on American, they will  
09:23AM 14 have to do what we want five years later.

09:23AM 15 So how did they do it? They have this  
09:23AM 16 contract. They say, you have to give us full content.  
09:23AM 17 And full content basically -- and we'll get into the  
09:23AM 18 nuances of these contract provisions -- we believe the  
09:23AM 19 evidence is going to tell you, show you, ladies and  
09:23AM 20 gentlemen, that full content says we can't do -- the  
09:23AM 21 effect of it is we can't do these cheap Web-only fares.  
09:23AM 22 And we can't do special direct-to-business fares. We  
09:23AM 23 can't give extras to Direct Connect participants to  
09:23AM 24 entice them to come. At least that's how Sabre  
09:24AM 25 interpreted it.

09:24AM 1 And this also -- this -- this contract also  
09:24AM 2 has a clause that says no public marketing of the Direct  
09:24AM 3 Connect program. And essentially what it says  
09:24AM 4 is -- they put that in there just to slow down Direct  
09:24AM 5 Connect, because we have to convince people we'd like  
09:24AM 6 you to use Direct Connect. We want you to use Direct  
09:24AM 7 Connect.

09:24AM 8 And so they're saying you can't -- what  
09:24AM 9 Sabre's now saying, as you'll hear in this case, is you  
09:24AM 10 can't literally talk about it publicly at all.

09:24AM 11 That's not what it says. But if it said  
09:24AM 12 that, which is what Sabre is telling us in this case,  
09:24AM 13 it's illegal.

09:24AM 14 Now, why would we sign up with that? It's  
09:24AM 15 because we held the switch. Sabre said to us that this  
09:24AM 16 "blow-up clause," which is how people called it, we held  
09:24AM 17 the switch.

09:24AM 18 So the way it works, if American decides to  
09:24AM 19 publicly market Direct Connect, then there's a clause  
09:24AM 20 that says Sabre can't bias and that goes away. And if  
09:24AM 21 Sabre biases, which I'll explain in one second, then  
09:25AM 22 American may not provide full content and each side can  
09:25AM 23 end the contract. And if American withholds content,  
09:25AM 24 Sabre can raise the fee.

09:25AM 25 This is a very complicated situation, but

09:25AM 1 the key is -- it's like starting a car. We have the  
09:25AM 2 keys. And if we never start it, it'll never blow up.

09:25AM 3 So American determines -- and so the key is  
09:25AM 4 we have the switch, and who says that, ladies and  
09:25AM 5 gentlemen? Is there a dispute about that? There is  
09:25AM 6 testimony in this case when the top man -- remember his  
09:25AM 7 name is Gilliland -- "American was the only party that  
09:25AM 8 could trigger the unwind." The "unwind" is their word  
09:25AM 9 for the blow-up clause. We're the only ones that can do  
09:25AM 10 that. And we would never do it.

09:25AM 11 Why would we not do it? Well,  
09:25AM 12 here -- here's how it works under the contract. So  
09:25AM 13 there's an orderly way that if both sides decide they  
09:25AM 14 wanted to end the contract, this is how it would work.  
09:25AM 15 If American decided to publicly market, then  
09:26AM 16 Sabre -- the no-bias clause goes away, then American can  
09:26AM 17 pull some of its fares and flights from the GDS. Then  
09:26AM 18 Sabre can raise its prices and the parties can  
09:26AM 19 terminate. It's supposed to be agreed. It's supposed  
09:26AM 20 to be orderly. It's supposed to be aboveboard. There's  
09:26AM 21 not supposed to be any secrets involved. You tell the  
09:26AM 22 other side, because this is such an important  
09:26AM 23 relationship, ladies and gentlemen. It's not to  
09:26AM 24 supposed to happen by accident. It's not supposed to  
09:26AM 25 happen because someone's trying to set you up.



09:26AM 1 Well, how bad is it? If Sabre kicked us  
09:26AM 2 out, if Sabre blew up the relationship and Sabre kicked  
09:26AM 3 us out of their GDS -- remember, we have \$2.5 billion of  
09:26AM 4 corporate travel at risk. How bad is it?

09:26AM 5 What you're going to hear, ladies and  
09:26AM 6 gentlemen, not just American, it's from every party  
09:26AM 7 involved -- in fact some of these corporate travel  
09:26AM 8 agencies that signed up with Sabre to attack us, they  
09:26AM 9 will say that American could not last two days out of  
09:27AM 10 the Sabre GDS.

09:27AM 11 But it's not just us. Because other  
09:27AM 12 airlines deal with Sabre.

09:27AM 13 Here's testimony from the -- an airline  
09:27AM 14 called US Air. We've all heard of them. This is one of  
09:27AM 15 the key executive who deals with Sabre. And he  
09:27AM 16 had -- he signed a contract with Sabre as well. And we  
09:27AM 17 asked him, Why did you sign it if you didn't think it  
09:27AM 18 was a good deal?

09:27AM 19 And he said, We had no choice but to sign  
09:27AM 20 the contract because the alternative would be we would  
09:27AM 21 no longer be available for sale through Sabre, which  
09:27AM 22 would have been catastrophic for the airline.

09:27AM 23 Ladies and gentlemen, these GDSs have so  
09:27AM 24 much power that if you're not in the GDS, you wouldn't  
09:27AM 25 survive two days.

09:27AM 1 So how did we feel when we signed  
09:27AM 2 this -- contract? Well, we tried our best -- we did the  
09:27AM 3 best to try to get the very best deal we could. There  
09:27AM 4 were some things we could not negotiate on because they  
09:28AM 5 said it's absolutely -- full content is a good example.  
09:28AM 6 The blow-up clause, that was Sabre's blow-up clause.

09:28AM 7 We were actually -- thought we were -- more  
09:28AM 8 than anything else, we were relieved. We have a  
09:28AM 9 contract. We're in the GDS. We're safe. We thought we  
09:28AM 10 had a partner. We said that to the world. We were  
09:28AM 11 relieved. We were even happy. We tried our very best.

09:28AM 12 Ladies and gentlemen, I was even involved  
09:28AM 13 in negotiating. I didn't have any negotiating, but they  
09:28AM 14 asked me to help on a particular part. And what you're  
09:28AM 15 going to see, ladies and gentlemen, is that we all  
09:28AM 16 thought that we had done our very best. Well, let's see  
09:28AM 17 what happened.

09:28AM 18 Two months, the ink on the contract was  
09:28AM 19 barely dry, and Step 2 of the plan started. Step 1 was  
09:28AM 20 the trap in the contract. Step 2 is, how do we make it  
09:29AM 21 hurt the worst? This is the number two man at Sabre,  
09:29AM 22 Tom Klein. We'll see him all throughout trial.

09:29AM 23 Two months after signing, he sends an  
09:29AM 24 e-mail to just a small group of top executives and he  
09:29AM 25 says, let's do an initiative -- that's corporate speak

09:29AM 1 for "plan" -- let's do an initiative that targets  
09:29AM 2 getting as many things as possible in place. To do  
09:29AM 3 what? Neutralize American. Neutralize American's  
09:29AM 4 market move to disrupt the model.

09:29AM 5 The GDS was their fortress, and they wanted  
09:29AM 6 to neutralize -- this is two months after we signed the  
09:29AM 7 contract. We had no idea about this until this lawsuit,  
09:29AM 8 until we found this secret e-mail.

09:29AM 9 Then he says, You know what, I know what  
09:29AM 10 it's designed to do, but we should call it something  
09:29AM 11 friendly in case American finds out about it. And so he  
09:29AM 12 says, something like Five Plus Five.

09:29AM 13 Well, ultimately this plan gets a different  
09:29AM 14 name. It's called Project 99. And, ladies and  
09:29AM 15 gentlemen, we're going to hear a lot about Project 99.

09:30AM 16 So his plan now called Project 99 has got  
09:30AM 17 lots of different steps to it. And these different  
09:30AM 18 steps -- I'm just going to talk about three of them.

09:30AM 19 One -- and this is kind of complicated GDS  
09:30AM 20 language, but I'll interpret it. I believe this is what  
09:30AM 21 the evidence is going to show. "Deployment of tools for  
09:30AM 22 marketplace awareness and promotions and other non-GDS  
09:30AM 23 airline activity," they're going to monitor us. They're  
09:30AM 24 going to keep track of what we're doing that doesn't  
09:30AM 25 involve a GDS. That means Direct Connect. Non-GDS

09:30AM 1 activity.

09:30AM 2                   Number two, "Put contractual hooks into the  
09:30AM 3 travel agents." Remember, these corporate travel agents  
09:30AM 4 are so important because they have the relationships  
09:30AM 5 with the corporation. So put contractual hooks into all  
09:30AM 6 the new contracts that we sign with these agencies. To  
09:30AM 7 do what? Two things: Tie them closely to Sabre, and  
09:31AM 8 figure out how they can stop or address American's  
09:31AM 9 marketplace actions.

09:31AM 10                   And, three, "Get clarity on algorithm  
09:31AM 11 changes." Now that's GDS speak for biasing.

09:31AM 12                   And then last, more, more, more.

09:31AM 13                   So like all plans of attack, you have to  
09:31AM 14 keep it secret. And so from the very beginning, Sabre  
09:31AM 15 kept this secret. They said, everybody involved in this  
09:31AM 16 group -- and this is, basically, became a fairly big  
09:31AM 17 group, you have to each sign a secrecy contract. Each  
09:31AM 18 of you sign it because we want to keep this so secret.  
09:31AM 19 And then we're going to use code names. We're not  
09:31AM 20 saying this is just American Airlines' plan of, you  
09:31AM 21 know, for future good relationships. We're going to  
09:31AM 22 call it Five Plus Five plan or Project 99. We're not  
09:31AM 23 even going to use the word "American."

09:31AM 24                   So, ladies and gentlemen, think about that.  
09:31AM 25 Your oldest and biggest customer when you're developing

09:31AM 1 this plan we now know is a plan of attack, and you're  
09:32AM 2 telling your people, don't even mention American's name.  
09:32AM 3 Why do you do that?

09:32AM 4 So they said, let's just call it "the  
09:32AM 5 airline" or "an airline." And if we give out e-mails  
09:32AM 6 that use the wrong words, delete them, or don't make  
09:32AM 7 them. Or if we give out handouts in meeting, let's  
09:32AM 8 shred them. Or if we want to talk about the plan, let's  
09:32AM 9 not do it in writing. Let's go on a chalkboard or a  
09:32AM 10 whiteboard so we can erase it so there's no evidence.  
09:32AM 11 Because they were waiting for this case.

09:32AM 12 The project head of Project 99 sent out on  
09:32AM 13 e-mail saying she understands that we have structured  
09:32AM 14 the project around antitrust. Antitrust is what this  
09:32AM 15 case is all about. This, ladies and gentlemen, was five  
09:32AM 16 years ago. Five years ago.

09:32AM 17 So Chapter 2, they have -- they've come up  
09:33AM 18 with a plan, and now they're going to execute it step by  
09:33AM 19 step.

09:33AM 20 So they're going to do it in a lot of ways  
09:33AM 21 and it's going to involve termination. It's going to  
09:33AM 22 involve restriction. It's going to involve penalties  
09:33AM 23 because any effective plan has to have teeth.

09:33AM 24 Basically, Sabre didn't want to have to  
09:33AM 25 spend the money to compete, because an airline -- and

09:33AM 1 American was one of them -- needs to innovate. We need  
09:33AM 2 to give better products and new products and cheaper  
09:33AM 3 products. And what Sabre said is, you know, it's going  
09:33AM 4 to cost us a lot to do that. And if you have a lock,  
09:33AM 5 you don't need to innovate and spend money on new  
09:33AM 6 products if you can do it a different way. And so the  
09:33AM 7 answer to spending money to make American happy was  
09:33AM 8 Project 99.

09:33AM 9 So what are some of the steps in Project  
09:33AM 10 99? Well, one, remember they were going to tightly put  
09:33AM 11 the travel agencies -- bind them tightly to Sabre? So  
09:34AM 12 here is a Sabre PowerPoint in, I believe, 2008. And  
09:34AM 13 they're talking about how some of these clauses in the  
09:34AM 14 new renewal contract -- because you have these contracts  
09:34AM 15 every so often -- and they have -- this is the picture  
09:34AM 16 that Sabre -- they're trying to fence in the travel  
09:34AM 17 agents and software developers they are working with.

09:34AM 18 And so they say, if we have some protection  
09:34AM 19 with our agencies in the subscriber agreement, that's  
09:34AM 20 with the travel agencies, it says "no bypass language."  
09:34AM 21 And what do you think when they're saying "no bypass,"  
09:34AM 22 who are they are saying you can't bypass? The GDS.

09:34AM 23 And so they're saying, okay, we're writing  
09:34AM 24 all these -- every time a new contract comes up with a  
09:34AM 25 travel agent, we're getting a new contract, we're

09:34AM 1 getting more and more hooks into these contracts.

09:34AM 2 And remember, that's what Mr. Klein said.

09:34AM 3 Project 99, let's put contractual hooks that bind them

09:34AM 4 closely to Sabre and have provisions that address AA

09:35AM 5 marketplace actions. So what they're saying to the

09:35AM 6 travel agents, if American wants to do a Direct Connect,

09:35AM 7 you can't do it. No bypass.

09:35AM 8 And they want to create technology

09:35AM 9 shackles, so they want to sell technology that make it

09:35AM 10 so difficult for them to move from Sabre to Direct

09:35AM 11 Connect that they can't do it; it's too disruptive for

09:35AM 12 the travel agencies.

09:35AM 13 Second, they want to use monopoly -- their

09:35AM 14 profits, to keep the agencies, not only to keep

09:35AM 15 them -- incentivize them, as a carrot, but to use it as

09:35AM 16 a stick, because they give them lots of money:

09:35AM 17 Advances, lines of credit, incentives, sign-on bonuses,

09:35AM 18 more sign-on bonuses, booking incentives. But what they

09:35AM 19 say is, so that's the carrot -- and that's a very

09:35AM 20 effective carrot -- but what they say is, if you don't

09:35AM 21 keep up your booking levels, if you don't keep booking

09:35AM 22 on Sabre just as much as we say you should; in other

09:35AM 23 words, if you start going to Direct Connect and going

09:36AM 24 directly to customers, then we're going to take all that

09:36AM 25 money back. We're going to take it all back, because

09:36AM 1 lots of it was in advance. And so they basically say,  
09:36AM 2 here's our carrot, we're going to give you lots of  
09:36AM 3 money, but if you fall short, if you start using  
09:36AM 4 somebody else and you're not using Sabre, then we're  
09:36AM 5 going to -- you have to pay that all back.

09:36AM 6 They also want to have contracts that  
09:36AM 7 control and compensate software developers and travel  
09:36AM 8 agents. The reason we want to focus on software  
09:36AM 9 developers is Direct Connect is a technology, and so you  
09:36AM 10 need people that write computer software to help you  
09:36AM 11 develop it, for it to work well. Just like AA.com, it  
09:36AM 12 doesn't -- it works beautifully today, not because it  
09:36AM 13 worked perfectly when it started, but because we worked  
09:36AM 14 on it and worked on it and worked on it. And so with  
09:36AM 15 these software developers, Sabre knows that they have  
09:36AM 16 control over them as well.

09:36AM 17 So what they decided -- and this is another  
09:36AM 18 Sabre PowerPoint, this is actually the same one as the  
09:36AM 19 woman behind the fence. This is Tony Soprano. This is  
09:37AM 20 Sabre doing this. This is not us, we had no idea this  
09:37AM 21 was happening. So they're saying we have to exercise so  
09:37AM 22 much control over these software developers through  
09:37AM 23 contracts, and some of these software developers are  
24 well-known -- not many of them -- actually, they're not.  
09:37AM 25 There's BookingBuilder, Farelogix, Concur, and PASS.



09:37AM 1 And if they can't help Direct Connect, it's going to  
09:37AM 2 really slow it down and hurt it. So what they said to  
09:37AM 3 them is, we know you like doing business with Sabre, but  
09:37AM 4 if you work with American, we're going terminate you.  
09:37AM 5 Some of them, they just threatened, Concur and PASS, and  
09:37AM 6 they said, okay, we're going to terminate you and they  
09:37AM 7 said, okay, we won't work with American. Some of them  
09:37AM 8 they terminated. BookingBuilder, they terminated.  
09:37AM 9 Farelogix was the target, because Farelogix was the  
09:37AM 10 company that we were working with to develop Direct  
09:37AM 11 Connect. Why did we work with Farelogix? Because they  
09:37AM 12 had done it before successfully. They had worked with  
09:37AM 13 Air Canada. Remember Southwest and Air Canada both used  
09:38AM 14 Direct Connect, and they helped Air Canada develop their  
09:38AM 15 Direct Connect.

09:38AM 16 And so when Sabre found out that Farelogix  
09:38AM 17 was helping us on Direct Connect, they said, and it's in  
09:38AM 18 this PowerPoint, "Our goal is to one, not let Farelogix  
09:38AM 19 spread any further" -- because it had already been to  
09:38AM 20 Air Canada -- "and number two, to discontinue the  
09:38AM 21 current locations." Here's the -- here's our guy again,  
09:38AM 22 this is supposed to be the guy that helps American, and  
09:38AM 23 he says -- this is November 2008, part of the plan,  
09:38AM 24 Project 99 -- "We want to make sure we're are still  
09:38AM 25 pushing on the strategy of shutting down Farelogix."

09:38AM 1 FLGX is Farelogix.

09:38AM 2 A couple months later, we do not want to  
09:38AM 3 tell these big travel agencies, CWT or BCD, that they  
09:38AM 4 can use Farelogix. The whole idea is to freeze  
09:38AM 5 Farelogix where they are today, because they know if  
09:38AM 6 they can punish the developers, they can hurt Direct  
09:38AM 7 Connect.

09:38AM 8 So Project 99 is ready, by 2009, to  
09:39AM 9 implement, and as soon as they hear that American is  
09:39AM 10 starting to move towards Direct Connect, they start to  
09:39AM 11 implement Project 99. This is February 2009. There's  
09:39AM 12 an article that comes in the newspaper in which American  
09:39AM 13 is saying, we would love to go directly to our -- for  
09:39AM 14 business travelers to our travel agents. They're our  
09:39AM 15 agents. The response by this guy, again, who's supposed  
09:39AM 16 to be our advocate, Let's dust off Project 99 work from  
09:39AM 17 early last year and ensure we feel comfortable with  
09:39AM 18 results.

09:39AM 19 So they worked on it. They planned for it.  
09:39AM 20 They set it up, and as soon as they saw some evidence  
09:39AM 21 that American's going to start to move to Direct  
09:39AM 22 Connect, let's pull out the plan. It's a plan of  
09:39AM 23 attack.

09:39AM 24 Now, some of us have dealt with folks that  
09:39AM 25 say one thing to your face and something else behind

09:39AM 1 your back. To us, Sabre -- what do you think Sabre was  
09:39AM 2 telling us? We love you. We want to be your partner.  
09:40AM 3 Here's the same guy, this is the same guy that says,  
09:40AM 4 let's pull out Project 99, the plan of attack; six  
09:40AM 5 months later he's telling us -- we sit down with him and  
09:40AM 6 we say, here's what we want to do on Direct Connect. We  
09:40AM 7 were open, we were honest with him. And said, here's  
09:40AM 8 what we want to do. What does he do? He sends us a  
09:40AM 9 note and he says, I really appreciate it, that you and  
09:40AM 10 your team met with us for a whole day about Direct  
09:40AM 11 Connect. We all thought it was a very productive  
09:40AM 12 meeting.

09:40AM 13                   This is what he's telling us directly.  
09:40AM 14 Clearly, you guys have done your homework. Wait until  
09:40AM 15 you hear what they're going to say in court, like, oh,  
09:40AM 16 this is a lousy idea. Clearly, you guys have done your  
09:40AM 17 homework and have a very solid vision about where you  
09:40AM 18 want to go. Sabre wants to be your partner. And do you  
09:40AM 19 think that was true? Not in the slightest.

09:40AM 20                   So if that's what they said to our face,  
09:40AM 21 what were they saying back at Sabre headquarters behind  
09:40AM 22 our back? So here is a young manager at Sabre, her name  
09:41AM 23 is Nancy St. Pierre, and she kind of -- she takes a lot  
09:41AM 24 of notes. She maybe didn't get the idea about let's  
09:41AM 25 keep this all secret. She takes a lot of notes that we

09:41AM 1 happen to have. And one of those she's taken, this is  
09:41AM 2 in November 2009, so right at the same timeframe.  
09:41AM 3 Chris -- Chris Wilding, who's saying this. He's saying  
09:41AM 4 we need to be more aggressive. We're going to have  
09:41AM 5 Project 99 pulled off the shelf, they're ready to  
09:41AM 6 implement it and they need to be more aggressive. She  
09:41AM 7 says -- and she's kind of talking to herself, I  
09:41AM 8 suspect -- but I think this is the testosterone in him  
09:41AM 9 and the other boys speaking. It wasn't. It was a plan.  
09:41AM 10 So what occurred to me, and you have to judge for  
09:41AM 11 yourselves, is sometimes there's folks that say one  
09:41AM 12 thing to you and act very differently when you're not  
09:41AM 13 around. And it's almost like they're two different  
09:41AM 14 people. And they can be -- and instead of being  
09:41AM 15 completely honest with you, they tell you what they  
09:41AM 16 think you want to hear and then behind your back,  
09:42AM 17 they're working to hurt you, and they're talking about  
09:42AM 18 you. And we now know what Sabre was saying behind our  
09:42AM 19 backs, not because they told us, but because of the  
20 lawsuit.

09:42AM 21 So while American wanted the partnership,  
09:42AM 22 this is just a few days later, so this is the same  
09:42AM 23 woman. She's saying American has given Sabre an RFP.  
09:42AM 24 That's a contractual request. Would you like to partner  
09:42AM 25 with us, to respond to, that would help them -- that's

09:42AM 1 American -- develop the technology to do that they want  
09:42AM 2 with Direct Connect.

09:42AM 3           So we went to American -- to Sabre, and we  
09:42AM 4 said we want you to help us. We want you to be our  
09:42AM 5 partner. We think Direct Connect is the new era. Can  
09:42AM 6 we work together? Here's a potential contract. Here's  
09:42AM 7 a contract for you to look at, so see if you want to do  
09:42AM 8 it.

09:42AM 9           So we gave them the chance. We said we  
09:42AM 10 want you to innovate and adapt and be our partner, and  
09:42AM 11 what did they decide to do? They decided they don't  
09:42AM 12 want to innovate. They don't want to change. They  
09:42AM 13 don't want to adapt. They don't want to be a partner,  
09:42AM 14 they just never told us that. They want to go to war.

09:42AM 15           So three days later, three days after we  
09:43AM 16 sent them this proposal, you want to be a partner?  
09:43AM 17 Three days later, the top man at Sabre told his  
09:43AM 18 lieutenants, we need to set up a war room, as he did the  
09:43AM 19 last time. When was the last one? So we're now in  
09:43AM 20 2009. When was the last time? In 2006. Remember when  
09:43AM 21 they started the boycott and they wanted to make us walk  
09:43AM 22 through broken glass? They had a war room and we never  
09:43AM 23 knew about it. Here he tells his people, we're going to  
09:43AM 24 meet every morning or every other morning, as necessary.  
09:43AM 25 The war has started and American doesn't even know we're

09:43AM 1 in it.

09:43AM 2 So we've got a zillion e-mails about war.  
09:43AM 3 They declared war without us knowing there was even a  
09:43AM 4 fight. They had war chests and war games and war rooms,  
09:43AM 5 and all along, like any plan of attack has to have, they  
09:44AM 6 kept it secret. So here's the same woman, Nancy St.  
09:44AM 7 Pierre, the version -- and now we're talking about plans  
09:44AM 8 to discuss how to attack American -- the version we got  
09:44AM 9 today was taken up after the meeting, the paper version,  
09:44AM 10 they took them all up and they put them through the  
09:44AM 11 shredder. We went to all customer -- excuse me. We  
09:44AM 12 want all customer communications. Now, that means  
09:44AM 13 they're talking to travel agents about their plan. Do  
09:44AM 14 they want them in writing? We want them verbal. Why  
09:44AM 15 verbal? Because there's no record. We want all of our  
09:44AM 16 customer communications done verbally and not in e-mail,  
09:44AM 17 as we don't want anything tied to us.

09:44AM 18 A year later, same thing. This is an  
09:44AM 19 executive by the name of Penzotti, Frank Penzotti. So  
09:44AM 20 he sends an e-mail out to some of his fellow executives,  
09:44AM 21 I just want to make sure that we're okay moving forward  
09:44AM 22 with the AA boycott plan. And so what's the response he  
09:45AM 23 gets to that? What are you -- why are you saying that?  
09:45AM 24 We're not supposed to say those words in e-mails. The  
09:45AM 25 response from Mr. Klein was, Let's delete that the

09:45AM 1 e-mail.

09:45AM 2 December 2010 another Sabre employee by the  
09:45AM 3 name of Clark, Travel on AA will be  
09:45AM 4 depreferenced -- that means biased -- Sam wants to  
09:45AM 5 minimize e-mails. Sam is Sam Gilliland, top man.

09:45AM 6 This came from the top. This plan was  
09:45AM 7 hatched and implemented and carried out from the top.  
09:45AM 8 So here is an e-mail from the top man, Sam Gilliland, in  
09:45AM 9 March 2010, and he has one of his executives send him an  
09:45AM 10 e-mail about seeing an actress that walks into a  
09:45AM 11 hospitality room and he's just saying she's smoking hot,  
09:45AM 12 is what he said about the e-mail -- that's what he said  
09:46AM 13 about the actress. And Gilliland's response was, yes.  
09:46AM 14 But what he was most interested in doing is, he spent  
09:46AM 15 all day, all day, the top man at Sabre -- we had no idea  
09:46AM 16 this was going on -- all day trying to figure out how to  
09:46AM 17 deal with their oldest and largest customer, and it  
09:46AM 18 wasn't to make us happy. It was to take American down.

09:46AM 19 Internally, these guys were raging against  
09:46AM 20 American. So one of the things we'll hear is, if this  
09:46AM 21 blowup clause is supposed to work, we have to be open  
09:46AM 22 about it and tell the other side and give notice and be  
09:46AM 23 honest about it. And so one of the things you're going  
09:46AM 24 to hear Sabre saying is, oh, we told American. We don't  
09:46AM 25 have any documents that show that, but we told them.

09:46AM 1 And so here's a conversation, around the same timeframe,  
09:47AM 2 where they're saying, this top guy, our -- supposed to  
09:47AM 3 be our relationship guy, David Gross, at Sabre, having  
09:47AM 4 lunch with Bridget, that was his counterpart at  
09:47AM 5 American. She was a manager/director at American. I  
09:47AM 6 assume I don't want to talk to her about any of planned  
09:47AM 7 discussions with Tom Horton. That was the  
09:47AM 8 same -- basically, it's her boss; ultimately, her boss.  
09:47AM 9 And the answer from Webb was absolutely not. Should we  
09:47AM 10 be honest or should we not be? Do we want to be  
09:47AM 11 aboveboard and forthright or sneaky and secretive?

09:47AM 12 So what are they worried about? Well,  
09:47AM 13 Sabre's worried that we have a good idea and people may  
09:47AM 14 want to join us in Direct Connect. You know, if you  
09:47AM 15 have a bad idea, it will die. You don't need to attack  
09:47AM 16 it. This is all about choice, ladies and gentlemen.  
09:47AM 17 Sabre never gave Direct Connect a chance to succeed,  
09:47AM 18 because they were afraid it would be another AA.com, a  
09:48AM 19 wild success, and so they killed it before it was born.

09:48AM 20 They're afraid that one of the GDSs might  
09:48AM 21 break down, like Travelport. If one of GDSs breaks down  
09:48AM 22 and works with American on this, then we have a little  
09:48AM 23 problem. That's a Sabre executive, another Sabre  
09:48AM 24 employee -- another Sabre executive, potentially  
09:48AM 25 threatening scenarios for American to gain support from



09:48AM 1 other parties. Travelport does a Southwest Airlines  
09:48AM 2 or -- AC is Air Canada -- Air Canada-like deal with  
09:48AM 3 American. Remember, there's two airlines that have  
09:48AM 4 Direct Connect right now: Southwest and Air Canada. So  
09:48AM 5 they're saying, uh-oh, somebody might do this with  
09:48AM 6 American. There's only one other big GDS, and it's  
09:48AM 7 Travelport. And here's one of those big corporate  
09:48AM 8 travel agencies, American Express, and he's saying  
09:48AM 9 internally, he says he knows exactly, because Sabre's  
09:48AM 10 working on all these travel agencies and working them  
09:48AM 11 over hard, the dominos could fall if American  
09:49AM 12 supports -- excuse me, if American Express supports AA.  
09:49AM 13 If we take a public stance in their favor, it would tilt  
09:49AM 14 their cause. So what do you do if you have that much  
09:49AM 15 power and you're afraid people might think it's a good  
09:49AM 16 idea? You take -- you leave nothing to chance and you  
09:49AM 17 gather up all those people that could cooperate with  
09:49AM 18 American and you reach agreements with them to attack  
09:49AM 19 American. Let's see what happened.

09:49AM 20 So here we are, the other GDSs. Remember,  
09:49AM 21 we have Travelport and Amadeus. Amadeus is very small.  
09:49AM 22 In the United States, Travelport is much bigger, Sabre's  
09:49AM 23 much bigger than both. And what they decide to do was  
09:49AM 24 start to meet with each other, using kind of third  
09:49AM 25 parties and all sorts of ways, but we have some e-mails

09:49AM 1 that tell us that they didn't take notes, by and large,  
09:49AM 2 but we have some e-mails that tell us what they were  
09:49AM 3 talking about. And who do you think they were talking  
09:49AM 4 about? All right. Here's a guy at Travelport, another  
09:50AM 5 executive, We had a very constructive meeting with Sabre  
09:50AM 6 and Amadeus yesterday. These are the three GDSs and  
09:50AM 7 they're meeting, and they're talking about one of their  
09:50AM 8 customers. Both Sabre and Amadeus, Sabre especially,  
09:50AM 9 understands the urgency of what's happening and are  
09:50AM 10 certainly onboard. Does this make American happy, like  
09:50AM 11 a good customer? No, fighting American.

09:50AM 12 I just got back, this is about a month  
09:50AM 13 later -- this is late '09, early 2010, I just got back  
09:50AM 14 from a very good summit type meeting with a bunch of  
09:50AM 15 folks including Sabre and Amadeus. All participants  
09:50AM 16 agree that this is the big fight for 2010. They're  
09:50AM 17 attacking American.

09:50AM 18 Here's more Travelport. We intend to  
09:50AM 19 emulate, we want to mimic what Sabre did. Sabre's  
09:50AM 20 calling all of the top travel agencies, so we're going  
09:50AM 21 to learn about their status with them. AA Direct  
09:50AM 22 Connect. AADC is American Airlines Direct Connect. And  
09:50AM 23 also to encourage them to resist. We'll see if we can  
09:51AM 24 uncover any who are tempted to go with American. And we  
09:51AM 25 believe Sabre has done the same with their -- to their

1 customers.

09:51AM 2 Why do you think they believe that? They  
09:51AM 3 talked about it. This is August 2010. These would be  
09:51AM 4 phone calls. Now, Travelport pretty quickly gets on  
09:51AM 5 board with the Sabre approach, which is keep it secret.  
09:51AM 6 We're not supposed to be doing this. Let's keep it  
09:51AM 7 secret.

09:51AM 8 These would be phone calls, nothing in  
09:51AM 9 writing, advising agencies -- these are travel  
09:51AM 10 agencies -- to say no to AA and also to gather  
09:51AM 11 intelligence.

09:51AM 12 This, ladies and gentlemen, we believe at  
09:51AM 13 the end of the case you will find to be an illegal  
09:51AM 14 conspiracy.

09:51AM 15 But not just GDSs. Remember, they're  
09:51AM 16 worried American Express and some of the corporate  
09:51AM 17 travel agencies will get on board.

09:51AM 18 So what do you think they do? They gather  
09:51AM 19 them together. They're paying them lots of money. They  
09:51AM 20 have a carrot and a stick. And so Sabre is in the  
09:52AM 21 middle and Sabre reaches out -- has a campaign to reach  
09:52AM 22 out to all of their major corporate travel agencies, and  
09:52AM 23 there's about a dozen that are big, and then there are  
09:52AM 24 many, many more that are smaller. And they go to all  
09:52AM 25 these travel agencies, and they say to them, we need to

09:52AM 1 work together to attack American. And more importantly,  
09:52AM 2 they say to them that all of your competitors are doing  
09:52AM 3 it too.

09:52AM 4 Why is that important? Because, ladies and  
09:52AM 5 gentlemen, what you're going to hear is that if American  
09:52AM 6 Express were to say, I'm not doing Direct Connect, but  
09:52AM 7 then let's just say BCD says, I will do Direct Connect,  
09:52AM 8 they might lose business.

09:52AM 9 So American Express would be saying, I  
09:52AM 10 can't -- I can't say, no, I can't join this attack if  
09:52AM 11 one of my competitors would be gaining business on me.  
09:52AM 12 That's what competition is supposed to be all about.

09:52AM 13 So instead what Sabre did is it went to  
09:52AM 14 each one of them and it said, you need to join us, and  
09:52AM 15 you should be very comfortable because we've got  
09:53AM 16 everybody else on board. Let's see how.

09:53AM 17 This, ladies and gentlemen, we believe at  
09:53AM 18 end of the case you're also going to find is an illegal  
09:53AM 19 conspiracy.

09:53AM 20 So what do they do? How do they accomplish  
09:53AM 21 this? How do they get these agreements with the GDSs  
09:53AM 22 and the agreements with the other travel agencies?  
09:53AM 23 Well, they go to them one by one and they have a road  
09:53AM 24 show.

09:53AM 25 So here it is in December of 2009, "War is

09:53AM 1 already starting. I will be doing road shows to educate  
09:53AM 2 and rally the agencies and corporations against  
09:53AM 3 American's strategy."

09:53AM 4 Here we move forward nine months. "This  
09:53AM 5 road show should be a big, full content attack on  
09:53AM 6 American, no Direct Connect sales pitch." Same month,  
09:53AM 7 "We had more than 20 very engaged and now ready for  
09:53AM 8 battle" -- talking about travel agencies -- "and will do  
09:53AM 9 their part. They want us to turn off AA now. We can't  
09:53AM 10 afford to have one break ranks and go with American on  
09:53AM 11 Direct Connect. All agencies must be in and on board."

09:54AM 12 What do they do if they're not in and on  
09:54AM 13 board? Well, they're going to punish them.

09:54AM 14 So I don't know how many of y'all have ever  
09:54AM 15 heard of Priceline. Priceline has got William Shatner,  
09:54AM 16 you know, Captain Kirk, he's the guy. Priceline is on  
09:54AM 17 Direct Connect now, American's Direct Connect. What did  
09:54AM 18 Sabre say when it found -- Priceline is a big travel  
09:54AM 19 agency. It's an online travel agency. What do you  
09:54AM 20 think Sabre said when it found out that Priceline might  
09:54AM 21 actually join Direct Connect?

09:54AM 22 Here's Tom Klein. He's the number two guy,  
09:54AM 23 and he's sending an e-mail just to Sam Gilliland. Some  
09:54AM 24 of the most inciteful e-mails are just between the two  
09:54AM 25 top guys in Sabre. And he says, "Sam, if Priceline does

09:54AM 1 the AA Direct Connect deal, it will be very disruptive  
09:54AM 2 to the core model." That's the old GDS model. "There  
09:55AM 3 needs to be a penalty for that."

09:55AM 4 So Priceline has been on Direct Connect for  
09:55AM 5 a -- Priceline has been on Direct Connect for a while  
09:55AM 6 and Sabre doesn't like it. So what did they do to the  
09:55AM 7 rest? Sometimes you can't stop everybody, but to the  
09:55AM 8 rest -- a big company like American Express, do you  
09:55AM 9 think that they'd be worried about what Sabre would do  
09:55AM 10 to them? Huge company. They have a very big travel  
09:55AM 11 agency business.

09:55AM 12 So what we now know because of this case is  
09:55AM 13 they calculated internally what was -- what Sabre could  
09:55AM 14 do to them and they said it's just not worth it. They  
09:55AM 15 could punish us so much that we can't do this.

09:55AM 16 So first they said, Hey, you know, Sabre's  
09:55AM 17 been watching us. Here an e-mail from October 2010.  
09:55AM 18 "Sabre executives" -- this is internal to American  
09:55AM 19 Express. "Sabre executives reached out to us over the  
09:55AM 20 last few days as they have heard there's an executive  
09:56AM 21 meeting between American Express, AmEx, and AA." Uh-oh,  
09:56AM 22 we heard you're talking to American.

09:56AM 23 Then AmEx internally figures out, Well, how  
09:56AM 24 much is this going to cost us? "Not only will we  
09:56AM 25 lose" -- and that number is a confidential number, and

09:56AM 1 we'll talk about it during trial, but it's a big number.  
09:56AM 2 "Not only we will lose" -- and they calculated it  
09:56AM 3 up -- "or more in annual Sabre GDS revenues while our  
09:56AM 4 competitors" -- remember, it's so important that these  
09:56AM 5 guys know that their competitors are on board as  
09:56AM 6 well -- "maintain these revenues, but Sabre will incent  
09:56AM 7 these competitors to poach our business."

09:56AM 8                   As powerful a company as American Express  
09:56AM 9 is, it's worried Sabre is not only going to penalize  
09:56AM 10 them, but they're going to have their own attack on  
09:56AM 11 American Express.

09:56AM 12                   And so what did American Express do? Well,  
09:56AM 13 it called one of its competitors, Expedia -- two  
09:56AM 14 competitors talking to each other about a common  
09:57AM 15 customer -- and it told Expedia that it will be calling  
09:57AM 16 American this week to tell them to a hike on Direct  
09:57AM 17 Connect. Threats work. They have lots of power.

09:57AM 18                   And other agencies -- so here is this  
09:57AM 19 fellow Greg Webb. He's another executive. You'll see  
09:57AM 20 him a lot. He was the guy in charge of some of the  
09:57AM 21 attacks, which we'll see. And so he said, We need to  
09:57AM 22 get to Tony and Jerry. Those are guys that run two  
09:57AM 23 other corporate travel agencies. We need to get to Tony  
09:57AM 24 and Jerry. They need to support this. Or what?  
09:57AM 25 They'll pay the price.

09:57AM 1 And when they find people -- when some  
09:57AM 2 people are hesitant, because not all the travel agencies  
09:57AM 3 are immediately willing to jump on board the "attack  
09:57AM 4 American" campaign and scheme, what they found out, what  
09:57AM 5 they told them was, You know what? You're the only one  
09:57AM 6 that's not cooperating.

09:57AM 7 Here a guy that's in charge of the travel  
09:57AM 8 agents. "Very important to make Travizon" -- that's one  
09:58AM 9 of the business travel agencies that was hesitant at  
09:58AM 10 first. It got on board; I'll show you how. "Very  
09:58AM 11 important to make Travizon aware that all the  
09:58AM 12 globals" -- those are biggest travel agencies, American  
09:58AM 13 Express, CWT, Expedia, HRG, BCD -- "are all on  
09:58AM 14 board" -- remember, we -- they have to tell everybody,  
09:58AM 15 all of their competitors, you guys are all together.  
09:58AM 16 You don't have worry about actually people competing.  
09:58AM 17 If we attack American, no one will lose business.  
09:58AM 18 "...are all on board with us overwriting their rules for  
09:58AM 19 AA only." They wanted to bias and they needed to get  
09:58AM 20 permission from these agencies.

09:58AM 21 "We need to get Corp Trav" -- that's  
09:58AM 22 another agency -- "and Travizon on board. They are the  
09:58AM 23 only exceptions right now."

09:58AM 24 Same e-mail. "I told Joel" -- that's the  
09:58AM 25 guy that runs Travizon -- "that Travizon was one of the



09:58AM 1 only agencies not allowing us to drop AA down." Again,  
09:58AM 2 that's biasing, dropping it down.

09:59AM 3 But what do they do if you cooperate?  
09:59AM 4 Well, they reward you. So this guy Joel, remember he's  
09:59AM 5 the one holdout, they need him, so they wine him and  
09:59AM 6 dine him. And they take him to the Super Bowl. And  
09:59AM 7 they tell him the bad things and they tell him all the  
09:59AM 8 good things. And what does he do? He flips and he goes  
09:59AM 9 along with the plan of attack.

09:59AM 10 Joel Smith, CEO of Travizon, said he'd be  
09:59AM 11 in town for the Super Bowl. When we asked him about it  
09:59AM 12 in his deposition and in his testimony in this case, Did  
09:59AM 13 you go to the Super Bowl as a guest of Sabre? Sure.

09:59AM 14 So you have Sabre reaching out to the GDSs,  
09:59AM 15 and you have Sabre reaching out to the big travel  
09:59AM 16 agencies. Who is left? Our actual customers; the  
09:59AM 17 companies that fly on American. And Sabre actually went  
09:59AM 18 to them as well. Think about this. This is someone  
09:59AM 19 who's working for American going to our passengers and  
09:59AM 20 telling them, attack American.

10:00AM 21 So there's a big financial company in New  
10:00AM 22 York called Goldman Sachs. It has offices all over the  
10:00AM 23 place, including in the Fort Worth/Dallas Metroplex.  
10:00AM 24 And the top guy at Sabre reached out to this partner at  
10:00AM 25 Goldman Sachs and says, You know, I know you

10:00AM 1 guys -- your preferred airline is American, but you  
10:00AM 2 should change. This is Sabre, our -- we're their  
10:00AM 3 largest and oldest customer, and they're telling our  
10:00AM 4 customers to change. You know what? He says there's  
10:00AM 5 this other airline in our area called Virgin American.  
10:00AM 6 Anybody heard of Virgin America? Yeah. Fly them.  
10:00AM 7 Change your allegiance. Boycott American.

10:00AM 8                   And we -- he and I talked about this in his  
10:00AM 9 deposition and I said, You know, you told me that it's  
10:00AM 10 important to be loyal and honest with your customers.  
10:00AM 11 And you're the man at top and you set the tone. Was  
10:00AM 12 this honest? Do you think you were being forthright  
10:01AM 13 with American by encouraging some of American's big  
10:01AM 14 corporate customers to change their allegiance to other  
10:01AM 15 airlines beside American? Of course, this is also being  
10:01AM 16 done secretly. I wouldn't call that forthright. I  
10:01AM 17 wouldn't either. I'd call it deceitful. And it  
10:01AM 18 continued to be a secret campaign.

10:01AM 19                   Now, this campaign actually went to the  
10:01AM 20 highest levels of Sabre's legal department. Remember,  
10:01AM 21 there were antitrust issues that they were worried about  
10:01AM 22 with Project 99? This went to the top of the legal  
10:01AM 23 department. Here's an e-mail on May 5th -- excuse  
10:01AM 24 me -- January 5th, 2010. "I just faxed" -- how many of  
10:01AM 25 us fax things very much anymore? Sabre is a technology

10:01AM 1 company. They do everything by e-mail. Well, they did  
10:01AM 2 it for a reason. So they had to tell American Express  
10:01AM 3 how to talk to American Airlines, so they faxed them  
10:01AM 4 talking points. This is what we want you to say to  
10:02AM 5 American.

10:02AM 6 Why did they fax them talking points? Our  
10:02AM 7 legal group wanted me to deliver in that fashion.  
10:02AM 8 Instead of sending an e-mail in which we would get the  
10:02AM 9 discovery in an antitrust case, they said fax it. They  
10:02AM 10 wanted me to deliver -- but then she sent an e-mail  
10:02AM 11 following up saying she didn't get quite -- she didn't  
10:02AM 12 quite connect they were trying to be secret. So she  
10:02AM 13 faxed it and then she sent an e-mail. That's the only  
10:02AM 14 way we know what she did because we don't have the fax  
10:02AM 15 anymore because it's gone as far as I know.

10:02AM 16 "Our legal group wanted me to deliver in  
10:02AM 17 that fashion" -- this is the legal group of Sabre  
10:02AM 18 telling their employees -- "to minimize the extent it  
10:02AM 19 could be tied back to Sabre."

10:02AM 20 Ladies and gentlemen, when you're doing  
10:02AM 21 something you shouldn't be, you try to hide it.

10:02AM 22 Go forward a year, January 5th, 2011.  
10:02AM 23 David Gross, do you remember who David Gross is? He's  
10:02AM 24 supposed to be our friend at Sabre. "David  
10:03AM 25 Gross" -- this is an employee; her name is

10:03AM 1 Schwab -- "has asked that nothing go in writing to him."  
10:03AM 2 Why? Legal saves all e-mails that go to David on a  
10:03AM 3 secured server. When you're doing something you  
10:03AM 4 shouldn't be doing, you try to hide it.

10:03AM 5 So Chapter 3, and it's the last chapter,  
10:03AM 6 it's the chapter of what happened when they executed on  
10:03AM 7 their plan of attack.

10:03AM 8 So Sabre didn't want to follow an orderly,  
10:03AM 9 aboveboard, honest, contractual structure. They wanted  
10:03AM 10 to jump down the steps because they wanted to go to the  
10:03AM 11 penalties. They wanted to bias American's flights and  
10:03AM 12 fares. They wanted to raise their prices. And they  
10:03AM 13 wanted to get -- to end -- to terminate, to threaten to  
10:04AM 14 terminate the contract. That's not the way this works.

10:04AM 15 This clause, the blow-up clause, was the  
10:04AM 16 trap that Sabre put in years earlier knowing they were  
10:04AM 17 going to do exactly this. That no matter what American  
10:04AM 18 did, they were going to penalize American to bring us to  
10:04AM 19 our knees.

10:04AM 20 So if you're going to do that, you've got  
10:04AM 21 to figure out a way to blame it on American. So what  
10:04AM 22 they started to do -- and, again, this starts at the  
10:04AM 23 top, this Mr. Gilliland, head man, is they wanted to go  
10:04AM 24 find something they could trigger to start to penalize  
10:04AM 25 American.

10:04AM 1 Now, remember, who holds the switch to the  
10:04AM 2 blow-up clause? It's supposed to be American. But what  
10:04AM 3 is the Sabre top man saying? He's saying that they want  
10:04AM 4 to go. "We need to move on tripping the next several  
10:04AM 5 trigger points in the contract and get the clock ticking  
10:05AM 6 on termination, and then to have a sophisticated bias  
10:05AM 7 strategy that's hard for them to detect."

10:05AM 8 Well, let's think about that. Two things:  
10:05AM 9 Why do you want to get the clock ticking on termination?  
10:05AM 10 Because an airline cannot survive outside the GDS, and  
10:05AM 11 they knew American couldn't either. So if you threaten  
10:05AM 12 somebody with something that's terminal they'll do  
10:05AM 13 whatever you want.

10:05AM 14 But second, why would they want to keep it  
10:05AM 15 secret? If they're doing something they have a  
10:05AM 16 contractual right to do, how about a sophisticated bias  
10:05AM 17 strategy? Why would you want to keep a secret that's  
10:05AM 18 hard for them, American, to detect? People keep secret  
10:05AM 19 things they don't -- they know they shouldn't be doing.  
10:05AM 20 So what is biassing? Let me give you a real quick  
10:05AM 21 little explanation. So Sabre is an electronic plumber,  
10:05AM 22 and what they do is they take our information about  
10:05AM 23 flights and fares and they -- and with plumbing, it gets  
10:06AM 24 to all the travel agents and so the travel agents look  
10:06AM 25 at it on a screen. And Sabre's says it's a neutral

10:06AM 1    displayer of information.  And so if your flight -- if  
10:06AM 2    you're an airline and your flight has got the best price  
10:06AM 3    and the best availability and the best -- it's nonstop,  
10:06AM 4    as opposed to connect, you go to the top, because that's  
10:06AM 5    what people want.  Biassing says you take -- instead of  
10:06AM 6    being neutral, you're biassed, you're skewed, you're  
10:06AM 7    manipulated and that's not good for anybody.

10:06AM 8                    So what they say, if you look at the screen  
10:06AM 9    and this is an actual example.  On January 4, 2011, if  
10:06AM 10   you looked at the screen from New York to Los Angeles,  
10:06AM 11   across the country, our flights would have been first  
10:06AM 12   and third and sixth, because we had good flights.  They  
10:06AM 13   were good prices.  They were nonstop.  There's lots of  
10:06AM 14   availability, and in Sabre, they were going to be  
10:07AM 15   neutral and that's why we show it.  The next day, where  
10:07AM 16   did those flights end up?  Weren't on screen one,  
10:07AM 17   weren't on screen two or three or four or five or six or  
10:07AM 18   seven.  They were on screen eight.  So you have to  
10:07AM 19   go -- you look at the first screen and travel agents  
10:07AM 20   would have to go to the second screen and then the third  
10:07AM 21   screen and fourth and fifth and sixth and seventh and  
10:07AM 22   eighth, until they could find it.  Do you know what that  
10:07AM 23   does?  That means no one's ever going to buy it.  
10:07AM 24   Because if a travel agent has to spend time going  
10:07AM 25   through eight screens to find the flight, studies have

10:07AM 1 shown, and common sense tells us, they won't buy it. So  
10:07AM 2 biassing is to hurt.

10:07AM 3           What else did they do? Well, the contract  
10:07AM 4 says you can't bias. The contract says that you can't  
10:07AM 5 do it. And why can't they do it? Because it's bad.  
10:07AM 6 Biassing is bad. There's no good -- there's not a  
10:07AM 7 single person in this courtroom that's ever going to  
10:08AM 8 give you a good reason why Sabre biasses. Not one good  
10:08AM 9 reason. It hurts consumers. It hurts travel agents.  
10:08AM 10 It's deceptive, it's misleading, it's manipulative and  
10:08AM 11 it's punitive. There is nothing good about it.

10:08AM 12           Well, if it was legitimate, do you think  
10:08AM 13 they would have done it aboveboard and told us about it?  
10:08AM 14 Here's Mr. Klein, the number two guy, August 2010, I  
10:08AM 15 want -- he -- he wants it to get even more complicated.  
10:08AM 16 I'm wanting us to get a more sophisticated scheme of  
10:08AM 17 biassing that has various bias rolling through the  
10:08AM 18 system. Why? I don't want an airline -- remember the  
10:08AM 19 code speak that word -- thou shalt not say the words,  
10:08AM 20 American Airlines? Here it is, five years later and  
10:08AM 21 they're still -- four years later and they're still  
10:08AM 22 doing that. I don't want an airline to understand what  
10:08AM 23 we're doing. So I asked Mr. Klein about that. Why in  
10:09AM 24 the world would you -- if you think you have a  
10:09AM 25 legitimate right to do it, why would you do it secretly?

10:09AM 1 What he said is, if we were to use bias, it would be  
10:09AM 2 because we were in some kind of a dispute with an  
10:09AM 3 airline. This is his sworn testimony in this case. And  
10:09AM 4 in that case, we might not want them to know what we are  
10:09AM 5 doing. If you're going to follow the orderly,  
10:09AM 6 aboveboard termination clause that you, Sabre, insisted  
10:09AM 7 on, why would you do it secretly? Only one reason: To  
10:09AM 8 hurt American without us knowing who's doing it.  
10:09AM 9 Remember all these e-mails that we don't want to put it  
10:09AM 10 in writing, because it could be tied back to us? Sabre  
10:09AM 11 planned for a month on how to hurt American without us  
10:09AM 12 knowing it. They did it only to be malicious, to hurt  
10:09AM 13 us. Why do I know that? Okay. I'll get to that in one  
10:09AM 14 second.

10:09AM 15 Here's our guy. He's supposed to be our  
10:09AM 16 advocate. He's supposed to be our friend at Sabre.  
10:10AM 17 What is he doing behind our backs? Just a few weeks  
10:10AM 18 earlier -- well, actually, this isn't behind our backs,  
10:10AM 19 this is what he's telling us. So they're going to come  
10:10AM 20 in and say American tripped up, you guys breached the  
10:10AM 21 contract, here it is. This is July of 2010. What is he  
10:10AM 22 telling us? They want to carry some new products that  
10:10AM 23 we have, boarding first and things like that. So he  
10:10AM 24 sent us a letter and he says Sabre wants us to, quote,  
10:10AM 25 honor the contract as AA has done consistently over the



10:10AM 1 last four years, I am pleased to say.

10:10AM 2 So to our face, he's saying that American,  
10:10AM 3 you've done everything right. I don't have any problem  
10:10AM 4 with you. I'm pleased that you have honored the  
10:10AM 5 contract for four years. This is July of 2010. That  
10:10AM 6 goes all the way back to the start of the contract.  
10:10AM 7 You're not going to hear that in this case. They're  
10:10AM 8 going to accuse us of doing everything wrong. We  
10:10AM 9 breached, we triggered, we did it. At the time, to our  
10:10AM 10 face, they're telling us this.

10:10AM 11 Today, one of things they're telling  
10:10AM 12 us -- I'm just going to pause and listen a moment. They  
10:11AM 13 come up with a new excuse, it seems, all the time. The  
10:11AM 14 newest excuse -- or at least that I think they're going  
10:11AM 15 to tell you about -- is this conference called CASMA in  
10:11AM 16 2009. And CASMA was like a technology conference, so  
10:11AM 17 they say -- so American was invited to come to this  
10:11AM 18 technology conference and have one of our people sit on  
10:11AM 19 a panel, so that people that are involved in the travel  
10:11AM 20 industry technology can ask us questions. There's no  
10:11AM 21 travel agents here, no travel agents, just people that  
10:11AM 22 do technology. And they want to ask us questions, some  
10:11AM 23 even -- they gave us some questions in advance, and they  
10:11AM 24 want to ask us questions about Direct Connect. So what  
10:11AM 25 kind of technology do you use, how does it work, things

10:11AM 1 like that. So can we go? Well, can we attend? What's  
10:11AM 2 the contract say? Contract says American is not  
10:11AM 3 restricted from confirming such facts about our Direct  
10:11AM 4 Connect deals or acknowledging elements of the program,  
10:11AM 5 that's Direct Connect, based on inquires made publicly  
10:11AM 6 through American or public statements by their parties.

10:12AM 7 So the contract says we can go to a public  
10:12AM 8 event and if people have questions, we can answer their  
10:12AM 9 questions, and that's exactly what we did. But today,  
10:12AM 10 they're going to say, oh, you know what, you flipped the  
10:12AM 11 switch. We didn't even know it, but today, they're  
10:12AM 12 going to do it. They're going to say that, in this  
10:12AM 13 case.

10:12AM 14 So when they actually decided to go public  
10:12AM 15 with what they were doing with American, they had to go  
10:12AM 16 send somebody to go find our presentation at this panel  
10:12AM 17 conference. So go find it, because we're going to claim  
10:12AM 18 that's the trigger. And somebody found it and it's that  
10:12AM 19 woman, St. Pierre -- Nancy St. Pierre, and she found it  
10:12AM 20 and what did she think? Did she think that American was  
10:12AM 21 flipping the switch to blow up the contract? That it  
10:12AM 22 was a terrible presentation that said all these things a  
10:12AM 23 contract shouldn't do -- said that we shouldn't do? She  
10:12AM 24 said it wasn't much of a presentation.

10:12AM 25 But it doesn't really matter, ladies and

10:12AM 1 gentlemen. They were going to penalize us, whatever we  
10:12AM 2 did, because Sabre wanted to hurt us. And here is this  
10:12AM 3 guy, he's in charge of the biassing. November 15, 2010,  
10:13AM 4 this is all entirely secret. They start to bias. Are  
10:13AM 5 we a go, on biassing? We're a go. So then they said,  
10:13AM 6 not only did they bias -- remember biassing is hiding  
10:13AM 7 our fares, putting them way at the end. It's going to  
10:13AM 8 hurt us. Why is it going to hurt us? Because we won't  
10:13AM 9 sell tickets. They wanted us to know how much it would  
10:13AM 10 hurt us, and so they calculated, from day one of the  
10:13AM 11 biassing, how much is this going to hurt American? And  
10:13AM 12 so they said, you know, if we start with some agencies  
10:13AM 13 and if we include all travel agencies, we would increase  
10:13AM 14 the estimate of potential loss to American to  
10:13AM 15 \$2 billion. That's what Sabre -- this is what Sabre  
10:13AM 16 said at the time. And so right after Thanksgiving, what  
10:13AM 17 did they do? We went to all agencies at once, and what  
10:13AM 18 did they find? See, Sabre gets all of this information  
10:13AM 19 in realtime. They get it probably even before we get  
10:14AM 20 it. We don't even know what's going on with our  
10:14AM 21 business, why it's happening, because they're doing it  
10:14AM 22 secretly. They get this information, they analyze it,  
10:14AM 23 and what do they find after they go, after Thanksgiving,  
10:14AM 24 to all agencies? They find, that's what -- which was  
10:14AM 25 when we began to see the great shift down in share for

10:14AM 1 American. That's our business. That's when American  
10:14AM 2 started losing money, because of Sabre's Project 99  
10:14AM 3 plan.

10:14AM 4 They wanted, plain and simple, to cripple  
10:14AM 5 Direct Connect. That's not my words, that's their  
10:14AM 6 words. So they hire a PR firm, and that PR firm puts  
10:14AM 7 together a business goals package based on their  
10:14AM 8 discussion with the Sabre executives. And one of the  
10:14AM 9 three things their goals are in the fall of 2010, number  
10:14AM 10 one, they want a new contract with American that's even  
10:14AM 11 better than the one they got in 2006. Remember, they  
10:14AM 12 don't want us to have any choice. Number two, we want  
10:14AM 13 to cripple or eliminate American's ability to use Direct  
10:15AM 14 Connect. And number three, they want to keep the  
10:15AM 15 monopoly. Now, what you'll find, ladies and gentlemen,  
10:15AM 16 is once this draft got over to the Sabre people, they  
10:15AM 17 said, oh no, you got to take all that -- you have to  
10:15AM 18 change that. We don't want to be saying that on paper.  
10:15AM 19 But the draft, we got it.

10:15AM 20 And this is exactly when they hired their  
10:15AM 21 trial lawyers. In November 2010, when they started the  
10:15AM 22 biassing, they knew what they were doing was wrong and  
10:15AM 23 they hired lawyers to defend the antitrust case that we  
10:15AM 24 had no idea was even coming.

10:15AM 25 So what do they do now? So they -- after

10:15AM 1 Thanksgiving, they moved to all agencies. Guess  
10:15AM 2 when they -- that's wave one. Guess when wave two  
10:15AM 3 started? Christmas Eve. On December 24, 2010, after  
10:15AM 4 six weeks of secret biassing, the same guy, Greg Webb,  
10:16AM 5 he's in charge of the biassing, he says, Today we  
10:16AM 6 implemented actions that -- doubling -- that doubled the  
10:16AM 7 intensity of the bias that changed was from 60 percent  
10:16AM 8 share to 30 percent share.

10:16AM 9 That's a little bit of GDS speak for what  
10:16AM 10 they were doing, but they basically doubled the  
10:16AM 11 intensity of the biassing. And when did they do it?  
10:16AM 12 4 a.m. on Christmas Eve. Why do you do something at  
10:16AM 13 4 a.m. on Christmas Eve? You do it hoping that no one  
10:16AM 14 will notice what you did, because when you're doing  
10:16AM 15 things you shouldn't, you try to hide them.

10:16AM 16 So they worked on these travel agencies,  
10:16AM 17 big travel agencies. Some of them were unhappy about  
10:16AM 18 doing this. They didn't want to attack American, but  
10:16AM 19 they eventually did. BCD Travel was livid, according to  
10:16AM 20 the Sabre executives that worked for them, was livid and  
10:16AM 21 they didn't want to be part of Sabre's actions. They  
10:16AM 22 kept working on it.

10:16AM 23 In the end what happened? BCD agreed to  
10:17AM 24 bias in over 6,000 markets. So pursuant to their plan  
10:17AM 25 of attack, Project 99, they got everybody together, they

10:17AM 1 worked on it for months and everybody got together and  
10:17AM 2 they all started to attack. So Orbitz, remember we  
10:17AM 3 talked about Orbitz? That was supposed to be a Direct  
10:17AM 4 Connect online agency.

10:17AM 5 In the fall of 2010, they said, we know we  
10:17AM 6 have a contract with American for Direct Connect. We're  
10:17AM 7 not going to do it anymore. We're going to reject it.  
10:17AM 8 And Travelport started to bias American and said, you  
10:17AM 9 know, we're going to put this new tax -- we're going to  
10:17AM 10 put this new tax on your flights and we're going to add  
10:17AM 11 that to the price and because your flights are then  
10:17AM 12 going to have a slightly higher price, they're going to  
10:17AM 13 go all the way to the bottom of the list. And Expedia  
10:17AM 14 started biassing American's flights and then they just  
10:17AM 15 dropped them out altogether. And then the big travel  
10:17AM 16 agencies all joined the boycott and the biassing.

10:17AM 17 And what did Sabre do? Did they just say,  
10:17AM 18 oh, this was a normal contractual occurrence,  
10:18AM 19 everything's good and rosy and fine, we're just making  
10:18AM 20 our customer happy? Not at all. They tracked how badly  
10:18AM 21 American was hurting. Expedia, at the time, was Sabre's  
10:18AM 22 largest travel agency customer, so they kept in contact  
10:18AM 23 with Expedia when Expedia was biassing American. What  
10:18AM 24 they found out from Expedia was their actions had cut  
10:18AM 25 American's bookings by more than 50 percent. This

10:18AM 1 represents about \$500 million in annualized revenue for  
10:18AM 2 American. 500 million, half-a-billion dollars, and  
10:18AM 3 that's just Expedia alone.

10:18AM 4           Between us -- so now they're kind of  
10:18AM 5 talking conspiratorial -- between us -- just between us,  
10:18AM 6 I spoke with Expedia and they think they have a zero  
10:18AM 7 bleed. They think they have 99.9 percent recaptured,  
10:18AM 8 crushing them. So what do you think our relationship  
10:18AM 9 guy said? This is the guy who's supposed to protect  
10:18AM 10 American at Sabre -- from Sabre Investments, this is the  
10:18AM 11 lawyer. What did he say when he found out that American  
10:19AM 12 had on an annual basis, would be the impact of \$500  
10:19AM 13 million?

10:19AM 14           Is this a company trying to make its  
10:19AM 15 largest and oldest customer happy or trying to hurt them  
10:19AM 16 because they want to innovate? Sweet, he says. Time  
10:19AM 17 to -- whoops, sorry. Sweet, he says. Time to put a  
10:19AM 18 wooden stake through their heart. This is supposed to  
10:19AM 19 be the guy that's in our corner, at Sabre. What do you  
10:19AM 20 think the other Sabre executives were saying? Well,  
10:19AM 21 we'll never know.

10:19AM 22           So they wanted to -- and Project 99 was  
10:19AM 23 always about executing the trap and going -- jumping  
10:19AM 24 down to all the penalties they can think of. They  
10:19AM 25 wanted to inflict pain on American. They wanted to do

10:19AM 1 it so that American would just give up on Direct  
10:20AM 2 Connect. They wanted to jump --

10:20AM 3 THE REPORTER: Can you slow down?

10:20AM 4 MR. YETTER: They wanted to jump to the  
10:20AM 5 biassing. They wanted to jump to doubling the prices.  
10:20AM 6 They wanted to jump to terminating the contracts. And  
10:20AM 7 do you think they told us? If you're doing something  
10:20AM 8 pursuant to the contract, do you think you'd tell your  
10:20AM 9 biggest customer, your largest customer, your oldest  
10:20AM 10 customer, hey, you know what, I think you just started  
10:20AM 11 to blow up the contracts. They're going to tell us in  
10:20AM 12 this litigation, Oh, no, we told American what they were  
10:20AM 13 doing, blah, blah, blah. Here's the number two guy.  
10:20AM 14 Here it is right before the Christmas Eve surprise,  
10:20AM 15 December 22, 2010. Do they want to give us notice? Did  
10:20AM 16 they want to be aboveboard and honest with us? We don't  
10:20AM 17 need to give American notice. My vote is no notice,  
10:20AM 18 just implement. And what do you think they did? No  
10:20AM 19 notice; just implement.

10:20AM 20 And on January the 5th, when they finally  
10:20AM 21 came public with what they were doing, of course there  
10:21AM 22 wasn't -- they being honest even then, one of their  
10:21AM 23 executives said, yes, we caught them by surprise.

10:21AM 24 So it wasn't just biasing our flights by  
10:21AM 25 putting our flights way down to the end, we believe that



10:21AM 1 Sabre took our flights out altogether, at least some of  
10:21AM 2 them. Because on the day they went public -- on the day  
10:21AM 3 they went public, which was January 5th, 2011, they  
10:21AM 4 finally told us, We're going to start biasing. They  
10:21AM 5 never told us they'd already been biasing for months.

10:21AM 6 On the day they went public, we have an  
10:21AM 7 e-mail from this company called Accenture. It's a big  
10:21AM 8 management consulting company, thousands of employees.  
10:21AM 9 And apparently Sabre had already been talking to them.  
10:21AM 10 They're one of our customers. They're corporate  
10:21AM 11 passengers. Sabre had already been talking to them and  
10:21AM 12 said, you know, we'll let you in on our plan so you'll  
10:21AM 13 know what's happening.

10:21AM 14 So on the day they went public, on January  
10:21AM 15 5th, 2011, one of these -- one of the travel management  
10:22AM 16 ladies at Accenture sent an e-mail to Sabre and said,  
10:22AM 17 "Chris -- that's one of the executives, Chris  
10:22AM 18 Wilding -- are you already removing American Airlines'  
10:22AM 19 flights? In checking schedules from Chicago to La  
10:22AM 20 Guardia -- that's in New York -- I cannot find American  
10:22AM 21 flights. Are you completely inhibiting us to book on  
10:22AM 22 American?"

10:22AM 23 There's nothing on the contract that says  
10:22AM 24 they can take our flights out of GDS altogether. There  
10:22AM 25 was no limits to what Sabre was going to do. Project 99

10:22AM 1 was to hurt American so that we would do whatever Sabre  
10:22AM 2 wanted.

10:22AM 3           What did they do with our fees? They  
10:22AM 4 doubled them. We were paying \$2.73 one day, January the  
10:22AM 5 4th, and January the 5th, they said, you know, by the  
10:22AM 6 way, you're going to pay \$7.31. That's per leg on each  
10:22AM 7 flight. There's usually four legs per flight. More  
10:22AM 8 than double.

10:22AM 9           MR. LIND: Your Honor, this is exactly what  
10:22AM 10 we talked about before we started about stuff that  
10:22AM 11 wasn't supposed to be shown in open court. And I took  
10:23AM 12 it all out of my show, and I expected them to do the  
10:23AM 13 same.

10:23AM 14           MR. YETTER: This has already been -- I'll  
10:23AM 15 move on, Your Honor, but this has already been --

10:23AM 16           THE COURT: Go ahead, Counselor. You've  
10:23AM 17 got about seven or eight minutes.

10:23AM 18           MR. YETTER: Thank you, Your Honor.

10:23AM 19           By the way, this is our guy again, David  
10:23AM 20 Gross. What did he say when everything was okay? Was  
10:23AM 21 he unhappy that we were getting -- our fees doubled.

10:23AM 22           What else did they do? They made the  
10:23AM 23 ultimate threat to American. We're going to kick you  
10:23AM 24 out. They said, We're going to terminate you. We're  
10:23AM 25 going to terminate you and you're going to go dark.

10:23AM 1 Then they even joked about it. They wanted to pull the  
2 plug.

10:23AM 3 Here is one of their executives, Chris  
10:23AM 4 Kroeger, a Sabre vice president, "If there's any doubt  
10:23AM 5 on that, we'll do like the movie Airplane where the guy  
10:23AM 6 unplugs the power cord to runway lights. We'll simply  
10:23AM 7 power Sabre down for a week and see how long it takes  
10:23AM 8 for suppliers to recreate connecting to that network on  
10:23AM 9 their own."

10:23AM 10 What did we do? We had to go to court.  
10:24AM 11 This is exactly what Sabre was actually expecting. So  
10:24AM 12 we went to court. We went to this Court, and we said,  
10:24AM 13 Sabre is biasing us, and they have no right to do that.  
10:24AM 14 It's wrong and it breaches the contract, and we stopped  
10:24AM 15 Sabre from doing that.

10:24AM 16 The Court immediately ordered Sabre to  
10:24AM 17 stop. But was that enough?

10:24AM 18 So Sabre can't do it, but they said to the  
10:24AM 19 world -- finally they admitted they were doing it. They  
10:24AM 20 can't do it, but did that stop Sabre? This is  
10:24AM 21 January 10th, 2011. Two days later, this same guy, our  
10:24AM 22 advocate, is out scouring the fields to see if the  
10:24AM 23 travel agencies that they had gathered in this  
10:24AM 24 conspiracy were still doing their job. "Can we get an  
10:24AM 25 analysis of the top 15 American bookers on Sabre? We

10:24AM 1 need to see if these TMCs," this is a code word  
10:24AM 2 for -- it's a word for agencies, "are really moving  
10:25AM 3 significant share from American or not."

10:25AM 4 Then we say, Listen, we don't want to be in  
10:25AM 5 court. We don't -- certainly don't want to be out of  
10:25AM 6 Sabre. Let's talk about this. So then the parties  
10:25AM 7 decide to do what they call a "stand-down agreement."  
10:25AM 8 And the stand-down agreement is basically let's see if  
10:25AM 9 we can resolve this. We want to move forward. We don't  
10:25AM 10 want to be hurt by Sabre. So let's talk. And for five  
10:25AM 11 months we talked.

10:25AM 12 When we signed the stand-down agreement,  
10:25AM 13 the first thing it says is, Number 1, we'll stop our  
10:25AM 14 lawsuit. It was right at the beginning. We said, fine,  
10:25AM 15 we'll stop our lawsuit. We'll abate it. That means  
10:25AM 16 we'll freeze it, we'll stop it, no discovery, no  
10:25AM 17 nothing. We've got no documents. We didn't know what  
10:25AM 18 Sabre was doing.

10:25AM 19 Number 2, no biasing. Sabre better stop.  
10:25AM 20 Can't bias us anymore.

10:25AM 21 Number 3, you have to take back  
10:25AM 22 the -- that's not up there, but you have to take back  
10:25AM 23 the price increase. You can't do that.

10:25AM 24 And Number 8 -- there's other things here  
10:25AM 25 and there, but Number 8, we're going to deal with each

10:26AM 1 other in good faith.

10:26AM 2 So we sign it. It's signed by both sides.

10:26AM 3 Deal with each other in good faith. Does that stop

10:26AM 4 Sabre? That was on the 23rd. Two days later, Sabre's

10:26AM 5 out there getting their travel agents to continue to

10:26AM 6 boycott. This is CWT. This is an internal -- two days

10:26AM 7 later, after the good faith agreement campaign, "Demote

10:26AM 8 negatively weight American Airlines and American Eagle

10:26AM 9 to the bottom of all availability screens. Preference

10:26AM 10 to have them at bottom of the final screens."

10:26AM 11 Sabre had said -- the Court said, You

10:26AM 12 cannot bias. Sabre had agreed in the good faith

10:26AM 13 agreement, I won't bias, but they were doing it anyway

10:26AM 14 through the travel agents they had reached agreement

10:26AM 15 with.

10:26AM 16 So we asked them about it. We said, What's

10:26AM 17 up? Sometimes you can tell somebody something that's a

10:27AM 18 half truth and it's a whole lie. So we said, Something

10:27AM 19 is going on here. We're getting notices that our

10:27AM 20 flights are not being shown. It's because the travel

10:27AM 21 agents were doing what Sabre wanted them to do. And

10:27AM 22 Sabre talked about it internally. Said, Uh-oh, this

10:27AM 23 American guy's found out something. What should we say

10:27AM 24 to him?

10:27AM 25 Were they honest with us? Were they

10:27AM 1 dealing with us in good faith? The next day after  
10:27AM 2 debating it internally even with their lawyers, did they  
10:27AM 3 tell us the truth?

10:27AM 4 Oh, it's not our -- it's not our system.  
10:27AM 5 We checked our system and it's running normally. It's  
10:27AM 6 not on our end.

10:27AM 7 What really was going on is Sabre is  
10:27AM 8 actually -- has given to these travel agents Sabre's own  
10:27AM 9 software to bias our flights, and they knew it the whole  
10:27AM 10 time.

10:27AM 11 So then this is two weeks later or a  
10:27AM 12 week -- little less than a week later, the government,  
10:27AM 13 the DOT comes in and says, you know, biasing is wrong.  
10:27AM 14 It's terrible. It's deceptive. This is the Department  
10:27AM 15 of Transportation. The Department views display bias as  
10:28AM 16 an unfair and deceptive practice. It's wrong. It's not  
10:28AM 17 good for anybody.

10:28AM 18 What did Sabre do? Sabre brought its  
10:28AM 19 lobbyists and went to the DOT the next week and said,  
10:28AM 20 You know, you can't do this because American is  
10:28AM 21 complaining about what we did.

10:28AM 22 And so the DOT said, Okay -- they issued  
10:28AM 23 another letter saying, Okay, well, we're not trying to  
10:28AM 24 get in the middle of any dispute with American and  
10:28AM 25 Sabre.

10:28AM 1 But the fact is, ladies and gentlemen, what  
10:28AM 2 they said here still remains. It's deceptive and wrong,  
10:28AM 3 even if you have good, strong lobbyists that can get a  
10:28AM 4 federal agency to issue another letter.

10:28AM 5 Does that stop them after the DOT letter?  
10:28AM 6 Again, the DOT letter is on February the 1st. Two weeks  
10:28AM 7 later, they keep attacking with agency bias, agency  
10:28AM 8 boycott. CWT is monkeying with the display.

10:28AM 9 What are they worried about all long?  
10:28AM 10 They're worried about smoking guns. This is the number  
10:29AM 11 two man at Sabre. This is April 2011. This is after  
10:29AM 12 the TR0, after the good faith agreement, after the DOT  
10:29AM 13 letter. What does he send? He sends an e-mail to  
10:29AM 14 himself in the middle of the afternoon --

10:29AM 15 MR. LIND: Your Honor, could we have a  
10:29AM 16 quick sidebar on this?

10:29AM 17 THE COURT: Pardon?

10:29AM 18 MR. LIND: Could you take this down so we  
10:29AM 19 can have a quick sidebar on this?

10:29AM 20 THE COURT: All right. How much more time  
10:29AM 21 do you need, Counselor?

10:29AM 22 MR. YETTER: I just need about three more  
10:29AM 23 minutes.

10:29AM 24 THE COURT: All right.

10:29AM 25 (Discussion off the record.)

10:29AM 1 MR. YETTER: What does he say? This is the  
10:29AM 2 number two guy. He knows the whole Project 99. He  
10:29AM 3 knows everything. "We really need it as we are pushing  
10:29AM 4 on the legal action and we are concerned about a smoking  
10:29AM 5 gun."

10:29AM 6 Well, ladies and gentlemen, for the last  
10:29AM 7 90 minutes you've heard a lot of smoking guns. You're  
10:29AM 8 going to hear a lot more.

10:30AM 9 I want to finish with one thing -- two  
10:30AM 10 things. They're going to come and say everything they  
10:30AM 11 can. They're saying, Oh, no, you triggered; you can't  
10:30AM 12 complain. Contract made me do it. Direct Connect  
10:30AM 13 doesn't work. Nobody likes it. They like us, the GDSs,  
10:30AM 14 they don't like Direct Connect. You weren't hurt that  
15 much.

10:30AM 16 The best defense some people believe is a  
10:30AM 17 good offense, and that's what we're going to hear,  
10:30AM 18 ladies and gentlemen, and we want you to keep that in  
10:30AM 19 mind for the next 90 minutes when you hear what Sabre's  
10:30AM 20 going to say.

10:30AM 21 But what's absolutely clear is what Sabre  
10:30AM 22 did hurt American far more than we had any idea at the  
10:30AM 23 time. And we know that not just because we've been able  
10:30AM 24 to calculate it, but because Sabre calculated it.

10:30AM 25 So here is March 2011. Sabre's internally



10:30AM 1 calculating American's loss as American's total  
10:30AM 2 year-to-date loss is approximately \$153 million, an  
10:30AM 3 analyzed loss of \$984 million, almost a billion dollars.  
10:30AM 4 And the projected financial losses are likely to  
10:30AM 5 increase as low booking totals in January and February  
10:30AM 6 begin to manifest themselves. Low booking totals  
10:31AM 7 because they were biasing us.

10:31AM 8                   We have had our expert look at our damages.  
10:31AM 9 And he's -- they have -- he and his team have calculated  
10:31AM 10 damages in three pieces. The damage from the bias and  
10:31AM 11 boycott using Sabre's own way that they calculated it,  
10:31AM 12 \$188 million. The damage from the Direct Connect  
10:31AM 13 sabotage that Sabre did for the last six years, which is  
10:31AM 14 the lost cost savings and the lost new products,  
10:31AM 15 \$544 million. And the damage from the -- what we  
10:31AM 16 believe were illegal contract terms, which are the lost  
10:31AM 17 Web fare sales, \$261 million. Total, ladies and  
10:31AM 18 gentlemen, almost a billion dollars. Exactly what Sabre  
10:31AM 19 intended it to be.

10:31AM 20                   Ladies and gentlemen, it's now your turn.  
10:31AM 21 That's why you're so important, because you have to  
10:31AM 22 decide this. We're very glad you're here. This is a  
10:32AM 23 very important case. Thank you for your service.

10:32AM 24                   Thank you, Judge Cleveland.

10:32AM 25                   THE COURT: Yes, sir. We'll take

10:32AM 1 15 minutes, ladies and gentlemen.

10:32AM 2 (Jury not present.)

10:32AM 3 (Break taken from 10.32 a.m. to 10:49 a.m.)

10:49AM 4 (Jury present)

10:50AM 5 THE COURT: Counsel.

10:50AM 6 OPENING STATEMENTS BY DEFENDANTS

10:50AM 7 MR. LIND: Thank you, Your Honor.

10:50AM 8 Good morning, ladies and gentlemen. Nice

10:50AM 9 to see you again. As I think, or hope, you remember, my

10:50AM 10 name is Chris Lind. We talked a couple of weeks ago,

10:50AM 11 downstairs. I represent the men and women at Sabre,

10:50AM 12 including Tom Klein, who's here with us today, the

10:50AM 13 president of Sabre, and you all met Mr. Scott and

10:50AM 14 Mr. Duggins and Ms. Giulianelli last time, too.

10:50AM 15 If you remember what I said right off the

10:50AM 16 bat the last time we were together, after Mr. Yetter

10:50AM 17 gave a presentation, I reminded you -- and I think

10:50AM 18 everybody agreed -- nodded, that there are two sides to

10:50AM 19 every story. And one of the last things that Mr. Yetter

10:50AM 20 said before he sat down was, he put up a Ben Franklin

10:50AM 21 quote and he talked about half the truth. So I want to

10:50AM 22 tell you the whole truth. I want to show you the

10:50AM 23 documents and the evidence. That's a difference from

10:50AM 24 when we were downstairs and we weren't actually showing

10:51AM 25 you the documents and the evidence.

10:51AM 1 And I'm not going to spend a lot of time on  
10:51AM 2 cartoons and clipart and that kind of stuff like Mr.  
10:51AM 3 Yetter used because I think y'all can see the documents,  
10:51AM 4 read the documents, and understand the actual evidence.  
10:51AM 5 That's what we're going to spend the next hour and a  
10:51AM 6 half doing.

10:51AM 7 The evidence in this case is going to show  
10:51AM 8 three things. As you remember what Judge Cosby told you  
10:51AM 9 when we started downstairs last time, at its heart, this  
10:51AM 10 is a commercial contract case. And the first thing the  
10:51AM 11 evidence is going to show is that the parties' contract  
10:51AM 12 here at the heart of this case was good for American, it  
10:51AM 13 was good for travel agents, and it was good for their  
10:51AM 14 customers, our mutual customers. And those aren't my  
10:51AM 15 words; those are American's words.

10:51AM 16 American negotiated and voluntarily agreed  
10:51AM 17 to the very contract terms it now says are unfair or  
10:52AM 18 anticompetitive. And it was a tough negotiation, and it  
10:52AM 19 was a frustrating negotiation, and you're going to see  
10:52AM 20 that from the documents on both sides.

10:52AM 21 But at the time when American used its  
10:52AM 22 leverage to get what it wanted out of that negotiation  
10:52AM 23 and to get the contract terms that it wanted, it praised  
10:52AM 24 this contract as a good contract.

10:52AM 25 And there was a reason that American liked

10:52AM 1 this contract. They got two very important things:  
10:52AM 2 They got the absolute lowest booking fee in  
10:52AM 3 the industry, lower than all of its competitors. We  
10:52AM 4 talked about last time how the airlines pay for Sabre's  
10:52AM 5 services to bring them the bookings and bring them the  
10:52AM 6 business. And American paid less than any of its major  
10:52AM 7 competitors.

10:52AM 8 Now, the other thing that American  
10:52AM 9 negotiated for in the contract is the flexibility to  
10:52AM 10 introduce their Direct Connect product when they thought  
10:53AM 11 it was ready. It wasn't ready back at the time that we  
10:53AM 12 signed this contract in 2006, but they negotiated for  
10:53AM 13 the flexibility to publicly market and launch that  
10:53AM 14 Direct Connect product in the marketplace. And that's  
10:53AM 15 what is called the "Unwind Provision." They negotiated  
10:53AM 16 a provision of contract that allowed them to take steps  
10:53AM 17 so that then Sabre had steps and the contract could  
10:53AM 18 eventually be unwound. And they took advantage of that  
10:53AM 19 provision knowing that it would trigger the unwind and  
10:53AM 20 allow Sabre to take the biasing actions that it did.  
10:53AM 21 And that was the deal that the parties made.

10:53AM 22 But after American put all its eggs in its  
10:53AM 23 Direct Connect basket and Direct Connect hasn't been as  
10:53AM 24 successful as they had hoped, instead of working with us  
10:53AM 25 on a new contract, they want to rewrite the contract and

10:53AM 1 they filed this lawsuit to try to do it.

10:53AM 2 Now, the second thing the evidence is going  
10:54AM 3 to show is that Sabre's GDS as a vehicle, as a tool, as  
10:54AM 4 a software, as a system for the travel agents and  
10:54AM 5 corporations, has been successful because it provides  
10:54AM 6 all the features and functionality that travel agents  
10:54AM 7 want.

10:54AM 8 Sabre has the amount of business that it  
10:54AM 9 does because it's worked hard to develop that  
10:54AM 10 technology, compete in the marketplace to get the  
10:54AM 11 travelers' business. I'm going to spend a little time  
10:54AM 12 on this, but that's what we're all trying to do is to  
10:54AM 13 get travelers to book tickets on airplanes. That's what  
10:54AM 14 we're trying to do, and that's what everybody in this  
10:54AM 15 industry is trying to do.

10:54AM 16 Now, if Sabre somehow got its business, its  
10:54AM 17 share of the market from being a monopoly, you'd expect  
10:54AM 18 something very clear. You'd expect Mr. Yetter to stand  
10:54AM 19 up and you'd expect Mr. Yetter to put up a chart and  
10:55AM 20 say, Look at their prices, up and up and up every year.  
10:55AM 21 Look, there's no competition.

10:55AM 22 But the evidence is 180 degrees. There's  
10:55AM 23 lots of competition in the marketplace and the prices go  
10:55AM 24 down and down and down, and that's a competitive  
10:55AM 25 industry, not a monopoly.

10:55AM 1 The third thing the evidence is going to  
10:55AM 2 show is that Direct Connect, American's product, they're  
10:55AM 3 trying to steer bookings away from Sabre, get travel  
10:55AM 4 agents to use their Direct Connect product. Direct  
10:55AM 5 Connect hasn't been successful because it doesn't  
10:55AM 6 benefit anybody but American. And we went out and we  
10:55AM 7 talked to the travel agents. We took their deposition  
10:55AM 8 testimony, under-oath testimony just like in court. You  
10:55AM 9 videotape it. Lawyers get to ask questions. Witnesses  
10:55AM 10 answer. You'll hear from the travel agents in the next  
10:55AM 11 few weeks. I'm going to show you some of it today. And  
10:55AM 12 you'll hear why they didn't adopt Direct Connect.

10:55AM 13 And there's a reason Mr. Yetter didn't show  
10:56AM 14 you any testimony of the travel agents, who are the  
10:56AM 15 ultimate customers here, because all of them said they  
10:56AM 16 didn't adopt Direct Connect because it didn't meet their  
10:56AM 17 needs. And not one of them said that they didn't adopt  
10:56AM 18 Direct Connect because of anything having to do with  
10:56AM 19 Sabre.

10:56AM 20 So before we get into the merits of these  
10:56AM 21 claims, I want to talk a little bit about the industry  
10:56AM 22 and what Sabre does, because it's important to set the  
10:56AM 23 framework. When you're talking about a case about  
10:56AM 24 monopolization like they claim and conspiracy, you need  
10:56AM 25 to know a little bit more about the industry and you

10:56AM 1 need to know more about the competition and what it is  
10:56AM 2 that Sabre does. When you're trying to figure out why  
10:56AM 3 Direct Connect hasn't been successful and Sabre has been  
10:56AM 4 successful, we need to talk about how those products  
10:56AM 5 work.

10:56AM 6                   What is Sabre? Again, we talked a little  
10:56AM 7 bit about this last time we were together, but it's a  
10:56AM 8 computerized reservation system and it allows the  
10:56AM 9 customer to call the travel agent saying, what is the  
10:57AM 10 best fare from Dallas to Miami, or whatever, to shop for  
10:57AM 11 the best fare, to shop across all the airlines, not just  
10:57AM 12 American, to shop for rental cars, to shop for hotels,  
10:57AM 13 to shop for cruises, compare all the prices. And you  
10:57AM 14 can do that through over 300,000 agents around the  
10:57AM 15 world, and you can do it in seconds, in a fraction of a  
10:57AM 16 second. And in this industry, speed is everything.

10:57AM 17                   Travel agents get paid per booking. Travel  
10:57AM 18 agents need the absolute fastest systems possible, and  
10:57AM 19 you don't want to sit around on the Internet or waiting  
10:57AM 20 at home on the phone waiting for the results to come  
10:57AM 21 back either.

10:57AM 22                   And Sabre's computer searched through  
10:57AM 23 billions of fares, literally billions of different  
10:57AM 24 airline fares and combinations of routes and cities and  
10:57AM 25 hotels and everything else, and they do that from

10:57AM 1 thousands of suppliers. There are over 400 airlines in  
10:57AM 2 Sabre.

10:57AM 3 We've put a couple of them up on this board  
10:58AM 4 I'll go through, but there are about 400 total airlines.  
10:58AM 5 There are almost 100,000 hotels in Sabre. There are 20  
10:58AM 6 different rental car brands, and then there are also  
10:58AM 7 cruise lines and other tour operators.

10:58AM 8 And Sabre's up and running 24 hours a day,  
10:58AM 9 7 days a week, 365 days a year, and we take over a  
10:58AM 10 million reservations per day. That is a fast and  
10:58AM 11 efficient system, and that's why the travel agents like  
10:58AM 12 it.

10:58AM 13 So the travel agent or the travel  
10:58AM 14 industry -- on our board here -- I want to talk about  
10:58AM 15 the whole industry because Mr. Yetter talked about just  
10:58AM 16 a little piece of it and I want to talk about the whole  
10:58AM 17 industry.

10:58AM 18 If you're a traveler and you want to buy an  
10:58AM 19 airline ticket, you have all sorts of choices. Sabre is  
10:58AM 20 one tiny piece of this puzzle. You can go to a  
10:58AM 21 traditional travel agent, call your travel agent. You  
10:58AM 22 can go to an online travel agent like Expedia or Orbitz  
10:59AM 23 or one of those. You can go to -- if you're an employee  
10:59AM 24 at a corporation that has an internal travel department,  
10:59AM 25 you can go to the corporate travel department. You can



10:59AM 1 go to the airline's Web site, AA.com, United.com, any of  
10:59AM 2 the airlines. You can go to the call centers, call any  
10:59AM 3 of the airlines directly. And you can go to a whole  
10:59AM 4 bunch of other sites on the Internet called meta search  
10:59AM 5 sites that basically take you through to -- directly to  
10:59AM 6 the airline.

10:59AM 7                   And your choice as a traveler is to go  
10:59AM 8 through any one of these sites and lots of different  
10:59AM 9 other places. And for that reason, the travel industry  
10:59AM 10 is extremely competitive. The only business we get is  
10:59AM 11 if you happen to go through a travel agent or a  
10:59AM 12 corporation that happens to use us to connect to the  
10:59AM 13 airlines.

10:59AM 14                   If you buy your ticket on an airline Web  
10:59AM 15 site, it has nothing to do with Sabre. We don't make a  
10:59AM 16 dollar. The booking doesn't go through us. If you call  
11:00AM 17 the airline, it has nothing to do with Sabre. If you go  
11:00AM 18 on one of the Internet meta search sites, it has nothing  
11:00AM 19 to do with Sabre. If you go through an online travel  
11:00AM 20 agency like Orbitz that's owned by and uses Travelport,  
11:00AM 21 one of the other big GDSs, it has nothing to do with  
11:00AM 22 Sabre. If you go through your corporate travel  
11:00AM 23 department and they use Amadeus, it has nothing to do  
11:00AM 24 with Sabre. You get the picture? You go through a  
11:00AM 25 travel agency that uses Travelport or Amadeus, it has

11:00AM 1 nothing to do with Sabre.

11:00AM 2 That's important because we compete with  
11:00AM 3 all of these different ways to buy airline tickets and  
11:00AM 4 both of these other GDSs every single day for every bit  
11:00AM 5 of the travelers' business, and that's important when  
11:00AM 6 you think about competition. And this case is about  
11:00AM 7 competition.

11:00AM 8 So because this market is so competitive,  
11:00AM 9 only a fraction of the airline tickets, American  
11:00AM 10 Airlines airline tickets come through Sabre. And you'll  
11:01AM 11 see that almost half go directly through American.  
11:01AM 12 Mostly through AA.com is about all of that. So you have  
11:01AM 13 half of American's tickets, before you're even talking  
11:01AM 14 about the GDSs, go through their Web site and call  
11:01AM 15 center, here. And you only get to the GDSs sort of in  
11:01AM 16 the second half. And then when you get to the second  
11:01AM 17 half, we've got three other GDSs and some other channels  
11:01AM 18 as well. And Sabre is -- about 31 percent of American  
11:01AM 19 Airlines tickets go through a travel agency or corporate  
11:01AM 20 travel department that uses Sabre, 31 percent.

11:01AM 21 Now, when you talk about the piece of the  
11:01AM 22 pie that Mr. Yetter focuses on, travel agents booking  
11:01AM 23 through Sabre for corporate travel, which is what he  
11:01AM 24 kept talking about, that's this little piece of the pie.  
11:01AM 25 Less than 9 percent of American Airlines tickets are

11:02AM 1 booked through a travel agent for corporate travel that  
11:02AM 2 uses Sabre.

11:02AM 3           So when you think about this 70 percent  
11:02AM 4 market share that he talked about, it's 70 percent of 9  
11:02AM 5 percent, which is a small, little, tiny piece of the  
11:02AM 6 puzzle. And what American is asking you to do when they  
11:02AM 7 want to talk about power and control and influence in  
11:02AM 8 this industry is they want to carve up this pie into  
11:02AM 9 this little piece and ignore all these other ways to buy  
11:02AM 10 tickets, to ignore all these other GDSs. Amadeus, he  
11:02AM 11 called it a little, tiny GDS. It's as big as Sabre, a  
11:02AM 12 little less in the U.S., but it's a huge company.  
11:02AM 13 Travelport is a huge GDS that owns Orbitz. These aren't  
11:02AM 14 little bit players.

11:02AM 15           We're asking you to consider all the  
11:02AM 16 evidence and look at the whole pie and look at the whole  
11:02AM 17 picture, because it's simply not the case that a  
11:03AM 18 traveler must go through Sabre in order to buy an  
11:03AM 19 airline ticket.

11:03AM 20           Let's focus for a minute just on the GDSs,  
11:03AM 21 one part of the market. The competition between these  
11:03AM 22 GDSs is intense. The travel agents and the corporate  
11:03AM 23 travel departments will switch their GDS in a heartbeat  
11:03AM 24 in order to get better terms, better features, better  
11:03AM 25 functionality.

11:03AM 1 When Mr. Yetter talks about, well, you've  
11:03AM 2 got -- Sabre's got somebody here locked in and they have  
11:03AM 3 no choice but to use Sabre, that's just not the truth.  
11:03AM 4 And we talked to the agents about it, and we asked the  
11:03AM 5 travel agents -- this is the first actual travel agency  
11:03AM 6 testimony you're going to see, and I'm going to show you  
11:03AM 7 a lot of it because they're our customers and American's  
11:03AM 8 customers.

11:03AM 9 This is Rose Stratford with BCD that Mr.  
11:04AM 10 Yetter talked about. "When negotiating with the GDS,"  
11:04AM 11 she's talking about, "does BCD sometimes use the threat  
11:04AM 12 of switching from one GDS to another when they're  
11:04AM 13 negotiating their contracts?"

11:04AM 14 "Yes.

11:04AM 15 "Why is that?"

11:04AM 16 "To leverage the GDS."

11:04AM 17 And she goes through. "Do you ever switch  
11:04AM 18 bookings from one GDS to another?"

11:04AM 19 "We move bookings every year."

11:04AM 20 Every year, all the time, the travel agents  
11:04AM 21 are switching from one GDS to another.

11:04AM 22 The corporations do the same thing. Mr.  
11:04AM 23 Yetter talked about the corporation and said that  
11:04AM 24 somehow Sabre had the corporations locked in and to  
11:04AM 25 punish them and all this stuff. Here's just a list of

11:04AM 1 corporations that switched GDSs in the last couple of  
11:04AM 2 years. We're not talking about little, tiny  
11:04AM 3 corporations. It's the biggest corporations in the  
11:04AM 4 world because they have huge leverage over us. They  
11:04AM 5 say, Sabre, if you won't give us good terms and good  
11:04AM 6 features and good service, we'll go to Travelport or  
11:04AM 7 we'll go to Amadeus or we'll work our own situation.  
11:04AM 8 And that's what's they do all the time. They switch in  
11:05AM 9 a heartbeat.

11:05AM 10 Sabre has to compete every day with all of  
11:05AM 11 these other channels and ways to buy an airline ticket  
11:05AM 12 for that little less than 9 percent piece of the pie we  
11:05AM 13 showed. Now, how do they do that? Sabre spends  
11:05AM 14 hundreds of millions of dollars every year developing  
11:05AM 15 the technology and functionality that allows them to  
11:05AM 16 attract customers. I think Mr. Yetter said Sabre didn't  
11:05AM 17 want to spend money to compete. They spend hundreds of  
11:05AM 18 millions of dollars a year in their technology. They've  
11:05AM 19 got modern interfaces. They developed mobile  
11:05AM 20 technology. They've got one of the largest privately  
11:05AM 21 owned computer networks that there is, processing all  
11:05AM 22 this information in order to do it faster and better.  
11:05AM 23 They win awards every year based on their technology.  
11:05AM 24 Remember the picture that Mr. Yetter put up in voir dire  
11:06AM 25 of the little old -- I think we called it a Commodore

11:06AM 1 64, old fashioned computer with a tape drive. He was  
11:06AM 2 trying to make Sabre out to be old technology. Sabre's  
11:06AM 3 cutting edge, new technology, and that's how it keeps  
11:06AM 4 its customers.

11:06AM 5 And we've won over our customers, the  
11:06AM 6 travel agents, by offering better features, better  
11:06AM 7 functionality, better service at a better price, and  
11:06AM 8 that's how people compete every day in America. Better,  
11:06AM 9 less expensive, better functionality than our  
11:06AM 10 competitors, better than Direct Connect, and better than  
11:06AM 11 the other options that are out there.

11:06AM 12 So why are we here today? It's about the  
11:06AM 13 contract. Here's the contract. I'm held it up last  
11:06AM 14 time, I'm holding it up again. This is what we're going  
11:06AM 15 to talk about for the next several weeks. You're going  
11:06AM 16 to see a lot of this and I'm going to walk through some  
11:06AM 17 pieces of it. There's been a lot of talk about what's  
11:07AM 18 fair, what's competitive, whether biasing or changing  
11:07AM 19 the prices was okay. The fact is, these parties  
11:07AM 20 specifically negotiated a contract that specifically  
11:07AM 21 addressed in black and white all of the issues that  
11:07AM 22 Mr. Yetter talks about today. We were allowed to bias  
11:07AM 23 under certain circumstances. Those circumstances  
11:07AM 24 happened. The price moved under certain circumstances,  
11:07AM 25 those circumstances happened.

11:07AM 1 How did this contract come about? The  
11:07AM 2 version that we're arguing about for next few weeks is  
11:07AM 3 the 2006 contract the parties negotiated. But this  
11:07AM 4 contract goes back to the '90s, and as you recall from  
11:07AM 5 voir dire, American Airlines owned Sabre until 2000.  
11:07AM 6 American Airlines wrote some of these terms that they're  
11:07AM 7 now complaining about, in the contract. American  
11:07AM 8 invented the GDS distribution model and the way that you  
11:08AM 9 go through a GDS, or a travel agent can choose to go  
11:08AM 10 through a GDS. They drafted the original contract.

11:08AM 11 Mr. Yetter takes some shots at our  
11:08AM 12 executives. Our executives grew up at American  
11:08AM 13 Airlines. Tom was there for 12 years. Our CEO was at  
11:08AM 14 American Airlines. They learned at the hips of American  
11:08AM 15 Airlines' executives.

11:08AM 16 But American sold Sabre in 2000. They  
11:08AM 17 decided to sell Sabre because they made over a billion  
11:08AM 18 dollars doing it. So they thought at the time, you know  
11:08AM 19 what, it's better for us to sell off this company, take  
11:08AM 20 our billion dollars and go concentrate on selling  
11:08AM 21 airline tickets. And that's a choice they made and now  
11:08AM 22 they don't like that they made that choice.

11:08AM 23 When American and Sabre negotiated this  
11:08AM 24 contract in 2006, American was the biggest airline in  
11:08AM 25 the world. It still is one of the top airlines in the

11:08AM 1 world. They had huge leverage over Sabre. Nobody beats  
11:09AM 2 up on American Airlines. They hammered us to get the  
11:09AM 3 terms they wanted. Unfortunately, what's clear by now  
11:09AM 4 is they don't like the terms anymore and that's why  
11:09AM 5 we're here. They don't like giving us lots of content,  
11:09AM 6 the content that Mr. Yetter talked about, even though  
11:09AM 7 they agreed to it in the contract. They don't want to  
11:09AM 8 say that -- or they didn't want to say we shouldn't have  
11:09AM 9 been able to bias, even though they agreed to it in the  
11:09AM 10 contract.

11:09AM 11 They say it's unfair now, even though  
11:09AM 12 they've received hundreds of millions of dollars in  
11:09AM 13 savings over the last few years by leveraging a contract  
11:09AM 14 that got them the lowest price in the industry.

11:09AM 15 So what does American say about the  
11:09AM 16 contract? This is the day they signed the contract.  
11:09AM 17 They sent a letter out to all the travel agents all over  
11:09AM 18 the place. Here's what American said when they're not  
11:09AM 19 in this courtroom, when they're out in the  
11:09AM 20 public -- their real business documents. This agreement  
11:10AM 21 is good for American Airlines. It's good for our agency  
11:10AM 22 partners, the travel agents, and it's good for our  
11:10AM 23 customers, all of you. Our agreement with Sabre  
11:10AM 24 establishes long-term cost savings. You bet it did.  
11:10AM 25 And then here's -- they say, We thank Sabre for a



11:10AM 1 mutually beneficial outcome.

11:10AM 2 That's the contract that American signed  
11:10AM 3 that now they say is anticompetitive or unfair.

11:10AM 4 Here's what else they say. They  
11:10AM 5 disseminated points to tell the world, to tell the media  
11:10AM 6 and everybody else. They described the contract as  
11:10AM 7 economically competitive. Now they say it's  
11:10AM 8 anticompetitive. Outside the court, they said it's  
11:10AM 9 beneficial for all parties, allows American to  
11:10AM 10 distribute its content, its flights and fares, in an  
11:10AM 11 economical and efficient manner. Now they say it's not  
11:10AM 12 economical. American Airlines applauded Sabre for their  
11:10AM 13 ability to create a win-win contract that enabled  
11:11AM 14 American to remain flexible. Remember the provision in  
11:11AM 15 the contract that allowed American to unwind it if they  
11:11AM 16 want? That's the flexibility that American wanted. And  
11:11AM 17 they agreed to terms with Sabre that they believed were  
11:11AM 18 fair, economical, and beneficial. Now they say, gee  
11:11AM 19 whiz, unfair. And everybody at American Airlines said  
11:11AM 20 this.

11:11AM 21 These are from their vice president, who  
11:11AM 22 was in charge of the negotiations and other executives,  
11:11AM 23 and this is what Mr. Yetter said at the time. The day  
11:11AM 24 the contract was signed, after they distributed signed  
11:11AM 25 copies of the contract around the team that had

11:11AM 1 negotiated it, Mr. Yetter was on that team negotiating  
11:11AM 2 face-to-face with Sabre. He sent around an e-mail, when  
11:11AM 3 he got the signed copy. He said, "Congratulations all  
11:11AM 4 on a significant victory for the company." A  
11:12AM 5 significant victory for the company is what Mr. Yetter  
11:12AM 6 called it, when he's not here in court. That's what he  
11:12AM 7 called it when he's talking internally. Talk about  
11:12AM 8 secret. When he's talking internally to the top  
11:12AM 9 executives at American Airlines, he said this is a great  
11:12AM 10 contract. It was a huge victory. He didn't say, too  
11:12AM 11 bad, I'm very disappointed, this is unfair, it's  
11:12AM 12 anticompetitive, but we did the best we could. He said  
11:12AM 13 it's a victory, a significant victory. And a deal is a  
11:12AM 14 deal and this was a very good deal for American  
11:12AM 15 Airlines.

11:12AM 16 They got over a \$500 million discount off  
11:12AM 17 Sabre's rack rate. That's their, like, list price.  
11:12AM 18 They got a 55 percent discount in fees over the last two  
11:12AM 19 contracts. There was one in 2003 and then another in  
11:12AM 20 2006. They paid the lowest booking fee of any airline  
11:13AM 21 and they pay a lower booking fee to us than they do to  
11:13AM 22 Amadeus or to Travelport. What kind of a monopolist  
11:13AM 23 charges a lower price than its competitors?

11:13AM 24 How did they get such a good deal? They  
11:13AM 25 had huge leverage over us. Here's what they did. First

11:13AM 1 thing they did in negotiations, they threatened to  
11:13AM 2 withhold access to their flight and fares. They know we  
11:13AM 3 need their flights and fares, and they said, we're not  
11:13AM 4 going to give them to you unless you give us a great  
11:13AM 5 deal. Then they terminated our existing contract. Mr.  
11:13AM 6 Yetter talked about we threatened, he said -- I think  
11:13AM 7 there's a dispute about this, but he said that we  
11:13AM 8 somehow threatened in recent negotiations to kick them  
11:13AM 9 out. American did terminate our contract in order to  
11:13AM 10 make us sign a new one. They got travel agents to move  
11:13AM 11 bookings away from Sabre and then they threatened to  
11:13AM 12 punish the travel agents that chose to use it -- use us.

11:13AM 13 So how do they have leverage in terms of  
11:14AM 14 their content and their flights and fares? We talked  
11:14AM 15 about this downstairs a little bit, but let me go to  
11:14AM 16 some of the data. American controls most of the routes  
11:14AM 17 out of a lot of cities, but certainly Dallas-Fort Worth,  
11:14AM 18 to all the major cities. They have 79 percent of these  
11:14AM 19 markets. They have 100 percent of nonstop flights out  
11:14AM 20 of DFW to all of these cities. If you want to fly  
11:14AM 21 nonstop out of DFW to any of these cities, you have to  
11:14AM 22 fly American Airlines. You have no choice. So if we  
11:14AM 23 want to offer a travel agent a service -- a service by  
11:14AM 24 which you have access to all the flights and fares, so  
11:14AM 25 you can get where you need go and find the best flights

11:14AM 1 for the best fare, we have to have American. And not  
11:14AM 2 just in Dallas, but there's over 200 cities where they  
11:14AM 3 have the only option. We have to have American, so when  
11:14AM 4 they threaten to withhold their content, their flight  
11:14AM 5 and fares, we have no choice but to agree to their  
11:15AM 6 terms.

11:15AM 7           So what do they do in the negotiations for  
11:15AM 8 the contract? They send out a letter -- they send out a  
11:15AM 9 letter that says, we want you to know -- and this is,  
11:15AM 10 again, to all travel agents -- it's possible that we may  
11:15AM 11 not participate in all GDSs going forward. They sent a  
11:15AM 12 letter to deliver a very specific message to travel  
11:15AM 13 agents and a very specific message to Sabre, when  
11:15AM 14 they're in contract negotiations. This letter says,  
11:15AM 15 hey, Sabre, just to let you know, if you don't give us a  
11:15AM 16 good deal, we have no problem dropping you. We have no  
11:15AM 17 problem not participating in all GDSs. Maybe just this  
11:15AM 18 one, maybe just this one, maybe these two, but not  
11:15AM 19 Sabre.

11:15AM 20           So Mr. Yetter stood up here and said, we'd  
11:15AM 21 be dead, American, if we were out of the GDS. That's  
11:15AM 22 not what they say outside of the courtroom. What they  
11:15AM 23 say outside of the courtroom is any day now, we may drop  
11:15AM 24 one or both or all of you.

11:15AM 25           And they used this ability as leverage in

11:16AM 1 the contract negotiations. They specifically referred  
11:16AM 2 to it as a bargaining tool. We've used GDS's access to  
11:16AM 3 full content as a bargaining tool to reduce our booking  
11:16AM 4 fees. Their senior executive, Dan Garton -- it looks  
11:16AM 5 like we all went out and found the frowniest pictures of  
11:16AM 6 the other guys' witnesses, but I think people just don't  
11:16AM 7 like depositions so much.

11:16AM 8 But he said the same thing, you bet we use  
11:16AM 9 that as leverage in the negotiations. What did they do  
11:16AM 10 next in the negotiations? They notified us that they  
11:16AM 11 terminated our contract. DCA3 was the contract that was  
11:16AM 12 signed in 2003, and it was effective through July  
11:16AM 13 30 -- through August 31st of 2006. They terminated it  
11:16AM 14 early.

11:16AM 15 What else did they do? They made us  
11:16AM 16 recognize that we had a lot at stake and American has  
11:16AM 17 lots of leverage. They specifically recognized, in  
11:16AM 18 these negotiations, that \$4.2 billion we  
11:17AM 19 protect -- that's American. This is another American  
11:17AM 20 senior executive, who's in charge of the negotiations,  
11:17AM 21 "American protects \$4.2 billion of revenue that's booked  
11:17AM 22 through Sabre." Who protects? American protects.  
11:17AM 23 Exact opposite of what we heard, and so American says  
11:17AM 24 they -- Sabre -- has lots at stake and, therefore,  
11:17AM 25 American has lots of leverage, and you bet they did.

11:17AM 1                   What did they do next? They paid people to  
11:17AM 2 move American bookings off Sabre to Worldspan. They  
11:17AM 3 deployed teams out to the agencies to assist with that  
11:17AM 4 Worldspan migration, as they called it, moving bookings  
11:17AM 5 off of Sabre. They said, Sabre, if you don't play ball,  
11:17AM 6 we're going to get all these travel agents who use you,  
11:17AM 7 we'll get them to switch to Amadeus or switch to  
11:17AM 8 Travelport in a heartbeat.

11:17AM 9                   Then what did they do? They implemented  
11:17AM 10 something called a surcharge. They basically said to  
11:18AM 11 travel agents, if you want to use Sabre, you're going to  
11:18AM 12 pay extra. Basically, it's like increasing the price of  
11:18AM 13 the ticket to the consumers, but it's saying, look,  
11:18AM 14 Mr. Carlson, if you want to book a ticket through Sabre  
11:18AM 15 instead of Travelport or Amadeus, we're going to charge  
11:18AM 16 you another five, six, seven, whatever it was, dollars.  
11:18AM 17 That is incentive, like crazy, to get those travel  
11:18AM 18 agents to use one of our competitors, and we had no  
11:18AM 19 choice but to agree to their terms and they knew it.

11:18AM 20                   And so here's what they say, internal  
11:18AM 21 e-mails, these secret e-mails, American has internal  
11:18AM 22 e-mails, too. He says, again, Mr. Cush, who is this  
11:18AM 23 lead negotiator, another negotiator and Mr. Garton,  
11:18AM 24 who's the executive vice president in charge of the  
11:18AM 25 whole deal, he says, "Not trying to be a hard ass here,

11:18AM 1 but also not interested in getting together with Sabre  
11:18AM 2 unless they are ready to accept our terms." That's how  
11:19AM 3 this negotiation went, that Mr. Yetter called  
11:19AM 4 nonnegotiable.

11:19AM 5                   What else did American do?  
11:19AM 6 American -- this is Mr. Cush again, they implemented in  
11:19AM 7 this negotiation what they called the Powell Doctrine.  
11:19AM 8 Everybody remembers General Colin Powell. He led the  
11:19AM 9 invasion into Iraq, shock and awe, I think he called it.  
11:19AM 10 The Powell Doctrine is what American used, which  
11:19AM 11 basically says if you pick a fight, which they did with  
11:19AM 12 us, use overwhelming force right from the beginning and  
11:19AM 13 don't bother holding anything back. And then he said,  
11:19AM 14 if the agencies -- he's got his agency defense of attack  
11:19AM 15 plan, too -- make sure that if one of these agencies  
11:19AM 16 sets up in Sabre's camp, if they support us in these  
11:19AM 17 negotiations, that they feel the pain from our side.  
11:19AM 18 American made those travel agents feel the pain all  
11:19AM 19 right. Anyone who participates risks the  
11:19AM 20 following -- and American was taking away their  
11:19AM 21 benefits, taking away incentives, taking away the things  
11:20AM 22 the travel agents get from American.

11:20AM 23                   That's the hard-line negotiations that  
11:20AM 24 American pursued in this contract and that's how they  
11:20AM 25 got the contract that they wanted.

11:20AM 1 So let me spend a second, here, on this  
11:20AM 2 language in the e-mail, because Mr. Yetter talked a lot  
11:20AM 3 about a lot of aggressive language, and we touched on  
11:20AM 4 this at the -- at the voir dire.

11:20AM 5 He says, Oh, gee, Sabre's  
11:20AM 6 negotiating -- they have internal e-mails that said,  
11:20AM 7 "Lay out the broken glass." And they said, "Take AA  
11:20AM 8 down. Put a wooden stake in their heart." All these  
11:20AM 9 war analogies he pointed to. He had them all come up.  
11:20AM 10 He say that shows that Sabre is anticompetitive. That  
11:20AM 11 shows they were just out to kill us. What it shows is  
11:20AM 12 that these two companies negotiate hard. They used to  
11:20AM 13 be one company and now they found themselves on the  
11:20AM 14 other side of the negotiating table, and a lot of them  
11:20AM 15 on both sides use some tough talk.

11:20AM 16 So this is all anticompetitive, the blue,  
11:21AM 17 but then when American says it -- says it, it's fine.  
11:21AM 18 Exact same things. They say, "Make sure they feel the  
11:21AM 19 pain. Attack Sabre. There's going to have to be a  
11:21AM 20 sledgehammer." War analogies he talked about, "We're  
11:21AM 21 going to wait for the GDS Hiroshima. Threaten war with  
11:21AM 22 Sabre. Use the Powell Doctrine, overwhelming force."

11:21AM 23 This is how these companies talk internally  
11:21AM 24 about the negotiations. Does not make a monopoly. Does  
11:21AM 25 not make an anticompetitive conduct.



11:21AM 1 So what happened in these negotiations?

11:21AM 2 Well, American wanted several things. They wanted a low

11:21AM 3 price. They wanted some protection against biassing.

11:21AM 4 They wanted to withhold content to steer bookings to

11:21AM 5 Direct Connect. And they wanted a three-year term,

11:21AM 6 because they were planning to get out of Sabre, or at

11:21AM 7 least their Direct Connect stuff, and so they wanted a

11:21AM 8 shorter term.

11:21AM 9 We wanted, obviously, a higher price. We

11:22AM 10 wanted full content, as much of their content, their

11:22AM 11 flights and fares as we could get, to offer travel

11:22AM 12 agents. We wanted high volume. Use us as much as

11:22AM 13 possible, please, because that's good for our business.

11:22AM 14 And we wanted a five-year term. If any of you are in

11:22AM 15 business, you know it's better to have a longer term

11:22AM 16 with your customers, because you're getting more

11:22AM 17 business.

11:22AM 18 What happened? What did the parties get?

11:22AM 19 Well, American got basically everything they wanted. We

11:22AM 20 ended up with low price, as we saw, the lowest price out

11:22AM 21 there. We ended up with less than full content. They

11:22AM 22 didn't give us all of their flights and fares. We ended

11:22AM 23 up -- instead of five-year term, we ended up

11:22AM 24 with -- with, effectively, a three-year term, because

11:22AM 25 American had what was, basically, that option to unwind.

11:22AM 1 Let's talk about full content for a minute.  
11:22AM 2 We didn't get all the content we wanted. We talked  
11:22AM 3 about why it is we want access to as much content as  
11:23AM 4 possible, because it allows us to provide a better  
11:23AM 5 service to the travel agent in their comparison shopping  
11:23AM 6 against all different airlines. But we never asked for  
11:23AM 7 any more content than American could give all of our  
11:23AM 8 competitors or Direct Connect; we just wanted to be on  
11:23AM 9 equal playing field, equal footing. We wanted a  
11:23AM 10 decision to be made based on the technology, based on  
11:23AM 11 the price, based on the functionality of the system, and  
11:23AM 12 everyone should have all the same content to do the  
11:23AM 13 comparison shopping. Everyone should have access to all  
11:23AM 14 the same flights and fares, no matter how you're doing  
11:23AM 15 it.

11:23AM 16 But we didn't get all of the content.  
11:23AM 17 American negotiated a bunch of exceptions. Web fares,  
11:23AM 18 for instance, Mr. Yetter said, Well, we weren't allowed  
11:23AM 19 to do Web fares, like Southwest. Well, American does  
11:23AM 20 Web fares. They negotiated specific exceptions in the  
11:23AM 21 contract that allow them to target frequent flyers, to  
11:23AM 22 target everybody in the Dallas/Fort Worth area, certain  
11:24AM 23 geographic areas. They do Web fares like Southwest does  
11:24AM 24 Web fares.

11:24AM 25 Southwest doesn't give us quite as much

11:24AM 1 content as American, but Southwest, that they want to be  
11:24AM 2 like, and Air Canada, that they claim they want to be  
11:24AM 3 like, just did a different deal, because they have  
11:24AM 4 different businesses and different business models.

11:24AM 5 Airlines make a series of trades in these  
11:24AM 6 negotiations. And they get certain terms and they pay a  
11:24AM 7 certain price and they give us a certain amount of their  
11:24AM 8 flights and fares. And everyone negotiates different  
11:24AM 9 deals. If American wanted the Southwest deal, American  
11:24AM 10 could have gotten the Southwest deal. If American  
11:24AM 11 wanted the Air Canada deal, American could have gotten  
11:24AM 12 the Air Canada deal. But they didn't. They wanted a  
11:24AM 13 different set of things. They wanted more service.  
11:24AM 14 They wanted the best price in the industry. They wanted  
11:24AM 15 functionality and features that Southwest doesn't pay  
11:24AM 16 for, that Air Canada doesn't get.

11:24AM 17 So this is just a negotiation, and it  
11:24AM 18 should be negotiated outside of this courtroom. If they  
11:25AM 19 want a different negotiation, they can get a different  
11:25AM 20 negotiation. But that's the deal that they negotiated  
11:25AM 21 at the time.

11:25AM 22 And what did they get for it? Well, first  
11:25AM 23 of all, they chose -- they weren't forced; this wasn't a  
11:25AM 24 take-it-or-leave-it deal. They chose to provide us  
11:25AM 25 access to full content, and that's the term in the

11:25AM 1 contract. It's not actually "all content." They chose  
11:25AM 2 to provide us access in exchange for lower distribution  
11:25AM 3 costs. They got, just in the 2006 contract, a  
11:25AM 4 33 percent reduction in booking fees, because they  
11:25AM 5 exchanged full content for that.

11:25AM 6 Here's what happened to American's prices  
11:25AM 7 over the last -- compared to other airlines. Going back  
11:25AM 8 to 2002, you see two things that jump out, pretty clear.  
11:25AM 9 First thing that jumps out is American's prices are  
11:25AM 10 continually going down, down, down, until the day they  
11:26AM 11 filed this lawsuit, all the way up to the lawsuit.  
11:26AM 12 Still one of most competitive prices there are, and I'll  
11:26AM 13 get to that.

11:26AM 14 The other thing you'll see is American's in  
11:26AM 15 the red. All the other airlines are in the blues and  
11:26AM 16 greens. And American, every year, has paid  
11:26AM 17 significantly less than any other of those major  
11:26AM 18 airlines.

11:26AM 19 What else did American negotiate in this  
11:26AM 20 contract? They pay less than any, to Sabre, than any of  
11:26AM 21 the other GDSs. This is the American Airlines document.  
11:26AM 22 They talk about Worldspan, Galileo, and Amadeus. Those  
11:26AM 23 are three other GDSs. Travelport owns Worldspan and  
11:26AM 24 Galileo.

11:26AM 25 Sabre price in the third column, less than

11:26AM 1 the first column, the second column, the fourth column,  
11:26AM 2 in every year. They got a better deal from Sabre than  
11:26AM 3 they got from our competitors. That's not a monopoly.

11:26AM 4           What else happened? We're paying the  
11:27AM 5 travel agents incentives. All the GDSs basically split  
11:27AM 6 their commission from the airline with the travel agent,  
11:27AM 7 because the travel agent brings bookings to the GDS, the  
11:27AM 8 GDS brings bookings to the airline, and they share in  
11:27AM 9 that commission. So what's happening in these two  
11:27AM 10 contracts, the last two contracts, 2003 negotiated here,  
11:27AM 11 2006 negotiated here. Right up to the time of the  
11:27AM 12 lawsuit, you see exactly what happens.

11:27AM 13           What happens is every time American  
11:27AM 14 negotiates one of these deals, they get a huge discount,  
11:27AM 15 because they have so much leverage. They withhold  
11:27AM 16 content. They say, We're not going to give you full  
11:27AM 17 content. We're going to implement these surcharges on  
11:27AM 18 your travel agents who use you, if you don't give us a  
11:27AM 19 deal. And every contract, you see a big decline. Boom,  
11:27AM 20 decline. 2006, latest contract, another big decline.

11:27AM 21           And then the travel agencies, because we're  
11:27AM 22 competing like crazy for their business, the amount we  
11:27AM 23 have to pay them is going up. So what's happened in  
11:27AM 24 this industry is that the margin, the profitability,  
11:28AM 25 which is, you know, costs, or revenues minus cost, price

11:28AM 1 you charge minus how much you're paying, is just getting  
11:28AM 2 squeezed. Sabre's getting squeezed from both sides of  
11:28AM 3 the market. The travel agents are demanding bigger  
11:28AM 4 incentives every day and the airlines are pressing us  
11:28AM 5 for lower booking fees every day, and there is the  
11:28AM 6 result. That's not a monopoly. A monopolist doesn't  
11:28AM 7 get beat up from both sides. A monopolist doesn't  
11:28AM 8 charge less than its competitor. A monopolist doesn't  
11:28AM 9 have prices going down, down, down. That's competition.  
11:28AM 10           You're going to be asked some questions at  
11:28AM 11 the end of case about monopoly and competition, and  
11:28AM 12 you're going be asked to give some specific answers.  
11:28AM 13 And this data, right here, look at the facts. This  
11:28AM 14 data, right here, shows this is an extremely competitive  
11:29AM 15 marketplace. When you look at negotiations, what  
11:29AM 16 happened in the actual contract negotiations, ask  
11:29AM 17 yourself who has the power over who? Think about that.  
11:29AM 18 They can pull their content. They can charge our travel  
11:29AM 19 agents. They can make them feel the pain. Who has  
11:29AM 20 power over who? That's an important question here.  
11:29AM 21           Let me go back to the contract for a  
11:29AM 22 minute. We're back at the -- what the parties got in  
11:29AM 23 the contract. I want to focus on this unwind provision.  
11:29AM 24 The provision that allowed American to end the contract,  
11:29AM 25 or to implement steps that could end the contract after

11:29AM 1 three years. Here's how that came about. American  
11:29AM 2 wanted the ability to shift bookings away from Sabre to  
11:29AM 3 Direct Connect. When they negotiated the contract in  
11:29AM 4 2006, they weren't ready with Direct Connect. It was  
11:29AM 5 basically an idea at the time. But they said, you know  
11:30AM 6 what, a few years down the road, we might want that  
11:30AM 7 ability, so let's put in this provision that as of 2009,  
11:30AM 8 we'll give you a five-year deal, Sabre, but we need the  
11:30AM 9 flexibility and freedom, as of 2009, to be out there  
11:30AM 10 publicly marketing, publicly promoting our new Direct  
11:30AM 11 Connect product.

11:30AM 12                   And we gave them a lower booking fee, and  
11:30AM 13 we gave them that term, to give them the flexibility  
11:30AM 14 that they wanted.

11:30AM 15                   Let's look at what that provision was.  
11:30AM 16 First, there was a -- there was the three-year marketing  
11:30AM 17 in the media, I think is what Mr. Yetter called the  
11:30AM 18 provision. I'll show you the actual contract. I won't  
11:30AM 19 walk through every last word, but it's important you see  
11:30AM 20 the actual evidence, instead of cartoons.

11:30AM 21                   American may not, through the media or  
11:30AM 22 publicly at industry trade meetings, market a program  
11:30AM 23 offering Direct Connect. And that was the provision  
11:30AM 24 both parties agreed to for the first three years. And  
11:31AM 25 the reason that we had this provision was that we had

11:31AM 1 just been through a rough negotiation in 2006 and the  
11:31AM 2 parties had gone through a period of uncertainty after  
11:31AM 3 that negotiation, because -- or leading up to that  
11:31AM 4 negotiation, because travel agents were saying, are we  
11:31AM 5 going have flights and fares in Sabre, is American going  
11:31AM 6 to pull them out, are they going reach a deal? And the  
11:31AM 7 parties negotiated, basically, a period of peace in the  
11:31AM 8 marketplace where American wouldn't immediately go out  
11:31AM 9 right after they signed a deal and try to move  
11:31AM 10 everybody -- have a big marketing campaign to go right  
11:31AM 11 back to state of uncertainty about the where the flights  
11:31AM 12 and fares were going come from. And it was an important  
11:31AM 13 provision to American, because it gave them the  
11:31AM 14 flexibility, after three years, to get out of it.

11:31AM 15 So how did that work? This is actually the  
11:31AM 16 unwind provision of contract. It says, "If at any time  
11:31AM 17 after the first three years, American determines that in  
11:32AM 18 order to pursue its commercial objectives, Direct  
11:32AM 19 Connect, it needs to engage in any activity or  
11:32AM 20 activities otherwise prohibited by some of these  
11:32AM 21 sections" -- and 3(d) is the market and media provision  
11:32AM 22 we just looked at. "If they engage in marketing in the  
11:32AM 23 media or at trade shows, that's a called a "triggering  
11:32AM 24 action."

11:32AM 25 So what happens next? Sabre's obligations



11:32AM 1 under 3(g), which is the provision that Mr. Yetter  
11:32AM 2 showed you that prevented us from biasing their  
11:32AM 3 display, those provisions shall terminate. If American  
11:32AM 4 markets in the media or trade shows, we're allowed to  
11:32AM 5 bias.

11:32AM 6 In the event -- next it says, "In the event  
11:32AM 7 that Sabre elects to introduce bias" -- the right to  
11:32AM 8 bias was right there in the contract. If we elect to  
11:32AM 9 introduce bias, then American's obligations under some  
11:32AM 10 of these other provisions, which include the provision  
11:32AM 11 to give us the flights and fares they agreed to give us,  
11:32AM 12 that terminates. And if American engages in that, we  
11:33AM 13 can increase the price to the prices set  
11:33AM 14 forth -- attached to the contract. And at either time,  
11:33AM 15 if Sabre introduces bias, either party can terminate the  
11:33AM 16 contract.

11:33AM 17 That's what the contract provides for.  
11:33AM 18 That's what American agreed to, and that's what  
11:33AM 19 happened.

11:33AM 20 So how did it happen? I want to walk  
11:33AM 21 through some of this. We'll go through more at trial.  
11:33AM 22 Some we'll go through now.

11:33AM 23 The unwind provision starts in  
11:33AM 24 September 1st of 2009. That's when this whole unwind  
11:33AM 25 process starts. So what did American do? They knew

11:33AM 1 this contract -- this provision was expiring. They knew  
11:34AM 2 they could go out and trigger the unwind.

11:34AM 3           On the screen is their distribution and  
11:34AM 4 merchandising plan. Distribution is the board behind  
11:34AM 5 this. Distribution is how they get their flights and  
11:34AM 6 fares around to the public. Their distribution plan as  
11:34AM 7 of August 4th, 2009, that's less than a month before  
11:34AM 8 this unwind provision triggers, "We plan to make noise  
11:34AM 9 in the distribution market again, in September." Now,  
11:34AM 10 why September? September, because that's when they can,  
11:34AM 11 under the contract. "We'll call it the 'September  
11:34AM 12 message,'" they say. And then they say, "Communications  
11:34AM 13 between now and then, between August 4th and  
11:34AM 14 September 1st, no public discussion or promotion of the  
11:34AM 15 Direct Connect in external gatherings, such as industry  
11:34AM 16 functions." Because they know that they have to wait  
11:34AM 17 until September 1st, but then September 1st, it's a go.  
11:35AM 18 That's the September message.

11:35AM 19           But we know exactly what they're doing,  
11:35AM 20 because they planned it. They said hold off for 26 more  
11:35AM 21 days, no leaking the contents of the September message  
11:35AM 22 until then, either. American knew it was going trigger  
11:35AM 23 in 2009 and their marketings plans were set up  
11:35AM 24 specifically to do it.

11:35AM 25           On the second page of this document, they

11:35AM 1 talk about how they're going send out the September  
11:35AM 2 message. They lay out the timeline, starting  
11:35AM 3 September 1, and they -- part of the plan is to go  
11:35AM 4 through the trade press, that's the media, the press is  
11:35AM 5 the media, and industry communications. So the way  
11:35AM 6 they're going to get out the September message, because  
11:35AM 7 they can do it starting September 1st, is to go through  
11:35AM 8 the trade press and the media and to go through industry  
11:35AM 9 conferences. Interviews in the media, industry  
11:36AM 10 conferences, that's their marking plan for the September  
11:36AM 11 message, when they go out right as soon as unwind  
11:36AM 12 starts.

11:36AM 13                   So what happens? Mr. Yetter referenced  
11:36AM 14 this. He says, well, that's just an industry thing.  
11:36AM 15 Well, yeah. It's marketing. It's part of their plan.  
11:36AM 16 They went out to the -- it's exactly part of their plan.  
11:36AM 17 They sent people out to these trade industry shows to  
11:36AM 18 market their new Direct Connect product. That's in  
11:36AM 19 October of 2009, less than a month after the unwind  
11:36AM 20 started, and they went out and they started their  
11:36AM 21 marketing campaign. And we're not saying there's  
11:36AM 22 anything wrong with that. We're not saying it was a  
11:36AM 23 breach, but it did trigger the contract that allowed  
11:36AM 24 these next steps. The contract played out just like  
11:36AM 25 everyone thought it would.

11:36AM 1 And I'm going to not go through these all  
11:36AM 2 in detail, but, you know, here's where they went talking  
11:36AM 3 about the CASMA conference and he says, why are you  
11:37AM 4 going? Just tell the story and why we're moving to  
11:37AM 5 Direct Connect. Tell everybody out there about the our  
11:37AM 6 product. Then they're out in the media. Two days after  
11:37AM 7 the industry trade show, they're out marketing their  
11:37AM 8 plan, marketing their Direct Connect in the media.  
11:37AM 9 We're going to move everybody. We're going to move 100  
11:37AM 10 percent of our volume to go through Direct Connect.

11:37AM 11 They talk about how long they've been out  
11:37AM 12 there marketing. We've been making public statements  
11:37AM 13 about Direct Connect since CASMA in the fall of 2009.  
11:37AM 14 They knew what they were doing. The travel agents were  
11:37AM 15 at that CASMA show. And this goes on, and, for time,  
11:37AM 16 I'm not going to go through every one, but they're  
11:37AM 17 marketing through the whole summer of 2010. They've  
11:37AM 18 launched a Web site targeted at the media, in September  
11:37AM 19 of 2010. They continue marketing through the end of the  
11:37AM 20 year in December. They market all the way into  
11:37AM 21 January 4th.

11:37AM 22 And January 4th is an important date,  
11:38AM 23 because we implemented the biassing right after that.  
11:38AM 24 They're also out there sending a clear message to the  
11:38AM 25 marketplace by pulling all their fares from Orbitz at

11:38AM 1 the end of 2010, and they pulled all their fares from  
11:38AM 2 Expedia. And we're going to walk through that as well.

11:38AM 3 So this marketing -- we saw the September  
11:38AM 4 message, that they had planned, and then they have all  
11:38AM 5 these media plans, too. This is in November, now, of  
11:38AM 6 2009, their media plan. AA actively participates in  
11:38AM 7 industry conferences on merchandising and distribution.  
11:38AM 8 Distribution is how they sell their flights and fares.  
11:38AM 9 That's where they were doing the Direct Connect  
11:38AM 10 marketing. We're going to expect that this topic will  
11:38AM 11 continue to gain more interest in the media.

11:38AM 12 This isn't a coincidence. This is the  
11:38AM 13 exact language of the unwind, the media and at trade  
11:38AM 14 shows.

11:38AM 15 So what's happening on the Sabre side of  
11:38AM 16 things during this time period? Sabre hears about all  
11:39AM 17 this marketing. They have people at the CASMA trade  
11:39AM 18 show and they come back and report on American's  
11:39AM 19 marketing efforts. They get the industry journals.  
11:39AM 20 There's a couple of them that everybody reads, all the  
11:39AM 21 travel agents read, American reads, our guys read.  
11:39AM 22 They're reading all this, they're seeing all this  
11:39AM 23 happening, and they're saying, look American, let's get  
11:39AM 24 down to business and talk about a new contract. Because  
11:39AM 25 our guys are saying, if this thing all unravels here,

11:39AM 1 because of the unwind, we're going to need something in  
11:39AM 2 place for both of us, as soon as we can. And this whole  
11:39AM 3 spring and summer, we make efforts to get together with  
11:39AM 4 American and try to negotiate a new contract. And those  
11:39AM 5 negotiations are not fruitful, they don't go anywhere.  
11:39AM 6 So on August 31st of 2010, we got our people together  
11:39AM 7 and got them together with the most senior executives at  
11:40AM 8 American Airlines and we said, let's give this one last  
11:40AM 9 shot. Let's get the senior guys together and give it a  
11:40AM 10 shot, because, otherwise, negotiations are going  
11:40AM 11 nowhere.

11:40AM 12 American showed no interest in negotiating  
11:40AM 13 in any meaningful way at that meeting. And with no  
11:40AM 14 progress at that meeting, Sabre went back the next day  
11:40AM 15 and Mr. Yetter showed this e-mail, and Sam Gilliland,  
11:40AM 16 the CEO, wrote to Tom and said after that meeting, "We  
11:40AM 17 need to move out on tripping the next several trigger  
11:40AM 18 points in the contract." Now, what Mr. Yetter did with  
11:40AM 19 this e-mail is, he said, that shows that Sabre triggered  
11:40AM 20 this, not American, and it's American's key in the  
11:40AM 21 ignition. This is the next step. American had  
11:40AM 22 triggered this contract all the way through, and we knew  
11:40AM 23 it, and our guys had watched this happen. But we were  
11:40AM 24 talking about after that August 31st meeting didn't  
11:41AM 25 happen or didn't go well, we were talking about what do

11:41AM 1 we do next? In order to get a deal, we might have to  
11:41AM 2 follow through with the contract. We were reluctant to  
11:41AM 3 do that. We wanted to negotiate first, but when those  
11:41AM 4 negotiations went nowhere, we continued to talk about  
11:41AM 5 implementing the next steps, and that's the next steps.

11:41AM 6 When you follow what happens next -- and at  
11:41AM 7 this meeting, by the way, at this August 31st meeting,  
11:41AM 8 American says that there was no notice of the unwind, of  
11:41AM 9 the biassing. First of all, the contract doesn't  
11:41AM 10 require notice. It specifically doesn't require notice.  
11:41AM 11 But in any event, in the August 31st meeting, they  
11:41AM 12 talked about the unwind. The executives talked about  
11:41AM 13 the unwind. They met again, two senior executives, on  
11:41AM 14 October 12, 2010, and again our guys said, can we try to  
11:41AM 15 work something out? And we got this unwind thing that  
11:41AM 16 we need to go to if we don't work something out.

11:41AM 17 What happens in November of 2010, when we  
11:42AM 18 still can't negotiate a contract is, that Sabre begins  
11:42AM 19 some testing of the biassing. It's not something we do.  
11:42AM 20 It's not something that we know how to do, because we're  
11:42AM 21 not doing it very much. So they go out and they look at  
11:42AM 22 several markets and they begin saying, Can we do it?  
11:42AM 23 How can we do it? What do we need to do under the  
11:42AM 24 contract in order do it? And then on January 5th, Sabre  
11:42AM 25 implements the biassing and gives notice of termination

11:42AM 1 under the unwind provision of the contract.

11:42AM 2 Now, American says today, we had no idea.  
11:42AM 3 Well, the unwind didn't say that we were supposed to  
11:42AM 4 share all of this with them, but in any event, we talked  
11:42AM 5 to them about the unwind here. We talked to them about  
11:42AM 6 the unwind here, before we even started any testing.  
11:42AM 7 And American knew. They knew exactly what they were  
11:42AM 8 doing. Right after this January 5th, where we bias,  
11:42AM 9 here's what they say in their business documents, their  
11:42AM 10 presentation about their distribution strategy, "While  
11:43AM 11 the timing may have been somewhat surprising, Sabre's  
11:43AM 12 actions were anticipated, in reaction to AA's  
11:43AM 13 distribution strategy and course of action."

11:43AM 14 American knew we'd done all this. It's no  
11:43AM 15 surprise that Sabre implemented the rest of the unwind  
11:43AM 16 provision, because they knew it. American had planned  
11:43AM 17 it.

11:43AM 18 This unwind was part of a bigger plan for  
11:43AM 19 American. It was part of American's plan to go dark on  
11:43AM 20 Sabre. They were going to turn off Sabre's access to  
11:43AM 21 American's flights. That was their secret plan. They  
11:43AM 22 called it Distribution DreamWorld. They set up a task  
11:43AM 23 force to drive traffic to the direct channels and  
11:43AM 24 control access to their flights and fares. And  
11:43AM 25 Mr. Yetter talked about code names, he talked about our



11:44AM 1 Project 99, and the Five Plus Five plan. Remember those  
11:44AM 2 two things? Everybody uses code names for projects in  
11:44AM 3 this business.

11:44AM 4 They had their Destination DreamWorld. We  
11:44AM 5 had this Five Plus Five, where we're trying to figure  
11:44AM 6 out, incidentally, what AA is planning with their  
11:44AM 7 internal task force, Dreamscape. So we thought it was  
11:44AM 8 called Dreamscape. But competitive -- talking about  
11:44AM 9 what your competitors are doing is normal business, and  
11:44AM 10 it happened here on both sides. And they characterized  
11:44AM 11 it as a plan to kill AA or take out Direct Connect.  
11:44AM 12 It's not a project just aimed at AA, but at all GDS  
11:44AM 13 distribution. We're talking about the whole industry,  
11:44AM 14 what's going to happen here. And the Five Plus Five  
11:44AM 15 plan was aimed -- we had a five-year contract, we're  
11:44AM 16 trying to get another five-year contract. That's what  
11:44AM 17 the Five Plus Five plan was. He didn't show you any of  
11:44AM 18 the actual documents. This top secret plan to kill  
11:44AM 19 American, here's what it says the objectives are. How  
11:45AM 20 do we create and enhance the environment in which AA  
11:45AM 21 continues to participate under the current agreement for  
11:45AM 22 five years? We wanted them to participate the full five  
11:45AM 23 years, so we wanted to enhance the environment.  
11:45AM 24 Objective No. 2, how do we work with AA to get a new  
11:45AM 25 five-year deal? That's what we're trying to do, not

11:45AM 1 kill them, not shut them down. This is the top secret  
11:45AM 2 plan.

11:45AM 3 Here's the Project 99 document, the actual  
11:45AM 4 document. What are we trying to do with Project 99?  
11:45AM 5 Enhance the relationship management with American.  
11:45AM 6 Better understand American's unspoken needs. How do we  
11:45AM 7 show American value, how do we give American a pricing  
11:45AM 8 model that they like, what can we promise and deliver in  
11:45AM 9 terms of a product? That's what Sabre's doing. That's  
11:45AM 10 Project 99 and project Five Plus Five, not some secret  
11:45AM 11 nefarious plan to put American Direct Connect down.

11:45AM 12 But at the same time, what's American  
11:46AM 13 doing? We're now in 2007, about a year after the new  
11:46AM 14 contract's in place. What are they doing behind our  
11:46AM 15 backs? What are they doing behind their closed doors,  
11:46AM 16 while they're out there trying to be friendly with us in  
11:46AM 17 person? Here's their plan. Their plan is requiring the  
11:46AM 18 GDS to connect to us via the Direct Connect. This would  
11:46AM 19 be something we'd do in preparation for the end of the  
11:46AM 20 five-year deals. So let's be ready, so that when the  
11:46AM 21 deals are up, the only way they can get our content is  
11:46AM 22 through Direct Connect. In this way, we could go dark  
11:46AM 23 on paying the GDSs. We could turn off our connection.  
11:46AM 24 He showed you the big plug that he's pulling, I'm  
11:46AM 25 showing you the document, what they wanted to do to us.

11:46AM 1 Turn off the connection to the GDS. And that'd be GDSs'  
11:46AM 2 problem. That'd be Sabre's problem, on how to get  
11:46AM 3 flights and fares to their agencies. They call that the  
11:46AM 4 reverse flow of money on travel agencies. Travel  
11:47AM 5 agencies get paid commissions, and what American wanted  
11:47AM 6 to do is take any payments away, take it all out of the  
11:47AM 7 GDS system, so travel agents would no longer get  
11:47AM 8 payments. And they knew, as part of their plan, if they  
11:47AM 9 reversed this flow of money, stop paying the travel  
11:47AM 10 agents, make the travel agents pay instead, that the  
11:47AM 11 travel agents aren't going to like it, but that's the  
11:47AM 12 American end game.

11:47AM 13 Another document from a few month later,  
11:47AM 14 what's American's plan? Watch the GDSs cave. Turn off  
11:47AM 15 the GDSs' connections, so only Direct Connect is in  
11:47AM 16 place. And they say, well, we won't be able to convert  
11:47AM 17 all the travel agencies to Direct Connect, so we're  
11:47AM 18 going to have to use a sledgehammer to carry out their  
11:47AM 19 plan. Who has the power?

11:47AM 20 And then they talk about what happens a  
11:47AM 21 year -- we're now another year later, when they're  
11:47AM 22 beating us up on trying to get into a new contract, and  
11:48AM 23 they say this is the GDS Hiroshima. That's what they  
11:48AM 24 were going to do to the GDS. That's what they were  
11:48AM 25 going to do to Sabre.

11:48AM 1 I'm going to talk about the biasing for a  
11:48AM 2 minute. So on January 5th, American's got their plans  
11:48AM 3 all throughout here, not telling us any of it. They've  
11:48AM 4 marketed the media, they've trigged the unwind, we  
11:48AM 5 decide to implement the unwind on January 5th. And  
11:48AM 6 Mr. Yetter says, well, we didn't tell anybody, it was  
11:48AM 7 all secret, we did it in the middle of the night, so  
11:48AM 8 nobody knew.

11:48AM 9 Here's what happened on January 5th. The  
11:48AM 10 travel agents sign into the system and they get this big  
11:48AM 11 notice: "Important Changes to Availability and Shopping  
11:48AM 12 Displays Impacting American." And then they have a  
11:48AM 13 notice that's up here, no matter what this window looks  
11:48AM 14 like on their computer, that says, "Learn more."  
11:48AM 15 The -- we sent the travel agents a letter. We called  
11:48AM 16 American. We sent American a letter. They knew this  
11:48AM 17 was happening. And the reason that we sent these  
11:49AM 18 letters and the reason that we put it on the screens is  
11:49AM 19 because this was a step in the contract. This was not a  
11:49AM 20 let's go out and stick it to American, this was can we  
11:49AM 21 just negotiate a new deal? And if you won't negotiate,  
11:49AM 22 can we just carry out the next steps in the contract?  
11:49AM 23 And we gave everybody notice of what was going on.

11:49AM 24 And as part of this notice, we had to talk  
11:49AM 25 to some of the travel agents and go out and get their

11:49AM 1 permission to go through their own systems. So some  
11:49AM 2 travel agents have a system where we feed them data,  
11:49AM 3 they're getting all the flights and fares, and then they  
11:49AM 4 put in their own layer of software above it. So then  
11:49AM 5 their screen that they see has got this layer between us  
11:49AM 6 and them and their agents. And they use this middle  
11:49AM 7 layer of software in order to adjust the display in ways  
11:49AM 8 that that particular travel agents wants. It's  
11:49AM 9 something called COS. I think you'll hear about COS  
11:50AM 10 from one of our -- from one of American's earlier  
11:50AM 11 witnesses, one of our people. And COS allowed the  
11:50AM 12 agents to rearrange their displays to suit their own  
11:50AM 13 particular needs. If they were working with a  
11:50AM 14 corporation that only wanted United flights, because  
11:50AM 15 they had a deal with United, that software let that  
11:50AM 16 happen.

11:50AM 17 We talked to travel agents during this time  
11:50AM 18 period, who used this software, the COS software, in  
11:50AM 19 order to get their permission to let our biasing, which  
11:50AM 20 we had to do under the contract, to let that flow  
11:50AM 21 through their system. Because in order to trigger the  
11:50AM 22 contract, the rest of the unwind, we had to let  
11:50AM 23 that -- we had to bias, and we talked to the travel  
11:50AM 24 agents on how to let bias flow through so we could carry  
11:50AM 25 out the contract.

11:50AM 1 Now, there are a lot of documents that Mr.  
11:50AM 2 Yetter focused on that go right to COS process. He put  
11:50AM 3 up documents that said, "All agents on board." That's  
11:51AM 4 not a conspiracy. That was us working with agents to  
11:51AM 5 let that bias flow through to implement or to continue  
11:51AM 6 the unwind of the contract.

11:51AM 7 American knew about that process, they  
11:51AM 8 invented this COS software, and American agreed to this  
11:51AM 9 contract and knew this contract operated this way.

11:51AM 10 And briefly on the bias, just so everybody  
11:51AM 11 knows what it was, it was temporary, it was not applied  
11:51AM 12 where American had big market shares, it was not applied  
11:51AM 13 if you search for American Airlines flights. All the  
11:51AM 14 American Airlines flights were in the system. And if  
11:51AM 15 you looked for American Airlines, you got the American  
11:51AM 16 Airlines flights. And it wasn't applied to any of the  
11:51AM 17 online travel agencies, the Expedias and the like.

11:51AM 18 And there's a two-keystroke workaround to  
11:52AM 19 this bias when we did it. It was our contractual right.  
11:52AM 20 The bias could have been with none of these limitations,  
11:52AM 21 but they put a lot of limitations on it because they  
11:52AM 22 wanted to get to the negotiating table, not to beat up  
11:52AM 23 on people.

11:52AM 24 If you -- this is a new word I learned in  
11:52AM 25 this case, that's called the "Cross of Lorraine," which

11:52AM 1 I didn't know, and it's not on my keyboard on my  
11:52AM 2 computer, but apparently it's on the travel agents'.  
11:52AM 3 But when the travel agents are keying in their -- their  
11:52AM 4 commands to ask for a certain flight -- so for instance,  
11:52AM 5 this is on January 13th -- actually, I want to go  
11:52AM 6 from -- February 13th -- I want to go through DFW,  
11:52AM 7 Dallas, to LAX, that's Los Angeles, and then they type  
11:52AM 8 Cross of Lorraine, AA. That brings up all those AA  
11:52AM 9 flights. AA is in the system. AA doesn't go anywhere.  
11:52AM 10 At no time were travel agents left without access to  
11:52AM 11 American.

11:52AM 12                   After this, as Mr. Yetter said, they  
11:53AM 13 brought this action. We came into court and the Court  
11:53AM 14 put everything on hold until we could get to trial. And  
11:53AM 15 the Court said, You need try this case and resolve your  
11:53AM 16 dispute, and everyone stay on hold, don't do anything  
11:53AM 17 else until we come here and try the case before you-all.  
11:53AM 18 And now it's your decision to determine that this unwind  
11:53AM 19 happened the way it did.

11:53AM 20                   I want to talk just a second about this  
11:53AM 21 price increase that Mr. Yetter talked about. After the  
11:53AM 22 January 5th unwind, part of the unwind as we saw in the  
11:53AM 23 chart allowed us to increase the price because American  
11:53AM 24 was withholding content to increase the price up to rack  
11:53AM 25 rates, sort of list price. And we did that as part of

11:53AM 1 the unwind in January 2011. We sent the invoice;  
11:53AM 2 American never paid it. And we wanted to negotiate. We  
11:54AM 3 wanted to get a new contract. And we didn't follow up  
11:54AM 4 on it.

11:54AM 5 So they never paid this. When he put the  
11:54AM 6 two lines up and said we doubled their price, they never  
11:54AM 7 paid any of that. It was allowed under the unwind, but  
11:54AM 8 we didn't follow through because we wanted to try to  
11:54AM 9 work out a deal in that stand-down agreement he talked  
11:54AM 10 about.

11:54AM 11 In July of 2011, after the peace period  
11:54AM 12 fell apart, we went back to the unwind, which was still  
11:54AM 13 alive, and they paid a little bit higher price for about  
11:54AM 14 54 days. And then in August of 2011, the contract's  
11:54AM 15 expiring here, and both parties want a new contract, and  
11:54AM 16 so they agreed to a temporary contract.

11:54AM 17 In August, we agreed to a temporary  
11:54AM 18 contract to get us through trial, contract extension.  
11:54AM 19 And that was a price that the parties negotiated terms  
11:54AM 20 of that new contract extension, and American never  
11:54AM 21 countered on the price. The price was less than those  
11:55AM 22 two prices. It was a little bit higher than it had been  
11:55AM 23 back in 2006 and 2007, '8, '9, but it's 2012 by now and  
11:55AM 24 it's only a short-term contract, and they agreed to that  
11:55AM 25 price.



11:55AM 1 So when he says there's a price increase  
11:55AM 2 and that's some sign of power, these price increases  
11:55AM 3 didn't stick, were for 54 days, and this is was just a  
11:55AM 4 negotiated, agreed-to price. No increase. That's what  
11:55AM 5 happened to prices over the term of these agreements.  
11:55AM 6 They went down, down, down. That's not monopoly.

11:55AM 7 All right. Let's talk about Direct Connect  
11:55AM 8 for a little bit. We've got a half an hour till lunch.  
11:55AM 9 Direct Connect, American's primary claim here is that  
11:55AM 10 Sabre somehow stifled their desire to go to this Direct  
11:55AM 11 Connect. American claims that the travel agents haven't  
11:55AM 12 switched to Direct Connect as fast as they had hoped.  
11:56AM 13 Almost all of their damages, they claim -- he put up  
11:56AM 14 that billion dollar number -- we don't think there are  
11:56AM 15 any damages here, and we certainly don't think it's a  
11:56AM 16 billion. You'll hear a lot of testimony on that. But  
11:56AM 17 almost all of that is, they're saying, well, gee whiz,  
11:56AM 18 had we only had a different contract and Sabre not done  
11:56AM 19 X and Y, then Direct Connect would be the most popular  
11:56AM 20 way to distribute tickets in the world, and we would  
11:56AM 21 have launched it four years earlier, and every travel  
11:56AM 22 agent would have adopted it, and every travel agent  
11:56AM 23 would have booked all their tickets on it, and we would  
11:56AM 24 have saved all this money. And it's about a hundred  
11:56AM 25 assumptions down the road.

11:56AM 1 So this whole theory that their entire  
11:56AM 2 claim here hinges on is based on this question: Why did  
11:56AM 3 the travel agents not adopt Direct Connect? And who is  
11:56AM 4 the best person or people to answer that question? The  
11:56AM 5 travel agents. And we went out and took the travel  
11:57AM 6 agents' depositions, and you're going to hear from the  
11:57AM 7 travel agents. And the answer is Direct Connect hasn't  
11:57AM 8 been as successful as American had hoped because it  
11:57AM 9 doesn't meet the travel agents' needs.

11:57AM 10 We walked through what the travel agents  
11:57AM 11 want. The travel agents want the ability to comparison  
11:57AM 12 shop between all these different airlines. The travel  
11:57AM 13 agents want a fast and efficient system. American gives  
11:57AM 14 you -- Direct Connect gives you access to one airline,  
11:57AM 15 American Airlines, not any of these. You can't  
11:57AM 16 comparison shop with Direct Connect. It doesn't give  
11:57AM 17 you any access to hotels, cars. It doesn't have the  
11:57AM 18 speed, capability, services that the GDSs have.

11:57AM 19 So when American's out there pushing Direct  
11:57AM 20 Connect on the travel agents, what are the travel agents  
11:57AM 21 saying? Here's what they say. This is Andrew Winterton  
11:57AM 22 from Carlson Wagonlit, one of the biggest travel agents  
11:58AM 23 in the world. This is Expedia, Mr. Fonseca. This is  
11:58AM 24 Travizon, Joel Smith. Mr. Yetter put up some documents  
11:58AM 25 from them. Here is what they say. We asked them under

11:58AM 1 oath in their depositions with regard -- sorry, I'm  
11:58AM 2 ahead of myself.

11:58AM 3 Here is what they say. Mr. Fonseca from  
11:58AM 4 Expedia, American Express, Orbitz, the big travel  
11:58AM 5 agents: "Do you see any benefit to any person involved  
11:58AM 6 with American's Direct Connect system except American  
11:58AM 7 itself?"

11:58AM 8 "Nope."

11:58AM 9 We asked American Express, "Is Direct  
11:58AM 10 Connect good for anybody but American?"

11:58AM 11 He said, "It wouldn't benefit our  
11:58AM 12 customers. It would be very damaging to our customers.  
11:58AM 13 It would be very damaging to our business. It has a  
11:59AM 14 substantial economic effect on us."

11:59AM 15 So we say, "Based on your evaluation of  
11:59AM 16 Direct Connect, did you see any benefit to anybody other  
11:59AM 17 than American for implementing Direct Connect?"

11:59AM 18 He says, "Farelogix," which is American's  
11:59AM 19 technology partner who will get paid more.

11:59AM 20 "But then how about to AmEx, the customer?"

11:59AM 21 "Nope."

11:59AM 22 "How about to any of American Express's  
11:59AM 23 customers, the travelers and corporations?"

11:59AM 24 "Nope."

11:59AM 25 No benefit at all to the people who

11:59AM 1 actually fly, no benefit at all to the travel agents.

11:59AM 2 There's a reason we didn't see any travel agents'

11:59AM 3 testimony in the first part of the morning.

11:59AM 4                   What does Orbitz say? "Did the Direct  
11:59AM 5 Connect provide you with any benefits other than keeping  
11:59AM 6 your relationship with American?

11:59AM 7                   "No.

11:59AM 8                   "Did the Direct Connect system offer you  
11:59AM 9 any efficiencies in how you did your business?

11:59AM 10                   "No."

11:59AM 11                   And American knew this.

12:00PM 12                   This is an internal e-mail going back to  
12:00PM 13 2008 when they're working on American. American knew  
12:00PM 14 Direct Connect was not ready for prime time. And it had  
12:00PM 15 a couple of people pushing it through, but here's what  
12:00PM 16 the senior executives were saying: Part of the  
12:00PM 17 reason -- this is the champion of Direct Connect, a man  
12:00PM 18 you'll I think meet at this trial named Cory Garner.  
12:00PM 19 And he was on a lot of document -- I think some of  
12:00PM 20 document we saw this morning. He's writing to one of  
12:00PM 21 his cohorts about management, about the senior people's  
12:00PM 22 view of Direct Connect. "The reason why Direct Connect  
12:00PM 23 has been a slow evolution is doubt and worry from  
12:00PM 24 within. It's poisonous for our own people, the chief of  
12:00PM 25 them being Charlie, Kurt, and Dan," Dan's the most

12:00PM 1 senior guy in this the group, "to speak of our own  
12:00PM 2 Direct Connect as if it were vaporware."

12:00PM 3 I think everybody knows what vaporware is.  
12:00PM 4 It's like computer software and it's just vapor. It  
12:01PM 5 doesn't really exist. It doesn't really do anything.  
12:01PM 6 That's what's the management thought of it. "Management  
12:01PM 7 said there is doubt spewing out of Dan's mouth." He's  
12:01PM 8 the most senior guy. "I remain alone in truly  
12:01PM 9 believing." That's Mr. Garner. "But we're getting  
12:01PM 10 no-confidence vote from management."

12:01PM 11 American, other than Mr. Garner and maybe a  
12:01PM 12 few others, but management didn't believe in its own  
12:01PM 13 product and recognized the problems it would have.

12:01PM 14 I'm going to go back to the travel agents.  
12:01PM 15 Here is Expedia. What did Expedia think of Direct  
12:01PM 16 Connect, the customer? "American Airlines has shown and  
12:01PM 17 intends to do business with travel agents through a new  
12:01PM 18 Direct Connect technology model that we believe is  
12:01PM 19 anticonsumer and antichoice." That's what the travel  
12:01PM 20 agents view Direct Connect as.

12:01PM 21 This is from American Express, their  
12:01PM 22 evaluation of Direct Connect. And they asked the  
12:02PM 23 question that you're going to be asked. And this is the  
12:02PM 24 customer. They're asked, "Why hasn't Direct Connect  
12:02PM 25 taken off? Direct Connect will introduce new

12:02PM 1 complexities and inefficiencies they can't afford," the  
12:02PM 2 travel agents can't afford. "No other distribution  
12:02PM 3 solution has come close to replacing the functionality  
12:02PM 4 or commercial model offered through the GDS."

12:02PM 5 The travel agents were rejecting or not  
12:02PM 6 adopting Direct Connect because it didn't meet their  
12:02PM 7 needs. It didn't benefit anyone but American.

12:02PM 8 Here's what BCD said, another big customer  
12:02PM 9 of American's. Direct Connect key issues: It's not  
12:02PM 10 fully integrated with other systems. Didn't work with  
12:02PM 11 your back or mid office, that means your accounting  
12:02PM 12 software and things that corporations use. It was  
12:02PM 13 fragments, the content. You can't get all in one place.  
12:02PM 14 It's all over the place. It requires agencies to do  
12:03PM 15 more work. There's a lack of transparency. It doesn't  
12:03PM 16 provide accurate shopping. It has additional costs.  
12:03PM 17 This is why Direct Connect wasn't adopted.

12:03PM 18 Again, Expedia, we asked him in his  
12:03PM 19 deposition, "Why did you believe that Direct Connect  
12:03PM 20 would impact the degree of transparency?" Transparency  
12:03PM 21 is, can you see all the flights and fares? If something  
12:03PM 22 is transparent, you can see through it, you can see  
12:03PM 23 behind it, and transparency is important because it  
12:03PM 24 allows for the best comparison shopping. You want to be  
12:03PM 25 able to see everything, all the flights, all the fares,

12:03PM 1 all the lowest prices.

12:03PM 2 Here's what Expedia says about  
12:03PM 3 transparency: First, the system is unproven. Direct  
12:03PM 4 Connect is vaporware. And consumers won't have a full  
12:03PM 5 picture of what's available.

12:03PM 6 We asked them straight out, "Do you believe  
12:03PM 7 that Direct Connect is going to show the individual  
12:03PM 8 traveler all the fares for which he's eligible,  
12:03PM 9 including the lowest fare?"

12:04PM 10 He says, "No."

12:04PM 11 Well, it's no wonder that travel agents  
12:04PM 12 choose not to use it. Same thing from CWT. Talk about  
12:04PM 13 content fragmentation. "What would that do to airline  
12:04PM 14 ticket prices?"

12:04PM 15 "It would lead to further increases in  
12:04PM 16 airline ticket prices."

12:04PM 17 They don't want to use Direct Connect  
12:04PM 18 because it's not good for the consumers. The GDS has  
12:04PM 19 been a good solution. And the travel agents haven't  
12:04PM 20 adopted Direct Connect for these reasons, not because of  
12:04PM 21 anything that Sabre did.

12:04PM 22 I can go on and on, but I'm going to try to  
12:04PM 23 save time.

12:04PM 24 Again, Carlson: Reduces efficiency,  
25 increases complexity, adds cost. Carlson calculated it

12:04PM 1 would add another \$50 to the cost of every ticket if  
12:04PM 2 they switched to Direct Connect, and guess who pays  
12:04PM 3 that? It's no wonder that the travel agents haven't  
12:05PM 4 adopted Direct Connect.

12:05PM 5 American Express decided it would cost them  
12:05PM 6 \$200 million to change to Direct Connect. And then  
12:05PM 7 here's Ms. Stratford from BCD, "Who's going to pay all  
12:05PM 8 that increased cost? Did American agree to chip in for  
12:05PM 9 some of this to get you to switch to Direct Connect?"

12:05PM 10 She said, "They specifically indicated they  
12:05PM 11 were not willing to pay for the cost."

12:05PM 12 You were on your own. American knew this  
12:05PM 13 was going to be the reaction to Direct Connect. They  
12:05PM 14 announced in 2009 -- this is Mr. Arpey. He was the CEO  
12:05PM 15 of American Airlines at the time, and he came out and he  
12:05PM 16 said, "I don't want to be too dramatic, but I can see a  
12:05PM 17 day, maybe I'm dreaming here, where those folks are the  
12:05PM 18 intermediaries between us and our customers." That's  
12:05PM 19 the GDS and the travel agent, the intermediaries that  
12:06PM 20 help the customer buy the plane ticket, I can see a day  
12:06PM 21 when the intermediaries have to pay for access to our  
12:06PM 22 product rather than us paying them to distribute our  
12:06PM 23 product. That was Destination DreamWorld. It was  
12:06PM 24 travel agents -- instead of you getting paid, guess  
12:06PM 25 what? Here's the new deal. The new deal is you are now



12:06PM 1 going to pay us, American, for the privilege of selling  
12:06PM 2 all our tickets for us. You pay us now, travel agents,  
12:06PM 3 for the privilege of bringing us billions of dollars of  
12:06PM 4 business. That's what they called reversing the money  
12:06PM 5 flow. And they knew the agents weren't going to like  
12:06PM 6 it.

12:06PM 7 This is a conversation between Mr. DeCross,  
12:06PM 8 who you met at voir dire, and Bob Crandall. Bob  
12:06PM 9 Crandall was the long-time CEO of American Airlines that  
12:06PM 10 you may have heard of before. Mr. DeCross was talking  
12:06PM 11 about the key piece of Direct Connect is that the  
12:06PM 12 agencies have the content aggregator. So the agency has  
12:07PM 13 to go out and find its own way to get all the airline  
12:07PM 14 prices together, because American's only giving  
12:07PM 15 American. They have to find their own way to aggregate  
12:07PM 16 all of those flights and fares, and that's what was one  
12:07PM 17 of the reasons that all the costs were going up. And  
12:07PM 18 Mr. Crandall says, well, I presume that you want the  
12:07PM 19 agency to pay, and this means it will cost them a lot  
12:07PM 20 more, or more, than it does now. And here's American's  
12:07PM 21 attitude, and this paints the whole picture here.  
12:07PM 22 Mr. DeCross says, well, consumers ultimately bear the  
12:07PM 23 cost of distribution, and while we understand that the  
12:07PM 24 agencies want to compare American to other carriers all  
12:07PM 25 on one screen, so you can really comparison shop, we

12:07PM 1 don't see it as our responsibility to fund that. So  
12:07PM 2 American was saying to the travel agents, we'll give you  
12:07PM 3 the American fares and then you're on your own to figure  
12:07PM 4 out how to get them all together, so you can service  
12:07PM 5 your company. Right now, if a travel agent goes through  
12:08PM 6 a GDS, the GDS puts all this together for them, at no  
12:08PM 7 cost to the travel agent. It was a completely different  
12:08PM 8 model. And the travel agents didn't want it, not  
12:08PM 9 because of anything we did.

12:08PM 10 Here's what American said. They recognized  
12:08PM 11 that changing or reversing this flow of money was not  
12:08PM 12 going to be a good thing for them, so they say, travel  
12:08PM 13 agents, we're not going to be able to convert all the  
12:08PM 14 travel agents to the Direct Connect, there's going to  
12:08PM 15 have to be a sledgehammer mixed in there, somewhere.  
12:08PM 16 And American used that sledgehammer. They called it a  
12:08PM 17 stick, sometimes. What's the stick? AA fares are no  
12:08PM 18 longer available through your agency. So American can  
12:08PM 19 say to a travel agent, they have the sole ability to do  
12:08PM 20 this. Mr. Travel Agent, we are taking away your  
12:08PM 21 authority to sell our tickets. And if you can imagine a  
12:08PM 22 travel agent in Dallas, for instance, Fort Worth, anyone  
12:09PM 23 flying out of DFW, you take away American Airlines, that  
12:09PM 24 travel agent is done. American has the biggest stick  
12:09PM 25 around. Who has the power here?

12:09PM 1 And they didn't just go around and use this  
12:09PM 2 stick to little agents. They used it on the biggest  
12:09PM 3 agency there is. They did it to Orbitz. Remember -- my  
12:09PM 4 timeline's gone -- in the end of 2010, American pulled  
12:09PM 5 all of its fares out of Orbitz, terminated Orbitz'  
12:09PM 6 ability to sell tickets on American Airlines. Why did  
12:09PM 7 they do that? Because Orbitz said, as we saw, we don't  
12:09PM 8 think Direct Connect is good for anybody and we don't  
12:09PM 9 want to use it. So American says, well, that's fine,  
12:09PM 10 here's what we'll do -- pull your ticketing authority.  
12:09PM 11 So now they can't sell any American tickets. Once they  
12:09PM 12 did that, they tried to use it to get Orbitz to the  
13 table.

12:09PM 14 What did they do to Expedia? Mr. Yetter  
12:09PM 15 said, and I quote, "Expedia dropped AA." Here's what  
12:10PM 16 really happened, the sledgehammer. This is the e-mail  
12:10PM 17 from American's managing director of ticket distribution  
12:10PM 18 to American's current and former CEO. And what she  
12:10PM 19 says, "In view of Expedia's continued lack of commitment  
12:10PM 20 to Direct Connect" -- because we saw Expedia didn't want  
12:10PM 21 to use it, either -- "our best course of action is to  
12:10PM 22 remove Expedia's ticketing authority." Sending a  
12:10PM 23 message that we're comfortable without you, Expedia, and  
12:10PM 24 that's exactly what American did. They had their own  
12:10PM 25 dispute, and in January of 2011, American pulled

12:10PM 1 Expedia's ticking authority, because Expedia didn't want  
12:10PM 2 Direct Connect.

12:10PM 3 Two things on Expedia. One is, it brought  
12:10PM 4 Expedia to the table and Expedia finally agreed, because  
12:10PM 5 they couldn't survive without American's tickets, to  
12:10PM 6 agree to explore using Direct Connect. American got  
12:10PM 7 what it wanted. The sledgehammer works.

12:11PM 8 Second thing about Expedia, we saw a bunch  
12:11PM 9 of documents that Mr. Yetter put up about Sabre's  
12:11PM 10 e-mails talking about the effect of flights being out of  
12:11PM 11 the system. He talked about \$100 million in annual  
12:11PM 12 revenue, I think there was one that said \$500 million in  
12:11PM 13 annual revenue American seems to -- potentially would be  
12:11PM 14 missing through the Sabre system. Sabre runs the  
12:11PM 15 underlying system of Expedia. So if you book a ticket  
12:11PM 16 through Expedia, that's a booking that's going through  
12:11PM 17 the Sabre system. So all the big numbers, 500 million,  
12:11PM 18 200 million, that was all what they were calculating  
12:11PM 19 might be missing through Expedia. But American pulled  
12:11PM 20 Expedia's ticketing authority, we didn't. Who has the  
12:11PM 21 power here?

12:11PM 22 So we're into the fall of 2010, now. They  
12:12PM 23 did the same thing to AmEx, American Express, and  
12:12PM 24 Priceline. We're into the fall of 2010. American has  
12:12PM 25 announced its plan, through its CEO, to start making

12:12PM 1 travel agents pay for the privilege of selling American  
12:12PM 2 tickets, instead of them getting paid. It's publicly  
12:12PM 3 known that American has used their sledgehammer against  
12:12PM 4 Expedia and Orbitz, and here's the kind of reaction that  
12:12PM 5 they're getting from their own actions.

12:12PM 6 This is an e-mail from Dan Garton, who is  
12:12PM 7 the senior vice president or executive vice president of  
12:12PM 8 American, who is -- at one point was in charge of the  
12:12PM 9 whole Direct Connect strategy, writing to Mr. Arpey, the  
12:12PM 10 CEO, the top guy at American, right after this speech he  
12:12PM 11 gave saying, we're going to make the travel agents pay.  
12:12PM 12 "FYI, lots of flak from your dream, about 100 or so  
12:12PM 13 calls" -- I think that's within a couple of days -- "to  
12:13PM 14 our various sales offices and nasty travel agents blog."

12:13PM 15 The agency community went crazy when  
12:13PM 16 American announced its plan. We didn't make the agency  
12:13PM 17 community go crazy against American. American brought  
12:13PM 18 that on themselves by saying, we're not going to pay you  
12:13PM 19 anymore and we're going to use our sledgehammer and our  
12:13PM 20 sticks, if you don't adopt Direct Connect. And these  
12:13PM 21 travel agents were coming to us and saying, what's going  
12:13PM 22 on here, are we going to be able to get our  
12:13PM 23 content -- or American's content through you or are we  
12:13PM 24 going to have to sign on to this Direct Connect? Are  
12:13PM 25 they going to make us? What do we do? And we're out

12:13PM 1 there talking to them. You bet we are.

12:13PM 2 American's basically said, pick a side, to  
12:13PM 3 the travel agents, trying to force them to take Direct  
12:13PM 4 Connect. And we were out there saying, you know what,  
12:13PM 5 you don't have to sit -- stand for this, you don't have  
12:13PM 6 to get bullied, you have a choice. You can vote with  
12:14PM 7 your feet, you can stick with us -- and this is like any  
12:14PM 8 competitive business. If American is out there trying  
12:14PM 9 to get the travel agents and consumers to use a  
12:14PM 10 different product that will take business away from us,  
12:14PM 11 just like if Amadeus or Travelport was trying to take  
12:14PM 12 business from us and attract our customers, you bet we'd  
12:14PM 13 compete. You bet we're out there telling the customers,  
12:14PM 14 our product's better, you should stick with us, don't  
12:14PM 15 switch to the other guy's product. That's not a  
12:14PM 16 conspiracy. That's competition. And the reason that  
12:14PM 17 Direct Connect wasn't successful is because the agencies  
12:14PM 18 didn't want it.

12:14PM 19 Here's Mr. Smith, again -- this is the guy  
12:14PM 20 who was, I think, on about half the e-mails that  
12:14PM 21 Mr. Yetter showed -- relating to this timeframe. What  
12:14PM 22 was his reaction to Mr. Arpey's comments when Mr. Arpey  
12:15PM 23 said he was going to change the industry? "I was  
12:15PM 24 insulted. I was frustrated. I was furious." Why?  
12:15PM 25 "Because American, I considered to be a strong partner.

12:15PM 1 I considered them to be a forward-looking airline, and I  
12:15PM 2 looked at all -- if all of this came to  
12:15PM 3 fruition" -- American's plan, that is -- "that would  
12:15PM 4 probably be the end of the travel industry, travel  
12:15PM 5 managing industry." That's what the agents thought of  
12:15PM 6 this, and that's why the agents reacted the way that  
12:15PM 7 they did, and that's why the agents haven't accepted  
12:15PM 8 Direct Connect, not because of what Sabre did or any  
12:15PM 9 actions that Sabre took. They stood up to American  
12:15PM 10 Airlines.

12:15PM 11 I want to spend one second on their alleged  
12:15PM 12 harm. Again, we talked a little bit about some of their  
12:15PM 13 documents talk about the Expedia harm, which has nothing  
12:15PM 14 to do with us. Some talked about, he put up a billion  
12:16PM 15 dollars. Here's what actually happened. They went out  
12:16PM 16 and got a paid expert to come up with those numbers. At  
12:16PM 17 the time, here's what their people said. At time of  
12:16PM 18 the -- I keep going to the timeline and it's not there.  
12:16PM 19 At the time of the biassing in January, they made  
12:16PM 20 statements. American came out. They looked at the  
12:16PM 21 issues. They did their own analysis, and here's what  
12:16PM 22 they said. And you're going to hear this testimony.  
12:16PM 23 American said, "Our bookings" -- bookings are the ticket  
12:16PM 24 sales. "Our bookings, overall, have not changed through  
12:16PM 25 all this brouhaha." So that's what it was, it was a big

12:16PM 1 brouhaha. The agents were fighting back. The agents  
12:16PM 2 were not accepting American trying to force Direct  
12:16PM 3 Connect on them, but they didn't suffer any harm.  
12:16PM 4 American didn't suffer any harm here.

12:16PM 5           And when you do look at what American says  
12:16PM 6 about their recent financial woes -- as I think we all  
12:17PM 7 know American is in Bankruptcy Court right now, across  
12:17PM 8 the way -- and American talks about, well, why have we  
12:17PM 9 had the financial problems we've had over the last few  
12:17PM 10 years? And when they answer that question outside of  
12:17PM 11 the courtroom, outside of this courtroom, they say a  
12:17PM 12 completely different thing when they say it here. They  
12:17PM 13 say, our financial performance over the last few years  
12:17PM 14 are due to labor costs, fuel prices, customer  
12:17PM 15 dissatisfaction, taking on too much debt, flying old  
12:17PM 16 airplanes. When they're in a different courthouse, they  
12:17PM 17 don't say it's Sabre, it's the lack of success of Direct  
12:17PM 18 Connect. They say all the things that we all know are  
12:17PM 19 true about American. That's what they blame their  
12:17PM 20 problems on, outside of this court.

12:17PM 21           So, ladies and gentlemen, in the end here,  
12:17PM 22 this is a business dispute. This is a commercial  
12:18PM 23 contract dispute between two companies that should be  
12:18PM 24 settled through their contract negotiations, in the  
12:18PM 25 marketplace, not here in the courtroom. And we look



12:18PM 1 forward to that. And we look forward to negotiating a  
12:18PM 2 new contract when this contract expires in December.  
12:18PM 3 And American can take any negotiating position they  
12:18PM 4 want. They can say we want the Southwest deal, because  
12:18PM 5 we think that's great. We don't want to give you as  
12:18PM 6 much content. We want the Air Canada deal, because we  
12:18PM 7 think that's great, and we can negotiate the terms and  
12:18PM 8 we can negotiate the price, just like happened last  
12:18PM 9 time, and they used all the leverage they had to get the  
12:18PM 10 deal they wanted.

12:18PM 11 Now, after all the evidence is in, in a few  
12:18PM 12 weeks, we're going to be back here and we're going to be  
12:18PM 13 asking you to reject American's claims. We're going to  
12:18PM 14 be asking you to focus on the testimony, the evidence,  
12:18PM 15 the documents, and the real reasons why Direct Connect  
12:19PM 16 has been as successful, and to send these companies back  
12:19PM 17 to the negotiating table to work this out, outside of  
12:19PM 18 here. Thank you very much for your time this morning.  
12:19PM 19 I appreciate it very much.

12:19PM 20 Thank you, Your Honor.

12:19PM 21 THE COURT: All right. Ladies and  
12:19PM 22 gentlemen, we're going to recess until 1:40. And let me  
12:19PM 23 say this. Please remember your instructions. It's  
12:19PM 24 important that you not discuss this case with anyone.  
12:19PM 25 Don't let anyone discuss it with you or in your

12:19PM 1 presence. I'm sure some of you will be together during  
12:19PM 2 the noon hour, do not discuss the case. The time to  
12:19PM 3 discuss it will be after the testimony is over, in a few  
12:19PM 4 weeks. See you at 1:40.

12:19PM 5 (Jury not present.)

12:21PM 6 (Break taken from 12:21 a.m. to 1:42 p.m.)

01:42PM 7 (Jury present)

01:43PM 8 THE COURT: All right. Ladies and  
01:43PM 9 gentlemen, with all the rules and the law that we have  
01:43PM 10 to follow and all the many -- as you can tell, all the  
01:43PM 11 many, many hours of preparation that the attorneys have  
01:43PM 12 been through, things still come up that we don't  
01:43PM 13 anticipate, and we have some legal issues that we need  
01:44PM 14 to resolve this afternoon that will save us all some  
01:44PM 15 time. And it'll save us more time than just between now  
01:44PM 16 and 1 o'clock tomorrow.

01:44PM 17 So I'm going to recess this case until  
01:44PM 18 1 o'clock tomorrow. I'll ask you to be back at  
01:44PM 19 1 o'clock. And please remember your instructions. I  
01:44PM 20 only keep mentioning those instructions not to discuss  
01:44PM 21 the case because they are so important.

01:44PM 22 Y'all have a good evening and watch the  
01:44PM 23 World Series or something, and I'll see you at 1 o'clock  
01:44PM 24 tomorrow.

01:44PM 25 Thank you, ladies and gentlemen.

01:44PM

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(Jury excused.)

01:46PM

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(Recess for the day at 1:46 p.m.)

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C E R T I F I C A T E

THE STATE OF TEXAS )  
COUNTY OF TARRANT )

I, MONICA A. LINDSTROM, Official Court Reporter in and for the 67th District Court of Tarrant County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the reporter's record, in the aforementioned cause, all of which occurred in open court or in chambers and were reported by me.

I FURTHER CERTIFY that this reporter's record of the proceedings truly and correctly reflects the exhibits, if any, offered and/or admitted by the respective parties.

I FURTHER CERTIFY that the total cost for the preparation of this immediate copy reporter's record is \$1,776.00 and was paid by Defendants.

WITNESS MY OFFICIAL HAND this the 24th day of October, 2012.

/s/ Monica A. Lindstrom  
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