

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

JOHN C. EVANS, SR.,	)	
Individually and as	)	
Special Administrator of	)	
the Estate of JOHN EVANS,	)	
Deceased,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. 10-L-1077
	)	
A.W. CHESTERTON, INC.,	)	
et al.,	)	
	)	
Defendants.	)	
_____	)	

VOLUME II

DISCOVERY DEPOSITION OF

THOMAS LANG

Taken on behalf of the Defendants

August 16, 2011

Reported by Maria E. Shockey, CSR
Illinois License No. 084-004411

I N D E X

THE WITNESS: THOMAS LANG	PAGE
Examination by Mr. Mauler	8
Examination by Mr. Hayes	12, 54
Examination by Mr. Ludolph	39
Examination by Ms. Felkins	46
Examination by Mr. Cohn	48

*** NO EXHIBITS MARKED ***

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Defendants.	)	
	)	

CONTINUED DISCOVERY DEPOSITION OF

THOMAS LANG produced, sworn, and examined on behalf
of the Defendants, August 16, 2011, between the
hours of 10:56 a.m. in the morning and 11:26 a.m.
in the morning on that day at 200 East 3rd Street,
Davenport, Iowa, before Maria E. Shockey, CSR and
Notary Public.

1 A P P E A R A N C E S:

2

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8 BY: MR. RANDY S. COHN

9 Appeared on behalf of the Plaintiff;

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25 Appeared telephonically on behalf of
26 Defendants Borg-Warner Corporation by its
27 Successor-in-Interest, Borg-Warner Morse
28 TEC, Inc., and J-M Manufacturing Company,
29 Inc.;

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1 A P P E A R A N C E S: (Continued)

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1 A P P E A R A N C E S: (Continued)

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18 Defendants John Crane, Inc., Cleaver-Brooks,
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28 Defendant, Grain Processing Company;

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37 Deere & Company;

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1 A P P E A R A N C E S: (Continued)

2

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 13 Group, Ltd., and Young Insulation Group of
 St. Louis, Inc.;

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15 WILLIAMS, VENKER & SANDERS, L.L.C.,
 Bank of America Tower
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 17 TEL: (314) 345-5000 FAX: (314) 345-5055
 BY: MR. BRYAN K. MAULLER

18

19 Appeared telephonically on behalf of
 Defendant, Caterpillar, Inc.

20

21

22

23

24

1 THOMAS LANG,
2 called as a witness herein, having been previously
3 duly sworn, deposeth and saith as follows:

4 EXAMINATION

5 BY MR. MAULLER:

6 Q. Mr. Lang, my name is Bryan Mauller, and I
7 represent a company called Caterpillar
8 Incorporated.

9 Can you hear me okay?

10 **A. Sure. Yes.**

11 Q. Okay. I should be fairly brief. I've
12 just got some questions for you.

13 Has anything changed about your testimony
14 with regard to Cat from today as opposed to what
15 you testified to last week?

16 **A. No. Now, Cat -- for some reason, Cat is**
17 **pretty big for me.**

18 Q. Okay. And is it fair to say that other
19 than these weekly time sheets, you don't have any
20 recollection of working with Mr. Evans at any
21 Caterpillar facility?

22 **A. No. I remember the new Cat -- well, when**
23 **it was newly built here -- that we did some work**
24 **out there. But I can't tell you exactly what we**

1 **did on it, I'm thinking, because I believe that's**
2 **after I was out of the Service or a little later.**
3 **It was more of a fiberglass-type thing then.**

4 **But like I said, at that time, we were**
5 **still mudding elbows and stuff, so that would**
6 **probably be about all that would have happened**
7 **there that I can recollect.**

8 Q. Okay. And just to be clear, I don't want
9 you to guess. I only want you to tell me what you
10 specifically recall, okay?

11 A. **Yeah.**

12 Q. Okay. Do you specifically recall mudding
13 any joints or elbows at the Cat Davenport, Iowa,
14 facility with Mr. Evans?

15 A. Well, I can't specifically recall it. But
16 if we had done elbows, that's pretty much how we
17 would have done them at that time.

18 Q. Okay. And, again, as you sit here today,
19 you don't have any specific recollection of the
20 names or brands of any of the compound you would
21 have used on any of those joints and elbows
22 possibly at this Caterpillar facility; is that
23 correct?

24 A. Well, it would have been the 301 mud,

1 **which I don't know if -- I think Manville put the**
2 **301 out, because that's primarily the mud we were**
3 **using in those days for One-Coat. And I don't**
4 **recall any type of blue mud.**

5 Q. Okay. So is it fair to say that during
6 that time period, that was the brand of mud you
7 would have used, but specifically with regard to
8 Caterpillar, you don't know what brand you would
9 have used; is that a fair statement?

10 A. Well, if I was with Iowa-Illinois, that's
11 the brand we would have been using. They were
12 never short of that.

13 Q. Okay. And Iowa-Illinois would have
14 provided you that mud, correct?

15 A. Correct.

16 Q. And Iowa-Illinois would have also provided
17 you your tools, correct?

18 A. No. We had our own tools.

19 Q. You had your own tools. Okay.

20 And Iowa-Illinois would have given you
21 directions as far as what work to do and where to
22 do it, correct?

23 MR. COHN: Objection. Asked and answered.
24 Mischaracterizes prior testimony.

1 THE WITNESS: I couldn't answer you that
2 because I wasn't in that position to -- that would
3 have been John's position, and I wasn't really
4 privy to sit in on that type of thing.

5 BY MR. MAULLER:

6 Q. Okay. Well, from your personal knowledge,
7 you got your instructions from an employee of
8 Iowa-Illinois, correct?

9 A. Are you talking years later when I would
10 have been doing jobs?

11 Q. I'm just talking about when you worked
12 possibly at any Caterpillar facility.

13 An employee from Iowa-Illinois told you
14 what jobs to do, correct?

15 A. Yeah. Whoever I was working for there,
16 whoever the foreman of that job was, yes.

17 Q. Okay. And I know you said you don't
18 really remember.

19 Do you have any inkling as to whether the
20 work you might have done at Caterpillar with
21 Mr. Evans, would that have been new construction,
22 or would that have been repair work?

23 A. I believe that would have been new.

24 Q. Okay. And I believe you had testified

1 that in order to get paid, you had to fill out a
2 weekly timesheet, correct?

3 **A. Well, yes.**

4 **But at that time, the foreman was doing**
5 **all the time sheets.**

6 Q. Okay. What I'm trying to ask is, we've
7 got a list of time sheets here.

8 That would have been inclusive of all the
9 time that you would have possibly worked at any
10 Caterpillar facility with Mr. Evans; is that fair?

11 **A. Yes. With John Evans, yes.**

12 MR. MAULLER: Okay. Sir, I believe those
13 are all the questions I have for you right now.
14 Thank you for your patience.

15 Thanks, Randy.

16 MR. COHN: Yep.

17 Anyone else on the phone have questions?

18 EXAMINATION

19 BY MR. HAYES:

20 Q. Mr. Lang, I'm going to come down here so I
21 don't have to yell across the table at you.

22 Again, my name is Tom Hayes, and I do
23 represent the Iowa-Illinois entities, so I have a
24 number of questions to ask you about Iowa-Illinois

1 and your work for them.

2 The first thing I want to clarify is that
3 when you say "Iowa-Illinois," do you mean
4 Iowa-Illinois Thermal Insulation?

5 **A. Yes.**

6 Q. And during that time frame when you worked
7 with Mr. Evans, 1965 to 1970, you were working for
8 Iowa-Illinois Thermal Insulation; is that right?

9 **A. Yes.**

10 Q. And to the best of your knowledge,
11 Mr. Evans was always working for Iowa-Illinois
12 Thermal Insulation during that time period; is that
13 right?

14 **A. Yes.**

15 Q. Was there a distinction with Iowa-Illinois
16 Thermal at that time between permanent employees
17 and insulators that were hired out of the union
18 hall like yourself?

19 Was John Evans in a different category
20 than you as a foreman?

21 **A. No. He was actually out of the hall, but**
22 **he just always worked with me. He just -- they**
23 **always had work for him, so he just continued on**
24 **all the time. At that time, they weren't real**

1 huge. There were guys that stayed with them for
2 quite some time. But when they needed help, they'd
3 get people out of the hall. I was probably a
4 permanent -- considered -- on the apprentice part
5 until I got transferred to Taylor.

6 Q. But to the best of your knowledge,
7 John Evans, you would consider him a permanent
8 employee of Iowa-Illinois Thermal during that time
9 frame; is that right?

10 A. Yes.

11 MR. COHN: Objection. Calls for a legal
12 conclusion and speculation.

13 BY MR. HAYES:

14 Q. Well, to the best of your knowledge.

15 A. Yes. But he was out of Local 81. He was
16 under Local 81's jurisdiction.

17 Q. Right. And as a foreman, he was still in
18 the union?

19 A. Oh, yeah.

20 Q. He was not in management, right?

21 A. No.

22 Q. Okay. You've talked a little bit about
23 your experience with the union. I wonder if you
24 know how active Mr. Evans was in the union.

1 During the time frame that you worked with
2 him, did he attend union meetings?

3 **A. Yes. They used to be on Friday nights at**
4 **that time -- wait a minute -- Saturdays at that**
5 **time. They switched it to Friday and they'd go to**
6 **them. They were pretty regular going to them.**

7 Q. Okay. And when you say "they," you
8 mean John Evans and --

9 **A. And the guys in the shop. He would go up**
10 **with people from the Quad Cities, other journeymen.**

11 Q. Okay. And were those meetings in
12 Cedar Rapids?

13 **A. Yeah. At that time, they were always**
14 **there, yeah.**

15 Q. Okay. Do you know if Mr. Evans ever was,
16 during that time or later, an officer in the union?

17 **A. I don't believe so, no.**

18 Q. On some of the job sites that you and
19 Mr. Evans worked together, did you ever drive in a
20 car together?

21 **A. Sure.**

22 Q. What were some of the job sites that you
23 would drive together to?

24 **A. Well, up to Clinton Corn, we'd drive**

1 together there, anyplace out of town, like if we
2 went to Muscatine or up to Dubuque to the Deere
3 plant there. To Waterloo, we went to a Deere plant
4 there, mainly the out-of-town jobs. The in-town,
5 we'd just meet at those.

6 Q. And, generally, were those jobs where it
7 was just you and him working together?

8 A. Sometimes. There might be some other
9 people.

10 Q. Okay. On any of those occasions when you
11 were riding in the car with him or any other
12 occasion on a job site, do you recall Mr. Evans
13 telling you anything that he learned at any of the
14 union meetings that he attended?

15 A. Well, he may have discussed some things
16 that they talked about, but not really, no.

17 Q. And just to try to refresh your
18 recollection, if there was anything that he might
19 have said about, boy, they really taught us
20 something interesting on this particular meeting,
21 you don't recall anything like that?

22 A. No. And that only would have been the
23 first six months of -- you have to wait six months
24 to apply to get in the union. And from that point

1 on, I got in the union. I rode up to meetings with
2 him and stuff and so there would have been no
3 reason to.

4 Q. And you talked a little bit about it last
5 time with respect to your own experience.

6 And just to see if your memory has been
7 refreshed over the last couple of weeks, do you
8 remember anything that the union discussed at any
9 of the meetings that you personally attended
10 regarding safety hazards on job sites generally?

11 A. Just, you know, they always talked about
12 pushing for safety, you know. There was no
13 specific things. It was more along the lines of
14 they wanted people to demand better scaffolding,
15 things like that at that time.

16 Like I said, there wasn't any OSHA to
17 oversee people or -- so there really wasn't other
18 than the plant safety people themselves not wanting
19 problems. That's the type of thing they would
20 discuss about safety. If you don't think it's
21 safe, by God, don't go on it and call us up here
22 and we'll see what we can get done about it, things
23 like that.

24 Q. Right. And I wanted to focus your

1 attention on that '65 to 1970 time period.

2 So I'm specifically asking if you recall
3 anything about safety from that time period?

4 I'm assuming that's what you're answering.

5 **A. Yeah. That's the only type of things I**
6 **can recall that people would bring. And it was**
7 **more instead of the union bringing it up, it would**
8 **be more somebody in the meeting saying something**
9 **like, well, we're working out here at so-and-so**
10 **and, boy, this thing looks like it's ready to fall**
11 **down.**

12 And the business agent would tell him,
13 well, use common sense. Don't go on it, call me,
14 or things like that. That's the type of safety
15 things back in those days, and then they'd have to
16 go argue it out for you.

17 Q. Okay. And you testified last time, and I
18 just wanted to clarify that it is still accurate
19 today that you don't recall the union discussing
20 anything about the potential hazards of asbestos
21 during any of those union meetings that you
22 attended; is that right?

23 **A. Nothing in the early years, no.**

24 Q. And, again, we're trying to focus on the

1 '65 to 1970 time period.

2 A. Right. During that time period, I don't
3 recall anything in those eras, no.

4 Q. Okay. Iowa-Illinois Thermal insulators
5 that worked for them out of the union hall, did
6 they wear any type of uniform?

7 A. No.

8 Q. So what would you wear to a job site while
9 you were working for Iowa-Illinois Thermal?

10 A. Just some type of work boots and a pair of
11 blue jeans and either a T-shirt or a corduroy shirt
12 or whatever the weather dictated at that time.

13 Q. Okay. Iowa-Illinois Thermal, during that
14 time, did not issue any T-shirts with logos on them
15 or anything like that?

16 A. Well, yeah. I think back in those days --
17 I don't remember back in '65. See, they were
18 notorious for the hats, I think. Everybody in town
19 had an IIT hat, which was Iowa-Illinois Thermal
20 back in those days, but I can't remember if it was
21 a T-shirt so much. That may have been later on.

22 Q. Did you ever wear a hat with a logo on it
23 on any of the job sites from '65 to '70?

24 A. No. I've never been a hat wearer.

1 Q. Do you recall Mr. Evans ever wearing one
2 of those hats?

3 A. I'm not sure if it was in that actual era.
4 I just remember Iowa-Illinois being kind of famous
5 for that. And that may have been like when I came
6 back from the Service that that type of thing was
7 going on. Just like I said, when I first started,
8 they were still -- it was pretty early in there.

9 They had an office building up on
10 Main Street. They had a warehouse over in
11 Rock Island. They were just getting off the floor
12 back then.

13 Q. Do you have a specific recollection, as
14 you sit here today, of any Iowa-Illinois Thermal
15 employee wearing any of those hats or T-shirts with
16 logos or the company name on them during that '65
17 to 1970 time period on a job site?

18 A. Well, I'd be lying if I said it was
19 definitely there in that time period. I remember
20 it happening, but to actually give you the year
21 that they really started doing that, it might have
22 been the later part of that, probably really not
23 the real early part.

24 But I might be lying there, too. I just

1 **recall that being a big thing. Everybody wanted**
2 **one of their hats.**

3 Q. To the best of your knowledge, that would
4 have been a voluntary thing --

5 A. **Oh, yes.**

6 Q. -- on the part of the insulator?

7 A. **Sure.**

8 Q. It was not a uniform that was required?

9 A. **No. No.**

10 Q. With respect to equipment, specifically
11 vehicles that Iowa-Illinois Thermal had during that
12 time period, '65 to 1970, did they have any trucks
13 that might have been driven to these job sites?

14 A. **Yes, they did. They had -- well, one**
15 **specific I can remember was a Volkswagen. It looks**
16 **like the Volkswagen Bus deal, but it was a truck,**
17 **the back end of that. That took a pretty good**
18 **beating over the years.**

19 And I can't recall the exact year, but it
20 was during that period sometime. I won't say '65,
21 but somewhere in that era. That's about the main
22 one I remember. They didn't get into the trucking
23 deal for quite sometime before, all of a sudden,
24 everybody had a truck then.

1 Q. Okay. Did that VW bus or truck have any
2 kind of writing or logos on it that identified the
3 company?

4 A. I don't think so back in that time. It
5 wasn't even required, I think, by state law back
6 then. I think later on Illinois had it where you
7 had to have the names on them and stuff.

8 Q. You've talked about a lot of different job
9 sites on day one of your deposition that you worked
10 at with Mr. Evans and I know there were some that
11 were in Illinois.

12 But would it be fair to say that most of
13 the job sites that you worked at with Mr. Evans
14 were in the state of Iowa?

15 A. Yeah. It seemed like we were over here.

16 Q. Can you give me a percentage? And I don't
17 want you to guess, but just a --

18 A. It'd be a guess, it really would. But
19 from what I can remember for us having to go to
20 Illinois, the percentage would be much higher on
21 the Illinois side -- I mean, on the Iowa side.

22 Q. Iowa side. Okay.

23 A. It might be as high as 80/20 or maybe even
24 higher.

1 Q. Now, you talked last time, Mr. Lang, about
2 using both materials that you thought were
3 asbestos-containing and fiberglass materials on
4 these various job sites.

5 And at one point, you thought the
6 percentage was about 50/50 in terms of the pipe
7 covering and block; is that right?

8 A. Well, I think when I was first starting
9 out, it might have been a little heavier the other
10 way because fiberglass was just -- fiberglass had
11 been around, but I think they were getting to where
12 they can use it on higher temperature stuff. They
13 were progressing that way on it.

14 So probably that '65 part might have been
15 even 60/40, 70/30. But every year it got a little
16 more to where it was down to a 50/50-type thing.

17 Q. Towards the end of the '60s?

18 A. Oh, yeah. And then fiberglass was coming
19 on real strong.

20 Q. All right. And would it be more than
21 50 percent fiberglass at that time?

22 A. Well, I don't think so. I mean, it just
23 depended. I think it got down to the point where
24 if it was hot, you were still going to go with your

1 block and your Thermobestos and stuff. But things
2 that they put that on, it wasn't really necessary.
3 But because they didn't trust the fiberglass or
4 whatever, the fiberglass started to pick up and be
5 used more.

6 Q. You mentioned last time and I think you
7 just mentioned just now that they were pushing
8 fiberglass at that time, that they were really
9 starting to push it.

10 Who do you mean by "they"?

11 A. Well, I mean, the industry, I'm thinking.
12 It was -- you know, you're going from something
13 that probably weighed -- I don't even know if it's
14 a quarter of the weight versus your block-type
15 insulation and it just goes on so much faster. It
16 was just a speedier process. So when they could
17 use it and it would do the job and once industry
18 was convinced it was an effective thing, I think
19 that's why it kept going more that way.

20 Q. Is it fair to say that you as an insulator
21 would certainly prefer to have used fiberglass
22 during that time?

23 A. Oh, without a doubt other than to itch.
24 They didn't have the no-itch back then.

1 Q. Okay. And if you know, would it be fair
2 to say that Iowa-Illinois Thermal as a company
3 would have preferred to use fiberglass if they had
4 the choice?

5 MR. COHN: Objection. Calls for
6 speculation.

7 BY MR. HAYES:

8 Q. You can answer, if you know.

9 A. Well, I would assume because they could --
10 it made your profit -- I mean, speed-wise, it was
11 always -- you know, but now that is assumption on
12 my part, you know. I don't know. They may have
13 lost money on the price of the product. I just
14 don't know.

15 Q. Sure.

16 Now, you talked about using mud or
17 cements, various different kinds and you've talked
18 about Johns Manville 301.

19 Is that insulating cement?

20 A. Yeah. You could -- yeah, 301, you could
21 use on the whole -- you could do the whole elbow
22 with it, I mean, from start to finish on these
23 smaller elbows. They just put that on there and it
24 would be adequate to hold the heat or cold or

1 whatever they were trying to do on that. If it got
2 extremely warm, you might go with -- it was a
3 high-temp mud. I can't come up with the name right
4 now. I should start writing this stuff down.

5 But you might put a layer of that on and
6 then finish it out in One-Coat because it would
7 take more extreme heat that way.

8 Q. Okay. Now, I want to clarify, you just
9 mentioned One-Coat again.

10 Are those two different products, the 301
11 and One-Coat? They're two different products?

12 A. Well, 301 is supposedly a One-Coat, you
13 know. One-Coat, they're talking about you can put
14 it on, but, you know, that's if you're planning
15 on -- not that thick, you know. If you've got a
16 two- or three-inch elbow thickness here, it would
17 probably behoove you not to try to put two or three
18 inches of mud on there because you're going to come
19 back the next day and it's all going to be shrunk
20 up and you're going to have to go over it again
21 anyway.

22 Q. Okay. I was just a little confused
23 because you were always saying Johns Manville
24 One-Coat -- Johns Manville 301 One-Coat, and I'm

1 trying to find out if there were two different
2 products, if 301 came out of one bag and the
3 One-Coat came out of another?

4 A. I think it's just the name that came up
5 that the insulators just started using all the
6 time, One-Coat. You could actually mud some
7 surfaces with One-Coat and smooth it out enough
8 where you can get by with it where with other muds
9 you couldn't necessarily do that, like blue mud.

10 Blue mud is finish coat. It would go over
11 that One-Coat and that would be something that they
12 were trying to make it look extra nice. And there
13 was a good insulation value on it, too. So a lot
14 of times it would be used on your real high-temp,
15 big steam lines or something that they -- it would
16 give it an added insulation, plus it looked much
17 nicer. You can smooth it out to look like that
18 glass (indicating).

19 Q. Okay. I just want to finish up with this
20 point, and I hate to belabor it, but do you
21 remember those two products coming out of different
22 bags, the one that said "301" and one that said
23 "One-Coat" or in your mind, is it all coming out of
24 one bag?

1 A. Well, we used 301 pretty much all the
2 time, so I'm --

3 Q. And you just referred to it as One-Coat?

4 A. Yeah. It's just -- you know, somebody
5 might call a piece of Thermobestos and it might be
6 a piece of Kaylo. But to them, it's basically the
7 same thing.

8 Q. Okay. I understand.

9 Now, at that time from 1965 to 1970, were
10 you aware that there were also cements that were
11 insulating and finishing that did not contain
12 asbestos?

13 A. I believe the one I was trying to tell you
14 about, there was a mineral wool mud. I may be
15 wrong there. I don't think -- I never heard down
16 the road that there was any asbestos in it. That's
17 like mineral wool blanket. There's no asbestos in
18 that that I ever heard.

19 So that's about the only one I can think
20 of during that era. There may have been some. I'm
21 not saying there weren't. But from what we were
22 told later on, the One-Coats and the blue muds, the
23 finish muds and stuff had it in them.

24 Q. Did you use any of that mineral wool mud

1 on any of these job sites?

2 A. Oh, you would use them on -- when you'd
3 get into this real high-temp stuff. But now, there
4 again, you might have some block on there.

5 Q. Right. That's a separate issue. I'm just
6 talking about the muds or cements right now.

7 A. Yeah. But you never had it on by itself.
8 If you put it on, there was going to be a one-
9 coat -- more than likely a One-Coat and then if you
10 were going to blue mud it. But you never just put
11 it on -- if you did, it better be down in a tunnel
12 or something because it was going to be pretty
13 ugly.

14 Q. Now, there were times during day one of
15 your deposition that you mentioned that you
16 installed fiberglass pipe covering or block and
17 then put the 301 or One-Coat over that; is that
18 right?

19 A. Yeah. That would be -- you're talking
20 look on the ends of tanks or something?

21 Q. Well, that was your testimony. You said
22 that there were some times when you used fiberglass
23 pipe covering and then put a 301 One-Coat over
24 that.

1 A. Not over the pipe covering.

2 Q. What would that be over?

3 A. I said when we were doing tanks, you might
4 be mudding the top of a tank or even the bottom
5 sometimes. You might have -- more likely there's
6 going to be block, but you might have a fiberglass.
7 But you still mudded. You had to finish it with
8 something. But you wouldn't do the pipe -- unless
9 you were seaming and it wouldn't even be the
10 fiberglass, so there would be no reason to seam
11 fiberglass.

12 But on block, you would seam that pipe.
13 You would have cracks where they wouldn't come
14 together and you'd have to fill that with mud,
15 otherwise, that would be a hot spot coming through
16 there.

17 Q. Right.

18 Do you remember using any of the other
19 Johns Manville 300 series of muds besides the 301?

20 A. If it was out at that time, I probably
21 did. But for some reason, 301 is the one that
22 pretty much sticks in my mind.

23 Q. Okay. You also mentioned at some point
24 you started going to metal instead of muds, and I

1 assume by that, you mean metal jacketing?

2 **A. Yeah.**

3 Q. When do you recall first starting to use
4 that?

5 **A. That would have been after I came out of**
6 **the Service, so we're talking -- and it may have**
7 **been going on while I was in the Service. I don't**
8 **mean to say that it wasn't. But for me to get**
9 **involved in it, it would have been '69 when I got**
10 **out of the Service.**

11 **So that's when I started running into the**
12 **metal versus -- and there was still some canvas and**
13 **stuff going on, but it was -- you could see that**
14 **was the wave of the future coming on. They were**
15 **going to go to the metal.**

16 Q. Right. And so at that time when they
17 started using the metal jacketing, there was less
18 and less mud that was used?

19 **A. As time went on, yeah, just continually.**

20 Q. Now, you mentioned just a minute ago and
21 last time about using the hard pipe covering and
22 block because it was easier to walk on.

23 Do you remember that testimony?

24 **A. Well, you could walk on it versus**

1 **fiberglass.**

2 Q. But I wanted to just clarify with you
3 today in terms of what you meant by that.

4 Were there times when the premises owner
5 wanted you to put on the hard pipe covering or
6 block for that purpose so individuals or their
7 employees could walk on it on those sites?

8 A. Well, I can't say for sure who was
9 dictating that you do it, but you'd get in these
10 pipe cracks, for instance, in these chemical plants
11 and places, and to get at valves and stuff, they
12 have to walk through there.

13 So probably through experience they
14 learned that it was in their best interest to have
15 the hard-type insulation that was -- especially
16 once they went to the metal and that where you can
17 walk down them without ruining it.

18 If it was fiberglass, four or five trips
19 down there and you're probably going to end up
20 redoing the line or lines because there would be
21 several lines if you're going to walk up.

22 But otherwise, it would be -- like I had
23 stated before -- the tops of the tanks. Today they
24 still do it that way.

1 Q. And with respect to the tops of these
2 tanks, was the hard pipe covering and block used so
3 people could walk on it because the material might
4 contain asbestos, if you know?

5 A. Well, I mean, if it was really hot, they
6 were going to have that regardless whether you were
7 going to walk on it or not because that's what took
8 care of the heat in those days. But it could have
9 been a twofold deal, too.

10 Q. Okay. So to the best of your knowledge,
11 at least one of the reasons why the hard pipe
12 covering or block was used on some of these tanks
13 and other jobs was so that employees could walk on
14 it without damaging it?

15 A. Right.

16 Q. Okay. Now, you talked a little bit last
17 week -- or a couple of weeks ago about
18 specifications and whose job it was to specify the
19 use of materials on a particular job site and you
20 did mention that everyone was kind of involved in
21 that, providing input.

22 But is it fair to say -- would you agree
23 that the ultimate decision in terms of what product
24 was installed or applied on a job site was on the

1 owner of the job site?

2 MR. LUDOLPH: Objection. Calls for
3 speculation.

4 MS. FELKINS: Join.

5 DEFENSE ATTORNEY: Join.

6 THE WITNESS: Well, that wouldn't be fair
7 for me to say because I was -- especially at that
8 time, I wasn't involved in any of that. In fact, I
9 could say through most of my career when I was
10 running jobs, it was -- the worker himself didn't
11 sit in. Those jobs were cut and dry before we ever
12 got to that point.

13 There might be a spec on the job. I don't
14 know if there was back in those days, but -- that
15 you can see -- to see that you were doing it right.

16 BY MR. HAYES:

17 Q. When you became a foreman, you followed
18 the specs, right?

19 A. If you had a spec. That would be
20 depending on -- we tried over the years to have
21 that put in our contract, that they'd have to give
22 you a set of specs with the job to know that we
23 were given the right product and what they wanted.
24 I don't know that we ever got that in. I can't

1 remember it being put in there.

2 More than likely over the years of what I
3 ran into, that set of specs was sitting in the
4 office and they just sent you out the material.
5 And somebody might tell you, this line is getting a
6 two-inch thick, that line is getting a four-inch
7 thick.

8 Q. Sure.

9 Now, it's been established many times both
10 this morning and a couple of weeks ago that you
11 took all of your directions from either Mr. Evans
12 as your foreman or another Iowa-Illinois Thermal
13 employee or foreman on your job sites from 1965 to
14 1970; is that right?

15 A. Right.

16 Q. And you talked two weeks ago about the
17 fact when you guys arrived on site, Mr. Evans or
18 another Iowa-Illinois foreman would go off with a
19 representative from -- the premises owner and walk
20 the job; is that right?

21 MS. FELKINS: Objection. Mischaracterizes
22 the testimony.

23 DEFENSE ATTORNEY: I'll join.

24 THE WITNESS: I mean, not necessarily.

1 Sometimes we just went on the job and started
2 working. But I assumed they had already went
3 through that process and didn't drag me along for
4 that. I just showed up when they were going to
5 start doing the work.

6 BY MR. HAYES:

7 Q. All right. And you were not privy to any
8 discussions that Mr. Evans or any of your other
9 Iowa-Illinois Thermal foreman had with
10 representatives from the owners of these buildings;
11 is that right?

12 A. No.

13 Q. So you don't know what the owners of the
14 premises or their representatives told Mr. Evans;
15 is that right?

16 A. No. I have no idea what was being
17 discussed on any of those things.

18 Q. Now, you mentioned two weeks ago that part
19 of your work with Mr. Evans involved removing old
20 insulation when you arrived on a job site, but a
21 lot of that work was already done by -- it was
22 already done when you arrived; is that right?

23 A. More times than not, yes.

24 Q. Can you give me a percentage of the time

1 when the old insulation had already been removed?

2 **A. Oh, I'd say, from my recollection at**
3 **least, 75 percent of the time it was already off.**

4 **Q. Okay. And to the best of your knowledge,**
5 **that wasn't torn off by anyone at Iowa-Illinois**
6 **Thermal; is that right?**

7 **A. Yeah, to the best of my knowledge, it**
8 **wasn't.**

9 **Q. Okay. Do you recall, as you sit here**
10 **today, any specific occasion when you saw**
11 **John Evans actually tear off or remove old**
12 **insulation at the job site?**

13 **A. No, not really.**

14 **Q. Do you recall him ever being around the**
15 **removal of old insulation on any job site?**

16 **A. Well, I mean, I recall us maybe having to**
17 **take more off than what they had taken because --**
18 **to repair it right. And we would have done it**
19 **then. And whether he had me take it off or he took**
20 **it off, I can't really recall for sure.**

21 **But I know it was -- there I can tell you**
22 **90 percent of the time if the plumbers and fitters**
23 **took it off, we were going to have to take a little**
24 **more off because they weren't going to take it off**

1 **just right to where we could patch it right.**

2 Q. Sure.

3 A. But it wouldn't necessarily be a lot. It
4 would just be enough to where we can patch it and
5 make it look all right.

6 Q. Okay. And you have no personal knowledge
7 who would have installed or applied that old
8 material before --

9 A. No.

10 Q. -- you removed it; is that right?

11 A. No.

12 Q. And do you have any personal knowledge
13 that any of the old insulation that Mr. Evans was
14 around being removed contained asbestos?

15 A. Well, I mean, there's no way -- I mean,
16 today you can't tell without testing it, so I mean,
17 there's no way I can know for sure.

18 Q. Okay. Do you recall ever attending an
19 asbestos screening program?

20 A. Asbestos screening program as -- what do
21 you mean?

22 Q. A medical evaluation or screening to
23 determine if you had suffered any adverse results
24 or --

1 **A.** Well, why would you be asking what I did?
2 **I'm not suing you.**

3 **Q.** I'm just asking if you ever attended it.

4 **A.** Well, I'm just wondering why you would ask
5 **that question.**

6 **Q.** I'm just trying to find out if the union
7 ever sponsored anything like that?

8 **A.** Our union, no.

9 MR. HAYES: Okay. I'm almost done,
10 Mr. Lang. Just give me one second.

11 (Brief pause.)

12 Okay. That's all I have, Mr. Lang. Thank
13 you.

14 THE WITNESS: Okay.

15 EXAMINATION

16 BY MR. LUDOLPH:

17 **Q.** Mr. Lang, I'm Mark Ludolph.

18 **A.** Yeah.

19 **Q.** I questioned you a little bit at your
20 prior deposition. I have one other client I was
21 going to ask you about. You've testified quite a
22 bit about some work that you did with Mr. Evans at
23 Clinton Corn and I just want to make sure I've got
24 the time frames correct.

1 I think that, according to the records
2 that were produced and your testimony, you worked
3 with him as a helper in '65 and '66?

4 **A. Right.**

5 Q. And then in '69 and '70?

6 **A. Uh-huh.**

7 Q. Does that sound right?

8 **A. We had a couple of weeks in, too, but I**
9 **don't think there was anything with Clinton when I**
10 **came back.**

11 MR. COHN: Are you asking Clinton
12 specifically?

13 MR. LUDOLPH: Clinton specifically, yes.

14 THE WITNESS: I don't think there was
15 anything -- when I had come home on leave, I don't
16 believe there was anything going on at Clinton Corn
17 any of those times. So I think that would be the
18 time frames that -- and, actually, after I got out
19 of the Service, it seemed that was the biggest on
20 the time sheets where we had the most -- where we
21 were there for such a long period of time.

22 BY MR. LUDOLPH:

23 Q. And is it correct that you were a helper
24 for Mr. Evans the entire time you worked with him

1 at Clinton Corn?

2 A. Well, you know, that's what they called
3 them when you first started out. Like I just
4 testified, it took six months before you could
5 apply to get into the union, and at that time, you
6 became an apprentice, then they gave you credit for
7 the time. So I was an apprentice -- the first six
8 months I was a helper, then I was an apprentice.
9 But I was an apprentice during all that time, yes.

10 Q. You were never with Mr. Evans at Clinton
11 Corn once you became a journeyman; is that correct?

12 A. I sure don't remember being back there.
13 No, I don't think so.

14 Q. And all the times that you worked -- you
15 recall working with Mr. Evans at Clinton Corn, you
16 were working for Iowa-Illinois Insulation?

17 A. Right.

18 Q. And when you were working on those jobs at
19 Clinton Corn, were the insulating materials used on
20 that supplied by your employer?

21 A. To the best of my recollection -- I tried
22 to remember if we had, because when we really were
23 up there for a long period of time, I vaguely
24 remember they had like a maintenance shop there and

1 it seemed like we had material stored over there,
2 but I'm sure the material came from us, that we
3 brought it in.

4 Q. You had mentioned, I think, in your last
5 testimony that sometimes on maintenance jobs you
6 might use material that was kept at the various job
7 sites?

8 A. Yeah, if you had a place that they would
9 let you keep your materials, you know.

10 Q. But those insulation materials, to your
11 knowledge, were those originally supplied to those
12 job sites by Iowa-Illinois?

13 A. I would assume, yeah, because if they had
14 the contract, they're going to want to save the
15 materials.

16 Q. Okay. You talked a little about the
17 different plants that were out at Clinton Corn and
18 I think you identified a sugar plant?

19 A. Well, I'm not positive of a sugar plant.
20 I remember syrup and I remember the alcohol. I
21 remember the -- that's the one I told you blew up
22 there on --

23 Q. I think you said a starch plant.

24 A. Yeah. That was nasty, the starch plant.

1 **I'll never forget it.**

2 Q. Do you know which one of those plants you
3 would have spent most of your time in with
4 Mr. Evans?

5 A. I know we did a pretty good little job in
6 that alcohol plant -- I can't remember the exact
7 amount of time and a lot in that syrup -- because I
8 always had syrup on the bottom of the feet and too
9 much time in that starch -- I came home with a
10 brand-new jacket and a guy came along and cleaned
11 one of the conveyor belts and a hundred pounds of
12 starch was on my coat.

13 Q. You also talked a little about the types
14 of insulation you used. You defined pipe covering,
15 block insulation, and muds at Clinton Corn.

16 Were there any other types of insulation
17 materials you used at Clinton Corn?

18 A. Not that I really recollect. It was
19 almost always -- we might have done a gilsonite job
20 out there. But that wouldn't have had anything to
21 do with -- that's just some stuff you throw on the
22 ground -- on the pipes in the ground.

23 Q. Well, with respect to the pipe covering,
24 you testified that not all the pipe covering you

1 used was asbestos-containing, that some of it might
2 have been fiberglass.

3 **A. Some was fiberglass definitely.**

4 Q. Did you testify that you used some --
5 well, let me ask you, did you also use some rubber
6 insulation on cold water lines and things like
7 that?

8 A. Well, back in that time, I know Armaflex
9 became a big thing. But I don't recall doing any
10 Armaflex back in the early days up there. To tell
11 you the truth, I didn't. I'm not saying it wasn't
12 around and that, but I just don't recall it in the
13 early days. I wish it would have been. Nice
14 insulation.

15 Q. And is it fair to say that generally if it
16 wasn't a hot application, that the insulation --
17 the insulation used wouldn't have contained
18 asbestos?

19 MR. COHN: Objection. Mischaracterizes
20 prior testimony.

21 BY MR. LUDOLPH:

22 Q. It's a bad question anyway. Let me
23 rephrase. Let's talk about piping at the facility.

24 If it wasn't steam or if it wasn't hot

1 water flowing through there, would you use
2 non-asbestos-containing insulation?

3 **A. It probably would have been fiberglass,**
4 **then.**

5 Q. And at Clinton Corn, not all the piping
6 was hot water or steam, was it?

7 **A. No.**

8 Q. Can you give a breakdown of what
9 percentage might have been --

10 **A. No. I wouldn't have -- that's way too far**
11 **back on that.**

12 Q. Is it fair to say that you and Mr. Evans
13 would have worked on both types of piping in the
14 facility?

15 **A. Right.**

16 Q. Earlier you were talking about using
17 mineral wool on certain jobs.

18 Do you recall using any mineral wool
19 products at Clinton Corn?

20 **A. I don't. And I can't think of a reason**
21 **why we would have.**

22 Q. During the time you were on the job with
23 Mr. Evans, you would have taken your direction from
24 Mr. Evans, correct?

1 **A. Uh-huh. Yes.**

2 Q. All right. Do you recall the names of any
3 of the -- I think you testified that sometimes
4 Mr. Evans would deal with the engineers from
5 Clinton Corn about various projects?

6 **A. I mean, I recall him talking to people**
7 **from Clinton Corn, but I couldn't give you any**
8 **names or anything like that.**

9 Q. That was the next question.
10 Do you ever recall seeing any
11 specifications for any of the insulation work that
12 you did at Clinton Corn with Mr. Evans?

13 **A. No.**

14 MR. LUDOLPH: I think that's all the
15 questions I have for you. Thank you very much.

16 MR. COHN: Anyone else?

17 EXAMINATION

18 BY MS. FELKINS:

19 Q. Hi, Mr. Lang.

20 **A. Hi.**

21 Q. My name is Jill Felkins. We spoke a
22 couple of weeks ago about your work with Mr. Evans
23 at the Riverside and Alcoa facilities.

24 **A. Uh-huh.**

1 Q. You mentioned, after I had already spoken
2 with you, that you may have worked on a Riley
3 Stoker boiler at the Riverside facility.

4 Do you remember that testimony?

5 **A. I said it could have been a Riley Stoker.**
6 **I mean, I'm not accusing it of being a Riley**
7 **Stoker.**

8 Q. Okay. Do you remember where in the
9 Riverside facility that boiler would have been
10 located?

11 **A. No.**

12 Q. Okay. Do you know when it would have been
13 installed?

14 **A. Before I was born, probably.**

15 Q. Okay. And you testified that you had been
16 doing some patching work on that boiler, I think?

17 **A. Yeah, the things I recall doing out there.**
18 **And one time on a turbine deal, I was with John**
19 **there and --**

20 Q. I just want to focus on the boiler work
21 for today.

22 No one at Riverside would have been
23 instructing you how to do that patching work on
24 that boiler; is that correct?

1 A. Not me. And John had been around long
2 enough by then that I'm assuming they wouldn't
3 have had at that time --

4 Q. You don't recall anyone --

5 A. No. John would tell me how to do it and
6 what to do.

7 Q. You don't recall anyone from Riverside
8 standing over or supervising, watching you guys do
9 that work?

10 A. No.

11 MS. FELKINS: Okay. That's all I have.
12 Thank you.

13 THE WITNESS: Okay.

14 EXAMINATION

15 BY MR. COHN:

16 Q. Tom, real quick I want to ask you a couple
17 of follow-up questions, if that's okay, and then
18 we'll get you out of here.

19 Mr. Hayes, counsel for Iowa-Illinois, was
20 asking you some questions about union safety
21 meetings, and I may have asked you this last week
22 and I just want to clarify it for the record.

23 Do you ever recall any safety meetings at
24 Iowa-Illinois, employee safety meetings?

1 MR. HAYES: I would object to asked and
2 answered.

3 BY MR. COHN:

4 Q. You can answer.

5 A. Back in those days, no.

6 Q. When you say "back in those days," we're
7 talking about '65 to '70 time frame?

8 A. Right. I'm talking in that era there,
9 yeah.

10 Q. Okay. You were asked a couple of
11 questions a while ago about steam lines and high
12 heat lines at these chemical plants or corn
13 by-product plants, Clinton Corn, Monsanto, any of
14 those types of facilities.

15 Were there also chemical lines or highly
16 corrosive material lines that needed to be
17 insulated by Iowa-Illinois insulators?

18 A. Oh, yeah.

19 Q. When you've got a highly corrosive
20 material running through a line, do you recall what
21 type of insulation would generally go on those
22 types of lines?

23 A. I'm trying to think.

24 At that time -- I'm trying to think. The

1 insulations had changed so much that I couldn't
2 really tell you back in those days what they were
3 putting on them. Later on, they came up with
4 sugar.

5 Q. Do you have any recollection on, for
6 example, an acid line what type of insulation you
7 would generally put on in that time frame?

8 A. Not really. Not really. And I remember
9 doing an acid tank with John, and I can't recall
10 what we were putting on. The only reason I know it
11 was an acid tank, there happened to be a bubble on
12 the side of the tank and he decided to hit it with
13 his hand and he went -- it was acid and there was a
14 leak in the tank.

15 Q. Do you remember where that tank was?

16 A. Truthfully, no. I'm not going to accuse
17 anybody of that one. I'd be trying to guess.

18 Q. No problem.

19 Going back to -- Mr. Hayes was asking you
20 about the JM cements. He asked you about the 301
21 cement.

22 Do you remember another JM cement, 352?

23 A. Now that you mention it, I recall that
24 number, but I can't recall what that cement was

1 **supposed to do.**

2 **Was that along the blue mud side?**

3 Q. I'm not sure. I'm just wondering if
4 you're familiar with the 352 and whether that was a
5 cement that you used during your time in working
6 with John?

7 A. Well, I'm just trying to remember if maybe
8 that's what we called blue mud -- with the blue mud
9 number, because the number is familiar when you say
10 it. But, you know, like I told him, we got so used
11 to saying one-coat -- oh, we're going to one-coat
12 this or we're going to blue-mud this or we're going
13 to -- you know.

14 Q. Okay. I understand, but I'm just asking
15 what you remember.

16 You mentioned earlier something along the
17 lines of you used a lot of 301 with Illinois-Iowa
18 and that you recall that 301 would have come
19 from -- would have been supplied by II.

20 Was the JM asbestos cements that were
21 used, were those generally during your time frame
22 working with John Evans supplied by Illinois-Iowa?

23 A. Well, I mean, yeah, they would come out of
24 our warehouse, yeah.

1 Q. Do you know whether Iowa-Illinois was a
2 distributor for the area of Johns Manville asbestos
3 cement products?

4 A. I think they were the distributor for all
5 of Johns Manville in this area at that time.

6 Q. Do you know whether that distribution
7 included the Illinois side of the river as well?

8 A. Oh, I'm sure whatever their jurisdiction
9 area was, because I think Taylor had the
10 Owens Corning distribution.

11 Q. So is it your recollection that during
12 that time period -- well, strike that.

13 When you say Iowa-Illinois had the JM or
14 Johns Manville distribution for the entire area, do
15 you know how long that lasted or into what time
16 period they had that distribution?

17 A. A long time. But I couldn't tell you when
18 that -- they still may have some type of franchise
19 with them. I don't know. I don't think they do,
20 but I'm not sure. I couldn't tell you when that
21 would have ended.

22 Q. Sure.

23 Is it your belief that based on that
24 agreement, if a JM or Johns Mansville asbestos

1 cement product was sold in this area for a
2 project -- a large insulation project, would it
3 have come from Iowa-Illinois?

4 MR. HAYES: Let me just object to the
5 characterization of whatever he's talking about as
6 an agreement.

7 BY MR. COHN:

8 Q. You just testified, Tom, that you believe
9 that there was some sort of franchise agreement,
10 right?

11 A. Well, I think they had the franchise in
12 the area where you could buy the product out of the
13 warehouse. But I mean, I would have to think --
14 but now that's speculation on my part -- on big
15 jobs.

16 Q. And I don't want you to speculate.

17 A. It would probably be shipped directly to
18 that job rather than -- you know, they had a big
19 warehouse, but it was only so big.

20 Q. And then you indicated that Taylor
21 Insulation, you said, had what you believe was an
22 agreement with Owens Corning?

23 A. If you wanted Owens Corning, you went to
24 Taylor. If you wanted Johns Manville, you went to

1 **Iowa-Illinois back in those days.**

2 MR. COHN: Okay. I don't have anything
3 else, Tom. Thanks.

4 FURTHER EXAMINATION

5 BY MR. HAYES:

6 Q. Mr. Lang, just a couple of questions
7 following up on that.

8 There were other insulation contractors in
9 the Quad Cities besides Iowa-Illinois and Taylor;
10 is that right?

11 A. Yeah. But they didn't get much of the
12 action back in those days. Those two had it pretty
13 well cut up between the two of them.

14 Q. All right. What were some of the other
15 insulation contractors that worked in the area?

16 A. I think it was still -- Economy Roofing
17 still had a -- in those days had a small shop.
18 Tom Taylor actually came from Economy Roofing. He
19 ran their insulation and then he went on his own.

20 Actually, at that time -- it's hard for me
21 to say. It would probably have to be -- I don't
22 know if AC&S was in existence back then, out of
23 Peoria, or -- I'm telling you, them two really had
24 this area chopped up for a long time. That's when

1 **it was busy around here.**

2 Q. And if someone wanted to buy insulation
3 materials for whatever reason, they could go
4 elsewhere besides Iowa-Illinois or Taylor, though,
5 in the Quad Cities area; is that right?

6 A. **Oh, I'm sure there's places they can go,**
7 **yeah.**

8 MR. HAYES: All right. That's all I have.
9 Thank you.

10 MR. COHN: I don't have anything else.
11 Anyone else? Anyone on the phone?

12 (No verbal response.)

13 All right. I guess that will conclude
14 your deposition, Tom. We appreciate your time.

15 THE REPORTER: Signature?

16 MR. COHN: Tom, you have an opportunity to
17 read and review the transcript, or you can waive
18 your right and say you'll waive signature. Really,
19 when you read and review, it's just for spelling
20 and that type of information. We can't change the
21 substance of your testimony. But it's your choice.

22 THE WITNESS: I'll waive reading it.

23 AND FURTHER, DEPONENT SAITH NOT...

24

1 STATE OF ILLINOIS)

2)

3 COUNTY OF KANE)

4

5

6 CERTIFICATE

7

8 I, Maria E. Shockey, Certified Shorthand

9 Reporter for the State of Illinois, do hereby

10 certify that there came before me at 200 East

11 3rd Street, Davenport, Iowa.

12

13 THOMAS LANG

14

15 who was by me first duly sworn to testify to the

16 truth and nothing but the truth of all knowledge

17 touching and concerning the matters in controversy

18 in cause; that the witness was thereupon carefully

19 examined under oath and said examination was

20 reduced to writing by me; and that this deposition

21 is a true and correct record of the testimony given

22 by the witness.

23 I further certify that I am neither

24 attorney nor counsel for nor related nor employed

1 by any of the parties to the action in which this
2 deposition is taken; further, that I am not a
3 relative or employee of any attorney or counsel
4 employed by the parties hereto or financially
5 interested in this action.

6

7 Signed this 23rd of August 2011.

8

9

10 [CERTIFIED SHORTHAND REPORTER]

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20

21

22

23

24

A

accurate 18:18
accuse 50:16
accusing 47:6
acid 50:6,9
 50:11,13
action 54:12
 57:1,5
active 14:24
actual 20:3
AC&S 54:22
Adams 4:20
added 27:16
adequate 25:24
Administrator 1:4 3:4
adverse 38:23
agent 18:12
ago 31:20
 33:17 35:10
 35:16 36:18
 46:22 49:11
agree 33:22
agreement 52:24 53:6
 53:9,22
all 1:9 3:9
Alcoa 7:6
 46:23
alcohol 42:20
 43:6
ALLEN 4:20
Alton 4:4
Ameren 4:11
AmerenUE 4:11
America 7:15
amount 43:7
ANGELIDES 4:2
answer 11:1
 25:8 49:4
answered 10:23 49:2
answering 18:4
anybody 50:17
anyplace 16:1
anyway 26:21
 44:22
Appeared 4:6
 4:10,16,23

5:5,11,16
 5:22 6:6,11
 6:17,23 7:6
 7:12,19
application 44:16
applied 33:24
 38:7
apply 16:24
 41:5
appreciate 55:14
apprentice 14:4 41:6,7
 41:8,9
area 52:2,5,9
 52:14 53:1
 53:12 54:15
 54:24 55:5
argue 18:16
Armaflex 44:8
 44:10
arrived 35:17
 36:20,22
asbestos 18:20 28:12
 28:16,17
 33:4 38:14
 38:19,20
 44:18 51:20
 52:2,24
asbestos-c... 23:3 44:1
asked 10:23
 48:21 49:1
 49:10 50:20
asking 18:2
 39:1,3
 40:11 48:20
 50:19 51:14
assume 25:9
 31:1 42:13
assumed 36:2
assuming 18:4
 48:2
assumption 25:11
attend 15:2
attended 16:14 17:9
 18:22 39:3
attending

38:18
attention 18:1
attorney 34:5
 35:23 56:24
 57:3
August 1:16
 3:14 57:7
Avenue 5:13
aware 28:10
a.m 3:15,15
A.W 1:8 3:8

B

B 5:10
back 18:15
 19:16,17,20
 20:6,12
 21:17 22:4
 22:5 24:24
 26:19 34:14
 40:10 41:12
 44:8,10
 45:11 49:5
 49:6 50:2
 50:19 54:1
 54:12,22
bad 44:22
bag 27:2,24
bags 27:22
Bank 7:15
BARNERD 4:2
based 52:23
basically 28:6
beating 21:18
behalf 1:15
 3:13 4:6,10
 4:16,23 5:5
 5:11,16,22
 6:6,11,17
 6:23 7:6,12
 7:19
BEHNEN 6:16
behoove 26:17
belabor 27:20
belief 52:23
believe 9:1
 11:23,24
 12:12 15:17
 28:13 40:16
 53:8,21

belts 43:11
best 13:10
 14:6,14
 21:3 32:14
 33:10 37:4
 37:7 41:21
better 17:14
 29:11
big 8:17 21:1
 27:15 44:9
 53:14,18,19
biggest 40:19
bit 14:22
 17:4 33:16
 39:19,22
BLACKWELL 5:2
blanket 28:17
blew 42:21
block 23:7
 24:1 29:4
 29:16 30:6
 30:12 31:22
 32:6 33:2
 33:12 43:15
block-type 24:14
blue 10:4
 19:11 27:9
 27:10 28:22
 29:10 51:2
 51:8,8
blue-mud 51:12
boiler 47:3,9
 47:16,20,24
boots 19:10
Borg-Warner 4:17,17
born 47:14
bottom 30:4
 43:8
boy 16:19
 18:10
brand 10:6,8
 10:11
brands 9:20
brand-new 43:10
breakdown 45:8
BRIDDICK 4:9
brief 8:11

39:11
bring 18:6
bringing 18:7
Broadway 4:13
 7:16
brought 42:3
BROWDER 4:2
Bryan 7:17
 8:6
bubble 50:11
building 20:9
buildings 36:10
built 8:23
BURNS 6:8
bus 21:16
 22:1
business 18:12
busy 55:1
buy 53:12
 55:2
by-product 49:13

C

c 1:3 3:3 4:1
 5:1 6:1,16
 6:21 7:1,10
CALEB 4:15
call 17:21
 18:13 28:5
called 8:2,7
 41:2 51:8
Calls 14:11
 25:5 34:2
canvas 31:12
car 15:20
 16:11
care 33:8
career 34:9
carefully 56:18
Carondelet 5:3
Case 1:7 3:7
Cat 8:14,16
 8:16,22
 9:13
category 13:19
Caterpillar

7:19 8:7,21
 9:22 10:8
 11:12,20
 12:10
CATHERINE 5:4
cause 56:18
Cedar 15:12
cement 25:19
 50:21,22,24
 51:5 52:3
 53:1
cements 25:17
 28:10 29:6
 50:20 51:20
certain 45:17
certainly
 24:21
CERTIFICATE
 56:6
Certified
 56:8 57:10
certify 56:10
 56:23
change 55:20
changed 8:13
 50:1
characteri...
 53:5
chemical
 32:10 49:12
 49:15
CHESTERTON
 1:8 3:8
Chicago 5:19
 6:9,20 7:3
 7:9
choice 25:4
 55:21
chopped 54:24
CIRCUIT 1:1,1
 3:1,1
Cities 15:10
 54:9 55:5
clarify 13:2
 18:18 26:8
 32:2 48:22
cleaned 43:10
clear 9:8
Cleaver-Br...
 6:12
client 39:20
Clinton 15:24

39:23 40:9
 40:11,13,16
 41:1,10,15
 41:19 42:17
 43:15,17
 45:5,19
 46:5,7,12
 49:13
coat 27:10
 29:9 43:12
Cohn 2:8 4:5
 10:23 12:16
 14:11 25:5
 40:11 44:19
 46:16 48:15
 49:3 53:7
 54:2 55:10
 55:16
cold 25:24
 44:6
come 12:20
 26:3,18
 30:13 40:15
 51:18,23
 53:3
coming 23:18
 27:21,23
 30:15 31:14
common 18:13
company 4:11
 4:11,18 5:6
 5:17 6:6,18
 6:23 7:6,7
 7:12 8:7
 20:16 22:3
 25:2
compound 9:20
concerning
 56:17
conclude
 55:13
conclusion
 14:12
confused
 26:22
consider 14:7
considered
 14:4
construction
 11:21
contain 28:11
 33:4

contained
 38:14 44:17
continually
 31:19
continued
 3:12 5:1
 6:1 7:1
 13:23
contract
 34:21 42:14
Contracting
 5:23
contractors
 54:8,15
controversy
 56:17
conveyor
 43:11
convinced
 24:18
corduroy
 19:11
COREY 5:15
corn 15:24
 39:23 40:16
 41:1,11,15
 41:19 42:17
 43:15,17
 45:5,19
 46:5,7,12
 49:12,13
Corning 52:10
 53:22,23
Corporation
 4:17,24 5:6
 6:12
correct 9:23
 10:14,15,17
 10:22 11:8
 11:14 12:2
 39:24 40:23
 41:11 45:24
 47:24 56:21
corrosive
 49:16,19
counsel 48:19
 56:24 57:3
COUNTY 1:2
 3:2 56:3
couple 17:7
 33:17 35:10
 40:8 46:22

48:16 49:10
 54:6
Court 1:1 3:1
 4:3
covering 23:7
 29:16,23
 30:1 31:21
 32:5 33:2
 33:12 43:14
 43:23,24
cracks 30:13
 32:10
Crane 5:11
 6:12
CREBS 4:13
credit 41:6
CSR 1:18 3:17
cut 34:11
 54:13

D

D 2:1 4:15
damaging
 33:14
Davenport
 3:17 5:9
 9:13 56:11
day 3:16 22:9
 26:19 29:14
days 10:3
 18:15 19:16
 19:20 33:8
 34:14 44:10
 44:13 49:5
 49:6 50:2
 54:1,12,17
de 5:17
deal 21:16,23
 33:9 46:4
 47:18
Deceased 1:5
 3:5
decided 50:12
decision
 33:23
Deere 6:23
 16:2,3
Defendant 5:5
 5:11,16 6:6
 6:18,23
 7:19
Defendants

1:10,15
 3:10,14
 4:11,17,23
 5:22 6:12
 7:6,12
DEFENSE 34:5
 35:23
defined 43:14
definitely
 20:19 44:3
demand 17:14
depended
 23:23
depending
 34:20
DEPONENT
 55:23
deposeth 8:3
deposition
 1:13 3:12
 22:9 29:15
 39:20 55:14
 56:20 57:2
determine
 38:23
DICKENSON 5:4
dictated
 19:12
dictating
 32:9
different
 13:19 22:8
 25:17 26:10
 26:11 27:1
 27:21 42:17
direction
 45:23
directions
 10:21 35:11
directly
 53:17
DISCOVERY
 1:13 3:12
discuss 17:20
discussed
 16:15 17:8
 36:17
discussing
 18:19
discussions
 36:8
distinction

13:15
distribution
 52:6,10,14
 52:16
distributor
 52:2,4
doing 11:10
 12:4 20:21
 30:3 34:15
 36:5 44:9
 47:16,17
 50:9
doubt 24:23
drag 36:3
drive 6:20
 7:3,9 15:19
 15:23,24
driven 21:13
dry 34:11
du 5:17
Dubuque 16:2
duly 8:3
 56:15
d/b/a 4:11

E

E 1:18 2:1
 3:17 4:1,1
 5:1,1 6:1,1
 7:1,1 56:8
earlier 45:16
 51:16
early 18:23
 20:8,23
 44:10,13
easier 31:22
East 3:16
 56:10
Economy 54:16
 54:18
Edwardsville
 4:8
effective
 24:18
either 19:11
 35:11
elbow 25:21
 26:16
elbows 9:5,13
 9:16,21
 25:23
Electric 4:11

employed
 56:24 57:4
employee 11:7
 11:13 14:8
 20:15 35:13
 48:24 57:3
employees
 13:16 32:7
 33:13
employer
 41:20
ended 52:21
ends 29:20
Energy 7:6
engineers
 46:4
entire 40:24
 52:14
entities
 12:23
equipment
 21:10
era 20:3
 21:21 28:20
 49:8

eras 19:3
especially
 32:15 34:7
established
 35:9
Estate 1:5
 3:5
et 1:9 3:9
evaluation
 38:22
Evans 1:3,5
 3:3,5 8:20
 9:14 11:21
 12:10,11
 13:7,11,19
 14:7,24
 15:8,15,19
 16:12 20:1
 22:10,13
 35:11,17
 36:8,14,19
 37:11 38:13
 39:22 40:24
 41:10,15
 43:4 45:12
 45:23,24
 46:4,12,22

51:22
everybody
 19:18 21:1
 21:24
exact 21:19
 43:6
exactly 8:24
examination
 2:4,5,6,7,8
 8:4 12:18
 39:15 46:17
 48:14 54:4
 56:19
examined 3:13
 56:19
example 50:6
EXHIBITS 2:15
existence
 54:22
experience
 14:23 17:5
 32:13
extra 27:12
extreme 26:7
extremely
 26:2
E.I 5:17

F

facilities
 46:23 49:14
facility 8:21
 9:14,22
 11:12 12:10
 44:23 45:14
 47:3,9
fact 34:8
 35:17
fair 8:18
 10:5,9
 12:10 22:12
 24:20 25:1
 33:22 34:6
 44:15 45:12
fairly 8:11
fall 18:10
familiar 51:4
 51:9
famous 20:4
FANNING 6:10
far 10:21
 45:10
faster 24:15
FAX 4:4,9,14
 4:21 5:4,9
 5:14,20 6:4
 6:9,15,21
 7:4,10,17
feet 43:8
Felkins 2:7
 7:4 34:4
 35:21 46:18
 46:21 48:11
fiberglass
 23:3,10,10
 23:18,21
 24:3,4,8,21
 25:3 29:16
 29:22 30:6
 30:10,11
 32:1,18
 44:2,3 45:3
fiberglass...
 9:3
fill 12:1
 30:14
financially
 57:4
find 27:1
 39:6
FINGERSH 5:13
finish 25:22
 26:6 27:10
 27:19 28:23
 30:7
finishing
 28:11
first 13:2
 16:23 20:7
 23:8 31:3
 41:3,7
 56:15
fitters 37:22
five 32:18
floor 4:13
 7:16 20:11
Floors 7:12
flowing 45:1
focus 17:24
 18:24 47:20
followed
 34:17
following
 54:7

follows 8:3
follow-up
 48:17
Foods 4:23
foreman 11:16
 12:4 13:20
 14:17 34:17
 35:12,13,18
 36:9
forget 43:1
four 32:18
Fourth 6:14
four-inch
 35:6
frame 13:6
 14:9 15:1
 49:7 50:7
 51:21
frames 39:24
 40:18
franchise
 52:18 53:9
 53:11
Friday 15:3,5
further 54:4
 55:23 56:23
 57:2
future 31:14
f/k/a 4:11
 5:6

G

Gasket 6:6
generally
 16:6 17:10
 44:15 49:21
 50:7 51:21
getting 20:11
 23:11 35:5
 35:6
GIANARIS 4:2
gilsonite
 43:19
give 20:20
 22:16 27:16
 34:21 36:24
 39:10 45:8
 46:7
given 10:20
 34:23 56:21
glass 27:18
Global 4:23

17:21 18:13	32:15	44:16, 24	47:23	13:4, 8, 11
18:16 22:19	hat 19:19, 22	45:6	instructions	13:15 14:8
23:24 26:2	19:24	hours 3:15	11:7	19:4, 9, 13
26:20 27:10	hate 27:20	huge 14:1	insulated	19:19 20:4
31:15 35:18	hats 19:18	hundred 43:11	49:17	20:14 21:11
49:21 55:3	20:2, 15	HUSCH 5:2	insulating	25:2 35:12
55:6	21:2	H.J 7:7	25:19 28:11	35:18 36:9
God 17:21	HAWKINS 4:15		41:19	37:5 41:16
goes 24:15	Hayes 2:5	I	insulation	42:12 48:19
going 12:20	5:20 12:19	idea 36:16	5:22, 23	48:24 49:17
15:6 20:7	12:22 14:13	identified	7:13 13:4, 8	52:1, 13
23:24 24:12	25:7 34:16	22:2 42:18	13:12 24:15	53:3 54:1, 9
24:19 26:18	36:6 39:9	II 1:12 51:19	27:13, 16	55:4
26:19, 20	48:19 49:1	IIT 19:19	32:15 36:20	Island 20:11
29:8, 10, 12	50:19 53:4	Illinois 1:2	37:1, 12, 15	issue 19:14
30:6, 24	54:5 55:8	1:19 3:2	38:13 41:16	29:5
31:7, 13, 15	hazards 17:10	4:4, 8, 21	42:10 43:14	itch 24:23
32:19, 21	18:20	5:19 6:9, 20	43:15, 16	It'd 22:18
33:6, 7 36:4	hear 8:9	7:3, 9 22:6	44:6, 14, 16	
37:23, 24	heard 28:15	22:11, 20, 21	44:17 45:2	J
39:21 40:16	28:18	52:7 56:1, 9	46:11 49:21	jacket 43:10
42:14 50:16	heat 25:24	Illinois-Iowa	50:6 53:2	jacketing
50:19 51:11	26:7 33:8	51:17, 22	53:21 54:8	31:1, 17
51:12, 12	49:12	IMO 4:23	54:15, 19	jeans 19:11
good 21:17	heavier 23:9	inches 26:18	55:2	Jill 7:4
27:13 43:5	Heinz 7:7	included 52:7	insulations	46:21
Grain 6:18	HELEN 6:10	inclusive	50:1	JM 50:20, 22
Greene 7:12	help 14:2	12:8	insulator	51:20 52:13
ground 43:22	helper 40:3	Incorporated	21:6 24:20	52:24
43:22	40:23 41:8	8:8	insulators	job 11:16
Group 7:13, 13	HEPLERBROOM	indicated	13:17 19:4	15:18, 22
guess 9:9	4:7	53:20	27:5 49:17	16:12 17:10
22:17, 18	hereto 57:4	indicating	interest	19:8, 23
50:17 55:13	HERZOG 4:13	27:18	32:14	20:17 21:13
guy 43:10	HEYL 4:20	Individually	interested	22:8, 13
guys 14:1	Hi 46:19, 20	1:4 3:4	57:5	23:4 24:17
15:9 35:17	high 22:23	individuals	interesting	29:1 33:18
48:8	49:11	32:6	16:20	33:19, 24
	higher 22:20	Industries	involved 31:9	34:1, 13, 22
H	22:24 23:12	4:23	33:20 34:8	35:13, 20
hall 13:18, 21	highly 49:15	industry	36:19	36:1, 20
14:3 19:5	49:19	24:11, 17	in-town 16:4	37:12, 15
hand 50:13	high-temp	information	Iowa 3:17 5:9	42:6, 12
happened 9:6	26:3 27:14	55:20	9:13 22:14	43:5, 19
50:11	29:3	inkling 11:19	22:21, 22	45:22 53:18
happening	hired 13:17	input 33:21	56:11	jobs 11:10, 14
20:20	hit 50:12	installed	Iowa-Illinois	16:4, 6
hard 31:21	hold 25:24	29:16 33:24	5:22, 22	33:13 34:10
32:5 33:2	home 40:15	38:7 47:13	10:10, 13, 16	34:11 41:18
33:11 54:20	43:9	instance	10:20 11:8	42:5 45:17
HARDIN 6:19	hot 23:24	32:10	11:13 12:23	53:15
hard-type	30:15 33:5	instructing	12:24 13:3	John 1:3, 5

3:3,5 6:12
 12:11 13:19
 14:7 15:8
 37:11 47:18
 48:1,5 50:9
 51:6,22
Johns 25:18
 26:23,24
 30:19 52:2
 52:5,14,24
 53:24
John's 11:3
join 34:4,5
 35:23
joints 9:13
 9:21
journeyman
 41:11
journeymen
 15:10
JUDICIAL 1:1
 3:1
jurisdiction
 14:16 52:8
J-M 4:18

K

K 7:17
KANE 56:3
Kaylo 28:6
keep 42:9
KELLEY 6:21
Kentile 7:12
kept 24:19
 42:6
kind 20:4
 22:2 33:20
kinds 25:17
know 10:1,8
 11:17 14:24
 15:15 17:11
 17:12 22:10
 24:12,13
 25:1,8,11
 25:12,12,14
 26:13,14,15
 28:4 33:4
 34:14,22,24
 36:13 37:21
 38:17 41:2
 42:9 43:2,5
 44:8 47:12

50:10 51:10
 51:13 52:1
 52:6,15,19
 53:18 54:22
knowledge
 11:6 13:10
 14:6,14
 21:3 33:10
 37:4,7 38:6
 38:12 42:11
 56:16
Kraft 4:23

L

Lamons 6:6
LANE 5:8
Lang 1:14 2:2
 3:13 8:1,6
 12:20 23:1
 39:10,12,17
 46:19 54:6
 56:13
large 53:2
LaSalle 5:19
 6:8
lasted 52:15
law 22:5
layer 26:5
leak 50:14
learned 16:13
 32:14
leave 40:15
LEE 6:2
legal 14:11
LESLIE 7:10
Let's 44:23
LEWIS 5:13
License 1:19
line 32:20
 35:5,6
 49:20 50:6
lines 17:13
 27:15 32:20
 32:21 44:6
 49:11,12,15
 49:16,22
 51:17
list 12:7
little 9:2
 14:22 17:4
 23:9,15
 26:22 33:16

37:23 39:19
 42:16 43:5
 43:13
Local 14:15
 14:16
located 47:10
logo 19:22
logos 19:14
 20:16 22:2
long 40:21
 41:23 48:1
 52:15,17
 54:24
look 27:12,17
 29:20 38:5
looked 27:16
looks 18:10
 21:15
lost 25:13
lot 22:8
 27:13 36:21
 38:3 43:7
 51:17
Louis 4:14
 5:3,14 6:3
 6:15 7:13
 7:16
Ludolph 2:6
 4:22 34:2
 39:16,17
 40:13,22
 44:21 46:14
lying 20:18
 20:24
L.C 5:13
L.L.C 4:3,7
 6:8 7:15
L.L.P 4:13
 5:2,8 6:19

M

M 5:4,15 6:4
 7:4
MADISON 1:2
 3:2
MAGINOT 6:4
MAHONEY 7:2,8
main 4:8 5:8
 20:10 21:21
maintenance
 41:24 42:5
management

14:20
Mansville
 52:24
Manufacturing
 4:18
Manville 10:1
 25:18 26:23
 26:24 30:19
 52:2,5,14
 53:24
Maria 1:18
 3:17 56:8
Mark 4:22
 39:17
MARKED 2:15
Market 6:3
material 33:3
 35:4 38:8
 42:1,2,6
 49:16,20
materials
 23:2,3
 33:19 41:19
 42:9,10,15
 43:17 55:3
matters 56:17
Mauler 2:4
 7:17 8:5,6
 11:5 12:12
McCAMBRIDGE
 7:2,8
McCOY 7:10
McKENNA 5:18
McMONAGLE
 5:10
mean 13:3
 15:8 22:21
 23:22 24:10
 24:11 25:10
 25:22 31:1
 31:8 33:5
 35:24 37:16
 38:15,15,16
 38:21 46:6
 47:6 51:23
 53:13
meant 32:3
medical 38:22
meet 16:5
meeting 16:20
 18:8
meetings 15:2

15:11 16:14
 17:1,9
 18:21 48:21
 48:23,24
memory 17:6
mention 33:20
 50:23
mentioned
 24:6,7 26:9
 29:15 30:23
 31:20 36:18
 42:4 47:1
 51:16
metal 30:24
 31:1,12,15
 31:17 32:16
MidAmerican
 7:6
MILLER 6:8
mind 27:23
 30:22
mineral 28:14
 28:17,24
 45:17,18
minute 15:4
 31:20
Mischaract...
 10:24 35:21
 44:19
Missouri 4:11
 4:14 5:3,14
 6:3,15 7:16
money 25:13
Monsanto 5:6
 49:13
months 16:23
 16:23 41:4
 41:8
morning 3:15
 3:16 35:10
Morse 4:17
mud 9:24 10:2
 10:4,6,14
 25:16 26:3
 26:18 27:6
 27:9,10
 28:14,24
 29:10 30:14
 31:18 51:2
 51:8,8
muddled 30:7
mudding 9:5

9:12 30:4
muds 27:8
 28:22, 23
 29:6 30:19
 30:24 43:15
Muscatine
 16:2

N

N 2:1 4:1 5:1
 6:1 7:1
name 8:6
 12:22 20:16
 26:3 27:4
 46:21
names 9:20
 22:7 46:2, 8
nasty 42:24
necessarily
 27:9 35:24
 38:3
necessary
 24:2
needed 14:2
 49:16
neither 56:23
NELSEN 6:2
Nemours 5:17
never 10:12
 19:24 28:15
 29:7, 10
 41:10 43:1
new 8:22
 11:21, 23
newly 8:23
nice 27:12
 44:13
nicer 27:17
NICOLE 6:16
nights 15:3
non-asbest...
 45:2
North 4:8, 13
 5:8, 19 7:16
Notary 3:18
notorious
 19:18
no-itch 24:24
number 12:24
 50:24 51:9
 51:9

O

oath 56:19
object 49:1
 53:4
Objection
 10:23 14:11
 25:5 34:2
 35:21 44:19
occasion
 16:12 37:10
occasions
 16:10
office 20:9
 35:4
officer 15:16
oh 14:19 21:5
 23:18 24:23
 29:2 37:2
 49:18 51:11
 52:8 55:6
okay 8:9, 11
 8:18 9:8, 10
 9:12, 18
 10:5, 13, 19
 11:6, 17, 24
 12:6, 12
 14:22 15:7
 15:11, 15
 16:10 18:17
 19:4, 13
 22:1, 22
 25:1 26:8
 26:22 27:19
 28:8 30:23
 33:10, 16
 37:4, 9 38:6
 38:18 39:9
 39:12, 14
 42:16 47:8
 47:12, 15
 48:11, 13, 17
 49:10 51:14
 54:2
old 36:19
 37:1, 11, 15
 38:7, 13
once 24:17
 32:16 41:11
one-coat 10:3
 26:6, 9, 11
 26:12, 13, 24
 26:24 27:3

27:6, 7, 11
 27:23 28:3
 29:9, 17, 23
 51:11, 11
One-Coats
 28:22
opportunity
 55:16
opposed 8:14
order 12:1
originally
 42:11
OSHA 17:16
out-of-town
 16:4
oversee 17:17
Owens 52:10
 53:22, 23
owner 32:4
 34:1 35:19
owners 36:10
 36:13
O'CONNELL 6:8

P

P 4:1, 1, 9 5:1
 5:1 6:1, 1
 7:1, 1
PAGE 2:2
paid 12:1
pair 19:10
part 14:4
 20:22, 23
 21:6 23:14
 25:12 36:18
 53:14
particular
 16:20 33:19
parties 57:1
 57:4
patch 38:1, 4
patching
 47:16, 23
patience
 12:14
pause 39:11
people 14:3
 15:10 16:9
 17:14, 17, 18
 18:6 33:3
 46:6
Peoria 4:21

54:23
percent 23:21
 37:3, 22
percentage
 22:16, 20
 23:6 36:24
 45:9
period 10:6
 13:12 18:1
 18:3 19:1, 2
 20:17, 19
 21:12, 20
 40:21 41:23
 52:12, 16
permanent
 13:16 14:4
 14:7
personal 11:6
 38:6, 12
personally
 17:9
PETER 6:4
Pharmacia 5:6
phone 12:17
 55:11
pick 24:4
piece 28:5, 6
pipe 23:6
 29:16, 23
 30:1, 8, 12
 31:21 32:5
 32:10 33:2
 33:11 43:14
 43:23, 24
pipes 43:22
piping 44:23
 45:5, 13
place 42:8
places 32:11
 55:6
Plaintiff 1:6
 3:6 4:6
planning
 26:14
plant 16:3, 3
 17:18 42:18
 42:19, 23, 24
 43:6
plants 32:10
 42:17 43:2
 49:12, 13
Plaza 5:3

plumbers
 37:22
plus 27:16
point 16:24
 23:5, 23
 27:20 30:23
 34:12
POLSINELLI
 6:14
Pont 5:17
position 11:2
 11:3
positive
 42:19
possibly 9:22
 11:12 12:9
potential
 18:20
pounds 43:11
prefer 24:21
preferred
 25:3
premises 32:4
 35:19 36:14
pretty 8:17
 9:16 15:6
 20:8 21:17
 28:1 29:12
 30:22 43:5
 54:12
previously
 8:2
price 25:13
primarily
 10:2
prior 10:24
 39:20 44:20
privy 11:4
 36:7
probably 9:6
 14:3 20:22
 23:14 24:13
 26:17 30:20
 32:13, 19
 45:3 47:14
 53:17 54:21
problem 50:18
problems
 17:19
process 24:16
 36:3
Processing

6:18
produced 3:13
 40:2
product 25:13
 33:23 34:23
 53:1,12
products
 26:10,11
 27:2,21
 45:19 52:3
profit 25:10
program 38:19
 38:20
progressing
 23:13
project 53:2
 53:2
projects 46:5
provided
 10:14,16
providing
 33:21
Public 3:18
purpose 32:6
push 24:9
pushing 17:12
 24:7
put 10:1 24:2
 25:23 26:5
 26:13,17
 29:8,10,17
 29:23 32:5
 34:21 35:1
 50:7
putting 50:3
 50:10
P.C 4:20 6:2
 6:14

Q

Quad 15:10
 54:9 55:5
quarter 24:14
question 39:5
 44:22 46:9
questioned
 39:19
questions
 8:12 12:13
 12:17,24
 46:15 48:17
 48:20 49:11

54:6
quick 48:16
quite 14:2
 21:23 39:21

R

R 4:1 5:1 6:1
 7:1
ran 35:3
 54:19
Randy 4:5
 12:15
Rapids 15:12
read 55:17,19
reading 55:22
ready 18:10
real 13:24
 20:23 23:19
 27:14 29:3
 48:16
really 11:3
 11:18 16:16
 16:19 17:17
 20:21,22
 22:18 24:2
 24:8 33:5
 37:13,20
 41:22 43:18
 50:2,8,8
 54:23 55:18
reason 8:16
 17:3 30:10
 30:21 45:20
 50:10 55:3
reasons 33:11
recall 9:10
 9:12,15
 10:4 16:12
 16:21 18:2
 18:6,19
 19:3 20:1
 21:1,19
 31:3 37:9
 37:14,16,20
 38:18 41:15
 44:9,12
 45:18 46:2
 46:6,10
 47:17 48:4
 48:7,23
 49:20 50:9
 50:23,24

51:18
recollect 9:7
 43:18
recollection
 8:20 9:19
 16:18 20:13
 37:2 41:21
 50:5 52:11
record 48:22
 56:21
records 40:1
redoing 32:20
reduced 56:20
referred 28:3
refresh 16:17
refreshed
 17:7
regard 8:14
 10:7
regarding
 17:10
regardless
 33:6
regular 15:6
related 56:24
relative 57:3
remember 8:22
 11:18 17:8
 19:17,20
 20:4,19
 21:15,22
 22:19 27:21
 30:18 31:23
 35:1 41:12
 41:22,24
 42:20,20,21
 43:6 47:4,8
 50:8,15,22
 51:7,15
removal 37:15
remove 37:11
removed 37:1
 38:10,14
removing
 36:19
RENEE 6:21
repair 11:22
 37:18
rephrase
 44:23
Reported 1:18
Reporter

55:15 56:9
 57:10
represent 8:7
 12:23
representa...
 35:19
representa...
 36:10,14
required 21:8
 22:5
respect 17:5
 21:10 33:1
 43:23
response
 55:12
results 38:23
review 55:17
 55:19
RICE 5:13
riding 16:11
right 12:13
 13:8,13
 14:9,17,20
 17:24 18:22
 19:2 23:7
 23:20 26:3
 29:5,6,18
 30:17 31:16
 33:15 34:15
 34:18,23
 35:14,15,20
 36:7,11,15
 36:22 37:6
 37:18 38:1
 38:1,5,10
 40:4,7
 41:17 45:15
 46:2 49:8
 53:10 54:10
 54:14 55:5
 55:8,13,18
Riley 4:24
 47:2,5,6
river 52:7
Riverside
 46:23 47:3
 47:9,22
 48:7
road 28:16
ROBERT 5:10
Rock 20:11
rode 17:1

Roofing 54:16
 54:18
ROYSTER 4:20
rubber 44:5
ruining 32:17
running 31:11
 34:10 49:20

S

S 4:1,5 5:1
 6:1 7:1
safe 17:21
safety 17:10
 17:12,18,20
 18:3,14
 48:20,23,24
saith 8:3
 55:23
SANDERS 7:15
Saturdays
 15:4
save 42:14
saw 37:10
saying 18:8
 26:23 28:21
 44:11 51:11
scaffolding
 17:14
SCHAECHER
 5:15
SCHIFF 6:19
screening
 38:19,20,22
seam 30:10,12
seaming 30:9
second 39:10
see 17:6,22
 19:17 31:13
 34:15,15
seeing 46:10
SEGAL 7:2,8
sense 18:13
sent 35:4
separate 29:5
SEPCO 6:12
series 30:19
Service 9:2
 20:6 31:6,7
 31:10 40:19
set 34:22
 35:3
sheets 8:19

40:20	so-and-so	state 22:5, 14	32:8 35:8	4:21 5:4, 9
shipped 53:17	18:9	56:1, 9	37:20 38:2	5:14, 20 6:4
shirt 19:11	spec 34:13, 19	stated 32:23	38:17 39:23	6:9, 15, 21
Shockey 1:18	Special 1:4	statement	41:12 42:2	7:4, 10, 17
3:17 56:8	3:4	10:9	51:3 52:8	telephonic...
shop 15:9	specific 9:19	stayed 14:1	52:20, 22	4:10, 16 5:5
41:24 54:17	17:13 20:13	steam 27:15	55:6	5:16 6:6, 11
short 10:12	21:15 37:10	44:24 45:6	surfaces 27:7	6:17, 23
Shorthand	specifically	49:11	switched 15:5	7:19
56:8 57:10	9:10, 12, 15	sticks 30:22	sworn 3:13	tell 8:24 9:9
showed 36:4	10:7 18:2	Stoker 4:24	8:3 56:15	18:12 28:13
shrunk 26:19	21:10 40:12	47:3, 5, 7	syrup 42:20	35:5 37:21
SHUGHART 6:14	40:13	stored 42:1	43:7, 8	38:16 44:10
side 22:21, 21	specificat...	STORER 5:18	S.W 4:20	48:5 50:2
22:22 50:12	33:18 46:11	Street 3:16		52:17, 20
51:2 52:7	specify 33:18	4:3, 8, 20	T	telling 16:13
signature	specs 34:18	5:8, 19 6:3	table 12:21	54:23
55:15, 18	34:22 35:3	6:8, 14	take 26:7	temperature
Signed 57:7	speculate	20:10 56:11	37:17, 19, 23	23:12
SIMMONS 4:2	53:16	strike 52:12	37:24	terms 23:6
SINGER 7:2, 8	speculation	strong 23:19	taken 1:15	32:3 33:23
Sir 12:12	14:12 25:6	stuff 9:5	37:17 45:23	testified
sit 9:18 11:4	34:3 53:14	17:2 22:7	57:2	8:15 11:24
20:14 34:11	speedier	23:12 24:1	talk 44:23	18:17 39:21
37:9	24:16	26:4 28:23	talked 14:22	41:4 43:24
site 16:12	speed-wise	29:3 31:13	16:16 17:4	46:3 47:15
19:8 20:17	25:10	32:11 43:21	17:11 22:8	53:8
33:19, 24	spelling	substance	23:1 25:16	testify 44:4
34:1 35:17	55:19	55:21	25:17 33:16	56:15
36:20 37:12	spent 43:3	Successor-...	35:16 42:16	testimony
37:15	spoke 46:21	4:17	43:13	8:13 10:24
sites 15:18	spoken 47:1	sudden 21:23	talking 11:9	29:21 31:23
15:22 17:10	sponsored	suffered	11:11 26:13	35:22 40:2
19:23 21:13	39:7	38:23	29:6, 19	42:5 44:20
22:9, 13	spot 30:15	sugar 42:18	31:6 45:16	47:4 55:21
23:4 29:1	SR 1:3 3:3	42:19 50:4	46:6 49:7, 8	56:21
32:7 35:13	St 4:14 5:3	suing 39:2	53:5	testing 38:16
42:7, 12	5:14 6:3, 15	Suite 4:20	tank 30:4	Thank 12:14
sitting 35:3	7:13, 16	5:3, 8, 13, 19	50:9, 11, 12	39:12 46:15
six 16:23, 23	standing 48:8	6:3, 8, 14, 20	50:14, 15	48:12 55:9
41:4, 7	starch 42:23	7:3, 9	tanks 29:20	Thanks 12:15
small 54:17	42:24 43:9	supervising	30:3 32:23	54:3
smaller 25:23	43:12	48:8	33:2, 12	Thermal 13:4
smooth 27:7	start 25:22	supplied	taught 16:19	13:8, 12, 16
27:17	26:4 36:5	41:20 42:11	Taylor 5:22	14:8 19:4, 9
sold 53:1	started 20:7	51:19, 22	5:23 14:5	19:13, 19
somebody 18:8	20:21 24:4	supposed 51:1	52:9 53:20	20:14 21:11
28:4 35:5	27:5 30:24	supposedly	53:24 54:9	25:2 35:12
sort 53:9	31:11, 17	26:12	54:18 55:4	36:9 37:6
sound 40:7	36:1 41:3	sure 8:10	tear 37:11	Thermobestos
South 6:8, 14	starting 23:8	15:21 20:3	TEC 4:18	24:1 28:5
6:20 7:3, 9	24:9 31:3	21:7 25:15	TEL 4:4, 9, 14	they'd 14:2

15:5 18:15	14:2,8 15:1	33:1	49:14,22	vs 1:7 3:7
34:21	15:4,5,13	torn 37:5	T-shirt 19:11	VW 22:1
thick 26:15	15:16 17:5	touching	19:21	
35:6,7	17:15 18:1	56:17	T-shirts	W
thickness	18:3,17	Tower 7:15	19:14 20:15	W 5:20
26:16	19:1,2,12	town 16:1		Wacker 6:20
thing 9:3	19:14 20:17	19:18	U	7:3,9
11:4 13:2	20:19 21:12	transcript	ugly 29:13	wait 15:4
17:19 18:10	22:4 23:1	55:17	Uh-huh 40:6	16:23
20:6 21:1,4	23:21 24:6	transferred	46:1,24	waive 55:17
23:16 24:18	24:8,22	14:5	ultimate	55:18,22
28:7 44:9	27:6 28:2,9	tried 34:20	33:23	walk 31:22,24
things 16:15	30:20 31:16	41:21	understand	32:7,12,17
17:13,15,22	31:19,21	trips 32:18	28:8 51:14	32:21 33:3
18:5,14,15	34:8 36:24	truck 21:16	uniform 19:6	33:7,13
24:1 36:17	37:3,22	21:24 22:1	21:8	35:19
44:6 47:17	39:24 40:18	trucking	union 4:11	want 9:8,9
think 10:1	40:20,21,24	21:22	13:17 14:18	13:2 22:17
17:20 19:16	41:5,7,9,23	trucks 21:12	14:23,24	26:8 27:19
19:18 22:4	43:3,7,9	true 56:21	15:2,16	39:23 42:14
22:5,6 23:8	44:8 45:22	trust 24:3	16:14,24	47:20 48:16
23:11,22,23	47:18 48:3	truth 44:11	17:1,8 18:7	48:22 53:16
24:6,18	49:7,24	56:16,16	18:19,21	wanted 17:14
27:4 28:15	50:7 51:5	Truthfully	19:5 39:6,8	17:24 18:18
28:19 40:1	51:21 52:5	50:16	41:5 48:20	21:1 32:2,5
40:9,14,17	52:12,15,17	try 16:17	use 18:13	34:23 53:23
41:13 42:4	54:20,24	26:17	23:12 24:17	53:24 55:2
42:18,23	55:14	trying 12:6	25:3,21	wanting 17:18
45:20 46:3	times 27:14	18:24 26:1	28:24 29:2	warehouse
46:14 47:16	29:14,22	27:1,12	31:3 33:19	20:10 51:24
49:23,24	32:4 35:9	28:13 39:6	42:6 44:5	53:13,19
52:4,9,19	36:23 40:17	49:23,24	45:1	warm 26:2
53:11,13	41:14	50:17 51:7		Washington
54:16	timesheet	tunnel 29:11	V	5:13
thinking 9:1	12:2	turbine 47:18	vaguely 41:23	wasn't 11:2,3
24:11	TIVIN 6:8	Tweed 7:12	value 27:13	17:16,17
THIRD 1:1 3:1	today 8:14	two 26:10,11	valves 32:11	22:5 24:2
THOMAS 1:14	9:18 18:19	26:16,17	various 23:4	31:8 34:8
2:2 3:13	20:14 32:3	27:1,21	25:17 42:6	37:5,8
4:9 5:20	32:23 37:10	35:16 36:18	46:5	44:11,16,24
8:1 56:13	38:16 47:21	54:12,13,23	vehicles	44:24
thought 23:2	told 11:13	twofold 33:9	21:11	watching 48:8
23:5	28:22 36:14	two-inch 35:6	VENKER 7:15	water 44:6
three 26:17	42:21 51:10	type 10:4	verbal 55:12	45:1,6
three-inch	Tom 12:22	11:4 17:19	versus 24:14	Waterloo 16:3
26:16	48:16 53:8	18:5,14	31:12,24	WATERMAN 5:8
throw 43:21	54:3,18	19:6,10	VOELKER 4:20	wave 31:14
time 8:19 9:4	55:14,16	20:6 49:21	Volkswagen	way 23:10,13
9:17 10:6	tools 10:17	50:6 52:18	21:15,16	24:19 26:7
12:4,5,7,9	10:18,19	55:20	VOLUME 1:12	32:24 38:15
13:6,12,16	top 30:4	types 43:13	voluntary	38:17 45:10
13:24,24	tops 32:23	43:16 45:13	21:4	wear 19:6,8

19:22
wearer 19:24
wearing 20:1
 20:15
weather 19:12
week 8:15
 33:17 48:21
weekly 8:19
 12:2
weeks 17:7
 33:17 35:10
 35:16 36:18
 40:8 46:22
weighed 24:13
weight 24:14
went 16:2,3
 31:19 32:16
 36:1,2
 50:13 53:23
 53:24 54:19
weren't 13:24
 28:21 37:24
we'll 17:22
 48:18
we're 18:9,24
 31:6 49:6
 51:11,12,12
we've 12:6
WILLIAMS 7:15
wish 44:13
witness 2:2
 8:2 11:1
 34:6 35:24
 39:14 40:14
 48:13 55:22
 56:18,22
wonder 14:23
wondering
 39:4 51:3
wool 28:14,17
 28:24 45:17
 45:18
work 8:23
 10:21 11:20
 11:22 13:1
 13:23 19:10
 36:5,19,21
 39:22 46:11
 46:22 47:16
 47:20,23
 48:9
worked 11:11

12:9 13:6
 13:22 15:1
 15:19 19:5
 22:9,13
 40:2,24
 41:14 45:13
 47:2 54:15
worker 34:10
working 8:20
 11:15 13:7
 13:11 16:7
 18:9 19:9
 36:2 41:15
 41:16,18
 51:5,22
wouldn't 30:8
 30:9,13
 34:6 38:3
 43:20 44:17
 45:10 48:2
writing 22:2
 26:4 56:20
wrong 28:15

X
X 2:1

Y
yeah 9:11
 11:15 14:19
 15:13,14
 18:5 19:16
 22:15 23:18
 25:20,20
 28:4 29:7
 29:19 31:2
 31:19 37:7
 39:18 42:8
 42:13,24
 47:17 49:9
 49:18 51:23
 51:24 54:11
 55:7
year 20:20
 21:19 23:15
years 11:9
 18:23 21:18
 34:20 35:2
yell 12:21
Yep 12:16
Young 7:12,13

0
084-004411
 1:19

 1
10-L-1077 1:7
 3:7
10:56 3:15
100 4:13 6:14
 7:16
1000 6:14
1010 6:3
11:26 3:15
12 2:5
124 4:20
130 4:8
135 6:8
14th 4:13
1400 5:19
16 1:16 3:14
190 5:3
1965 13:7
 28:9 35:13
1970 13:7
 18:1 19:1
 20:17 21:12
 28:9 35:14

 2
200 3:16
 56:10
2011 1:16
 3:14 57:7
21st 7:16
220 5:8
23rd 57:7
2300 6:8
231-1776 6:15
231-4656 4:14
231-6700 4:14
233 6:20 7:3
 7:9
241-6065 5:14
2500 5:13
256-8800 6:9
258-5600 6:21
258-5784 6:21
259-2222 4:4
259-2251 4:4

 3
3rd 3:16

56:11
300 30:19
301 9:24 10:2
 25:18,20
 26:10,12,24
 27:2,22
 28:1 29:17
 29:23 30:19
 30:21 50:20
 51:17,18
309 4:21,21
312 5:20,20
 6:9,9,21,21
 7:4,4,10,10
314 4:14,14
 5:4,4,14,14
 6:4,4,15,15
 7:17,17
324-1616 5:9
324-3246 5:9
33 5:19
345-5000 7:17
345-5055 7:17
352 50:22
 51:4
39 2:6

 4
444-7600 5:14
46 2:7
48 2:8
480-1500 5:4
480-1505 5:4

 5
50 23:21
50/50 23:6
50/50-type
 23:16
500 6:3
5280 15:9
54 2:5
5500 7:3,9
558-3900 5:20
558-8348 5:20
563 5:9,9

 6
60s 23:17
60/40 23:15
600 4:20 5:3
 5:8,13

60602 5:19
60603 6:9
60606 6:20
 7:3,9
61602 4:21
618 4:4,4,9,9
62002 4:4
62025 4:8
621-9800 6:4
621-9802 6:4
627-1717 7:4
 7:10
627-4109 7:4
 7:10
63101 5:14
 6:3
63102 4:14
 6:15 7:16
63105 5:3
65 18:1 19:1
 19:17,23
 20:16 21:12
 21:20 23:14
 40:3 49:7
656-0184 4:9
656-1364 4:9
66 40:3
6600 6:20
676-0400 4:21
676-3374 4:21
69 31:9 40:5

 7
70 19:23 40:5
 49:7
70/30 23:15
741-4692 6:9
75 37:3

 8
8 2:4
80/20 22:23
81 14:15
81's 14:16
889-8000 6:15

 9
90 37:22