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Sherman Draney

27 started work for Bechtel 1937, engr.

30 grad. eng.

36 at Bechtel 1937-1974

37 became corp. officer 1950 or 1951

41 became a director late 1960s

71 Bechtel corp. existed from 1898 as construction bus.

201 He knew asb was rec. as "something that you had to be careful about" in midpoint of his career (~1955) there

PROPERTY OF S. TIGERMAN III.

243092

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

BEFORE THE HONORABLE ALFRED G. CHIANTELLI, JUDGE

DEPARTMENT NO. 9

---OOO---

ANGELO VIALE, ET AL.,

PLAINTIFFS,

VS. NO. 965247

BECHTEL CORP.,

DEFENDANT.

TESTIMONY OF SHERMAN DRANIY

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JUNE 29, 1995

APPEARANCES:

FOR THE PLAINTIFF: WARTNICK, CHABER, ET AL
ATTORNEYS AT LAW
101 CALIFORNIA STREET
26TH FLOOR
SAN FRANCISCO, CA 94111
BY: STEPHEN M. TIGERMAN, ESQUIRE

FOR THE DEFENDANT: THELEN, MARRIN, JOHNSON, ET AL
ATTORNEYS AT LAW
#2 EMBARCADERO CENTER
SUITE 2100,
SAN FRANCISCO, CA 94111
BY: RONALD F. LOPEZ, ESQUIRE &
PETER GILBERT, ESQUIRE

ORIGINAL

DUPLICATE
FILE COPY

REPORTED BY: MILDRED BAKER, CSR #3505

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(IN CHAMBERS)

THE COURT: ON THE RECORD. YES?

MR. GILBERT: LET ME TELL YOU WHAT THIS IS ABOUT.

(OFF THE RECORD)

MR. GILBERT: I AM PETER GILBERT, ONE OF THE ATTORNEYS FOR THE DEFENDANT. I JUST WANT TO BRING TO THE COURT'S ATTENTION THAT JUROR NUMBER 5 WHO IS A MALE GENTLEMAN, ELDERLY AND AN ACTOR WAS IN TEARS YESTERDAY AFTER THE PLAINTIFF'S SON WAS ON THE STAND AND HE HAS BEEN CLOSE TO TEARS, AT LEAST, TWO OTHER TIMES WHEN THE WITNESSES WERE TESTIFYING ABOUT MR. VIALE AND HIS CONDITION AND WHAT KIND OF PERSON MR. VIALE WAS.

I AM A LITTLE CONCERN ABOUT THAT IN TERMS OF CAN THIS JUROR BE FAIR, NOT BE INFLUENCED BY SYMPATHY, PASSION OR PREJUDICE AND I WANT TO BRING THAT TO THE COURT'S ATTENTION.

I DON'T KNOW WHETHER WE SHOULD TALK TO HIM INDIVIDUALLY OR WHETHER THAT WOULD DO MORE HARM THAN GOOD; WHETHER WE SHOULD MOVE FOR A MISTRIAL BASED UPON THE SYMPATHY THAT HE HAS PRESENTED OR EXACTLY WHAT TO DO ABOUT IT; BUT IT IS A PROBLEM.

I AM ALSO CONCERN BECAUSE THE WIFE IS GOING TO BE TAKING THE STAND NOW AND I SENSE THAT IS GOING TO BE MORE OF THE TYPE OF TESTIMONY THAT CAUSES A REACTION IN THIS PARTICULAR JUROR ADDUCED BY MR. TIGERMAN DURING THE COURSE OF THE DIRECT

EXAMINATION.

SO, HERE WE GO AGAIN.

THE COURT: ALL RIGHT. LET ME INDICATE THIS. I HAVE NOT SEEN THIS. WHAT I WILL DO IS JUST WAIT UNTIL THE WIFE IS CALLED, SEE WHAT THE REACTION IS, AGAIN, AND THEN DECIDE WHETHER OR NOT I AM GOING TO TALK TO HIM OR NOT; BUT I HAVEN'T SEEN SUCH A SENSITIVE SCENE THAT --

MR. TIGERMAN: NO, I HAVEN'T SEEN THAT.

THE COURT: OFF THE RECORD.

(OFF RECORD)

MR. TIGERMAN: THERE IS A WITNESS COMING ON NEXT. HE IS THE FORMER DIRECTOR OF BECHTEL, SHERMAN DRANIY. HE WAS SUBPOENAED AND HE HAS SHOWN UP WITH A LAWYER FROM DEFENDANT'S LAW FIRM, THELEN, MARRIN, JOHNSON AND BRIDGES.

INASMUCH AS HE IS REPRESENTED BY OPPOSING COUNSEL, I WOULD LIKE THIS COURT TO ALLOW ME TO DO AN EXAMINATION UNDER 776. THIS MAN IS ADVERSE.

HE IS A FORMER OFFICER AND DIRECTOR OF THE CORPORATION. HE IS REPRESENTED BY DEFENSE COUNSEL AND HIS INTERESTS ARE CLEARLY NOT ALIGNED WITH THE PLAINTIFF.

MR. LOPEZ: WELL, THIS MAN HAS BEEN RETIRED FROM BECHTEL SINCE 1974. MR. TIGERMAN CALLED HIM, AND WHEN HE WAS SUBPOENAED, AND ASKED THEM TO SIGN A NOTICE TO APPEAR AND HE ASKED HIM, WHO IS THE DEFENDANT AND HE SAID MANHATTAN RAYBESTO BUT HE WAS

TOLD BY MR. TIGERMAN, MR. TIGERMAN'S OFFICE THAT IT HAD NOTHING TO WITH BECHTEL.

MR. TIGERMAN: THAT IS UNTRUE.

MR. LOPEZ: BESIDES THE POINT. THAT WAS A MISREPRESENTATION.

MR. TIGERMAN: I TALKED TO HIM. THAT IS UNTRUE.

MR. LOPEZ: WELL, WE HAVE TALKED TO HIM. THAT IS WHAT HE TOLD US.

MR. TIGERMAN: THE SUBPOENA SAID RAYBESTOS BECAUSE THAT WAS THE FIRST DEFENDANT BUT CLEARLY TOLD HIM WHAT I WAS GOING TO TALK ABOUT BUT DIDN'T TELL HIM --

THE COURT: I WON'T LET YOU DO IT UNDER 776 BUT IF HE APPEARS TO BE A HOSTILE WITNESS, I CAN NOT ALLOW YOU TO ASK QUESTIONS, RIGHT.

MR. LOPEZ: ONE OTHER THING, COULD WE HAVE A CONTINUING OBJECTION TO RELEVANCE IF WE ARE GOING TO GET INTO THE AREA OF PREDECESSOR CORPORATION AND RELATIONSHIP AND HE IS NOT ABLE TO TIE IT UP LATER?

IT HAS NO RELEVANCE TO BECHTEL CORPORATION WHICH CAME INTO EXISTENCE AFTER THE WAR, THAT EVIDENCE WILL BE SUBJECT TO AN IRRELEVANT OBJECTION AND A MOTION TO STRIKE.

THE COURT: APPARENTLY WHAT IS BASICALLY HAPPENING, IF YOU GO INTO THAT MATTER, RATHER THAN HAVING A 402 HEARING, YOU ARE GOING TO BE PRESENTING THIS TYPE OF EVIDENCE IN THE PRESENCE OF THE JURY

WHICH CAN BE DONE. ALL RIGHT. THAT IS BASICALLY IT.

SO, MAY BE IRRELEVANT IF I DON'T FIND SINGLE ENTERPRISE THEORY, ULTRA, INTERNAL OR IMPUTED KNOWLEDGE THEORY.

MR. TIGERMAN: IF THE COURT FINDS SUFFICIENT EVIDENCE TO GO TO THE JURY, THEN, OBVIOUSLY I WOULDN'T GO FORWARD ON THOSE THEORIES TO THE JURY.

MR. LOPEZ: MY POINT WOULD BE AT THE TIME, HAVE THE TESTIMONY STRICKEN.

THE COURT: OTHER THING, STILL DOING SOME MORE WORK ON JUDICIAL NOTICE AND SO ON. I DON'T KNOW WHAT IS THE LEGAL EFFECT OF UNPUBLISHED FEDERAL REGULATIONS. I DON'T KNOW THAT.

MR. GILBERT: BEATS ME.

THE COURT: SECOND OF ALL, IN READING THIS STUFF, I CAN RELY UPON HEARSAY MATTERS FOR PURPOSES OF TAKING JUDICIAL NOTICE BUT I CANNOT TAKE JUDICIAL NOTICE OF HEARSAY MATTERS.

MR. TIGERMAN: RIGHT.

THE COURT: I CAN TAKE JUDICIAL NOTICE OF ORDERS. I CAN TAKE JUDICIAL NOTICE OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND SO ON.

COUPLE OF THINGS: YOU ARE GOING TO SHOW ME WHAT YOU WANT TO READ FROM THE MINUTES.

MR. TIGERMAN: I HAVE IT.

THE COURT: THEN THERE IS SOMETHING ELSE YOU WERE SUPPOSE TO DO.

MR. TIGERMAN: I WAS GOING TO REORGANIZE THE DOCUMENTS, WHICH I DID, TAKING OUT ALL DUPLICATE PAGES.

WHAT HAPPENED WAS A WOMAN WHO HAD BEEN ON AT OUR OFFICE WHO NO LONGER IS THERE COPIED THE DOCUMENTS VERY POORLY. NEW COPIES WERE MADE.

WE EVEN TOOK THE LUXURY OF BATES STAMPING THE DOCUMENTS FOR THE COURT SO WE CAN ALL REFER TO THE SAME PAGE.

I WILL DISTRIBUTE AN ORGANIZED COPY OF THE DOCUMENTS FOR EVERYBODY.

THE COURT: YOU ARE GOING TO HAVE TO REMARK --

MR. TIGERMAN: I HAVE IT AND HE CAN REMARK IT.

THE COURT: HERE IS WHAT YOU ARE GOING TO DO. I WANT THAT ONE THAT YOU PRESENTED THERE, SO IT IS STILL IN EVIDENCE.

MR. TIGERMAN: YES, IT IS.

THE COURT: THEN GIVE THE NUMBER, WHATEVER NUMBER IT IS, GIVE IT AN --

MR. TIGERMAN: AN "A."

THE COURT: -- "A" NUMBER. ALL RIGHT.

SO THAT WE KNOW WHAT I WAS REFERRING TO YESTERDAY AND WHAT YOU ARE GOING TO SUBSTITUTE IN ITS PLACE AND THEN I WILL HAVE MY EXTERN GO THROUGH IT, COMPARE IT WITH THE DUPLICATE ORIGINAL.

WE WILL CALL IT RIGHT, SEE, WHETHER OR NOT

IT MATCHES.

MR. TIGERMAN: NOW, THE ISSUE OF THE BECHTEL BRIEF IS GOING TO COME UP THIS MORNING. THAT IS THE COMPANY NEWSLETTER PUBLISHED BY THE PUBLIC RELATIONS DEPARTMENT UNDER THE AUTHORITY OF THE DIRECTOR OF PUBLIC RELATIONS MANAGER.

I WILL ASK MR. DRANIY ABOUT IT BUT I AM GOING TO SEEK TO INTRODUCE PORTIONS OF THIS DOCUMENT AS ADMISSIONS, EITHER AUTHORIZED OR ADOPTED BY THE DEFENDANT BECAUSE IT WAS PUBLISHED BY THEM AND BY THE PUBLIC RELATIONS DEPARTMENT. IT EVEN HAS LETTERS BY THE PRESIDENT.

THE COURT: AS FAR AS AUTHENTICITY --

MR. TIGERMAN: THEY ADMIT THAT.

THE COURT: NEWSPAPER IS A PRESUMPTION.

MR. LOPEZ: WE ARE NOT --

THE COURT: WITH RELATIONS TO THE 600 SECTION, IF I REMEMBER CORRECTLY.

MR. TIGERMAN: THEY WERE SUBPOENAED FROM BECHTEL. BECHTEL HAS ADMITTED AUTHENTICITY.

THE COURT: THE QUESTION IS WHETHER IT IS AN ADMISSION.

MR. LOPEZ: HEARSAY.

MR. TIGERMAN: THE FACT THAT THE DOCUMENT IS AUTHORIZED, IT IS PUBLISHED BY THE PUBLIC RELATIONS DEPARTMENT, BY THE PUBLIC RELATIONS DEPARTMENT MANAGER, {PHERBS} EDITED BY THEM, ALSO BY THEIR PRESIDENT.

IT IS CERTAINLY NOT SOMETHING THEY WERE NOT AWARE, IF IT UNDER, THEIR VICE PRESIDENT WOULDN'T BE WRITING LETTERS TO THE PRESIDENT OF THE COMPANY IN IT, SO --

MR. LOPEZ: THERE IS NO WAY THAT YOU CAN STAND HERE AND SAY EVERYTHING IN THE DOCUMENTS, IN THE BECHTEL BRIEF IS AN ADOPTIVE ADMISSION.

IT IS NOT UNLIKE THE CHRONICLE WHO PUBLISHES THE CHRONICLE, THEY OWN THE CHRONICLE.

THE COURT: TELL THE CLERK TO TELL THEM TO TAKE FIFTEEN MINUTES. WAIT, WAIT.

LET'S GO ON, IS NOT AN ADMISSION BY THE CHRONICLE.

LET ME GO OUT.

(JUDGE STEP OUT TO EXCUSE JUROR FOR RECESS)

THE COURT: ALL RIGHT.

MR. TIGERMAN: I HAVE CERTIFIED COPIES OF THOSE DOCUMENTS HERE. THE CUSTODIAN'S DECLARATION AND CERTIFIED SEAL FROM THE UNITED STATES DISTRICT COURT.

MR. LOPEZ: WELL, WE HAVE ALREADY TALKED ABOUT THEIR AUTHENTICITY.

MR. TIGERMAN: CERTIFIED COPY AND SEALED BY THE U S DISTRICT COURT.

THE COURT: WHAT AREA DID YOU WANT TO GET INTO ON THESE BRIEFS, BECHTEL BRIEFS.

MR. TIGERMAN: STATEMENTS OF THE INDIVIDUAL AND THE COMPANY.

THE COURT: WHERE?

MR. TIGERMAN: FIRST --

THE COURT: LET THE RECORD REFLECT AS FAR AS THESE BECHTEL BRIEFS WHICH IS THE BECHTEL NEWSPAPER PREPARED BY EMPLOYEES BUT RUN THROUGH THE PUBLIC RELATIONS DEPARTMENT OF BECHTEL, THAT IS THE PROFFERED EVIDENCE. I DON'T KNOW WHETHER THAT IS TRUE OR NOT AND IT IS BASED ON EITHER AUTHORIZED ADMISSION OR ON ACQUIESCENCE?

MR. TIGERMAN: THIS IS TO FIRST SHOW YOU WHAT THE NATURE OF IT IS. IT IS UNDER THE DIRECTION OF THE INDUSTRIAL RELATIONS DEPARTMENT, J F O'CONNELL.

HE IS A MAN AT THE '42 MEETING. R. L. INGRAM, PUBLIC RELATIONS MANAGER. THIS IS THE PRODUCTION MANAGER AND THIS, THAT ALSO --

THE COURT: R L INGRAM, PUBLIC RELATIONS MANAGER, WAS THAT AN IMPORTANT REPORT TO THE MARINESHIP MEETING.

MR. TIGERMAN: O'CONNELL WAS THIS MAN. HE WAS AT THE '42 MEETING. BY THIS TIME HE IS VICE PRESIDENT OF INDUSTRIAL RELATIONS, WORKS UNDER PUBLIC RELATIONS, R L INGRAM. HE IS THE GUY THAT WROTE THE BOOK THAT WE ALREADY SAW.

THE COURT: BECHTEL BRIEFS PUBLISHED IN JUNE OF 1958 BY AND FOR THE EMPLOYEES OF BECHTEL CORPORATION ENGINEERS, CONSTRUCTION, SAN FRANCISCO, CALIFORNIA AND PUBLISHED, THE PUBLICATION UNDER THE

DIRECTION OF THE INDUSTRIAL RELATIONS DEPARTMENT AND THIS J F O'CONNELL.

IF HE IS AN EMPLOYEE, IS IN THE HIERARCHY OF EMPLOYEES AS VICE PRESIDENT AND HE IS THE PERSON THAT ATTENDS THE MARINESHIP MEETING.

SO, THIS WOULD APPEAR TO FALL UNDER ACQUIESCENCE, 1221, POSSIBLY 1220.

COULD I GET MY EVIDENCE CODE BOOK HERE IN FOR THE RECORD.

MR. TIGERMAN: I WILL GET MINE.

MR. GILBERT: I WILL GET MINE, TOO.

(TWO ATTORNEY LEAVE CHAMBERS)

THE COURT: WE ARE STILL HERE. THIS IS IN REFERENCE TO THE BECHTEL BRIEFS UNDER 1221, ADOPTIVE ADMISSION AS EVIDENCE OF STATEMENTS OFFERED AGAINST A PARTY IS NOT MADE INADMISSIBLE BY THE HEARSAY RULE.

THIS STATEMENT IS ONE OF WHICH THE PARTY WITH KNOWLEDGE OF THE CONTENTS THEREOF HAS BEEN, WORDS OR OTHER CONDUCT MANIFESTED ITS ADOPTION OR HIS BELIEF IN ITS TRUTH.

THAT'S ADOPTIVE ADMISSION.

THEN THE OTHER MATTER IS AUTHORIZED ADMISSION THERE. IT IS EVIDENCE OF STATEMENTS OFFERED AGAINST A PARTY IS NOT MADE INADMISSIBLE BY THE HEARSAY RULE IF THE STATEMENT IS MADE BY A PERSON AUTHORIZED BY THE PARTY TO MAKE A STATEMENT OR STATEMENTS FOR HIM CONCERNING THE SUBJECT MATTER OF THE STATEMENT. AND THE EVIDENCE IS OFFERED EITHER

AFTER ADMISSION OF THE EVIDENCE SUFFICIENT TO SUSTAINED A FINDING SUCH AUTHORITY OR IN COURT DISCRETION AS TO ORDER OF TRUTH SUBJECT TO THE ADMISSION OF SUCH EVIDENCE.

IT APPEARS FROM WHAT YOU HAVE SHOWN, BUT I AM NOT MAKING A FINAL RULING ON THIS, THAT THERE WERE ARTICLES HERE BY EMPLOYEES BUT IT IS ALL PUBLISHED UNDER THE DIRECTION OF THE INDUSTRIAL RELATIONS DEPARTMENT OF WHICH J F O'CONNELL IS THE VICE PRESIDENT AND MR. R L INGRAM WHO WROTE THE HISTORY BOOKS, I GUESS, AT BECHTEL AS PUBLIC RELATIONS MANAGER.

SO, IT APPEARS MORE TO FALL UP UNDER ADOPTIVE ADMISSION. THE ONLY QUESTION IS THIS, I CAN SEE WHAT THE DEFENSE IS SAYING. YOU HAVE THE CHRONICLE, YOU HAVE AN EDITOR AND IT IS PUBLISHED RIGHT IN THE SAN FRANCISCO NEWSPAPER CORPORATION.

THE MERE FACT THAT A COLUMN THAT'S WRITTEN BY HERB CAEN DOES NOT INDICATE THAT THE EDITOR ADOPTS WHAT HERB CAEN SAYS IN HIS COLUMN {PWHRAOR} LOOSE OR THE REPORTER.

MR. TIGERMAN: FIRST OF ALL --

THE COURT: WHAT?

MR. LOPEZ: OR A LOOSE REPORTER OUT IN THE FIELD RECORD ON SOME THIRD PARTY EVENT.

THE COURT: ALMOST LIKE IN TV, YOU KNOW, WHERE THEY SAY ALTHOUGH WE ARE ALLOWING THIS PROGRAM, THIS PROGRAM DOES NOT, DOES NOT INDICATE THE OPINION

OF THE EDITORIAL STAFF OF THE STATION.

MR. TIGERMAN: YES, EXCEPT THIS IS NOT JOURNALISM THAT PURPORTS TO BE NEUTRAL, THEREBY THE COURT, FOR THE COMPANY. THE PURPOSE OF THIS IS PUBLIC RELATIONS AND TO COMMUNICATES WITH THE OUTSIDE WORLD ITS EMPLOYMENT.

THERE IS ALSO A CASE, YOU SHOULD KNOW ABOUT, YOU DO KNOW ABOUT, I AM SURE, THAT SAYS IN THE EVENT OF ADOPTIVE ADMISSION AND THERE IS A CASE ABOUT INTERNAL COMPANY REPORT LEVY CENTER IS THE CASE.

IN THAT CASE, SOMEBODY OPINED ABOUT, AS TO THE CASE.

THE COURT: SOMEONE FORMED AN OPINION, GAVE AN OPINION AS THE CAUSE OF FIRM.

MR. TIGERMAN: IN THIS CASE, IT WAS HELD NO PERSONAL KNOWLEDGE WAS NECESSARY BY THOSE THAT ADOPTED THE ADMISSION.

MR. O'CONNELL AND MR. ON FINE NEED NOT HAVE ANY PERSONAL KNOWLEDGE OF THIS IN ORDER TO ADOPT IT.

THE COURT: CAN I ASK YOU A QUESTION.

MR. TIGERMAN: THE OBVIOUS IS WORRISOME FOR ME. WHAT IS THE DECLARATION THAT YOU WANT TO PRESENT.

MR. LOPEZ: YES, WE WOULD HAVE TO GO THROUGH EACH.

MR. TIGERMAN: WE SHOULDN'T HAVE TO GO THROUGH EACH ONE.

MR. LOPEZ: SURE, WE SHOULD.

THE COURT: COULD I JUST ASK YOU SOMETHING, WHO DO YOU HAVE HERE TO TESTIFY.

MR. TIGERMAN: MR. DRANIY SHOW SHOULD I {PHAOPL} WITH DID YOU WROTE MR. O'CONNELL HAVE READ THIS AND SO ON. WHAT WAS.

MR. TIGERMAN: OR JUST HEARD MR. LOPEZ TELL LAWYER FOR THE WITNESS FROM BECHTEL BRIEFS.

MR. LOPEZ: THAT'S NOT TRUE, ABSOLUTELY FALSE. I AM REALLY SICK AND TIRED OF YOU MAKING FALSE ACCUSATIONS.

YOU ASKED ME WHAT ARE YOU, WE DOING? I SAID, WE ARE GOING OVER THE BECHTEL BRIEFS. WHAT WAS WRONG WITH THAT?

THE COURT: NOTHING WRONG.

MR. TIGERMAN: EXCEPT HE REPRESENTS THE WITNESS, NOW WILL COMMUNICATE WITH HIM ABOUT THE SUBJECT MATTER.

MR. LOPEZ: HE KNEW WE WERE GOING TO GO THROUGH THE BECHTEL BRIEFS ANY WAY.

MR. GILBERT: OH, JUST A SECOND, RON. ALL THE TIMES I'VE SEEN YOU OUT THERE IN THE HALL DURING BREAKS TALKING TO EXPERTS DURING THE COURSE OF CROSS-EXAMINATION.

I DON'T THINK IT IS APPROPRIATE TO MAKE THAT KIND OF REMARK.

MR. TIGERMAN: JUST WAS CONCERNED HE WAS PREPARING THE WITNESS FOR WHAT WAS TO COME.

MR. GILBERT: IT IS HIS JOB TO PREPARE THE

WITNESS JUST AS IT WOULD BE YOUR JOB TO PREPARE YOUR WITNESSES.

MR. TIGERMAN: I BROUGHT THIS UP TO THE COURT TO TRY TO EXPEDITE IN COURT WITNESS HAS BEEN TYPED OFF.

BUT THE POINT IS THIS WITNESSES WILL BE ASKED ABOUT THE NATURE OF THIS LETTER, WHAT IT WAS FOR, HOW IT WAS DISTRIBUTED.

WHAT IS HIS UNDERSTANDING OF THE PURPOSE, WHO THOSE PEOPLE ARE, O'CONNELL AND THE OTHER --

THE COURT: NOT GOING INTO ANY DECLARATIONS?

MR. TIGERMAN: THEN WE ARE GOING TO GO INTO THE SUBJECT MATTER BECAUSE IN THE SUBJECT MATTER ARE NUMEROUS STATEMENTS THAT HAVE BEEN MADE.

THE COURT: GIVE ME ONE EXAMPLE OF ONE.

MR. TIGERMAN: I WILL GIVE YOU AN EXAMPLE OF ONE. THIS WILL BE EASY.

MR. LOPEZ: HE WANTS TO PUBLISH THESE TO THE JURY WITH THE OVERHEAD, IS WHAT HE IS PLANNING ON DOING.

YOU WOULD HAVE TO GO THROUGH EACH PAGE, DETERMINE IF THERE IS AN ADMISSION ON EACH PAGE, IF THERE ARE NONE ADMISSIONS.

THE COURT: COULD JUST TELL YOU SOMETHING.

MR. LOPEZ: CAN'T JUST TAKE A NEWSPAPER.

THE COURT: WAIT, WAIT, WAIT. THE NEWSPAPER IS HEARSAY AND IT DOES NOT QUALIFY AS A

EXCEPTION UNDER 1341 OF THE EVIDENCE CODE BECAUSE IT IS NOT A PUBLICATION CONCERNING FACTS OF GENERAL NOTORIETY AND INTEREST.

IT IS NOT A HISTORICAL WORK, A WORK OF SCIENCE OR ART.

MR. TIGERMAN: NO, NOT WHERE WE COME FROM.

THE COURT: ALL RIGHT.

MR. TIGERMAN: THAT COMES IN AS AN ADMISSION, ADOPTIVE ADMISSION, AUTHORIZED ADMISSION.

THE COURT: JUST GIVE ME ONE EXAMPLE.

MR. TIGERMAN: OKAY. FOR EXAMPLE, WHAT WE HAVE, I HAVE THE HARD COPY OUTSIDE, GIVEN THE HARD COPY, I, BY THE WAY, IT IS PROBABLY SITTING ON YOUR DESK, A HUGE SET. I HAVE THE 65TH ANNIVERSARY EDITION PUBLISHED IN 1962.

THE COURT: WAIT, WAIT.

MR. TIGERMAN: THAT IS THE PAPER, THE FIRST PAGE OF THAT TALKS, HAS A LETTER FROM IT BY THE COMPANY PRESIDENT, STEVEN D. BECHTEL, JUNIOR AND IT SAYS, FOR EXAMPLE, THIS IS OUR 65TH ANNIVERSARY OF BECHTEL ORGANIZATIONS START IN BUSINESS.

IT PROVES THAT WHEN THE COMPANY HAS HELD ITSELF OUT, IT HAS MADE NO DISTINCTION BETWEEN SO CALL PREDECESSORS, IT IS, THEY CONSIDER THEMSELVES A SINGLE ORGANIZATION.

AGAIN, THERE ARE OTHER STATEMENTS MADE BY THE PRESIDENT OF THE COMPANY IN THE SAME PAPER.

IT SAYS IN REVIEWING OUR BUSINESS HISTORY,

I AM GRATIFIED BY OUR ADHERENCE TO TWO IMPORTANT POLICIES THAT ARE TRADITION OR TRADITIONAL WITH BECHTEL COMPANY, FAIR DEALING AND GOOD HOUSEKEEPING, BOTH AS ARE AS OLD AS THE 65 YEAR OLD BUSINESS ITSELF.

THESE ARE STATEMENTS THAT ARE MADE --

THE COURT: WHAT WAS HIS POSITION?

MR. TIGERMAN: PRESIDENT, BOARD OF DIRECTORS.

MR. LOPEZ: HE IS NOT IMPEACHING STEVEN D. BECHTEL.

MR. TIGERMAN: HE IS THE DIRECTOR.

MR. LOPEZ: NOT EVEN AUTHORIZED TO MAKE AN ADMISSION.

THE COURT: WAIT. I KNOW THAT THE DEFENSE HAS INDICATED THAT A MEMBER OF THE BOARD OF DIRECTORS, IN ORDER TO FIND A CORPORATION, MUST HAVE A QUORUM OF MEMBERS OF THE BOARD OF DIRECTORS BUT THAT APPLIES TO BINDING A CORPORATION TO A CONTRACT, SO ON; BUT DOESN'T QUALIFY FOR THE EVIDENTIARY PURPOSE OF ADMISSION.

MR. TIGERMAN: FURTHERMORE, HE IS THE OFFICER, AT THIS POINT, HE IS ALSO AN OFFICER

MR. LOPEZ: NOT STEVEN D. BECHTEL, CAN'T, AT THAT POINT, HE IS RETIRED.

THE COURT: WHEN HE WRITES THIS?

MR. LOPEZ: YES. THINK WHEN HE WROTE THAT, AT THAT TIME, I THINK HE WAS RETIRED AS AN OFFICER OF

THE CORPORATION, THAT MANDATORY RETIREMENT.

MR. TIGERMAN: HE MAY BE RIGHT. HE WAS DIRECTOR.

MR. LOPEZ: HE WAS DIRECTOR.

THE COURT: ON THE BOARD OF DIRECTORS.

MR. LOPEZ: HE WAS ON THE BOARD OF DIRECTORS. HE IS NOT AUTHORIZED TO MAKE ANY ADMISSIONS FOR THE COMPANY AS DIRECTOR.

I DON'T CARE IF HE WAS AN OFFICER BEFORE, CAN'T GO AROUND, MAKING ADMISSIONS FOR THE COMPANY AS IF HE IS ON THE BOARD OF DIRECTORS.

THE COURT: HE WAS A MEMBER OF THE BOARD OF DIRECTORS, CAN'T MAKE ADMISSIONS FOR THE CORPORATION.

MR. LOPEZ: HE SURE CAN'T.

MR. TIGERMAN: FURTHERMORE, I THINK --

MR. GILBERT: YOU JUST GOT --

MR. LOPEZ: LOOK AT 1222.

MR. TIGERMAN: I THINK HE MAY BE CHAIRMAN AT THAT POINT.

MR. LOPEZ: WELL, HE IS ON THE BOARD.

MR. TIGERMAN: HE IS CHAIRMAN OF THE BOARD. THAT IS SUFFICIENT. THAT IS SUFFICIENT. WE I, LEE IACOCCA AS CHAIRMAN OF THE BOARD FOR CHRYSLER --

MR. LOPEZ: BUT HE WAS ALSO --

THE COURT: YOU THINK THE BOARD OF DIRECTORS GAVE HIM AUTHORITY FOR ALL THE STATEMENTS HE MADE IN HIS COMMERCIALS AND ALL THE REST?

MR. LOPEZ: HE WAS ALSO AN OFFICER OF THE CORPORATION.

MR. TIGERMAN: HE MAKES AN ADMISSION ABOUT THE, IN THE COMMERCIAL, ABOUT THE SAFETY OF THE AUTOMOBILE, IT TURNS OUT NOT TO BE SAFE, THE PLAINTIFF CAN INTRODUCE THAT STATEMENT FROM THE COMMERCIAL

MR. LOPEZ: UNLESS HE IS ACTING ON BEHALF OF THE CORPORATION, WAS AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

THE COURT: COULD JUST TELL YOU SOMETHING, SO FAR, WHAT HE HAS SHOWN APPEARS TO BE RELEVANT, IT APPEARS, AND UNDER A SHOWING UNDER 403 IT GOES TO ITS SUFFICIENCY. AND SO, THEREFORE, I WILL ALLOW YOU TO ASK THOSE QUESTIONS PROCEEDING TO THIS.

MR. TIGERMAN: OTHER AREAS.

THE COURT: KEEPING IN MIND, AGAIN, UNDER 403 THAT THERE WILL BE AN INSTRUCTION THAT YOU WILL HAVE TO WORK OUT TOGETHER FOR THE JURY THAT IS GOING TO BE THE ULTIMATE TRIER OF FACT.

MR. LOPEZ: LET ME MAKE VERY CLEAR THAT WE OBJECT TO THE USE OF THE BECHTEL BRIEFS TO FUZZ UP, ESSENTIALLY CORPORATE IDENTITY ISSUE.

WE HAVE SUBMITTED TO THE COURT A DETAILED BRIEF SHOWING THE SEPARATENESS OF THE COMPANY FROM BECHTEL CORPORATION WHICH CAME INTO EXISTENCE IN THE MID 1940'S, I THINK IT WAS '45 OR '46, FROM MARINESHIP WAY.

IT WAS A TOTAL, SEPARATE, INDEPENDENT COMPANY TO THE OTHER COMPANIES THAT MAY OR MAY NOT HAVE HAD A RELATIONSHIP WITH BECHTEL.

IT IS IMPROPER, I THINK, FOR HIM TO TAKE WHAT IS SIMPLY A STATEMENT OF AN ORGANIZATION AND TO SUGGEST TO THE JURY THAT THAT SOMEHOW VITIATE A CLEAR DISTINCTION OF CORPORATE IDENTITY.

IT IS NOT AN ADMISSION THAT THE BECHTEL CORPORATION WAS THE SAME AS MARINESHIP, WAS THE SAME AS W. A. BECHTEL CORPORATION BECHTEL WHEN THE GENTLEMAN STARTED THE COMPANY IN 1898 WITH HIS HORSE AND PLOY.

THE COURT: CAN YOU SHOW THAT AS THIS IS A QUESTION OF FACT.

MR. GILBERT: WELL, JUST, JUST ONE THING IN TERMS OF PRELIMINARY.

THE COURT: IT IS A QUESTION OF FACT.

MR. GILBERT: IN TERMS OF PRELIMINARY FOUNDATION, MR. TIGERMAN HAS GOT TO SHOW THAT, WHO, EVERYBODY THAT MADE THOSE STATEMENTS WAS AUTHORIZED BY THE PARTIES TO MAKE THE STATEMENTS.

MR. TIGERMAN: OR THAT THEY WERE ADOPTED TO --

MR. GILBERT: IT IS NOT SHOWING THAT THIS PARTICULAR PERSON AT THAT PARTICULAR TIME HAD THE AUTHORITY TO MAKE THOSE STATEMENTS.

THE COURT: YOU HAVE AN EMPLOYEE NEWSPAPER SPONSORED WITH THE APPROVAL OF THE PUBLIC RELATIONS

DEPARTMENT OF BECHTEL BY THE OFFICERS OF THAT CORPORATION THAT PUBLISHED THE CHAIRMAN OF THE BOARD OF DIRECTOR'S STATEMENT THAT THIS IS A 65 YEAR OLD ORGANIZATION.

NOW, WHEN THAT IS, COUNSEL IS USING THAT AS A, TRYING TO PROVE A FACT THAT THAT INDICATES THAT THE PREDECESSOR CORPORATIONS WERE IN FACT PART OF THE, PART OF THE BECHTEL ORGANIZATION.

THAT'S A MATTER AS TO SUFFICIENCY WHICH I THINK HE HAS SHOWN. WHETHER I AGREE WITH IT OR NOT IS A JURY QUESTION.

YOU CAN PRESENT EVIDENCE, DEFINITELY, THE CHAIRMAN OF THE BOARD OF DIRECTOR HAD JUICE, BAR ETHICS LICENSE IN HIS WRITING, THAT IT HAD NO LEGAL SIGNIFICANT AS TO THE TRUTH AS TO WHETHER OR NOT W. H. BECHTEL CORPORATION WAS IN FACT THE BECHTEL CORPORATION. ALL RIGHT.

MR. GILBERT: UNDERSTAND WHAT YOU ARE SAYING. WHAT I AM TRYING TO SAY IS IT IS NOT AN EVIDENCE CODE 1221 ISSUES.

THE COURT: IT LOOKS LIKE 1221.

MR. GILBERT: THAT IS WHAT HE WAS TALKING ABOUT. NOW, UNDER 1221 HE HAS GOT TO SHOW BY WORDS, OTHER CONDUCT THAT BECHTEL CORPORATION ADOPTED THAT.

THE COURT: LOOK LIKE IT ADOPTED IT WHEN IT ACQUIESCED PUBLISHED IT AND THEY HAD THE PUBLIC RELATIONS PERSON RIGHT THERE, ONE; AND THE PERSON WHO MADE THE STATEMENT IS A CHAIRMAN OF THE BOARD OF

DIRECTORS, YOU KNOW --

MR. GILBERT: JUST WANT TO BE SURE WHAT SECTION OF THE EVIDENCE CODE ARE WE GOING ON BECAUSE THEY ARE A LITTLE DIFFERENT --

THE COURT: IT APPEARS TO BE OVERLAPPING. IN ANY EVENT, IN THIS OVERLAPPING I AM MAKING IT A 403.

MR. LOPEZ: WELL, I WOULD STATE THAT IF THE CHRONICLE PUBLISHED --

THE COURT: I AM MAKING IT, THE LAW INDICATES THE 403 ISSUES CERTAINLY ON 1221 FROM --

MR. LOPEZ: IF THE CHRONICLE PUBLISHES A REMARK BY THE CHAIRMAN OF THE BOARD OF THE CHRONICLE --

MR. TIGERMAN: ABOUT THE CHRONICLE?

MR. LOPEZ: --THAT THAT BY VIRTUE --

THE COURT: WILLIAM RANDOLPH HEARST HAS AN EDITORIAL, ALL RIGHT. THAT'S THE PAPER'S CHAIRMAN OF THE BOARD. HE WRITES THE EDITORIAL --

MR. LOPEZ: BUT HE IS NOT AN OFFICER OF THE CORPORATION.

THE COURT: THAT'S RIGHT. HE IS NOT AN OFFICER OF THE CORPORATION. HE IS CHAIRMAN OF THE BOARD. HE WRITES AN EDITORIAL.

MR. LOPEZ: THE EDITOR DECIDES, WE WILL PUBLISH IT --

THE COURT: THAT'S CORRECT AND THE ARTICLE CONCERNS THE FACT THAT THE EXAMINER, LET'S SAY, IS

CELEBRATING ITS 65TH ANNIVERSARY.

MR. LOPEZ: OKAY.

THE COURT: ADMISSIBLE, ALL RIGHT.

MR. LOPEZ: NO.

THE COURT: UP TO THE JURY TO DETERMINE THAT.

MR. LOPEZ: NO. I WOULD SAY THAT THE CHRONICLE OR THE EXAMINER OR THE CHRONICLE BECAUSE OF, THE EXAMINER WE ARE TALKING ABOUT HERE BECAUSE THEY THINK IT IS NEWSWORTHY TO PUBLISH THAT EDITORIAL.

THE FACT THEY DONE THAT, JUST PUT SOMETHING NEWSWORTHY IN THEIR PAPER DOESN'T MEAN IT IS AN ADMISSION OF THE PAPER.

MR. TIGERMAN: IT IS BY THEM, IT ABOUT THEM, IT BY SOMEBODY WHO, BY THEIR PUBLIC RELATIONS DEPARTMENT ABOUT THEM.

MR. LOPEZ: BUT THAT'S WHAT THEY DO. THEY PUBLISH THINGS.

THE COURT: WHAT THEY PUBLISHED HERE, YOU SEE, TOO CREATE EMPLOY, GOOD EMPLOYEE RELATIONS AND NOW BECHTEL COMES UP WITH AN ARTICLE THAT MAKES THESE EMPLOYEES FEEL PROUD OF THE FACT THAT THEY HAVE BEEN IN A FAMILY OF BECHTEL FOR THE PAST 65 YEARS.

MR. LOPEZ: LET ME FURTHER STATE THAT I DON'T THINK IT IS APPROPRIATE FOR HIM, HE HAS SHOWN US TWO THINGS, STEVE TIGERMAN HAS SHOWN US TWO EXCERPTS HE WANTS TO PUBLISH. ASSUME HE HAS A STAKE

IN THIS.

THE COURT: WE'VE HAD LOTS OF SIDEBARS, UNFORTUNATELY.

MR. LOPEZ: HE IS TRYING TO PULL OUT --

THE COURT: I CAN TELL SOMETHING, I AM NOT GOING TO HAVE MR. TIGERMAN SLIP ANYTHING UNDER ME. ALL RIGHT. I WANT YOU TO UNDERSTAND THAT.

MR. TIGERMAN: I UNDERSTAND.

THE COURT: ALL RIGHT. YOU KNOW I MIGHT, HE GETS TOO BAD, MIGHT JUST DISMISS THE JURORS, WE GO THROUGH THEM OUT OF THE PRESENCE OF THE JURY.

ALL RIGHT.

MR. TIGERMAN: ALL RIGHT. I AM NOT SURE WE SHOULD HAVE TO GO THROUGH ALL OF THEM. ONCE WE ESTABLISH THE STATEMENTS ARE IN PAPER, YOUR HONOR, THE PAPER IS PUBLISHED BY THEM AND IT IS PUBLISHED BY THEM TO GIVE PEOPLE INFORMATION.

THE COURT: ALL RIGHT.

MR. TIGERMAN: THIS IS WHAT THEY TOLD ME, THEN THIS IS WHAT THEY TOLD PEOPLE.

THE COURT: THIS SHOULD HAVE BEEN DONE IN LIMINE, IT SHOULD HAVE BEEN DONE BEFORE I PICKED A JURY. WE SHOULD HAVE DONE IT WITHOUT HAVING THE JURY PRESENT. IT IS CAUSING A LOT OF DELAYS. IT NOT MY FAULTS.

MR. TIGERMAN: SORRY, YOUR HONOR.

THE COURT: ALL RIGHT, SO LET'S GO --

(IN OPEN COURT)

THE COURT: ALL RIGHT. LET THE RECORD REFLECT THE JURY IS PRESENT, SO ARE THE ATTORNEYS. I AM SORRY FOR THE DELAY.

IT WAS SOME MATTER THAT CAME UP THAT I WAS UNAWARE OF AND I HAD TO RESOLVE THAT MATTER.

YOU ARE TO NOT SPECULATE WHAT IT INVOLVED BUT ONE THING I CAN TELL YOU, IT WILL HELP IN THE EFFICIENT PRESENTATION OF THE CASE.

ALL RIGHT, WITH THAT IN MIND, THEN YOU HAVE YOUR NEXT WITNESS.

MR. TIGERMAN: YES. WE WOULD LIKE TO CALL NEXT MR. CHARLES DRANIY.

THE CLERK: PLEASE STEP FORWARD, SIR, TO BE SWORN.

CHARLES DRANIY

CALLED AS A WITNESS BY THE PLAINTIFF, AFTER BEING FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

THE CLERK: PLEASE BE SEATED, STATE YOUR NAME FOR THE RECORD AND SPELL IT FOR THE REPORTER.

THE WITNESS: NAME CHARLES DRANIY, D-R-A-N-I Y.

MR. PLACIER: YOUR HONOR, IF I MAY, PHILIP PLACIER. I AM AN ATTORNEY FROM THELEN, MARRIN, JOHNSON AND BRIDGES. I AM APPEARING HERE ALONG WITH MR. LOPEZ; ALSO AS COUNSEL FOR MR. DRANIY.

THE COURT: ALL RIGHT.

---OOO---

DIRECT EXAMINATION

MR. TIGERMAN:

Q. GOOD MORNING, MR. DRANIY. HOW ARE YOU?

A. GOOD MORNING.

Q. I SUBPOENAED YOU HERE TODAY?

A. BEG PARDON?

Q. DID I SEND YOU A SUBPOENA?

A. YES, YOU DID.

Q. ARE YOU HERE BECAUSE OF THAT SUBPOENA?

A. YES.

Q. OKAY. YOU ARE BEING REPRESENTED BY A LAWYER HERE TODAY, IS THAT CORRECT?

A. THAT IS CORRECT.

Q. THAT LAWYER IS MR. PLACIER?

A. YES.

Q. HE IS FROM THE THELEN, MARRIN LAW FIRM, IS THAT CORRECT.

A. THAT IS CORRECT.

Q. HE IS WITH THE THELEN FIRM? CAN YOU TELL ME WHETHER THE THELEN FIRM HAS REPRESENTED BECHTEL FOR MANY YEARS?

A. THAT IS SORT OF A BROAD NUMBER BUT, YES, AS FAR AS I KNOW THEY HAVE FOR MANY YEARS.

Q. IN FACT ONE OF THE RETIRED SENIOR PARTNERS, MR. BRIDGES, MR. BRIDGES HAS BEEN AN ADVISOR TO THE BECHTEL ENTITIES SINCE THE 1940'S, ISN'T THAT TRUE?

A. AS FAR AS I KNOW.

Q. NOW, YOU USE TO WORK WITH BECHTEL, DIDN'T YOU?

A. I DID.

Q. YOU STARTED WORKING A LONG TIME AGO, DIDN'T YOU?

A. I DID.

Q. WHEN DID YOU START WORKING?

A. AUGUST OF 1937.

Q. WHAT DID YOU DO FOR THEM?

A. WELL, I STARTED OUT AS AN ENGINEER IN VARIOUS ENGINEERING DUTIES.

MR. LOPEZ: LET ME JUST OBJECT. THAT IS VAGUE, AMBIGUOUS AND I MOVE TO STRIKE. WHAT HE SAID THEN IS UNCLEAR.

THE COURT: BECHTEL, PREVIOUSLY ASKED WHEN HE STARTED, HE SAID, AUGUST '37 FOR BECHTEL; ASKED WHAT HE STARTED OUT DOING, HE SAID, HE WORKED AS AN ENGINEER.

MR. LOPEZ: LET ME MOVE TO STRIKE BECAUSE BECHTEL CORPORATION DIDN'T EXIST.

MR. TIGERMAN: I OBJECT.

MR. LOPEZ: IT --

THE COURT: DON'T KNOW THAT.

MR. LOPEZ: --LACKS FOUNDATION.

THE COURT: IS THAT THE REASON FOR ANY LACK OF FOUNDATION, IF THIS IS THE BEST EVIDENCE, THAT IS HIS BEST EVIDENCE. ALL RIGHT.

MR. TIGERMAN:

Q. NOW, SIR, WHEN YOU STARTED AS AN ENGINEER WHAT DEPARTMENT WERE YOU IN, YOU REMEMBER?

A. I DON'T REMEMBER WE WERE HAVING, HAVING DEPARTMENTS.

Q. OKAY. NOW BACK THEN, WHAT KINDS OF JOBS DID YOU WORK ON IN THE 30'S?

A. OH, VARIOUS THINGS HAVING TO DO WITH PETROLEUM BECAUSE THAT WAS ONE OF MY SPECIALTIES.

THE COURT: WHAT IS THAT, SIR, I AM SORRY?

THE WITNESS: PETROLEUM--

THE COURT: PETROLEUM

THE WITNESS: --FACILITIES.

MR. TIGERMAN:

Q. WHAT KINDS OF THINGS DID YOU DO IN TERMS OF ENGINEERING AT THE PETROLEUM FACILITY. DID YOU BUILD NEW UNITS?

A. I DIDN'T BUILD ANYTHING. I DESIGNED.

Q. OKAY.

A. ALSO WAS A, WATCHING IT ON THE FIELDS, PAGE ANYONE THAT WAS UNDER CONSTRUCTION

Q. NOW, HOW LONG WERE YOU AN ENGINEER BEFORE YOU MOVED UP THIS NEXT --

A. I HAVE NEVER STOPPED BEING AN ENGINEER.

Q. DID YOU MOVE UPWARD?

THE COURT: WHAT, WHAT, UPWARD--

MR. TIGERMAN:

Q. IN THE ORGANIZATION?

A. I DID.

Q. WHAT WAS YOUR NEXT GRADUATION, SO TO SPEAK, IN OTHER WORDS?

THE COURT: DO YOU UNDERSTAND HIS QUESTION?

THE WITNESS: IT IS A LITTLE VAGUE.

THE COURT: ARE YOU ASKING HIM WHETHER OR NOT HE ASSUMED OTHER RESPONSIBILITIES OTHER THAN AS AN ENGINEER?

MR. TIGERMAN: YES.

THE COURT: WELL, THEN ASK HIM THAT.

MR. TIGERMAN:

Q. AFTER BEING A FIELD ENGINEER, DID YOU THEN GET APPOINTED TO ANY OTHER POSITION?

MR. LOPEZ: LET ME OBJECT. THAT MISCHARACTERIZES THE CURRENT, PRIOR TESTIMONY.

MR. TIGERMAN: I THOUGHT THAT WHAT I HEARD WAS FIELD ENGINEER.

THE COURT: HE DIDN'T SAY, "FIELD ENGINEER," JUST SAID ENGINEER, DESIGN.

MR. TIGERMAN: OKAY.

THE COURT: SUSTAINED.

MR. TIGERMAN:

Q. IS THERE SUCH A THING AS FIELD ENGINEER? AM I JUST INVENTING A TERM?

A. I HAVE HEARD OF THE THING BUT NOT AT BECHTEL.

Q. SO, YOU WERE JUST AN ENGINEER?

A. JUST AN ENGINEER.

Q. JUST AN ENGINEER, OKAY.

A. I WAS ALSO A MANAGER FROM TIME TO TIME.

THE COURT: WHY DON'T WE GET THIS CLEAR FOR THE JURY. ALSO IT IS ALL SORTS OF ENGINEERS.

COULD YOU ASK THE QUESTION, WAS THAT A CIVIL ENGINEER, CHEMICAL ENGINEER, BUILDING ENGINEER, WHAT?

MR. TIGERMAN: THAT'S A GOOD QUESTION.

THE COURT: SANITARY ENGINEER, YOU KNOW, WHAT ARE YOU TALKING ABOUT.

MR. TIGERMAN:

Q. DID YOU HAVE A CLASSIFICATION AS FAR AS YOUR ROLE AS AN ENGINEER WENT? WERE YOU A CHEMICAL OR CIVIL ENGINEER OR SOMETHING OF THAT SORT?

A. IN THE, WHEN I WAS BEGINNING, BECOMING AN ENGINEER AT THE COLORADO SCHOOL OF MINES I LEARNED A LOT OF DIFFERENT KINDS OF ENGINEERING.

I CAN'T TELL YOU WHICH ENGINEERING THING I DID OR DIDN'T DO BECAUSE YOU DID, I DID WHAT WAS NEEDED AND THAT'S, THAT'S IT.

Q. ALL RIGHT. SO SORT OF A GENERAL PRACTITIONER SO TO SPEAK?

A. WELL --

Q. YOU COVERED A BROAD SPECTRUM OF ENGINEERING PRACTICES, IS THAT WHAT YOU ARE TELLING US?

A. TO A DEGREE.

Q. OKAY. NOW, YOU SAID YOU GRADUATED FROM AN ENGINEERING SCHOOL, IS THAT WHAT YOU SAID?

A. YES.

Q. WHAT SCHOOL WAS THAT?

A. COLORADO SCHOOL OF MINES.

Q. MINDS, M I, M I?

A. M-I-N-E-S.

Q. ALL RIGHT. NOW, AFTER YOU WORKED AS AN ENGINEER FROM 1937, DID YOU GET ANY PROMOTIONS OR DID YOU ASSUME ANY NEW DUTIES?

A. GENERALLY SPEAKING, I DID, YES. I, I JUST GREW WITH THE COMPANY AND WHEN THINGS WERE NEEDED THAT I COULD DO WELL, I DID THEM.

Q. WHEN YOU SAY YOU GREW WITH THE COMPANY, LET ME ASK YOU A LITTLE BIT ABOUT SOME OF THE POSITIONS THAT YOU HAVE HELD.

AFTER BEING A CHEMICAL, WERE YOU A CHEMICAL AND PETROLEUM ENGINEER?

A. DO YOU MEAN WAS I REGARDED AS ONE IN THE --

Q. IN THE COMPANY?

A. I WAS AN ENGINEER THAT WOULD DO ANYTHING THAT I COULD DO AND WAS NEEDED.

THE COURT: WHAT IS SOME OF THE THINGS YOU COULD DO AS AN ENGINEER.

THE WITNESS: WELL, YOU MEAN LIKE AN EXAMPLE OF THE JOB.

THE COURT: YOU SAID THAT YOU WERE AN ENGINEER FOR BECHTEL AND YOU WOULD DO THINGS THAT YOU COULD DO. TELL US WHAT DID YOU DO FOR BECHTEL.

THE WITNESS: WELL, TYPICAL, SOME OF THE TYPICAL THINGS WAS, AS I DISCUSSED, PROJECTS WITH COMPANIES THAT WERE CONSIDERING BUILDING SOMETHING, HAVING SOMETHING BUILT BY BECHTEL AND THOSE DISCUSSIONS WERE NOT NECESSARILY THOSE OF AN

ENGINEER.

IT HAD A BUSINESS ASPECT TO IT, THINGS OF THAT KIND. THINK THAT'S ONE OF THE BEST I COULD DESCRIBE.

MR. TIGERMAN: OKAY.

Q. NOW, AT SOME POINT IN TIME, CAN YOU TELL US WHETHER OR NOT YOU STARTED HAVING SOME INVOLVEMENT IN EITHER MARKETING OR SALES?

A. WOULD YOU REPEAT THAT PLEASE?

Q. DID YOU EVER GET INVOLVED LATER AFTER 1937 IN THE MARKETING OR THE SALES ASPECT OF THE BECHTEL BUSINESS?

A. YES, I DID A GREAT DEAL OF THAT.

Q. CAN YOU TELL US, FOR EXAMPLE, WHAT KINDS OF THINGS YOU DID WITH RESPECT TO MARKETING AND SALES?

A. WELL, LET'S TAKE THE X Y Z COMPANIES KNOWN TO BE READY TO BUILD A CHEMICAL PLANT OR A POWER PLANT OR WHATEVER. FREQUENTLY, I WOULD CONTACT THEIR PEOPLE AND DISCUSS WITH THEM THE POSSIBILITY OF OUR DOING THE WORK FOR THEM.

Q. ALL RIGHT.

A. AND THAT'S --

Q. SO, CUSTOMER AND --

A. --TYPICAL.

Q. -- CUSTOMER CONTACTS?

A. CUSTOMER CONTACTS.

Q. IN THE BEGINNING, WERE YOU DOING THAT OR LIKE IN 1937 BACK WHEN YOU STARTED WERE YOU DOING THE CUSTOMER CONTACTS AND THE MARKETING?

A. I COULDN'T TELL YOU THIS. THAT'S TOO FAR BACK.
Q. BUT AT LEAST AT SOME POINT YOU GROW INTO DOING SORT OF A SALES AND MARKETING TYPE OF JOB, TOO, IS THAT TRUE?
A. I DID WHAT.
Q. YOU DID SALES AND MARKETING AS WELL AS ENGINEERING?
A. SALES --
Q. AND MARKETING?
A. --AND MARKETING.
Q. IN OTHER WORDS, YOU HAD CLIENT CONTACTS WITH CUSTOMERS, IS THAT TRUE?
A. I HAD, YES, I WOULD SAY BEYOND, OVER TWO YEARS I WAS, ANY TIME I MIGHT BE IN CONTACT WITH A CUSTOMER.
Q. NOW, YOU MENTIONED THAT YOU GREW WITH THE ORGANIZATION. AT SOME POINT WERE YOU PUT IN CHARGE OF REFINERY DEVELOPMENTS ABOUT 1948?
A. AS A SPECIFIC, I DON'T QUITE GET WHAT YOU MEAN.
Q. WERE YOU EVER GIVEN THE TITLE OR THE DUTIES IN THE MID TO LATE 1940'S OF REFINERY DEVELOPMENTS?
A. I WAS NOT, DIDN'T HAVE ANY SUCH THING LIKE THAT. THE COMPANY DOESN'T WORK QUITE THAT WAY.
Q. OKAY.
A. DIDN'T THEN AND --
Q. ARE YOU AWARE OF A BOOK CALLED THE BECHTEL STORY?
A. THE BECHTEL STORY? BECHTEL STORY?
Q. YES. IT IS A BOOK.

A. I DO RECALL THAT ONE WAS PUBLISHED AND DON'T KNOW WHEN IT WAS BUT I DO REMEMBER SOMETHING LIKE THAT.

Q. DO YOU --

A. GO AHEAD.

Q. -- DO YOU REMEMBER BOB INGRAM?

A. BOB INGRAM, YES, I RECALL HIM.

Q. WAS HE A PUBLIC RELATIONS TYPE OF FELLOW OVER AT BECHTEL?

A. AS I RECALL.

MR. LOPEZ: OBJECTION, LEADING.

THE COURT: OVERRULED, TESTING RECOLLECTION, MEMORY.

MR. TIGERMAN:

Q. DO YOU REMEMBER WHETHER BOB INGRAM WROTE THE BOOK THAT YOU REMEMBER COMING OUT ABOUT BECHTEL?

A. I DON'T KNOW.

Q. ALL RIGHT. I WOULD LIKE TO JUST SHOW YOU WHAT WE HAVE MARKED AS PLAINTIFF'S 45 AND ASK YOU --

A. 45.

Q. -- AND ASK YOU IF THIS REFRESHES YOUR RECOLLECTION ABOUT THE NAME OF THE BOOK THAT YOU MIGHT HAVE SEEN ABOUT THE BECHTEL COMPANY.

A. NO, THIS, I HAVE NEVER SEEN BEFORE --

Q. OKAY.

A. -- NO.

Q. LET ME SHOW YOU THEN A BOOK ENTITLED THE BUILDER AND HIS FAMILY, PLAINTIFF'S EXHIBIT NUMBER 44 AND ASK YOU IF THIS IS THE BOOK YOU REMEMBER BEING PUBLISHED

ABOUT THE BUSINESS?

A. I DO RECALL, I DO RECALL THIS. I COULDN'T TELL YOU WHEN.

Q. ALL RIGHT.

A. I DON'T, I CAN'T TELL YOU WHETHER I READ IT OR NOT.

Q. ALL RIGHT. WHERE DO YOU THINK YOU HEARD ABOUT THIS BOOK. DO YOU REMEMBER WHETHER OR NOT THERE WAS ANY TALK IN THE COMPANY ABOUT THIS BOOK WHEN IT CAME OUT?

MR. LOPEZ: OBJECTION, HEARSAY.

THE WITNESS: I DON'T UNDERSTAND.

THE COURT: HE IS ASKING WHETHER HE HEARD ABOUT IT, NOT ASKING CONTENTS.

THE WITNESS: DON'T HAVE ANY WAY OF KNOWING THAT.

MR. TIGERMAN: OKAY.

Q. DO YOU REMEMBER WHETHER WHEN YOU BECAME AWARE OF THIS BOOK WHETHER IT WAS WRITTEN BY ROBERT INGRAM?

A. I DO NOT KNOW THAT, DID NOT KNOW THAT.

Q. NOW, ROBERT INGRAM, WAS HE AT THE COMPANY ALMOST AS LONG AS YOU WERE AT THE COMPANY?

A. I DON'T KNOW HOW LONG HE WAS WITH THE COMPANY.

Q. ALL RIGHT. YOU LEFT WHEN?

A. I LEFT AT THE END OF 1974.

Q. SO, YOU WERE WITH THEM FROM '37 TO '74?

MR. LOPEZ: OBJECTION, VAGUE AS TO "THEM."

THE COURT: SUSTAINED.

MR. TIGERMAN:

Q. ALL RIGHT. YOU WORKED FOR THE BECHTEL CORPORATION FROM '37 TO '74, IS THAT CORRECT?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: YES, I WAS WITH IT THROUGH '74, FOR 37 YEARS.

MR. TIGERMAN:

Q. NOW, OVER TIME DID YOUR RESPONSIBILITIES INCREASE?

A. OVER TIME DID RESPONSIBILITIES INCREASE?

Q. FOR YOU PERSONALLY?

A. I DON'T KNOW QUITE WHAT YOU MEAN BY "INCREASE."

Q. WELL, WHEN YOU SAY YOU GREW WITH THE ORGANIZATION, WHAT DID YOU MEAN?

A. THAT I DID WHATEVER THEY WANTED ME TO DO.

Q. ALL RIGHT. YOUR POSITIONS BECOME HIGHER AND HIGHER, IS THAT CORRECT?

A. YES, THAT'S TRUE.

Q. AT SOME POINT DID YOU BECOME AN OFFICER OF BECHTEL?

A. I DID.

Q. AND WHAT?

A. I BECAME AN OFFICER, YES, THAT'S CORRECT.

Q. WHEN DID YOU BECOME AN OFFICER?

A. I CAN'T TELL YOU EXACTLY. I WOULD GIVE YOU A ROUGH --

THE COURT: CAN YOU APPROXIMATE?

THE WITNESS: HUH?

THE COURT: CAN YOU APPROXIMATE.

THE WITNESS: APPROXIMATELY 1950, '51, ALONG ABOUT THEN.

MR. TIGERMAN: ALL RIGHT.

Q. DO YOU REMEMBER WHAT YOUR FIRST TITLE WAS AS AN OFFICER? WAS IT V P OR PRESIDENT OR YOU RECALL THE TITLE, THE FIRST ONE?

A. VICE PRESIDENT.

Q. VICE PRESIDENT OF WHAT?

A. WELL, I CAN'T TELL YOU EXACTLY, TO BE FRANK WITH YOU, I CAN'T TELL YOU WHAT, WHAT NAME WAS ON THE COMPANY AT THAT TIME OR WHICH COMPANY.

Q. ALL RIGHT. LET ME JUST ASK THIS YOU --

THE COURT: WAIT, WAIT. I AM GETTING, WHY DON'T WE JUST CLEAR THIS UP. WHEN YOU ARE ASKING ABOUT BEING AN OFFICER, ARE YOU ASKING AS AN OFFICER OF THE CORPORATION, OF A PARTICULAR DEPARTMENT IN THE CORPORATION OR OF THE CORPORATION.

I AM NOT SURE.

MR. TIGERMAN: A PARTICULAR DEPARTMENT.

THE COURT: ALL RIGHT.

MR. TIGERMAN:

Q. YOU WERE AN OFFICER OF THE BECHTEL CORPORATION, IS THAT TRUE?

A. WHETHER IT WAS SPECIFICALLY THAT NAME OF THE COMPANY, I CAN'T AT THIS TIME REMEMBER.

Q. ALL RIGHT. THE COMPANY HAS ACTUALLY CHANGED NAMES OVER THE YEARS, ISN'T THAT TRUE?

MR. LOPEZ: OBJECTION, VAGUE.

THE WITNESS: THAT --

THE COURT: OVERRULED.

THE WITNESS: --I DON'T, I DON'T SEE HOW, WHAT YOU MEAN BY THAT.

MR. TIGERMAN: ALL RIGHT.

AT THIS TIME, YOUR HONOR, I WOULD LIKE TO MARK AS PLAINTIFF'S NEXT IN ORDER DEFENDANT'S INTERROGATORY ANSWERS.

THE COURT: AND QUESTIONS.

MR. TIGERMAN: AND QUESTIONS, YES.

THE COURT: ALL RIGHT. HAVE THEM MARKED. WHAT NUMBER IS THAT?

THE CLERK: THAT IS NUMBER 59, YOUR HONOR.

WHEREUPON DEF'S INTEROGS Q & A WAS MARKED PLAINTIFF'S EXHIBIT NO 59 FOR IDENTIFICATION ONLY.

THE COURT: NUMBER 59. COUNSEL, SHOW THEM TO COUNSEL.

JUST TO REFRESH THE JURY'S MEMORY OF MY PRELIMINARY INSTRUCTION, REMEMBER LADIES AND GENTLEMEN WHEN I TOLD YOU THAT BEFORE TRIAL EACH SIDE HAS AN OPPORTUNITY TO DISCOVER FACTS FROM EACH OTHER.

ONE OF THE WAYS IS BY A DEPOSITION, ANOTHER WAY IS BY INTERROGATORIES.

AN INTERROGATORY IS A WRITTEN QUESTION ASKED BY ONE PARTY OF THE OTHER PARTY, AND THAT PARTY WHO RECEIVES THOSE QUESTIONS MUST ANSWER IT UNDER

OATH IN WRITING.

YOU MUST CONSIDER INTERROGATORIES AND THEIR ANSWERS THERETO JUST AS IF THE QUESTIONS HAD BEEN ASKED AND ANSWERED HERE IN COURT TODAY. ALL RIGHT.

MR. TIGERMAN: ALL RIGHT.

Q. THE INTERROGATORIES, THE INTERROGATORY, FIRST OF ALL, HAVE MR. PLACIER'S NAME ON IT.

THAT MR. PLACIER IS YOUR LAWYER IS HERE TODAY?

A. YES, HE IS HERE.

Q. IT SAYS ALTHOUGH DEFENDANT SEQUOIA VENTURES INCORPORATED, SUED HEREIN AS BECHTEL CORPORATION (DEFENDANT) RESPONSES TO PLAINTIFF'S STANDARD INTERROGATORIES TO DEFENDANTS AS FOLLOWS:

INTERROGATORY NUMBER 3 STATES: "HAVE YOU EVER BEEN IDENTIFIED, KNOWN OR DONE BUSINESS UNDER ANY OTHER NAME? IF SO, PLEASE STATE SUCH NAMES AND THE TIME PERIOD DURING WHICH THIS DEFENDANT WAS SO KNOWN OR IDENTIFIED."

RESPONSE TO INTERROGATORY NUMBER 3: "YES. SEPTEMBER 10, 1945, THROUGH JANUARY 2, 1947, BECHTEL BROTHERS MCCONE COMPANY; JANUARY 2, 1947, THROUGH JANUARY 2, 1980, BECHTEL CORPORATION; JANUARY 2, 1980 THROUGH PRESENT, SEQUOIA VENTURES INCORPORATED."

NOW, WHEN YOU SAY THAT YOU MIGHT HAVE BEEN AN OFFICER, A VICE PRESIDENT OF A COMPANY BUT YOU CAN'T REMEMBER THE NAME OF THE COMPANY, ARE YOU TELLING US THAT YOU DON'T REMEMBER WHETHER OR NOT IT WAS BECHTEL BROTHERS MCCONE OR WHETHER IT WAS BECHTEL CORPORATION?

IS THAT WHAT YOU ARE TELLING US?

A. I WASN'T TRYING TO CHOOSE BETWEEN THE TWO. AT THE TIME THAT YOU SEE HERE, PUT THIS JANUARY 2, 1947, BECHTEL, BECHTEL MCCONE COMPANY MAY OR MAY NOT HAVE BEEN THE NAME WHEN I WAS MADE, UNLESS I, UNLESS THE COMPANY WAS CHANGED PRIOR TO 1950 OR 51, I WAS IN IT.

I AM NOT SURE WHICH, IF IT IS AS YOU SAY HERE JANUARY 2, 1937 THAT, I WOULD JUST HAVE TO ASSUME THAT THAT'S THE ONE THAT I WAS IN THERE.

Q. OKAY.

A. I HAVE NO OTHER BASIS.

Q. SO, IF THE NAME OF THE COMPANY FROM JANUARY 2, 1937 TO JANUARY 2, 1980 WAS BECHTEL CORPORATION AND SINCE YOU HAVE TOLD US THAT YOU WERE AN OFFICER STARTING IN, I GUESS, WHAT, THE 1950'S, WOULD THAT REFRESH YOUR RECOLLECTION THAT YOU WERE AN OFFICER OF BECHTEL CORPORATION?

A. IT DOESN'T HELP ME ANYMORE AS TO WHAT THE NAME OF THE COMPANY WAS AT THE TIME BECAUSE I REALLY DON'T KNOW.

Q. OKAY; BUT YOU WERE A VICE PRESIDENT FOR HOW MANY YEARS BEFORE YOU BECAME A DIRECTOR?

MR. LOPEZ: OBJECTION, COMPOUND.

THE WITNESS: I --

THE COURT: ASSUMES FACTS NOT IN EVIDENCE THAT HE EVER BECAME A DIRECTOR. WE DON'T KNOW THAT.

MR. TIGERMAN: I WILL REPHRASE.

THE COURT: SUSTAINED ON THAT OBJECTION.

MR. TIGERMAN:

Q. DID YOU BECOME A DIRECTOR?

A. YES, I DID.

Q. DO YOU RECALL ABOUT WHAT YEAR IT WAS WHEN YOU BECAME A DIRECTOR?

A. OH, I WOULD SAY THE LATTER PART OF THE 1960'S.

Q. OKAY. WERE YOU AN OFFICER FOR ALL THOSE YEARS FROM THE TIME YOU BECAME AN OFFICER TO THE TIME YOU BECAME A DIRECTOR.

IN OTHER WORDS WAS THERE ANY PERIOD OF TIME AFTER YOU BECAME AN OFFICER THAT YOU WERE NO LONGER AN OFFICER BEFORE YOU RETIRED?

I WILL REPHRASE IT. THAT WAS TWO DIFFERENT QUESTIONS.

MR. LOPEZ: YES.

THE COURT: THEY WERE BOTH VERY CONVOLUTED.

MR. TIGERMAN:

Q. FROM THE TIME YOU BECAME AN OFFICER, FROM THE TIME YOU BECOME A DIRECTOR, DID YOU REMAIN AN OFFICER?

A. AS FAR AS I CAN, CAN RECALL, YES, I DID REMAIN AN OFFICER.

Q. ALL RIGHT. NOW AS AN OFFICER OF THE CORPORATION DID YOU CONSIDER THAT YOU HAD A FIDUCIARY OBLIGATION TO THE CORPORATION?

MR. LOPEZ: OBJECTION, CALLS FOR A LEGAL CONCLUSION.

MR. TIGERMAN: GOES TO HIS STATE OF MIND AND THE STATE OF MIND THAT AN OFFICER SHOULD HAVE.

THE COURT: FIDUCIARY, YOU KNOW, IS A WORD

WE DEFINE IN THE DICTIONARY BUT IT HAS LEGAL SIGNIFICANCE.

YOU WANT TO USE ANOTHER WORD?

MR. TIGERMAN: ALL RIGHT.

Q. AS AN OFFICER DID YOU BELIEVE YOU HAD A DUTY TO THE CORPORATION TO KEEP IT ADVISED OF THINGS THAT COULD BE HARMFUL TO THE BUSINESS?

A. IT IS A VERY DIFFICULT THING FOR ME TO ANSWER BECAUSE I DON'T RECALL HAVING TO CONSIDER THIS, THAT SORT OF THING.

Q. ALL RIGHT. DID YOU EVER BACK THEN CONSIDER IT YOUR OBLIGATION TO THE COMPANY THAT IF YOU FOUND SOMETHING OUT THAT WAS BAD FOR THE COMPANY THAT YOU WOULD HAVE TO CONVEY IT TO THE COMPANY?

MR. LOPEZ: OBJECTION, RELEVANCE.

THE COURT: OVERRULED.

THE WITNESS: IF I FOUND SOMETHING THAT WAS BAD FOR THE COMPANY?

MR. TIGERMAN:

Q. DID YOU CONSIDER IT YOUR OBLIGATION TO REPORT IT?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED. YOU MAY ANSWER.

THE WITNESS: NOT KNOWING THE NATURE OF THE, OF THE THINGS THAT YOU ARE TALKING ABOUT, I COULDN'T, I COULD NOT ANSWER IT. TODAY COULDN'T TELL YOU WHAT I WOULD HAVE DONE THEN.

I HAVE NO WAY OF KNOWING.

MR. TIGERMAN:

Q. WELL, JUST ASKING NOW, I AM NOT ASKING WHAT YOU DID THEN. I AM ASKING ABOUT WHAT WAS IN YOUR HEAD THEN. I AM ASKING ABOUT WHETHER OR NOT YOU EVER THOUGHT ABOUT THE FACT THAT HAD YOU FOUND SOMETHING THAT WAS GOING TO BE DETRIMENTAL TO THE COMPANY THAT AS AN OFFICER YOU HAD AN OBLIGATION TO THE COMPANY TO PRESENT IT?

DID THAT EVER RUN THROUGH YOUR MIND?

A. I DO NOT REMEMBER HAVING SUCH A THOUGHT.

Q. OKAY. LET ME ASK YOU THIS. WHEN YOU BECAME A OFFICER, DID YOU COME TO ANY UNDERSTANDING THAT BEING AN OFFICER OF A CORPORATION CARRIES WITH IT CERTAIN RESPONSIBILITIES TO THE CORPORATION?

DID YOU EVER GIVE THAT ANY THOUGHT?

A. I AM SURE I DID BECAUSE I DID HAVE RESPONSIBILITY TO THE COMPANY.

Q. ALL RIGHT. AS AN OFFICER OF THE COMPANY DID YOU CONSIDER THAT YOU ACTUALLY HAD AN EVEN GREATER DUTY TO THE COMPANY TO PROTECT IT THAN YOU DID IF YOU WERE JUST AN EMPLOYEE OF THE COMPANY?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: I FELT FROM THE BEGINNING THAT I HAD EVERYTHING THAT I COULD POSSIBLY DO FOR THE COMPANY REGARDLESS OF WHAT, WHETHER AS AN OFFICER OR NOT, I DID EVERYTHING THAT I COULD DO, THOUGHT I SHOULD DO.

MR. TIGERMAN:

Q. ALL RIGHT. BACK WHEN YOU WERE AN OFFICER DID YOU EVER HEAR THE TERM "FIDUCIARY OBLIGATION"?

MR. LOPEZ: OBJECTION.

THE WITNESS: NO. LEGAL CON --

THE COURT: OVERRULED. HE WAS ASKED NOT WHAT IT IS BUT WHETHER HE HAS HEARD IT. HE SAID, NO.

MR. TIGERMAN:

Q. SO, WHEN YOU WERE AN OFFICER WOULD IT BE FAIR TO SAY THAT YOU NEVER HAD ANY CONVERSATION WITH ANYBODY ABOUT USING THE WORD "FIDUCIARY"?

THE COURT: WAIT, WAIT, WAIT, THAT HE HAD A CONVERSATION WITH OTHERS ABOUT THE USE OF THE WORD "FIDUCIARY OR WHETHER HE HAS HEARD THE WORD "FIDUCIARY"?

MR. TIGERMAN:

Q. ANY CONVERSATION, WHILE YOU WERE AN OFFICER AT BECHTEL, DID YOU EVER HAVE A CONVERSATION WITH ANY OF THE OTHER OFFICERS OR ANY OF THE DIRECTORS THAT CONTAINED THE WORD "FIDUCIARY"?

MR. LOPEZ: OBJECTION --

THE WITNESS: I HAVE NO WAY --

THE COURT: OVERRULED.

THE WITNESS: -- TO REMEMBER THINGS LIKE THIS AT THIS STAGE OF MY LIFE.

MR. TIGERMAN: ALL RIGHT.

Q. WHEN YOU WERE AN OFFICER OF THE COMPANY, DID YOU CONSIDER IT YOUR OBLIGATION THAT IF YOU LEARNED THE COMPANY WAS DOING SOMETHING THAT WAS HARMING PEOPLE TO

BRING IT TO THE COMPANY'S ATTENTION?

MR. LOPEZ: OBJECTION, ASKED AND ANSWERED.

MR. TIGERMAN: IT WAS --

THE COURT: OVERRULED. I WILL ALLOW IT.

THE WITNESS: WOULD YOU REPEAT IT PLEASE.

MR. TIGERMAN:

Q. BACK WHEN YOU WERE AN OFFICER DID YOU EVER CONSIDER IT YOUR OBLIGATION THAT IF YOU FOUND OUT THAT THE COMPANY WAS DOING SOMETHING THAT WAS HARMING PEOPLE THAT YOU SHOULD BRING THAT TO THE COMPANY'S ATTENTION?

A. I HAVE NO WAY OF REMEMBERING THAT, IF IT WAS.

Q. ALL RIGHT. I AM NOT TALKING ABOUT WHETHER OR NOT THAT ACTUALLY HAPPENED. I AM JUST TALKING ABOUT WHETHER OR NOT YOU CONSIDERED THAT TO BE ONE OF YOUR OBLIGATIONS TO THE COMPANY TO REPORT THINGS THAT YOU FOUND THAT WERE DETRIMENTAL TO OTHER PEOPLE?

MR. LOPEZ: LET ME OBJECT. HIS QUESTION, IS HE ASKING HIM --

THE COURT: IT IS GETTING VAGUE AND AMBIGUOUS.

MR. TIGERMAN: I WILL REPHRASE THAT TERRIBLE QUESTION.

THE COURT: SUSTAINED.

MR. TIGERMAN:

Q. I AM JUST ASKING WHETHER YOU AS AN OFFICER CONSIDERED IT YOUR OBLIGATION TO REPORT TO THE COMPANY ANY INFORMATION YOU HAD ABOUT WHETHER THE COMPANY ACTIVITIES WERE ACTUALLY HARMING PEOPLE OUTSIDE THE COMPANY?

A. I CAN NOT RECALL.

MR. LOPEZ: OBJECTION, VAGUE.

THE WITNESS: I --

THE COURT: OVERRULED.

THE WITNESS: I --I CANNOT RECALL THAT.

MR. TIGERMAN:

Q. NOW, WHEN YOU BECAME A DIRECTOR, FIRST OF ALL WHEN YOU WERE AN OFFICER, DID YOU OWN STOCK IN THE COMPANY?

A. I DID.

Q. ALL RIGHT. BECHTEL HAS NEVER BEEN A PUBLICLY TRADED COMPANY, HAS IT, NOT WHILE YOU WERE THERE?

A. AS FAR AS I KNEW.

Q. ALL RIGHT. THE STOCK WAS HELD BY ALL THE MANAGEMENT, IS THAT, ISN'T THAT CORRECT?

A. THAT'S SORT OF A GENERAL, THAT, THAT, MANAGEMENT IS SOMETHING THAT HAS TO BE DEFINED.

Q. OKAY. OKAY. IF YOU DIDN'T WORK FOR BECHTEL, YOU COULDN'T HOLD STOCK, IS THAT TRUE?

A. IF YOU COULD REPEAT THAT.

Q. IF YOU DIDN'T, ONLY EMPLOYEES OF BECHTEL COULD HOLD STOCK?

MR. LOPEZ: OBJECTION ON THE BASIS OF RELEVANCE AND VAGUE.

THE COURT: OVERRULED. I WILL TAKE IT FOR A MOTION TO STRIKE, IF IT --

MR. LOPEZ: MOTION TO STRIKE.

THE COURT: NOT AT THIS TIME.

THE WITNESS: I CANNOT RECALL THAT.

MR. TIGERMAN:

Q. ALL RIGHT. DO YOU EVER RECALL BACK IN THE 1940'S OR 1950'S A STATEMENT THAT WAS MADE BY STEVEN BECHTEL TO THE EXTENT THAT NO WIDOWS OR ORPHANS?

A. I HAVE NOT HEARD ANY SUCH THING.

Q. DID THE COMPANY HAVE A POLICY THAT ONCE A DIRECTOR OR AN OFFICER DIED OR RETIRED THEY HAD TO SELL THEIR STOCK BACK TO THE COMPANY?

MR. LOPEZ: OBJECTION, RELEVANCE, MOVE TO STRIKE.

THE COURT: I WILL TAKE IT SUBJECT TO AN MOTION TO STRIKE. RIGHT NOW, THE OBJECTION IS OVERRULED.

YOU GOT TO TIE THIS IN, OTHERWISE, I AM GOING TO STRIKE THIS.

MR. TIGERMAN: I WILL.

THE WITNESS: I DON'T, I CAN'T TELL IF THAT --

MR. TIGERMAN:

Q. WHEN YOU WERE --

A. GO AHEAD.

Q. WHEN YOU RETIRED, DID YOU HAVE TO SELL YOUR STOCK?

A. DID I HAVE TO?

Q. YES.

A. YES.

Q. WHO DID YOU SELL IT TO?

A. BACK TO THE COMPANY.

Q. WHAT WAS THE NAME OF THE COMPANY?

A. I MUST SAY WE HAVE A NUMBER OF COMPANIES AND I CANNOT AT THIS POINT TELL YOU EXACTLY WHICH ONE IT WAS.

MR. TIGERMAN: OKAY.

THE COURT: WHAT ARE THE NAMES OF THE COMPANIES THAT RUN THROUGH YOUR MIND THAT YOU CAN'T TELL?

THE WITNESS: OH, WE HAD BECHTEL CORPORATION, OF COURSE. I AM SORRY. MY MEMORY JUST IS, DOESN'T, I --

THE COURT: ALL RIGHT.

THE WITNESS: --JUST CAN'T ANSWER THAT.

MR. TIGERMAN: ALL RIGHT.

Q. WHEN OTHER PEOPLE WERE RETIRED FROM BEING AN OFFICER OR DIRECTOR, DO YOU KNOW WHETHER IT WAS THE COMPANY POLICY AT ANY TIME THAT THEY, TOO, HAD TO SELL BACK THEIR STOCK?

MR. LOPEZ: SAME OBJECTION, MOTION TO STRIKE.

THE COURT: I UNDERSTAND THAT IT WILL BE A RUNNING OBJECTION. OVERRULED AT THIS TIME, SUBJECT TO A MOTION TO STRIKE.

THE WITNESS: AT ONE TIME I UNDERSTOOD THAT THAT WAS WHAT THE COMPANY WAS DOING.

MR. TIGERMAN:

Q. OKAY. YOU COULDN'T OWN THE COMPANY, AT LEAST, FOR SOME PERIOD OF TIME THAT YOU ARE AWARE OF, UNLESS YOU

WORKED FOR THE COMPANY, CORRECT?

A. SOUNDS REASONABLE.

THE COURT: YOU MEAN OWING THE COMPANY IN SO FAR AS YOU OWNED A PIECE OF THE ROCK BY HAVING SOME SHARES, IS THAT RIGHT?

MR. TIGERMAN: YES, YES, LIKE PRUDENTIAL.

THE COURT: I AM ONLY ASKING THE QUESTION FOR CLARITY, NOT TAKING SIDES, WANT TO MAKE IT CLEAR.

THEN, THERE IS SOME QUESTION OVER HERE, COME PICK UP THE, PICK UP THE QUESTION.

GO ON.

MR. LOPEZ: THE LAST ANSWER WAS VAGUE. LAST ANSWER SAID, IT SEEMS REASONABLE. I AM NOT SURE THAT HE HAD ANY FOUNDATION.

THE COURT: IT GOES TO ITS WEIGHT.

MR. LOPEZ: ALL RIGHT. ALL RIGHT.

THE COURT: THAT WAS YOUR UNDERSTANDING, IS THAT CORRECT? YOU COULDN'T --

MR. LOPEZ: IT "SOUNDS REASONABLE" IS WHAT HE SAID.

THE COURT: DON'T KNOW WHETHER IT IS REASONABLE OR NOT.

WAS IT YOUR UNDERSTANDING WHEN YOU HAD YOUR SHARES, YOU COULDN'T GO OUT AND TRADE IT ON THE OPEN MARKET, COULD YOU?

THE WITNESS: I COULDN'T --

THE COURT: YES.

THE WITNESS: --COULDN'T DO THAT. THAT IS

TRUE.

THE COURT: IF YOU ARE GOING TO SELL, YOU GOT TO SELL BACK TO THE CORPORATION?

THE WITNESS: YES.

THE COURT: IF YOU ARE GOING TO BUY, YOU ARE GOING TO BUY IT FROM THE CORPORATION?

THE WITNESS: AS FAR AS I COULD TELL, YES.

THE COURT: DID YOU, WAS IT YOUR UNDERSTANDING THAT THAT NOT ONLY APPLIED TO YOU BUT EVERYONE ELSE SIMILARLY SITUATED LIKE YOU?

THE WITNESS: I, I THOUGHT THEY WERE ALL ON THE SAME BOAT.

THE COURT: ON THE SAME BOAT. ALL RIGHT.

MR. TIGERMAN: ALL RIGHT, SIR.

Q. EARLIER, I ASKED YOU WHETHER OR NOT ALL THE STOCK WAS HELD BY BECHTEL MANAGEMENT AND YOU WANTED ME TO DEFINE THE WORD --

A. WOULD YOU PLEASE REPEAT WHAT YOU JUST SAID.

Q. ALL RIGHT. A LITTLE WHILE AGO I ASKED YOU WAS ALL THE STOCK OWNED BY THE MANAGEMENT AND YOU SAID TO ME, "DEFINE MANAGEMENT."

DO YOU RECALL THAT YOU SAID MANAGEMENT IS A TERM THAT NEEDED TO BE DEFINED?

A. I DON'T REMEMBER THAT.

Q. OKAY. DID THE COMPANY HAVE WHAT IS CALLED MANAGEMENT, WHAT YOU CONSIDERED TO BE THE MANAGEMENT OF THE CORPORATION?

A. THAT'S A VERY DIFFICULT THING TO DEFINE. THE

MANAGEMENT OF THE CORPORATION IS GENERALLY THE OFFICERS OF THE CORPORATION AND THE, WELL --

THE COURT: WHAT WAS THAT LAST QUESTION? WHAT --

MR. TIGERMAN:

Q. DID THE COMPANY HAVE WHAT HE CONSIDERED TO BE A MANAGEMENT STRUCTURE OR MANAGEMENT. WE WERE GETTING UP TO THE TERM MANAGEMENT?

THE COURT: ALL RIGHT. YOUR ANSWER TO THAT.

THE WITNESS: MY, PERSONALLY, I THINK OF MANAGEMENT AS BEING THE OFFICERS AND DIRECTORS OF THE COMPANY AND I FELT IT WOULD APPLY TO BECHTEL.

MR. TIGERMAN: OKAY.

Q. NOW, THE MANAGEMENT OF THE COMPANY DURING THE PERIOD THAT YOU WERE AN OFFICER OR DIRECTOR DID YOU EVER GET TO READ THE ARTICLES OF INCORPORATION OR AND ABOUT BYLAWS AND THINGS LIKE THAT?

A. I DON'T, DO NOT RECALL, I JUST DON'T KNOW WHETHER I DID OR NOT. I CANNOT RECALL.

Q. ALL RIGHT. WAS THERE ANY UNDERSTANDING ON YOUR PART THAT ALL THE STOCK WAS OWNED BY THE OFFICERS AND THE DIRECTORS?

A. I DID NOT HAVE AN UNDERSTANDING WHETHER IT IS OR WAS OR WASN'T.

Q. DO YOU KNOW ANYBODY WHO WASN'T AN OFFICER OR DIRECTOR WHO HELD STOCK?

A. I DON'T, I DON'T REMEMBER ANYONE THAT CAN, THAT

WAS.

Q. OKAY. I GUESS WHAT I AM GETTING AT, SIR, IS WHETHER OR NOT THE PEOPLE WHO OWNED THE STOCK OF THE COMPANY WERE THE SAME PEOPLE WHO RAN THE COMPANY, ISN'T THAT TRUE?

A. THAT IS TOO GENERAL TO TRY TO --

Q. ALL RIGHT. DID YOU KNOW ANY WIVES WHO OWNED ANY STOCK IN THE COMPANY?

THE COURT: WIVES OF?

MR. TIGERMAN:

Q. WIVES OF --

MR. LOPEZ: OBJECTION, VAGUE.

MR. TIGERMAN:

Q. --DIRECTORS OR OFFICERS AFTER THEY LEFT?

A. I DID NOT KNOW WHETHER THERE WERE OR WERE NOT.

Q. CAN YOU TELL ME, DO YOU KNOW, CAN YOU NAME ONE WIFE OR CHILD OF AN OFFICER OR DIRECTOR WHO HELD STOCK IN THE CORPORATION AFTER THAT DIRECTOR OR OFFICER LEFT?

A. I COULD NOT GIVE YOU ANY INFORMATION OF THAT TYPE.

THE COURT: OKAY. YOU WANT TO APPROACH THE SIDEBAR.

MR. TIGERMAN: YES.

(SIDEBAR, OFF THE RECORD)

MR. TIGERMAN:

Q. SIR, AS AN OFFICER OF THE CORPORATION, DID YOU SUPERVISE ANY OTHER EMPLOYEES OR ANY DEPARTMENTS?

A. YES.

Q. ALL RIGHT. WHAT DEPARTMENTS OR EMPLOYEES DID YOU SUPERVISE AS AN OFFICER OF BECHTEL?

A. WELL, FOR A FEW YEARS I WAS RESPONSIBLE FOR THE MINING AND METALS, I THINK THAT WAS THE NAME OF IT, DIVISION OF THE COMPANY.

Q. ALL RIGHT AND THEN?

A. AND I BELIEVE THAT WAS THE ONLY ONE THAT I WAS ACTUALLY, THAT I CAN RECALL NOW, THAT WAS THE ONLY ONE.

Q. ALL RIGHT. AS AN OFFICER OF THE CORPORATION, WERE THEIR POLICIES THAT WERE CREATED AT THE BOARD OF DIRECTORS LEVEL THAT WERE THEN IMPLEMENTED WITH RESPECT TO THE REST OF THE BUSINESS?

MR. LOPEZ: OBJECTION, VAGUE AS TO TIME.

THE WITNESS: I AM NOT SURE I UNDERSTAND.

THE COURT: ALL RIGHT, RULE 765.

SIR, YOU WERE HEAD OF THE DEPARTMENT, DEPARTMENT OF MINING, IS THAT CORRECT?

THE WITNESS: MINING AND METALS --

THE COURT: MINING AND METALS.

THE WITNESS: --DIVISION IT WAS CALLED.

THE COURT: YOU SUPERVISED PEOPLE IN THAT SIDE, THAT DEPARTMENT?

THE WITNESS: YES.

THE COURT: WERE YOU, WHAT, THE VICE PRESIDENT OF THAT DEPARTMENT?

THE WITNESS: I WAS VICE PRESIDENT.

THE COURT: DID YOU HAVE THE POWER TO HIRE AND FIRE?

THE WITNESS: YES.

THE COURT: YOU HAD THE POWER TO PROMOTE, DEMOTE?

THE WITNESS: YES.

THE COURT: IN REFERENCE TO THAT DEPARTMENT DID YOU, AS A VICE PRESIDENT, DICTATE THE POLICY, THE BUSINESS POLICY THAT YOU WOULD TAKE TO PROMOTE YOUR GOALS IN THAT DEPARTMENT?

THE WITNESS: I WOULD SET THE POLICY.

THE COURT: SURE. AS TO WHAT THE WORKING CONDITIONS ARE, WHAT YOUR OBJECTIVES ARE, SO ON, HAVE MEETINGS?

THE WITNESS: I SUPPOSE IF THERE WAS ANY NEED FOR IT, I WOULD HAVE HAD THE RESPONSIBILITY FOR IT BUT AS A PRACTICAL MATTER, I DIDN'T, SEEMS TO ME, DIDN'T NEED IT.

THE COURT: YOU KNOW THE OLD EXPRESSION THAT THE TAIL DOESN'T WAG THE DOG AND THAT POLICY IS ALWAYS DICTATED FROM THE TOP.

WHEN YOU WERE ON THE BOARD OF DIRECTOR WITH THE OTHER MEMBERS OF THE BOARD OF DIRECTORS, DID YOU DISCUSS BUSINESS POLICY?

THE WITNESS: I AM SURE WE DID.

THE COURT: ALL RIGHT. LET'S GO ON.

MR. TIGERMAN: ALL RIGHT.

Q. IN YOUR DISCUSSION OF BUSINESS POLICIES, SIR, WAS THERE EVER ANY DISCUSSION OR KNOWLEDGE THAT YOU ACQUIRED ABOUT THE COMPANY'S POLICY FOR THE STOCK

OWNERSHIP OF THE COMPANY?

A. WOULD YOU KINDLY REPEAT THAT?

Q. WHEN YOU BECAME, WHEN YOU TALKED ABOUT THE COMPANY HAVING POLICIES AND YOUR RESPONSIBILITY TO ENFORCE THEM, DID YOU BECOME AWARE OF ANY POLICY ABOUT STOCK OWNERSHIP, WHO COULD OWN IT AND WHO COULDN'T?

A. I DON'T RECALL HAVING DISCUSSED THAT.

Q. DID YOU HAVE ANY KNOWLEDGE OF IT?

A. KNOWLEDGE?

Q. YES, ABOUT WHO COULD OWN STOCK AND WHO COULDN'T?

A. NO.

Q. AT ANY TIME AS DIRECTOR DID YOU EVER HAVE ANY KNOWLEDGE ABOUT WHO WAS ALLOWED TO OWN STOCK AND WHO WASN'T?

A. NONE THAT I CAN RECALL.

Q. SO, DON'T RECALL WHETHER THAT MIGHT BE IN THE ARTICLES OR BYLAWS?

A. THAT'S CORRECT.

THE COURT: WHEN YOU DID BUY STOCK, DID YOU BUY STOCK WHEN YOU WERE A VICE PRESIDENT OR DID YOU BUY IT WHEN YOU WERE ON THE BOARD OF DIRECTORS?

THE WITNESS: WHEN I WAS A VICE PRESIDENT.

THE COURT: ALL RIGHT. YOU DIDN'T BUY STOCK BEFORE YOU WERE AN OFFICER?

THE WITNESS: NO, NOT BEFORE I WAS AN OFFICER.

THE COURT: GO ON.

MR. TIGERMAN: OKAY.

Q. NOW, SIR, LET'S TALK ABOUT SOME --

THE COURT: LADIES AND GENTLEMEN, WHEN I AM ASKING QUESTIONS, I AM NOT TAKING SIDES, JUST TRYING TO MOVE THIS THING. ALL RIGHT.

TALKING ABOUT MEMORY, THINGS IN THE PAST AND SO ON, SO, DON'T TAKE ANY EMPHASIS.

MR. TIGERMAN:

Q. LET'S TALK ABOUT SOME OF THE PEOPLE IN BECHTEL. DID YOU KNOW A GENTLEMAN BY THE NAME OF AN G. ORSELLI, O-R-S-E-L L I?

A. YES.

Q. WAS MR. ORSELLI THERE WHEN YOU JOINED?

A. WHEN I JOINED THE COMPANY --

Q. YES.

A. -- IN 1937?

Q. YES.

A. I CAN'T BE SURE BECAUSE THAT'S TOO FAR BACK.

Q. WAS HE THERE IN THE 40'S, WAR YEAR ZONE?

A. BELIEVE HE WAS.

Q. AND WAS MR. ORSELLI AN ENGINEER?

A. I RECALL HIM AS BEING A CONSTRUCTION MANAGER AND WHETHER OR NOT HE WAS AN ENGINEER, I CAN'T RECALL.

Q. ALL RIGHT. DID MR. ORSELLI GO ON TO HOLD ANY OTHER POSITIONS IN THE COMPANY THAT YOU ARE AWARE OF?

A. NONE THAT I KNOW OF.

Q. ALL RIGHT. HE WAS THERE, THE FIRST YOU CAN RECALL, DURING THE WAR YEARS?

A. DURING THE --

Q. DURING THE WAR YEARS, WORLD WAR TWO, WAS ORSELLI THERE DURING WORLD WAR TWO?

A. WAS HE WITH THE COMPANY THEN?

Q. YES.

A. TO THE BEST OF MY RECOLLECTION, HE WAS.

Q. ALL RIGHT. DO YOU KNOW WHEN IT WAS THAT MR., YOU SAID YOU WERE AWARE OF HIM BEING THERE DURING WORLD WAR TWO.

DO YOU RECALL WHETHER HE WAS THERE AFTER WORLD WAR TWO?

A. YES, HE WAS.

Q. DID HE EVER BECOME A SUPERVISOR OF ANY SORT OR AN OFFICER?

A. YES.

Q. WHAT POSITION?

A. EXACTLY WHAT IT WAS, I CAN'T RECALL NOW. PROBABLY HAD A GREAT DEAL OF INFLUENCE ON THE WAY THE CONSTRUCTION MANAGERS WERE OPERATING PROJECTS.

I CAN'T TELL YOU ANY MORE THAN THAT AND IT IS A MAYBE.

Q. ALL RIGHT. IN THIS TIME THAT YOU KNEW HIM, HE GROW WITH THE COMPANY THE WAY YOU DID IN A GENERAL SENSE?

MR. LOPEZ: OBJECTION, VAGUE.

MR. TIGERMAN:

Q. DID HE GROW WITH THE COMPANY?

MR. LOPEZ: OBJECTION --

THE COURT: OVERRULED.

THE WITNESS: HE GREW WITH THE COMPANY.

MR. TIGERMAN:

Q. ALL RIGHT. LET'S TALK ABOUT ANOTHER COMPANY THAT WHAT THERE, CLARK RANKIN. DO YOU REMEMBER CLARK RANKIN OR WAS IT CLAUDE RANKIN? YOU REMEMBER A GUY BY THE NAME OF RANKIN WHO WAS THERE WHEN YOU CAME ON?

A. I DO VAGUELY REMEMBER. I CAN'T TELL YOU HIS FIRST NAME.

Q. YOU KNOW IF HE GREW WITH THE COMPANY?

A. I CAN'T REMEMBER THAT EITHER.

Q. DO YOU REMEMBER GARBERINI (PHONETICALLY), J. GARBERINI?

A. YES, YES.

Q. NOW, WAS GARBERINI THERE WHEN YOU STARTED?

A. I STARTED AS OF 1937 --

Q. RIGHT.

A. -- AND TO THE BEST OF MY KNOWLEDGE, HE WAS NOT THERE.

Q. ALL RIGHT. WAS HE, WERE YOU AWARE THAT GARBERINI WAS PART OF THE ORGANIZATION DURING WORLD WAR TWO?

A. THAT, I, AS I SAID BEFORE, YES, THINK HE WAS THERE.

Q. OKAY. GARBERINI, HE WENT ON TO BECOME AN OFFICER OR A DIRECTOR, DIDN'T HE?

A. I AM NOT, I CANNOT ANSWER BECAUSE I DON'T KNOW.

Q. ALL RIGHT. DID HE EVER BECOME GENERAL SUPERINTENDENT FOR ANY PROJECTS THAT WERE DONE BY BECHTEL?

A. I WOULD IMAGINE THAT WAS HIS, I SHOULDN'T SAY THAT BUT MY RECOLLECTION IS THAT HE DID.

Q. DID GARBERINI DURING THE TIME YOU KNEW HIM GROW WITH THE CORPORATION?

A. YES.

Q. THAT WAS FROM THE WAR YEARS FORWARD THAT YOU KNEW HIM?

A. YES.

Q. NOW, WE ALSO HAVE A PERSON BY THE NAME OF EDWARD DORISTAN (PHONETICALLY), YOU REMEMBER AN ED DORISTAN?

A. YES.

Q. WAS ED DORISTAN THERE WHEN YOU CAME ON?

A. WELL, PROBABLY WITHIN AT LEAST A YEAR AFTER I STARTED.

Q. OKAY. WHEN ED DORISTAN JOINED, WHAT WAS HIS POSITION, YOU RECALL?

A. I DON'T RECALL.

Q. WAS ED DORISTAN AN ENGINEER?

A. I DON'T KNOW.

Q. DID HE ULTIMATELY BECOME MANAGER OF ENGINEERING?

A. NOT TO MY KNOWLEDGE.

Q. IN 1951, DID HE BECOME VICE PRESIDENT OF BECHTEL?

A. THAT I DON'T RECALL.

Q. WAS HE A VICE PRESIDENT OR OFFICER WHEN YOU WERE AN OFFICER?

A. I CAN'T RECALL THAT.

Q. YOU DON'T HAVE ANY RECOLLECTION OF DORISTAN BEING AN OFFICER OF THE COMPANY AT ANY TIME?

A. I HAVE NO SUCH RECOLLECTION.

Q. ALL RIGHT. NOW, GENERALLY SPEAKING DID DORISTAN GROW WITH THE COMPANY FROM THE TIME THAT YOU BECOME AWARE HE WAS THERE?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: TO A DEGREE, SO LONG AS YOU WERE WITH THE COMPANY, YES, I WOULD THINK SO.

MR. TIGERMAN: YES. OKAY.

Q. NOW, SIR, ARE YOU AWARE OF A PUBLICATION THAT EVER CAME OUT WITHIN THE COMPANY CALLED THE BECHTEL BRIEFS?

A. YES, I DO.

Q. WHAT WERE THE BECHTEL BRIEFS?

A. BECHTEL BRIEFS WERE LITTLE PAMPHLETS THAT WERE ISSUED, I WOULD SAY, ONCE A MONTH AMONG THE EMPLOYEES SIMPLY TO KEEP THEM ABREAST OF THINGS THE COMPANY WERE INTERESTED IN OR DOING.

Q. SO, IT WAS TO KEEP EMPLOYEES INFORMED ABOUT THE COMPANY?

A. TO A DEGREE.

Q. ALL RIGHT. AND THIS BRIEF, DO YOU RECALL WHETHER OR NOT THIS BECHTEL BRIEF, WHETHER OR NOT IT WAS AT ANY TIME BEING PUBLISHED BY THE PUBLIC RELATIONS DEPARTMENT?

A. I DON'T KNOW.

Q. YOU RECALL WHETHER OR NOT AT ANY TIME MR. INGRAM HAD ANY RESPONSIBILITY FOR THE BECHTEL BRIEFS?

A. I DON'T KNOW AN ANSWER TO THAT.

Q. DO YOU RECALL HOW YOU WOULD GET THESE BRIEFS? WOULD THEY BE LEFT SOMEWHERE FOR THE EMPLOYEES TO PICK UP OR WOULD THEY BE DISTRIBUTED INTO THE MAIL SLOTS?

A. I WOULD USUALLY FIND MINE ON MY DESK. THAT'S ALL I CAN TELL YOU.

Q. YOUR MAIL WOULD GET DELIVERED TO YOUR OFFICE OR TO YOUR SECRETARY?

A. YES.

Q. THEN YOUR SECRETARY WOULD LEAVE YOUR MAIL AND ALL INCOMING ITEMS ON YOUR DESK, IS THAT CORRECT?

A. YES, YES.

Q. DID YOU RECEIVE A COPY OF THIS NEWSLETTER ON A REGULAR BASIS, EVERY MONTH, MORE OR LESS?

A. YOU SAY "THIS."

Q. THE BECHTEL BRIEFS?

A. BECHTEL BRIEFS.

Q. YES.

A. I WOULD GET IT IF I WERE IN THE COUNTRY AT THE TIME. IF I WAS OUT SOMEWHERE, OBVIOUSLY, I DIDN'T GET IT THEN.

Q. IT WOULD BE WAITING FOR YOU WHEN YOU COME BACK?

A. IT SHOULD HAVE BEEN. THAT'S ALL I CAN TELL. I DON'T KNOW.

Q. DID YOU READ IT WHEN IT CAME OUT?

A. I CAN'T REMEMBER READING IT. I CAN'T REMEMBER NOT READING IT.

Q. ALL RIGHT. BUT THE PURPOSE OF THIS DOCUMENT WAS TO KEEP PEOPLE INVOLVED ABOUT WHAT WAS HAPPENING IN THE COMPANY, IS THAT CORRECT?

A. OH, ABOUT, NOT ALL OF IT, NOT ALL THE THINGS THAT HAPPENED IN THE COMPANY, NO.

Q. NOT ALL THE THINGS?

A. WHAT VERY, JUST LITTLE THINGS THAT PEOPLE MIGHT BE INTERESTED IN KNOWING.

Q. ALL RIGHT. FOR EXAMPLE WHEN A NEW PROJECT WAS STARTED, WOULD THAT SOMETIMES BE IN THE BECHTEL BRIEFS?

A. I DON'T RECALL THAT.

Q. WHEN AN ANNIVERSARY WAS CELEBRATED, WOULD THAT BE IN THE BECHTEL BRIEFS, AN ANNIVERSARY OF THE COMPANY?

A. I DON'T RECALL IT HAVING BEEN IN IT?

Q. SIR, I WOULD LIKE TO SHOW YOU SOMETHING. LET ME JUST ASK YOU, DURING THE ENTIRE TIME YOU WERE THERE DID THE BECHTEL BRIEFS GET PUBLISHED AND DISTRIBUTED ALL THE YEARS YOU WERE PRESENT?

A. I HAVE TO TELL YOU THAT I CAN'T ANSWER THAT. I JUST DON'T REMEMBER THOSE DETAILS.

Q. NOW, SIR, DO YOU RECALL IN 1963 WHETHER OR NOT THE COMPANY CELEBRATED ITS 65TH ANNIVERSARY?

A. WOULD YOU REPEAT THAT AGAIN PLEASE?

Q. DO YOU RECALL WHETHER IN 1963 BECHTEL CELEBRATED ITS 65TH ANNIVERSARY?

A. I DO NOT RECALL.

Q. 1963 YOU WERE STILL AN OFFICER BUT NOT A DIRECTOR YET, IS THAT TRUE?

A. '73?

Q. RIGHT.

A. I CAN'T BE SURE WHETHER I WAS OR WASN'T BECAUSE AS I SAID BEFORE, I BECAME AN DIRECTOR SOMETIME AROUND THE MID POINT OF THE 60'S, CAN'T TELL YOU WHAT YEAR IT WAS.

Q. NOW, SIR, WHAT I AM GOING TO SHOW YOU IS AN EXCERPT FROM THE BECHTEL BRIEFS WHICH IS WHAT HAS BEEN MARKED AS PLAINTIFF'S 49?

MR. LOPEZ: WOULD YOU SHOW COUNSEL FIRST.

THE COURT: YES.

MR. TIGERMAN: IT IS BATES STAMPED PAGE NUMBER 1695. (SHOWING TO COUNSEL).

MR. TIGERMAN:

Q. FIRST OF ALL, LET ME JUST SHOW YOU THIS PAGE. DO YOU SEE WHERE IT SAYS "GREETINGS" THERE. CAN YOU JUST TAKE A LOOK AT THAT.

A. YES, I --

Q. NOW, DO YOU REMEMBER, DO YOU HAVE ANY RECOLLECTION OF SEEING THAT WHEN IT CAME OUT?

A. NO, I DID NOT HAVE ANY RECOLLECTION OF HAVING SEEN THIS.

Q. ALL RIGHT.

THE COURT: THE QUESTION IS, DO YOU HAVE A RECOLLECTION BY READING THAT THAT IN 1963 THERE WAS AN ANNIVERSARY BEING CELEBRATED?

THE WITNESS: THAT I DON'T RECALL.

THE COURT: THAT DOESN'T HELP YOU REFRESH YOUR MEMORY?

THE WITNESS: NO.

MR. TIGERMAN: YOUR HONOR, I WOULD LIKE TO, LET'S LOOK AT THE BOTTOM.

THE WITNESS: IF I MIGHT EXPLAIN HERE, MY BRAIN IS GOING DOWN THE DRAIN THE LAST COUPLE OF YEARS. MY MEMORY FOR THESE THINGS IS VERY, NOT WHAT THEY USE TO BE.

THE COURT: YOU MARRIED.

THE WITNESS: HUH?

THE COURT: ARE YOU MARRIED?

THE WITNESS: YES.

THE COURT: YOU REMEMBER YOUR WEDDING ANNIVERSARY?

THE WITNESS: YES, I DO THAT.

THE COURT: NOW, TO SAY, THE BUSINESS ANNIVERSARY, YOU REMEMBER THAT, WHEN THEY CELEBRATED IT?

THE WITNESS: I DO REMEMBER ONE THERE ABOUT 5 YEARS AGO. THAT'S AS FAR BACK AS I CAN REMEMBER THAT.

THE COURT: WHAT YEAR, 5 YEARS.

THE WITNESS: ROUGHLY ABOUT 5 YEARS AGO.

THE COURT: WHAT WAS THE WEDDING ANNIVERSARY, WAS IT SILVER, GOLDEN, WHAT?

THE WITNESS: AU, IT WAS A RAILROAD CAR THAT WAS GIVEN TO STEVE BECHTEL, SENIOR, ACTUALLY A

FULL, WHOLE RAILROAD CAR.

THE COURT: A WHOLE RAILROAD CAR.

THE WITNESS: NO, IT WAS REAL, TOTAL RAILROAD CAR, WAS LOOKING CLEAR BACK TO THE DAYS WHEN THE COMPANY WAS IN THE CONSTRUCTION OF RAILROADS.

THE COURT: HOW FAR BACK DOES THAT GO?

THE WITNESS: TURN OF THE CENTURY ALMOST.

MR. TIGERMAN: ALL RIGHT.

Q. IN FACT, BACK AFTER THE TURN OF THE CENTURY WHEN THE COMPANY WAS CONSTRUCTING RAILROADS, THEY HAD A MOBILE OFFICE THAT RAN OUT OF AN RAILROAD CAR, DIDN'T THEY?

MR. LOPEZ: OBJECTION, RELEVANCE.

THE COURT: OVERRULED.

THE WITNESS: I RECALL READING SOMETHING OF THAT NATURE.

MR. TIGERMAN:

Q. SO, THIS RAILROAD CAR WAS GIVEN TO STEPHEN BECHTEL. NOW STEPHEN BECHTEL ACTUALLY WAS THE PRESIDENT AND THE DIRECTOR AND THE CHAIRMAN OF BOARD OF DIRECTORS FOR A GOOD NUMBER OF YEARS, WASN'T HE?

A. WHAT, WHAT NOW?

Q. STEPHEN BECHTEL --

A. WAS?

Q. -- HE WAS CHAIRMAN OF THE BOARD, WASN'T HE FOR A GOOD NUMBER OF YEARS?

A. STEPHEN BECHTEL, SENIOR?

Q. YES.

A. YES, HE WAS.

Q. IN FACT ON THE DOCUMENT THAT'S BEEN SITTING IN FRONT OF YOU THERE IS A SIGNATURE RIGHT HERE THAT PURPORTS TO BE STEPHEN BECHTEL'S, DO YOU SEE THAT?

A. UH-HUH.

Q. YOU RECOGNIZE IT?

A. YES.

Q. IS IT HIS?

A. SAYS STEPHEN BECHTEL, JUNIOR, YES.

Q. THAT'S STEPHEN BECHTEL, JUNIOR?

A. YES.

Q. STEPHEN BECHTEL JUNIOR WAS ALSO ON THE BOARD OF DIRECTORS FOR SOMETIME, WASN'T HE?

A. YES.

Q. HE WAS ALSO AN OFFICER OF THE CORPORATION, WASN'T HE?

A. I DON'T RECALL WHETHER HE HAD CAME, BECAME AN OFFICER FIRST OR NOT.

Q. ALL RIGHT; BUT HE WAS AN OFFICER AND A DIRECTOR AT THE SAME TIME?

A. YES, HE WAS AN OFFICER AND DIRECTOR AT THE SAME TIME.

MR. TIGERMAN: YOUR HONOR, I WOULD LIKE MARKED PLAINTIFF'S NEXT IN ORDER, SHALL WE CALL THESE A'S TO THAT GROUP BECAUSE THERE IS A LARGE GROUP MARKED ALREADY.

THE COURT: IS IT NUMBER 49. IS THIS THE LARGE GROUP YOU ARE MARKING TO --

MR. TIGERMAN: YES, NUMBER, HE HAS GOT IT IN FRONT OF HIM. I BELIEVE IT IS EXHIBIT NUMBER 49. SHALL WE CALL IT 49-A.

THE COURT: WANT TO PUT A POST-IT ON IT THEN. ALL RIGHT. THAT IS 49-A AND UNDATED. YOU HAVEN'T IDENTIFIED WHAT 49-A IS.

WHAT IS IT?

MR. TIGERMAN: IT IS AN EXCERPT FROM THE 1963 BECHTEL BRIEFS.

THE COURT: IS THAT CORRECT? ARE YOU STIPULATING THAT YOU RECOGNIZE WHAT THAT IS?

WHAT IS THAT?

THE WITNESS: YOU MEAN WHAT THIS IS?

THE COURT: YES. WHAT, YOU JUST ANSWERED THAT YOU READ IT. DOES THAT LOOK LIKE ANYTHING --

THE WITNESS: I UNDERSTOOD THAT THIS HAD SOMETHING TO DO WITH OUR LITTLE PUBLICATION.

IS THAT WHAT YOU WERE TELLING ME?

THE COURT: YES. DOES THAT LOOK LIKE A COPY OF THE BECHTEL BRIEFS?

THE WITNESS: I COULDN'T TELL FROM THIS.

MR. TIGERMAN: LET ME SHOW HIM A BIGGER COPY.

THE WITNESS: THERE IS NO --

THE COURT: COULD WE HAVE THE WHOLE, RATHER THAN THE PAGE, CAN WE HAVE, DO YOU HAVE THE BECHTEL BRIEFS?

MR. TIGERMAN: I SUBPOENAED IT, YOUR

HONOR. THERE IS A STIPULATION AS TO THE AUTHENTICITY.

THE COURT: OH, THERE IT IS.

MR. LOPEZ: YES, SIR, YOUR HONOR.

THE COURT: THAT MEANS, LADIES AND GENTLEMEN, THAT DEFENSE AND PLAINTIFF HAVE AGREED AS A MATTER OF EXPEDIENCY THAT THE COPIES OF 49 ARE COPIES OF THE BECHTEL BRIEFS MONTHLY NEWSLETTERS AND THAT THEY ARE AUTHENTICATED.

THERE IS NO NEED TO HAVE THE ORIGINALS HERE.

SO, THESE 49 WILL ACTUAL BE STIPULATED TO.

MR. LOPEZ: YES, SIR, YOUR HONOR.

MR. TIGERMAN: YES, YOUR HONOR.

THE COURT: STIPULATED.

MR. TIGERMAN: YES, YOUR HONOR

THE COURT: THESE ARE COPIES OF THE BECHTEL BRIEFS REFERRED TO, ONE THERE.

THE WITNESS: UH-HUH.

MR. TIGERMAN: NOVEMBER OF 1963.

THE WITNESS: THIS ONE RIGHT HERE.

THE COURT: NOVEMBER OF 1963, THAT WILL BE NUMBER A.

WHEREUPON DOCUMENT WAS MARKED PLAINTIFF'S EXHIBIT NO 49-A FOR IDENTIFICATION ONLY.

MR. TIGERMAN:

Q. YOU WILL SEE HERE, SIR, THAT COVER PAGE, DOES

THAT LOOK LIKE ONE OF THE BECHTEL BRIEFS.

A. WELL, ALL I CAN SAY IS IT COULD HAVE BEEN. I CAN'T SAY THAT IT WAS.

THE COURT: THE ATTORNEYS HAVE AGREED THAT IT IS A COPY OF THE BECHTEL BRIEFS, SO IT MAKES NO DIFFERENCE, RIGHT?

MR. TIGERMAN: I WILL MOVE ON.

THE COURT: ALL RIGHT.

MR. TIGERMAN:

Q. SIR, FROM THE NOVEMBER, 1963 EDITION OF THE BECHTEL BRIEFS, YOU RECOGNIZE THAT SIGNATURE THERE AS STEPHEN BECHTEL, JUNIOR, IS THAT RIGHT?

A. YES.

MR. TIGERMAN: I WOULD LIKE TO MOVE THAT PAGE INTO EVIDENCE, 49-A.

THE COURT: I WILL HAVE TO LOOK AT IT BECAUSE --

MR. TIGERMAN: IT IS THE ONE I SHOWED YOU IN CHAMBERS.

THE COURT: ONE HALF, IT IS ANOTHER HALF OVER THERE. I AM NOT SURE.

MR. LOPEZ: SAME OBJECTION, HEARSAY.

THE COURT: HEARSAY? YOU ARE OBJECTING HEARSAY.

MR. LOPEZ: YES.

THE COURT: ALL RIGHT. MAY I SEE IT.

MR. TIGERMAN: I AM ONLY SHOWING HIM THE LEFT-HAND SIDE.

THE COURT: YOU HAVE A RIGHT-HAND SIDE OVER HERE AND THAT RIGHT-HAND SIDE DOESN'T MEET AN EXCEPTION TO THAT HEARSAY RULE.

MR. TIGERMAN: WELL, IT DOES, 1221, 1222.

THE COURT: LET ME GET THE GLASSES HERE. ALL RIGHT. IN EVIDENCE.

THIS IS AGAIN UNDER 403 OF THE EVIDENCE CODE AS I HAVE DISCUSSED AND SAYING THAT TO DEFENSE COUNSEL SO THAT YOU UNDERSTAND MY RULINGS SO FAR AS SUFFICIENCY, ALL RIGHT.

WHEREUPON PLAINTIFF'S EXHIBIT NO. 49-A PREVIOUSLY MARKED FOR IDENTIFICATION WAS RECEIVED INTO EVIDENCE

MR. TIGERMAN:

Q. SIR, JUST WANT YOU TO TAKE A LOOK AT THIS. IT SAYS:

"THIS IS OUR 65TH ANNIVERSARY, BECHTEL ORGANIZATION STARTED IN BUSINESS, MARKING A SPAN SYMBOLIZED ON OUR COVER BY EARLY DAY RAILROAD CONSTRUCTION AND PRESENT ACTIVITY IN RAPID TRANSIT DESIGN AND PROJECTS MANAGEMENT."

DO YOU RECALL WHETHER IN THE COURSE OF THIS COMPANY'S HISTORY, THIS 65TH, 65TH ANNIVERSARY GREETING WAS ISSUED, DO YOU EVER RECALL SEEING THAT?

A. I DON'T REMEMBER SEEING THAT, NO.

Q. ALL RIGHT. BUT IS IT FAIR TO SAY THAT IN THE COURSE OF YOUR JOB AS OFFICER AND DIRECTOR OF THE

CORPORATION YOU BECAME AWARE OF THE FACT THAT THE BECHTEL ORGANIZATION STARTED BACK IN 1898, ISN'T THAT TRUE?

MR. LOPEZ: LET ME, DOES, IS HE ASKING: DO YOU HAVE A RECOLLECTION OF THAT? IS HE ASKING, YOU KNOW, THAT BE HIS --

THE COURT: HIS BELIEF. OVERRULED.

MR. TIGERMAN:

Q. GO AHEAD.

A. OH.

Q. ONLY STARTING WHEN, ACCORDING TO YOUR BELIEF?

A. I WOULD LIKE YOU TO SAY THAT AGAIN. I AM NOT SURE WHAT YOU ARE ASKING.

Q. IN 1963, THE COMPANY IS CELEBRATING IT 65TH ANNIVERSARY?

A. YES.

Q. DO YOU HAVE A BELIEF, DID YOU HAVE A BELIEF WHEN YOU WERE WORKING FOR THE COMPANY THAT THE ORGANIZATION STARTED IN 1898 SINCE 1963 MINUS 65 WOULD TAKE IT TO 1898?

A. I WOULD RATHER DESCRIBE THAT AS KNOWING THAT IN '98, 1898 THAT W. A. BECHTEL, SENIOR HAD A BUSINESS, A CONSTRUCTION BUSINESS.

THAT'S AS FAR AS I CAN GO ON THAT. I AM VERY, WELL, I KNOW ABOUT THAT, THAT'S BEEN WELL PUBLICIZED

Q. ALL RIGHT. IT WAS WELL PUBLICIZED THAT THE BECHTEL ORGANIZATION PRIDED ITSELF ON THE LONGEVITY OF ITS HISTORY, ISN'T THAT TRUE?

MR. LOPEZ: OBJECTION, VAGUE.

MR. LOPEZ: LET ME OBJECT, CALLS FOR SPECULATION.

THE COURT: SUSTAINED.

MR. TIGERMAN: ALL RIGHT.

THE WITNESS: YOU WANT MY OPINION?

MR. TIGERMAN:

Q. I WANT TO KNOW WHETHER OR NOT ANY OF THE BECHTELS, YOU MET THE BECHTELS BEFORE, RIGHT?

A. YES, I DID.

Q. YOU MEET KENNETH BECHTEL?

A. YES,

Q. YOU MEET STEPHEN BECHTEL, SENIOR?

A. NO, I DIDN'T KNOW SENIOR.

Q. YOU NEVER SEEN STEPHEN SENIOR?

A. YES, WELL, I SEEN SENIOR.

Q. YOU KNEW STEPHEN BECHTEL JUNIOR?

A. YES.

Q. IN ANY OF YOUR CONVERSATIONS WITH THE BECHTELS DID THEY TELL YOU HOW PROUD THEY WERE THAT THE BECHTEL ORGANIZATION STARTED BUSINESS BACK IN THE 1800'S?

A. I CANNOT RECALL EVER HAVING DISCUSSED IT.

Q. YOU DON'T RECALL EVER READING THIS WHEN THIS CAME INTO YOUR OFFICE?

MR. LOPEZ: OBJECTION, ASKED AND ANSWERED.

THE COURT: ASSUMPTION OF FACTS NOT IN EVIDENCE, NOT THAT IT CAME INTO HIS OFFICE, THAT HE MAY BE HAD A HABIT BUT --

MR. TIGERMAN: ALL RIGHT.

Q. YOU SAID GENERALLY SPEAKING AS A MATTER OF CUSTOM THESE BECHTEL BRIEFS WOULD MAKE THEIR WAY ONTO YOUR DESK, IS THAT TRUE?

A. YES.

MR. LOPEZ: ASKED IF HE RECALLED THIS, HE DIDN'T RECALL IT.

THE COURT: SUSTAINED.

LET ME ASK YOU, YOU HAVE ANY MEMORY BACK IN 1963, THIS IS THE DATE OF THIS, READING THE GREETING HERE?

THE WITNESS: UH-UH.

THE COURT: WELL, THERE WAS A CELEBRATION THAT YOU MIGHT HAVE ATTENDED IN THE ANNIVERSARY YEAR?

THE WITNESS: I MIGHT HAVE KNOWN ABOUT IT THEN BUT FRANKLY I CANNOT TELL, YOU KNOW, I DO NOT KNOW, DO NOT RECALL.

THE COURT: YOU DIDN'T HAVE ANY LASTING IMPRESSIONS IN YOUR MIND?

THE WITNESS: DO NOT RECALL ANYTHING LIKE THAT THAT WAS DONE.

THE COURT: ALL RIGHT.

MR. TIGERMAN: ALL RIGHT.

Q. SIR, I WOULD LIKE TO SHOW YOU ANOTHER PAGE FROM THAT SAME EXHIBIT, PLAINTIFF'S EXHIBIT NUMBER 49.

I WOULD LIKE TO REFER TO BATES STAMP PAGE NUMBER 1703 OF WHICH COUNSEL HAS A COPY.

THE COURT: OF WHICH I DON'T.

MR. TIGERMAN: I WILL GIVE IT TO YOUR

HONOR.

THE COURT: THAT, THIS SHOULD BE 49-B.

MR. TIGERMAN:

Q. -I WOULD LIKE YOU TO TAKE A LOOK AT THE RIGHT-HAND SIDE OF THE PAGE AND TAKE A LOOK AT THAT WHILE WE MARK THIS AND SHOW IT TO THE JUDGE.

MR. LOPEZ: 17 WHAT?

THE COURT: THIS ONE YOU WANT MARKED 49-B.

MR. TIGERMAN: YES, YOUR HONOR.

WHEREUPON DOCUMENT WAS MARKED PLAINTIFF'S EXHIBIT NO 49-B FOR IDENTIFICATION ONLY.

MR. TIGERMAN: AGAIN, YOUR HONOR, I WOULD ASK THEY BE INTRODUCED IN EVIDENCE.

THE COURT: OH, YOU GOT TO LAY FOUNDATION FIRST, DATES, TIMES. THIS IS STIPULATED THIS IS A BECHTEL BRIEF, HE IS LOOKING, WHAT IS THE DATE?

MR. TIGERMAN: NOVEMBER OF 1963, SAME EDITION.

THE COURT: SAME EDITION?

MR. TIGERMAN: YES.

THE COURT: ALL RIGHT. NOW, YOU HAVE ASKED HIM TO READ IT. YOUR QUESTION IS: DOES THAT REFRESH YOUR MEMORY? YOU RECOGNIZE THE SIGNATURE?

LET'S GO.

THE WITNESS: SIGNATURE, YES, I RECOGNIZE.

THE COURT: YOU KNOW THE SIGNATURE. IS THAT THE SAME PERSON LIKE THE OTHER ONE OR A

DIFFERENT PERSON?

THE WITNESS: THIS SAYS S. W. BECHTEL, SENIOR.

MR. TIGERMAN:

Q. STEPHEN, STEPHEN BECHTEL, SENIOR?

A. GOT JUNIOR ON IT. LOOKS LIKE S. B. BECHTEL SENIOR.

Q. YOU HAD SEEN THINGS SIGNED BY STEPHEN BECHTEL SENIOR BEFORE, RIGHT?

A. YES.

Q. THAT LOOKS LIKE HIS HANDWRITING, DOESN'T IT?

A. YES.

THE COURT: THIS IS THE SENIOR, NOT JUNIOR?

THE WITNESS: THAT'S RIGHT.

THE COURT: FIRST ONE YOU LOOKED AT, 49-A, IS, IS JUNIOR'S SIGNATURE. THIS 49-B THAT WE HAVE MARKED IS SENIOR'S SIGNATURE?

THE WITNESS: YES.

THE COURT: OKAY.

MR. TIGERMAN: OKAY. I WOULD LIKE TO MOVE IN INTO EVIDENCE, YOUR HONOR?

THE COURT: ALL RIGHT. IN EVIDENCE OVER OBJECTION.

MR. LOPEZ: OBJECTION, OBJECTION. ARE YOU JUST MOVING HALF A PAGE --

THE COURT: THAT HALF PAGE IS ONLY --

MR. TIGERMAN: THAT WE ARE SHOWING.

THE COURT: WHAT?

MR. TIGERMAN: ONLY PART WE ARE SHOWING PRESENTLY. I SUBMIT WE CAN DEAL WITH THE REST LATER IF WE NEED TO.

WHEREUPON PLAINTIFF'S EXHIBIT NO. 49-B PREVIOUSLY MARKED FOR IDENTIFICATION WAS RECEIVED INTO EVIDENCE

MR. TIGERMAN:

Q. SIR, SHOWING YOU THIS PAGE FROM THE SAME EDITION, FIRST OF ALL AT THE VERY BOTTOM THERE IS A SIGNATURE THAT WE TALKED ABOUT THERE, STEPHEN BECHTEL?

A. YES.

Q. ALL RIGHT. THIS DOCUMENTS SAYS AT THE TOP, "TIME TESTED POLICIES IN REVIEWING OUR BUSINESS HISTORY."

DO YOU, "I AM GRATIFIED BY THE ADHERENCE TO IMPORTANT POLICIES THAT ARE TRADITIONS AT BECHTEL CORPORATION, FAIR DEALING AND GOOD HOUSEKEEPING, BOTH ARE AS OLD AS THIS 65TH YEAR OLD BUSINESS ITSELF."

DO YOU RECALL READING THAT BEFORE WHEN IT SAYS "BOTH ARE AS OLD AS THIS 65 YEAR OLD BUSINESS ITSELF."

YOU EVER SEE THAT BEFORE?

A. I DON'T, DO NOT RECALL ANYTHING THAT I HAVE EVER READ IN ONE OF THESE THINGS.

Q. OKAY.

A. I MUST BE FRANK WITH YOU.

Q. DOESN'T IT REFRESH YOUR RECOLLECTION THAT YOU READ IT?

A. NO.

Q. DON'T HELP YOU REMEMBER?

A. THAT I READ THESE THINGS, I, I HAVE NO RECOLLECTION.

Q. -SO, SHOWING YOU THIS DON'T REFRESH YOUR RECOLLECTION ABOUT WHETHER YOU SAW THAT --

A. IT DOES NOT.

THE COURT: WAIT A MINUTE.

MR. TIGERMAN:

Q. -- DOES IT REFRESH YOUR RECOLLECTION ABOUT WHETHER YOU EVER HEARD ANYONE OF THE BECHTELS SAYING THAT THE BUSINESS WAS AS OLD AS 65 YEARS?

A. NO, I DON'T RECALL THAT.

MR. LOPEZ: OBJECTION --

THE COURT: OVERRULED.

THE WITNESS: I DON'T RECALL ANYONE SAYING THAT.

THE COURT: LET ME ASK YOU, THAT BY READING THIS THIS DOES NOT HELP YOU TO REFRESH YOUR MEMORY AS TO WHETHER OR NOT YOU READ IT, RIGHT?

THE WITNESS: WELL, IT, LET ME SAY THIS. I CAN RECOLLECT I KNEW THIS WAS, THESE WERE THE POLICIES OF THE COMPANY AND TALKED ABOUT BUT WHEN AND WHERE AND HOW, WHERE IT CAME FROM, I CAN'T TELL YOU.

THE COURT: ALL RIGHT. SO THEN THE QUESTION HE IS ASKING: READING THIS, IT DOES HELP YOU TO REFRESH YOUR MIND REGARDING POLICIES?

THE WITNESS: IT, THAT IS CORRECT.

THE COURT: NOW, YOU CAN PROCEED.

MR. TIGERMAN: OKAY.

Q. SIR, PLEASE TELL US WHETHER OR NOT AT THE TIME THAT THIS WAS PUBLISHED IN 1963, DO YOU RECALL WHETHER OR NOT YOU WERE YET ON THE BOARD OF DIRECTORS, 1963, NOVEMBER 1963?

A. NO, I WAS NOT.

Q. YOU DON'T BELIEVE YOU WERE?

A. I WAS NOT ON THE BOARD AT THAT TIME.

Q. LET'S GO TO ANOTHER PAGE IN THIS DOCUMENT. LET'S GO TO PAGE 1702 OF THAT DOCUMENT IN THE SAME EDITION, BECHTEL BRIEFS.

A. IS HE ON THE BOARD OF DIRECTORS?

Q. BOARD OF DIRECTORS, YES.

THE COURT: WHY DON'T WE STOP HERE. IS THIS MARKED?

MR. TIGERMAN: JUST REFRESHING HIS RECOLLECTION.

THE COURT: BEFORE YOU CAN DO THAT, GOT TO BE MARKED, GOT TO BE DIRECTED TO WHERE IT IS. I HAVE TO KNOW WHAT IT IS.

IN THE MEANTIME WHILE YOU ARE DOING THAT, WE WILL TAKE A FIVE MINUTE RECESS FOR THE COURT REPORTER. WE WILL TAKE A 15 MINUTE RECESS.

REMEMBER THE ADMONITION, DON'T TALK ABOUT THE CASE. SEE YOU BACK HERE IN 15 MINUTES.

(RECESS)

THE COURT: LET THE RECORD REFLECT THE ATTORNEYS BEING PRESENT, SO IS THE WITNESS WHO HAS

BEEN PREVIOUSLY SWORN.

MR. TIGERMAN:

Q. SIR, AT THE BREAK, DID YOU TALK WITH MR. LOPEZ? DID YOU TALK WITH HIM AT THE BREAK?

A. DID I TALK WITH HIM?

Q. YES.

A. YES.

Q. DID YOU TALK ABOUT YOUR TESTIMONY WITH MR. LOPEZ?

A. WELL I, VERY LITTLE.

Q. WHAT ABOUT YOUR TESTIMONY WAS DISCUSSED?

A. WHAT DID WE DISCUSS?

Q. YES, ABOUT THE TESTIMONY?

A. I SIMPLY ASKED HIM IF I WAS DOING ALL RIGHT. THAT WAS TO SOME --

Q. ALL RIGHT. YOU ARE CONCERNED THAT YOU DO OKAY BY BECHTEL?

A. DO I WHAT?

Q. ARE YOU CONCERNED THAT YOU DO OKAY BY BECHTEL AS FAR AS YOUR TESTIMONY GOES?

A. DO OKAY BY BECHTEL?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: DON'T UNDERSTAND. DO A WHAT BY BECHTEL? I DON'T UNDERSTAND WHAT YOU MEAN?

MR. TIGERMAN:

Q. DO YOU HAVE ANY FEELINGS THAT YOU WOULD PREFER NOT TO HURT BECHTEL WITH YOUR TESTIMONY?

A. I AM HERE NOT TO DO THAT. I AM HERE TO ANSWER QUESTIONS.

Q. SO, YOU DON'T CARE --

A. -WHETHER IT IS GOOD OR BAD, I WILL ANSWER THE QUESTIONS. THAT IS WHY I AM HERE.

Q. -- YOU DON'T CARE ONE WAY OR ANOTHER WHETHER OR NOT YOUR TESTIMONY HURTS BECHTEL, IS THAT WHAT YOU ARE SAYING?

A. WHEN I AM HERE, THAT IS THE WAY I HAVE TO BE.

Q. NOW, DO YOU FEEL ANY LOYALTY TOWARD THE BECHTEL ORGANIZATION?

A. DO I FEEL LOYALTY?

Q. YES.

A. I NEVER FELT OTHERWISE.

Q. OKAY. THEY HAVE BEEN GOOD TO YOU OVER THE YEARS?

A. I WOULD SAY VERY GOOD, YES.

Q. WOULD YOU LIKE TO BE GOOD BY THEM?

A. I WOULD, WOULD LIKE TO DO GOOD BY THEM.

Q. OKAY.

A. AND I ALWAYS HAVE.

Q. OKAY. NOW, WE WERE TALKING ABOUT THE AGE OF THE COMPANY, SIR.

AT THIS TIME, YOUR HONOR, I WOULD LIKE TO PUBLISH A PAGE FROM THE BECHTEL STORY. HAVE WE RECEIVED A RULING ON THAT --

THE COURT: RULING?

MR. LOPEZ: OBJECTION, HEARSAY.

MR. TIGERMAN: --BOOK ON WHICH THE CUSTODIAN CAME IN.

THE COURT: GIVE ME WHAT YOU HAVE. I DON'T MAKE ANY RULINGS UNLESS I KNOW WHAT IT IS. I HAVE NOT MADE A RULING ON --

MR. TIGERMAN: ALL RIGHT. THIS IS THE BOOK BROUGHT IN BY THE CUSTODIAN, PLAINTIFF'S EXHIBIT NUMBER 45.

MR. LOPEZ: SOME REASON WE WERE HAVING A SIDEBAR.

THE COURT: YOU GAVE ME A BOOK, YOU WANT ME TO READ THE WHOLE BOOK.

MR. TIGERMAN: NO, YOUR HONOR.

THE COURT: ALL RIGHT.

MR. TIGERMAN: I WANT, HOW FAST, CAN YOU READ IT.

(SIDEBAR CONFERENCE)

THE COURT: ALL RIGHT. OBJECTION SUSTAINED. WE WILL PUT THAT ON RECORD WHEN WE HAVE AN OPPORTUNITY, THE DISCUSSION AT SIDEBAR.

MR. TIGERMAN: ALL RIGHT, WITHOUT PREJUDICE, YOUR HONOR.

THE COURT: YES, IN REFERENCE TO THE ADMISSION OF THE BOOK, OBJECTION, SUSTAINED, HEARSAY.

MR. TIGERMAN: OKAY.

THE COURT: 1200 OF THE EVIDENCE CODE AT THIS TIME.

MR. TIGERMAN: SIR, YOUR HONOR, YOU HAVE

THE EXHIBIT, COPY OF THE BOOK UP THERE?

THE COURT: YES, THIS IS NUMBER 45. AT THIS TIME, OBJECTION, HEARSAY, 1200 OF THE EVIDENCE CODE,- SUSTAINED WITHOUT PREJUDICE OR FURTHER FOUNDATION OUT OF THE PRESENCE OF THE JURY.

MR. TIGERMAN:

Q. SIR, IN 1968, WAS STEPHEN BECHTEL ON THE BOARD OF DIRECTORS, SENIOR?

A. IN 1968, YES.

Q. ALL RIGHT. IN 1968, DID BOB INGRAM STILL WORK FOR THE COMPANY IN PUBLIC RELATIONS?

A. HONESTLY, I CAN'T TELL YOU, DON'T KNOW WHEN HE LEFT.

THE COURT: COULD I JUST ASK YOU SOMETHING. THERE IS A PAGE HERE WITH SOME PICTURES.

WAS THAT MARKED?

MR. TIGERMAN: NO, WE ARE GOING TO GET TO THAT IN A MOMENT.

THE WITNESS: THIS?

THE COURT: BECAUSE I WOULD LIKE TO HAVE THAT MARKED BECAUSE IF HE REFERS TO IT, I THINK THAT HAPPENED BEFORE THE RECESS, IT SHOULD BE MARKED.

MR. TIGERMAN: LET'S DO IT RIGHT NOW.

THE COURT: ALL RIGHT.

MR. TIGERMAN: IT IS THE PAGE WITH PICTURES.

THE COURT: ALL RIGHT. THAT WILL BE 50, YOU SAID.

MR. TIGERMAN: YES, FROM THE NOVEMBER, 1963 BECHTEL GROUP. ALL RIGHT.

MR. LOPEZ: WHAT NUMBER IS THAT BEING MARKED.

THE COURT: I HAVE IT AS 50.

MR. LOPEZ: ARE THESE EXCERPTS FROM 49.

THE COURT: THIS IS THE --

MR. LOPEZ: SO, IT SHOULD BE 49-B OR C.

THE COURT: NOT 50. IT SHOULD BE 49-C.

WHEREUPON DOCUMENT WAS MARKED PLAINTIFF'S EXHIBIT NO 49-C FOR IDENTIFICATION ONLY.

MR. TIGERMAN:

Q. SIR, IN FRONT OF YOU IS AN EXCERPT FROM THE 1963 BECHTEL BRIEFS AND UNDER THE HEADING, FIRST OF ALL, LOOK AT THIS.

CAN YOU TELL ME WHETHER OR NOT IT REFRESHES YOUR RECOLLECTION THAT YOU WERE A MEMBER OF THE BOARD OF DIRECTOR IN 1968?

A. IN '63?

Q. '63.

A. '63, ON THE BOARD IN '63? '63?

Q. YES.

A. TO BE HONEST WITH YOU, I DO NOT BELIEVE THAT I WAS ON THE BOARD THAT SOON.

Q. BUT THAT IS YOUR PICTURE THERE, ISN'T IT?

A. THAT'S MY PICTURE?

Q. THIS PIECE OF PAPER, IT DOESN'T PROVE ANYTHING

TO ME ACCEPT THAT I, YOU, YOU CAN TELL, I CAN'T?

THE COURT: DOES IT HAVE A TITLE OR WHERE YOU GO, COULD I SEE THIS?

MR. TIGERMAN: YES, SURE. THIS IS FROM '63, SAME EDITION.

MR. LOPEZ: HE HAVE THE WHOLE BRIEF.

THE COURT: THIS IS FROM BECHTEL, 49-C SAYS BECHTEL CORPORATION AND IT HAS, HAS UNDER PHOTOGRAPH, UNDER TITLE, IT SAYS BOARD OF DIRECTORS, THAT IS THE LEFT HALF SIDE. IT IS YOUR PICTURE THERE?

THE WITNESS: YES.

THE COURT: WHERE?

THE WITNESS: YES.

THE COURT: WHERE? YOU SEE YOUR PICTURE?

THE WITNESS: MY PICTURE?

THE COURT: YES.

THE WITNESS: YES.

THE COURT: CAN YOU CIRCLE, WOULD YOU CIRCLE, WHY DON'T YOU HAVE HIM CIRCLE THE PHOTOGRAPH.

YOU HAVE CIRCLED IT, YOUR PHOTOGRAPH UNDER THE HEADING BOARD OF DIRECTORS, IS THAT RIGHT?

THE WITNESS: THAT'S IT, WHAT IT SAYS THERE, YES.

THE COURT: DO YOU HAVE ANY DISPUTE THAT YOUR PICTURE IS IN THE NEWSPAPER, WE WILL CALL IT, RIGHT BY BECHTEL BRIEFS WITH YOUR PICTURE UNDER THE TITLE OF BOARD OF DIRECTORS?

THE WITNESS: WAIT A MINUTE, SOMETHING JUST

CAME TO MY MIND.

THE COURT: YES.

THE WITNESS: I DO RECALL THAT WHEN, WHEN I RETIRED, I NOW RECALL THAT I HAD BEEN ON THE BOARD FOR 14 YEARS. THAT COMES TO MY MIND. THAT PUTS ME THERE ABOUT '60, DOESN'T IT?

THE COURT: YES, SO --

THE WITNESS: THERE WE ARE.

THE COURT: AS YOU LOOK AT THE PHOTOGRAPH, IT SAYS THERE, "MR. DRANIY, VICE PRESIDENT AND DIRECTOR."

SO, YOU WERE A MEMBER OF THE BOARD OF DIRECTORS?

THE WITNESS: YES, YES.

MR. TIGERMAN:

Q. IN 1963 WAS STEPHEN BECHTEL, SENIOR THE CHAIRMAN OF THE BOARD?

THE COURT: YOU CAN LOOK AT THE PICTURE IT MIGHT HELP REFRESH YOUR MEMORY.

THE WITNESS: HUH?

THE COURT: DOES THAT HELP?

THE WITNESS: YES, YES. STEPHEN BECHTEL, CHAIRMAN OF THE BOARD, YES.

MR. TIGERMAN:

Q. STEPHEN BECHTEL YOUR PRESIDENT AND DIRECTOR?

A. PRESIDENT DIRECTOR.

Q. LET'S TALK ABOUT JOHN KIELY, HE GOES WAY BACK IN THE BECHTEL ORGANIZATION, DOESN'T HE?

A. YES.

Q. HE GOES BACK ALMOST AS FAR AS YOU DO, DOESN'T HE?

A. - MY FIRST, MY FIRST, WHEN I FIRST BECAME ACQUAINTED WITH HIM IN THE COMPANY WAS THE END OF THE WAR.

Q. ALL RIGHT. AT THE END OF THE WAR?

A. WHEN SHIP BUILDING WAS, WAS, WOUND UP AND --

Q. HE WAS INVOLVED IN THE SHIP BUILDING BEFORE THAT?

A. YES.

Q. SO, DID HE WORK FOR THE COMPANY WHILE HE WAS INVOLVED IN THE SHIP BUILDING?

A. NOT TO MY KNOWLEDGE.

Q. ALL RIGHT. NOW, WHO DID YOU UNDERSTAND THAT KIELY WORKED FOR BEFORE THE WAR OR DURING THE WAR?

A. DURING THE WAR?

Q. YES.

A. HE WORKED FOR THE, THE COMPANY, THE SHIP BUILDING COMPANY. THAT'S ALL I CAN TELL YOU.

Q. ALL RIGHT. BACK DURING THE WAR DID YOU HAVE AN UNDERSTANDING WHERE, WHETHER THAT SHIP BUILDING COMPANY WAS CONTROLLED BY THE BECHTELS?

A. I HAVE NO INFORMATION ON THAT AT ALL.

THE COURT: I MEAN, YOU MAY ASK LEADING QUESTIONS IN REFERENCE TO MOVING THE CASE ALONG AND REFRESHING MEMORY.

MR. TIGERMAN: ALL RIGHT. THANKS.

THE COURT: FINE.

MR. TIGERMAN:

Q. SIR, ISN'T IT TRUE THAT IN THE 1940'S THERE WERE TWO SHIP BUILDING COMPANIES, CALSHIP AND MARINESHIP? YOU WERE AWARE OF BOTH OF THOSE?

A. YES, I AM.

Q. HOW WERE YOU AWARE OF BOTH OF THOSE COMPANIES?

A. WELL, WHEN THE COMPANIES WERE, WHEN SHIP BUILDING CAME ON, CAME TO US TO DISCUSS, THEY WANTED A PIECE OF GROUND FOR IT.

AND DOWN IN, WHAT DO YOU CALL THAT?

Q. WHEN YOU SAY, "THEY CAME TO US," YOU MEAN THEY CAME TO YOUR COMPANY?

A. NO, NO. WHEN THE SHIP BUILDING COMPANY WAS FORMED OR PREPARING TO FORM, I GUESS THAT WAS IT, THEY HAD TO FIND A PLACE TO BUILD SHIPS AND I WAS SENT DOWN TO THE, IN THE NAME OF THIS LOCATION, NOW THAT I CAN'T --

Q. SAUSALITO?

A. NO, NO, IT WAS DOWN IN --

Q. LONG BEACH?

A. --THE LONG BEACH AREA.

Q. YES.

A. ALONG WITH ANOTHER GENTLEMAN, ALSO AN ENGINEER AND HE, THE TWO OF US WENT DOWN THERE AND CHOSE THE SITE.

Q. ENGINEERS FROM YOUR COMPANY --

A. FROM THERE ON, I HAD NOTHING TO DO WITH IT.

Q. -- ENGINEERS FROM YOUR COMPANY LAID OUT THE SITE FOR THE SHIPYARD IN SOUTHERN CALIFORNIA? YOU SAY THEY LAID OUT THE SITE?

MR. LOPEZ: OBJECTION, MISCHARACTERIZES THE TESTIMONY.

THE COURT: SUSTAINED.

THE WITNESS: I AM TALKING ONLY ABOUT THE SHIPYARD. I MEAN WHERE WE, REAL ESTATE THAT WE HAD TO ACQUIRE.

THE COURT: SIR, ISN'T IT TRUE --

MR. LOPEZ: NOT A QUESTION PENDING.

THE COURT: HE IS EXPLAINING HIS ANSWER.

SO WE UNDERSTAND, YOU WERE SENT DOWN TO CHECKOUT A PIECE OF REAL ESTATE TO SEE WHETHER IT WAS PROPER --

THE WITNESS: THAT'S RIGHT.

THE COURT: --REAL ESTATE FOR THE PURPOSE OF BUILDING A SHIPYARD?

THE WITNESS: THAT'S CORRECT.

THE COURT: ALL RIGHT. DID YOU MAKE A DECISION ON THAT?

THE WITNESS: I DID.

THE COURT: WHAT WAS THAT DECISION?

THE WITNESS: WELL, WE CHOOSE, WE LOOKED OVER SEVERAL SITES. WE CHOOSE ONE AND CAME BACK TO THE OFFICE AND TOLD HIM WHAT WE FOUND. THAT WAS IT.

THE COURT: THEN WAS THE SHIPYARD BUILT?

THE WITNESS: YES.

THE COURT: WHAT WAS THE NAME OF THE SHIPYARD?

THE COURT: CALSHIP BUILDING IS WHAT I

RECALL.

THE COURT: FINE. YOUR COMPANY WAS THE ONE THAT, AS FAR AS REPRESENTING YOUR COMPANY, WERE YOU THE, THERE TO PICK THE SITE, THE PROPER SITE?

THE WITNESS: THAT'S RIGHT.

THE COURT: WERE YOU INVOLVED IN THE DESIGN OF THE SHIPYARD, WAS YOUR COMPANY INVOLVED IN THE DESIGN OF THE SHIPYARD?

THE WITNESS: MY RECOLLECTION IS THAT IT WAS TO SOME DEGREE; BUT I ALSO WOULD EXPECT THAT A LOT OF THAT, WELL, PRACTICALLY ALL OF THE ENGINEERING MUST HAVE BEEN DONE PRIOR TO THAT BECAUSE THEY WERE DOING THIS ALL OVER THE COUNTRY.

THE COURT: WHO WAS DOING THE ENGINEERING.

THE WITNESS: I DON'T KNOW WHO THE ENGINEER WAS.

THE COURT: WHEN YOU WENT DOWN AND PICKED THE REAL ESTATE --

THE WITNESS: YES.

THE COURT: --CHOSE ONE SITE OVER ANOTHER --

THE WITNESS: YES, THEN --

THE COURT: --WERE YOU VICE PRESIDENT OF MINING AT THAT TIME? WERE YOU THE VICE-PRESIDENT OF ANOTHER DEPARTMENT?

THE WITNESS: NO, NO, NO. I WAS AN ENGINEER AND HADN'T BEEN IN THE COMPANY FOR BUT A, FOR A FEW YEARS.

THE COURT: ALL RIGHT.

THE WITNESS: AND I DID ALSO, WHEN WE, THE NEXT DAY AFTER WE FOUND THE SITE, I RECALL THAT RALPH PARSONS WHO WAS ONE OF THE TOP PEOPLE IN THE BECHTEL CORPORATION, WE WENT BACK DOWN TO THE, THERE TO WHOEVER RUNS THE WHOLE PORT, I FORGOT THE NAME OF IT BUT ANYWAY WE WORKED OUT THE AGREEMENT FOR TAKING THAT SITE.

MR. TIGERMAN: OKAY.

Q. NOW, SIR, AT THAT TIME THAT WAS ABOUT 1941, WASN'T IT?

THE COURT: YOU WANT TO USE SOME HISTORICAL BENCHMARKS TO MAYBE REFRESH HIS MEMORY.

THE WITNESS: I HAVE --

THE COURT: WAS IT BEFORE PEARL HARBOR OR AFTER PEARL HARBOR, DECEMBER 7, 1941. I WILL TAKE JUDICIAL NOTICE OF THAT UNCONTROVERTED --

THE WITNESS: I AM ONLY GUESSING BUT I WOULD --

THE COURT: DON'T WANT YOU TO GUESS.

THE WITNESS: CAN'T, I CAN'T --

THE COURT: WAS IT IN '41?

THE WITNESS: I DON'T KNOW.

THE COURT: BEGINNING OF WORLD WAR TWO.

THE WITNESS: I DON'T KNOW THE DATES, CAN'T REMEMBER NOW.

THE COURT: ALL RIGHT.

MR. TIGERMAN:

Q. WAS IT THE BEGINNING OF THE WAR AGAINST THE JAPANESE?

A. I DON'T KNOW WHETHER THAT HAS, HAD STARTED OR NOT.

Q. ALL RIGHT. THEN SUBSEQUENT TO THAT THERE WAS ANOTHER SHIPYARD CALLED MARINESHIP, IS THAT TRUE?

A. YES, YES.

Q. MARINESHIP, DID YOU HAVE ANY INVOLVEMENT WITH THAT?

A. OH, A VERY, VERY LITTLE BIT, AS I WAS ASKED TO GO UP THERE AND CHECK THE, CHECK IT OUT AND SEE WHAT WAS, THE KIND OF SITES WE NEEDED AND SO ON, SAME THING I DID WITH THE OTHERS. THAT WAS IT. I WAS OUT OF IT.

Q. THAT'S IN SAUSALITO?

A. YES.

Q. YOU WERE SENT OVER THERE BY YOUR COMPANY, CORRECT?

A. YES.

Q. AND INDEED ISN'T IT TRUE THAT MARINESHIP AND CALSHIP WERE BOTH SHIPYARDS THAT WERE AMONG THE WAR RESPONSIBILITY THAT THE BECHTEL ORGANIZATION UNDERTOOK?

MR. LOPEZ: OBJECTION, VAGUE, LACKS FOUNDATION.

THE COURT: OVERRULED. OVERRULED.

THE WITNESS: WOULD YOU EXPLAIN THAT?

MR. TIGERMAN:

Q. THOSE TWO SHIPYARDS WERE AMONG THE WAR EFFORTS THAT BECHTEL CORPORATION WAS INVOLVED IN, IS THAT TRUE?

MR. LOPEZ: OBJECTION --

THE COURT: OVERRULED.

THE WITNESS: THAT IS TRUE, YES.

MR. TIGERMAN: ALL RIGHT.

Q. IN FACT ISN'T IT TRUE THAT A GOOD NUMBER OF PEOPLE WHO ROSE THROUGH THE RANKS OF THE BECHTEL ORGANIZATION WORKED AT CALSHIP AT ONE TIME?

A. YES, THERE WERE SOME THAT, THAT STARTED IN SHIP BUILDING. WHEN THAT WAS OVER, A FEW OF THEM CAME INTO BECHTEL.

Q. ALL RIGHT. GIVE US AN IDEA OF THE ONES THAT YOU CAN THINK OF? IS KIELY ONE OF THEM?

A. KIELY KOMES.

Q. ANY OTHERS?

A. THAT'S ALL I CAN REMEMBER.

Q. KIELY ACTUALLY WENT ON TO BECOME A DIRECTOR, DIDN'T HE?

A. YES.

Q. AND AN OFFICER, DIDN'T HE?

A. YES.

Q. AND --

THE COURT: "DENTED" HE.

MR. TIGERMAN: I THOUGHT I SAID --

THE COURT: "DENTED" HE.

MR. TIGERMAN: WELL, WELL, YES, "DIDN'T" HE. ALL RIGHT. MAYBE MY PRONUNCIATION IS GETTING A LITTLE SLOPPY.

Q. AND THE OTHER ONE YOU MENTIONED WAS KOMES?

A. WHO?
Q. WHO WAS THE OTHERS?
A. KOMES.
Q. - KOMES, K-O-M-E-S.
A. YES.
Q. WHO, KOMES WAS AT CALSHIP, WASN'T HE?
A. THAT IS WHAT I SAID.
Q. HE ROSE THROUGH THE ORGANIZATION TO BECOME A DIRECTOR AND OFFICER OF BECHTEL, DIDN'T HE?
A. YES.
Q. AND ISN'T IT TRUE, SIR, DID YOU EVER GO TO THE CALSHIP ORGANIZATION ONCE IT STARTED?
A. I WAS INVOLVED, INVITED TO GO DOWN THERE TO THE CELEBRATION OF THE FIRST, WHAT THEY CALL IT THEN, SHOVE IT IN, THE FIRST SHIP IS, THERE IS A WORD FOR IT; BUT, YOU KNOW, IT WAS ESSENTIALLY FINISHED.
Q. LAUNCH OF THE FIRST SHIP?
A. THE LAUNCH, THE LAUNCHING.
Q. WHERE YOU DO THE CHAMPAGNE BOTTLE ON THE --
A. THAT'S THE SORT OF THING. I WAS THERE. THAT'S ALL.
Q. A CHRISTENING THAT'S THE WORD?
A. YES.
Q. OKAY. ISN'T IT TRUE, SIR, THAT, AS FAR AS MARINESHIP, WEREN'T THERE, IT ALSO HAD PEOPLE IN IT THAT WORKED THERE AND WHEN THE WAR WAS OVER, THEY ROSE THROUGH THE RANKS OF THE BECHTEL ORGANIZATION TOO, ISN'T THAT TRUE?

MR. LOPEZ: OBJECTION, VAGUE AS TO WHO WE ARE TALKING ABOUT?

THE COURT: OVERRULED.

THE WITNESS: THE OTHER SHIPYARDS?

MR. TIGERMAN: YES.

Q. MARINESHIP, MARINESHIP.

A. I DON'T REMEMBER.

Q. O'CONNELL WORKED THAT SHIPYARD, DIDN'T HE?

A. I DON'T REMEMBER.

Q. WHAT ABOUT WASTE, WASTE WAS WITH THE SHIPYARD?

A. WASTE WAS WITH BECHTEL, BECHTEL COMPANY LONG BEFORE I BECAME AN EMPLOYEE OF BECHTEL, MCCONE, PARSONS CORPORATION.

Q. SO WASTE WAS THERE FIRST, CORRECT, BEFORE YOU?

A. BEFORE ME, YES.

Q. THEN WASTE WENT ON TO BECOME A SUPERINTENDENT MARINESHIP, DIDN'T HE?

A. I DO NOT RECALL HIS BEING A SUPERINTENDENT.

Q. BUT HE WAS AT MARINESHIP?

A. HE WAS AT, PART TIME, AT LEAST.

Q. THEN WHEN THE WAR WAS OVER, HE CONTINUED TO RISE THROUGH THE RANKS, DIDN'T HE?

A. YES.

Q. HE BECAME AN OFFICER AT ONE POINT, ISN'T THAT TRUE?

A. WELL, HE WAS PRACTICALLY ONE FROM THE BEGINNING AS FAR AS I WAS CONCERNED.

Q. HE WAS PRESIDENT AT ONE POINT, WASN'T HE?

A. DON'T RECALL THAT.

MR. LOPEZ: OBJECTION, VAGUE AS TO TIME.

THE COURT: SUSTAINED. WHAT COMPANY AT WHAT TIME. THIS IS SUSTAINED. WHAT COMPANY.

MR. TIGERMAN:

Q. OKAY. WAS HE EVER THE PRESIDENT OF --

LET'S FIND THAT INTERROGATORY ANSWER.

MR. LOPEZ: OVER WHAT COMPANY, AT WHAT TIME?

THE COURT: OVERRULED. OVER WHAT COMPANY?

MR. TIGERMAN:

Q. WAS HE OVER BECHTEL BROTHERS MCCONE.

A. NOT TO MY KNOWLEDGE.

Q. RIGHT AFTER THE WAR, WASN'T HE VICE PRESIDENT W. A. BECHTEL PRIOR TO THE WAR?

A. I DON'T KNOW THAT HE WAS THE VICE PRESIDENT, DOESN'T SEEN TO ME HE WAS.

Q. SO, YOU DON'T RECALL READING ANY WHERE THAT HE WAS VICE PRESIDENT OF W. A. BECHTEL, IS THAT CORRECT?

A. THAT IS CORRECT.

Q. YOU DON'T RECALL READING ANYWHERE THAT HE BECAME GENERAL SUPERINTENDENT OF MARINESHIP, ISN'T THAT CORRECT?

A. I NEVER HEARD THAT.

Q. BUT YOU DO KNOW THAT AFTER THE WAR ENDED AND AFTER MARINESHIP, HE ROSE THROUGH THE RANKS OF THE BECHTEL ORGANIZATION, CORRECT?

MR. LOPEZ: VAGUE AS TO WHAT HE MEANS BY

ORGANIZATION.

THE COURT: OVERRULED.

THE WITNESS: HE DID, I SUPPOSE. HE SAYS, "UP THE RANKS." HE WAS ALREADY UP THE RANKS PRETTY WELL. I DON'T RECALL ANY PARTICULAR CHANGES.

MR. TIGERMAN:

Q. NOW, DO YOU RECALL AT ALL WHAT MR. WASTE'S POSITION WAS AT W. A. BECHTEL BEFORE THE WAR?

A. HAVING TO DO WITH, MY MIND SLIPS UP, AS SOON AS YOU HAVE, IN THE CORPORATION BUT, HE WAS NOT INVOLVED, PUT IT THAT WAY.

HE WAS NOT INVOLVED IN DIRECT ENGINEERING AND PRODUCTION CONSTRUCTION BUT RATHER THE, I AM A LITTLE EMBARRASSED BECAUSE I CAN'T SAY THE WORDS BUT, THE PAPERWORK OF THE COMPANY, IF YOU WILL, WAS PROBABLY WHAT --

Q. ALL RIGHT.

A. BEST WAY TO DESCRIBE IT.

Q. LET'S PUT IT THIS WAY, MANAGEMENT POSITION AT W. A. BECHTEL BEFORE THE WAR, ISN'T THAT TRUE?

A. WELL, MANAGEMENT OF PAPER.

Q. OKAY.

A. BEST I CAN DO.

Q. ALL RIGHT; BUT HE WAS PRETTY HIGH UP IN W. A. BECHTEL BEFORE THE WAR, WASN'T HE?

A. THAT'S --

Q. HE WAS CONSIDERED YOUR SUPERIOR, RIGHT?

A. W. A. BECHTEL? DIDN'T WORK THERE. SO, I

DIDN'T KNOW.

Q. SO, ARE YOU, WHEN YOU SAY, A MANAGEMENT OF PAPERWORK, CAN YOU GIVE US ANY IDEA OF WHAT, ANY ADDITIONAL OBLIGATIONS, DUTIES HE HAD WERE BEFORE THE WAR?

A. WELL, I AM SHAME TOO SAY, CAN'T BRING THE WORDS TO MY MIND TO EXPLAIN THAT TO YOU; BUT IT, FINANCE IS PROBABLY ONE OF THE THINGS AND --

Q. OKAY. BILL WASTE WAS NOT JUST SOME LOW LEVEL EMPLOYEE OF W. A. BECHTEL BEFORE THE WAR, ISN'T THAT TRUE?

MR. LOPEZ: LET ME OBJECT, RELEVANCE. I AM NOT SURE, HE ALREADY TESTIFIED AS TO WHAT MR. WASTE WAS.

THE COURT: OVERRULED.

THE WITNESS: DON'T KNOW HOW TO TELL YOU ANY MORE THAN I DID.

MR. TIGERMAN:

Q. ALL RIGHT?

A. BUT HE WAS AN EMPLOYEE OF W. A. BECHTEL.

Q. RIGHT. YOU SAID HE MANAGED PAPERWORK AND WHAT I AM WONDERING IS, IS HE A LOW LEVEL EMPLOYEE OR IS HE A HIGH LEVEL EMPLOYEE AT THAT TIME?

A. WELL, HISTORY WOULD SHOW SINCE THE TIME THAT I KNEW HIM IN BECHTEL, IN THE BECHTEL, MCCONE, PARSONS CORPORATION AND ON UP, THAT HE WAS A VERY HIGH GRADE MAN.

Q. AT THE SHIPYARD, ISN'T IT TRUE THAT HE WAS IN CHARGE OF MARINESHIP?

A. OF MARINESHIP, IN CHARGE OF IT?

Q. WASN'T HE A SUPERINTENDENT?

A. I DON'T KNOW WHO WAS IN CHARGE OF IT. I CAN NOT RECALL THAT.

Q. AFTER THE WAR YOU, HE WENT ONTO BECOME AN OFFICER AND DIRECTOR. YOU NEVER LEARNED WHAT HE HAD DONE DURING THE WAR?

A. I PROBABLY DID KNOW AT THAT TIME BUT I MUST TELL YOU THAT I CANNOT RECALL AT THIS TIME.

Q. YOU WENT BACK OVER TO MARINESHIP AFTER YOU WENT THERE THE FIRST TIME, DIDN'T YOU?

A. NO.

Q. YOU JUST WENT THERE ONCE?

A. ONLY ONCE THAT I KNOW OF.

Q. YOU WENT THERE ONCE AT THE REQUEST OF WHOM?

A. I DON'T KNOW.

Q. YOU, IT WAS AT THE REQUEST --

A. I DON'T REMEMBER THAT.

Q. -- AT THE REQUEST OF YOUR COMPANY, WASN'T IT?

A. HUH?

Q. IT WAS AT THE REQUEST OF THE COMPANY, WASN'T IT?

A. YES.

Q. YOUR COMPANY WAS GOING TO BUILD A SHIPYARD OUT THERE, WASN'T IT?

A. YES. THEY SENT ME OUT THERE TO LOOK IT OVER AND SEE HOW IT COULD BE WHAT WE NEEDED FOR A SHIPYARD.

Q. ALL RIGHT. YOUR COMPANY BUILT A SHIPYARD OUT THERE?

A. THEY HAD TO DO A LOT WITH IT, YES.

Q. IN FACT ISN'T IT TRUE THAT THE SHIP YARD WAS RUN BY THE BECHTEL ORGANIZATION?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: I CAN'T, I CAN'T I, I AM NOT IN THE POSITION TO SAY WHETHER THEY WERE BECHTEL PEOPLE OR WHO THEY WERE BECAUSE THERE AGAIN, I HAD NOTHING TO DO WITH THAT.

MR. TIGERMAN:

Q. ALL RIGHT.

A. I WAS BUSY WITH SO MANY OTHER THINGS AROUND THE WORLD THAT I DIDN'T KNOW WHAT WAS GOING ON.

Q. YOU KNOW BILL WASTE WAS WITH THE BECHTEL ORGANIZATION BEFORE THE WAR, WASN'T HE?

MR. LOPEZ: WELL, LET ME OBJECT. HE ALREADY MISCHARACTERIZED THE TESTIMONY.

THE COURT: OVERRULED. HE IS ASKING HIM NOW.

THE WITNESS: SAY THAT AGAIN.

MR. TIGERMAN:

Q. BILL WASTE WAS WITH THE BECHTEL ORGANIZATION BEFORE THE WAR, WASN'T HE?

A. I AM TOLD HE WAS.

Q. BILL WASTE WAS WITH THE BECHTEL ORGANIZATION AFTER THE WAR, WASN'T HE?

A. YES.

Q. YOU SAID EARLIER THAT THE SHIP YARD, INCLUDING MARINESHIP, CALSHIP, WAS AMONG THE WAR RESPONSIBILITIES

THAT BECHTEL UNDERTOOK, YOU RECALL THAT?

A. I, WE HAVE HEARD THIS --

Q. WELL, THAT'S?

A. --USED AS --

Q. IS THAT WHAT YOU JUST SAID?

A. I AM SAYING ONLY WHAT I'VE SEEN HERE.

Q. ALL RIGHT, SIR. IF MR. WASTE WAS WITH THE BECHTEL ORGANIZATION BEFORE THE WAR, IF HE WERE WITH THE BECHTEL ORGANIZATION AFTER THE WAR, IF THE SHIPYARD WAS AN ENDEAVOR THAT THE BECHTEL ORGANIZATION UNDERTOOK, ISN'T IT TRUE THAT MR. WASTE CONTINUED TO WORK FOR THE BECHTEL ORGANIZATION FROM THE BEGINNING OF THE WAR THROUGH THE END OF THE WAR?

MR. LOPEZ: OBJECTION, FOUNDA --

THE WITNESS: I CAN NOT SAY, SO --

THE COURT: OVERRULED.

THE WITNESS: --I CAN NOT SAY THAT BECAUSE I WAS NOT GIVEN THAT KIND OF INFORMATION WHEN HE WAS, WORKED WITH BECHTEL AT THAT TIME.

MR. TIGERMAN:

Q. SIR, YOU DIDN'T KNOW WHO WAS RESPONSIBLE?

A. I DIDN'T KNOW WHO WAS RESPONSIBLE.

Q. DID YOU KNOW BEFORE, DURING THE WAR IT HAD A DIVISION THAT, HAD A DIVISION CALLED THE MARINESHIP BUILDING DIVISION?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: I DO.

MR. TIGERMAN:

Q. OKAY. ISN'T IT TRUE THAT THE PEOPLE THAT WERE IN THAT DIVISION INCLUDED MR. WASTE.

A. _ AS I SAID PREVIOUSLY, I HAVE, I KNOW THAT HE SPENT SOMETIME, I THINK, DON'T KNOW WHAT HE DID. I DON'T KNOW HOW LONG HE WAS THERE.

Q. ALL RIGHT. DURING THE WAR, MR. O'CONNELL WAS THERE, JOHN O'CONNELL?

A. YES.

Q. ALL RIGHT. JOHN O'CONNELL, DO YOU KNOW THAT HE WAS THE LABOR COORDINATOR FROM MARINESHIP?

A. I DID NOT KNOW WHETHER OR NOT, I DIDN'T KNOW THAT HE WORKED FOR MARINESHIP.

Q. ALL RIGHT. WASN'T HE THE LABOR COORDINATOR OR LABOR SPECIALIST FOR THE BECHTEL ORGANIZATION IN THE LATER YEARS?

A. IN THE LATER YEARS?

Q. ISN'T IT TRUE THAT HE WENT ON, ONTO BECOME AN OFFICER AND DIRECTOR OF THE BECHTEL CORPORATION?

A. THAT IS CORRECT.

Q. HE WAS AN OFFICER AND A DIRECTOR AT THE SAME TIME THAT YOU WERE, IS THAT CORRECT?

A. MAY BE NOT ALL THE TIME BUT WE WERE, THERE WAS TIMES WHEN WE WERE BOTH TOGETHER ON THE BOARD, MOST OF THE TIME.

Q. NOW, WITH RESPECT TO MR. O'CONNELL, DID YOU EVER LEARN THAT MR. O'CONNELL WAS INVOLVED IN LABOR ISSUES OVER AT MARINESHIP?

A. I DID NOT HEAR THAT.

Q. ALL RIGHT. WHEN YOU SAY MR. O'CONNELL WAS LABOR SPECIALIST FOR THE BECHTEL CORPORATION --

A. I DIDN'T SAY THAT. YOU SAID THAT.

Q. WELL, YOU AGREED, SIR. ISN'T IT TRUE THAT MR. O'CONNELL DID, HE WAS IN THE ROLE OF THE LABOR COORDINATOR, LABOR SPECIALIST FOR THE BECHTEL ORGANIZATION DURING SOME POINTS IN TIME AFTER THE WAR?

A. YES.

Q. IN THAT ROLE, ISN'T IT TRUE THAT HE WAS ONE OF THE PEOPLE WHO ACTUALLY PUBLISHED THE BECHTEL BRIEFS?

A. I HAVE NO KNOWLEDGE ABOUT HIS BEING INVOLVED WITH THAT ORGANIZATION, THAT PUBLICATION.

Q. SIR, I WOULD LIKE TO SHOW YOU --

MR. LOPEZ: WHAT IS THE POINT, YOUR HONOR? WHAT IS THE RELEVANCE?

THE COURT: SUBJECT TO MOTION, OR A MOTION TO STRIKE.

MR. LOPEZ: WHAT IS THE ISSUE RELEVANT TO?

MR. TIGERMAN: MR. O'CONNELL'S ROLE, YOUR HONOR, AS YOU WELL KNOW IS AN ISSUE.

THE COURT: I DON'T WANT YOU TO MAKE ANY FURTHER COMMENTS IN FRONT OF THE JURY. IT IS A FOUNDATIONAL ISSUE, APPARENTLY.

MR. TIGERMAN: SIR, I WOULD LIKE TO MARK AS PLAINTIFF'S NEXT IN ORDER A PAGE FROM THE JUNE, 1958 BECHTEL BRIEFS?

THE COURT: THAT IS 49 OR IS THERE ANOTHER

NUMBER?

MR. TIGERMAN: WELL, WE WILL MAKE IT 49, NEXT IN ORDER.

THE COURT: 49 WHAT?

THE CLERK: 49-D, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

WHEREUPON DOCUMENT WAS MARKED PLAINTIFF'S EXHIBIT NO 49-D FOR IDENTIFICATION ONLY.

THE COURT: IS THERE A YEAR TO THIS.

MR. TIGERMAN: YES, YOUR HONOR, JUNE, 1958.

THE COURT: JUNE, 1958. THIS IS, AGAIN, BECHTEL BRIEFS NEWSPAPER.

MR. TIGERMAN: YES, YOUR HONOR.

MR. LOPEZ: WELL, YOUR HONOR, WE WOULD OBJECT BASED ON OUR DISCUSSIONS IN CHAMBERS.

MR. TIGERMAN: IT HAS NOT BEEN PUBLISHED YET. I AM JUST SHOWING IT TO THE WITNESS.

THE COURT: FINE.

MR. LOPEZ: IS THERE A BATES STAMP NUMBER ON THERE SO THAT WE CAN REFER TO THE DOCUMENT AS EXHIBIT 49.

THE COURT: IT IS MARKED FOR IDENTIFICATION. YOU OUGHT TO GIVE HIM A COPY OF IT.

MR. TIGERMAN:

Q. SIR, I WOULD LIKE TO SHOW YOU EXHIBIT 49-D.

A. OKAY.

Q. SHOWING IN THE LITTLE RIGHT-HAND CORNER DOWN HERE AND YOU CAN SEE IF THAT REFRESHES YOUR RECOLLECTION THAT JOHN O'CONNELL WAS VICE PRESIDENT OF INDUSTRIAL RELATIONS-DEPARTMENT IN 1958?

A. PUBLICATION UNDER THE DIRECTION OF INDUSTRIAL RELATIONSHIP DEPARTMENT. YOU ARE ASKING ME IF THIS RINGS A BELL THAT HE WAS --

Q. VICE PRESIDENT OF THAT DEPARTMENT?

A. THAT I KNEW --

Q. ALL RIGHT. OKAY.

A. --YES.

Q. DID YOU ALSO KNOW THAT ROBERT INGRAM WAS PUBLIC RELATIONS MANAGER FOR THE COMPANY IN 1958?

A. I DID NOT, I DO NOT RECALL THAT.

Q. AND THIS DOESN'T REFRESH --

A. I, THAT DOESN'T MEAN IT WASN'T; BUT I DON'T RECALL IT.

Q. -- THIS DOESN'T HELP YOU REMEMBER THAT?

A. NO.

Q. OKAY. NOW, SIR, WITH RESPECT TO MR. O'CONNELL, YOU KNEW MR. O'CONNELL, DIDN'T YOU?

A. I DID.

Q. YOU SPOKE TO HIM ON MANY OCCASIONS, DIDN'T YOU?

A. VERY WELL.

Q. AND IN ANY OF YOUR DISCUSSIONS WITH MR. O'CONNELL DID HE EVER TELL YOU THAT HE WENT TO ANY MEETING IN 1942 AT WHICH THE HAZARDS OF ABESTOS WAS DISCUSSED?

A. NEVER. I HAVE NEVER HEARD OF IT.

Q. IN THE ENTIRE TIME YOU KNEW MR. O'CONNELL DID HE EVER TELL YOU HE WENT TO A MEETING IN 1942 REGARDING THE HAZARDS OF INSULATION MATERIALS, AT WHICH THAT WAS DISCUSSED?

A. NOT A'TAL. I NEVER HEARD ANY DISCUSSIONS.

Q. NOW, SINCE HE WAS AN OFFICER AND DIRECTOR OF THE COMPANY AT VARIOUS TIMES, DO YOU CONSIDER THAT YOU, IT WOULD HAVE BEEN HIS OBLIGATION TO THE COMPANY TO REVEAL INFORMATION ABOUT THE HAZARDS THAT THE COMPANY WAS CREATING BY THE USE OF DANGEROUS MATERIALS?

MR. GILBERT: OBJECTION, CALLS FOR SPECULATION.

THE WITNESS: MAY I --

THE COURT: OVERRULED.

THE WITNESS: --TO CLARIFY THIS, MAY I ASK YOU A QUESTION.

MR. TIGERMAN:

Q. SURE?

A. AT WHAT POINT IN --

MR. LOPEZ: VAGUE AS TO TIME.

THE WITNESS: --TIME? DO YOU MEAN THAT THESE WERE DISCUSSED, YOU TALKING ABOUT --

THE COURT: SUSTAIN THE OBJECTION.

THE WITNESS: --WAR TIME OR LATER ON? JUST WHERE?

MR. TIGERMAN:

Q. SURE. IF MR. O'CONNELL WENT TO A MEETING IN

1942, DURING THE WAR --

A. YES.

Q. -- AT WHICH THE HAZARDS OF ABESTOS WAS DISCUSSED --

MR. GILBERT: COULD I OBJECT TO THE LAST QUESTION. OBJECTION, HE HASN'T ESTABLISHED ANY FOUNDATION THAT THE WITNESS HAS ANY KNOWLEDGE ABOUT WHAT MR. O'CONNELL DID.

THE COURT: THAT IS WHY HE USED THE HYPOTHETICAL.

MR. LOPEZ: ISN'T HE A PERCIPIENT WITNESS.

THE COURT: YES, SO, YOU SEE, CANNOT ASK HYPOTHETICALS.

MR. LOPEZ: THAT'S RIGHT.

THE COURT: SUSTAINED.

MR. TIGERMAN:

Q. SIR, YOU KNEW HIM AS A FELLOW OFFICER AT ONE POINT, CORRECT?

A. AN OFFICER OF WHAT?

Q. YOU WERE BOTH OFFICERS?

THE COURT: YOU ALREADY ESTABLISHED THAT HE KNOW THAT. HE ALREADY SAID THAT.

MR. TIGERMAN:

Q. DURING THE TIME YOU WERE BOTH OFFICERS, WOULD YOU HAVE EXPECTED MR. O'CONNELL TO TELL YOU IF HE KNEW THAT BECHTEL WAS USING MATERIALS THAT WAS CAUSING HAZARDS TO OTHER PEOPLE'S HEALTH? WOULD YOU HAVE EXPECTED HIM TO TELL YOU THAT?

MR. LOPEZ: OBJECTION, CALL FOR SPECULATION.

THE COURT: OVERRULED.

THE WITNESS: I WOULD NOT HAVE EXPECTED HIM TO SAY SUCH A THING AND I CANNOT RECALL ANY SUCH DISCUSSION WITH HIM.

MR. TIGERMAN:

Q. IF MR. O'CONNELL HAD KNOWN ABOUT HAZARDOUS MATERIAL THAT WAS BEING PLACED OUT TO REFINERIES, WOULD YOU HAVE, AS A FELLOW DIRECTOR, HAVE CONSIDERED THAT HIS DUTY TO DISCLOSE THAT TO THE CORPORATION?

MR. LOPEZ: CALLS FOR SPECULATION, HYPOTHETICAL, NOT PERCIPIENT KNOWLEDGE TO THIS WITNESS.

THE COURT: OVERRULED.

THE WITNESS: MY ANSWER IS, NOT NECESSARILY IN THE BOARD MEETINGS WOULD THIS COME OUT.

MR. TIGERMAN:

Q. DID YOU --

A. IT MAY OR MAY NOT BUT I DO NOT RECALL ANY SUCH THING.

Q. I AM NOT ASKING WHETHER IT WAS ACTUALLY DISCUSSED YET?

A. YES.

Q. I AM ASKING WHETHER IT WAS EVER YOUR EXPECTATION THAT IF YOUR FELLOW DIRECTOR FOUND OUT THAT BECHTEL WAS DOING SOMETHING THAT WAS DANGEROUS TO OTHER PEOPLE THAT THE DIRECTOR WOULD BRING IT TO THE COMPANY'S

ATTENTION?

A. IT NEVER OCCURRED TO ME TO THINK ABOUT WHAT SHOULD BE DISCUSSED AT THE BOARD MEETINGS.

Q. -SO, YOU DIDN'T HAVE ANY EXPECTATION AS TO THE DUTIES THAT YOUR FELLOW BOARD MEMBERS HAD TO THE CORPORATION, IS THAT WHAT YOU WERE SAYING?

MR. LOPEZ: OBJECTION, YOUR HONOR --

THE COURT: SUSTAINED.

MR. TIGERMAN:

Q. YOU DIDN'T CONSIDER FELLOW BOARD MEMBERS TO HAVE A DUTY TO THE COMPANY TO KEEP IT FROM ENGAGING IN DANGEROUS ACTIVITIES?

MR. LOPEZ: YOUR HONOR, OBJECTION.

THE COURT: SUSTAINED. LET ME ASK YOU THIS SO WE CAN MOVE THIS THING ALONG.

WHEN YOU WERE ATTENDING THE BROAD OF DIRECTORS MEETINGS, YOU ALREADY ESTABLISHED YOU TALKED ABOUT BUSINESS POLICY. POLICY, WE ALREADY DISCUSSED THAT YOU USE, EVEN BEFORE YOU WERE ON THE BOARD OF DIRECTORS, IS IT, OF SHIP YARDS, RIGHT?

THE WITNESS: BEFORE THE SHIPYARD?

THE COURT: YES. BEFORE YOU WERE ON THE BOARD OF DIRECTORS EVEN AS AN OFFICER, THEY USED YOU FOR YOUR OPINIONS IN REFERENCE TO WHAT SITES TO GET FOR THE SHIPYARD, IS THAT RIGHT?

THE WITNESS: YES, UH-HUH.

THE COURT: IS THAT RIGHT?

THE WITNESS: UH-HUH.

THE COURT: BUT THE IDEA OF WHETHER OR NOT TO BUY OR TO CONSTRUCT A SHIPYARD COMES FROM THE TOP, RIGHT?

THE WITNESS: DIDN'T HAVE ANYTHING TO DO WITH THAT. THAT'S RIGHT.

THE COURT: ONLY THING YOU HAD TO SAY WAS THIS IS A GOOD PIECE OF PROPERTY FOR IT OR NOT?

THE WITNESS: THAT IS ALL.

THE COURT: THAT IS WHAT WE ARE TALKING ABOUT, POLICY DECISIONS, COME FROM THE TOP?

THE WITNESS: THAT'S RIGHT.

THE COURT: AT SOME POINT YOU BECAME A POLICY MAKER BECAUSE YOU WERE ON THE BOARD OF DIRECTORS?

THE WITNESS: THAT'S CORRECT.

THE COURT: YOU WOULD TALK TO THE OTHER PEOPLE ON THE BOARD OF DIRECTORS?

THE WITNESS: INDEED.

THE COURT: TALKED EXPANSION, REDUCTION, I IMAGINE, IS THAT CORRECT, JUST GENERAL AREAS.

THE WITNESS: IN DEED, IN DEED.

THE COURT: YOU ALSO TALKED ABOUT SAFETY.

THE WITNESS: YES, WE, THE COMPANY, IF IT WAS NECESSARY, AND I AM NOT, I AM SAYING THAT IT IS LOGICAL THAT WE WERE DOING THAT. THAT, I CANNOT SAY THAT I REMEMBER IT.

THE COURT: I UNDERSTAND THAT. WE ARE TALKING ABOUT GENERAL TOPICS IN REFERENCE TO SAFETY,

THE GENERAL WELFARE OF YOUR EMPLOYEES.

THE WITNESS: YES, THOSE THINGS.

THE COURT: ALL THOSE THINGS. NOW YOU ARE REFERRING TO DUTY, ARE YOU GETTING INTO AN AREA, HE IS GETTING INTO AN AREA, I AM JUST ONLY ASKING THESE QUESTIONS, SO WE CAN GET MOVING HERE.

DID YOU EVER GET INTO THE AREA OF A DISCUSSION OF THE MATERIALS THAT MAY BE USED BY BECHTEL IN ITS CONSTRUCTION THAT MAY BE HAZARDOUS TO IT WORKERS OR OTHERS?

THE WITNESS: PERSONALLY, I DO NOT RECALL EVER HAVING THAT SORT OF A DISCUSSION.

THE COURT: AND MR. O'CONNELL --

THE WITNESS: AND MOST OF THE DISCUSSION WAS IN BUSINESS LINES, DOING THINGS LIKE THAT.

THE COURT: MR. O'CONNELL WAS, REFRESH MEMORY THERE, HE WAS HEAD OF WHAT? THERE, IT SAYS ON THE BECHTEL BRIEFS.

THE WITNESS: THERE, THE ADDRESS ON THERE, I CAN'T FIND IT.

THE COURT: WANT TO HELP --

THE WITNESS: SAYS 1958.

THE COURT: YES.

MR. TIGERMAN: RIGHT.

THE WITNESS: THERE HE WAS, JOHN O'CONNELL WAS VICE PRESIDENT OF, LET'S SEE, INDUSTRIAL RELATIONS DEPARTMENT.

THE COURT: OF --

THE WITNESS: GUESS THAT THIS LITTLE --

THE COURT: --OF INDUSTRIAL RELATIONS. YOU KNOW WHAT THAT DEPARTMENT DID?

THE WITNESS: LOOKS LIKE VICE PRESIDENT FOR BECHTEL BRIEFS. R. M. DORFMAN WAS MANAGER OF IT. I MEAN, THESE ARE MERELY THE TWO PEOPLE THAT WERE RESPONSIBLE FOR THE BECHTEL BRIEFS.

THE COURT: AND THE BECHTEL BRIEFS WAS PUBLISHED BY THE COMPANY.

THE WITNESS: YES.

THE COURT: ALL RIGHT.

THE WITNESS: YES.

THE COURT: AND MR. INGRAM WAS PUBLIC RELATIONS DIRECTOR OF THE COMPANY AND MAKES GOOD PUBLIC RELATIONS FOR THE COMPANY TO --

THE WITNESS: YES.

THE COURT: --PUBLISH --

THE WITNESS: YES.

THE COURT: --THIS BECHTEL BRIEF FOR ITS EMPLOYEES?

THE WITNESS: I DON'T KNOW. WELL, HE HAD SOMETHING TO DO WITH IT BUT WHAT IT WAS, I DON'T KNOW.

THE COURT: LET ME ASK YOU, YOU WERE A FORMER BOARD OF DIRECTOR. YOU THINK IT WAS GOOD PUBLIC RELATIONS --

THE WITNESS: YES, YES.

THE COURT: --FOR THE COMPANY TO PUBLISH A

NEWSPAPER --

THE WITNESS: YES, YES.

THE COURT: --FOR THE EMPLOYEES --

THE WITNESS: YES.

THE COURT: --MANAGEMENT, EMPLOYEES-EMPLOYER RELATIONS.

THE WITNESS: YES. THAT IS RIGHT.

MR. TIGERMAN:

Q. AS AN OFFICER AND DIRECTOR OF THE COMPANY WOULD YOU HAVE EXPECTED THAT IF SOMETHING INACCURATE HAD BEEN PUBLISHED IN ONE OF THOSE MAGAZINES OR IN ONE OF THOSE JOURNALS WOULD THAT HAVE BEEN BROUGHT TO SOMEBODY'S ATTENTION AND CORRECTED?

MR. LOPEZ: CALLS FOR SPECULATION.

THE COURT: SUSTAINED.

THE WITNESS: WELL --

MR. TIGERMAN:

Q. DID YOU EVER SEE ANYTHING IN ONE OF THOSE BRIEFS THAT YOU CONSIDERED TO BE FALSE OR UNTRUE?

A. I CAN NOT REMEMBER ANY SUCH THING.

Q. DID YOU --

MR. LOPEZ: WHAT IS THE RELEVANCE, YOUR HONOR.

MR. TIGERMAN:

Q. -- THINK WHEN THE COMPANY WAS MAKING STATEMENTS IN THE BECHTEL BRIEFS FOR THE EMPLOYEES THAT IT WAS DISSEMINATING TRUTHFUL INFORMATION TO THE EMPLOYEES?

MR. LOPEZ: OBJECTION, CALLS FOR

SPECULATION.

THE COURT: I WILL ALLOW THAT.

THE WITNESS: I CAN ONLY EXPECT IT TO BE, ACCEPTED IT, WE ACCEPTED IT AS TRUE.

MR. TIGERMAN:

Q. IT WAS ACCEPTED AS TRUE?

A. ANYTHING THAT I KNOW OF.

Q. ALL RIGHT.

A. THAT ISN'T EVERYTHING THAT WAS DISCUSSED.

Q. BUT WHEN YOU READ THIS NEWSPAPER, YOU ACCEPTED WHAT WAS IT IN AS TRUE BECAUSE IT WAS GIVEN BY THE COMPANY TO YOU, CORRECT?

A. I DIDN'T LOOK AT IT FROM THAT POINT OF VIEW. TO ME, THIS WAS SOMETHING THAT I COULD PICK UP AND SCAN AND SEE WAS THERE, TAKE A LOOK AT THE HEADLINES, VERY SELDOM WENT DOWN THROUGH THE WHOLE THING.

Q. DID YOU EXPECT IT TO BE FICTION? DID YOU EXPECT IT NOT TO BE TRUE?

THE COURT: EXPECT WHAT?

MR. LOPEZ: OBJECTION, VAGUE.

MR. TIGERMAN:

Q. ANY OF THE MATERIAL IN THE BECHTEL BRIEFS, DID YOU EXPECT IT, ANY OF IT TO BE FICTION?

THE COURT: YOU KNOW, SOMETHING MIGHT BE AN ARTICLE DEALING WITH AN OPINION BY SOMEONE.

MR. LOPEZ: ESTABLISH --

THE COURT: I WILL SUSTAIN THAT OBJECTION.

MR. TIGERMAN:

Q. DID YOU, WHEN YOU READ THE BECHTEL BRIEFS, HAVE AN EXPECTATION THAT THE COMPANY WAS IMPARTING TO YOU TRUTHFUL INFORMATION?

MR. LOPEZ: OBJECTION, ASKED AND ANSWERED.

THE COURT: OVERRULED. I WILL ALLOW THAT.

THE WITNESS: I HAVE NO WAY OF EVALUATING THAT AT ALL.

MR. TIGERMAN:

Q. SO, YOU DIDN'T EXPECT THAT WHAT WAS IN HERE WAS TO BE ACCEPTED AS TRUE, IS THAT WHAT YOU ARE SAYING?

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: ARGUMENTATIVE. HE DIDN'T QUITE SAY THAT.

THE WITNESS: I DID NOT BECAUSE I HAD NO REASON.

THE COURT: DO YOU BELIEVE EVERYTHING YOU READ IN A NEWSPAPER?

THE WITNESS: NO.

THE COURT: ALL RIGHT. IN REFERENCE TO THIS BECHTEL NEWSPAPER, DID YOU BELIEVE EVERYTHING YOU READ IN THAT.

THE WITNESS: IT WOULD BE THE SAME AS THE NEWSPAPER.

THE COURT: ALL RIGHT. LET'S GO ON.

MR. TIGERMAN:

Q. SIR, LET'S TALK ABOUT STEPHEN BECHTEL. STEPHEN BECHTEL, HE HAS BEEN INVOLVED IN THE, HE WAS INVOLVED IN THE BECHTEL ORGANIZATION FOR A LONG TIME, WASN'T HE?

A. YOU TALKING ABOUT --

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED.

THE WITNESS: --STEPHEN BECHTEL, SENIOR?

MR. TIGERMAN:

Q. YES?

A. HE WAS INVOLVED FOR A LONG TIME?

Q. YES.

A. YES.

Q. ALL RIGHT. ISN'T IT TRUE THAT WHEN YOU CAME ON STEPHEN BECHTEL, SENIOR, AND WE ARE TALKING ABOUT STEPHEN BECHTEL SENIOR NOW, JUST SO THAT WE ARE STRAIGHT THAT STEPHEN BECHTEL SENIOR WAS ALREADY AN OFFICER OR A DIRECTOR IN ONE OF THE BECHTEL ENTITIES?

A. WHEN I JOINED?

Q. YES.

A. YES, HE WAS.

Q. ALL RIGHT. ISN'T IT TRUE THAT WHEN THE WAR BROKE OUT, HE BECAME THE PRESIDENT OF CALSHIP?

A. I CANNOT RECALL WHO THE PRESIDENT OF CALSHIP WAS. I DON'T KNOW.

Q. OH, ALL RIGHT. SIR, DO YOU RECALL THAT STEPHEN BECHTEL WAS INVOLVED IN CALSHIP?

A. WAS INVOLVED?

Q. YES.

A. WELL, I, YES, HE HAD TO BE INVOLVED IN IT IN SOME WAY.

Q. WHY DO YOU SAY THAT?

MCCONE

WOULD IT REFRESH YOUR RECOLLECTION IF I TOLD YOU THAT?

A. I DO KNOW. DO NOT RECALL THAT HE WAS A DIRECTOR AT THAT TIME.

Q. HE LATER BECAME DIRECTOR, THOUGH, YOU KNOW THAT?

A. I DO NOT KNOW THAT.

Q. YOU DON'T KNOW THAT HE WAS EVER A DIRECTOR?

A. LET ME EXPLAIN THAT KENNETH BECHTEL HAD HIS OWN BUSINESS. IT WAS ANOTHER, AN INSURANCE BUSINESS. MOST OF HIS TIME WAS THERE AND WHETHER HE BECAME DIRECTOR OF A BECHTEL COMPANY TO SPEAK OF, I DO NOT REMEMBER.

Q. WASN'T HE A DIRECTOR OF BECHTEL CORPORATION AT THE SAME TIME YOU WERE A DIRECTOR OF BECHTEL CORPORATION?

A. I AM JUST TELLING YOU, I DO NOT RECALL HIS BEING THERE.

Q. LET ME HAVE YOU --

A. COULD BE. I DON'T KNOW.

Q. -- LET ME HAVE YOU LOOK AT PLAINTIFF'S EXHIBIT 49. I WILL ASK WHETHER OR NOT, DOWN IN THE LEFT-HAND CORNER, THAT CORNER, KENNETH BECHTEL?

A. ALL RIGHT. YOU HAVE PROVED THAT HE WAS.

Q. SO, HE WAS A DIRECTOR AT THE SAME TIME YOU WERE, RIGHT?

A. WITHOUT, YES, APPARENTLY HE WAS BECAUSE WE ARE ON THE SAME PAGE.

Q. AS FAR AS KENNETH BECHTEL GOES, SIR, ISN'T IT

TRUE THAT KENNETH BECHTEL WAS, IT WAS GENERALLY KNOWN AMONG PEOPLE IN THE CORPORATION THAT KENNETH BECHTEL WAS INVOLVED IN SOME HIGH OFFICIAL CAPACITY OVER AT MARINESHIP DURING THE WAR YEARS?

MR. LOPEZ: OBJECTION, CALL FOR SPECULATION, "GENERALLY KNOWN."

THE COURT: SUSTAINED.

THE WITNESS: I HAVE NO INFORMATION ABOUT THAT.

MR. TIGERMAN:

Q. YOU HAVE ABSOLUTELY NO RECOLLECTION WHETHER OR NOT KENNETH BECHTEL WAS INVOLVED WITH MARINESHIP CORPORATION, IS THAT CORRECT?

A. THAT IS CORRECT.

Q. DO YOU HAVE ANY INFORMATION, SIR, ABOUT WHETHER OR NOT MR. WASTE WAS INVOLVED IN A, WELL, DO YOU HAVE ANY KNOWLEDGE ABOUT WHETHER MR. WASTE WAS INVOLVED IN SOME MANAGERIAL CAPACITY OVER AT MARINESHIP?

A. THAT I DON'T KNOW.

MR. LOPEZ: OBJECTION, ALREADY GONE OVER THIS, OVER AND OVER.

THE COURT: OVERRULED. I WANT TO HEAR THE ANSWER.

THE WITNESS: NO.

THE COURT: ANSWER IS "NO."

MR. TIGERMAN:

Q. MR. O'CONNELL, ALSO DON'T KNOW WHETHER MR. O'CONNELL WAS INVOLVED OVER AT MARINESHIP, IS THAT

WHAT YOU ARE SAYING?

A. I HAVE SAID THAT AND I WILL SAY IT AGAIN.

Q. NOW, SIR, WHEN THE MARINESHIP CORPORATION WAS FORMED, IT HAD THE EXACT SAME OWNERSHIP, EXACTLY SAME MANAGERS AS W. A. BECHTEL AND THE MARINESHIP BUILDING DIVISION HAD THE SAME OWNERSHIP?

A. I DID NOT HAVE ACCESS TO ANY INFORMATION ABOUT THOSE COMPANIES. I WAS NOT AT THAT LEVEL IN THE COMPANY AND I KNEW NOTHING ABOUT IT.

Q. ALL RIGHT. AS DIRECTOR AND OFFICER OF THE CORPORATION DID YOU EVER HAVE AN OPPORTUNITY TO GO BACK TO HISTORICAL DATA FROM THE CORPORATION AND REVIEW SOME OF THAT HISTORICAL DATA AS A PART OF YOUR JOB?

A. NO, I HAVE NEVER DONE THAT.

Q. YOU NEVER HAD OCCASIONS IN THE COURSE OF YOUR JOB TO FIND OUT WHAT PEOPLE HAD DONE BEFORE YOU SO YOU COULD HAVE SOME CONCEPT?

A. I DID NOT REMEMBER ANY SUCH THING.

Q. YOU DIDN'T CONSIDER IT PART OF YOUR JOB TO KNOW THE HISTORY OF THE CORPORATION?

A. TO A DEGREE BUT NOT TO A GREAT DEGREE, WAS MORE CONCERNED WITH WHAT WAS AHEAD.

Q. ALL RIGHT. YOU ALREADY TOLD US, FOR EXAMPLE, A RAILCAR WAS DONATED TO STEPHEN BECHTEL AT ONE POINT IN TIME BECAUSE THE COMPANY HAD BEEN INVOLVED IN THE RAILROAD BUSINESS.

HOW DID YOU COME ABOUT THAT INFORMATION?

A. I DON'T KNOW THAT THE COMPANY WAS INVOLVED IN

THAT AT ALL.

Q. YOU --

A. LISTEN, YOU TALKED ABOUT A COMPANY. THIS WAS A TIME WHEN THE BECHTELS WERE W. A. BECHTEL COMPANY AND EVEN BEFORE THAT, I DON'T KNOW WHEN W. A. BECHTEL COMPANY STARTED.

SO, SOMETIMES THE FAMILY WAS ALTOGETHER IN DOING THIS BUT IT GOES CLEAR BACK TO THE TURN OF THE CENTURY AND THERE, I COULDN'T TELL YOU WHETHER HE WAS AN OFFICER OF ANY COMPANY OR NOT AT THAT TIME.

Q. ALL RIGHT. WERE ALL OF THESE DIFFERENT BECHTEL COMPANIES KNOWN AT VARIOUS TIMES AS PART OF THE BECHTEL ORGANIZATION?

A. MEANING THEY ARE KNOWN AS THAT?

Q. YES.

A. QUITE POSSIBLY KNOWN FOR SUCH THINGS?

Q. DIDN'T THE OVERHEADS THAT WE SHOWED TO THE JURY, IN THAT OVERHEAD IT STATES --

THE COURT: TWO MORE MINUTES, WE WILL BREAK FOR LUNCH, MR. TIGERMAN.

MR. TIGERMAN:

Q. --IT SAYS: 65TH ANNIVERSARY OF THIS, "65TH YEAR OF BECHTEL ORGANIZATION STARTING IN BUSINESS."

DOES THIS REFRESH YOU THAT PEOPLE USE TO CALL ALL THESE DIFFERENT COMPANIES PART OF THE BECHTEL ORGANIZATION?

A. IT STARTED IN 1898 AND FROM THERE ON.

Q. ALL RIGHT. IN FACT IN THIS STATEMENT ABOUT THE

ANNIVERSARY, AT THE BOTTOM IT SAY, LITTLE LOGO THAT SAYS "WABCO." IS THAT THE LOGO THAT WAS USED FOR THE W. A. BECHTEL CORPORATION?

A. APPARENTLY IT WAS. I NEVER SEEN IT BEFORE BUT I WOULD JUDGE THAT THAT'S WHAT IT MEANS.

Q. YOU NEVER SEEN THAT BEFORE YOURSELF?

A. NOT THAT I RECALL.

Q. ALL RIGHT. IN THE STATEMENT THAT IT IS THE 65TH ANNIVERSARY OF THE BECHTEL ORGANIZATION STARTING IN BUYS, DO YOU HAVE ANY REASON TO DISPUTE THAT STATEMENT AS BEING TRUE?

A. THE STATEMENT THAT, YOU MEAN THIS STATEMENT?

Q. YES.

A. I HAVE NO BASIS FOR DISPUTING IT, REALLY. I DIDN'T KNOW ENOUGH ABOUT IT.

Q. NOW, AS YOU SIT HERE RIGHT NOW, DO YOU HAVE ANY REASON TO DISPUTE THE TRUTH OF THAT STATEMENT?

MR. LOPEZ: OBJECTION, RELEVANCE, YOUR HONOR.

THE COURT: I WILL ALLOW IT.

THE WITNESS: WELL, I WOULDN'T HAVE ANY REASON FOR DISPUTING IT ONE WAY OR THE OTHER.

MR. TIGERMAN: ALL RIGHT.

Q. ISN'T IT TRUE, SIR, THAT WHEN PEOPLE TALK ABOUT ALL THE VARIOUS BECHTEL COMPANIES THEY FREQUENTLY REFER TO IT AS THE BECHTEL ORGANIZATION?

MR. LOPEZ: OBJECTION, CALLS FOR SPECULATION.

MR. TIGERMAN:

Q. DIDN'T YOU HEAR PEOPLE WITHIN THE COMPANY, OFFICERS AND DIRECTORS, MANAGEMENT MAKE REFERENCE TO THE, REFER TO THE BECHTEL ORGANIZATION?

A. SURE.

Q. DIDN'T YOU UNDERSTAND THOSE REFERENCES TO INCLUDE THE W. A. BECHTEL COMPANY?

A. THAT IT WOULD OR WOULDN'T BE PART OF THIS?

Q. THAT IT WAS PART OF THE BECHTEL ORGANIZATION?

A. IT WAS PART OF THE, ONE OF THE BECHTEL ORGANIZATIONS.

Q. SO, YOU NEVER --

A. THEY SAYS, DID, THERE WERE SEVERAL BECHTEL ORGANIZATIONS.

Q. DO YOU KNOW WHAT STEPHEN BECHTEL WAS TALKING ABOUT WHEN HE SAID "THIS IS THE 65TH ANNIVERSARY," STEPHEN BECHTEL JUNIOR, WHAT HE WAS TALKING ABOUT WHEN HE SAID IT WAS THE 65TH ANNIVERSARY OF THE BECHTEL ORGANIZATION?

DO YOU KNOW WHICH ORGANIZATION?

MR. LOPEZ: OBJECTION --

THE COURT: OBJECTION, SUSTAINED.

MR. LOPEZ: --SPECULATION, IN OTHER WORDS, HERE IS WHAT HE IS SAYING. I DON'T KNOW THE QUESTION.

MR. TIGERMAN: WHY DON'T WE TAKE A BREAK. WHY DON'T WE TAKE A BREAK.

THE COURT: WHY DON'T WE TAKE A LUNCH BREAK. IT IS 12:15, SEE YOU BACK AT 01:15. REMEMBER

MY ADMONITION. DON'T TALK ABOUT THIS CASE, EXPRESS ANY OPINIONS.

I UNDERSTAND THAT ONE OF THE JURORS HAVE TO GO AT-WHAT TIME, 03:30, HAVE TO GO AT 03:00. ALL RIGHT.

REMEMBER MY ADMONITION.

(RECESS)

MR. TIGERMAN: COULD THE JURORS CAME BACK FIFTEEN MINUTES LATER.

THE COURT: ALL RIGHT. SEE YOU BACK AT 01:30. SEE YOU GUYS AT 01:15.

(OUTSIDE JURORS PRESENCE)

THE COURT: LET THE RECORD REFLECT THE COURT IS IN SESSION, THE ATTORNEYS ARE PRESENT AND THE JURY IS NOT PRESENT.

I AM GOING TO LISTEN TO THIS TESTIMONY UNDER 765. I HAVE ASKED SOME QUESTIONS, HOPEFULLY NEUTRAL QUESTIONS, JUST TO MOVE THIS THING A LONG.

THERE APPEARS TO BE SOME RECOLLECTION PROBLEMS ON THE PART OF THE WITNESS, CONSIDERING HIS AGE. I DON'T EVEN KNOW HIS AGE.

MR. GILBERT: 86.

MR. LOPEZ: 86.

THE COURT: I DON'T KNOW BUT HE APPEARS TO BE AGED, A SENIOR CITIZEN. IN ANY EVENT, CERTAIN EVIDENCE IS BEING ALLOWED HERE AND THIS IS PENDING A MOTION TO STRIKE AS TO ITS RELEVANCE.

ALL I WANT TO KNOW IS THIS, IN THIS

NUMBER-LETTER EXHIBIT, 49-A, THIS WAS ALLOWED ONLY ON THE BASIS OF AN IMPLIED ADMISSION THAT THE BECHTEL ORGANIZATION INCLUDED W. A. BECHTEL COMPANY AND W. H. BECHTEL COMPANY OR WHATEVER, RIGHT?

THAT WILL BE A 403 OF THE EVIDENCE CODE ISSUE, RIGHT?

MR. TIGERMAN: RIGHT.

THE COURT: NOW, BUT IN HEARING YOUR QUESTIONS, LET ME ASK YOU THIS: THROUGH THIS WITNESS OR ANY OTHER WITNESS ARE YOU GOING TO PROVE A STATUTORY MERGER BETWEEN THESE CORPORATIONS, COMPANIES.

I HAVE THE SHEET OF PAPER HERE THAT INDICATES ALL THE NAMES OF THE CORPORATIONS FROM THE 40'S AND 50'S.

MR. TIGERMAN: FROM '45 ON, IT IS ADMITTED TO BE THE SAME BY THE DEFENDANTS.

MR. LOPEZ: THAT IS THE ONLY REFERENCE TO BECHTEL CORPORATION WHICH CAME INTO EXISTENCE IN 1945 WHICH IS CURRENTLY KNOWN AS SEQUOIA VENTURES, ORIGINALLY IT IS BECHTEL BROTHERS MCCONE.

THE COURT: INTERROGATORY NUMBER 3, HAVE YOU EVER BEEN, HAVE YOU EVER BEEN IDENTIFIED, KNOWN, THIS IS THE INTERROGATORIES OF SEQUOIA VENTURES, HAVE YOU EVER BEEN KNOWN OR DONE BUSINESS UNDER ANY OTHER NAMES.

THEY SAID BECHTEL BROTHERS MCCONE, BECHTEL CORPORATION AND THEN SEQUOIA VENTURES.

MR. TIGERMAN: RIGHT.

THE COURT: THIS STEMS ALL THE WAY TO 1945.

MR. TIGERMAN: RIGHT, SO THE ISSUE --

THE COURT: ARE YOU TRYING TO SHOW THAT THIS SEQUOIA VENTURES HAD BEEN KNOWN BY BECHTEL CORP OR BECHTEL BROTHERS MCCONE COMPANY, THAT THEY WERE ONE AND THE SAME CORPORATION.

MR. TIGERMAN: NO, THAT IS ALREADY ADMITTED.

THE COURT: ARE YOU SAYING THERE IS AN ADMISSION OF A STATUTORY MERGER?

MR. TIGERMAN: NO, IT IS AN ADMISSION, CONTINUATION.

MR. LOPEZ: THAT IS THE SAME COMPANY. ALL THOSE COMPANIES ARE THE SAME COMPANY RIGHT THERE.

THE COURT: THESE ARE THE SAME?

MR. LOPEZ: THAT'S THE SAME COMPANY, 1945. WHAT IS THE DATE ON IT?

MR. TIGERMAN: RIGHT, '45.

THE COURT: SEPTEMBER 10, 1945.

MR. LOPEZ: THAT IS ONE COMPANY THERE. THAT IS NOT --

THE COURT: THAT IS NOT CONTESTED, DOESN'T HAVE TO PROVE STATUTORY MERGER, DEFACTO MERGER, ASSET SALE OF ONE COMPANY --

MR. LOPEZ: IT COME IN EXISTENCE IN 1945.

MR. TIGERMAN: OUR ARGUMENT IS --

MR. LOPEZ: ANOTHER COMPANY, WE HAVE

BEEN --

THE COURT: WHICH COMPANY ARE THESE?

MR. LOPEZ: --WITH A BECHTEL CORP. BECHTEL, MCCONE, PARSONS IS A DIFFERENT COMPANY, NOT PART OF SEQUOIA VENTURES ALSO KNOWN AS BECHTEL CORPORATION.

THE COURT: THAT'S WHAT YOU'RE SAYING YOU ARE TRYING TO PROVE, THAT THOSE COMPANIES THAT YOU JUST REFERRED TO, PRIOR TO 1945, ARE PART AND PARCEL OF THIS COMPANY?

MR. TIGERMAN: THAT'S RIGHT, YOUR HONOR.

THE COURT: ALL RIGHT. NOW, ARE YOU DOING IT BY WAY OF STATUTORY MERGER? YOU HAVE TO PROVE STATUTORY MERGER OF THOSE PREDECESSOR COMPANIES IN 1945.

MR. TIGERMAN: WHAT I HAVE EVIDENCE OF, YOUR HONOR --

THE COURT: JUST ANSWER MY QUESTION. THOSE --

MR. TIGERMAN: NO.

THE COURT: NO STATUTORY MERGER. NOW, ARE YOU GOING TO SHOW A DEFACTO MERGER?

MR. TIGERMAN: I THINK SO. THAT IS ONE OF THE ISSUES.

THE COURT: BY DEFACTO MERGER, ARE YOU GOING TO W. A --

MR. LOPEZ: W. A. BECHTEL CORP.

THE COURT: LET ME WRITE THIS DOWN. GET IT

TOGETHER. THE RECORD WILL SHOW THAT THIS REALLY HASN'T BEEN OUTLINED TO ME. W. H --

MR. GILBERT: W. A.

MR. TIGERMAN: A --

THE COURT: --A.

MR. TIGERMAN: --BECHTEL COMPANY.

THE COURT: --BECHTEL COMPANY. WHAT OTHER COMPANY.

MR. TIGERMAN: BECHTEL, PARSONS, MCCONE.

THE COURT: PARSONS, MCCONE. THESE ARE, EXISTED PRIOR TO 1945. ARE YOU GOING TO SHOW THAT W. A. BECHTEL AND BECHTEL, PARSONS, MCCONE TRANSFERRED THESE ASSETS TO BECHTEL BROTHERS MCCONE COMPANY IN A TRANSACTION RESEMBLING A MERGER ABOUT WHICH WAS CHARACTERIZED AS THE SELLS OF ASSETS FOR PROCEDURAL PURPOSES?

MR. TIGERMAN: YES, YES.

THE COURT: SO WHICH WITNESS, THIS WITNESS?

MR. TIGERMAN: THROUGH DOCUMENTS AND THROUGH MR. BRIDGES. I HOPE THROUGH DOCUMENTS BECAUSE THE DOCUMENTS, THE BECHTEL BRIEFS REPEATEDLY REFER TO IT AS A CONSOLIDATION OF THE ORGANIZATION.

THAT IS WHAT THEY CALLED IT. THAT IS WHAT THEY CALLED A CONSOLIDATION.

THE COURT: YES, BUT, IF A NEWSPAPER USES LANGUAGE, DOES THAT INDICATE THAT THAT LITERARY LANGUAGE HAS LEGAL SIGNIFICANT TO THE POINT THAT IT IS ADMISSION OF A DEFACTO OR STATUTORY MERGER?

MR. TIGERMAN: THE PERSON WHO WROTE THAT PART OF THE NEWSPAPER IS THE PUBLIC RELATIONS DIRECTOR AND THAT NEWSPAPER IS PUBLISHED BY THE COMPANY FOR THE COMPANY AND THESE ARE STATEMENTS ABOUT THE COMPANY.

THE COURT: YES; BUT HE IS TALKING ABOUT 3 GENERATIONS OF BECHTELS. SO, WE ARE TALKING ABOUT 3 FAMILIES.

IT APPEARS TO ME WHAT YOU ARE TRYING TO DO, YOU KNOW, YOU HAVE GENERATIONS OF FORDS BUT IT WAS ALL ONE FORD CORPORATION.

HERE YOU CAN HAVE BECHTELS INVOLVED SPANNING A WHOLE BUNCH OF YEARS; BUT DOESN'T NECESSARILY MEANS THAT THE PARTICIPATION OF DIFFERENT GENERATIONS OF BECHTELS IS ONE CORPORATION.

MR. TIGERMAN: OF COURSE IT DOESN'T NECESSARILY MEANS THAT. THE QUESTION IS, IS THERE SUFFICIENT EVIDENCE TO GO TO THE JURY.

MR. LOPEZ: THAT IS ALL HE HAS.

MR. TIGERMAN: HOLD ON, HOLD ON. WHEN HE IS SAYING WE ARE CELEBRATING OUR 65TH ANNIVERSARY --

THE COURT: ARE THESE THE BECHTELS WHO ARE CELEBRATING THIS OR IS IT, HOW ARE THEY CELEBRATING IT?

ARE THEY CELEBRATING IT AS 3 GENERATIONS OF BECHTELS INVOLVED IN DIFFERENT CORPORATIONS?

MR. TIGERMAN: WHAT YOU HAVE SEEN, YOUR HONOR, SAYS --

MR. LOPEZ: 3 GENERATIONS, OVER A THIRD OF A CENTURY.

MR. TIGERMAN: WHAT IT SAYS, "IN REVIEWING OUR BUSINESS HISTORY, I AM GRATIFIED BY ADHERENCE TO TWO POLICIES THAT IS TRADITION AT BECHTEL, FAIR DEALING, GOOD HOUSEKEEPING."

THE COURT: ARE YOU GOING TO HAVE THE EVIDENCE.

MR. TIGERMAN: "BOTH ARE AS OLD AS THE 65 YEAR BUSINESS." THEY ARE TREATING IT AS A SINGLE BUSINESS, YOUR HONOR.

THE ONLY POINT OF IT IS THIS, AS FAR AS THE QUESTION OF FACT, WHEN THEY, PEOPLE WANT TO BRAG, THE BUSINESS IS 65 YEARS OLD.

WHEN THEY ARE SUBJECT TO LIABILITY, ALL OF A SUDDEN, IT IS THE OTHER --

THE COURT: WHAT IS MORE IMPORTANT IS, IT IS JUST A NEWSPAPER ARTICLE.

MR. TIGERMAN: IT IS NOT. IT IS WRITTEN BY THE PRESIDENT.

THE COURT: THAT'S RIGHT. AND IS THE PRESIDENT USING THE TERMS: THAT WE HAVE BEEN DOING BUSINESS FOR 65 YEARS WITH LEGAL SIGNIFICANCE THAT INDICATES THAT IT IS ONE CORPORATION?

I MEAN, FOR YOU TO PROVE THAT THERE WAS DEFACTO MERGER, YOU'VE GOT TO PROVE THAT BY OTHER THAN AN STATEMENT MADE BY AN OFFICER OF SEQUOIA OR BECHTEL CORPORATION.

YOU'VE GOT TO PROVE THAT THERE WAS AN ACQUIRING OF THE CORPORATION, USED IT OWN STOCK AS CONSIDERATION RATHER THAN CASH OR PROMISSORY NOTES.

THE FACT THAT HE ACQUIRED THE CORPORATION OF W. A. BECHTEL CORPORATION, AND BECHTEL, PARSONS, MCCONE WAS REQUIRED TO DISSOLVE ON ITS ACQUISITION, THE FACT THAT THESE ACQUIRING CORPORATION, W. A. BECHTEL COMPANY AND BECHTEL, PARSONS, MCCONE WAS MERGED INTO ACQUIRING CORPORATIONS AFTER ITS STOCK HAD BEEN ACQUIRED AND IN FACT THAT THE ASSETS OF THE LARGER CORPORATION WAS BEING PURCHASED BY THE SMALLER CORPORATION.

I MEAN, THERE IS A LOT OF THINGS TO COVER. SO, WHAT I AM SAYING IS THIS EVIDENCE THAT I AM HEARING IS FOR THE PURPOSES OF SHOWING AN ALTERED EGO?

MR. TIGERMAN: YES.

THE COURT: I HAVE NOT READ ANYTHING THAT ALTERED EGO, THE MERE FACT THAT SOME OF THIS, ALL THE OFFICER ARE THE ONLY ONES WHO OWN THE CORPORATION, DOESN'T APPEAR TO BE THAT TYPE OF ALTERED EGO.

MR. TIGERMAN: THAT'S ONLY A FACTOR. THE ISSUE OF OWNERSHIP IS BECAUSE, UNDER ALTER EGO YOU NEED BOTH OWNERSHIP AND CONTROL.

SO, THAT GOES TO OWNERSHIP. WHO OWNS IT. SO, THAT THAT'S ISSUE.

THE COURT: YOU NEED MORE THAN THAT. YOU HAVE OWNERSHIP CONTROL AND YOU HAVE TO SHOW SOME

INEQUITIES.

MR. TIGERMAN: YES, INEQUITIES.

THE COURT: THIS IS USUALLY USED TO PIERCE THE CORPORATE VEIL FOR THE BASIS OF LIABILITIES.

MR. TIGERMAN: RIGHT.

MR. LOPEZ: NOT KNOWLEDGE.

MR. TIGERMAN: INEQUITY HERE IS TO ALLOW THIS ORGANIZATION TO HAVE THE PEOPLE ON ITS PAYROLL THAT ACQUIRED KNOWLEDGE ABOUT HAZARDS AND THEN TO DISAVOW THAT, THAT IS, THE KNOWLEDGE OF THIS CORPORATION, WOULD BE INEQUITABLE

IN THE WORDS, HARRY WARTNICK FOUND OUT ABOUT IT WHILE WE WERE CARTWRIGHT, AS MEMBERS OF THE MANAGEMENT COMMITTEE THAT THAT PARTICULAR EMPLOYEE WAS SEXUALLY HARASSED AT OUR OTHER COMPANY AS AN EMPLOYEE AND THEY THEN STARTED OUR WARTNICK, CHABER FIRM.

WE REHIRED THAT EMPLOYEE, IT WOULD NOT BEHOVE HARRY WARTNICK TO SAYS, WELL, GEE, THE KNOWLEDGE WE HAD ABOUT --

MR. LOPEZ: DIFFERENT THEORY.

THE COURT: DIFFERENT THEORY, CAN'T DO IT ON ULTRA EGO, DON'T YOU TELL ME THAT YOU AS A SENIOR PARTNER IN YOUR PRESENT FIRM WAS THE ULTRA EGO OF CARTWRIGHT.

MR. TIGERMAN: IMPUTED KNOWLEDGE, I HAVE KNOWLEDGE OF THE CORPORATION. I HAVE KNOWLEDGE OF WARTNICK

THE COURT: I AM ONLY ADDRESSING THE ISSUE OF ALTER EGO.

MR. TIGERMAN: I UNDERSTAND. WHAT EVIDENCE WILL HAVE ALTER EGO OTHER THAN WHAT YOU HAVE ADMITTED HERE.

MR. TIGERMAN: OTHER THAN ADMISSION, SAME ORGANIZATION, SAME BUSINESS. IT SAYS WE ARE THE SOME BUSINESS. OUR BUSINESS IS 65 YEARS OLD. IT IS AN ADMISSION.

THE COURT: I AM READY TO RULE AT THIS TIME UNLESS YOU HAVE OTHER EVIDENCE. THE ALTER EGO THEORY CANNOT BE USED FOR THE PURPOSES OF INDICATING AFTER, ACQUIRED KNOWLEDGE ON THE PART OF BECHTEL CORPORATION.

MR. TIGERMAN: I INTEND TO TRY TO DRAW THAT OUT OF MR. BRIDGES.

THE COURT: ON ALTER EGO.

MR. TIGERMAN: MR. BRIDGES WAS THE LAWYER FOR ALL THE ORGANIZATION. HE WAS ALSO A DIRECTOR.

THE COURT: NUMBER TWO, SINGLE ENTERPRISE THEORY, NOW, PROCEEDING ON THE SINGLE ENTERPRISE THEORY, WHAT ELEMENTS MUST BE SHOWN.

MR. TIGERMAN: THE ELEMENTS OF SINGLE ENTERPRISE THEORY ARE, YOUR HONOR, THAT THERE ARE MORE THAN ONE ENTITY THAT HAS AN UNITY OF INTERESTS, A UNITY OF OWNERSHIP SUCH THAT SEPARATENESS OF THE CORPORATION HAS IN EFFECT CEASED TO EXIST.

UNDER THOSE CIRCUMSTANCES, IT WOULD BE

INEQUITABLE TO A UNIT IN INTEREST AND OWNERSHIP SUCH THAT SEPARATENESS HAS CEASED TO EXIST.

THAT'S ALSO WHAT THIS 65 YEAR OLD BUSINESS STATEMENT GOES TO.

IT SHOWS THAT THERE IS A UNIT OF INTEREST IN TERMS OF THEIR VIEW POINT. THEY VIEW THESE ALL AS BEING A SINGLE ENTITY.

MR. LOPEZ: YOU KNOW HE HASN'T EVEN COME CLOSE TO TELLING USE WHO OWN THE, HE SAYS BECHTEL HAS SOME INTERESTS IN IT OR SOME BECHTEL COMPANY HAS SOME INTEREST.

HE HASN'T EVEN GOT TO WHO MARINESHIP IS. HOW CAN WE EVEN BEGIN TO BELIEF THAT IF BECHTEL, ONE BECHTEL ENTITY HAD SOME INTEREST, THAT A LATER BECHTEL CORPORATION AT A POINT OF INTEREST WOULD BE LIABLE UNDER SOME ENTERPRISE THEORY. I HAVE THE SAME PROBLEM.

MR. TIGERMAN: THEY HAD IDENTITY.

THE COURT: ARE YOU GOING TO BE ASKING HIM QUESTIONS?

MR. LOPEZ: NOT ON THAT. I AM GOING TO ASK HIM ABOUT HIS AGE.

MR. TIGERMAN: THIS HISTORY OF W. A. BECHTEL STARTED --

THE COURT: ARE YOU GOING TO BE ABLE TO PROVE THIS.

MR. TIGERMAN: I AM GOING TO TRY, YOUR HONOR, THAT IS WHY I AM BRINGING IN BRIDGES. THAT IS

WHY I AM OFFERING THESE DOCUMENTS.

MR. LOPEZ: THESE DOCUMENTS DON'T PROVE THE HISTORY.

MR. TIGERMAN: BY THE WAY, YOUR HONOR.

THE COURT: I CAN'T, I DON'T KNOW THAT BUT I THINK I NEED AN OFFER OF PROOF FOR BRINGING THE DOCUMENTS.

MR. LOPEZ: WE HAVE GIVEN YOU IN OUR JUNE 26, 1995 DECLARATION OF JAMES J. OCCUTATE, (PHONETICALLY,) THE CORPORATE DOCUMENTS RELATED TO MARINESHIP AND BECHTEL CORPORATION.

SO, WE HAVE GIVEN THE COURT THE LEGAL DOCUMENTS FROM THE SECRETARY OF STATE AND WHAT HE HAS IS SIMPLY SOME REFERENCE TO BECHTEL ORGANIZATION THE BECHTEL BRIEFS AND THAT'S IT.

MR. TIGERMAN: I HAVE REFERENCES TO THE FACT THAT W. A. BECHTEL BUILT THE SHIPYARD AT MARINESHIP. THEY SET UP A MARINESHIP DIVISION. RIGHT BEFORE THE MEETING OCCURRED, THEY FORMED AN MARINESHIP CORPORATION.

THE MARINESHIP CORPORATION HAD THE SAME OWNERS AND SAME MANAGERS AND SAME DIRECTORS AS THOSE PEOPLE WHO WERE RUNNING THE W. A. BECHTEL MARINESHIP DIVISION.

SO, THE FACT THAT THE NEW CORPORATION WAS SET UP IS IRRELEVANT BECAUSE THEY HAVE THE SAME OWNERS. THEY HAVE THE SAME MANAGERS.

MR. LOPEZ: TELL US WHO THAT IS.

MR. TIGERMAN: WELL, I AM GOING TO GET THAT OUT OF BRIDGES; BUT IT IS IN --

MR. LOPEZ: DO YOU KNOW?

MR. TIGERMAN: YOUR HONOR, IT IS IN THE DOCUMENTS, OKAY. IF THE DOCUMENTS DON'T COME IN, THAT'S FINE. THEN, I HAVEN'T PROVEN MY CASE.

IF I CAN'T GET IT OUT OF BRIDGES, THAT IS FINE.

THE COURT: MR. BRIDGES GOING TO BE HERE TOMORROW.

MR. TIGERMAN: IF WE HAD, ACCORDING TO MR. PLACIER.

MR. LOPEZ: WE STILL HAVE THE ISSUE TO ADDRESS WITH THE COURT OF THE MEDICAL CONDITION OF WHETHER HE CAN EVEN TESTIFY BUT WEDNESDAY WOULD BE THE DATE.

MR. TIGERMAN: NOW, MR. BRIDGES WAS LEGAL ADVISOR FOR ALL THOSE YEARS AND I HAVE A GOOD FAITH BASIS FOR ASKING THIS BECAUSE I HAVE DOCUMENTS THAT SAYS --

MR. LOPEZ: HE HAS --

MR. TIGERMAN: OWNERS AND MANAGERS.

MR. LOPEZ: HE WOULDN'T EVEN GO LOOK AT THE CORPORATION DOCUMENTS, FIGURE OUT, MAKE AN OFFER OF PROOF TO THE COURT.

I THINK YOU HAVE TO GET UP HERE AND MAKE AN OFFER OF PROOF.

THE COURT: HERE IS WHAT I AM GOING TO SAY,

IT DOESN'T APPEAR THROUGH THIS WITNESS THAT WE HAVE HERE THAT YOU ARE SHOWING A SINGLE ENTERPRISE THEORY OR YOU ARE SHOWING AN ALTER EGO.

MR. TIGERMAN: WELL, THIS WITNESS ISN'T GOING TO MAKE IT. THAT'S FOR SURE.

THE COURT: MOST OF YOUR QUESTIONS HAVE BEEN IN REFERENCE TO ALL THE OFFICERS HAD STOCK, ALL THE OFFICERS HAD STOCK.

TO ME, IT SOUNDS LIKE YOU ARE GETTING INTO ALTER EGO.

MR. TIGERMAN: RIGHT, I AM TRYING TO PROVE OWNERSHIP BUT CAN WE GET ONTO THE DOCUMENTS I INTEND TO USE WITH THE WITNESS SO WE CAN SHORTCUT --

MR. LOPEZ: I MEAN, THIS IS IMPORTANT, WE OUGHT TO KNOW WHERE THIS IS GOING WHICH IS CONSUMING AN ENORMOUS AMOUNT OF TIME FOR THE COURT AND THE JURY.

THE COURT: FOR ME SO FAR, IT LOOKS LIKE IT IS GOING TO IMPLIED ADMISSION.

MR. LOPEZ: WHY CAN'T WE MAKE HIM MAKE AN OFFER OF PROOF RIGHT NOW. GET --

THE COURT: HE IS DOING IT THROUGH THE RECORDS. LET'S SEE.

MR. TIGERMAN: ALL RIGHT. FIRST OF ALL, YOUR HONOR, I INTEND TO USE PAGE 1402 OF THE BECHTEL BRIEFS. IT IS THE OBITUARY. I WILL HAND YOU THE DOCUMENTS.

MR. LOPEZ: WHAT IS THE BATES STAMP?

MR. TIGERMAN: 1402.

MR. LOPEZ: 1402.

MR. TIGERMAN: THEY ARE IN ORDER, YOUR HONOR. YOUR HONOR SEE THE BATES STAMP NUMBERS. I WILL GIVE A HARD COPY.

THE COURT: WHY DON'T YOU DO IT BEFORE WE PICK, GET THE JURY. 1402. I HAVE 1402.

MR. TIGERMAN: 7 PARAGRAPHS DOWN IN GEORGE EDWARD WALLING OBITUARY WHICH YOU SEE, DURING THE WAR YEARS, DURING THE WAR YEARS HE SERVED IN A DIRECTOR OR AN ADVISORY CAPACITY ON THE ORGANIZATIONS PRIME WAR TIME PROJECT, INCLUDING CALSHIP, MARINESHIP AND SO ON.

IT READS ON.

NOW, THIS IS AN OBITUARY PUBLISHED, THIS IS A COMPANY AUTHORIZED NEWSLETTER BY THEIR PUBLIC RELATIONS DEPARTMENT, BY THOSE AUTHORIZED TO SPEAK ON THE PART OF THE CORPORATION AND IT SAYS RIGHT IN IT, THAT THE ORGANIZATION'S PRIME WAR TIME PARTNERS --

THE COURT: WHO WROTE THIS ARTICLE?

MR. TIGERMAN: ONE OF THE PEOPLE, THE QUESTION IS --

THE COURT: HOW DO YOU KNOW IT WASN'T A FAMILY MEMBER THAT CONTRIBUTED THIS OBITUARY? HOW DO WE KNOW IT WASN'T THE MORTICIAN?

MR. TIGERMAN: DOESN'T MATTER WHO CONTRIBUTED. WHAT MATTERS IS THAT IT WAS PUBLISHED BY BECHTEL UNDER THE AUSPICES OF THE PUBLIC RELATIONS

THE COURT: HE REQUEST WHETHER OR NOT YOUR CLIENT COULD ADOPTED THIS.

MR. LOPEZ: WELL --

MR. TIGERMAN: THIS WAS 1961.

THE COURT: ALL RIGHT. THIS GOES TO 403 AS FAR AS SUFFICIENCY, NOT ON THE BASIS OF ALTER EGO, NOT ON THE BASIS OF --

MR. LOPEZ: ENTERPRISE.

THE COURT: --A SINGLE ENTERPRISE, STATUTORY, DEFACTO MERGER, ONLY ON THE BASIS OF WHETHER IT IS AN AUTHORIZED ADMISSION, RIGHT?

MR. TIGERMAN: RIGHT.

THE COURT: WHAT IS THE NEXT ONE?

MR. TIGERMAN: NEXT ONE IS INSTALLMENT.

MR. LOPEZ: IS HE GOING TO SITE THIS, SHOW THAT TO THE WITNESS. THE WITNESS ISN'T GOING TO HAVE ANY RECOLLECTION OF THAT.

WHY, HE CAN ASK HIM THE QUESTION, DOES HE RECALL, SHOW IT TO HIM; BUT THEN, JUST WANT TO GET UP, PUBLISH, IT DOESN'T, HE CAN DO THAT LATER. DON'T HAVE TO DO IT WITH THIS WITNESS.

THIS WITNESS DOESN'T HAVE ANY KNOWLEDGE.

THE COURT: DON'T HAVE TO DO IT WITH THIS WITNESS.

MR. LOPEZ: HE ALREADY ESTABLISHED --

MR. TIGERMAN: CAN I DO IT AT ANY TIME PLEASE, YOUR HONOR.

MR. LOPEZ: IT IS UNDUE CONSUMPTION OF

TIME.

MR. TIGERMAN: GOING TO CONSUME TIME LATER IF IT DOESN'T CONSUME IT NOW.

THE COURT: PUT IT OFF. I WILL LET HIM PUT IT ON.

NEXT.

MR. TIGERMAN: NEXT ONE, YOUR HONOR, IS FROM PAGE 1293 OF THE BECHTEL BRIEFS.

THE COURT: YOU HAVE ANYMORE OF THESE.

MR. TIGERMAN: FOUR OF THEM OR FIVE.

THE COURT: WHAT IS LEAD.

MR. TIGERMAN: IT IS TOWARD THE FRONT, THEY ARE IN ORDER.

MR. LOPEZ: WHAT NUMBER, YOUR HONOR.

MR. GILBERT: 293.

THE COURT: YOU OWE ME TIGERMAN.

MR. TIGERMAN: SORRY.

THE COURT: I SUPPOSE TO MAKE GOOD DECISIONS ON THIS TIME STUFF RIGHT NOW? 29 --

MR. TIGERMAN: WHAT, 293.

MR. LOPEZ: ON THIS, BY THE WAY, THIS IS A REPRINT OF BOOKS, I TAKE IT, IN THE BECHTEL BRIEFS, SO, NOW --

MR. TIGERMAN: THAT'S CORRECT. THEY TOOK BOOKS AND THEY PUBLISHED IT IN THEIR NEWSLETTERS.

MR. LOPEZ: NOW WE HAVE HEARSAY ON HEARSAY, YOUR HONOR.

MR. TIGERMAN: NO, ON --

MR. LOPEZ: SURE, WE DO.

MR. TIGERMAN: BOOK WAS PUBLISHED IN THE NEWSLETTER. IT SAYS: BECHTEL BRIEFS IS PRIVILEGED TO PRESENT IN A SERIES OF INSTALLMENTS A BOOK PUBLISHED BY HIS FAMILY, WRITTEN AND COPYRIGHTED BY ROBERT L. INGRAM. SAYS THAT RIGHT ON THE RIGHT-HAND BOTTOM. HE FACT HE TOOK THE BOOK, PUBLISHED IT IN HIS OWN INTERNAL NEWSLETTER, THIS MAKE IT AN ADOPTED ADMISSION, EXPRESSED ADMISSION.

THE COURT: WHAT DO YOU WANT --

MR. TIGERMAN: BOTTOM OF THE FIRST COLUMN, THE LAST SENTENCE OF THAT COLUMN, BECHTEL SPONSORED YARDS DELIVERED 570 SHIPS.

MR. LOPEZ: WHAT IS THAT?

MR. TIGERMAN: THEN, LET'S GO TO THE NEXT PARAGRAPH, A GROUP OF TWO BIG PACIFIC COMPANY YARDS DESIGNED, BUILT AND OPERATED BY BECHTEL INTEREST INVITES SPECIAL ATTENTION.

MR. GILBERT: SO, WHAT, BECHTEL INTEREST? WHAT DOES THAT PROVE IN TERMS OF WHAT ENTITIES WERE --DOESN'T GO TO ANY OF THAT. HE CAN PUBLISH THIS LATER ON.

WE ARE JUST GOING TO BE USING A WITNESS WHO DOESN'T HAVE ANY KNOWLEDGE OF THIS TO SITE THIS AND LIKE LET HIM READ THIS, ASK THE WITNESS, DO YOU KNOW AND HE WILL SAYS, I DON'T KNOW.

THE COURT: DOESN'T SHOW INTEREST.

MR. TIGERMAN: IT SAID THERE WERE SPECS,

BECHTEL SPONSORED YARDS.

MR. GILBERT: WHAT DOES "SPONSORED" MEAN?

MR. TIGERMAN: TWO SPECS DELIVERED 570 SHIP, THEY SAID THEY HAD NOTHING TO DO WITH THIS, YOUR HONOR.

MR. GILBERT: WE HAVE SAID ANYTHING,

MR. GILBERT: IT IS A WAR SPONSORED LITTLE LEAGUE TEAM.

THE COURT: WHAT IS THE NEXT ONE.

MR. TIGERMAN: 3 AND 4, NEXT CHAPTER MR. O'CONNELL AND PROVES WHO HE WAS.

MR. GILBERT: WHAT NUMBER?

MR. TIGERMAN: PAGE 3 AND 4.

THE COURT: ALL RIGHT.

MR. TIGERMAN: FIRST COLUMN, TEN, STARTING TEN LINES FROM THE BOTTOM OF THE FIRST COLUMN WITH THE WORD "CERTAINLY."

CERTAINLY JOHN O'CONNELL WHO WAS THERE (AND TO LOOKED AT LABOR RELATIONS UNDER HEINY HEINMARK) GOT OFF TO A GOOD START MARINESHIP'S HEALTHY LABOR CLIMATE.

SO, IT GOES TO SHOW THAT JOHN O'CONNELL WAS AT MARINESHIP AND HE WAS INVOLVED WITH THE LABOR DEPARTMENT.

MR. GILBERT: LET ME SEE HOW THIS WORKS. WE GOT A BOOK WHERE THE AUTHOR HAS PROBABLE GONE OUT, TAKEN OUT OF COURT STATEMENTS FROM A THIRD PARTY TO WRITE A BOOK AND PUBLISH A BOOK, THEN COMES OUT OF

COURT STATEMENT BY AN AUTHOR IN A BOOK, IS THEN REPUBLISHED IN A NEWSPAPER OF GENERAL INTEREST FOR THE EMPLOYEES AND ALL OF A SUDDEN THAT HAS MET THE TEST OF DOUBLE HEARSAY AND OUGHT TO COME IN?

THE COURT: NO, THAT PREVIOUS ARTICLE, PREVIOUS PAGE BEFORE THIS ONE.

MR. TIGERMAN: YES.

THE COURT: THAT'S OUT. THIS ONE, ANYTHING ELSE.

MR. TIGERMAN: YES, YOUR HONOR. IN FACT JUST BY WAY OF BACKGROUND NOW, WHERE DID THE INFORMATION FOR THIS ARTICLE COME FROM. CAME FROM THE INTERVIEW WITH BOB BRIDGES, THAT IS WHAT THE ARTICLE SAYS AT THE VERY BEGINNING, VERY FIRST INSTALLMENT SAID I GOT ALL THIS INFORMATION FROM BOB BRIDGES WHO IS DIRECTOR. HE WAS THERE.

THE COURT: GOT THAT. I HAVE BOB BRIDGES.

MR. TIGERMAN: HE IS COMING UP --

THE COURT: THAT IS OUT TO.

MR. TIGERMAN: HE COMES IN --

THE COURT: THIS IS OUT THROUGH THIS WITNESS. OUT.

MR. TIGERMAN: THROUGH THIS WITNESS, OKAY. THE NEXT ONE, YOUR HONOR, IS ON PAGE 2227. IT IS WAY BACK TOWARD THE BACK.

THE COURT: IN THE BACK.

MR. TIGERMAN: YES, 2227.

THE COURT: IN FRONT OR BACK.

MR. TIGERMAN: THEY ARE IN ORDER, 2227 IS TWO THOUSAND TWO HUNDRED TWENTY-SEVEN.

THE COURT: OH, OH, OH. SHOW MY STATE OF CONFUSION. I AM TRYING TO FIND A PAGE, THAT'S 2000. ALL RIGHT, 2227.

MR. TIGERMAN: GREAT MOMENTS FROM HISTORY.

THE COURT: YES.

MR. TIGERMAN: UNDER THE CUTTING PRODUCTS, PRODUCTION MANAGER EXCELS, IN THE SECOND COLUMN. YOU SEE THAT HEADING.

THE COURT: UH-HUH.

MR. TIGERMAN: SECOND PARAGRAPH BELOW THAT, HUNDREDS OF OTHERS IN BECHTEL CORPORATION ALUMNAE OF GREAT SHIPYARDS, ACCORDING TO ESTIMATE BY WASTE, SENIOR VICE PRESIDENT, JOHN O'CONNELL FOR ONE WAS LABOR RELATIONS EXPERT AT MARINESHIP.

IT IS TO PROVE WHO MR. O'CONNELL WAS AND WHAT HE DID AT MARINESHIP ON THE, IN THE, IN THE ISSUE OF WHETHER OR NOT THE IMPUTED KNOWLEDGE THAT O'CONNELL ACQUIRED AS LABOR RELATIONS EXPERT AT ONE PLACE, GOES TO THE NEXT PLACE AT WHICH HE IS A LABOR RELATIONS EXPERT.

MR. GILBERT: HOLD IT AN, IT IS CLEARLY HEARSAY AGAIN.

THE COURT: IT IS AN ADMISSION AGAIN.

MR. GILBERT: HEARSAY AND HE CAN ASK THIS WITNESS, IN HE FACT HE ALREADY ASKED THIS WITNESS TO USE THIS DOCUMENT. THIS WITNESS HAS ALREADY SAID --

THE COURT: THIS WILL BE ADMITTED. ALL RIGHT THIS ON 403 ON SUFFICIENCY. THEY ARE GOING TO HAVE TO DECIDE THIS, WHETHER THERE IS AN AUTHORIZED ADMISSION BY WASTE.

MR. GILBERT: BUT, YOUR HONOR, THIS WITNESS HAS ALREADY TESTIFIED TO WHAT HE KNOWS ABOUT THAT. ALL HE CAN USE THIS FOR IS TO REFRESH HIS RECOLLECTION. THIS WITNESS IS NOT GOING TO HAVE ANY RECOLLECTION OF THIS.

THE COURT: I DON'T KNOW THAT UNTIL THE WITNESS TAKES THE STAND.

MR. GILBERT: YOUR HONOR, HE TESTIFIED THE WHOLE MORNING HE HAD A BAD MEMORY. HE DIDN'T HAVE, REMEMBER THE BECHTEL BRIEFS. HE ALREADY ASKED ABOUT JOHN O'CONNELL.

THE COURT: HIS MEMORY WAS JOGGED WITH PICTURES.

MR. GILBERT: I WOULD SUGGEST THEN ALL HE BE ALLOWED TO DO IS SHOW HIM THIS.

THE COURT: WE, LET'S START THAT WAY, THEN WE WILL SEE WHERE WE GO.

MR. GILBERT: NO REASON TO BE PUBLISHING THIS THROUGH THE WITNESS. DO IT LATER, GET IT IN ANOTHER WAY.

MR. TIGERMAN: I SHOULD GET TO PUBLISH IT.

THE COURT: I WILL RULE FROM THE BENCH ON THIS. GET THE JURY IN. THAT, IT IS WHAT YOU HAVE WITH THESE.

MR. TIGERMAN: LAST LITTLE THING, YOUR HONOR, I CAN JUST SEE IF THESE REFRESH HIS RECOLLECTION BUT WHAT YOU, I HAVE HERE, YOU HAVE, I HAVE ALL THE EXCERPTS WHERE THEY ANNOUNCED EVERY ONE OF THOSE JOBS AT AVON ASSOCIATED CREW UNITS GOES ON STREAM AS ONE OF THEM, ANOTHER ONE, CATALYTIC REFORMER, READY BY SECOND PHASE, TIDEWATER EXPANDED.

THE COURT: BRING IN THE JURY.

MR. LOPEZ: WE HAVE GOT ANOTHER ISSUE.

MR. GILBERT: WE HAVE, ONE FELL THROUGH, ONE JUROR --

MR. TIGERMAN: ONE JUROR WAS WALKING, WELL, HOW, HOW IS A MEMBER OF THE FAMILY, SOMETHING LIKE THAT.

MR. GILBERT: LET ME CLEAR THIS, DAVID MULFER, DAVID MULFER IS INHOUSE LAWYER AT BECHTEL CORPORATION. AS I UNDERSTAND WHAT HAPPENED, DAVID CAN EXPLAIN IT FOR THE COURT. JUROR, ALTERNATE NUMBER TWO, I BELIEVE MRS. HANLIN, ELDERLY LADY WALKED UP TO DAVID AND SAID, ARE YOU --

MR. MULFER: AT THE LUNCH RECESS, YOUR HONOR, I WAS SEATED HERE. MS. HANLIN CAME UP, SAID, ARE YOU DAVID MULFER? I SAID, YES, I AM. SHE SAID I AM SARAH HANLIN'S MOTHER.

SARAH HANLIN WAS A SCHOOL MATE 20, 30 YEARS AGO OF ONE OF MY SISTERS.

I SAID IT IS NICE O SEE YOU. I CAN'T TALK TO YOU. PLEASE SAYS HI TO SARAH AND THAT WAS THE END

OF THE CONVERSATION.

MR. TIGERMAN: RIGHT, PLEASE, SAYS HI TO SARAH WAS A PROBLEM.

THE COURT: WHAT YOU WANT ME TO DO NOW?

MR. GILBERT: THINK WE OUGHT TO SHOOT HIM RIGHT NOW.

MR. TIGERMAN: THIS IS THE SAME JUROR WHO KNEW THE THELEN FAMILY.

MR. GILBERT: WELL, NO, NO. SHE GOT KICKED OFF.

MR. TIGERMAN: THEN I AM CONFUSED.

THE COURT: WANT TO BRING THE JURY IN.

MR. TIGERMAN: NO, YOUR HONOR. I THINK THAT --

THE COURT: I WILL, IF YOU WANT ME TO, YOU THINK THAT MAYBE THIS IS A PROBLEM.

MR. TIGERMAN: IT MAKES ME WONDER WHETHER OR NOT ONCE SHE KNOWS HE IS ASSOCIATED WITH BECHTEL, THERE MIGHT BE SOME BIAS CREATED.

WE CAN DO THAT AT THE END OF THE DAY.

THE COURT: NOT NOW. I DON'T WANT ANY STALLING, NO WAY, NO WAY. I AM NOT SUGGESTING YOU WANT TO STALL.

MR. TIGERMAN: I AM STALLING, IS WHAT WE ARE SAYING?

THE COURT: THAT IS THE WAY I AM PUTTING IT ON THE RECORD. I AM NOT SUGGESTING YOU WANT TO STALL. I AM JUST SAYING, I DON'T WANT TO STALL,

OKAY.

MR. TIGERMAN: OKAY.

THE COURT: LET'S BRING THE JURY IN.

MR. GILBERT: I HAVE TO RUN TO THE RESTROOM, BACK IN A SECOND.

THE COURT: LET THE RECORD REFLECT THAT THE WITNESS IS BACK ON THE STAND. REMEMBER YOU HAVE BEEN SWORN. JURY IS PRESENT.

MR. TIGERMAN:

Q. ALL RIGHT, SIR, I WOULD JUST LIKE TO ASK YOU ABOUT A COUPLE OF NAMES, SEE IF YOU RECOGNIZE THEM. DO YOU RECOGNIZE THE NAME OF EDGAR GOLDSTEIN.

A. EDGAR GOLDSTEIN?

Q. GOLDSTEIN.

A. I DO NOT RECALL IT.

Q. DO YOU RECOGNIZE THE NAME CLARENCE MAYHEW?

A. NO.

Q. WHAT ABOUT LAWRENCE MILLER?

A. NO.

Q. JOHN F. O'CONNELL, YOU RECOGNIZE, CORRECT?

A. YES.

Q. BARON SCHNEIDER?

A. NO.

Q. AND MR. VANDORAN, W S VANDORAN?

A. NO.

Q. DO YOU RECOGNIZE THE NAME OF MR. R L HAMILTON?

A. R O?

Q. R L HAMILTON?

A. HAMILTON, NO.

Q. WHAT ABOUT GRAMOBOW, R F GRAMOBOW, G-R-A-M-O-B-O W?

A. YES.

Q. WHAT DO YOU KNOW HIM FROM?

A. WELL, HE WORKED IN THE SAME COMPANY THAT I DID AND UNDER ME AT ONE POINT. I DON'T REMEMBER WHEN IT WAS BUT, BUT ONE --

THE COURT: WHAT WAS THE NAME OF THAT COMPANY.

THE WITNESS: WELL, IT SEEMS TO ME, BECHTEL, BECHTEL, ONLY THERE WERE 3 NAMES. I SAID IT 5 TIMES TODAY OR MORE. I CAN'T SAY IT AGAIN. THE ONE, THE ONE WHEN HE WENT TO WORK THERE, THE NAME IN 1937.

THE COURT: WHAT WAS THAT.

THE WITNESS: BECHTEL MCCONE; BECHTEL, MCCONE, PARSONS.

THE COURT: BECHTEL, PARSONS, MCCONE.

THE WITNESS: BECHTEL, MCCONE, PARSONS CORPORATION.

MR. TIGERMAN: RIGHT.

Q. HE WORKED THERE WHEN YOU WERE THERE?

A. I BELIEVE HE DID. I AM NOT SURE. I AM NOT POSITIVE BUT I BELIEVE HE WAS.

Q. DID HE CONTINUE TO WORK FOR THE BECHTEL ORGANIZATION AFTER THAT?

A. YES, FOR QUITE AWHILE.

Q. DID HE CONTINUE TO WORK INTO THE LATE, AFTER THE WAR YEARS?

A. UH-HUH.

Q. - "YES"? YOU HAVE TO SAY "YES" FOR THE REPORTER?

A. YES.

Q. DO YOU KNOW WHAT JOB HE DID AFTER THE WAR YEARS?

A. NO.

Q. OKAY. DID YOU EVER COME TO FIND OUT MR. GRAMOBOW WAS ON THE OPERATING COMMITTEE AT MARINESHIP?

A. AU, WHAT ABOUT IT?

Q. DID YOU EVER COME TO KNOW THAT HE WAS WORKING AT MARINESHIP?

A. NO, I DID NOT KNOW THAT.

Q. ALL RIGHT. SO YOU KNEW, YOU KNEW HIM OR YOU KNEW ABOUT HIM BEFORE THE WAR AND YOU KNOW WHAT HE DID AFTER THE WAR BUT YOU DON'T KNOW WHAT HE DID DURING THE WAR?

A. I CAN'T RECALL NOW WHAT HE DID DURING THE WAR. HE DID OPERATE SOMETIME WITH ME BETWEEN THE WAR TIME AND THE TIME I LEFT BUT I DON'T REMEMBER NOW WHAT HE DID.

Q. OKAY. DID HE WORK UNDER YOU IN ANY OF YOUR ENDEAVORS AT THE BECHTEL ORGANIZATION?

A. NOT DIRECTLY TO ME.

Q. INDIRECTLY?

A. INDIRECTLY.

Q. WHAT WAS, WHAT DID HE DO UNDER YOU AT THE BECHTEL ORGANIZATION?

A. THAT IS WHAT I JUST SAID I DO NOT RECALL.

Q. YOU DON'T RECALL?

A. NOT RECALL.

Q. - OKAY. KENNETH BECHTEL, DO YOU KNOW WHETHER OR NOT, STRIKE THAT. DO YOU KNOW ABOUT WHAT DECADE KENNETH BECHTEL BECAME AN OFFICER OR DIRECTOR OF ANY OF THE BECHTEL ENTITIES?

A. I DO NOT KNOW WHEN AND, I JUST DON'T RECALL.

Q. OH, ALL RIGHT. YOU THINK IT GOES BACK, AS FAR BACK AS THE 40'S THAT KENNETH BECHTEL WAS DIRECTOR OF THE BECHTEL ORGANIZATION, A DIRECTOR OF PART OF THE BECHTEL ORGANIZATION?

MR. LOPEZ: OBJECTION, VAGUE

THE COURT: SUSTAINED.

THE WITNESS: I DON'T KNOW.

THE COURT: LET'S GET THIS STRAIGHT. I, WHEN YOU FIRST WENT TO WORK, YOU WENT TO WORK FOR BECHTEL, PARSONS, MCCONE?

THE WITNESS: BECHTEL, MCCONE, PARSONS IS MY RECOLLECTION OF THE NAME OF THE COMPANY.

THE COURT: WHAT YEAR WAS THAT?

THE WITNESS: 1937.

THE COURT: ALL RIGHT. DID YOU REMAIN EMPLOYED BY BECHTEL, MCCONE, PARSONS UNTIL YOU RETIRED?

THE WITNESS: NO.

THE COURT: WHAT HAPPENED?

THE WITNESS: I WAS THERE ALL THROUGH THE

WAR YEARS AND THEN AFTER THE WAR YEARS BECHTEL, MCCONE, PARSONS CORPORATION WAS, IT STOPPED. IT BECAME A NEW COMPANY. IT, AS I RECALL, IT WAS BECHTEL, MCCONE; BECHTEL CORPORATION; BECHTEL, MCCONE, PARSONS.

THE COURT: BECHTEL, MCCONE, PARSONS, YOU STARTED WITH IN 1937?

THE WITNESS: BECHTEL, MCCONE, PARSONS, I STARTED IN 1937?

THE COURT: YES.

THE WITNESS: AND STAYED THROUGHOUT THE WAR, UNTIL THE TIME THAT THAT COMPANY WAS --

THE COURT: WERE YOU AN OFFICER AT THAT TIME.

THE WITNESS: NO, INDEED. I WAS AN ENGINEER PRIMARILY.

THE COURT: SO, YOU ARE NOT AN OFFICER OF BECHTEL, MCCONE, PARSONS?

THE WITNESS: NO.

THE COURT: BUT LATER ON YOU BECAME ON THE BOARD OF DIRECTORS OF WHAT CORPORATION?

THE WITNESS: BECHTEL CORPORATION. I BELIEVE I AM CORRECT IN THAT. I CAN'T SAY POSITIVE BUT I BELIEVE IT WAS BECHTEL.

THE COURT: IN YOUR WORK FROM 1937, HOW MUCH, WERE THERE ANY NAME CHANGES OR WHAT WAS THE NAME OF THE DIFFERENT COMPANIES YOU WORKED FOR?

THE WITNESS: I KNOW, OTHER THAN THE ONE

THAT I WAS --

THE COURT: THAT WAS BECHTEL, MCCONE, PARSONS?

THE WITNESS: YES.

THE COURT: AND THEN WHAT WAS THE OTHER NAME?

THE WITNESS: I DIDN'T WORK FOR ANY OTHER CORPORATION THAT I KNOW OF. I CAN'T RECALL IT.

THE COURT: YOU KNOW ANYTHING ABOUT WHETHER OR NOT BECHTEL, MCCONE, PARSONS UNDERWENT A MERGER WITH ANOTHER CORPORATION TO BECOME A NEW CORPORATION? YOU KNOW ANY OF ITS HISTORY?

THE WITNESS: I DO NOT RECALL THAT, ANYTHING LIKE THAT.

THE COURT: YOU KNOW ANYTHING ABOUT STATUTORY MERGERS OR DEFACTO MERGERS OR ASSET SALES OF ONE CORPORATION TO ANOTHER.

THE WITNESS: THAT PART OF THE BUSINESS WAS NOT IN MY FIELD. I JUST DIDN'T KNOW ANYTHING ABOUT IT.

THE COURT: WHEN YOU WERE ON THE BOARD OF DIRECTORS, DID YOU DISCUSS THE LEGAL RAMIFICATIONS OF THE CORPORATIONS THAT WERE ACQUIRED OR SOLD BY THE BECHTEL COMPANY?

THE WITNESS: IF THEY WERE DISCUSSED, DISCUSSED IN MEETINGS, I WOULD HAVE BEEN INVOLVED. I DO NOT RECALL THAT IT WAS; THAT, THAT SUCH THINGS WERE DISCUSSED.

THE COURT: LET ME ASK YOU ANOTHER QUESTION.

THE WITNESS: YES.

THE COURT: IT MAY SOUND PERSONAL BUT IT IS RELEVANT. HOW OLD ARE YOU?

THE WITNESS: 86.

THE COURT: YOU ARE 86?

THE WITNESS: YES.

THE COURT: ALL RIGHT. GO ON.

MR. TIGERMAN:

Q. SIR, LET ME JUST ASK YOU ABOUT BECHTEL, MCCONE, PARSONS. NOW AT THAT SAME TIME, THERE WAS A TIME THERE WAS A COMPANY CALLED BECHTEL, MCCONE, PARSONS AND ANOTHER COMPANY CALLED W. A. BECHTEL COMPANY, ISN'T THAT TRUE?

A. YES.

Q. THEY BOTH RAN AT THE SAME TIME?

A. THEY, I CAN'T SAY THAT THEY DID AT THE SAME TIME, DO KNOW THAT MOST OF THE WORK, ALL THE CONSTRUCTION WORK SEEMED TO BE WITH, AS FAR AS I KNEW, WAS WITH BECHTEL, ONE, JUST W. A. BECHTEL --

Q. RIGHT.

A. --UNTIL 1937 AND THEN THAT'S ALL I KNOW ABOUT IT.

Q. ALL RIGHT.

A. WHETHER THEY STOPPED W. A. BECHTEL, I MEAN, YES, W. A. BECHTEL AT THAT TIME OR NOT, I DON'T KNOW. IT MAY HAVE GONE ON BUT I WOULD NOT HAVE KNOWN. I HAVE NO WAY OF KNOWING.

Q. YOU DIDN'T KNOW, YOU DIDN'T KNOW, I AM NOT TALKING ABOUT IDENTICAL TIME PERIODS. I AM JUST ASKING WHETHER FOR ANY PERIOD OF TIME THERE WERE TWO COMPANIES THAT WERE RUNNING AT ONE TIME?

A. ONE COMPANY WAS W. A. BECHTEL COMPANY AND THE OTHER COMPANY IS BECHTEL, MCCONE, PARSONS.

Q. WAS THERE A TIME BEFORE THE WAR WHEN ONE COMPANY WAS, FOR EXAMPLE, THE MAIN OFFICE OF W. A. BECHTEL AND THE OTHER COMPANY HAD A MAIN OFFICE IN SAN FRANCISCO AND THEY WERE RUNNING AT THE SAME TIME?

A. THAT'S QUITE LIKELY.

Q. ALL RIGHT.

A. THAT IS ALL I CAN SAY.

Q. NOW, AFTER THE WAR, W. A. BECHTEL COMPANY WAS NO MORE, ISN'T THAT TRUE?

A. AFTER THE WAR?

Q. YES.

A. I DON'T KNOW WHEN IT TERMINATED. I NEVER DID KNOW.

THE COURT: LET ME ASK YOU THIS, DID IT TERMINATE?

THE WITNESS: I DO NOT KNOW. I NEVER DID KNOW.

MR. TIGERMAN:

Q. ALL RIGHT. AFTER THE WAR DID BECHTEL, MCCONE, PARSONS, DID THEY STOP RUNNING AFTER THE WAR?

A. YES, YES.

Q. DID THE MANAGERS FROM THAT COMPANY GO TO THE

NEW BECHTEL COMPANY?

A. SOME OF THEM DID.

Q. DID THE DIRECTORS FROM THAT COMPANY, OTHER THAN JOHN MCCONE, LET'S LEAVE JOHN MCCONE OUT OF THIS. DID THE REST OF THE DIRECTORS GO OVER TO THE NEW BECHTEL COMPANY?

A. I CAN'T ANSWER THAT BECAUSE I HAD NO REASON TO KNOW WHO THE DIRECTORS WERE. REMEMBER, I WAS A VERY YOUNG GUY THEN.

Q. YOU ARE SUPERVISOR, WHO WAS YOUR SUPERVISOR WHEN YOU WERE AT BECHTEL, MCCONE, PARSONS? WHO DID YOU REPORT TO?

A. OH, WHEN, FIRST TIME I STARTED THERE IN 1937, I REPORTED TO ANOTHER ENGINEER WHO WAS JUST A STEP UP ABOVE THE LADDER AND I REPORTED TO HIM.

Q. WHAT WAS HIS NAME AND HIS TITLE?

A. I WOULD LIKE TO TELL YOU BUT I CAN'T.

Q. DID HE CONTINUE TO WORK FOR THE BECHTEL ORGANIZATION?

A. NOT VERY LONG.

Q. WHO DID YOU REPORT TO AFTER YOU REPORTED TO THEM OVER AT BECHTEL, MCCONE, PARSONS?

A. I REALLY CAN'T TELL YOU. I DON'T REMEMBER.

Q. WHO WAS THE HEAD OF YOUR DEPARTMENT AT BECHTEL, MCCONE, PARSONS?

A. WELL, AGAIN I HAVE TO SAY WE WEREN'T ORGANIZED WITH DEPARTMENTS, WASN'T THAT KIND OF THING.

Q. ALL RIGHT. THE GUY WHO YOU REPORTED TO, WHO DID HE REPORT TO?

A. HE MAY HAVE, I DON'T KNOW. I JUST, I CAN'T TELL YOU THAT. I DON'T KNOW.

Q. OKAY. NOW, SIR, YOU REMEMBER A GENTLEMAN BY THE NAME OF HEINY HEINMARK?

A. YES, I DO.

Q. WHO WAS HEINY HEINMARK?

A. HE WAS THE TOP MAN IN THE COMPANY IN CONSTRUCTION, ALL CONSTRUCTION WAS UNDER HIM.

Q. ALL RIGHT. AND HE WAS THERE BEFORE YOU JOINED THE BECHTEL ORGANIZATION?

A. OH, YES.

Q. AND HE WAS THERE AFTER THE WAR, WASN'T HE?

A. YES, YES.

Q. AND AFTER, ACTUALLY HE WAS THERE EVEN INTO THE 50'S, WASN'T HE?

A. YES.

Q. WAS HE IN CHARGED OF REFINERY AND CHEMICAL ACTIVITIES FOR ANY PERIOD OF TIME?

A. NOT, NO, NOT, AS, ONLY THE CONSTRUCTION PARTS OF IT.

Q. OKAY.

A. THE REST OF IT, NO.

Q. ISN'T IT TRUE THAT HEINY HEINMARK CONTINUED TO WORK FOR THE BECHTEL ORGANIZATION FROM THE TIME YOU GOT THERE TO THE TIME THAT HE RETIRED?

A. NO, HE DID NOT. HE RETIRED MUCH BEFORE I DID.

Q. BUT WHEN DID HE RETIRE?

A. I CAN'T TELL YOU.

Q. BUT WHEN HE RETIRED, HE RETIRED FROM BECHTEL CORPORATION, CORRECT?

A. I BELIEVE THAT'S CORRECT.

Q. - AND GEORGE KOOLY JUNIOR, DO YOU REMEMBER GEORGE KOOLY, JUNIOR?

A. YES.

Q. YOU REMEMBER GEORGE KOOLY JUNIOR WAS A VICE PRESIDENT WITH W. A. BECHTEL WHEN YOU CAME ON WITH BECHTEL, PARSONS, MCCONE, YOU KNOW THAT?

A. I DIDN'T KNOW IT FOR SURE.

Q. YOU KNOW IT NOW?

A. I KNOW IT NOW.

Q. OKAY. ISN'T IT TRUE GEORGE KOOLY JUNIOR CONTINUED TO WORK FOR BECHTEL CORPORATION THROUGHOUT THE WAR AND INTO THE 50'S?

A. YES, THAT'S CORRECT. IN FACT HE DIED I THINK IN BAGDAD WHEN HE WAS ATTACKED --

Q. BY A GROUP OF PEOPLE?

A. --YES, SOMEWHERE IN THE MIDDLE EAST.

Q. THAT WAS LATE 50'S THAT THAT HAPPENED?

A. BELIEVE IT WAS IN THE 50'S.

Q. AND BOTH KOOLY JUNIOR AND HEINMARK WERE PRETTY IMPORTANT GUYS IN THE BECHTEL CORPORATION, ISN'T THAT TRUE?

A. YES, THEY WERE.

Q. NOW, I WOULD LIKE TO JUST GO BACK TO THE ISSUE OF MR. JOHN O'CONNELL. YOU INDICATED EARLIER THAT YOU COULDN'T RECALL PRECISELY WHAT IT WAS THAT O'CONNELL DID

DURING THE WAR YEARS.

SIR, I WOULD LIKE TO SHOW YOU PLAINTIFF'S EXHIBIT NUMBER 49?

THE COURT: 49 WHAT?

MR. TIGERMAN: E.

THE COURT: B?

MR. TIGERMAN: "E" AS IN ELEPHANT.

THE WITNESS: UH-HUH.

MR. LOPEZ: WHICH WOULD HAVE A BATES STAMP NUMBER ON IT.

MR. TIGERMAN: YES, ONE, 1402.

THE COURT: LADIES AND GENTLEMEN WHEN THE ATTORNEYS REFER TO BATES STAMP, IT IS JUST A WAY OF THE ATTORNEYS MARKING THE PAGES SO THAT EACH SIDE GET ON THE SAME PAGE.

MR. TIGERMAN: ACTUALLY, I AM ON THE WRONG ONE.

THE COURT: NOT THE SAME PAGE.

MR. TIGERMAN: 49-F.

MR. GILBERT: WHAT IS THE NUMBER OF THE BATES STAMP NUMBER ON 49-F.

MR. TIGERMAN: 2227, TWO THOUSAND TWO HUNDRED TWENTY-SEVEN. THIS PARAGRAPH HERE I WOULD LIKE TO START WITH.

MR. GILBERT: MAYBE YOU CAN SHOW ME THE DOCUMENT.

THE WITNESS: HUNDREDS OF OTHERS IN THE BECHTEL CORPORATION --

MR. TIGERMAN:

Q. YOU DON'T HAVE YOU TO READ IT A LOUD RIGHT NOW, JUST READ IT TO YOURSELF.

A. - ALL RIGHT.

Q. READ THAT PARAGRAPH.

THE COURT: YOU ARE SHOWING HIM 49-F WHICH IS A PAGE FROM THE BECHTEL BRIEFS NEWSPAPER, IS THAT RIGHT?

MR. TIGERMAN: RIGHT.

THE COURT: OKAY.

MR. TIGERMAN: ALL RIGHT.

Q. HAVE YOU READ THAT?

A. I DON'T QUITE UNDERSTAND IT. OKAY.

THE COURT: READ IT.

MR. TIGERMAN:

Q. DOES THAT REFRESH YOUR RECOLLECTION THAT JOHN O'CONNELL WAS A LABOR RELATIONS EXPERT AT MARINESHIP.

A. THIS TELLS ME THAT IT WAS BEFORE THAT. I DIDN'T KNOW.

Q. OKAY.

A. AT LEAST, I CAN'T REMEMBER IT IF I DID KNOW.

MR. GILBERT: WITH THE COURT'S PERMISSION, THE COURT ALREADY MADE A RULING ON THIS, YOUR HONOR.

THE COURT: YES, I HAVE. THIS HAS NOT REFRESHED HIS MEMORY BUT APPLY TO 403, 1221, 22 OF THE EVIDENCE CODE.

MR. GILBERT: I AGREE, YOUR HONOR, BUT IT IS NOT RELEVANT TO THE EXAMINATION OF THIS WITNESS.

HE DOESN'T RECALL IT AND THERE IS NO QUESTION PENDING TO THE WITNESS.

THE COURT: FINE.

MR. GILBERT: THIS WILL BE AN UNDUE CONSUMPTION OF TIME AS WELL.

THE COURT: OVERRULED. 352 DOES NOT GO INTO THE COLLATERAL ISSUES.

MR. TIGERMAN: ALL RIGHT.

Q. SIR, IT SAYS HERE: HUNDREDS OF OTHERS IN BECHTEL CORPORATION TODAY ARE ALUMNAE OF THE GREAT SHIPYARDS ACCORDING TO ESTIMATE BY WASTE. SENIOR VICE PRESIDENT, JOHN O'CONNELL, FOR ONE WAS A LABOR RELATIONS EXPERT AT MARINESHIP.

NOW, LET ME ASK YOU ABOUT THIS. WHEN IT REFERS TO WASTE, YOU KNEW A MR. WASTE, DIDN'T YOU?

A. YES.

Q. MR. WASTE WAS ACTUALLY AN OFFICER OF THE BECHTEL CORPORATION, ISN'T THAT TRUE?

A. YES.

Q. OKAY. NOW, I WOULD LIKE TO TALK WITH YOU JUST VERY QUICKLY ABOUT THE ISSUE OF THE OWNERSHIP OR THE CONTROL OF MARINESHIP.

NOW, YOU USE TO GET THE BECHTEL BRIEFS ON YOUR DESK, IS THAT TRUE?

A. THAT IS TRUE.

THE COURT: THAT IS ASKED AND ANSWERED. HE SAID SO.

MR. TIGERMAN: ALL RIGHT. I WOULD LIKE TO

SHOW AN OBITUARY IN THE BECHTEL BRIEFS.

MR. GILBERT: WHAT NUMBER?

MR. TIGERMAN: WE ARE ON NUMBER 49-E AS IN ELEPHANT, BATES STAMP NUMBER 1402.

THE COURT: EXHIBIT NUMBER?

MR. TIGERMAN:

Q. JUST READ THAT.

A. THIS IS ABOUT GEORGE WALLING.

Q. GENTLEMAN, WHO WAS GEORGE WALLING?

A. GEORGE WALLING WAS A LAWYER, IF I AM CORRECT.

Q. ALL RIGHT. DO YOU REMEMBER MR. WALLING WORKING FOR THE BECHTEL COMPANY?

A. YES, I DO. I DO, DURING THE WAR YEARS IN WASHINGTON, I HAD MEETINGS WITH HIM, SO ON; BUT THAT'S, I DON'T REMEMBER WHAT BECAME OF HIM.

Q. OH, ALL RIGHT. GO AHEAD, TAKE A LOOK AT THE PARAGRAPH, STARTS WITH THE WORD "DURING"?

THE COURT: WHAT EXHIBIT NUMBER IS THIS?

MR. TIGERMAN: THIS IS 49-E AS IN ELEPHANT.

THE WITNESS: YES, HE IS NOW.

MR. TIGERMAN:

Q. ALL RIGHT. DOES THIS REFRESH YOUR RECOLLECTION THAT DURING THE WAR YEARS HE SERVED IN A DIRECTOR ADVISORY CAPACITY IN THE ORGANIZATION'S PRIME WAR TIME PROJECTS INCLUDING CALSHIP AND MARINESHIP?

A. YES, I CAN UNDERSTAND THAT AND --

THE COURT: DOES THAT REFRESH YOUR MEMORY.

THE WITNESS: YES, YES.

MR. TIGERMAN: ALL RIGHT. WITH THE COURT'S PERMISSION, I WOULD LIKE TO SHOW THIS.

THE COURT: SURE.

MR. TIGERMAN: ALL RIGHT.

Q. THAT GENTLEMAN THERE WITH THE BOW TIE, DO YOU REMEMBER THAT IS WHAT MR. WALLING LOOK LIKE.

A. NOT A VERY GOOD PICTURE. GIVES ME AN IDEA. I REMEMBER HIM NOW.

Q. AND RIGHT HERE IS THE LANGUAGE I REFER TO YOU THAT SAYS: DURING WAR YEARS HE SERVED IN A DIRECTOR ADVISORY CAPACITY ON BECHTEL ORGANIZATION'S PRINCIPAL WAR TIME PROJECTS INCLUDING CALSHIP AND MARINESHIP, THE BURMINGHAM MILITARY AIRCRAFT CENTER, THE CANOL PIPELINE AND JOSHUA HENDY SHIP YARD?

DID YOU WORK ON ANY OF THOSE?

A. I THINK THOSE CLOSELY THROUGH, I WILL TELL YOU.

Q. CALSHIP, WE'VE BEEN THROUGH, RIGHT?

A. WE'VE BEEN THROUGH.

Q. MARINESHIP?

A. WE'VE BEEN THERE TO.

Q. WHAT ABOUT THE BURMINGHAM MILITARY AIRCRAFT CENTER?

A. I WAS THERE FOR SOMETIME.

Q. WHAT DID YOU DO FOR THE ORGANIZATION THERE?

A. I WAS RESPONSIBLE FOR KEEPING TRACK OF ALL THE MAJOR, THE HEAVY BOOMER THAT CAME IN FROM OUT OF VOCATION AND WERE RELEASED. THERE WERE HUNDREDS AND HUNDREDS OF

THOUSANDS OF THEM. I HAD TO KEEP TRACT OF THEM.

Q. YOU ACTUALLY DID AIRCRAFT ENGINEERING?

A. WELL, I DIDN'T, WHEN I SAY KEEPING TRACT OF THEM, ISN'T EXACTLY DESIGNING AIRPLANES.

Q. ALL RIGHT. HOW LONG DID YOU DO THAT FOR THE ORGANIZATION?

A. ABOUT A YEAR ROUGHLY.

Q. WHAT ABOUT THE CANOL PIPELINE, DID YOU HAVE ANY INVOLVEMENT WITH THAT?

A. CANOL PIPELINE, TRYING TO RECALL. I DON'T BELIEVE I HAD ANY INVOLVEMENT IN THAT.

Q. WHAT ABOUT JOSHUA HENDY SHIPYARD, DID YOU HAVE ANY INVOLVEMENT ON BEHALF OF THE ORGANIZATION IN THAT?

A. I HEARD THE NAME, DON'T KNOW WHAT IT WAS AT THIS TIME POINT NOW.

Q. BEST YOU RECALL, YOU WEREN'T INVOLVED IN ANY ASPECT OF THE, IT WOULD BE FAIR TO SAY YOU WOULD PROBABLY REMEMBER BEING THERE?

A. THAT IS RIGHT.

Q. NOW, SIR, YOU HAVE ALREADY DISCUSSED THE FACT THAT OFFICERS AND DIRECTORS OF THE COMPANY. YOU WERE IN CHARGE OF SETTING POLICY OR YOU WERE ONE OF THE PEOPLE WHO SET POLICY, IS THAT TRUE?

A. TO THE EXTENT THAT ANY BOARD MEMBER IS INVOLVED IN THESE BUT NOT, THAT DOESN'T MEAN THAT BASIC THINGS WERE STARTED THERE. THEY WERE JUST REVIEWED BY THE, BY --

THE COURT: JUST SAVE TIME, AS A MEMBER OF THE BOARD OF DIRECTORS, YOU WOULD VOTE?

THE WITNESS: YOU WOULD VOTE.

THE COURT: WOULD YOU VOTE ON DIFFERENT MATTERS?

THE WITNESS: OCCASIONALLY, NOT OFTEN BUT ON OCCASIONS.

THE COURT: SOME OF THE THINGS THAT YOU VOTED ON WAS POLICY MAKING MATTERS?

THE WITNESS: COULD HAVE BEEN.

THE COURT: YOU COULD HAVE BEEN WITH THE MAJORITY, WITH THE DISSENTS BUT YOU VOTED?

THE WITNESS: THAT'S TRUE.

THE COURT: LET'S GO.

MR. TIGERMAN:

Q. SIR, ISN'T IT TRUE THERE WERE POLICY WITHIN THIS COMPANY REGARDING EMPLOYEE SAFETY?

A. WOULD YOU REPEAT THAT.

Q. THE COMPANY HAD POLICY, ONE OF ITS POLICIES WAS TO PROMOTE EMPLOYEE SAFETY, WASN'T IT?

A. I THINK IT IS IN THE MIND OF ALL OF THE PEOPLE AND I DON'T RECALL IT BEING SOMETHING THAT WAS DISCUSSED PARTICULARLY. IT MAY HAVE BEEN BUT I DON'T RECALL IT.

Q. THERE WAS A SAFETY DEPARTMENT OR SAFETY MANAGER?

A. I DON'T KNOW OF A SAFETY MANAGER. IT COULD HAVE BEEN.

Q. YOU DON'T KNOW WHETHER OR NOT BECHTEL HAD A SAFETY DEPARTMENT OR SAFETY MANAGER?

A. WELL, TELL YOU THEY HAD A LOT OF HIGH GRADE

CONSTRUCTION PEOPLE WHO WERE, WHO WERE IN THAT CAPACITY. NOW, I DO NOT RECALL IF THERE WAS ANY PARTICULAR PERSONS THAT TOOK VIEW OF THE WHOLE THING, OF THE COMPANY.

THEY COULD HAVE BEEN BUT I DON'T RECALL THAT.

Q. OKAY, SIR, I HAVE ALREADY ASKED YOU ABOUT WHAT YOU WOULD HAVE EXPECTED MR. O'CONNELL TO DO.

NOW, I WANT TO ASK YOU ABOUT YOURSELF. IF YOU HAD KNOWN BECHTEL WAS USING DANGEROUS PRODUCTS AND EXPOSING ITS EMPLOYEES WITH THE PRODUCT, WOULD YOU HAVE BROUGHT THAT UP WITH THE ORGANIZATION?

MR. LOPEZ: OBJECTION, CALLS FOR SPECULATION.

THE COURT: OVERRULED.

THE WITNESS: SAY THAT AGAIN?

MR. TIGERMAN:

Q. IF YOU HAD KNOWN BECHTEL WAS USING HAZARDOUS PRODUCTS AND WAS EXPOSING ITS WORKERS TO THAT PRODUCT, WOULD YOU HAVE BROUGHT THAT UP WITH THE ORGANIZATION?

A. I MAY OR MAY NOT.

Q. AND WHY NOT?

A. A REASON, BECAUSE THERE WERE LOTS OF OTHER PEOPLE THAT WERE CONCERN WITH THESE THINGS, IF THEY EXISTED, AND IT WASN'T MY PARTICULAR JOB TO DO THAT.

YOU SEE WHAT I MEAN?

Q. SO, WASN'T YOUR JOB TO BRING TO THE COMPANY'S ATTENTION THINGS THAT YOU FOUND OUT WERE DANGEROUS?

MR. LOPEZ: LET ME OBJECT. NO FOUNDATION.

THE COURT: SUSTAINED, ARGUMENTATIVE.

MR. LOPEZ: AND ARGUMENTATIVE.

THE COURT: SUSTAINED ON THAT.

MR. TIGERMAN: ALL RIGHT.

Q. - WHEN YOU SAY IT WASN'T YOUR JOB TO DO, TELL ME WHAT YOU MEAN?

MR. LOPEZ: WELL, SAME OBJECTION ON --

THE COURT: I WILL ALLOW THAT. OVERRULED.

MR. TIGERMAN:

Q. WHAT DO YOU MEAN?

A. WAS NEVER APPOINTED TO BE THE PERSON WHO WAS RESPONSIBLE FOR THAT AND HAD TO TELL EVERYBODY WHAT WAS GOING ON.

THE COURT: WHAT HE IS ASKING YOU IS, AS A MEMBER OF THE BOARD OF DIRECTORS --

THE WITNESS: YES.

THE COURT: --NOW, YOU ARE NOT COMPARTMENTALIZED?

THE WITNESS: NO, NOT A BIT.

THE COURT: SO, YOUR PREVIOUS ANSWER IN REFERENCE TO YOUR DEPARTMENT, YOU DID YOUR DEPARTMENT WORK, THAT'S IT.

RIGHT NOW HE IS ASKING YOU A QUESTION AS, ON THE BOARD OF DIRECTORS WHERE IT IS THE WHOLE DEPARTMENT.

THE WITNESS: THAT'S RIGHT.

THE COURT: NOW, ASK THE QUESTION.

THE WITNESS: YES.

MR. TIGERMAN:

Q. GIVEN THE FACT YOU WERE ON THE BOARD OF DIRECTORS AT SOME POINT, ARE OVERSEEING THE ENTIRE CORPORATION, IF YOU HAD LEARNED THAT SOMETHING WAS DANGEROUS AND IT WAS ENDANGERING EMPLOYEES, WOULD YOU AT LEAST HAVE INVESTIGATED OR BROUGHT THAT TO SOMEBODY'S ATTENTION TO MAKE SURE THAT IT WAS BEING ADDRESSED?

THE COURT: OR ORDERED AN INVESTIGATION?

THE WITNESS: I CERTAINLY WOULD UNLESS I KNEW THAT SOMEBODY ELSE WAS DOING IT.

MR. TIGERMAN: ALL RIGHT.

Q. AND THAT'S BECAUSE AS A DIRECTOR OF THE CORPORATION YOU HAVE A RESPONSIBILITY FOR THE SAFETY OF THE WORKERS, ISN'T THAT TRUE?

A. AS A, SAY THAT AGAIN?

Q. AS A DIRECTOR OF THE CORPORATION YOU HAVE A RESPONSIBILITY FOR THE WHOLE CORPORATION INCLUDING THE SAFETY OF THE WORKERS, ISN'T THAT TRUE?

A. WELL, TO THE EXTENT THAT ANY BOARD MEMBER IS RESPONSIBILITY FOR IT.

Q. THE BUCK STOPS, THE BUCK STOPS THERE, RIGHT, STOPS AT THE TOP, DOESN'T IT?

A. IT COULD.

Q. OKAY. ISN'T IT TRUE, SIR, THAT IN ADDITION TO WHAT WE HAVE TALKED ABOUT, IF YOU WERE THE, WHEN YOU WERE THE DIRECTOR OF THE COMPANY AND IF YOU HAD, IF YOU ACQUIRED KNOWLEDGE THAT A PARTICULAR SUBSTANCE THAT BECHTEL WAS USING ON A REGULAR BASIS WAS DANGEROUS TO PEOPLE WHO WERE BEING EXPOSED TO IT, WOULD YOU HAVE AT

LEAST INSTITUTED AN INVESTIGATION INTO THAT?

MR. LOPEZ: OBJECTION, ARGUMENTATIVE, CALLS FOR SPECULATION AND ASKED AND ANSWERED.

THE COURT: IT IS.

MR. GILBERT: HE HAS ALREADY GIVEN HIS ANSWER.

MR. TIGERMAN: FIRST ONE WAS EMPLOYEES. THIS IS A THIRD PARTY.

THE COURT: THIS GOES TO THE WHOLE.

MR. LOPEZ: HE HAS ALREADY GIVEN HIS ANSWER.

THE COURT: SUSTAINED.

MR. TIGERMAN: ALL RIGHT.

Q. DID YOU CONSIDER IT YOUR RESPONSIBILITY AS BEING ONE OF THE TOP LEVEL AT BECHTEL TO MAKE SURE THAT THE COMPANY WASN'T INJURING PEOPLE BY THE PROJECTS IT WAS PERFORMING?

THE COURT: ARE YOU SUGGESTION IT WAS HIS JOB AS A MEMBER OF THE BOARD OF DIRECTORS TO DO AN INDEPENDENT INVESTIGATION?

MR. TIGERMAN: NO. AT LEAST GET AN INVESTIGATION GOING.

THE COURT: WHY DON'T WE ASK IT DIFFERENTLY.

MR. TIGERMAN: ALL RIGHT.

THE COURT: IF INFORMATION CAME TO YOU THAT YOU CONSIDERED COULD POSSIBLY BE A DANGER TO EMPLOYEES WORKING FOR THE CORPORATION AND YOU

DISCUSSED IT WITH, WHETHER YOU FOUND OUT ABOUT IT YOURSELF OR SOMEONE BROUGHT IT TO YOUR ATTENTION EITHER AT A CONFERENCE TABLE OR WHATEVER, WOULD YOU ORDER AN INVESTIGATION ON THAT TO FIND OUT WHAT THE FACTS ARE?

THE WITNESS: I WOULD, IF I HAD NOT, IF I HAD, IF I HAD NOT KNOWN THERE WAS SOMEONE ELSE THERE BEING RESPONSIBLE.

THE COURT: IF THERE WAS SOMEONE ELSE THERE RESPONSIBILITY WHO WAS INVESTIGATING THAT, WOULD YOU, AS A MEMBER OF THE BOARD OF DIRECTORS WANT TO FIND OUT WHAT THE CONCLUSIONS ARE, ASK FOR A REPORT OF WHAT WAS DISCOVERED?

THE WITNESS: DEPENDS ON THE MAGNITUDE.

THE COURT: THE MAGNITUDE.

THE WITNESS: THE MAGNITUDE OF THIS THING IS, THERE IS SO MANY THINGS, WHEN I STOPPED TO THINK, THERE WERE HUNDREDS OF BIG PROJECTS GOING ON.

THERE IS NO ONE MAN THERE THAT KNOW ALL, WHAT ALL THE THINGS WERE, LIKE, THAT SORT OF THING.

THE COURT: IF IT WASN'T DEALING WITH, SAY, SLIPPERY LINOLEUM IN THE HALLWAY OF ANY PARTICULAR BECHTEL BUILDING BUT SAY IT IS, MAYBE IT IS A PRODUCT THAT IT IS USING ALL OVER, THERE IS A BIG DIFFERENCE. YOU HAVE INDICATED SOMETHING TRIVIAL AND SOMETHING MORE IMPORTANT.

THE WITNESS: WELL, LET ME SAY THIS, THAT YOU CAN'T DO THE THINGS THAT WE WERE DOING IN THOSE

YEARS WITHOUT THERE BEING MANY SUCH THINGS THAT ARE DANGEROUS. AND I DON'T THINK THAT ANY COMPANY THAT'S IN THIS KIND OF BUSINESS COULD AVOID IT.

THE COURT: BY, WHAT DANGEROUS THINGS ARE YOU REFERRING TO?

THE WITNESS: I MEAN ANYTHING THAT WAS CLAIMED TO BE DANGEROUS OR WAS HURTING EMPLOYEES.

THE COURT: COULD YOU GIVE US AN EXAMPLE?

THE WITNESS: WELL, TRUCK DRIVERS, FOR EXAMPLE, ARE CARTING STUFF AROUND, THEY ARE IN A DANGEROUS POSITION AT TIMES.

MR. TIGERMAN: ALL RIGHT.

Q. SIR, DID YOU ACTUALLY PARTICIPATE IN, AT TIMES, IN WORKING WITH REFINERY OWNERS ON BUILDING REFINERY PROJECTS, IS THAT TRUE?

A. YOU SAY --

Q. YOU PARTICIPATED --

A. -- IN --

Q. -- IN GETTING REFINERY PROJECTS OFF THE GROUND?

A. NOT ONLY THOSE --

Q. OKAY.

A. -- BUT I DID SOME --

Q. ALL RIGHT.

A. BUT LOTS OF OTHER THINGS, TOO.

Q. AND IT IS WAS TYPICAL IN THAT KIND OF WORK, LOTS OF PIPE INSULATION WOULD HAVE TO BE USED TO INSULATE ALL THE PIPES, ISN'T THAT TRUE?

A. IT IS DEPENDING UPON WHAT THE, WHETHER OR NOT

THE PIPE, THE PIPE REQUIRED THAT SORT OF THING.

Q. ALL RIGHT.

A. DON'T, VERY FEW OF THEM REQUIRED IT.

Q. IF IT WAS LOTS OF PIPE AND IT WAS AT AN OIL REFINERY, IT WOULD REQUIRE SOME SORT OF INSULATION, WOULDN'T IT?

A. NOT NECESSARILY.

Q. ALL RIGHT. BUT BECHTEL USED LOTS OF INSULATION ON IT PROJECTS, DIDN'T IT?

THE COURT: ON ITS PIPING PROJECTS?

MR. TIGERMAN:

Q. PIPING PROJECTS?

A. BECHTEL, BECHTEL ENGINEERS PUT INTO IT WHAT THEY BELIEVED WAS PROPER THINGS, WHETHER IT NEEDED TO BE COVERED OR NOT --

Q. IF A SUBSTANCE WAS BEING USED OVER AND OVER AGAIN, PROJECT AFTER PROJECT AND IT CAME TO YOUR ATTENTION THAT THE SUBSTANCE THAT WAS REPEATEDLY BEING USED PROJECT AFTER PROJECT POSED A HAZARD TO HUMAN HEALTH, THAT CAME TO YOUR ATTENTION AND YOU DIDN'T KNOW WHETHER OR NOT ANYBODY ELSE WAS INVESTIGATING IT, WOULD YOU ORDER AN INVESTIGATION?

MR. LOPEZ: OBJECTION, CALLS FOR SPECULATION.

THE COURT: SUSTAINED.

MR. TIGERMAN:

Q. SIR --

A. I MUST TELL YOU, I WAS NOT LOOKING AROUND FOR

TROUBLE. I WAS SO BUSY, WAS LOOKING FOR OTHER THINGS, WAS NOT LIKELY THAT I WAS GOING TO TRY TO PICK UP THINGS LIKE THAT AND REPORT THEM. IT JUST, I COULDN'T DO ALL OF THOSE THINGS.

Q. I UNDERSTAND, SIR. MY QUESTION, THOUGH, I WILL REPHRASE SO THAT HOPEFULLY IT IS A BETTER QUESTION?

MR. LOPEZ: WHAT --

MR. TIGERMAN:

Q. IF IT CAME TO YOUR ATTENTION THAT A SUBSTANCE BECHTEL WAS USING JOB AFTER JOB WAS A DANGEROUS SUBSTANCE --

A. IF?

Q. -- "IF" IT CAME TO YOUR ATTENTION --

A. YES.

Q. -- AND YOU DIDN'T KNOW THAT ANYBODY ELSE WAS LOOKING INTO IT, WOULD YOU HAVE DONE SOMETHING ABOUT IT?

MR. LOPEZ: OBJECTION, ARGUMENTATIVE, ASKED AND ANSWERED.

THE COURT: SUSTAINED. LET ME ASK YOU THIS. WHILE YOU WERE WORKING THERE, DID YOU PERSONALLY EVER COME ACROSS ANY INFORMATION, YOU --

THE WITNESS: YES.

THE COURT: NO MATTER WHAT THE SOURCE, COME ACROSS ANY INFORMATION THAT MADE YOU SUSPECT THAT ANY MATERIALS USED BY YOUR COMPANY IN INSULATING PIPES WAS DANGEROUS TO THE EMPLOYEES?

THE WITNESS: I HAVE NEVER HAD THAT EXPERIENCE.

MR. TIGERMAN: OKAY.

Q. LET ME JUST ASK IT THIS WAY. LET'S ASSUME WHEN YOU WERE ON THE BOARD OF DIRECTORS AND YOU WERE AN OFFICER YOU HAD LOTS OF PEOPLE REPORTING TO YOU, ISN'T THAT TRUE?

A. NOT BECAUSE I WAS ON THE BOARD. THEY HAD TO REPORT TO ME NOT BECAUSE I WAS ON THE BOARD BUT BECAUSE I WAS AN OFFICER AND RESPONSIBLE FOR CERTAIN PROJECTS.

Q. AS AN OFFICER OF THE CORPORATION, IF ONE OF THE PEOPLE BELOW YOU, IF IT HAD COME TO THEIR ATTENTION THAT A SUBSTANCE THAT BECHTEL WAS USING WAS DANGEROUS, WOULD YOU HAVE EXPECTED ONE OF THOSE PEOPLE BELOW YOU TO DO SOMETHING ABOUT IT OR REPORT IT TO SOMEBODY WHO WOULD DO SOMETHING ABOUT IT?

MR. GILBERT: OBJECTION, ASKED AND ANSWERED.

THE COURT: ASKED AND ANSWERED, SPECULATION, ARGUMENTATIVE, HYPOTHETICAL, NOT HERE AS AN EXPERT.

MR. TIGERMAN: ALL RIGHT.

Q. SIR, DID YOU AT ANY TIME EXPECT THE PEOPLE BELOW YOU TO REPORT DANGERS, TO DO SOMETHING ABOUT THAT, TO MAKE SURE THEY WERE TAKEN CARE OF?

MR. LOPEZ: SAME OBJECTION.

THE COURT: SUSTAINED.

THE WITNESS: YOU SAY --

THE COURT: DON'T HAVE TO ANSWER.

THE WITNESS: ALL RIGHT.

MR. TIGERMAN:

Q. SIR, WAS THERE A COMPANY POLICY THAT THE COMPANY ENGAGE IN FAIR DEALINGS?

A. SORRY?

Q. WAS THERE A CORPORATE POLICY THAT THE COMPANY ENGAGE IN FAIR DEALING?

A. IN WHAT DEALING?

THE COURT: WERE YOU FAIR IN YOUR NEGOTIATIONS AND YOUR DEALINGS? IS THAT WHAT YOU ARE GETTING INTO? I DON'T KNOW WHAT YOU ARE GETTING INTO.

SUSTAINED.

MR. LOPEZ: I DO, THANKS.

THE COURT: "FAIR DEALING," VAGUE, AMBIGUOUS. YOU TALKING ABOUT CONTRACTS, BIDS, WAGE ASSIGNMENTS?

MR. TIGERMAN:

Q. SIR, THIS EXHIBIT, THERE WAS A LETTER THAT IS SIGNED BY STEPHEN D BECHTEL. AND IN THIS LETTER, IT IS UP SIDE DOWN RIGHT NOW. IS IT POSSIBLE IN THIS LETTER, IT SAYS:

"IN REVIEWING OUR BUSINESS HISTORY, I AM GRATIFIED BY ADHERENCE TO TWO IMPORTANT POLICIES THAT ARE TRADITIONAL WITH THE BECHTEL COMPANY, FAIR DEALING AND GOOD HOUSEKEEPING."

DID YOU UNDERSTAND AT ANY TIME THAT THESE WERE IMPORTANT POLICIES THAT ARE TRADITIONAL WITH THE BECHTEL COMPANY?

A. YOU SAID, DID I BELIEVE THAT IT WAS?

Q. TRADITIONAL POLICIES OF THE ORGANIZATION TO ENGAGE IN FAIR DEALING?

A. YES, I BELIEVED IN THAT BECAUSE I HAD TO DO A LOT OF IT.

Q. AND DID FAIR DEALING MEAN TELLING YOUR CUSTOMERS ABOUT THE THINGS THAT YOU WERE DOING FOR THEM?

MR. LOPEZ: OBJECTION, RELEVANCE, YOUR HONOR.

THE COURT: OVERRULED. I WILL ALLOW THAT. I WILL ALLOW, THAT IS A LITTLE LOOSE, "TELLING CUSTOMERS."

MR. LOPEZ: VAGUE, AMBIGUOUS.

MR. TIGERMAN:

Q. THIS INVOLVED PROPERLY ADVISING YOUR CUSTOMERS AS TO WHAT IT WAS YOU WERE PLACING AT THEIR BUSINESSES.

MR. LOPEZ: OBJECTION.

THE COURT: YOU UNDERSTAND THE QUESTION.

THE WITNESS: DON'T UNDERSTAND THE QUESTION.

MR. TIGERMAN:

Q. DID YOU EVER CONSIDER IT TO BE A CONCEPT OF FAIR DEALING TO LET THE REFINERY KNOW IF YOU WERE PUTTING SOMETHING DANGEROUS ON THEIR PROPERTY?

A. WELL, THAT'S AN "IF."

MR. LOPEZ: OBJECTION, VAGUE.

THE COURT: OVERRULED. I WILL ALLOW IT.

THE WITNESS: I STILL THINK IT DIDN'T EFFECT THAT STATEMENT.

MR. TIGERMAN: ALL RIGHT. CAN I HEAR THAT BACK. CAN YOU READ THAT BACK.

THE WITNESS: DON'T QUITE, I GUESS I DON'T QUITE UNDERSTAND YOUR QUESTION YET.

MR. TIGERMAN:

Q. WELL, ALL SORTS OF THINGS THAT YOU PUT AT A CUSTOMER'S PLACE OF BUSINESS CAN BE DANGEROUS IF THEY ARE NOT OPERATED CORRECTLY, ISN'T THAT TRUE?

A. NOT NECESSARILY.

Q. ALL RIGHT. YOU DON'T THINK THAT SOMETIMES IN THE JOBS THAT YOU WORKED ON THAT SOME OF THE EQUIPMENT YOU PUT ON PEOPLE'S PROPERTIES COULD BE DANGEROUS IF THEY DIDN'T KNOW HOW TO WORK WITH IT CORRECTLY?

A. THINK YOU GOT TO DETERMINE HOW SERIOUS A PROBLEM, POTENTIAL PROBLEM IS BECAUSE EVERY TIME YOU TAKE A STEP, IT IS A PROBLEM.

Q. ALL RIGHT.

A. BUT I THINK WE'VE GOT TO BE MORE SPECIFIC.

Q. SO, THE FIRST STEP IS TO DETERMINE HOW SERIOUS A PROBLEM IS BEFORE YOU DECIDE WHETHER OR NOT YOU SHOULD BE TELLING SOMEBODY ABOUT SOMETHING THAT IS POTENTIALLY DANGEROUS THAT YOU ARE PUTTING ON THEIR PROPERTY?

MR. GILBERT: OBJECTION, HYPOTHETICAL, SPECULATION.

THE WITNESS: IS THIS GOING --

MR. TIGERMAN: THESE ARE HIS WORDS.

THE COURT: HIS WORDS IN LIGHT OF YOUR QUESTION.

MR. TIGERMAN:

Q. YOU SAID YOU HAVE TO DETERMINE HOW SERIOUS THE PROBLEM IS FIRST. WHAT DO YOU MEAN BY THAT?

MR. LOPEZ: OBJECTION, YOUR HONOR, WE DON'T REALLY HAVE --

THE COURT: OVERRULED. LET ME ASK YOU: IF YOU WERE SELLING A STEP LADDER, RIGHT, SELLING A STEP LADDER, RIGHT, A STEP LADDER CAN BE DANGER IF IT IS NOT USED CORRECTLY.

THE WITNESS: YOU DAMN RIGHT?

THE COURT: STEEL STEP LADDER, ARE YOU GOING TO TELL THE CUSTOMER, LISTEN, WHEN YOU CLIMB, USE THE LEFT FOOT FIRST OR YOUR RIGHT FOOT, DEPENDS WHETHER YOU ARE LEFT FOOT, RIGHT FOOT, IT IS PATENT, OBVIOUS PERILS.

ARE YOU GOING TO ADVISE PEOPLE OF THE OBVIOUS PERILS?

THE WITNESS: I DON'T THINK I EVER HAD THE TIME TO DO THAT.

THE COURT: ALL RIGHT; BUT IF YOU DISCOVERED THAT THERE MIGHT BE SOME HIDDEN LATEN DEFECTS OR HIDDEN DEFECTS, YOU KNOW WHAT I AM REFERRING TO? IF YOU TAKE A PILL, A PILL MIGHT BE GOOD FOR YOU BUT YOU MIGHT HAVE SIDE EFFECTS, MIGHT LOSE SOME HAIR, WHATEVER. YOU KNOW WHAT I AM TALKING ABOUT?

SO, YOU WANT TO BE ADVISED BEFORE YOU TAKE THE PILL OF THE SIDE EFFECTS.

IF YOU SALE A PRODUCT, THERE MAY BE, I AM USING THE WORDS LOOSELY "SIDE EFFECTS." IF YOU KNEW IT HAD SIDE EFFECTS, WOULD YOU AS A MEMBER OF THE BOARD OF DIRECTORS, AT LEAST, GET SOMEONE TO ADVISE THE PURCHASER OF THE POSSIBILITY OF THE DANGEROUS EFFECTS ONE WAY OR ANOTHER?

THE WITNESS: I WOULD BE DOING THAT NOT AS A MEMBER OF THE BOARD BUT AS A TOP EXECUTIVE OF THAT PROJECT OR WHATEVER IT IS.

THE COURT: IF YOUR TOP EXECUTIVE OF A DEPARTMENT WAS NOT DOING IT, YOU FOUND OUT ABOUT IT, YOU ARE ON THE BOARD OF DIRECTORS --

THE WITNESS: RIGHT.

THE COURT: --WOULD YOU WANT TO TELL THEM?

THE WITNESS: THEN OF COURSE I WOULD.

THE COURT: OKAY. SEE THE THING, PROBLEM WITH THE QUESTION WHEN YOU ARE THINKING FROM THE BOARD OF DIRECTORS, YOU ARE SAYING, TALKING, HE DOESN'T TALK TO CUSTOMERS. HE TALKS AT CONFERENCE TABLES.

MR. TIGERMAN: ALL RIGHT.

Q. NOW, OH, WHILE YOU WERE ON THE BOARD OF DIRECTORS YOU WERE ALSO AN OFFICER, ACTUALLY HAD DAY-TO-DAY OBLIGATIONS IN TERMS OF ACTUALLY BUSINESS, ISN'T THAT TRUE?

MR. LOPEZ: LET ME JUST OBJECT. THIS IS CUMULATIVE. WE HAVE GONE OVER THIS.

THE COURT: HE ALREADY INDICATED WHEN HE

WAS ON THE BOARD OF DIRECTORS HE WAS AN OFFICER. YOU HAVE ESTABLISHED THAT.

SUSTAINED.

MR. TIGERMAN:

Q. SIR, WITH RESPECT TO THE ANSWER YOU GAVE, IF YOU FOUND OUT SOMEONE WASN'T FOLLOWING UP ON WHAT WAS A HIDDEN DANGER IN SOMETHING THAT WAS BEING DONE BY BECHTEL, WOULD YOU CONSIDER IT A MATTER OF FAIR DEALING THAT THAT BE FOLLOWED UP ON?

A. FAIR DEALING?

Q. YES.

MR. LOPEZ: OBJECTION.

THE WITNESS: DON'T REGARD IT AS DEALING. I DON'T QUITE UNDERSTAND YOU. WHAT WOULD I DO ABOUT IT, YOU MEAN?

MR. TIGERMAN:

Q. WELL, WE TALKED ABOUT MAKING SURE A CUSTOMER IS ADVISED OF HIDDEN DANGERS. IS THAT PART OF FAIR DEALING?

A. IF WE --

MR. LOPEZ: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED.

THE WITNESS: IF SOMETHING HAPPENED, THE CUSTOMER DIDN'T KNOW?

MR. TIGERMAN:

Q. AND IT WAS A HIDDEN DANGEROUS, IT WOULD BE PART --

THE COURT: IT IS A HIDDEN DANGER THAT THE CUSTOMER WOULD NOT KNOW ABOUT BUT YOU WOULD KNOW

ABOUT.

THE WITNESS: OKAY. IF THAT'S --

THE COURT: YES. THAT'S THE QUESTION?

MR. TIGERMAN: RIGHT.

THE COURT: THEN WOULD YOU HAVE SOMEONE INFORM THE CUSTOMER, HEY, LOOK OUT, THERE IS A HIDDEN TRAP HERE SOMEWHERE.

THE WITNESS: THIS CAME UP, I WOULD INSTRUCT MY PEOPLE TO DO SOMETHING.

THE COURT: IS THAT FAIR.

THE WITNESS: THAT IS FAIR.

THE COURT: IS THAT HOW YOU WANT TO DEAL WITH THE CUSTOMER?

THE WITNESS: YOU'VE GOT TO.

THE COURT: SO, PUT THEM, IT IS FAIR DEALINGS?

THE WITNESS: OH, ALL RIGHT, YES.

THE COURT: THAT IS WHAT HE IS GETTING INTO.

MR. TIGERMAN:

Q. SIR, JUST THE LAST AREA, ONE LAST AREA, WHILE YOU WERE WITH THE COMPANY ISN'T IT TRUE THAT THE COMPANY DID A GOOD DEAL OF WORK OUT AT THE AVON REFINERY IN MARTINEZ?

A. AVON REFINERY.

Q. YES, TIDEWATER, AT ONE TIME IT WAS CALLED LYON?

A. YES, I AM AWARE WE DID SOME THINGS THERE.

Q. ARE YOU AWARE, FOR EXAMPLE, THAT YOUR COMPANY

WAS INVOLVED IN BUILDING A COOKER OUT THERE?

A. I DID NOT RECALL NOW WHAT IT WAS BUT IT COULD WELL HAVE BEEN.

Q. ARE YOU AWARE THAT IN 1957 YOUR COMPANY WAS INVOLVED IN A LARGE GIGANTIC FLUID COOKING UNIT?

A. YES.

Q. ALL RIGHT.

A. I AM NOT SAYING I REMEMBER IT, BUT IT IS THE KIND OF THING THAT WE MIGHT WELL HAVE DONE.

Q. ARE YOU AWARE THAT IN 1957 YOUR COMPANY PARTICIPATED IN A CATALYTIC REFORMER CONSTRUCTION OUT AT TIDEWATER, AT AVON?

A. COULD VERY WELL HAVE BEEN.

Q. OKAY. YOU DON'T RECALL ONE WAY OR THE OTHER?

A. NO, DO NOT.

Q. OKAY.

A. THAT IS TOO FAR BACK.

Q. DID YOU GET INVOLVED IN ANY PROJECT INVOLVING THE AVON REFINERY?

A. BELIEVE I DID DIRECTLY OR INDIRECTLY.

Q. YOU KNOW HOW MANY SUCH PROJECTS YOU WERE INVOLVED IN DIRECTING IN?

A. NO, I DON'T.

Q. YOU KNOW WHETHER EITHER, ANY PROJECT THAT WE TALKED ABOUT INVOLVED THE COOKER AND CATALYTIC REFORMER?

A. SOME OF THEM, MANY OF THE PLANTS DID INCLUDE THOSE THINGS, NOTHING NEW ABOUT IT.

Q. DO YOU KNOW WHETHER IN 1958 YOUR COMPANY

PARTICIPATE IN A LARGE EXPANSION OF THE REFINERY OUT AT AVON?

A. I DO NOT RECALL WHAT THE DATE WAS OR JUST EXACTLY WHAT IT WAS BUT KNEW THEY WERE GOOD CUSTOMERS OF OURS. WE WORKED OUT THERE. IT IS ABOUT ALL I CAN TELL YOU.

Q. WHEN YOU SAY "GOOD CUSTOMER OF OURS," WHAT DO YOU MEAN?

A. A GOOD CUSTOMER. ONE --

Q. ONE WITH REPEAT BUSINESS.

A. YES, THAT'S RIGHT, REPEAT BUSINESS IS PROBABLY THE BEST INDICATION?

Q. THOSE WHO GIVE REPEAT BUSINESS ARE BETTER CUSTOMERS?

A. SOMETIMES, NOT ALWAYS.

Q. BUT THEY WERE GOOD CUSTOMERS BECAUSE THEY, YOU GOT MULTIPLE JOBS THAT YOU DID OUT THERE, IS THAT CORRECT?

A. WELL, THAT WOULD BE ONE OF THE REASONS.

Q. WAS IT ONE OF THE REASONS?

A. DON'T KNOW. YOU HAVE TO ASK THE CUSTOMER.

Q. DO YOU RECALL WHETHER YOUR COMPANY WAS INVOLVED IN THE ISOCRACKER COMPLEX?

A. THE WHAT?

Q. ISOCRACKER COMPLEX?

A. ISOCRACKER?

Q. YOU REMEMBER THAT ISOCRACKER?

A. I NEVER HEARD OF ONE, OF SUCH A THING.

Q. SIR, YOU ARE AN ENGINEER AND YOU ACTUALLY DID

AT TIMES FAMILIARIZE YOURSELF WITH SOME PROJECTS THAT WERE BEING DONE AT THE REFINERIES, ISN'T THAT TRUE?

A. THAT IS CORRECT.

Q. AND ISN'T IT TRUE THAT ON CERTAIN PROJECTS THERE WOULD BE UP TO 20 MILES OF PIPE INSULATION?

A. YES, WHY NOT.

Q. AND ISN'T IT TRUE THAT THE BECHTEL ENGINEERS BACK IN THE 40'S AND THE 50'S AND THE 60'S FOR PIPE INSULATION ON HOT PIPE WOULD SPECIFY EITHER CALCIUM SILICATE OR 85 PERCENT MAGNESIUM PIPE FITTING THAT CONTAINED ABESTOS?

A. THE COMPANY, YOU REPEAT THAT AND I WILL --

Q. ALL RIGHT. DO YOU KNOW WHETHER OR NOT YOU HAVE EVER HEARD OF 85 PERCENT MAGNESIUM?

A. HAVE HEARD TO --

Q. HAVE YOU EVER HEARD OF IT?

A. PROBABLY DID WHEN I WAS A DESIGNER WAY BACK. THAT, I DON'T REMEMBER.

Q. DO YOU KNOW WHETHER OR NOT ANY OF THE PRODUCTS THAT BECHTEL USED CONTAINED ABESTOS PIPE COVERING?

A. TODAY, I COULDN'T TELL YOU. I HAVE NO IDEA.

Q. MIGHT HAVE KNOWN BACK THEN BUT DON'T REMEMBER NOW?

A. THAT'S RIGHT, REMEMBER THAT WAS 60 YEARS AGO THAT I WAS GETTING INTO THAT SORT OF THING, NEAR '55 ANY WAY.

Q. WHEN A JOB WAS BEING DONE AT A MAJOR REFINERY SUCH AS AVON DID YOU SEE THE PLANS OR ESTIMATES OR THE

BIDS FOR ANY OF THOSE PROJECTS?

A. PROBABLY NOT.

Q. THOSE WOULD BE --

A. BECAUSE I HAD THE ENGINEERS WORKING FOR ME WHO DID THAT. I DIDN'T NEED TO.

Q. DO YOU KNOW HOW MANY FEET THERE ARE IN A MILE?

A. HOW MANY FEET?

Q. FEET IN A MILE?

A. FEET IN A MILE, 5280.

Q. WOULD IT BE ALL RIGHT, WOULD IT BE, DO YOU, ISN'T IT TRUE THAT ON CERTAIN BECHTEL JOBS OUT AT THE REFINERIES AS MUCH AS AN 150 THOUSAND LINEAR FEET OF ABESTOS CONTAINING OF, STRIKE THAT.

MR. LOPEZ: YOUR HONOR --

MR. TIGERMAN:

Q. ISN'T IT TRUE THAT AT REFINERY JOBS UP TO 150,000 FEET OF PIPING INSULATION COULD BE USED?

MR. LOPEZ: YOUR HONOR, LET ME JUST OBJECT TO RELEVANCE. WE WILL STIPULATE REFINERIES HAVE A LOT OF PIPE AND A LOT OF INSULATION.

THE COURT: I DON'T KNOW WHETHER HE WANTS TO ACCEPT "A LOT."

MR. TIGERMAN: NO. I'D RATHER HAVE 150,000 THAN A LOT.

MR. GILBERT: I DON'T KNOW, DOES HE HAVE DOCUMENTS.

MR. TIGERMAN: OF COURSE I DO. THEY STIPULATED TO THEIR ADMISSIBILITY.

THE COURT: DON'T ARGUMENT IN FRONT OF THE JURY, STIPULATION OFFERED TO SAVE TIME. LET'S ACCEPT IT AND MOVE ON.

MR. TIGERMAN: THEY DID STIPULATE.

MR. LOPEZ: HE WAS GOING TO ENTER THESE DOCUMENTS IN. I AM NOT SURE WHAT THE PURPOSE OF THIS --

MR. TIGERMAN: ALL RIGHT. I WILL ENTER THEM IN NOW. I WILL MARK PLAINTIFF'S NEXT IN ORDER, EXHIBIT FROM THE CUSTODIAN'S DEPOSITION.

THE COURT: ALL RIGHT. WHAT NUMBER IS IT.

MR. LOPEZ: HE IS GOING TO ASK THIS WITNESS IF HE HAS SEEN THESE DOCUMENTS, YOUR HONOR.

THE COURT: DON'T KNOW. WHAT ARE YOU MARKING?

MR. TIGERMAN: THESE ARE DOCUMENTS PRODUCED AT THE CUSTODIAN OF RECORDS DEPOSITION.

THE COURT: ALL RIGHT. FINE. THAT DOESN'T MEAN ANYTHING TO THE JURY.

MR. TIGERMAN: THAT IS WHY I DON'T WANT TO PUBLISH IT TO THE JURY. I AM SAYING THIS BECAUSE IT IS GENERIC. THIS DOCUMENT IS FROM DEPOSES. IT REGARDS, REGARDING OUT AT AVON.

THE COURT: YOU STIPULATE THESE ARE THE RECORDS?

MR. LOPEZ: STIPULATE TO AUTHENTICITY. I DON'T THINK THIS WITNESS, HE CAN SHOW THEM TO HIM.

MR. TIGERMAN: THIS IS WHAT WE DISCUSSED

YESTERDAY THAT THEY STIPULATED.

THE COURT: ALL RIGHT. SO THERE IS A STIPULATION THAT THESE RECORDS CAN BE MARKED FOR IDENTIFICATION AND THERE IS NO NEED TO HAVE A CUSTODIAN TO COME IN AND AUTHENTICATE THEM.

THESE ARE AUTHENTIC RECORDS, IS THAT RIGHT?

MR. LOPEZ: THAT'S RIGHT, YOUR HONOR.

THE COURT: ALL RIGHT.

THE CLERK: PLAINTIFF'S 60, YOUR HONOR.

WHEREUPON DOCUMENTS WAS MARKED PLAINTIFF'S EXHIBIT NO 60 FOR IDENTIFICATION ONLY.

MR. TIGERMAN:

Q. NOW, SIR, LET ME JUST GIVE YOU SOME DATES, ASK WHETHER OR NOT THESE REFRESH YOUR RECOLLECTION.

IN 1953 WERE YOU INVOLVED IN THE NUMBER FOUR GAS PLANT ADDITION AT THE AVON REFINERY?

A. I DO NOT RECALL HAVING BEEN THERE.

Q. NOW, IN A SITUATION WHERE A PROJECT WAS BEING DONE BY BECHTEL AT A REFINERY, AND INSULATION WORK HAD TO BE DONE, WAS IT UNUSUAL FOR BECHTEL TO SUBCONTRACT OUT THE WORK TO DO THE INSULATION? WAS THAT UNUSUAL?

A. TO SUBCONTRACT IT?

Q. YES.

A. TO CONTRACT ON A REFINERY JOB, FOR EXAMPLE?

Q. TO SUBCONTRACT THE INSULATION WORK ON A REFINERY JOB, IS THAT SOMETHING THAT WAS UNUSUAL FOR BECHTEL?

A. NO, WELL, YES. I THINK PROBABLY UNUSUAL BUT THEY CAN DO IT EITHER WAY. PROBABLY DID IT BOTH WAYS. I DON'T KNOW.

Q. WELL, ON THE REFINERY PROJECT YOU WERE INVOLVED IN, ISN'T IT TRUE THAT, THAT BECHTEL WOULD HIRE INSULATION CONTRACTORS TO COME OUT AND DO THE WORK?

A. WELL, YOU ARE ASKING ME ABOUT SOMETHING THAT I DID IN 1850 AND BEFORE THAT. AND I CAN'T, CAN'T SAY THAT I REMEMBER ANY OF THAT.

Q. ALL RIGHT, SIR. WERE YOU INVOLVED IN ANY WAY OR, WELL, LET ME BACK UP. EVEN THOUGH YOU WEREN'T INVOLVED, DON'T RECALL BEING INVOLVED AT THE NUMBER FOUR GAS PLANT EDITION IN 1953, DO YOU KNOW THAT BECHTEL WAS INVOLVED IN THE NUMBER FOUR GAS PLANT EDITION IN 1953 AT AVON?

A. SPECIFICALLY THAT ONE, THAT IS ONE OF THOUSANDS OF JOBS THAT WE DID. I CAN'T TELL YOU THAT ONE, PICK OUT ANY ONE AND TELL YOU THAT WE DID THEM AND WHEN.

Q. ALL RIGHT, WITH RESPECT TO, FOR EXAMPLE, WORK THAT WAS DONE OUT AT AVON REFINERY, HAVE YOU EVER HEARD OF A COMPANY CALLED BY THE NAME OF PLANT ABESTOS?

A. NO.

Q. ARE YOU FAMILIAR WITH ANY WORK THAT WAS DONE BY BECHTEL IN 1954 AND 1955 AND 1956 REGARDING AN EXPANSION AT AVON?

A. NO, I CAN'T RECALL IT.

Q. ARE YOU FAMILIAR WITH ANY JOBS AT AVON THAT LASTED 83 WEEKS OR MORE THAN 80 WEEKS?

A. I, REPEAT, I DON'T REMEMBER WHEN ANY OF THOSE PLANTS, THOSE PROJECTS WERE DONE AT THAT TIME.

Q. ALL RIGHT. MY QUESTION IS ARE YOU FAMILIAR WITH ANY JOBS THAT BECHTEL DID AT AVON THAT LASTED MORE THAN 80 WEEKS?

MR. LOPEZ: YOUR HONOR --

THE WITNESS: I HAVE NO WAY OF KNOWING THAT.

MR. LOPEZ: I AM, ASKED AND ANSWERED. HE SAID HE DOESN'T --

THE COURT: OVERRULED.

MR. TIGERMAN:

Q. SIR --

THE COURT: OVERRULED.

MR. TIGERMAN:

Q. -- ARE YOU FAMILIAR WITH ANY JOBS THAT WERE DONE BY BECHTEL OUT AT AVON?

THE COURT: ARE YOU FAMILIAR WITH ANY JOB DONE AT AVON?

THE WITNESS: ONLY HEARD ABOUT THEM. VERY LITTLE OF IT I KNOW ANYTHING ABOUT.

THE COURT: WHAT'S THE USE OF GOING THROUGH ALL OF THESE IF HE SAYS, I DON'T KNOW.

MR. TIGERMAN: BECAUSE HE SAYS HE KNOWS ABOUT SOME INDIRECTLY.

THE WITNESS: KNOW IT IS GOING ON SOMETIME, WAY BACK THERE.

THE COURT: YOU KNOW WHICH PROJECT WAS

DONE.

THE WITNESS: NO.

THE COURT: YOU KNOW WHAT WAS --

THE WITNESS: NOT AT THIS POINT.

MR. TIGERMAN: ALL RIGHT.

Q. ALL RIGHT, JUST ONE LAST QUESTION. DO YOU BELIEVE THAT A CORPORATION HAS A MORALE RESPONSIBILITY TO THE PEOPLE WHO ARE EFFECTED BY ITS CONDUCT?

MR. LOPEZ: OBJECTION, YOUR HONOR, CALLS FOR SPECULATION, IMPROPER --

THE COURT: SPECULATIVE.

MR. GILBERT: ARGUMENTATIVE, YOUR HONOR.

THE COURT: IT IS ARGUMENTATIVE AS TO WHETHER OR NOT THE CORPORATION OWES A MORALE RESPONSIBILITY TO WHO?

MR. TIGERMAN: TO THOSE WHO ARE EFFECTED BY THE CONDUCT.

THE COURT: HOW EFFECTED BY ITS CONDUCT? I MEAN, THAT IS PRETTY VAGUE. MIGHT HAVE A GOOD EFFECT AS OPPOSED TO A BAD EFFECT.

MR. TIGERMAN:

Q. IF A CORPORATION HAS A MORALE RESPONSIBILITY TO THOSE WHO ARE HARMED BY IT CONDUCTS BECAUSE OF SOME LATEN PROBLEM THAT IS CREATED BY THAT CORPORATION?

MR. LOPEZ: OBJECTION --

THE COURT: TOO LOOSE, TOO LOOSE OF A QUESTION. SUSTAINED.

MR. TIGERMAN:

Q. IF THE COMPANY CREATES LATEN HAZARDS THAT'S KNOWN TO THE COMPANY BUT NOT KNOWN TO THE CUSTOMER, DO YOU BELIEVE THAT THE CORPORATION HAS A MORAL RESPONSIBILITY TO REVEAL THAT?

MR. LOPEZ: OBJECTION, YOUR HONOR --

THE COURT: ARE YOU USING THE WORDS, "MORAL RESPONSIBILITY" AS OPPOSED TO "LEGAL RESPONSIBILITY."

MR. TIGERMAN:

Q. WELL, DO THEY HAVE RESPONSIBILITY --

THE WITNESS: I THINK I CAN ANSWER.

THE COURT: CAN YOU ANSWER THAT?

THE WITNESS: I THINK I CAN ANSWER.

THEY --

THE COURT: GOOD. ANSWER IT.

THE WITNESS: I HAVE TO ANSWER IT BECAUSE THE FACTS ARE THAT A GOOD DEAL OF WHAT IS DONE BY BECHTEL OR ANY OTHER CONTRACTOR IN BUILDING A REFINERY, THE CONTRACTOR, EVEN THOUGH, HE DESIGNS MUCH OF IT, DOES NOT NECESSARILY PUT THE SPECIFICATIONS IN, IN THE HANDS OF THE DESIGNER.

IT COMES FROM THE CUSTOMER VERY OFTEN. SO, YOU CAN'T SAY THAT IT WAS JUST A CONTRACTOR THAT HAS THE RESPONSIBILITY. THE OWNER HIMSELF IS SPECIFYING OFTEN WHAT HE WANTS TO DO.

MR. TIGERMAN:

Q. AS TO THE AVON PROJECT DON'T KNOW WHETHER THE SPECIFICATIONS CAME FROM THE OWNER OR FROM BECHTEL, DO YOU?

A. I DON'T, I HAVE NO WAY OF KNOWING.

Q. AND THE SPECIFICATIONS COME FROM BECHTEL AND THOSE SPECIFICATIONS CALL FOR A MATERIAL WHICH IS A HAZARD KNOWN TO BECHTEL BUT NOT KNOWN TO THE CUSTOMER, DO YOU THINK THE COMPANY HAS A RESPONSIBILITY TO REVEAL THAT?

MR. LOPEZ: OBJECTION, YOUR HONOR, ARGUMENTATIVE.

THE COURT: ASSUMES A FACT --

MR. LOPEZ: ARGUMENTATIVE.

THE COURT: ASSUMES A FACT NOT IN EVIDENCE. SUSTAINED.

MR. TIGERMAN: THAT'S ALL I HAVE.

THANK YOU, SIR.

THE COURT: ANY QUESTIONS.

MR. LOPEZ: JUST A COUPLE, YOUR HONOR.

CROSS-EXAMINATION

MR. LOPEZ:

Q. GOOD AFTERNOON, MR. DRANIY. WHAT YEAR WERE YOU BORN?

A. WHAT YEAR? 1909, APRIL.

Q. SO, YOU RECENTLY HAD A BIRTHDAY. YOU TURNED 86?

A. RIGHT.

Q. AND YOU FIRST TOOK A JOB IN WHAT YEAR?

A. FIRST JOB YOU MEAN IN MY LIFE?

Q. YES, OUT OF ENGINEERING SCHOOL?

A. OUT OF ENGINEERING SCHOOL, THERE WEREN'T ANY

JOBS IN 1932. I GOT A JOB IN TEXAS WITH A SMALL REFINERY AS A TECHNICIAN, TECHNOLOGIST OR WHATEVER AND MY MAIN JOB WAS DOING THE, TESTING THE PRODUCTS EVERY DAY AND SEEING THAT THEY ARE UP TO SPECIFICATIONS AND THAT SORT OF THING.

Q. AND WHAT YEAR WAS THAT?

A. THAT WAS, THAT WAS LATE '32, '33, AND '33.

Q. HOW OLD WERE YOU AT THAT TIME?

A. I WAS, LET'S SEE, I MUST HAVE BEEN '39, 23, 9, 23, IS, THAT'S '31, 1931, HUH.

Q. SO, YOU WERE 23 YEARS OLD?

A. ABOUT THAT, YES.

Q. AND THEN YOU WORKED FOR BECHTEL, MCCONE, PARSONS IN 1937?

A. YES.

MR. TIGERMAN: OBJECTION, LEADING.

THE WITNESS: YES, IN THE MEAN TIME I WAS WORKING WITH ANOTHER REFINERY.

THE COURT: HE SAID THAT.

MR. LOPEZ:

Q. HOW OLD WERE YOU THEN?

A. WHEN I WENT TO WORK FOR --

Q. BECHTEL, MCCONE, PARSONS?

A. 28. I THINK THAT FIGURES OUT.

Q. YOU HAVE A PROBLEM WITH YOUR MEMORY.

A. I DO NOW. I NEVER USE TO.

Q. WHEN DID THAT HAPPEN?

A. JUST WITHIN THE PAST COUPLE OF WE, YEARS.

Q. WHAT HAPPENED?

A. WELL, JUST FORGET, CAN'T BRING THINGS TO MIND.

Q. SO, SOMETIMES YOU HAVE A DIFFICULTY RECALLING THE WORDS YOU WANT TO USE?

A. _ THAT'S RIGHT. YOU PROBABLY NOTED THAT HERE. I DON'T KNOW WHAT WORD TO USE.

Q. I TAKE IT YOU ARE NOT TRYING TO BE EVASIVE IN YOUR ANSWERS?

A. I AM NOT TRYING TO BE EVASIVE A BIT.

MR. TIGERMAN: TOO LEADING.

THE COURT: I, JUST, OH, NO LEADING, NO LEADING.

MR. LOPEZ:

Q. DID YOU GET SUBPOENAED TO COME HERE?

A. YES.

Q. YOU HAVE A COPY OF THAT SUBPOENA?

A. YES.

Q. WHAT DOES THAT SUBPOENA SAY?

A. WHAT IT SAYS? IT SAYS --WELL, IT INSTRUCTS ME TO APPEAR HERE AT A DESIGNATED TIME AND I WAS TO BE A WITNESS IN CONNECTION WITH A, LET'S SEE, WELL, PLAINTIFF'S PETITION OF ANGELO AND ANNA VIALE AND DEFENDANTS CORPORATION RAYBESTOS MANHATTAN, ET AL. THAT IS WHAT I CAME OUT HERE TO TALK ABOUT.

Q. OKAY. THEN DID YOU GET A CALL FROM MR. TIGERMAN'S OFFICE?

A. ABOUT THIS?

Q. YES.

A. YES.

Q. YES?

A. YES, MORE THAN ONE.

Q. WHAT WERE YOU TOLD?

A. WELL, HE WANTED, WANTED TO GET SOME INFORMATION ABOUT, UNDER THIS THINGS, THEY LIKE TO GET SOME INFORMATION ABOUT SOME THINGS THAT WENT ON AT BECHTEL IN PARTICULAR, THIS SHIP BUILDING.

Q. DID HE TELL YOU BECHTEL WAS A DEFENDANT IN THE CASE?

A. NO. I WAS VERY SURPRISED.

Q. YOU WERE SURPRISED WHEN?

A. WHEN I GOT HERE.

Q. NOW, OVER THE COURSE OF YOUR CAREER, DID YOU EVER BELIEVE ABESTOS WAS HAZARDOUS?

A. I HAVE KNOWN WAY BACK THAT IT IS SOMETHING YOU HAVE TO BE A LITTLE CAREFUL ABOUT. THAT IT WAS NOT VIEWED IN THOSE DAYS AS SOMETHING THAT YOU HAD TO GO TO SPECIAL ARRANGEMENTS IN ORDER TO DO IT.

AND MY, BEST OF MY RECOMMENDATION, THIS REALLY GOT HOT ABOUT 20 YEARS AGO. AND THE REASON I SAY THAT, I SEEN IT USED SO MUCH IN BUILDING HOUSES, EVERYTHING ELSE UP TO THAT TIME AND I DON'T RECALL VERY MUCH SAID ABOUT IT BEING DANGEROUS.

Q. SO YOUR RECOLLECTION IS ABOUT TWENTY YEARS AGO?

A. THAT IS ALL I CAN RECALL ON IT, YES.

Q. PRIOR TO THAT TIME, DIDN'T HAVE ANY KNOWLEDGE THAT IT WAS A HAZARDOUS MATERIAL?

A. WELL, I THINK THAT, LIKE MANY THINGS, CERTAIN

PAINTS AND SO ON, YOU ALWAYS KNOW YOU CAN'T DRINK IT. YOU'VE GOT TO BE CAREFUL, THAT SORT OF THING; BUT IT WASN'T SO SERIOUS THAT, IF IT HAD BEEN, WE CERTAINLY WOULD HAVE DONE SOMETHING ABOUT IT.

MR. LOPEZ: THANK YOU.

REDIRECT EXAMINATION

MR. TIGERMAN: SIR, GOT JUST A COUPLE OF QUESTIONS.

Q. FIRST OF ALL WHEN I SPOKE WITH YOU ON THE TELEPHONE DIDN'T I TELL YOU I WAS INTERESTED IN MR. O'CONNELL AND WHAT YOU KNEW ABOUT MR. O'CONNELL?

A. UH-HUH.

Q. YES?

A. DID YOU WHAT?

Q. DIDN'T I TELL YOU I WAS INTERESTED IN MR. O'CONNELL. I WANTED TO KNOW ABOUT MR. O'CONNELL?

A. YOU DID AND WE SPOKE ABOUT IT.

Q. AND DIDN'T I TELL YOU THAT PART OF THIS CASE WAS ABOUT WHAT MR. O'CONNELL LEARNED AND DIDN'T TELL THE COMPANY? DIDN'T I TELL YOU THAT?

A. I DON'T KNOW WHAT YOU SPEAK OF.

Q. DIDN'T I TELL YOU MR. O'CONNELL WENT TO A MEETING IN 1942. AT THE MEETING HE LEARNED ABOUT THE HAZARDS OF ABESTOS, DIDN'T I TELL YOU THE BECHTEL CORPORATION, THAT WAS WHAT THIS WAS ABOUT?

A. WHEN WAS THIS?

Q. IN 1942?

THE COURT: COUNSEL --

MR. GILBERT: OBJECTION --

THE COURT: --WE ARE GETTING INTO MY CONFERENCE.

I AM GOING TO MAKE YOU BE A WITNESS AND AN ATTORNEY AND ALLOW YOU TO BLOW YOUR OWN CREDIBILITY. IF THIS WAS KNOWN, YOU'VE GOT TO GET ANOTHER ATTORNEY, JUST AS MUCH AS A JUROR CAN'T BE A WITNESS AND A JUROR --

MR. TIGERMAN: I AM NOT PROPOSING TO TESTIFY.

THE COURT: I AM NOT GOING TO HAVE YOU DEBATE WHETHER YOU ARE RIGHT IN A TELEPHONE CONVERSATION WITH HIM BECAUSE YOU ARE NOT UNDER OATH. I AM NOT GOING TO HAVE YOU TAKE THE STAND.

MR. TIGERMAN: THIS IS INTRINSIC, NOT EXTRINSIC, DON'T PROPOSE TO DO ANYTHING EXTRINSIC.

THE COURT: ALL RIGHT.

MR. TIGERMAN:

Q. DIDN'T I TELL YOU ONE OF THE ISSUES WAS WHAT MR. O'CONNELL KNEW AND DIDN'T TELL THE PLAINTIFF?

MR. LOPEZ: OBJECTION --

THE WITNESS: WHEN?

MR. TIGERMAN:

Q. ON THE SECOND PHONE CALL?

A. I DON'T RECALL.

Q. DIDN'T I TELL YOU THAT PARTS OF THIS WAS ABOUT THE HISTORY OF BECHTEL, THIS CASE?

A. NO, I DON'T RECALL THAT. I DON'T, I RECALL ONLY SOME DISCUSSION OF WHAT WENT ON IN THE, BETWEEN BECHTEL AND SHIP BUILDING.

Q. DIDN'T I TELL YOU THAT ONE OF THE ISSUES IN THE CASE WAS WHETHER OR NOT THE FORMATION OF THE BECHTEL COMPANY IN 1945 AND HOW THAT WAS ACHIEVED, YOU REMEMBER THAT, YOU SAID YOU KNEW SOMETHING ABOUT THAT?

A. YES, I TOLD YOU.

THE COURT: ALL RIGHT.

MR. TIGERMAN:

Q. NOW, SIR, A SECOND AGO YOU SAID THAT YOUR MEMORY GOT BAD, YOU SAID, IN THE LAST COUPLE OF WEEKS THEN WENT TO MONTHS.

MR. LOPEZ: OBJECTION, YOUR HONOR.

MR. TIGERMAN:

Q. DIDN'T YOU ALMOST SAY IN THE LAST COUPLE OF WEEKS?

A. DID I SAY WHAT?

Q. DIDN'T YOU ALMOST SAY YOUR MEMORY GOT BAD IN THE LAST COUPLE OF WEEKS?

THE COURT: OVERRULED.

THE WITNESS: I DID NOT SAY THAT. I SAID IN THE LAST TWO YEARS.

MR. TIGERMAN:

Q. BUT YOU ALMOST SAID LAST COUPLE OF WEEKS, DIDN'T YOU?

A. I --

Q. YOU SAID "WEEKS."

THE COURT: HE SAID WA, WA.

MR. TIGERMAN: HE SAID "WE" THEN CHANGED THE ANSWER.

Q. SIR, ALL I AM ASKING IS WHETHER OR NOT YOU ALMOST SAID, WHETHER YOUR MEMBER GOT BAD IN THE LAST COUPLE OF WEEKS?

A. I DID NOT SAY THAT.

Q. SIR, ISN'T IT TRUE A SUBPOENA WAS SERVED ON YOU IN THE LAST COUPLE OF WEEKS?

MR. GILBERT: OBJECTION, YOUR HONOR.

THE COURT: OVERRULED. GOES TO ITS WEIGHT.

THE WITNESS: YES, IT WAS.

MR. TIGERMAN:

Q. WAS IT?

A. YES, OF COURSE, IT WAS.

Q. YOU SAID SOMETHING TO THE EFFECT THAT YOU KNEW WAY BACK THAT ABESTOS WAS SOMETHING THAT PEOPLE HAD TO BE A LITTLE CAREFUL ABOUT?

A. YOU WERE ASKING ME ABOUT IT AND I TOLD YOU JUST A WHILE AGO THAT IT HAS BEEN KNOWN WAY BACK THAT THAT IS SOMETHING YOU HAVE TO BE CAREFUL ABOUT; BUT NOT THE ONLY ONE, JUST AS MUCH SO AS PAINTS AND OTHER THINGS.

MR. TIGERMAN: THANK YOU.

THE COURT: BEFORE I ASK, YOU HAVE ANY QUESTION, THERE IS A NOTE FROM THE JURY, MIGHT WANT TO LOOK AT IT.

HAVING LOOKED AT THE NOTE, YOU HAVE ANY FURTHER QUESTIONS? YOU WANT TO ASK ANY FURTHER

QUESTIONS.

MR. TIGERMAN: I AM, NO, I AM SATISFIED WITH THE ANSWER.

THE COURT: COUNSEL, YOU HAVE ANY QUESTIONS YOU WANT TO ASK?

MR. LOPEZ: NO, YOUR HONOR.

MR. TIGERMAN: WELL, ACTUALLY LET ME EXPAND A LITTLE BIT.

ALLOW ME TO REOPEN IN LIGHT OF THE FACT THAT A QUESTION WAS ASKED.

Q. WHEN YOU SAY YOU KNEW WAY BACK THAT ABESTOS WAS ONE OF THE THINGS THAT YOU HAD TO BE CAREFUL ABOUT, HOW FAR BACK ARE YOU TALKING ABOUT WHEN YOU SAY "WAY BACK"?

A. CAN'T PUT A NUMBER ON THAT. DON'T REMEMBER WHEN. THESE THINGS CREEP UP ON YOU; BUT I COULD ONLY GUESS THAT IT IS SOMETIME WITHIN THE MID POINT OF MY CAREER. NO WAY I CAN TELL YOU WHEN THAT WAS.

Q. ALL RIGHT. SO, THE MID POINT OF YOUR CAREER, YOU WENT FROM '37 TO '74. THAT IS 37 YEARS. AND THE MID POINT OF YOUR CAREER THEN WAS 1955, IS THAT CORRECT?

A. YES. I AM NOT TELLING YOU WITH THAT DEGREE OF MEASUREMENT.

Q. ALL RIGHT. AND, SIR, WHEN YOU SAID IT WAS JUST ONE OF THE THINGS THAT PEOPLE HAD TO BE CAREFUL ABOUT, THERE WERE OTHER THINGS LIKE WELDING FUMES AND OTHER THINGS, RIGHT?

A. OF COURSE.

Q. AND WASN'T, DIDN'T YOU FEEL IT WAS YOUR

RESPONSIBILITY AS THE PERSON WHO WAS OPERATING A DEPARTMENT TO MAKE SURE THAT PEOPLE WERE NOT BEING INJURED BY ALL OF THESE DANGEROUS ITEMS THAT YOU JUST REFERENCED?

A. MY RESPONSIBILITY?

Q. TO MAKE SURE SOMETHING WAS BEING DONE ABOUT IT?

A. ABOUT WHAT.

Q. ABOUT ALL THE THINGS, DANGEROUS THINGS YOU SAID YOU WERE AWARE OF?

A. I THINK YOU LEARN THAT FROM THE DAY YOU START TO LEARN HOW TO CONSTRUCT SOMETHING. THAT'S NOT, THAT'S BEING GOING ON FOR DECADES.

Q. WHAT HAS BEEN GOING ON FOR DECADES.

A. THAT SAME PROBLEM THAT YOU JUST DEFINED.

Q. SO --

A. I MEAN YOU CAN GO BACK, THE OTHER, PREVIOUS CENTURY, ALWAYS HAD PROBLEMS LIKE THAT.

Q. ALL RIGHT. BUT MY QUESTION IS YOU SAID YOU KNEW IT WAS ONE OF SEVERAL OR MANY PROBLEMS, YOU KNEW IT WAY BACK.

MY QUESTION IS, DID YOU DO ANYTHING ABOUT IT WHEN YOU FOUND OUT ABOUT IT?

A. NOT ANYMORE THAN I DID IN THE CASE THAT ELECTRICITY GOT OUT OF HAND AND EXECUTED SOMEBODY. THIS COULD HAPPEN. IT WAS AN ACCIDENT. ELECTRICITY IS ONE OF THOSE THINGS YOU GOT TO BE CAREFUL OF AND THERE ARE JILLIONS OF THEM?

Q. EVERYBODY KNOWS ABOUT THE HAZARDS OF ELECTRICITY, ISN'T THAT TRUE?

A. I DON'T KNOW. I'VE KNOWN LOTS OF PEOPLE THAT DON'T?

Q. YOU THINK EVERYBODY KNEW ABOUT THE HAZARDS OF ABESTOS WHEN YOU FOUND OUT ABOUT IT?

A. DEFENDS UPON HOW WIDESPREAD IT WAS BEING USED.

Q. YOU SAID YOU KNEW MANY YEARS AGO, YOU SAID PROBABLY AROUND THE MID POINT OF YOUR CAREER.

AT THE MID POINT OF YOUR CAREER, DO YOU THINK IT WAS WIDESPREAD KNOWLEDGE, THAT EVERYBODY KNEW THAT ABESTOS WAS DANGEROUS THE SAME WAY THAT EVERYBODY KNOWS THAT ELECTRICITY IS DANGEROUS?

A. I DON'T KNOW. IT COULD BE.

MR. TIGERMAN: OKAY. THANK YOU.

RECROSS-EXAMINATION

MR. LOPEZ:

Q. YOU CAN'T PINPOINT FOR US WHEN YOU GAINED ANY KNOWLEDGE?

A. PINPOINT WHAT?

Q. YOU CAN'T PINPOINT FOR US WHEN YOU GAINED ANY KNOWLEDGE THAT ABESTOS WAS HAZARDOUS?

MR. TIGERMAN: LEADING.

MR. LOPEZ:

Q. CAN YOU, YOU CAN'T PINPOINT--

MR. TIGERMAN: OBJECTION, LEADING.

THE COURT: LEADING.

THE WITNESS: WELL --

THE COURT: NO, NO, IT WAS A LEADING

QUESTION. YOU CAN'T, THE FORM, JUST THE FORM OF THE QUESTION IS LEADING.

MR. LOPEZ:

Q. _ AS YOU SIT HERE TODAY YOU INDICATED THAT YOUR MEMORY IS BAD, IS THAT CORRECT?

A. YES.

Q. IT IS NOT AS GOOD AS IT USE TO BE?

A. THAT IS RIGHT.

MR. TIGERMAN: LEADING.

THE WITNESS: APOLOGIZE FOR IT. I AM SORRY I HAD TO ANSWER THE WAY I DID. I DID MY VERY BEST.

MR. LOPEZ:

Q. OKAY. AS YOU SIT HERE TODAY, YOU CAN'T PINPOINT--

MR. TIGERMAN: OBJECTION, LEADING.

THE COURT: "YOU CAN'T PINPOINT" IS LEADING. IT IS TESTIFYING. IT IS SUGGESTING AN ANSWER. THERE IS ANOTHER WAY TO DO IT.

OPEN ENDED QUESTION.

MR. LOPEZ: YES, YOUR HONOR.

THE COURT: YOU WANT TO APPROACH THE SIDE BAR BEFORE YOU START ASKING QUESTIONS. THE RECORD SHOULD INDICATE I HAVE BEEN RECEIVING A SERIES OF NOTES FROM THE JURY, OR A JUROR.

(SIDEBAR)

THE COURT: ANY FURTHER QUESTIONS.

MR. LOPEZ:

Q. YOU TOLD US YOUR MEMORY IS BAD, IS THAT

CORRECT?

MR. TIGERMAN: OBJECTION, LEADING.

THE COURT: NO. ASKED AND ANSWERED. HE ALREADY SAID THAT.

MR. LOPEZ:

Q. IT GOT BAD ABOUT TWO YEARS AGO --

MR. TIGERMAN: OBJECTION, LEADING AND SUGGESTIVE.

THE COURT: SUSTAINED.

MR. LOPEZ:

Q. -- IS THAT CORRECT?

MR. TIGERMAN: SAME OBJECTION. YOU CAN'T MAKE IT BETTER BY SAYING, "IS THAT CORRECT."

THE COURT: I WILL ALLOW IT, HIS ANSWER. WHAT IS YOUR ANSWER.

THE WITNESS: THAT'S WHEN I BECAME AWARE OF IT.

MR. LOPEZ: OKAY. NO FURTHER QUESTIONS.

MR. TIGERMAN: ALL RIGHT. THAT'S ALL. I WOULD HAVE ANOTHER WITNESS. I WOULD LIKE TO TRY TO GET ON.

THE COURT: OKAY. THANKS. YOU ARE EXCUSED, NO FURTHER QUESTIONS. JUST LEAVE THE EXHIBITS HERE.

ALL RIGHT, SO --

MR. TIGERMAN: CAN WE START.

THE COURT: ALL RIGHT. GO 7 MINUTES, COME ON.

ANNIE VIALE

CALLED AS A WITNESS BY THE PLAINTIFF, AFTER FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS:

THE CLERK: PLEASE BE SEATED, STATE YOUR NAME AND SPELL IT FOR THE REPORTER.

THE WITNESS: MRS. ANNIE VIALE, V-I-A-L-E.

THE COURT: MS. VIALE, PLEASE SPEAK INTO THE MICROPHONE. LET'S GO. FINE.

DIRECT EXAMINATION

MR. TIGERMAN:

Q. HI, MRS. VIALE, HOW ARE YOU.

A. FINE.

Q. ARE YOU A LITTLE BIT NERVOUS BEING HERE ON THE STAND?

A. YES.

Q. MRS. VIALE, DO YOU KNOW ANGELO VIALE?

A. YES.

Q. WHO IS HE?

A. MY HUSBAND.

Q. HOW LONG HAS HE BEEN YOUR HUSBAND FOR?

A. NEARLY 50 YEARS.

Q. WHEN DID YOU AND ANGELO MEET?

A. 19, LET'S SEE, 40.

Q. WHEN IS IT THAT YOU FIRST MET? DID YOU GROW UP IN THE SAME NEIGHBORHOOD? DID YOU MET SOMEWHERE ALONG THE WAY?

A. NO. WE KNEW EACH OTHER THROUGH HIGH SCHOOL. WE MET, PRACTICALLY THE DATE, AT MY GRADUATION.

Q. YOUR GRADUATION HAPPENED WHAT YEAR?

A. IN JUNE OF 1940.

Q. YOU DATED AFTER YOUR GRADUATION?

A. JUST FOR A COUPLE OF MONTHS.

Q. THEN WHAT HAPPENED?

A. HE WENT INTO THE SERVICE IN AUGUST OF 1940.

Q. WHEN ANGELO WENT TO THE SERVICE, DID YOU CONTINUE TO HEAR FROM HIM?

A. VERY RARELY BECAUSE HIS LETTERS WERE ALL SHOPPED. IT WAS THE B-MAIL. AT THE TIME THEY WERE WRITTEN ON BOTH SIDES. THEY, OF COURSE, THEY WERE CUT OPEN. I DON'T KNOW IF, YOU KNOW, WHAT B-MAIL IS.

Q. NO. WHAT WAS IT?

A. PHOTOSTATIC LETTERS THAT WERE SENT, CUT OUT PART OF IT SO YOU COULDN'T MAKE IT OUT.

THE COURT: THAT WAS MILITARY SECURITY, SO ON.

LET'S GO ON.

MR. TIGERMAN:

Q. AFTER ANGELO CAME BACK, DID YOU GUYS CONTINUE DATING?

A. HE, FOUR YEARS LATER, HE CAME BACK AND WE DATED FROM JUNE UNTIL JANUARY AND WE WERE MARRIED.

Q. NOW, WHERE DO YOU AND ANGELO LIVE NOW?

A. ON MERLE AVENUE IN MARTINEZ.

Q. WHEN DID YOU START LIVING THERE?

A. 1952.

Q. DID YOU GUYS JUST MOVE INTO THAT HOUSE?

A. NO, HE BUILT IT.
Q. HE BUILT IT HIMSELF?
A. YES.
Q. WITH HIS OWN HANDS, JUST MAKE PLANS FOR SOMEBODY ELSE?
A. NO, HE BUILT IT HIMSELF.
Q. AND ARE YOU GUYS, ARE YOU STILL LIVING IN THAT SAME HOUSE THAT ANGELO BUILT?
A. YES.
Q. NOW, WHEN ANGELO CAME BACK FROM THE WAR, IT WAS ABOUT WHAT YEAR?
A. 45.
Q. DID YOU CONTINUE TO DATE, DID YOU GET MARRIED RIGHT AWAY?
A. 6 MONTHS LATER. WE GOT MARRIED IN '46.
Q. AT THAT TIME, WHAT, WHERE WAS ANGELO WORKING?
A. OUT AT, IT WAS TIDEWATER THEN --
Q. THERE --
A. --NEAR AVON.
Q. AT THAT TIME DID YOU EVER WASH ANGELO'S CLOTHES?
A. YES.
Q. CAN YOU TELL ME WHETHER OR NOT WHEN HE CAME BACK FROM WORK WHETHER HIS CLOTHES WOULD BE COVERED WITH DUST?
A. YES. I WOULD TAKE THEM OUT, SHACK THEM OUT AND JUST THROW THEM IN WITH THE FAMILY WASH.
Q. NOW, HOW LONG AFTER YOU AND ANGELO GOT MARRIED

DID YOU HAVE YOUR FIRST CHILD?

A. WE HAD OUR FIRST ONE IN 1949.

Q. WAS THAT A BOY OR GIRL?

A. GIRL.

Q. WHAT WAS HER NAME?

A. MARGARET.

Q. WHERE DOES MARGARET LIVE NOW?

A. SHE LIVES IN ARIZONA.

Q. DOES SHE LIVE THERE WITH ANYBODY?

A. YES.

THE COURT: WHAT IS THE RELEVANCY OF THIS?

MR. TIGERMAN:

Q. WELL, DOES ANGELO HAVE ANY GRANDCHILDREN?

A. YES, HE HAS 6. WE HAVE 6.

Q. HOW MANY GRANDCHILDREN DO YOU HAVE BY YOUR DAUGHTER?

A. TWO.

Q. NOW, IN 19, WELL, STRIKE THAT. DID YOU HAVE ANY OTHER CHILDREN?

A. NO. WE HAVE TWO CHILDREN.

Q. SO, YOU HAVE TWO TOTAL?

A. YES.

Q. DISCUSSED YOUR DAUGHTER. WHO IS YOUR OTHER CHILD?

A. OUR SON.

Q. IS THAT ROBERT?

A. YES.

Q. HOW MANY CHILDREN DOES ROBERT HAVE?

A. FOUR.

Q. SO, TWO FROM YOUR DAUGHTER, FOUR FROM YOUR SON, THAT'S 6?

A. RIGHT.

Q. NO, I, BEFORE ANGELO GOT SICK, DID YOU EVER USE TO DO ANYTHING WITH THESE GRANDCHILDREN?

A. WE USE TO TAKE THEM CAMPING EVERY YEAR, ALL 6 OF THEM?

Q. ALL 6 AT ONCE?

A. YES.

Q. WHAT ARE THE AGES OF THESE GRAND CHILDREN?

A. WELL, QUITE A BIT SMALLER THEN BUT NOW THEY HAVE GROWN?

Q. IS THIS SOMETHING ANGELO WOULD DO BY HIMSELF?

A. HE AND I BOTH, GIVE THE PARENTS A VACATION.

Q. OKAY, NOW, MRS. VIALE, AFTER ANGELO BUILT YOUR HOUSE IN 1952, DID HE CONTINUE WORKING AT THE AVON REFINERY?

A. YES.

Q. WHEN DID HE RETIRE FROM THE AVON REFINERY?

A. 1975.

Q. WHY IS IT THAT ANGELO RETIRED, IF YOU KNOW?

A. HE TOOK EARLY RETIREMENT BECAUSE WE COULD SEE OUR WAY, YOU KNOW, WE HAD OUR HOME. SO, HE JUST DID SOME ODD JOBS BUT JUST FOR FRIENDS.

Q. NOW, AFTER, WELL, BEFORE RETIREMENT, DID ANGELO DO ANY HOBBIES?

A. YES, HE HAD LOTS OF HOBBIES.

Q. GIVE ME SOME EXAMPLE?

A. WE LIKE TO HIKE AND HUNT AND FISH OUT OF STATE, HIGH ALTITUDE.

Q. DID HE EVER DIVE?

A. YES, SKIN DIVE.

Q. WHAT ABOUT YOU, WHEN HE DID THESE THINGS, DID HE LEAVE YOU ALONE?

A. NO, WENT WITH HIM. WE DID A LOT OF TRAVELING.

Q. DID YOU GO WITH HIM WHEN HE WENT FISHING?

A. YES.

Q. WHAT DID YOU DO WHILE HE WAS OUT ON THE RIVER BANK?

A. WOULD OUT GO WITH HIM. I FISHED TO. I LOVED IT.

Q. DID YOU GO WITH HIM WHEN HE WENT HUNTING?

A. YES.

Q. WHAT DID YOU DO WHEN HE WAS RUNNING AROUND IN THE WOODS?

A. WAS WITH HIM?

Q. YOU WERE HUNTING, TOO?

A. YES.

Q. WHEN ANGELO WAS OUT DIVING, DID YOU DRIVE WITH HIM TO THE PLACE WHERE HE DID THE DIVING?

A. WOULD GO TO THE BEACH. I WOULD NOT GO IN THE WATER BECAUSE I DON'T LIKE WATER.

Q. NOW, DID YOU AND ANGELO TRAVEL AT ALL?

A. YES. HE DID A LOT OF TRAVELING.

Q. GIVE ME AN IDEA OF THE TRAVELING, THE KIND YOU

DID?

A. WE WENT TO NEW ZEALAND, AUSTRIA, EUROPE, HAWAII, SEVERAL TIMES, WHEN TO ALL THE LEGION OF VALOR CONVENTIONS AROUND THE UNITED STATES.

Q. LEGION OF VALOR, WHAT ARE THOSE?

A. WELL, IT IS A GROUP, JUST FOR HIGHLY DECORATED SOLDIERS. THEY MEET EVERY YEAR. SO, WE DID THAT.

Q. NOW, SINCE ANGELO HAS BEEN SICK, WELL, FIRST OF ALL, LET ME JUST TALK ABOUT THE LEGION OF VALOR FOR A SECOND.

WHAT IS YOUR UNDERSTANDING OF THE LEGION OF VALOR? WHAT IT IS FOR?

MR. GILBERT: OBJECTION, RELEVANCY.

THE COURT: RELEVANCY, SUSTAINED. WE ALREADY HEARD THAT. WE KNOW THAT ALREADY. THE JURY KNOWS.

MR. TIGERMAN:

Q. WHEN HE WENT TO THE LEGION OF VALOR CONVENTION, DID YOU ALWAYS GO TOGETHER?

A. YES.

Q. SINCE ANGELO HAS BEEN RETIRED --

A. UH-HUH.

Q. -- CAN YOU GIVE US AN IDEA HOW MUCH TIME THE TWO OF HAVE ACTUALLY SPENT TOGETHER AS OPPOSED TO HIM OFF DOING HIS OWN THING?

A. WE HAVE ALWAYS GONE TOGETHER. WE WENT EVERYWHERES TOGETHER.

Q. BEFORE ANGELO GOT SICK, DID YOU FIND HIM TO BE

A SOURCE OF MORAL SUPPORT?

A. YES.

Q. IN WHAT WAY?

A. WELL, HE IS THE ONLY ONE I HAD. I HAVE NO OTHER, I HAVE A BROTHER BUT WE ARE NOT THAT CLOSE. SO, HE WAS THE ONLY ONE I HAVE REALLY.

Q. DID YOU CONFIDE IN HIM AND SEEK ADVISE?

A. YES.

MR. GILBERT: OBJECTION, LEADING.

THE COURT: I WILL ALLOW IT. OVERRULED BUT DON'T LEAD.

MR. TIGERMAN:

Q. NOW SINCE ANGELO HAS BEEN SICK, HAVE YOU BEEN ABLE TO GET THE SAME KIND OF MORAL SUPPORT THAT YOU GOT IN THE PAST?

A. WELL, HE DOESN'T SAY MUCH. SO, JUST DOESN'T TALK.

Q. HAVE YOU FOUND THERE IS A DIFFERENCE IN YOUR ABILITY TO CONFIDE IN HIM ABOUT THINGS THAT TROUBLE YOU?

A. VERY MUCH.

Q. WHY DON'T YOU DO THAT ANY MORE?

A. WELL, DON'T WANT HIM TO FEEL BAD, SO, JUST DON'T TALK ABOUT IT.

Q. HAVE YOU TRIED?

A. YES.

Q. WOULD YOU, HAVE YOU EVER TALKED WITH ANGELO ABOUT HOW HE FEELS ABOUT PASSING AWAY?

A. I TRIED NOT TO.

Q. HAS HE SAID ANYTHING TO YOU ABOUT PASSING AWAY?

A. NOT VERY MUCH, JUST MADE A FEW COMMENTS BUT NOT --

Q. GIVE ME AN EXAMPLE OF THE COMMENTS THAT COMES?

A. WELL, THE OTHER DAY HE WAS IN TERRIBLE PAIN. I SAID, WHAT'S THE MATTER. HE SAID --

MR. GILBERT: OBJECT, YOUR HONOR, HEARSAY.

MR. TIGERMAN: STATE OF MIND, PHYSICAL STATE.

MR. GILBERT: PHYSICAL STATE IS ONE THING, GOES INTO SOME, SOMETHING ELSE --

THE COURT: SUSTAINED, 352. ALSO 352.

MR. TIGERMAN: MAY WE HAVE A SIDEBAR?

THE COURT: I HAVE ALREADY RULED. I AM SORRY. NEXT QUESTION.

MR. TIGERMAN: ALL RIGHT.

Q. DO YOU KNOW, HAS ANGELO MADE ANY REMARKS TO YOU THAT REVEAL HOW HE FEELS ABOUT WHAT IS HAPPENING WITH HIM?

A. DOESN'T SAY VERY MUCH. HE JUST SAID THE OTHER DAY THAT THE LIGHTS ARE GETTING DIMMER, SO.

Q. ARE YOU ABLE TO GET THE SAME KIND OF EMOTIONAL SUPPORT FROM ANGELO THAT YOU GOT BEFORE HE WAS SICK?

MR. GILBERT: ASKED AND ANSWERED, YOUR HONOR.

MR. TIGERMAN: THAT WAS MORAL.

THE COURT: SUSTAINED. YOU WILL LOSE IF YOU WANT QUARREL WITH ME.

MR. TIGERMAN: OCCASIONALLY HAVE BEEN

SUCCESSFUL.

THE COURT: SOMETIMES BUT NOT THIS ONE.

MR. TIGERMAN: MRS. VIALE, THAT IS ALL I HAVE NOW.

I DO WANT TO TALK ABOUT THE PROGRESSION OF ANGELO'S CONDITION. WE WILL SAVE THAT.

THE COURT: THEN, WOULD YOU HAVE MUCH MORE? HOW MUCH MORE?

MR. TIGERMAN: ANOTHER FIFTEEN MINUTES BUT IF WE HAVE A JUROR WHO NEEDS TO GO, YOUR HONOR.

THE COURT: ANOTHER 5 OR 10 MINUTES.

MR. TIGERMAN: MAXIMUM.

A JUROR: GO AHEAD, I WILL TAKE A TAXI

THE COURT: YOU ARE GOING TO HAVE QUESTIONS.

MR. GILBERT: I DOUBT IT.

THE COURT: COME ON.

MR. TIGERMAN:

Q. MRS. VIALE, WHEN YOU FIRST FOUND OUT THAT ANGELO WAS SICK, WHERE WERE THE TWO OF YOU?

A. I GUESS WE WERE AT THE DOCTOR'S OFFICE.

Q. NOW, WAS THERE SOMETHING THAT LEAD UP TO THAT?

A. YES. WE WERE UP IN TENNESSEE I GUESS AND WE WERE WALKING AND USUALLY HE IS WAY AHEAD OF ME. HE COULDN'T KEEP UP WITH ME AND SO I KNEW SOMETHING WAS WRONG.

WHEN WE GOT HOME, HE STARTED FOR A WALK, HE COULDN'T MAKE IT AND SAID, WELL, SOMETHING IS WRONG. SO,

HE WENT TO THE DOCTOR. THAT'S WHEN THEY FOUND THE FLUID.

Q. SINCE THAT TIME, SINCE THAT FIRST TIME, DID ANGELO TRY TO DO ANYMORE HIKING OR CAMPING OR ANY OF THE OTHER ACTIVITIES?

A. HE WENT ON A FEW MORE PHEASANT HUNTS WHERE IT IS ALL LEVEL BUT THAT'S ABOUT IT.

Q. SINCE THAT TIME THAT ANGELO FIRST GOT SICK, HAVE THE TWO YOU TRAVELED MUCH?

A. NO, NOT AT ALL.

Q. WHY NOT?

A. JUST CAN'T.

Q. SINCE THAT TIME WHEN YOU FIRST FOUND OUT THAT ANGELO WAS SICK, HAVE THE TWO OF YOU TRIED TO GO DIVING?

A. OH, NO.

Q. HAVE THE TWO OF YOU TAKEN THE GRAND CHILDREN OUT CAMPING?

A. NO. WE STOPPED.

Q. NOW BEFORE ANGELO GOT SICK, DID HE BUILD DECKS ON THE HOUSE?

A. JUST BEFORE THAT, JUST BEFORE.

Q. SINCE HE GOT SICK, HAS HE DONE MUCH AROUND THE HOUSE?

A. NO, HE HAVEN'T.

Q. WAS ANGELO A VERY HANDY GUY BEFORE HE GOT SICK?

A. VERY HANDY. HE BUILT THE HOUSE. HE BUILT DECKS. HE TOOK CARE OF THE HOUSE, FIXED EVERYTHING THAT NEEDED FIXING.

Q. WAS HE ABLE TO DO ANYTHING OF THOSE THINGS?

A. NO, NO.
Q. I TAKE IT YOU LEFT HIM TODAY, IS THAT RIGHT?
A. LEFT MY GRANDSON WITH HIM.
Q. HOW WAS HE WHEN YOU LEFT?
A. HE WAS IN HIS RECLINING CHAIR, SLEEPING IN IT ALL NIGHT, CAN'T EVEN MAKE IT ONTO THE BED, JUST STAYS IN THE RECLINING CHAIR.
Q. HAS ANGELO LOST WEIGHT?
A. VERY MUCH.
Q. HOW MUCH?
A. 40 POUNDS.
Q. WHAT ABOUT HIS BREATHING, DO YOU OBSERVE HIM BREATHING?
A. VERY, VERY DEEP, VERY HEAVY.
Q. DOES ANGELO EVER TELL YOU WHEN HE IS IN PAIN?
A. NO, HE TRIES NOT TO COMPLAINT BUT I CAN TELL WHEN HE IS IN PAIN.
Q. HOW CAN YOU TELL WHEN ANGELO IS IN PAIN?
A. I CAN TELL FROM HIS EXPRESSION, YOU KNOW. HE MIGHT MOAN LIGHTLY. I SAY, WHAT IS THE MATTER, HE SAY, OH NOTHING; AND I SAY, HOW YOU FEEL, HE SAYS, OH, I AM ALL RIGHT AND I KNOW HE IS NOT.
Q. SINCE ANGELO HAS BEEN DIAGNOSED WITH CANCER, HOW HAS HIS MOOD BEEN?
A. HIS MOOD?
Q. YES.
A. WELL, KIND OF GETS A LITTLE DEPRESSED.
Q. DO YOU EVER HAVE ANY SUCCESS IN TRYING TO MAKE

A. NO, NO.
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A. HIS MOOD?
Q. YES.
A. WELL, KIND OF GETS A LITTLE DEPRESSED.
Q. DO YOU EVER HAVE ANY SUCCESS IN TRYING TO MAKE

HIM FEEL BETTER?

A. NOT MUCH I CAN DO. FRIENDS COME BY TO SEE HIM, TALK TO HIM, CHEERS HIM UP THAT WAY. THAT'S ABOUT IT.

MR. TIGERMAN: ALL RIGHT. THANK YOU. THAT'S ALL I HAVE.

THE COURT: ANY QUESTIONS?

MR. GILBERT: NO QUESTION HERE, YOUR HONOR.

MR. LOPEZ: NO.

THE COURT: THANK YOU. YOU ARE EXCUSED.

LADIES AND GENTLEMEN, REMEMBER THE ADMONITION OVER THE LONG 4TH OF JULY VACATION PERIOD. DON'T TALK ABOUT THIS CASE, EXCHANGE NUMBERS, DON'T CALL EACH OTHER, TALK ABOUT THE CASE. REMEMBER MY ADMONITION.

YOU HAVEN'T HEARD ALL THE CASE YET, KEEP AN OPEN MIND. WE WILL SEE YOU WEDNESDAY AT 9:00 O'CLOCK. COURT IS IN RECESS FOR 15 MINUTES THEN COUNSEL AND I WILL SPEND THE REST OF THE AFTERNOON WITH A WHOLE BUNCH OF STUFF.

(OUT OF JURY PRESENCE)

THE COURT: THE ATTORNEYS ARE PRESENT, THE JURY IS NOT PRESENT.

IN REFERENCE TO 48, EXHIBIT 48 WHICH WAS A PLAINTIFF PREPARED PHOTOCOPY OF THE DUPLICATE ORIGINAL COPY WHICH HAS THE SEAL ON IT, YESTERDAY, WE SPENT SOMETIME SHOWING THAT.

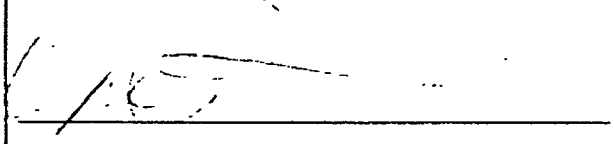
SOME OF THE PAGES DOES NOT FOLLOW IN ORDER. WASN'T THAT 48, WAS NOT A GOOD CORRECT COPY, SOME

STATE OF CALIFORNIA)
CITY AND COUNTY OF SAN FRANCISCO)

I, MILDRED BAKER, A CERTIFIED SHORTHAND REPORTER, DO HEREBY CERTIFY:

THAT THE FOREGOING IS A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HAD IN THE WITHIN-ENTITLED AND NUMBERED CAUSE ON THE DATE HEREINBEFORE SET FORTH, AND I DO FURTHER CERTIFY THAT SAID TRANSCRIPT HAS BEEN PREPARED BY ME.

DATED: JULY 24, 1995



MILDRED BAKER, CSR 3505