

jkb-10

Brosnan-direct

J A M E S P. B R O S N A N, called as a witness

by the plaintiff, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOPKIS:

Q Mr. Brosnan, what is your occupation?

A I am a free lance writer.

Q What do you mean by that?

A I write books, magazine articles.

Q For how long have you been a writer, sir?

A Since 1959.

Q Was that when your first published work was published?

A Yes, in 1959, my first magazine articles came out. 1960, my first book came out.

Q What was the title of your first book?

A The Long Season.

Q Could you tell us briefly just by way of advertisement what The Long Season was about?

A It was a journal describing the events, the thoughts, the reactions of a season in professional baseball in the big leagues as they happened to me.

Q And have you published other books since then?

A Two years later I published Pennant Race.

Q Would you again describe to the Court that book?

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A A sequel, similar treatment, only this time the intention, at least, was to describe what most of the players on the ball club felt it was like to play in the big leagues during a season in which they won the pennant.

Q In addition to writing these books, have you from time to time published magazine articles?

A Yes, sir.

Q And you now earn your living by freelance writing, is that right?

A Yes, sir.

Q Have you done so exclusively since 1960?

A In over three years until 1963, through 1963, I was a professional pitcher, major league pitcher. In 1964 and 1965, I was in radio and television as a sports commentator.

Q And since 1965 then you have been a freelance writer?

A Yes, sir.

Q You speak of having been a professional baseball pitcher. With what club were you first affiliated?

A With the Chicago Cubs.

Q You signed a contract with the Cubs?

A Originally in 1947 I signed a contract with their Elizabethton, Tennessee Club, a farm club in Class D.

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Q Elizabethton?

A Elizabethton, Tennessee.

Q By whom were you signed to that contract?

A A Chicago Cub scout named Tony Luccadello.

Q How old were you at the time that you signed it?

A 17.

Q Was that a contract in the standard form used for minor league baseball players at the time?

A Yes, the same contract that all minor league players signed at that time.

Q Before signing that contract, did you read it?

A As capably as a 17-year old --

THE COURT: Now, see --

A As capably as I could.

THE COURT: Now wait a moment. I think it is natural, since you get paid for every word, to want to expand, but I must insist, there are occasions when a "yes" is like a home run. Let "yes" or "no", if you can possibly answer the question that way, suffice. Will you do that, please? All right, now, what's the pending question, Mr. Reporter, please?

(Question read.)

THE COURT: Yes or no.

A Yes, I did.

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Q The full text?

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A Right through to the point where the money was mentioned.

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Q Do you recall, was the money mentioned early or late?

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A There was a clause at the end of that contract stipulating a bonus to be paid upon a certain term of service.

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Q Now, did you play that season with the Elizabeth-ton Club?

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MR. HUGHES: Your Honor, I am not sure we have an answer to the question.

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THE COURT: As to whether he read the entire contract?

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MR. HUGHES: That is right.

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MR. TOPKIS: I had thought, your Honor, since he referred to the last clause being another money clause --

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THE COURT: There might be another provision after it. That provision might be as important as any other provision. Now, putting it very plainly to you, did you read the entire contract? That is all it really calls for. Did you?

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THE WITNESS: I did, sir.

THE COURT: All right, next question.

End 3 PM

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Q You played with the Elizabethton Club that year?

A Yes.

Q That is, the 1947 season?

A 1947.

Q What did you earn during that '47 season?

A \$125 a month. Approximately \$500.

Q For the four months that you played?

A Yes.

Q You were paid nothing for the balance of the year
by baseball?

A No. Just for the season.

Q And in 1948, what club did you play?

A I started the season with the Springfield,
Massachusetts, club in the New England League, and half
through the season I was sent to Fayetteville, North Carolina.

Q How were you advised that you were to play there
by the Springfield club that year?

A The manager said, "Here's your ticket to Fayette-
ville."

Q That was all that was said?

A And he handed me the ticket, and I packed my bags
and went to Fayetteville.

THE COURT: You were not asked anything about how you
packed your bags or what you put in your bags. Let us avoid

all that. Just answer the question.

A What I remember him saying, what sticks in my mind after twenty-two years --

THE COURT: Yes.

A (Continuing) "Here's your ticket."

THE COURT: All right.

Q Now, was Springfield a club of higher classification than the Elizabethton?

A Yes; it was. It was Class B.

Q And the next team was Fayetteville?

A The same.

Q The same classification?

A Same classification.

Q You arrived in Fayetteville in mid-season?

A Yes; I did.

Q Did you spend the balance of the season in Fayetteville?

A I did.

Q What salary were you paid for that season?

A \$225 a month for the season.

Q Again, for four months?

A Again, for -- well, four and a half months. I think that the league was a little bit longer.

Q How about the following season, '49?

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2 A I was in Class A with the Macon in the Sally League.
3 I had a \$250 a month raise.

4 Q To \$250?

5 A Yes.

6 Q Again, for four months?

7 A Well, we won the play-off, so it was about five
8 months.

9 Q How did you learn that you were going to play with
10 this team in the Sally League?

11 A At the conclusion of the previous season, at
12 Fayetteville, I was informed by letter that my contract had
13 been assigned to the higher classification.

14 Q No one spoke to you personally about it?

15 A No.

16 Q No telephone call?

17 A No, sir.

18 Q No telegram?

19 A No telegram.

20 Q And where did you report for the following season?

21 A To the Macon, Georgia, club, in Macon, Georgia.

22 Q No spring training?

23 A Their spring training was held in Macon, Georgia.

24 Q What did you do the following season?

25 A I was promoted to Los Angeles, of the Pacific Coast

League.

Q What classification?

A That's Triple A.

Q And what year was that?

A 1950.

Q How did you learn that you had been promoted to
Los Angeles?

A The same procedure.

THE COURT: You know, you must repeat.

Q Again, by letter?

A Again, by letter.

Q No telephone call?

A No, sir.

Q No face-to-face meeting with anyone at all?

A No one at all.

Q Did you spend that entire season with Los Angeles?

A I did not.

Q What happened?

A During spring training, the Los Angeles spring
training session, I was traded to the Springfield, Massachu-
setts, club, which by this time was in the International
League, same classification, Triple A, and I went to their
spring training in Florida, finished spring training, spent
a month there with that ball club, was sent to Nashville,

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2 Tennessee, the Southern Association. I spent a month there
3 and was sent to Des Moines. I was there for three weeks
4 and was sent to Decatur. Des Moines is Class A and Decatur
5 is Class B.

6 Q So you went down a couple of pegs, or several pegs?

7 A About as far as one could go.

8 Q Were you married at this time?

9 A I was not married at that time.

10 Q And each time that you were moved about in the course
11 of this season, how did you learn that you had been reassigned?

12 A The Los Angeles general manager informed me when I
13 left that club -- the manager of the Springfield club, the
14 playing -- the field manager told me then; the manager of the
15 Nashville club in the Southern League told me; the business
16 manager of the Des Moines club in Class A told me. In each
17 case, it was face to face.

18 Q In each case --

19 A It was a face-to-face conversation.

20 Q I see. I am sorry. I think I got lost. Where did
21 you wind up?

22 A In Decatur -- Decatur, Illinois.

23 Q Decatur, Illinois?

24 A And that was a Class A team.

25 Q You spent the rest of the season in Decatur?

1
2 A The last six weeks.

3 Q I neglected to ask you this: What was your salary
4 that season?

5 A \$500 a month.

6 Q Again for four months?

7 A I think it's closer to five months, because I was
8 paid by the Triple A ball club. I was on a Triple A con-
9 tract, and I was optioned to Class A; in Class A, optioned
10 to B, but my contract remained the same.

11 Q And what kind of season did you have there that
12 season?

13 A One loss -- you want an analysis? I didn't have
14 a very good season. I think nine in ten or eight in ten --
15 something like that.

16 Q Now, at the end of the season, what happened?

17 A I was recalled by the Springfield club, which had
18 my contract.

19 Q And did you report to them for spring training?

20 A The next spring training, yes.

21 Q And in what year would that be?

22 A 1951.

23 Q You spent spring training with Springfield?

24 A I was called into the Army after three weeks of
25 spring training.

Q And how long were you in the army?

A Two years.

Q When did you get out?

A In April of 1953.

Q What happened then, in baseball terms?

A I went back to spring training with Springfield in the International League. I spent the year at the same salary as I had when I went into the Army.

Q \$500 a month?

A \$500 a month.

Q How old were you then?

A Twenty-four, and married by now.

Q And you got paid for four and a half months or thereabouts?

A It's five months by this time, the Triple A league.

Q About \$2,500?

A Right.

Q What happened at the end of that season?

A I retired from baseball. I had a very poor year. I won four and lost seventeen, I believe, and headed -- well whatever the reason was, it was a bad season, and I went back to school, enrolled in a college in Washington, D.C.

About halfway through the year, I had a phone call from Jack Sheehan, who was the farm director of the Cubs.

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2 He said, "You won't believe this, but we have this date pur-
3 chased your contract; the Chicago Cubs purchased your con-
4 tract, and you will report in the spring to Mesa, Arizona."
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FOLEY SQUARE, N.Y., N.Y. 10007 / TELEPHONE: CORTLAND 7-4580

2 Q You will report in the spring?

3 A To Mesa, Arizona, where the Cubs train.

4 Q When you retired from baseball --

5 A It was my intention to retire.

6 Q Had you executed any formal document of retire-
7 ment or anything like that?

8 A No. At the end of the season I told my wife,
9 "I guess I've had it."

10 Q And you entered school so it was some time during
11 the winter you got this call from the Cubs farm director?

12 A In December, I believe.

13 Q And did you report to the Cubs training camp?

14 A I did.

15 Q That would be in the spring of '54?

16 A '54.

17 Q What happened then?

18 A I made the ball club.

19 Q When did you execute a contract relating to the
20 1954 season?

21 A January, perhaps the 1st of February.

22 Q What salary did the contract call for?

23 A It was a conditional contract. If I stayed in
24 the major leagues, I got the minimum of 6000. If I did not
25 stay in the major leagues, it was 750, I believe, \$750

1
2 a month.

3 THE COURT: It, of course, is obvious, but I want
4 to be sure. January or February of 1954?

5 THE WITNESS: Yes, sir.

6 Q Could you tell us how that contract was negotiated?

7 A It was not negotiated. It was what he offered.

8 Q He sent you the contract in the mail?

9 A Yes.

10 Q Was there any discussion over the telephone?

11 A There was no discussion on my part. I signed it
12 and sent it back.

13 Q You spent the '54 season with the Cubs?

14 A I did not. I spent half the season with the Cubs.

15 Q What happened then?

16 A I was optioned to Des Moines in June, I believe;
17 May or June.

18 Q Did you spend the rest of the season with
19 Des Moines?

20 A No, I was recalled to the Cubs a week later.

21 Q And what happened then?

22 A My wife threatened to divorce me. She had just
23 purchased two weeks of steaks, put them in the freezer in
24 a house we had just rented, and she had done all this on
25 her own because I was on a road trip to Denver. When I

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1 arrived in Denver there was a telegram saying, "You are
2 recalled. Get on a plane and report to St. Louis."

3
4 Then when I called her she said, "What do I do
5 with the steaks and the rent?"

6 There was a lease signed on the house and those
7 problems that crop up when anybody is transferred quickly.

8 Q Just so the record is complete, what did she
9 do with the steaks?

10 A She gave them to the ballplayer that reported
11 in my place.

12 Q Were you in any way compensated by the club
13 for either the rent that you lost out on the house or the
14 steaks or anything else other than your travel?

15 A No, I was not.

16 Q So you joined the Cubs in St. Louis?

17 A Yes.

18 Q Did you, I hope, spend the balance of the season
19 with them?

20 A There were six weeks, I believe, left in the
21 Texas League season. So that would have been the middle of
22 July. I was sent to Beaumont, Texas, the Texas League.

23 Q How long did you spend with the Cubs?

24 A Three weeks to a month.

25 Q Did you pitch any games in that time or in any

1
2 games?

3 A I pitched the night I got in from Denver and
4 other games, yes. Yes, I pitched some.

5 Q What kind of record did you have?

6 A For the total time that I was in and out with
7 the Cubs and when I was in the major leagues, I had one
8 victory and no losses, but it was one of those relief jobs
9 that you pick up easily.

10 Q So you were sent to Beaumont, Texas, is that
11 right?

12 A Yes, sir.

13 Q Did you spend the balance of the season with
14 Beaumont?

15 A The balance of the Texas League season, yes.

16 Q What happened then?

17 A Well, the ball club recalled my contract and
18 because I was under a major league contract I was paid for
19 the remaining days of September, whatever they were. I
20 think the Texas League season closed on Labor Day, so it
21 would have been twenty days or a little more.

22 Q Well, after that stretch with the Beaumont Club,
23 did that end your playing career for that season?

24 A I did not play any more that season.

25 Q What happened then?

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1 A I was sent a major league contract for the
2
3 following year.

4 Q Incidentally, there is something I neglected
5 to ask you, Mr. Brosnan. During that season when you were
6 sometimes with the major league club and at various other
7 times with minor league clubs, were you paid the \$6,000
8 minimum all through the season?

9 A Only when I was with the club.

10 Q Only when you were with the major league club?

11 A Right.

12 Q And when you were with the minor league clubs
13 you were paid the lesser salary?

14 A Yes.

15 Q So you were sent a major league contract for
16 the 1955 season?

17 A Yes, for the 6000 minimum.

18 Q And you signed it?

19 A I signed it. I argued about it, but I signed it.

20 Q Six thousand was the original proposal and
21 that is what you ultimately signed?

22 A Yes, I did.

23 Q Did you spend that season with the Cubs?

24 A No. I went to Los Angeles in spring training,
25 Los Angeles in the Pacific Coast League, and spent the

1 season there.

2 Q You were assigned to Los Angeles. How were you
3 notified of this assignment?

4 A There were four of us all called in at one
5 time.

6 MR. GOLDBERG: Excuse me, your Honor. He is
7 nodding his head. Would you just say yes or no? The court
8 reporter can not get your nod.

9 THE WITNESS: Yes, sir. I was told by the general
10 manager of the club, along with three other players who
11 were all optioned at the same time. We were called into his
12 room at the hotel in Mesa.

13 Q I see. So you reported to the Los Angeles Club?

14 A Yes, I did.

15 Q And you spent spring training with them?

16 A Spent the whole season with them.

17 Q And what salary were you paid that season?

18 A I was paid the major league salary.

19 Q Los Angeles at that time was a minor league
20 club?

21 A It was, I believe, the open classification they
22 had at the time. It was supposed to be a step higher than
23 class Triple A.

24 Q And what happened at the end of that season?

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Brosnan-direct

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A My contract was recalled by the Cubs.

3

Q Yes?

4

A And I was offered the same contract for the

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following year.

6

Q Again at six thousand?

7

A Six thousand.

8

Q Did you sign that contract?

9

A I did not.

10

Q Was there some negotiation discussion?

11

A I eventually got another thousand.

12

Q And with what club did you spend -- by now we are

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up to 1957?

14

A No, 1956.

15

Q I beg your pardon.

16

A By now I am in the major leagues the rest of the

17

time.

18

Q So you spent the '56 season with the Cubs?

19

A Yes, sir.

20

Q And the '57 season?

21

A And '57.

22

Q How about '58?

23

A In '58 I was traded to the St. Louis Cardinals

24

for Alvin Dark, in May.

25

Q How did you learn of your trade?

2 A My roommate told me.

3 Q You received no formal communication?

4 A Somebody had leaked it to him and he told me,

5 "You have been traded to St. Louis. Go upstairs."

6 Q What was "upstairs"?

7 A The general manager was there.

8 Q And so you met with the general manager and he
9 told you face to face?

10 A They had members of the press there at that
11 time to announce the trade.

12 Q So you were sent to St. Louis?

13 A Yes, I was.

14 Q Did you report there?

15 A I just stayed there in Pittsburgh. The St.
16 Louis Club was coming into town.

17 Q But you joined the St. Louis Club?

18 A I did.

19 Q Did you play the balance of that season for
20 St. Louis?

21 A Yes, sir.

22 Q What happened at the end of that season?

23 A Well, you mean -- I don't understand the question,
24 "what happened"?

25 Q I mean in terms of your baseball career.

1
2 A In the following spring I was offered a con-
3 tract for, I believe, \$12,000.

4 Q Did you accept it?

5 A No, I didn't.

6 Q Did you ultimately sign a contract with a
7 different figure?

8 A I signed for twelve and a half.

9 Q With what club did you spend that season?

10 A Well, until May I was with St. Louis.

11 Q What happened then?

12 A Then I was traded to Cincinnati.

13 Q How were you advised of that trade?

14 A A note was left in my box at the Washington
15 Hotel.

16 Q From whom?

17 A From the general manager.

18 Q Did you subsequently speak with him?

19 A Yes.

20 Q Did the note tell you that you had been traded?

21 A Yes.

22 Q And so you reported to Cincinnati?

23 A Yes, I did.

24 Q Did you spend the balance of the season with
25 Cincinnati?

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A I did.

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Q What did you do the next season?

4

A I was offered another contract, this time for \$18,000, and I signed it.

6

Q And with what club did you spend that season?

7

A Cincinnati.

8

Q Now, we are by this time up to what year?

9

A 1960.

10

Q You spent the '60 season with Cincinnati?

11

A I did.

12

Q You referred to publishing your first book in

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1960.

14

A 1960.

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Q That was The Long Season?

16

A The Long Season.

17

Q And you spoke of it as a diary. Did it describe

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the events of the '59 season?

19

A It did, from spring training -- actually from

20

contract negotiations until the end of the year.

21

Q Was there any discussion subsequent to your

22

writing of the book between you and any representative of the

23

club management relating to your writing of the book?

24

A The publishing of the book, yes. The writing

25

of the book, no.

Q What about publishing? With whom did you speak?

A The general manager of the club who, at that time at Cincinnati was Gabe Paul. He asked me if I was publishing what he had read I was publishing, and I said yes. And he asked me what I had in it. And I described what was in it, and he said it was all right with him. However, he then left for Cleveland or Houston -- he left the Cincinnati ball club for another club and Bill DeWitt took over.

Mr. DeWitt did not like the idea of me publishing a book.

Q Did you have a conversation with Mr. DeWitt relating to the publishing of the book?

A Yes, I did.

Q Would you tell his Honor the substance --

THE COURT: Would you hold it a minute?

Marshal, in the first place, I want to be sure I thank you for the marvelous job your office has been doing in maintaining order here. If there are others outside, and I gather there are, it's all right with me to let them in provided they recognize they may have to stand and that they behave in the exemplary fashion of our seated audience.

THE MARSHAL: Very good, your Honor.

1 MR. TOPKIS: Shall I pause, your Honor?

2 THE COURT: Just give him a minute.

3 (Pause.)

4 THE COURT: By the way, I was going to call
5 for a brief recess anyway. You have been at it a full
6 hour. Announce a short recess.

7 THE CLERK: A short recess. All rise.

8 (Recess.)

9 THE COURT: Please proceed.

10 BY MR. TOPKIS:

11 Q Mr. Brosnan, if I may backtrack for just a moment.
12 I believe I neglected to ask you what your salary was in
13 '57 and '58 seasons. Could you tell us, please?

14 A In '57 I had an \$8,500 contract -- pardon me.
15 1957 it was seven thousand, 1958 it was 8,500.

16 Q During the years you were in the minor leagues,
17 Mr. Brosnan, were you paid any moneys by the various clubs
18 for which you worked when you were on the road, to cover
19 travel expenses or the expenses of being away from home?

20 A Yes. It varied. In the first year in which
21 I played at Elizabethton, Tennessee, we had actually
22 only two road trips. The other clubs were so close to
23 Elizabethton that we would bus over and bus back. So the
24 only meal money we got was the \$2.50 on the two road trips
25

to Welch and Bluefield, West Virginia.

Q And you were paid \$2.50 each day that you were away from your home base?

A Yes.

Q What did that \$2.50 cover?

A Well, that was to cover your food and any incidental expenses that you had, if you had any.

Q Were you given a laundry allowance?

A No, that was the total of the road money.

Q And how did you get from the hotel or wherever you were staying to the ball park?

A You could walk, you could take a cab.

Q Were you given a cab allowance?

A Oh, no. That came out of the \$2.50. I don't think many took a cab.

End 5

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Q Later on, when you were with other minor league clubs, were you paid similar allowances when you were on the road?

A Yes. I don't think I could recall the meal money in each of the different leagues. I can remember in Triple A ball it was four and a half.

Q And intermediate sums in the intermediate leagues?

A To the best of my recollection, it was \$3 in Macon, but I am not positive about that. I can't say definitely.

Q And in each case these sums covered the same expenditures that you have already testified to?

A Yes. Some clubs would have the bus that took you out on the road to various towns, that bus would carry you from the hotel to the ball park, but in many cases the ball parks were close enough, according to the club, for the players to walk from the hotel to the park, and in some cases it actually was.

Q You speak of staying in hotels. Did each player have a room or what was the arrangement?

A Never a room of his own. Mostly two to a room, sometimes three to a room.

Q Now, coming back, if you will, to this conversation that you had with Mr. DeWitt with reference to your writing, will you tell the Court what was said in that conversation?

1 A He shoved a contract across the table with a clause
2 circled in red. The provisions of the clause I can't cite
3 exactly. The gist is that no player -- the player who is
4 signed to a contract cannot write or sponsor radio or tele-
5 vision programs without the prior approval of the club. I had
6 never noticed that particular clause in a contract. I knew
7 that other players had written columns or at least had had
8 them ghostwritten. Their names had appeared in the papers,
9 there had been books written.
10

11 Q What did you say to Mr. Dewitt?

12 A I told him that was my chosen advocacy at the time,
13 that is the way I intended to make my living when I got out of
14 baseball.

15 Q And what year is this, 1960?

16 A 1960.

17 Q Were you at that time looking to writing as a means
18 of supplementing your baseball income?

19 A Yes, I was. I had spent the off season, that par-
20 ticular off season writing, writing the book, The Long Season.

21 Q And was the book published during the season or be-
22 tween seasons?

23 A It came out during spring training.

24 Q But the work on it was done during the time when
25 you were not being paid by your club?

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Brosnan-direct

A Between October and January. I believe I finally got the last galleys in January.

Q And that ended your work on it?

A That ended my work on that, yes.

Q What did Mr. Dewitt say to you? He called your attention to this language in the contract and you made the remarks that you have described here. What was said then?

A He said that if I were to write on baseball, that I would have to submit to him anything I had written so that he could check it out to be sure that I didn't say anything that was critical of his ball club.

Q And what did you respond?

A I questioned it. Well, what I said was --

Q That is what I want.

A "What are your qualifications as an editor?" Because I thought they were suspect; I thought his reasoning was kind of specious.

Q Did you tell him this, Mr. Brosnan?

THE COURT: Wait, please. When Mr. Hughes or anyone stands to object, you must let him.

MR. HUGHES: Your Honor, I think we are getting enough of this without the operations of his mind. Let us stick to the conversation.

THE COURT: Yes, I think, too, the freedom that this

witness has been allowed, primarily because there have been no objections interposed, should not be taken advantage of. I mustn't sit here as a wooden Indian if I see things that are not right, and even if there isn't any objection, I must interfere.

Now, don't let me interfere. A word to the wise is sufficient.

Carry on.

MR. TOPKIS: Of course, your Honor.

Q Mr. Brosnan, how did the conversation wind up? What else was said, if anything, if you remember, and only what was said, if you will, sir?

A He said, "This is part of your contract. You understand that?"

Q Is that where the conversation ended?

A I said, "If I write anything critical about baseball I will present it to you before I send it to the publisher, to the editor."

This was in reference to magazine articles at the time.

Q So that was the 1960 season. Now, where did you spend the 1961 season?

A In Cincinnati.

Q What was your salary for that season?

1
2 A \$26,000.

3 Q And in 1962 ,with what club did you play?

4 A I was with Cincinnati.

5 Q For the whole season?

6 A I was.

7 Q What was your salary for 1962?

8 A Thirty-three.

9 Q And in 1963?

10 A Thirty.

11 Q What kind of season did you have in 1962?

12 A I was 4 and 4 and had 12 saves.

13 Q What was your earned run average?

14 A .314, I believe.

15 Q In terms of the other players on the club, how did
16 that rank?

17 A I was No. 1 relief pitcher.

18 Q But your salary was cut \$3,000 for the ensuing season?

19 A That's what we settled on.

20 Q That was the figure that you signed at ?

21 A Yes.

22 Q Had they offered you a lower figure initially?

23 A They had offered twenty-seven five.

24 Q And in 1963 with what club did you play?

25 A I started the season with Cincinnati and was traded

to the White Sox in May.

Q How did you receive notice of this trade?

A Fred Hutchinson, the manager of the Reds at the time, called me into his office.

Q Told you about it face to face?

A Yes, he did.

Q And did you report to the White Sox?

A I drove to -- my wife and family --

THE COURT: Now, now.

A I did, yes.

THE COURT: Next question.

Q Did you spend the balance of the season with the White Sox?

A I did.

Q And what about the '54 season?

A I was sent a contract and a letter, a contract containing a cut in salary, the letter reminding me that it was the policy of the Chicago White Sox that I could not publish any of my writings during the season.

MR. KRAMER: Your Honor, I would like to object and move to strike the last answer unless the witness testifies that he does not have the letter that was sent.

THE COURT: Your motion is granted. The answer is stricken.

Next question.

Q Mr. Brosnan, do you have the letter which you received?

A No, I do not.

Q Does it still exist, to the best of your knowledge, or has it been destroyed or lost?

A If he didn't keep a copy of it, I suppose it would be gone. I don't have it. I did not keep it.

1
2 Q Now, if you will, will you tell us what the
3 letter said, as best you remember.

4 A May I backtrack?

5 Q If you have to, to answer my question.

6 A Well, the lead paragraph of the letter said,
7 "May I remind you that in our conversation
8 last fall I told you that you could not publish
9 during the season as long as you were with our
10 ball club, because it is club policy."

11 This occurred -- I received that letter because
12 there had been an appearance in the -- in a column in the
13 Chicago paper that an article that I had written would be
14 in the Atlantic Magazine in April.

15 Q And what did you do on receiving that letter,
16 if anything, with reference to that article?

17 A I wrote a letter to Mr. Short, Ed Short, who
18 is the general manager of the White Sox, reminding him
19 that my off-season occupation was writing and that I
20 could not control publication of the writings that I had
21 made and then subsequently sold to a magazine and could
22 he relax that rule.

23 Actually I asked him if he would strike that
24 clause from my contract since that was my business during
25 the off season.

Q What happened then?

A He said, "Forget it," he would not change club rules. I could not publish during the season.

Q In what manner did he communicate this to you?

A He called me on the phone.

Q And have you given us the full text of that conversation, as best you remember?

A We also argued about money.

Q Did you ultimately sign a contract for the 1964 season?

A No, I did not. I said that "I won't sign a contract -- I can't sign a contract so long as you maintain your policy or your mandate against my publishing, because I have already sold articles to two national magazines, and they have scheduled them for publication, and I can't get them back and I am not going to. That's my business and would you please relax the rule in this case?"

And he said, "We will not."

Q What happened then?

A The story and other stories about this case appeared in the paper. He called and said:

"I am tired of this negotiation in public. I

1
2 will tell you what we will do. If you can find a
3 club that will take you and they give us a player or
4 players in return that are satisfactory to us, you can
5 make a deal for yourself."

6 Q He told you that over the telephone?

7 A Yes, he did.

8 Q What did you respond?

9 A I told him that I was a writer and not a general
10 manager.

11 Q What was the rest of the conversation?

12 A He said, "Well, that's the way it is going to
13 be. We don't want you on our ball club. If you can
14 make a deal for yourself that is satisfactory to us, you
15 can go ahead."

16 Q Now he had originally sent you a contract for
17 the 1964 season, is that right?

18 A Yes.

19 Q What was the salary figure in that contract?

20 A It was a 25 per cent cut-off at \$30,000.

21 Q Had you and he at any point reached agreement on
22 a salary figure for the 1964 season?

23 A I said that I wouldn't even talk about money
24 in the contract until I could be assured that I could
25 publish during the season.

Q So that the answer to my question is that you did not reach agreement with him?

A I did not.

Q What happened then, after he told you that if you could make a deal for yourself, then go ahead and do something?

A I told him that I could not make a deal for myself, that it was his job, and he should do it. And some time later, some days later, perhaps a week later, there was notice that I was being unconditionally released.

That appeared in the press. I wasn't told anything.

Q And were you unconditionally released?

A It went through the waiver period. I think the story was:

"Brosnan can be had for a dollar."

That's the way the story was released to the press.

Q And what happened?

A After the waiver period of three days, nothing happened. I knew that I had been picked up by anyone, or at least I hadn't been notified that I had been picked up by anyone, and three days after that I received a

notice in the mail of my unconditional release.

There was 36 cents postage due.

Q And what happened then?

A I did nothing for a week. I was asked by members of the press, radio and television and some personal friends if I thought I was being blackballed, and I said I had no idea.

MR. HUGHES: Your Honor, I object to this. These are conversations with people who have no relationship --

THE COURT: Objection sustained.

Mr. Brosnan, I really can't blame you for going forward to the extent that you have. You really haven't been stopped. But I do remind you that your testimony has to be weighed by me, and I do not look kindly on volunteered statements.

This is your testimony under oath and while I like a certain amount of humor and humanity in the proceedings, there must come a time when we must make real progress with regard to the substantive matters before me.

So I am going to ask you to forfeit the indulgence that prompts you to add a little extra here and there.

THE WITNESS: Yes, your Honor. I am sorry, your

Honor.

THE COURT: It is all right. We have had it now.

Now let's go forward.

MR. TOPKIS: Certainly, your Honor.

BY MR. TOPKIS:

Q Now, Mr. Brosnan, did you at this time make any attempt in face-to-face conversations or in telephone conversations with any executives of any baseball clubs to bring about your hiring by any such clubs?

A I took an ad in the --

Q No. Excuse me, please. My question was quite carefully framed. I see information only as to face-to-face conversations or telephone conversations which you may have had with any executive of any major league, or, for that matter, minor league baseball club.

A I had none.

THE COURT: That is the answer. Next question.

Q To your knowledge did the Chicago Club make any effort to make a deal for you, as the trade expression has it?

A Not to my knowledge, no.

Q Did you ask the Chicago Club to do so?

1
2 A Yes. I told -- well, when he told me to
3 make a deal, I told him to make the deal.

4 Q Was any deal made by either of you?

5 A There was no deal made.

6 Q Did you take any other steps aimed at bringing
7 about a contract between yourself and a club in organized
8 baseball, relating to your performing services in the
9 1964 season?

10 A I took an ad in the Sporting News, which is
11 a baseball weekly, a newspaper published in St. Louis.

12 Q And is the Sporting News read generally through-
13 out the baseball trade?

14 A Yes. It is the trade paper.

15 Q Relied on by the people who participate in
16 baseball for the accuracy of its reports as a medium of
17 communication?

18 MR. HUGHES: Well, I object.

19 THE COURT: Objection sustained.

20 Q Do you have a copy of that ad?

21 A I do not have a copy with me but I have a copy
22 at home.

23 THE COURT: You have it where?

24 THE WITNESS: I own a copy of the ad, yes.

25 Q And where is that?

1
2 A In my home, in Morton Grove.

3 Q Where?

4 A In my home, in Morton Grove.

5 Q That is in Chicago?

6 A It's outside of Chicago.

7 Q But you don't have one with you?

8 A I do not have one with me.

9 Q Can you recall the approximate substance of the
10 ad?

11 A It was a "Situation Wanted" ad, describing what
12 my career had been, the fact that I was capable and willing
13 to pitch, and also describing my record of the previous
14 year.

15 Q Now do you know your overall major league
16 pitching record in terms of wins and losses?

17 THE COURT: That really calls for a yes or
18 no.

19 A Yes.

20 Q What is it, sir?

21 A 56 and 48.

22 Q 56 wins, 48 losses?

23 A Yes.

24 Q That was during a career covering how many years?

25 A Eight and a half seasons.

Q During that time were you a starter or a relief pitcher principally?

A Principally a relief pitcher.

Q During the years, say, of 1960 to 1963, were you the most frequently used relief pitcher on your club or --

A I was.

Q The number 1 relief pitcher on the club?

A I was.

Q Was that true in the '63 season as well?

A No, it wasn't.

Q What kind of season did you have in 1963, specifically?

A 3 and 3 with the White Sox.

I had a loss with the Reds before I was traded.

Q Do you recall your earned run average?

A 2.36, I believe.

Q 2.36?

A Yes.

Q Do you happen to know where that stood in the ranking of relief pitchers for the 1963 season?

A I would think it was pretty high.

MR. HUGHES: I move to strike that out, your Honor, unless he really knows.

THE COURT: Yes. The answer must be

stricken.

What is your best recollection?

THE WITNESS: In the top ten.

THE COURT: Very well.

Q Are you sure of that?

A I was going to say eight.

MR. TOPKIS: I am sure Mr. Hughes and I can agree on the exact figure, your Honor. May we supplement the record?

THE COURT: Certainly.

MR. TOPKIS: Thank you.

Q Did your advertisement refer to your average for the 1963 season?

A Yes, it did.

Q And your earned run average for the 1963 season and the earned run averages of other pitchers in the majors, I take it, are generally known in the industry -- I mean, those statistics are kept and are generally available, are they not?

A Yes, they are.

Q I am sure that every general manager in major league baseball is familiar with those statistics or has them accessible, is that right?

A Yes, they are, and they do.

Q Did you receive any response at all to your advertisement?

A None.

Q From neither minor nor major league clubs?

A No one.

Q Did your advertisement mention a salary demand?

A No, it did not.

Q Was there any reference at all to salary?

A No, there wasn't.

Q I think, Mr. Brosnan, I neglected to ask you about an incident that, as I understand it, occurred in 1962.

During that year, to refresh me, what club were you with?

A Cincinnati.

Q Cincinnati. Did you enter into some negotiations with a television network relating to a show?

A Yes. Gerald Greene --

THE COURT: No. The answer is yes?

THE WITNESS: Yes.

THE COURT: Next question.

Q Would you tell the Court about those negotiations, that is to say, what type of show were they aimed at?

MR. HUGHES: I object to that, your Honor.

Negotiations between him and some television company --
what relevance has that?

I object to it as incompetent, irrelevant and
immaterial.

THE COURT: What do you say to that, Mr.
Topkis?

MR. TOPKIS: I seek only to show, your Honor,
that on an occasion in 1962 this witness was stopped
from working on a television show.

THE COURT: Then ask him directly, without
going into the negotiations.

MR. TOPKIS: Gladly, your Honor. I didn't want
to lead. That was my only desire.

BY MR. TOPKIS:

Q Mr. Brosnan, would you tell the Court what hap-
pened to you in connection with a television show in
1962?

A I was told by the ball club that I could not do
the documentary, which had been set up by a producer at
NBC.

Q Had you entered into a contract relating to
that?

A I had.

Q Did it call for compensation?

1
2 A It did.

3 Q How much compensation?

4 A \$4000.

5 Q Did you receive that \$4000?

6 A I did not.

7 Q And who was the club executive who told you
8 that you could not participate in work on that docu-
9 mentary?

10 A William O. De Witt.

11 Q Of the Cincinnati Club?

12 A Yes, sir.

13 Q How did Mr. De Witt communicate this to you?

14 A Communicate what to me?

15 Q The word that you could not participate in this
16 show.

17 A The word was communicated to me by Gerald
18 Greene, and the reasons were given to me by Mr. De
19 Witt.

20 Q What did Mr. De Witt say to you?

21 A He says he was afraid that I might say something
22 critical about his ball club and that the purposes of the
23 documentary were to be -- to do a -- a half-hour docu-
24 mentary that would be critical of his club.

25 Q And he told you that he would not permit you to

do it, is that right?

A He told me that he would not permit me to do it, because NBC wouldn't allow him to see the final version before it went on the air.

Q And was that where your conversation with Mr. De Witt ended?

A About that particular incident, yes.

Q Yes.

Now was there any subsequent development in connection with that television show? Did you attempt to obtain a reversal of Mr. De Witt's ruling or anything like that?

A I wrote letters to the Commissioner, Ford Frick.

Q The commissioner of baseball?

A The commissioner of baseball. To Warren Giles, the president of the National League, and to Judge Robert Cannon, who was at that time an advisor to the major leagues players organization, informing them of what had happened.

Q Do you still have your letter or copies of your letter to the commissioner and to the president of the league?

A I do not know whether I have or not. I --

Q Do you have them with you?

1
2 A I do not have them with me.

3 Q Could you tell the Court, in brief form, the
4 substance of those letters?

5 A I explained what the situation had been, what
6 the negotiations between me and Gerald Greene had been,
7 the fact that it had been set -- the story had been set
8 and apparently there had been agreement with the ball club
9 to do it, and then De Witt said that he would not allow
10 it to be shown unless he first of all got to look at the
11 script, and if there is anything he didn't like in it he
12 could take it out.

13 Q And did your letter ask the reversal of De Witt's
14 ruling or anything like that?

15 A I asked -- I asked if the clause in the contract
16 that I was about to sign should not be -- I should not
17 have relief from that clause, since this was my business.
18 I was a writer and I had taken on a writing job and was
19 being prevented from doing that job.
20
21
22
23
24
25

t7/3

mpbr 1

Brosnan-direct

335

Q Did you receive a response to your letter to the Commissioner?

A None at all.

Q Did you receive a response to your letter to the Commissioner?

A None at all.

Q Did you receive a response to your letter to the president of the National League?

A I received a response from no one.

Q Neither written nor telephonic --

A No.

Q -- nor face-to-face?

A None whatsoever.

Q Coming again, then, to the period immediately subsequent to your placing of this advertisement offering your services, the Situation Wanted ad, as you describe, did you subsequently, either on a face-to-face basis or by telephone or by letter solicit employment directly from any major or minor league ball club?

A I did not.

Q Did you communicate with any official or executive of organized baseball with a view to obtaining your employment in organized baseball?

A I did not.

Q Subsequent to the placing of the advertisement, what did you do in terms of employment?

A I signed --

MR. HUGHES: Excuse me. Did you say organized baseball?

MR. TOPKIS: Yes, whatever it was.

A I signed a contract with the American Broadcasting Company to do a sports show four times a weekend on radio.

Q And did you thereafter in any way derive income from the practice of your skills as a ballplayer?

A No; I have not.

Q I think you told us earlier you worked in radio and television for a few years and then became a full-time freelance writer; is that right?

A That's right.

Q Now, Mr. Brosnan, in the course of your career as a major and minor league ballplayer, have you become familiar with the workings of what has here been termed the reserve system?

A Yes, I have.

Q Have you at any time known of any players who were substitutes, second stringers or bench riders on a major league ball club, who had they been with another ball club might have been starters or regulars?

MR. HUGHES: I object to both the form and the substance.

THE COURT: Objection sustained. Reframe it, at least.

Q Mr. Brosnan, have you known any ballplayers playing for one club who were not starters, who could have been starters had they played on another ball club?

MR. KRAMER: Objection.

MR. HUGHES: I object to that.

THE COURT: What do you say, Mr. Topkis?

MR. TOPKIS: I am rather at a loss to understand the ground of the objection.

THE COURT: Mr. Hughes?

MR. HUGHES: In the first place, your Honor, it calls for an opinion of the witness as to the skills of another player. It is highly speculative. He is being asked to speculate whether in his judgment a man who might have been on the Cubs, let us say, could have made it on the Browns -- that's a different league -- or whatever.

I submit that any answer is utterly without probative value.

THE COURT: That was my initial impression, Mr. Topkis, but I would be glad to hear from you.

MR. TOPKIS: Well, your Honor, I had hoped that I

mpbr 4

Brosnan-direct

1 had qualified Mr. Brosnan as an expert in these matters by
2 reason of his having spent so many years in minor and major
3 league baseball, with so many teams , and I had hoped that
4 his testimony would be admitted on the same reasoning that
5 permitted Mr. Robinson this morning to testify to the same
6 subject matter.
7

8 THE COURT: The particular question that you have
9 put at this time is susceptible of the objection, and I am
10 going to sustain the objection.

11 MR. TOPKIS: Might I inquire of your Honor: On
12 the grounds that Mr. Hughes mentions?

13 THE COURT: Precisely. If you can rectify it, try
14 to do so, and we will try to measure the new approach.

15 Q Mr. Brosnan, during your years with major and minor
16 league ball clubs, have you made it your business to keep
17 familiar with or make yourself familiar with the skills of
18 the various players with whom you were associated, both on
19 your teams and the other teams?

20 A Yes; I have.

21 Q As a matter of fact, Mr. Brosnan, as a relief
22 pitcher accustomed to coming into a game on a moment's notice,
23 was it part of your skill to be conversant with the skills of
24 the players against whom you might be called upon to pitch?

25 A Yes; it was.

mpbr 5

Brosnan-direct

Q Did you make yourself so familiar?

A To the best of my ability, yes.

MR. TOPKIS: Now, your Honor, may I have my original question put to the witness again?

THE COURT: Mr. Hughes, you are about to rise, and I don't like to cut you off.

MR. HUGHES: I am about to rise and object, your Honor.

THE COURT: I think I am inclined to take it now. I do not think that as a fact finder I am to assume that diligence in that particular regard that you think is warranted with every player. It all depends on how much he encompassed during the course of his time as a player.

I am prepared now to take it, Mr. Hughes, but I will hear from you.

MR. HUGHES: Well, I fail to see that the witness has been qualified to give an opinion. The most that has been brought out is that as a pitcher he is supposed to know something about the batting skills of those players who happen to bat against him, and that is all that has been brought out.

THE COURT: I think it is admissible. The weight to be given to it is an entirely different matter.

Now, put the question.

1
2 MR. KRAMER: If your Honor please, I have not
3 involved myself in the discussion. After the question is
4 read, I have an objection on quite a different ground, which
5 I believe can be easily cured.

6 THE COURT: Read the question, please.

7 (Question read.)

8 MR. KRAMER: I think the question, your Honor, might
9 be helpful to everyone if the "other club" were limited to
10 a major league club.

11 THE COURT: Are you content with that?

12 MR. TOPKIS: I will be delighted to accept Mr.
13 Kramer's amendment.

14 THE COURT: Suppose you put your question again.

15 MR. TOPKIS: Surely.

16 Q Mr. Brosnan, during your years in the majors, did
17 you from time to time observe players acting as bench
18 warmers on one major league club who might, had they been
19 in another major league club, been starters?

20 A Yes.

21 Q Could you give us some examples?

22 A Steve Bilko, Bob Speake.

23 MR. HUGHES: Will you go slowly? What was the
24 other name, please?

25 THE WITNESS: Bob Speake.

mpbr 7

Brosnan-direct

A (Continuing) Jack Hollis. I mention those three because in each case --

THE COURT: No, no. There you have to be careful. Those are the three --

THE WITNESS: Pardon me.

THE COURT: What is the next question?

Q Could you tell us with what club Mr. Bilko was playing as a second stringer when in your judgment he might have been a first stringer elsewhere?

A Chicago.

Q Chicago?

What club?

A Cubs.

Q And what was his position?

A First baseman.

Q Who was the first string first baseman for the Cubs at that time?

A Dee Fondy.

Q And it is your opinion that had Mr. Bilko been playing with another club in the National League he would have been a starter?

A It was with mine and his.

MR. HUGHES: What was the answer?

THE COURT: "Both mine and his."

(To the witness) You see what you are doing?

THE WITNESS: I'm sorry.

THE COURT: Don't do it. I might have to strike substantial portions of your testimony.

Q Did Mr. Bilko subsequently play with any major league clubs as a starter?

A He had previously played with the St. Louis Cardinals as a starting first baseman.

Q And subsequent to his employment by the Cubs, I think you said?

A He did go to another club, and I can't think offhand what club it was.

Q Did he act as a starting first baseman with that club?

A Not -- I guess he did at the start of the season but not for the entire year.

Q And how about Mr. Speake? What club was he with?

A He also was with the Chicago Cubs.

Q What was his position?

A He was an outfielder.

Q And subsequently did he play as a starting outfielder with any major league club?

A He retired -- no; he did not.

Q How about Mr. Hollis?

mpbr 9

Brosnan-direct

A Again, with the Cubs.

Q And what was his position?

A He was a second baseman.

Q And subsequently did he start with any club?

A I can't answer. I think Milwaukee, but I'm not positive, so I prefer not to answer.

Q Do you know a ballplayer named Marcus?

A Bob Marcus. Yes; I do.

Q What club was he with when you knew him?

A He was with the Beaumont club in the Texas League.

MR.TOPKIS: May I have a moment, your Honor?

THE COURT: Surely.

Q Now, Mr. Brosnan, down through the years I daresay you have known a goodly number of major league ballplayers.

A Yes; I have.

Q And you testified before that you are familiar with the workings of the reserve system; is that right?

A I am; yes.

Q Let me ask you whether if the reserve system were abolished or modified, so that players would be free to move from one club to another, in your opinion the principal stars of the game would gravitate to any one or more clubs, or would they tend to stay with the clubs by which they were employed?

1 THE COURT: Will you just wait?

2 MR. HUGHES: I object.

3 THE COURT: I want to be sure I understand the
4 reason for your objection, Mr. Hughes.

5 MR. HUGHES: I don't think he is qualified to give
6 an answer.

7 THE COURT: I will take it for whatever I think it
8 is worth in the light of his total testimony.

9 (To the witness) You may answer.

10 THE WITNESS: Could I have the question again?

11 THE COURT: Surely. Mr. Court Reporter --

12 (Question read.)

13 MR. HUGHES: Now, I have a further objection, your
14 Honor. It is two questions in one.

15 THE COURT: That is true. Break it up.

2 Q Let me ask you to assume that the reserve system
3 were so modified as to permit players to move from one
4 club to another. In that circumstance, would you expect
5 all of the best players to move to the richer clubs, clubs
6 bidding highest for services?

7 MR. HUGHES: I object to that, because the
8 assumptions -- there has to be much more than assumption
9 of some sort of reserve system change. There is no indica-
10 tion of what the change would be, your Honor.

11 THE COURT: Mr. Hughes, you must not forget you
12 will have your chance at the witness. The only thing that
13 I want to know is whether or not the witness understands
14 the question.

15 THE WITNESS: I do.

16 THE COURT: Are you prepared to answer it?

17 THE WITNESS: I am, your Honor.

18 MR. HUGHES: May I have the question?

19 THE COURT: Yes. Mr. Reporter, would you be
20 good enough to read it.

21 (Question read.)

22 A No, I would not.

23 THE COURT: The real objection, and I am going to
24 allow the answer, is that it is highly suggestive.

25 Proceed to answer.

1
2 A No, I would not.

3 MR. HUGHES: I haven't been objecting on that
4 ground, your Honor. I think that's been true throughout.

5 Q Would you tell the Court, please, Mr. Brosnan,
6 the reasons for your statement?

7 MR. HUGHES: Again, your Honor, the same objection.

8 May I have a continuing objection?

9 THE COURT: Oh, of course.

10 Objection overruled. I will allow the witness to
11 answer.

12 THE WITNESS: Could I have the question, that
13 particular question?

14 THE COURT: Certainly. Mr. Court Reporter.

15 (Question read.)

16 A A professional ballplayer after some years with
17 the club --- we were talking about stars -- after some years --

18 MR. HUGHES: Excuse me. What did he say?

19 MR. TOPKIS: We were talking about stars.

20 THE COURT: Take it slowly.

21 MR. HUGHES: I didn't so understand.

22 THE COURT: Let's start again. Will you, Mr.
23 Witness?

24 A When a ballplayer develops his talents to the
25 point where he is recognized as an outstanding player in a

1 particular town, with a particular club, his involvement
2 with that club and with that town is of a unique nature,
3 that is, he does not want to leave that particular town
4 for many reasons. In many case, he will have his family
5 there, he will build a home there, he will have business
6 contacts and businesses, probably, there. He is part of
7 the community. His social life on and off the field, during
8 and off season, is bound up within the community in that
9 particular town. For him to go to another town strictly
10 on the basis of more money, for a star -- we were talking
11 about stars, he is making good money in the first place --
12 would not be a good enough reason, in my mind, to leave
13 a club with whom he has a solid position.
14

15 Q Now, you spoke of various seasons in which you
16 moved around from club to club. Once I think you moved
17 four times in one season. Was my count right?

18 A Five.

19 Q Did you find your skills were in any way affected
20 by these frequent moves?

21 THE COURT: Yes or no.

22 A No.

23 Q Were you able immediately on arrival in a town
24 to go on practicing your trade as effectively as before?
25

cross

MR. HUGHES: This is leading and suggestive,
your Honor.

THE COURT: Yes, objection sustained.

MR. TOPKIS: I have no further questions.

Thank you, Mr. Brosnan.

THE COURT: Very well.

CROSS-EXAMINATION BY MR. HUGHES:

Q Mr. Brosnan, when were you first aware you were
going to come to this court as a witness in this case?

A The date?

Q Yes, the date.

A May 1st.

Q And was that pursuant to some kind of conversations
you had with somebody?

A Yes, it was.

Q With whom did you have this conversation?

A Mr. Bill Iverson.

Q And Mr. Bill Iverson is one of the attorneys in
this case?

A Yes, he is.

Q Had you known him prior to the conversation?

A No, I hadn't.

Q Did he seek you out or did you seek him out?

A He called me on the phone.