

NO. 15-1914

**United States Court of Appeals
for the First Circuit**

WALTER TUVELL

Plaintiff/Appellant

v.

INTERNATIONAL BUSINESS MACHINES, INC.

Defendant/Appellee

ON APPEAL FROM THE DISTRICT COURT OF MASSACHUSETTS, BOSTON

SUPPLEMENTAL APPENDIX OF DEFENDANT-APPELLEE
INTERNATIONAL BUSINESS MACHINES, INC.

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Matthew A. Porter, No. 39507
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Dated: January 22, 2016

1 MR. MANTELL: Objection.

2 A. I absolutely did. Those quotation marks
3 there are not to be interpreted as exact literal
4 quotation of what he said, because no human being
5 could do that. Had I had my recording equipment
6 there, I would have done it -- I would, given his
7 consent, of course. And so that's the only reason I
8 felt the need to put that footnote in there is just
9 to make that simple distinction. I know exactly
10 that that was the import and the intent of his
11 speaking to me.

12 Q. And then if they couldn't be -- if IBM
13 wasn't going to fire Fritz Knabe and Dan Feldman,
14 you wanted them transferred elsewhere; is that
15 correct?

16 A. I did write that somewhere, yes. And it's
17 correct that that's the way I felt, too.

18 Q. And then if they had to stay, then you at
19 least wanted a different manager than Dan Feldman;
20 is that right?

21 A. Yes.

22 Q. And who did you want to report to?

23 A. Well, so it depends how you define the
24 phrase, quote, "want a different manager." It

1 either could have been a different manager for the
2 group that I was in, or it could have been
3 transferring me to a different group with a
4 different manager. At that point I had no inkling
5 of who either of those people might be, as long as
6 it was just somebody else.

7 Q. Well, did you work in Dan Feldman's group?

8 A. Yeah.

9 Q. Did you identify somebody there you thought
10 could manage you?

11 A. No. It was certainly nobody in that group
12 that I felt qualified to be a manager of that group.
13 Including me, of course.

14 Q. And when you say "nobody in the group," you
15 mean the group that reported to Dan Feldman?

16 A. That's right.

17 Q. Now, if -- you have a view of what conduct
18 is legal and what conduct is illegal in the
19 workplace, Mr. Tuvell; is that correct?

20 A. Of some of the stuff that's legal and some
21 of the stuff that's illegal, yes.

22 Q. And you seem to think that after you've
23 made a claim of discrimination and retaliation,
24 anything you say is protected; is that your view?

CERTIFICATE OF SERVICE

Appeal No. 15-1914

I, Anne E. Selinger, certify that on January 22, 2016, I served a copy of the Supplemental Appendix of Defendant-Appellee IBM on the following party by first-class mail:

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/s/ Anne E. Selinger

Anne E. Selinger (Court of Appeals No. 1164576)