

1 Q. The second sentence of your 12:05 p.m. message.  
 2 A. Yes.  
 3 Q. "No substance. Just a ranting fishing expedition."  
 4 A. Yes.  
 5 Q. Do you remember writing that sentence?  
 6 A. Yes.  
 7 Q. What do you mean by that?  
 8 A. Throwing out a lot of accusations without merit,  
 9 without evidence, without any of this, without any of that.  
 10 You've accused my client. It came across when I read it as  
 11 ranting.  
 12 Q. Is there something specific in Exhibit 36 that  
 13 seemed like a rant to you?  
 14 A. "By virtue of this letter in February 25th, 2013,  
 15 communication, your agency accused my client without any  
 16 proof or documentation or undertaking unauthorized work in  
 17 waters."  
 18 Q. Let me just stop you right there.  
 19 A. You bet.  
 20 Q. She's correct though. Right? You have no proof or  
 21 documentation was submitted with the Cease and Desist  
 22 Letter?  
 23 A. The Cease and Desist Letter stated that we provided  
 24 the copy of the language of the act.  
 25 Q. Is that proof for documentation?

1 A. No. That's referencing the act itself and the  
 2 potential fines and penalties.  
 3 Q. A couple lines down you refer to a "very bad  
 4 position."  
 5 Do you see that language?  
 6 A. Yes.  
 7 Q. What did you mean by that?  
 8 A. That they have ripped through and destroyed waters  
 9 of the United States and they were caught doing it, and the  
 10 potential fines and penalties are quite steep.  
 11 Q. That sentence goes on -- the next sentence, sorry.  
 12 There's a reference in the next sentence to, "wanting all  
 13 information without filing a FOIA."  
 14 Do you see that sentence?  
 15 A. Yes.  
 16 Q. If Ms. Lucas wanted information from the Corps of  
 17 the kind she was asking for in Exhibit 36, should she have  
 18 filed a FOIA?  
 19 A. Potentially. I didn't know. That's why I put in  
 20 there, "we may need Office of Counsel to respond," since  
 21 they are in fact the FOIA officers of charge of the Freedom  
 22 of Information Act as well as Privacy Act stuff.  
 23 Q. Did you or anybody else refer Ms. Lucas to Office of  
 24 Counsel?  
 25 A. I do not know what was done beyond what was me

1 forwarding it.  
 2 Q. The next sentence, "I'm working on finishing my  
 3 conversation."  
 4 Do you see that language?  
 5 A. Yes.  
 6 Q. Do you remember which conversation it was you were  
 7 working on finishing?  
 8 A. I was getting things into order, making sure things  
 9 were in chronological order, making sure that we had the  
 10 important notes in cleaning up the file and purging  
 11 extraneous stuff and sending it on down there.  
 12 Q. Were you still writing Conversation Notes at this  
 13 point?  
 14 A. I was going through all my Conversation Notes to  
 15 make sure which things needed to be moved on and which  
 16 things were just notes that needed to be purged from the  
 17 file.  
 18 Q. So you purged notes from the file?  
 19 A. Prior to my sending off the file, I made sure any of  
 20 my posting notes or anything that weren't relevant or  
 21 weren't necessary were cleaned out.  
 22 Q. Do you remember anything that was contained on any  
 23 of those notes that was purged?  
 24 A. Anything that goes away we destroy or throw in the  
 25 garbage and have the official notes. The official file is

1 subject to FOIA.  
 2 Q. Do you know what a litigation hold is?  
 3 A. Yes.  
 4 Q. What is your understanding of what a litigation hold  
 5 is?  
 6 A. Once litigation is established, you retain all  
 7 documents.  
 8 Q. Have you ever heard that sometimes you need to  
 9 retain documents even before litigation is filed?  
 10 A. No.  
 11 Q. So you don't remember anything about any of the  
 12 notes that you purged?  
 13 A. There were posty notes all over the maps. There  
 14 were posty notes identifying things in the delineation.  
 15 There was tons of stuff in trying to clean up the file and  
 16 get it ready, which is what we do with all files.  
 17 Q. So it's the course of your practice to throw  
 18 information out of a file before you submit it to your  
 19 superiors?  
 20 MR. BRODERICK: Objection. Misstates testimony.  
 21 Argumentative.  
 22 Q. MR. PROWS: Is it your practice to purge information  
 23 from your file before submitting your Enforcement Actions  
 24 to your superiors?  
 25 A. I already submitted the letter and my workup on it