

EXHIBIT 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4

5 MARVEL WORLDWIDE, INC.,)
MARVEL CHARACTERS, INC. and)
6 MVL RIGHTS, LLC,)
) No. 10-141-CMKF

7 Plaintiffs,)
)

8 vs.)
)

9 LISA R. KIRBY, BARBARA J.)
KIRBY, NEAL L. KIRBY and)
10 SUSAN N. KIRBY,)
)

11 Defendants.)
-----)

12
13
14
15
16
17 CONFIDENTIAL VIDEOTAPED DEPOSITION OF
18 JOHN V. ROMITA
19 Garden City, New York
20 Thursday, October 21, 2010
21

22
23 Reported by:
24 KRISTIN KOCH, RPR, RMR, CRR, CLR
25 JOB NO. 34124

1 Romita - Confidential

2 A. Freelancer. No -- flying without a
3 parachute. Absolutely no security. No
4 unemployment insurance, because I didn't have a
5 job. No perks, no medical insurance, no
6 nothing. Every year I would save 2- or \$300
7 and then the government would raise the
8 unemployed -- the -- I forget what the tax was.
9 There was a tax that was applicable to
10 freelance people, and that tax went up just
11 about whatever I had saved, so I generally
12 broke even every year.

13 Q. And how were you paid? What was the
14 basis for your compensation?

15 A. I would do a certain amount of pages
16 at a certain rate, \$25 a page, \$30 a page. I
17 would do ten pages, \$300. I would sign a
18 voucher for \$300 worth of work and they would
19 pay me two weeks later or something. And I
20 would be responsible for the taxes. I don't
21 believe they took the taxes out. I'm not sure.

22 Q. Where did you do your work? Did you
23 do it in the Marvel office?

24 A. No. I worked home.

25 Q. Did you ever go into the Marvel

1 Romita - Confidential

2 offices?

3 A. Only to deliver the work, and
4 occasionally have to stay in the bullpen where
5 there was tables, other people doing production
6 work, I would do corrections that Stan would
7 demand. If he didn't like a certain look or a
8 certain line, I would change things. That was
9 common.

10 Q. How -- can you describe briefly what
11 the process was for creating a comic book in
12 the 1950s?

13 A. It was a shooting script similar to
14 a film shooting script. It was a script with a
15 title and a certain amount of pages allocated
16 and they would say page 1, panel 1, the man
17 walks through the door of the building and
18 tells people "good morning everyone," that kind
19 of thing. There are three people in the room.
20 They give you -- they gave you directions on
21 what is appearing. Then they had a caption at
22 the top nine times out of ten which said "early
23 one morning," something like that, "next day,"
24 and then there were balloons to the characters.
25 So I would have to decide on the size of the

1 Romita - Confidential

2 panels, depending on what was going on, where
3 to place the captions and the balloons to the
4 people, the dialogue balloons, and allocate the
5 space for the illustration to explain what was
6 happening in the story, to describe it.

7 Q. Do you know who wrote those scripts?

8 A. There was maybe a half a dozen
9 writers working for Stan at the time. There
10 were western writers, there were mystery
11 writers, there were war stories, romance. So I
12 remember three or four names vaguely.

13 Bernstein and -- I don't remember most of them.
14 Most of the stories I did Stan Lee would write.

15 Q. Who decided which artist got which
16 scripts?

17 A. Stan Lee. He was the editor in
18 chief. He was the editor and only writer on
19 staff. The rest were -- all these other
20 writers were freelancers, like myself. They
21 were home working, Connecticut, Carolina,
22 California, wherever they were. So everybody
23 was working at home except for Stan and a
24 production manager, which was Sol Brodsky at
25 the time, and his secretary. It was a very

1 Romita - Confidential

2 small operation up at Timely. Very small.

3 Q. After you did your drawings from the
4 script, then what happened?

5 A. I would turn in the pencils so that
6 they could have them lettered in ink, and then
7 if I were inking it, I would get the pages back
8 and I would ink them. After a while,
9 especially when I was working at DC, I would
10 pencil and ink them and leave space for a
11 letterer to do the balloons, because I had
12 become so familiar with the exact allocation of
13 space, so it saved time. I didn't have to go
14 back and pick up the pages again.

15 Q. Did you ever do that while you were
16 at Marvel in the 1950s?

17 A. I think I probably did occasionally
18 towards the end of the '70s -- the first seven
19 years when I got so familiar and Stan trusted
20 me, I think I -- he would say "don't bother
21 bringing it in to be lettered, just ink it up
22 and we will have it lettered." It was just a
23 matter of expediency and saving time.

24 Q. Do you know who came up with the
25 ideas for the stories?

1 Romita - Confidential

2 A. I think -- my memory is that the
3 writers would submit a synopsis, like a
4 half-a-page synopsis saying this is going to be
5 a story about a cattle baron and rustlers and
6 Indians and Stan would say "I like that story,
7 add a pretty girl," that kind of stuff, and
8 then they would write the story. Stan probably
9 did all the selection. He might have -- he
10 might have even written some synopses himself
11 and handed them out to writers to do this.
12 Stan's brother was a young writer and he would
13 do the same thing. He would give his younger
14 brother a synopsis and the younger brother
15 would do the script.

16 Q. Do you know his brother's name?

17 A. Larry Leiber. Lawrence Leiber, I
18 guess.

19 Q. What would happen to the script when
20 you brought it back after it was inked and
21 penciled, penciled and inked?

22 A. Well, that's interesting. I assume
23 they just destroyed it. I'm not sure. Maybe
24 he just saved it for future use. I do remember
25 after six or seven years that I would get

1 Romita - Confidential

2 eerily similar story lines. If I would do a
3 western, I'd say to Stan, "you know, I could
4 swear I did this story before." They would
5 change the names -- some writer would change
6 the names and give -- or maybe it's just a
7 coincidence that they had the same idea five
8 years later, but I did remember doing a lot of
9 duplication. It was a sausage factory kind of
10 thing, just churning them out. Very hard to
11 keep tabs on things. Mostly memory.

12 Q. When you would bring the pencils
13 back to the office, would anybody look at them?

14 A. Stan Lee.

15 Q. And what would he do?

16 A. He would tell me if there was
17 anything that needed to be corrected. He would
18 tell me "don't do this too much in the future,
19 do more of this, do more of that." I remember
20 one time I -- for some reason I was doing a
21 documentary type of thing or a science fiction
22 type of thing and I did a little bit more
23 elaborate rendering on the inking, which was a
24 terrible mistake, because Stan Lee said "I love
25 that technique" and I said "oh, my God," and he

1 Romita - Confidential

2 adventures in the west, love stories and war
3 stories. So it was rather generic.

4 Q. Okay. So can you give me an example
5 during that time period of a correction that
6 Stan might have asked for?

7 A. He would ask for sometimes a smile
8 on a face instead of a frown. In other words,
9 if an artist is not thinking, sometimes he
10 doesn't read every little subtlety in the
11 description or in the dialogue. He might just
12 do an automatic expression or no expression and
13 he would say "you need more expression." Stan
14 was always very good. Most editors were not as
15 careful. They would take your work and never
16 say -- they would grunt and take it and you
17 don't know if you were right or wrong. Stan
18 would always make sure you knew if you were
19 right and when you were wrong, he told you,
20 which was how I learned. Practically
21 everything I learned was because of that extra
22 attention he gave to things. He used to say
23 "it's okay now, but don't do this in the
24 future," that kind of stuff, which was always
25 good instructions.

1 Romita - Confidential

2 Q. Was that also the case when you were
3 at Marvel in the 1950s, that if you got -- if
4 you did the work, you would be paid for it?

5 A. Oh, yes.

6 Q. Even if they didn't use it?

7 A. Well, unless it was a very
8 badly-done job, I don't -- I don't remember
9 ever seeing that. I think Alex Toth, one of
10 the best artists in the world, once submitted a
11 story to Roy Thomas and it was so different
12 than Roy had asked for that he never used the
13 story. I don't know if he paid him or not. I
14 think he did, but that would have been an
15 occasion when, I think, the editor or the
16 writer would have had a right to say, "well,
17 listen, you did this so absolutely contrary to
18 what we wanted, we can't use it." He may have
19 just thrown it back at him. I don't know.
20 Because Alex Toth was one of those
21 individualists who didn't believe in listening
22 to anybody else.

23 Q. That would have been later, that
24 wouldn't have been in the 1950s?

25 A. No. I think that was in the '60 --

1 Romita - Confidential

2 other, going up the West Side Highway. I would
3 have never done it, but Jack Kirby does it and
4 Stan Lee accepted it. And I ended up doing the
5 drawing and made it work and they loved the
6 story.

7 Q. Now, why was it necessary to have a
8 pacing guide?

9 A. Because I was not familiar with the
10 way Stan wanted the stuff done and I had not --
11 I had not seen the books. See, I never -- I
12 never knew what was making them tick, the same
13 way as DC didn't think -- didn't know.

14 Q. Did you get a script when you were
15 back -- this is 1965 -- at Marvel?

16 A. No. It was a plot. Wait a second.
17 I'm not sure. I think it was a plot.

18 Q. And what do you mean by a plot?

19 A. A plot is either a written
20 description of what the story is saying. At
21 the beginning, there will be a fight for five
22 pages, Daredevil will end up wounded, will go
23 limping to his girlfriend's house and she will
24 dress his wounds. Just a general sequence of
25 events. Generally a page long, maybe a page

1 Romita - Confidential

2 and a half. Or like I foolishly did, a verbal
3 plot. We would get together and trade ideas.

4 Q. Who would get together?

5 A. Stan and I would get together in a
6 room and say, okay, the villain is going to be
7 The Lizard and The Lizard is going to turn into
8 The Lizard on page 3. He is a doctor, a
9 one-armed doctor, and he turns into The Lizard
10 and his family is kidnapped and he is now
11 tearing up the city trying to find his family.
12 That's about all we would get. And then I
13 would have to do the nuts and bolts sequential
14 between every episode -- every little thing
15 that happens you have to tie them together and
16 make them sensible, so the artist's problem --
17 I was terrified because I had always worked
18 with a script. This was the first time I was
19 deciding what was going to go on the splash,
20 what was going to go on page 2, what was going
21 to go on page 3. It was very difficult for me,
22 very hard, but it turned out to be the greatest
23 thing for the industry and for me, because the
24 comic -- the comic medium had been a script
25 first and visual second and this made it visual

1 Romita - Confidential

2 first and script second, which was probably the
3 greatest innovation, completely done for
4 expediency sake. Had nothing to do with
5 anything except expedience. They didn't -- he
6 didn't have time to write the scripts. So he
7 was feeding plots to artists to keep them busy
8 temporarily. At first he used to say "I will
9 send you a script in two days, so start the
10 story," and it ended up being the entire story
11 would be verbally dictated over the phone or in
12 a personal interview with the artist.

13 Q. Why would he switch from scripts to
14 plots?

15 A. Only expedience. Because he was
16 doing seven or eight major titles all by
17 himself.

18 Q. And "he" is Stan?

19 A. He used to split -- Stan Lee. Stan
20 Lee would split the week sometimes and work two
21 days home, three days in the office, sometimes
22 two days in the office and three days at home,
23 whatever it was. He would write four scripts
24 in one day, bring them in the next day, and
25 then the following day he would then stay home

1 Romita - Confidential

2 and do four or five more scripts. But when he
3 was behind, when he couldn't keep up with the
4 artists and he did not want the artists to stay
5 idle, because the deadlines were looming, he
6 would give them a descriptive verbal or
7 written -- quickly-written synopsis of what to
8 do. And that's how the plot first and script
9 second, script third came about, which was
10 called the Marvel method, which I believe made
11 the comic industry what it is today. I believe
12 there would be no comic industry if it weren't
13 for that.

14 Q. Was that how all of the comic books
15 at Marvel were done in the mid '60s?

16 A. I think so. There were some
17 scripted. Rawhide Kid was still being written
18 by Larry Leiber. Some of the other second
19 line -- teenage romance books were still done,
20 I think, by script. I'm pretty sure. I'm not
21 too sure -- I'm not a hundred percent sure on
22 that, but I believe that's the way it was --
23 the ones that Stan had to write were generally
24 plot -- plot first, plot, pencils, script.

25 Q. And when you say "script" in that

1 Romita - Confidential

2 the writer and it took a little bit of hard
3 work from pencilers to do it, but it ended up
4 being good for a penciler too, because it
5 stretched his muscles and stretched his
6 capabilities and his results.

7 MS. SINGER: How are we doing on the
8 tape?

9 THE VIDEOGRAPHER: We have 24
10 minutes left.

11 MS. SINGER: Do you need a break?

12 THE WITNESS: No, not yet. If
13 anybody else wants a break, I will wait.

14 BY MS. SINGER:

15 Q. So when you got back to Marvel in
16 the mid '60s, Stan asked you to do Daredevil.
17 How long did you stay on Daredevil?

18 A. I did twelve, thirteen, fourteen,
19 fifteen, sixteen, seventeen, eighteen -- I
20 think I did from twelve to eighteen. Nineteen
21 I was off the book and on Spider-Man.

22 Q. And why did you switch to
23 Spider-Man?

24 A. He and the Spider-Man artist
25 disagreed on almost everything.

1 Romita - Confidential

2 Q. "He" is?

3 A. Steve Ditko.

4 Q. Okay.

5 A. Steve Ditko had started Spider-Man
6 with him --

7 Q. With --

8 A. With Stan. I'm sorry.

9 Q. That's okay.

10 A. Stan and Steve Ditko were doing
11 Spider-Man for 38 issues plus annuals, 40-plus
12 issues, and it was the second most -- second
13 best selling book in the Marvel stable. Stan
14 asked me to use Spider-Man as a guest star in
15 Daredevil for two issues, number 16 and number
16 17, I believe, and I put Spider-Man in and drew
17 him as well as I could and it turned out that
18 he was feeling me out as a possible
19 replacement. I didn't know that he and Ditko
20 were at odds so extremely, but they ended up
21 not being able to work together because they
22 disagreed on almost everything, cultural,
23 social, historically, everything, they
24 disagreed on characters, so he asked me "do you
25 think you could do the book?" I assumed

1 Romita - Confidential

2 foolishly that Ditko would not stay away too
3 long, because if I would have had a hit series
4 that was three years and growing in audience, I
5 would have never left it, so I attributed the
6 same kind of sense to him, which turns out he
7 had no intention of coming back. I thought I
8 was going to do a short couple of months fill
9 in and I'd go back on Daredevil, once again
10 showing I don't know what I am talking about.
11 And I ended up doing seven straight years and
12 maybe fifteen years on and off on Spider-Man.

13 Q. How did it go when you first started
14 drawing Spider-Man?

15 A. It was very difficult, because
16 Ditko's -- I felt obliged -- I felt the reader
17 needs not to have a jarring change on a hit
18 book. If you are a Spider-Man fan and you are
19 buying it for three years, I don't think you
20 would like to see a different style and a
21 different approach. I felt the obligation of
22 all artists who replace another artist to
23 simulate and use the same style, at least
24 temporarily, at least for a while, and I didn't
25 expect I would have to stay on it long enough,

1 Romita - Confidential

2 needed what we call the indoctrination, meaning
3 the Stan Lee approach to comics and how to
4 handle it, how to approach the story, the
5 excitement level and the dynamics of the story,
6 and I used to be able to slowly -- slowly but
7 surely I got used to every instruction Stan
8 gave and I would start to do it whenever he
9 wasn't around, so I became a de facto art
10 director without pay, without portfolio,
11 without anything. And --

12 Q. What were your responsibilities as
13 the de facto art director?

14 A. Well, they were nothing written out.
15 I just ended up doing some of the things that
16 Stan would do if he were in the office.
17 Whenever he was not in the office, they would
18 come to me and ask me "tell this guy what Stan
19 would like," and so young artists used to come
20 to me and it led to eventually an apprentice
21 program which I supervised later on after Stan
22 Lee level.

23 Q. So when Stan was there you mentioned
24 that one of your duties was a correction
25 artist. What was a correction artist?

1 Romita - Confidential

2 A. Sometimes artists would bring in the
3 story and leave out something or put in
4 something that he objected to and he would ask
5 me to make a change.

6 Q. Stan would?

7 A. Stan Lee would ask me to --
8 sometimes he didn't like a girl's face, some
9 artists are very good at girls, at drawing
10 girls, and some are not so good. So if a guy
11 did a girl that he thought was not as glamorous
12 or not as effective as it should be, he would
13 ask me to make the changes. I used to change a
14 lot of people's faces for which I got a
15 reputation of being an egomaniac. They thought
16 I was initiating it. I was just following
17 orders like a Nazi guard. And so I -- whenever
18 somebody's costume was wrong or whenever the
19 setting was wrong or if it was a nighttime
20 scene and it should have been a daytime scene,
21 all of these little things fell into my lap to
22 the point where we would then hire some people
23 to be around to help out. More than one person
24 was hired to help me out with that. I also was
25 given the assignment of doing cover sketches.

1 Romita - Confidential

2 done, then you can -- then you know what
3 costume to put on the person and what situation
4 to do because it has not been done until the
5 penciling gets done.

6 Q. You mentioned villains. Who had the
7 idea for what villains were? How did villains
8 come about?

9 A. Stan Lee or whoever was writing the
10 story. Eventually other editors and writers
11 would be on staff. So whoever was writing a
12 story and introducing a character would come to
13 me and say "we would like a character called
14 The Rhino" or "we would like a character called
15 The Shocker." Sometimes they came and said "we
16 have a character we would like to have, he is a
17 vigilante, we want to call him The Grim
18 Reaper." He turned out to be The Punisher.
19 They would just come in with a name. Some
20 editors later on -- Stan would just give me a
21 name. Very seldom had any visual to offer me.
22 He would give me a name and say "The Rhino" and
23 I would do -- devise some kind of a costume
24 that showed rhino elements and a villain
25 element. Nine times out of ten he accepted my

1 Romita - Confidential

2 drawing. Occasionally he would say, "no, that
3 doesn't look right, add a little this, put a
4 cloak on him, don't put a cloak on him, put a
5 mask on him, don't put a mask on him." So it
6 was give and take, but invariably most of my
7 ideas were accepted.

8 Q. And in the 1960s, the late 1960s,
9 would anybody other than Stan have been giving
10 you the ideas?

11 A. It's hard to tell when Roy started
12 to make requests. Probably before 1970 Roy was
13 asking for things too and we used to work
14 together with cover ideas. Sometimes we would
15 work out sketches in a very rough way and give
16 them out to artists, each artist that needed a
17 cover idea. 90 percent of the time it was Stan
18 in the '60s. Once the '70s came Stan was not
19 always in the office and always very busy
20 probably as each conglomerate that took over
21 the company -- Marvel would have different
22 demands on him and give him a different
23 position. He would go from editor in chief to
24 president of the company in some instances, so
25 his duties changed and whoever was left with

1 Romita - Confidential

2 editor in chief assignment I would then be at
3 his mercy and at his beck and call.

4 Q. At Marvel in the 1960s who was
5 responsible for deciding which artists would
6 draw which stories?

7 MR. TOBEROFF: Objection to 1960s
8 as -- do you mean after 1965 when he worked
9 there?

10 MS. SINGER: You can answer the
11 question.

12 A. Stan Lee decided. As far as I
13 remember, in the '60s Stan Lee would decide.
14 Later on when Stan was not in the office as
15 much sometimes the production manager would
16 make a decision like that, because he was
17 keeping tabs on who was available and who had
18 time, who was fast, who was slow. So other
19 people did make that decision later on.

20 Q. Were there any other artists who
21 were working in the offices full-time?

22 MR. TOBEROFF: Same objection.
23 Vague as to time.

24 MS. SINGER: You can answer the
25 question.

1 Romita - Confidential

2 couldn't take those weeks where I couldn't
3 produce enough to pay my bills. So it was all
4 rather casual. The same thing -- Marie went
5 from being a production person and a colorist
6 to a penciler in a gradual circuitous way.
7 Larry Leiber suddenly wanted to become an
8 artist and he started -- he gave up his writing
9 assignments and became an artist. Herb Trimpe
10 worked there. And we had all of the look of a
11 bullpen, but it sort of like grew like a
12 fungus. It didn't -- it wasn't ever planned.
13 It just happened. Things just occurred.

14 Q. What was the mechanism for payment
15 for your freelance work?

16 A. Whatever pages I did outside the
17 office I would vouch for.

18 Q. What was the process of vouching for
19 them?

20 A. If I did ten pages on a weekend, I
21 would vouch ten pages of Spider-Man and -- I
22 don't know how they did the bookkeeping,
23 because some of it was done on staff and some
24 of it was done on freelance. God knows what
25 mayhem we caused in the --

1 Romita - Confidential

2 Q. Was there a form that you filled out
3 or was there a voucher?

4 A. It was a voucher, an actual small
5 slip with the name of the book, the number and
6 month of the book, how many pages, your rate,
7 and you sign it.

8 Q. And then what would happen after you
9 filled out the voucher?

10 A. I would submit it to the editor and
11 the editor would process it through the
12 bookkeeping department and they would send me a
13 check. Checks used to be like every two weeks
14 or something, once a month. I'm not even sure.
15 It varied. Especially with different
16 incarnations of conglomerates.

17 Q. Do you recall would there be
18 anything printed on the check?

19 A. There was a disclaimer on the back.
20 No disclaimer.

21 MR. TOBEROFF: Vague as to time.

22 MS. SINGER: You can answer the
23 question.

24 A. It was -- it was fairly clear. It
25 was saying that we were giving up the rights to

1 Romita - Confidential

2 anything that was done in the books, the future
3 rights to them, so we -- I wanted to cash the
4 check, so I signed it.

5 Q. I am going to show you something
6 that, for the record, has already been marked
7 as Plaintiff's Exhibit 2 at the deposition of
8 Stan Lee on May 13, 2010.

9 Mr. Romita, don't worry about the
10 front of this. I just would like you to turn
11 to the last page of Plaintiff's Exhibit 2.

12 A. The back of the old checks.

13 Q. Okay. I know this isn't your
14 signature. It's a little hard to read.

15 A. No, that's John D'Agostino.

16 MR. TOBEROFF: I would like to
17 object to this exhibit because the --
18 despite the inferences in the affidavit,
19 which I find somewhat misleading, the check
20 is actually, I believe, a 1987 check. If
21 you look at the markings on the back of the
22 check, it says City National, JE-87, so
23 it's a 1987 check we are talking about.

24 Q. So, Mr. Romita, I know it's a little
25 hard to read, so, for the record, of the back

1 Romita - Confidential

2 of the check, we are looking at Plaintiff's
3 Exhibit 2, says: "By acceptance and
4 endorsement of this check, payee acknowledges,
5 (a) full payment for payee's employment by
6 Marvel Entertainment Group, Inc., (b) that all
7 payee's work has been within the scope of that
8 employment, and (c) that all payee's works are
9 and shall be considered as works made for hire,
10 the property of Marvel Entertainment Group,
11 Inc." Do you see that?

12 A. Yes. I read it many times.

13 Q. And is that similar to what you
14 recall being on the backs of your checks?

15 MR. TOBEROFF: Objection. Vague.

16 "Similar."

17 A. Basically it's the same. Same -- it
18 always went over the same territory and to the
19 point where some of my colleagues were
20 threatening not to cash the checks.

21 Q. Do you recall approximately when it
22 was that your colleagues were threatening not
23 to --

24 A. I think somewhere in the late '70s.
25 They would threaten, but, of course, they would

1 Romita - Confidential

2 cash the checks eventually. Barry Windsor
3 Smith thought it was unreal. I don't know what
4 he was creating, what he felt he was creating,
5 but the point is they tried it. I never -- it
6 never occurred to me not to sign the check.

7 Q. In the '60s when you were drawing
8 Spider-Man and Daredevil, who did you think
9 owned the rights to Spider-Man and Daredevil?

10 A. Marvel Comics.

11 MR. TOBEROFF: I am just going to
12 make a running objection so I don't have to
13 interrupt the flow of this. When you say
14 "in the '60s," my objection is we are
15 really talking about after 1965, so I am
16 going to have a running objection.
17 Whenever you say "in the '60s," my
18 objection is it's vague as to time.

19 MS. SINGER: Okay. You can have a
20 standing objection to that.

21 MR. TOBEROFF: Thanks.

22 Q. Mr. Romita, did Stan ever reassign a
23 book or a character that you were working on to
24 somebody else?

25 A. Yeah. He would have replacements

1 Romita - Confidential

2 for me, substitutes, guest artists do
3 Spider-Man if he needed me on another book.
4 Occasionally Captain America and then at one
5 time Fantastic Four obviously needed to be done
6 and he would ask me to do them and someone
7 would fill in on Spider-Man for me during those
8 periods. I sometimes did three, four or five
9 months on Captain America and I did four
10 issues, I believe, on Fantastic Four.
11 Spider-Man was done by John Buscema and Gil
12 Kane in those instances.

13 Q. Do you know why he would reassign
14 books or have artists do different things?

15 A. I never questioned it. I assumed it
16 was because Captain America needed help and he
17 didn't have a proper artist to do Captain
18 America to his liking and he liked the way I
19 did Captain America, so he would -- he used to
20 use me like a bullpen pitcher. I would come in
21 and relieve. Whatever he felt was a bad
22 situation, I would do the book and revive it
23 and sometimes he used me to do -- to establish
24 a certain style and direction in the book and
25 then he would give it to somebody like Jim

1 Romita - Confidential

2 Steranko or somebody else to carry it on after
3 I would go back on Spider-Man.

4 Q. We talked about this a little bit,
5 but who would write the dialogue?

6 A. The person who wrote the script,
7 Stan Lee in his cases, Roy Thomas in his cases.
8 They wrote all the dialogue.

9 Q. Did artists ever write dialogue?

10 A. The only thing we used to do,
11 because we worked from a plot, we used to write
12 notes above and below the artwork and sometimes
13 in the margins to -- we would make notes and
14 say -- to remind him what we had talked about
15 in the plot and this is my response to it and
16 this is how I'm building up to it. So yes,
17 remember that this is -- we are now going into
18 the fight phase and such and such, on the next
19 page we would go to -- so there were
20 instructions by the artists as a reminder to
21 the writer what we plotted, or if we were
22 deviating from it slightly. Say I needed to
23 add a panel here because we forgot how he was
24 going to get from the east side to the west
25 side in thirty seconds. You know, that kind of

1 Romita - Confidential

2 stuff. So a lot of writers disregarded those
3 things, and when you do the artwork, you are
4 faced with the reality of actual bridges and
5 connections. You can't just make believe --
6 Spider-Man used to swing to Manhattan from
7 Queens, go on the rooftop, take an elevator
8 down and come out as Peter Parker, and I used
9 to tell Stan -- and I was such a fanatic for
10 believability and sense, common sense, I said,
11 "Stan, what did he do, how did he -- where is
12 his costume?" He said, "it's underneath." And
13 then he would forget. Sometimes he would have
14 him go into a doctor's office and take off his
15 shirt and be examined and I would say, "Stan,
16 he has got the costume on underneath." He
17 never thought of those things. I had him so
18 browbeat with my reality check that he once
19 made me for a year take off Peter Parker's
20 shoes and I had to put them on -- tie the
21 shoelaces and put them around his neck so that
22 as Peter Parker he could walk up a wall,
23 because somebody told him -- after all the
24 times I had tried to make him think
25 realistically, somebody told him, "well, how

1 Romita - Confidential

2 can he walk up the walls when he has got shoes
3 on?" His spider abilities doesn't -- he should
4 have even taken his socks off. The point is I
5 had to do the damn shoes for at least a year or
6 six months. That's the -- I also created a web
7 pack where Peter Parker would take his clothes
8 and put them in a web sack and put them around
9 on his back like a knapsack so that when he got
10 to New York he could take his clothes out of
11 the web sack, put them on and leave his -- and
12 go downstairs, you know. In other words, now
13 at least you know he could put his clothes on.
14 Where the hell were his clothes all the time?
15 You know. So I was a realist and Stan was
16 always -- "it's not important. The reader
17 doesn't think of those things." Well, I think
18 of them. I can't stand it that way. So that's
19 the kind of stuff we used to have. That's
20 where all of the changes come from.

21 Q. So what would Stan do with notes or
22 the dialogue in the margins?

23 A. I used to write notes that I thought
24 were clever. I'd say "maybe he should say
25 'what's up'," you know, something like that.

1 Romita - Confidential

2 They sounded clever to me while I was doing the
3 drawing. 3 in the morning everything sounds
4 clever. He invariably would not use them, and
5 I asked him once "why wouldn't you use -- why
6 wouldn't you let him" -- he said something
7 similar. He said, "because I can't speak in
8 somebody else's vernacular." He says, "when I
9 am writing my characters, I am writing in Peter
10 Parker's personality and Aunt May's personality
11 and I write the captions in my personality. If
12 I start putting your personality in there, I am
13 going to confuse the reader." So he used to --
14 he told me -- he invariably did not use
15 anything that was in the margins that was
16 cleverly suggested by the artists, because he
17 said he did not want to stray from his normal
18 approach. He had a dialogue going with the
19 reader. Saying "dear reader, this is your
20 editor speaking right now." He used to do
21 that. It used to drive me crazy. I used to
22 tell him "you are puncturing the illusion."
23 It's like opening a door in the theater and
24 letting the sunlight in and everybody realizes
25 they are watching a movie now. I said "you are

1 Romita - Confidential

2 ruining" -- he said, "it doesn't matter. I am
3 talking to my readers."

4 Q. Do you know whether it was just your
5 dialogue he wouldn't use? Would he use anybody
6 else's dialogue in the margins?

7 A. I don't think so.

8 MR. TOBEROFF: Calls for
9 speculation.

10 A. I don't think so. I don't think he
11 ever -- I think he -- more than once I've heard
12 him saying he avoided anybody else's
13 expressions in the scripts.

14 Q. Who had the final say on what the
15 dialogue would be, what the characters would
16 say?

17 A. Stan.

18 MR. TOBEROFF: Vague as to time.

19 A. Stan edited the book until the
20 minute it was yanked out of his hands to take
21 to the publisher and nobody had anything to say
22 after that.

23 Q. When did you first meet Jack Kirby?

24 A. Shortly after -- between July of '65
25 and January of '66 I brought some artwork in

1 Romita - Confidential

2 and Jack was sitting doing a correction the way
3 I eventually would do all the corrections on a
4 Steve Ditko cover, Jack was making a change,
5 and I was introduced to Jack Kirby, who ten
6 years earlier, twelve years earlier had been my
7 idol when I was a kid and Captain America came
8 out. It was like meeting, you know, the
9 president of the United States.

10 Q. Why would Jack Kirby have been
11 making changes to a Steve Ditko cover?

12 A. Because of Stan's long-honored
13 tradition. Whoever was caught in the office
14 when he needed a change was subject to the
15 assignment. If you came in, you had to have a
16 pencil with you. If you didn't have a pencil
17 with you, you were out of luck. But Jack was
18 amenable to making the change. Stan didn't
19 like something Ditko had done on the cover and
20 Jack changed it. Whenever I -- even in the
21 first seven years before Marvel Comics existed
22 I would go in and deliver a mystery story, four
23 pages, and hope for another script. Stan would
24 say, "while you are here, can you do me a favor
25 and change -- this is Arthur Peddy's romance

1 Romita - Confidential

2 story here. Would you change this expression,
3 would you change this figure, would you add a
4 car in this scene." He did it all the time.
5 No pay. "Just do me a favor." You know, and
6 the inference was you want a script, do me some
7 corrections.

8 Q. Did you ever make any changes to any
9 of Jack Kirby's work?

10 A. Yes. And it was hard for me,
11 because I idolized the man's stuff. I used to
12 change occasionally girl's faces. Now, Jack
13 used to do girls that I loved. I loved his
14 girls. But Stan used to find sometimes
15 something that he didn't like, an expression,
16 two wide a face, too narrow a face, mostly too
17 wide, and he would ask me to adjust it. He
18 liked the way I did one of the female
19 characters in Captain America better than the
20 way Jack did it, so I would occasionally change
21 the faces. Much to my chagrin, people accused
22 me of being an egomaniac, again, because they
23 thought I was the one changing it. Since I was
24 a de facto art director, they said, "look this
25 Romita, he is changing everybody's work."

1 Romita - Confidential

2 Barry Smith almost put a contract out on me
3 because I changed somebody -- a girl's face on
4 a Conan cover. To this day I still don't know
5 why he is talking to me. We are friends, but I
6 know he wanted to kill me then.

7 Q. Whose idea were those changes? Were
8 they ever yours?

9 A. Uh-uh, never. I would never change
10 anybody -- I had to change Jack Kirby's work,
11 Gene Colan's work, John Buscema's work. I
12 idolized all of these guys. I would -- it
13 violated me to have to do it. I cringed. And
14 I will tell you, the worst thing is initially
15 we didn't have the equipment or the technology
16 to do it less obtrusively, because originally
17 we didn't have photostats and xeroxes to work
18 with. I erased things. To this minute I --
19 the hair on the back of my neck stands up when
20 I am thinking I am erasing a Jack Kirby face
21 and putting my face in there. That, to me, is
22 a criminal act. I did it because I had no
23 choice. Stan asked me to change it. We had no
24 technology. As soon as I was art director and
25 Stan was on the west coast and we had the

1 Romita - Confidential

2 technology to have a photostat, I devised a
3 system with iodine to erase things on a
4 photostat with iodine and I would get a clean
5 photostat, perfect surface, and eliminate a
6 face. So I would take a photostat of a page or
7 a panel, I would iodine the face out, I would
8 put in the face that stand wanted or the
9 editor -- Roy Thomas or whoever was the editor
10 then, and we would paste that over the artwork.
11 At least I could say to myself when the art
12 goes back to the guy I idolized, he could peel
13 it off and you could see his original art.
14 Then I felt better. But until we had the
15 technology, I used to actually deface artwork
16 that I idolized. And it was not fun, but I did
17 my duty as I was instructed.

18 Q. Did it ever occur to you not to do
19 it if Stan asked you to?

20 A. It occurred to me, but I never
21 figured it was worth it. You know, one thing I
22 gotta constantly remind people of. I did not
23 envision a world where anyone would not only
24 care or even remember that there was a comic
25 industry. From the '50s on I assumed the comic

1 Romita - Confidential

2 Stan were buddies. Every time he visited, "I
3 want to give him a daily, I want to give him a
4 Sunday." I would take one of my Sunday pieces
5 of art and sign it "to Andre, John Romita." He
6 would sign it, and we would give it to him. I
7 gave away artwork that is now selling for
8 \$50,000. I gave them away in the office.
9 That's my -- that was my -- my take on the
10 future of comics and the future worth of the
11 artwork was absolutely who is gonna give a damn
12 about this. In five years nobody will even
13 remember we lived here. So help me. That was
14 my take. So as much as I cringed changing it,
15 I never felt serious guilt because I thought
16 who is gonna care. That's my defense. I mean,
17 maybe I would still get convicted of a crime.
18 I don't know. That would be my defense.

19 Q. Do you know whether Jack Kirby was
20 working from -- do you know how he would get
21 his stories in the 1960s?

22 MR. TOBEROFF: Calls for -- vague as
23 to time and calls --

24 A. No, no, he was plotting them the
25 same as I was. With Stan.

1 Romita - Confidential

2 MS. SINGER: Let him say his peace
3 and then --

4 THE WITNESS: Oh, I'm sorry.

5 MS. SINGER: That's okay.

6 MR. TOBEROFF: It's not my peace. I
7 make certain objections as to form in a
8 deposition, so I am just objecting to the
9 form of the question and then after I
10 object, you can answer, but I have to get
11 my -- sorry to interrupt. I have to get my
12 objection in before you answer.

13 THE WITNESS: I'm sorry I
14 interrupted you.

15 MR. TOBEROFF: So my objection is
16 vague as to time. Calls for speculation.
17 Calls for opinion testimony.

18 A. I was present at at least two
19 plotting sessions of John -- Jack and Stan Lee.
20 They were the same as my plotting sessions and
21 the same as Gene Colan's and Herb Trimpe's and
22 John Buscema. John Buscema actually did his
23 plotting by phone, because he lived two hours
24 away from the city. But anybody else who went
25 in, Colan would come in, Jack Kirby would come

1 Romita - Confidential

2 in, I was at the office, we would plot in
3 Stan's office, and with Stan and Jack, most of
4 the time -- some of the times Jack would --
5 Stan would drive both of us home on a Friday
6 night or whatever night he was in plotting.
7 They would finish or almost finish and then
8 Stan would say, "come on, I will drive you guys
9 home." He would drop me off first and then he
10 would take Jack, who lived about twenty minutes
11 past me in the same general area of Long
12 Island. So I was in the back seat of Stan's
13 Cadillac on two occasions that I remember
14 distinctly, maybe more, where they were
15 continuing what they had not finished in the
16 office, continued plotting. I remember one
17 particular Fantastic Four plot about the birth
18 of the son of the two major characters in the
19 Fantastic Four. Mr. Fantastic and
20 The Invisible Girl were having a baby and it
21 was a boy and they were discussing whether the
22 boy would be gifted, a mutant like they were
23 and gifted with powers and talents, or whether
24 he would be a normal boy, and I remember the
25 reference -- I even referred to them and said

1 Romita - Confidential

2 it's like the Munsters. There was -- in the
3 Munsters television show they were all bizarre
4 mutated people except for the little boy who
5 was raised -- or there was a girl. I think
6 there was a girl. She was the only normal
7 person. So I said you could make the kid a
8 normal guy in a family of mutants. And then
9 they said they considered that, and then said,
10 "well, I don't know" -- and I was thinking to
11 myself, wow, wouldn't it be great if they had
12 him and you never know if the kid has powers
13 and slowly but surely he would exhibit -- for
14 instance, he would levitate a glass or
15 something. And so I am thinking all these
16 things while they are talking and I remember
17 them talking. One guy would make a suggestion,
18 Jack would say, "that's not a bad idea, but
19 what if we did it this way," and then Stan
20 would say, "okay, but only if we did it that
21 way" and "only if we did it this way." They
22 were both talking different plots and it's --
23 and the reason I know it is because when Stan
24 and I would plot, I foolishly did it from
25 memory. I never recorded it. Gene Colan was

1 Romita - Confidential

2 his setting, I would do everything he would ask
3 for, but I had to do the nuts and bolts of the
4 story. When it comes to characters, he would
5 ask me "give me a character called The
6 Shocker." I would create -- he would tell
7 me the -- he has the powers to shock people
8 with electric bolts from his wrists. So he
9 shocks people.

10 Q. Stan would tell you that?

11 A. Yeah, he would say that's what
12 The Shocker is. So I would create a costume
13 for it. I didn't create the name. I didn't
14 create anything else. I didn't create the
15 powers. I just created the costume. I put him
16 in a quilted outfit, believe it or not. I
17 thought it was going to be laughed at. Stan
18 accepted. He was quilted so he could absorb
19 his own shocks. The next time it would be
20 The Rhino. He is a man in a rhino skin. He
21 could drive himself through a wall. Just butt
22 head right through a wall. I just did a guy in
23 a rhino skin with his face showing through the
24 open mouth of the rhino. Brilliant. Stan
25 accepted it. And then he would take the

1 Romita - Confidential

2 character and make him valid. He would make
3 him valid by his behavior, by his dialogue, by
4 his -- the results of what he does, the mayhem
5 he caused, and he would give the guy a
6 personality. That's all it was.

7 Q. Who owned those characters?

8 A. Marvel Comics.

9 MR. TOBEROFF: Calls for a legal
10 opinion.

11 THE WITNESS: I'm sorry.

12 MR. TOBEROFF: It's okay.

13 Q. What was your understanding of who
14 owns those characters?

15 MR. TOBEROFF: Calls for a legal
16 opinion.

17 MS. SINGER: You can answer.

18 A. I assumed Marvel Comics owned them.
19 I know Stan didn't own them and I didn't own
20 them.

21 Q. When Jack Kirby would bring his
22 pages in when you were working in the office,
23 what would happen to Jack's pages?

24 MR. TOBEROFF: Vague as to time.

25 A. I remember one thing about them. As

1 Romita - Confidential

2 back of a costume. I remember one pirate shot
3 he did was glorious. It was on the back of the
4 page. I am sure -- I haven't seen all of the
5 Kirby collectors magazines and oversized books,
6 reprints. I'm sure some of those are in there,
7 some of the glorious drawings. John Buscema
8 used to do works of art on the backs of his
9 pages just to loosen up his wrist before he
10 started to pencil. He would do beautiful
11 animals, beautiful girls. People used to copy
12 the front of the page with Buscema and the back
13 of the page. That's all I could tell you.
14 That's my memory of seeing those pages. Until
15 I had to make changes on them.

16 Q. Did Jack know that you were making
17 changes to his artwork?

18 A. You know, I never asked him.

19 MR. TOBEROFF: Vague as to time.

20 A. I never asked him. I assumed he
21 did, because I assumed he would look at the
22 book and see things were changed, although,
23 frankly, I think Jack probably never even
24 bothered to look.

25 Q. Why do you think that?

1 Romita - Confidential

2 scratch his nose. He will lose an eye. So I
3 said all right, make them retractable. They
4 retract. Like a cat puts its claws out and
5 retracts them, right? Make them retractable
6 into his forearm. That's all I said. So I
7 created that part of him. But I didn't create
8 the name. I just created the costume. And I
9 never considered that I created him. I always
10 tell people I created the costume. But I
11 didn't name him and I did not give him a
12 personality.

13 Q. Who would give characters
14 personality?

15 A. The writer.

16 MR. TOBEROFF: Vague.

17 A. I mean, the writer is the one who
18 gives him his dialogue and his history. The
19 history of a -- we used to have a series of
20 books called the Marvel -- I can't remember the
21 name of it, but it was the history of every
22 character, the look of it and how it was
23 devised and what his history was, and that was
24 written by the editor or the writer. It could
25 have been the editor, it could have been the

1 Romita - Confidential

2 writer. The editor sometimes tells the writer
3 to give him a history of the character. So the
4 personality of the character is done by the
5 writer and the editor. The look of the
6 character is done by the artist.

7 Q. Did Jack Kirby have anything to do
8 with Wolverine?

9 A. I don't think so. No. In fact,
10 Wolverine was not a member of the original
11 X-Men. It came -- it was in a Hulk book the
12 first time. He was a character -- a Canadian
13 villain out of Canada. That's another part of
14 the history that was created that I didn't
15 create. He was a Canadian and he appeared in
16 the Hulk. He had nothing to do with the X-Men.
17 He was added to the X-Men when the X-Men was
18 being done by Cockrum. Dave Cockrum was doing
19 the artwork and Len Wein was writing it. They
20 created the new X-Men and they included
21 Wolverine in the X-Men. That's all.

22 Q. How about Kingpin, how did Kingpin
23 come about?

24 A. Again, like The Rhino and
25 The Shocker, he would say "next month I want

1 Romita - Confidential

2 Mr. Amash that there was something inaccurate
3 about his quotes of your statements in this
4 interview?

5 A. Not that I remember.

6 Q. Turn to page, please, 428. In the
7 first column of the interview it says, if you
8 look at the second full paragraph on the left
9 side: "Timely publisher Martin Goodman used to
10 close shop at the drop of a hat. If expenses
11 got too high, he'd say "the hell with it," and
12 close shop. Nobody had any protection because
13 there were no pensions, no severance pay or
14 insurance plans, or saving plans. Everyone who
15 worked in comics were flying by the seat of
16 their pants."

17 A. True.

18 Q. Is that a true statement?

19 A. That was my impression.

20 Q. That's your understanding?

21 A. That was my impression of the way
22 the industry -- the way he ran his company. I
23 wasn't very bright.

24 Q. Does what you said about Marvel also
25 apply to your experience at DC after you left

1 Romita - Confidential

2 Q. But did you usually work from a
3 script during the period you worked in the
4 '50s?

5 A. I always worked from a script at
6 that time.

7 Q. And that's when -- that's -- the
8 period you spoke about was more of a kind of I
9 think you used the term sausage factory?

10 A. Yeah, they were turning them out.
11 The scripts were repetitious and similar and
12 the artwork was somewhat the same. Most of us
13 were just trying to make a dollar.

14 Q. And do you recall how much in the
15 '50s they would pay you for your work?

16 A. It ranged from the mid 20s to the
17 mid 40s. There were weeks -- there were years
18 where we had terrible times and there were good
19 years and there were bad years. Two good
20 years, one bad year. Two bad years, one good
21 year. In comics -- in those fifteen years
22 there was nothing you could count on. I could
23 make \$6,000 one year, I could make \$8,000 the
24 next year and I could make \$5,000 the third
25 year, because the ebb and flow was always

1 Romita - Confidential

2 questionable. Martin Goodman would decide he
3 wasn't going to publish as many books. Then he
4 would decide to publish 25 more books. So it
5 was very erratic, very hard -- very difficult
6 to plan a life when you didn't know where the
7 money was coming from. It was a dumb way to
8 live.

9 Q. When you worked in this freelance
10 fashion, they always bought your work by the
11 page?

12 A. By the page.

13 Q. You referred to your working at some
14 point at Marvel as a correction artist. I
15 believe it was after you started working as a
16 full-time employee.

17 Can you try and pin down for me the
18 date or approximate date when you started
19 working as a correction artist on staff at
20 Marvel?

21 A. I don't believe there was any actual
22 date. It sort of -- it sort of crept into
23 the process. It preceded my eight years at DC,
24 by the way. By the way, I also did corrections
25 at DC sometimes. Whenever I was in there, they

1 Romita - Confidential

2 THE WITNESS: Thank you.

3 MS. SINGER: I have just a couple,
4 I'm sorry, and then we will get you out of
5 here.

6 MR. TOBEROFF: In that case I might
7 have more questions.

8 FURTHER EXAMINATION BY

9 MS. SINGER:

10 Q. A couple of things. When you were
11 talking with Mr. Toberoff, you mentioned that
12 the Fantastic Four was a trademark book of
13 Jack's.

14 When you used the word "trademark,"
15 were you using that in a legal sense?

16 A. No. It was -- he was associated
17 with it as a successful title. That's what I
18 meant. He had started it with Stan and they
19 were riding the crest of a wave of success.

20 Q. Do you know whether Jack owned any
21 of the characters or any of the works for
22 Fantastic Four?

23 A. I don't believe so.

24 Q. You were talking about the legends
25 on the back of the check.

1 Romita - Confidential

2 When you were at Marvel in the 1950s
3 before you left in '57 or '58, when you would
4 get checks from Marvel or Timely or whoever it
5 was for your page rate, do you recall whether
6 there was a legend on the back of the check?

7 A. I believe there was. I think they
8 wouldn't have -- well, I'm assuming there was.
9 I think I vaguely remember there was.
10 Sometimes a shorter paragraph, sometimes a
11 longer paragraph.

12 MS. SINGER: Okay. I have no
13 further questions.

14 MR. TOBEROFF: I will let you off
15 the hook. I have no further questions.

16 MS. SINGER: Before we go off the
17 record, I just want to clarify, Marc, that
18 Mr. Romita has appeared today both in
19 response to our subpoena, in response to
20 your subpoena, you have cross-examined him,
21 he has fully answered all your questions on
22 your subpoena and he is done. Are you in
23 agreement on that? You have had your
24 opportunity to question him.

25 MR. TOBEROFF: I am not -- I think