

FILE NAME: Bechtel (BECH)

DATE: 1995 June 29

DOC#: BECH037

DOCUMENT DESCRIPTION: Legal - Testimony of Sherman Draniy

Sherman Draney

- 27 started work for Bechtel 1937, engr.
- 30 grad. engr.
- 36 at Bechtel 1937-1974
- 37 became corp. officer 1950 or 1951
- 41 became a director late 1960s
- 71 Bechtel corp. exited from 1898 as construction bus.
- 201 He knew ast. was rec. as "something that you had to be careful about" in midpoint of his career (~1955) there

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

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ANGELO VIALE, ET AL.,

PLAINTIFFS,

VS.

NO. 965247

BECHTEL CORP.,

TESTIMONY OF SHERMAN DRANIY

DEFENDANT.

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

REPORTED BY: MILDRED BAKER, CSR #3505

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23
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25
26
27
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WITNESS INDEX

SHERMAN DRANIY

DIRECT EXAMINATION BY	27	1
MR. TIGERMAN		
CROSS-EXAMINATION BY MR. LOPEZ	194	16
REDIRECT EXAMINATION BY	198	6
MR. TIGERMAN		
RE CROSS-EXAMINATION BY MR. LOPEZ	204	15

ANNE VIALE

DIRECT EXAMINATION BY	207	9
MR. TIGERMAN		

EXHIBIT INDEX

59	DEF'S INTERROGS & ANSWERS	39	15
49-A	DOCUMENT	69	24
49-B	DOCUMENT	76	10
49-C	DOCUMENT	85	10
49-D	DOCUMENT	105	7
60	DOCUMENTS	189	10
49-A		71	11
49-B		78	4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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21
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23
24
25
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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

1 EXAMINATION.

2 SO, HERE WE GO AGAIN.

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

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

10 THE COURT: OFF THE RECORD.

11 (OFF RECORD)

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

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

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

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

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

3 MR. TIGERMAN: THAT IS UNTRUE.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 MR. GILBERT: BEATS ME.

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

20 MR. TIGERMAN: RIGHT.

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

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

26 MR. TIGERMAN: I HAVE IT.

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

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

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

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

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

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

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

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

19 MR. TIGERMAN: YES, IT IS.

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

22 MR. TIGERMAN: AN "A."

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

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

28 WE WILL CALL IT RIGHT, SEE, WHETHER OR NOT

1 IT MATCHES.

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

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

13 THE COURT: AS FAR AS AUTHENTICITY --

14 MR. TIGERMAN: THEY ADMIT THAT.

15 THE COURT: NEWSPAPER IS A PRESUMPTION.

16 MR. LOPEZ: WE ARE NOT --

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

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

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

23 MR. LOPEZ: HEARSAY.

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

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

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

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

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

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

14 LET ME GO OUT.

15 (JUDGE STEP OUT TO EXCUSE JUROR FOR RECESS)

16 THE COURT: ALL RIGHT.

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

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

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

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

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

1 THE COURT: WHERE?

2 MR. TIGERMAN: FIRST --

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

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

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

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

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

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

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

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

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

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

10 MR. TIGERMAN: I WILL GET MINE.

11 MR. GILBERT: I WILL GET MINE, TOO.

12 (TWO ATTORNEY LEAVE CHAMBERS)

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

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

21 THAT'S ADOPTIVE ADMISSION.

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

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

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

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

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

22 MR. TIGERMAN: FIRST OF ALL --

23 THE COURT: WHAT?

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

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

1 OF THE EDITORIAL STAFF OF THE STATION.

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

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

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

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

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

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

20 THE COURT: CAN I ASK YOU A QUESTION.

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

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

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

28 MR. LOPEZ: SURE, WE SHOULD.

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

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

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

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

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

14 THE COURT: NOTHING WRONG.

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

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

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

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

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

28 MR. GILBERT: IT IS HIS JOB TO PREPARE THE

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

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

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

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

11 THE COURT: NOT GOING INTO ANY
12 DECLARATIONS?

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

16 THE COURT: GIVE ME ONE EXAMPLE OF ONE.

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

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

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

25 THE COURT: COULD JUST TELL YOU SOMETHING.

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

27 THE COURT: WAIT, WAIT, WAIT. THE

28 NEWSPAPER IS HEARSAY AND IT DOES NOT QUALIFY AS A

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

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

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

7 THE COURT: ALL RIGHT.

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

10 THE COURT: JUST GIVE ME ONE EXAMPLE.

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

16 THE COURT: WAIT, WAIT.

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

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

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

28 IT SAYS IN REVIEWING OUR BUSINESS HISTORY,

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

6 THESE ARE STATEMENTS THAT ARE MADE --

7 THE COURT: WHAT WAS HIS POSITION?

8 MR. TIGERMAN: PRESIDENT, BOARD OF
9 DIRECTORS.

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

12 MR. TIGERMAN: HE IS THE DIRECTOR.

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

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

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

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

26 THE COURT: WHEN HE WRITES THIS?

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

1 THE CORPORATION, THAT MANDATORY RETIREMENT.

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

4 MR. LOPEZ: HE WAS DIRECTOR.

5 THE COURT: ON THE BOARD OF DIRECTORS.

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

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

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

14 MR. LOPEZ: HE SURE CAN'T.

15 MR. TIGERMAN: FURTHERMORE, I THINK --

16 MR. GILBERT: YOU JUST GOT --

17 MR. LOPEZ: LOOK AT 1222.

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

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

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

25 MR. LOPEZ: BUT HE WAS ALSO --

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

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

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

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

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

16 MR. TIGERMAN: OTHER AREAS.

17 THE COURT: KEEPING IN MIND, AGAIN, UNDER
18 403 THAT THERE WILL BE AN INSTRUCTION THAT YOU WILL
19 HAVE TO WORK OUT TOGETHER FOR THE JURY THAT IS GOING
20 TO BE THE ULTIMATE TRIER OF FACT.

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

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

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

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

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

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

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

17 THE COURT: IT IS A QUESTION OF FACT.

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

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

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

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

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

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

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

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

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

21 THE COURT: IT LOOKS LIKE 1221.

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

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

1 DIRECTORS, YOU KNOW --

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

5 THE COURT: IT APPEARS TO BE OVERLAPPING.
6 IN ANY EVENT, IN THIS OVERLAPPING I AM MAKING IT A
7 403.

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

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

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

15 MR. TIGERMAN: ABOUT THE CHRONICLE?

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

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

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

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

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

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

1 CELEBRATING ITS 65TH ANNIVERSARY.

2 MR. LOPEZ: OKAY.

3 THE COURT: ADMISSIBLE, ALL RIGHT.

4 MR. LOPEZ: NO.

5 THE COURT: UP TO THE JURY TO DETERMINE
6 THAT.

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

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

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

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

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

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

1 IN THIS.

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

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

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

8 MR. TIGERMAN: I UNDERSTAND.

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

12 ALL RIGHT.

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

18 THE COURT: ALL RIGHT.

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

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

26 MR. TIGERMAN: SORRY, YOUR HONOR.

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

28 (IN OPEN COURT)

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

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

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

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

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

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

15 CHARLES DRANIY

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

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

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

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

26 THE COURT: ALL RIGHT.

27 ---OOO---

28

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 USED TO WORK WITH BECHTEL, DIDN'T YOU?

1 A. I DID.

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

4 A. I DID.

5 Q. WHEN DID YOU START WORKING?

6 A. AUGUST OF 1937.

7 Q. WHAT DID YOU DO FOR THEM?

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

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

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

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

19 MR. TIGERMAN: I OBJECT.

20 MR. LOPEZ: IT --

21 THE COURT: DON'T KNOW THAT.

22 MR. LOPEZ: --LACKS FOUNDATION.

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

26 MR. TIGERMAN:

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

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

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

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

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

8 THE WITNESS: PETROLEUM--

9 THE COURT: PETROLEUM

10 THE WITNESS: --FACILITIES.

11 MR. TIGERMAN:

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

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

16 Q. OKAY.

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

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

21 A. I HAVE NEVER STOPPED BEING AN ENGINEER.

22 Q. DID YOU MOVE UPWARD?

23 THE COURT: WHAT, WHAT, UPWARD--

24 MR. TIGERMAN:

25 Q. IN THE ORGANIZATION?

26 A. I DID.

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

1 THE COURT: DO YOU UNDERSTAND HIS QUESTION?

2 THE WITNESS: IT IS A LITTLE VAGUE.

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

6 MR. TIGERMAN: YES.

7 THE COURT: WELL, THEN ASK HIM THAT.

8 MR. TIGERMAN:

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

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

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

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

17 MR. TIGERMAN: OKAY.

18 THE COURT: SUSTAINED.

19 MR. TIGERMAN:

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

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

23 Q. SO, YOU WERE JUST AN ENGINEER?

24 A. JUST AN ENGINEER.

25 Q. JUST AN ENGINEER, OKAY.

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

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

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

4 MR. TIGERMAN: THAT'S A GOOD QUESTION.

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

7 MR. TIGERMAN:

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

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

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

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

19 A. WELL --

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

22 A. TO A DEGREE.

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

25 A. YES.

26 Q. WHAT SCHOOL WAS THAT?

27 A. COLORADO SCHOOL OF MINES.

28 Q. MINDS, M I, M I?

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

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

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

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

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

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

14 Q. IN THE COMPANY?

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

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

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

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

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

1 ENGINEER.

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

5 MR. TIGERMAN: OKAY.

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

9 A. WOULD YOU REPEAT THAT PLEASE?

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

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

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

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

20 Q. ALL RIGHT.

21 A. AND THAT'S --

22 Q. SO, CUSTOMER AND --

23 A. --TYPICAL.

24 Q. -- CUSTOMER CONTACTS?

25 A. CUSTOMER CONTACTS.

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

1 A. I COULDN'T TELL YOU THIS. THAT'S TOO FAR BACK.

2 Q. BUT AT LEAST AT SOME POINT YOU GROW INTO DOING
3 SORT OF A SALES AND MARKETING TYPE OF JOB, TOO, IS THAT
4 TRUE?

5 A. I DID WHAT.

6 Q. YOU DID SALES AND MARKETING AS WELL AS
7 ENGINEERING?

8 A. SALES --

9 Q. AND MARKETING?

10 A. --AND MARKETING.

11 Q. IN OTHER WORDS, YOU HAD CLIENT CONTACTS WITH
12 CUSTOMERS, IS THAT TRUE?

13 A. I HAD, YES, I WOULD SAY BEYOND, OVER TWO YEARS
14 I WAS, ANY TIME I MIGHT BE IN CONTACT WITH A CUSTOMER.

15 Q. NOW, YOU MENTIONED THAT YOU GREW WITH THE
16 ORGANIZATION. AT SOME POINT WERE YOU PUT IN CHARGE OF
17 REFINERY DEVELOPMENTS ABOUT 1948?

18 A. AS A SPECIFIC, I DON'T QUITE GET WHAT YOU MEAN.

19 Q. WERE YOU EVER GIVEN THE TITLE OR THE DUTIES IN
20 THE MID TO LATE 1940'S OF REFINERY DEVELOPMENTS?

21 A. I WAS NOT, DIDN'T HAVE ANY SUCH THING LIKE
22 THAT. THE COMPANY DOESN'T WORK QUITE THAT WAY.

23 Q. OKAY.

24 A. DIDN'T THEN AND --

25 Q. ARE YOU AWARE OF A BOOK CALLED THE BECHTEL
26 STORY?

27 A. THE BECHTEL STORY? BECHTEL STORY?

28 Q. YES. IT IS A BOOK.

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

3 Q. DO YOU --

4 A. GO AHEAD.

5 Q. -- DO YOU REMEMBER BOB INGRAM?

6 A. BOB INGRAM, YES, I RECALL HIM.

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

9 A. AS I RECALL.

10 MR. LOPEZ: OBJECTION, LEADING.

11 THE COURT: OVERRULED, TESTING
12 RECOLLECTION, MEMORY.

13 MR. TIGERMAN:

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

16 A. I DON'T KNOW.

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

19 A. 45.

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

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

24 Q. OKAY.

25 A. -- NO.

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

1 ABOUT THE BUSINESS?

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

4 Q. ALL RIGHT.

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

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

10 MR. LOPEZ: OBJECTION, HEARSAY.

11 THE WITNESS: I DON'T UNDERSTAND.

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

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

16 MR. TIGERMAN: OKAY.

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

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

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

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

23 Q. ALL RIGHT. YOU LEFT WHEN?

24 A. I LEFT AT THE END OF 1974.

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

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

27 THE COURT: SUSTAINED.

28 MR. TIGERMAN:

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

3 MR. LOPEZ: OBJECTION, VAGUE.

4 THE COURT: OVERRULED.

5 THE WITNESS: YES, I WAS WITH IT THROUGH
6 '74, FOR 37 YEARS.

7 MR. TIGERMAN:

8 Q. NOW, OVER TIME DID YOUR RESPONSIBILITIES
9 INCREASE?

10 A. OVER TIME DID RESPONSIBILITIES INCREASE?

11 Q. FOR YOU PERSONALLY?

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

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

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

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

18 A. YES, THAT'S TRUE.

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

21 A. I DID.

22 Q. AND WHAT?

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

24 Q. WHEN DID YOU BECOME AN OFFICER?

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

27 THE COURT: CAN YOU APPROXIMATE?

28 THE WITNESS: HUH?

1 THE COURT: CAN YOU APPROXIMATE.

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

4 MR. TIGERMAN: ALL RIGHT.

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

8 A. VICE PRESIDENT.

9 Q. VICE PRESIDENT OF WHAT?

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

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

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

19 I AM NOT SURE.

20 MR. TIGERMAN: A PARTICULAR DEPARTMENT.

21 THE COURT: ALL RIGHT.

22 MR. TIGERMAN:

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

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

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

1 MR. LOPEZ: OBJECTION, VAGUE.

2 THE WITNESS: THAT --

3 THE COURT: OVERRULED.

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

6 MR. TIGERMAN: ALL RIGHT.

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

10 THE COURT: AND QUESTIONS.

11 MR. TIGERMAN: AND QUESTIONS, YES.

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

14 THE CLERK: THAT IS NUMBER 59, YOUR HONOR.
15 WHEREUPON DEF'S INTEROGS Q & A
16 WAS MARKED PLAINTIFF'S EXHIBIT NO
17 59 FOR IDENTIFICATION ONLY.

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

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

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

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

1 OATH IN WRITING.

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

5 MR. TIGERMAN: ALL RIGHT.

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

8 THAT MR. PLACIER IS YOUR LAWYER IS HERE TODAY?

9 A. YES, HE IS HERE.

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

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

18 RESPONSE TO INTERROGATORY NUMBER 3: "YES.
19 SEPTEMBER 10, 1945, THROUGH JANUARY 2, 1947, BECHTEL
20 BROTHERS MCCONE COMPANY; JANUARY 2, 1947, THROUGH JANUARY
21 2, 1980, BECHTEL CORPORATION; JANUARY 2, 1980 THROUGH
22 PRESENT, SEQUOIA VENTURES INCORPORATED."

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

28 IS THAT WHAT YOU ARE TELLING US?

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

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

9 Q. OKAY.

10 A. I HAVE NO OTHER BASIS.

11 Q. SO, IF THE NAME OF THE COMPANY FROM JANUARY 2,
12 1937 TO JANUARY 2, 1980 WAS BECHTEL CORPORATION AND SINCE
13 YOU HAVE TOLD US THAT YOU WERE AN OFFICER STARTING IN, I
14 GUESS, WHAT, THE 1950'S, WOULD THAT REFRESH YOUR
15 RECOLLECTION THAT YOU WERE AN OFFICER OF BECHTEL
16 CORPORATION?

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

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

22 MR. LOPEZ: OBJECTION, COMPOUND.

23 THE WITNESS: I --

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

26 MR. TIGERMAN: I WILL REPHRASE.

27 THE COURT: SUSTAINED ON THAT OBJECTION.

28 MR. TIGERMAN:

1 Q. DID YOU BECOME A DIRECTOR?

2 A. YES, I DID.

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

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

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

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

12 I WILL REPHRASE IT. THAT WAS TWO DIFFERENT
13 QUESTIONS.

14 MR. LOPEZ: YES.

15 THE COURT: THEY WERE BOTH VERY CONVOLUTED.

16 MR. TIGERMAN:

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

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

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

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

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

28 THE COURT: FIDUCIARY, YOU KNOW, IS A WORD

1 WE DEFINE IN THE DICTIONARY BUT IT HAS LEGAL
2 SIGNIFICANCE.

3 YOU WANT TO USE ANOTHER WORD?

4 MR. TIGERMAN: ALL RIGHT.

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

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

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

15 MR. LOPEZ: OBJECTION, RELEVANCE.

16 THE COURT: OVERRULED.

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

19 MR. TIGERMAN:

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

22 MR. LOPEZ: OBJECTION, VAGUE.

23 THE COURT: OVERRULED. YOU MAY ANSWER.

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

28 I HAVE NO WAY OF KNOWING.

1 MR. TIGERMAN:

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

8 DID THAT EVER RUN THROUGH YOUR MIND?

9 A. I DO NOT REMEMBER HAVING SUCH A THOUGHT.

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

14 DID YOU EVER GIVE THAT ANY THOUGHT?

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

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

21 MR. LOPEZ: OBJECTION, VAGUE.

22 THE COURT: OVERRULED.

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

28 MR. TIGERMAN:

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

3 MR. LOPEZ: OBJECTION.

4 THE WITNESS: NO. LEGAL CON --

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

7 MR. TIGERMAN:

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

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

15 MR. TIGERMAN:

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

20 MR. LOPEZ: OBJECTION --

21 THE WITNESS: I HAVE NO WAY --

22 THE COURT: OVERRULED.

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

25 MR. TIGERMAN: ALL RIGHT.

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

1 BRING IT TO THE COMPANY'S ATTENTION?

2 MR. LOPEZ: OBJECTION, ASKED AND ANSWERED.

3 MR. TIGERMAN: IT WAS --

4 THE COURT: OVERRULED. I WILL ALLOW IT.

5 THE WITNESS: WOULD YOU REPEAT IT PLEASE.

6 MR. TIGERMAN:

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

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

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

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

19 THE COURT: IT IS GETTING VAGUE AND
20 AMBIGUOUS.

21 MR. TIGERMAN: I WILL REPHRASE THAT
22 TERRIBLE QUESTION.

23 THE COURT: SUSTAINED.

24 MR. TIGERMAN:

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

1 A. I CAN NOT RECALL.

2 MR. LOPEZ: OBJECTION, VAGUE.

3 THE WITNESS: I --

4 THE COURT: OVERRULED.

5 THE WITNESS: I --I CANNOT RECALL THAT.

6 MR. TIGERMAN:

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

10 A. I DID.

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

13 A. AS FAR AS I KNEW.

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

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

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

20 A. IF YOU COULD REPEAT THAT.

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

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

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

27 MR. LOPEZ: MOTION TO STRIKE.

28 THE COURT: NOT AT THIS TIME.

1 THE WITNESS: I CANNOT RECALL THAT.

2 MR. TIGERMAN:

3 Q. ALL RIGHT. DO YOU EVER RECALL BACK IN THE
4 1940'S OR 1950'S A STATEMENT THAT WAS MADE BY STEVEN
5 BECHTEL TO THE EXTENT THAT NO WIDOWS OR ORPHANS?

6 A. I HAVE NOT HEARD ANY SUCH THING.

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

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

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

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

17 MR. TIGERMAN: I WILL.

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

20 MR. TIGERMAN:

21 Q. WHEN YOU WERE --

22 A. GO AHEAD.

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

25 A. DID I HAVE TO?

26 Q. YES.

27 A. YES.

28 Q. WHO DID YOU SELL IT TO?

1 A. BACK TO THE COMPANY.

2 Q. WHAT WAS THE NAME OF THE COMPANY?

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

5 MR. TIGERMAN: OKAY.

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

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

12 THE COURT: ALL RIGHT.

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

14 MR. TIGERMAN: ALL RIGHT.

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

19 MR. LOPEZ: SAME OBJECTION, MOTION TO
20 STRIKE.

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

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

26 MR. TIGERMAN:

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

1 WORKED FOR THE COMPANY, CORRECT?

2 A. SOUNDS REASONABLE.

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

6 MR. TIGERMAN: YES, YES, LIKE PRUDENTIAL.

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

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

11 GO ON.

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

15 THE COURT: IT GOES TO ITS WEIGHT.

16 MR. LOPEZ: ALL RIGHT. ALL RIGHT.

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

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

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

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

26 THE WITNESS: I COULDN'T --

27 THE COURT: YES.

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

1 TRUE.

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

4 THE WITNESS: YES.

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

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

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

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

13 THE COURT: ON THE SAME BOAT. ALL RIGHT.

14 MR. TIGERMAN: ALL RIGHT, SIR.

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

18 A. WOULD YOU PLEASE REPEAT WHAT YOU JUST SAID.

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

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

24 A. I DON'T REMEMBER THAT.

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

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

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

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

5 MR. TIGERMAN:

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

9 THE COURT: ALL RIGHT. YOUR ANSWER TO
10 THAT.

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

14 MR. TIGERMAN: OKAY.

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

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

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

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

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

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

1 WAS.

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

6 A. THAT IS TOO GENERAL TO TRY TO --

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

9 THE COURT: WIVES OF?

10 MR. TIGERMAN:

11 Q. WIVES OF --

12 MR. LOPEZ: OBJECTION, VAGUE.

13 MR. TIGERMAN:

14 Q. --DIRECTORS OR OFFICERS AFTER THEY LEFT?

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

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

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

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

23 MR. TIGERMAN: YES.

24 (SIDEBAR, OFF THE RECORD)

25 MR. TIGERMAN:

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

28 A. YES.

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

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

6 Q. ALL RIGHT AND THEN?

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

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

13 MR. LOPEZ: OBJECTION, VAGUE AS TO TIME.

14 THE WITNESS: I AM NOT SURE I UNDERSTAND.

15 THE COURT: ALL RIGHT, RULE 765.

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

18 THE WITNESS: MINING AND METALS --

19 THE COURT: MINING AND METALS.

20 THE WITNESS: --DIVISION IT WAS CALLED.

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

23 THE WITNESS: YES.

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

26 THE WITNESS: I WAS VICE PRESIDENT.

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

1 THE WITNESS: YES.

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

4 THE WITNESS: YES.

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

9 THE WITNESS: I WOULD SET THE POLICY.

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

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

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

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

23 THE WITNESS: I AM SURE WE DID.

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

25 MR. TIGERMAN: ALL RIGHT.

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

1 OWNERSHIP OF THE COMPANY?

2 A. WOULD YOU KINDLY REPEAT THAT?

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

7 A. I DON'T RECALL HAVING DISCUSSED THAT.

8 Q. DID YOU HAVE ANY KNOWLEDGE OF IT?

9 A. KNOWLEDGE?

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

12 A. NO.

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

16 A. NONE THAT I CAN RECALL.

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

19 A. THAT'S CORRECT.

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

23 THE WITNESS: WHEN I WAS A VICE PRESIDENT.

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

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

28 THE COURT: GO ON.

1 MR. TIGERMAN: OKAY.

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

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

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

8 MR. TIGERMAN:

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

12 A. YES.

13 Q. WAS MR. ORSELLI THERE WHEN YOU JOINED?

14 A. WHEN I JOINED THE COMPANY --

15 Q. YES.

16 A. -- IN 1937?

17 Q. YES.

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

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

20 A. BELIEVE HE WAS.

21 Q. AND WAS MR. ORSELLI AN ENGINEER?

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

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

26 A. NONE THAT I KNOW OF.

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

1 A. DURING THE --

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

4 A. WAS HE WITH THE COMPANY THEN?

5 Q. YES.

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

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

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

12 A. YES, HE WAS.

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

15 A. YES.

16 Q. WHAT POSITION?

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

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

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

24 MR. LOPEZ: OBJECTION, VAGUE.

25 MR. TIGERMAN:

26 Q. DID HE GROW WITH THE COMPANY?

27 MR. LOPEZ: OBJECTION --

28 THE COURT: OVERRULED.

1 THE WITNESS: HE GREW WITH THE COMPANY.

2 MR. TIGERMAN:

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

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

9 Q. YOU KNOW IF HE GREW WITH THE COMPANY?

10 A. I CAN'T REMEMBER THAT EITHER.

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

13 A. YES, YES.

14 Q. NOW, WAS GARBERINI THERE WHEN YOU STARTED?

15 A. I STARTED AS OF 1937 --

16 Q. RIGHT.

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

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

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

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

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

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

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

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

5 A. YES.

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

8 A. YES.

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

12 A. YES.

13 Q. WAS ED DORISTAN THERE WHEN YOU CAME ON?

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

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

18 A. I DON'T RECALL.

19 Q. WAS ED DORISTAN AN ENGINEER?

20 A. I DON'T KNOW.

21 Q. DID HE ULTIMATELY BECOME MANAGER OF
22 ENGINEERING?

23 A. NOT TO MY KNOWLEDGE.

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

26 A. THAT I DON'T RECALL.

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

1 A. I CAN'T RECALL THAT.

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

4 A. I HAVE NO SUCH RECOLLECTION.

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

8 MR. LOPEZ: OBJECTION, VAGUE.

9 THE COURT: OVERRULED.

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

12 MR. TIGERMAN: YES. OKAY.

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

16 A. YES, I DO.

17 Q. WHAT WERE THE BECHTEL BRIEFS?

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

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

24 A. TO A DEGREE.

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

1 A. I DON'T KNOW.

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

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

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

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

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

12 A. YES.

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

15 A. YES, YES.

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

18 A. YOU SAY "THIS."

19 Q. THE BECHTEL BRIEFS?

20 A. BECHTEL BRIEFS.

21 Q. YES.

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

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

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

28 Q. DID YOU READ IT WHEN IT CAME OUT?

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

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

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

8 Q. NOT ALL THE THINGS?

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

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

13 A. I DON'T RECALL THAT.

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

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

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

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

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

25 A. WOULD YOU REPEAT THAT AGAIN PLEASE?

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

28 A. I DO NOT RECALL.

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

3 A. '73?

4 Q. RIGHT.

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

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

11 MR. LOPEZ: WOULD YOU SHOW COUNSEL FIRST.

12 THE COURT: YES.

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

15 MR. TIGERMAN:

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

19 A. YES, I --

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

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

24 Q. ALL RIGHT.

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

28 THE WITNESS: THAT I DON'T RECALL.

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

3 THE WITNESS: NO.

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

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

10 THE COURT: YOU MARRIED.

11 THE WITNESS: HUH?

12 THE COURT: ARE YOU MARRIED?

13 THE WITNESS: YES.

14 THE COURT: YOU REMEMBER YOUR WEDDING
15 ANNIVERSARY?

16 THE WITNESS: YES, I DO THAT.

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

20 THE WITNESS: I DO REMEMBER ONE THERE ABOUT
21 5 YEARS AGO. THAT'S AS FAR BACK AS I CAN REMEMBER
22 THAT.

23 THE COURT: WHAT YEAR, 5 YEARS.

24 THE WITNESS: ROUGHLY ABOUT 5 YEARS AGO.

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

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

1 FULL, WHOLE RAILROAD CAR.

2 THE COURT: A WHOLE RAILROAD CAR.

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

6 THE COURT: HOW FAR BACK DOES THAT GO?

7 THE WITNESS: TURN OF THE CENTURY ALMOST.

8 MR. TIGERMAN: ALL RIGHT.

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

13 MR. LOPEZ: OBJECTION, RELEVANCE.

14 THE COURT: OVERRULED.

15 THE WITNESS: I RECALL READING SOMETHING OF
16 THAT NATURE.

17 MR. TIGERMAN:

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

22 A. WHAT, WHAT NOW?

23 Q. STEPHEN BECHTEL --

24 A. WAS?

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

27 A. STEPHEN BECHTEL, SENIOR?

28 Q. YES.

1 A. YES, HE WAS.

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

5 A. UH-HUH.

6 Q. YOU RECOGNIZE IT?

7 A. YES.

8 Q. IS IT HIS?

9 A. SAYS STEPHEN BECHTEL, JUNIOR, YES.

10 Q. THAT'S STEPHEN BECHTEL, JUNIOR?

11 A. YES.

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

14 A. YES.

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

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

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

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

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

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

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

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

7 WHAT IS IT?

8 MR. TIGERMAN: IT IS AN EXCERPT FROM THE
9 1963 BECHTEL BRIEFS.

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

12 WHAT IS THAT?

13 THE WITNESS: YOU MEAN WHAT THIS IS?

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

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

18 IS THAT WHAT YOU WERE TELLING ME?

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

21 THE WITNESS: I COULDN'T TELL FROM THIS.

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

24 THE WITNESS: THERE IS NO --

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

28 MR. TIGERMAN: I SUBPOENAED IT, YOUR

1 HONOR. THERE IS A STIPULATION AS TO THE
2 AUTHENTICITY.

3 THE COURT: OH, THERE IT IS.

4 MR. LOPEZ: YES, SIR, YOUR HONOR.

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

10 THERE IS NO NEED TO HAVE THE ORIGINALS
11 HERE.

12 SO, THESE 49 WILL ACTUAL BE STIPULATED TO.

13 MR. LOPEZ: YES, SIR, YOUR HONOR.

14 MR. TIGERMAN: YES, YOUR HONOR.

15 THE COURT: STIPULATED.

16 MR. TIGERMAN: YES, YOUR HONOR

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

19 THE WITNESS: UH-HUH.

20 MR. TIGERMAN: NOVEMBER OF 1963.

21 THE WITNESS: THIS ONE RIGHT HERE.

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

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

27 MR. TIGERMAN:

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

1 THAT LOOK LIKE ONE OF THE BECHTEL BRIEFS.

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

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

7 MR. TIGERMAN: I WILL MOVE ON.

8 THE COURT: ALL RIGHT.

9 MR. TIGERMAN:

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

13 A. YES.

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

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

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

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

22 MR. LOPEZ: SAME OBJECTION, HEARSAY.

23 THE COURT: HEARSAY? YOU ARE OBJECTING
24 HEARSAY.

25 MR. LOPEZ: YES.

26 THE COURT: ALL RIGHT. MAY I SEE IT.

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

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

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

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

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

11 WHEREUPON PLAINTIFF'S EXHIBIT NO.
12 49-A PREVIOUSLY MARKED FOR
13 IDENTIFICATION WAS RECEIVED INTO
14 EVIDENCE

15 MR. TIGERMAN:

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

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

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

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

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

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

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

6 THE COURT: HIS BELIEF. OVERRULED.

7 MR. TIGERMAN:

8 Q. GO AHEAD.

9 A. OH.

10 Q. ONLY STARTING WHEN, ACCORDING TO YOUR BELIEF?

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

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

15 A. YES.

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

20 A. I WOULD RATHER DESCRIBE THAT AS KNOWING THAT IN
21 '98, 1898 THAT W. A. BECHTEL, SENIOR HAD A BUSINESS, A
22 CONSTRUCTION BUSINESS.

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

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

28 MR. LOPEZ: OBJECTION, VAGUE.

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

3 THE COURT: SUSTAINED.

4 MR. TIGERMAN: ALL RIGHT.

5 THE WITNESS: YOU WANT MY OPINION?

6 MR. TIGERMAN:

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

9 A. YES, I DID.

10 Q. YOU MEET KENNETH BECHTEL?

11 A. YES,

12 Q. YOU MEET STEPHEN BECHTEL, SENIOR?

13 A. NO, I DIDN'T KNOW SENIOR.

14 Q. YOU NEVER SEEN STEPHEN SENIOR?

15 A. YES, WELL, I SEEN SENIOR.

16 Q. YOU KNEW STEPHEN BECHTEL JUNIOR?

17 A. YES.

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

21 A. I CANNOT RECALL EVER HAVING DISCUSSED IT.

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

24 MR. LOPEZ: OBJECTION, ASKED AND ANSWERED.

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

28 MR. TIGERMAN: ALL RIGHT.

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

4 A. YES.

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

7 THE COURT: SUSTAINED.

8 LET ME ASK YOU, YOU HAVE ANY MEMORY BACK IN
9 1963, THIS IS THE DATE OF THIS, READING THE GREETING
10 HERE?

11 THE WITNESS: UH-UH.

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

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

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

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

21 THE COURT: ALL RIGHT.

22 MR. TIGERMAN: ALL RIGHT.

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

25 I WOULD LIKE TO REFER TO BATES STAMP PAGE NUMBER
26 1703 OF WHICH COUNSEL HAS A COPY.

27 THE COURT: OF WHICH I DON'T.

28 MR. TIGERMAN: I WILL GIVE IT TO YOUR

1 HONOR.

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

3 MR. TIGERMAN:

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

7 MR. LOPEZ: 17 WHAT?

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

9 MR. TIGERMAN: YES, YOUR HONOR.

10 WHEREUPON DOCUMENT WAS MARKED

11 PLAINTIFF'S EXHIBIT NO 49-B FOR

12 IDENTIFICATION ONLY.

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

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

18 MR. TIGERMAN: NOVEMBER OF 1963, SAME
19 EDITION.

20 THE COURT: SAME EDITION?

21 MR. TIGERMAN: YES.

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

25 LET'S GO.

26 THE WITNESS: SIGNATURE, YES, I RECOGNIZE.

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

1 DIFFERENT PERSON?

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

4 MR. TIGERMAN:

5 Q. STEPHEN, STEPHEN BECHTEL, SENIOR?

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

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

10 A. YES.

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

12 A. YES.

13 THE COURT: THIS IS THE SENIOR, NOT JUNIOR?

14 THE WITNESS: THAT'S RIGHT.

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

18 THE WITNESS: YES.

19 THE COURT: OKAY.

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

22 THE COURT: ALL RIGHT. IN EVIDENCE OVER
23 OBJECTION.

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

26 THE COURT: THAT HALF PAGE IS ONLY --

27 MR. TIGERMAN: THAT WE ARE SHOWING.

28 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.

1 Q. DON'T HELP YOU REMEMBER?

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

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

6 A. IT DOES NOT.

7 THE COURT: WAIT A MINUTE.

8 MR. TIGERMAN:

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

12 A. NO, I DON'T RECALL THAT.

13 MR. LOPEZ: OBJECTION --

14 THE COURT: OVERRULED.

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

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

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

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

27 THE WITNESS: IT, THAT IS CORRECT.

28 THE COURT: NOW, YOU CAN PROCEED.

1 MR. TIGERMAN: OKAY.

2 Q. SIR, PLEASE TELL US WHETHER OR NOT AT THE TIME
3 THAT THIS WAS PUBLISHED IN 1963, DO YOU RECALL WHETHER OR
4 NOT YOU WERE YET ON THE BOARD OF DIRECTORS, 1963, NOVEMBER
5 1963?

6 A. NO, I WAS NOT.

7 Q. YOU DON'T BELIEVE YOU WERE?

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

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

12 A. IS HE ON THE BOARD OF DIRECTORS?

13 Q. BOARD OF DIRECTORS, YES.

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

16 MR. TIGERMAN: JUST REFRESHING HIS
17 RECOLLECTION.

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

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

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

26 (RECESS)

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

1 BEEN PREVIOUSLY SWORN.

2 MR. TIGERMAN:

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

5 A. DID I TALK WITH HIM?

6 Q. YES.

7 A. YES.

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

10 A. WELL I, VERY LITTLE.

11 Q. WHAT ABOUT YOUR TESTIMONY WAS DISCUSSED?

12 A. WHAT DID WE DISCUSS?

13 Q. YES, ABOUT THE TESTIMONY?

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

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

18 A. DO I WHAT?

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

21 A. DO OKAY BY BECHTEL?

22 MR. LOPEZ: OBJECTION, VAGUE.

23 THE COURT: OVERRULED.

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

26 MR. TIGERMAN:

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

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

3 Q. SO, YOU DON'T CARE --

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

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

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

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

12 A. DO I FEEL LOYALTY?

13 Q. YES.

14 A. I NEVER FELT OTHERWISE.

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

17 A. I WOULD SAY VERY GOOD, YES.

18 Q. WOULD YOU LIKE TO BE GOOD BY THEM?

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

20 Q. OKAY.

21 A. AND I ALWAYS HAVE.

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

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

27 THE COURT: RULING?

28 MR. LOPEZ: OBJECTION, HEARSAY.

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

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

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

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

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

13 MR. TIGERMAN: NO, YOUR HONOR.

14 THE COURT: ALL RIGHT.

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

17 (SIDEBAR CONFERENCE)

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

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

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

25 MR. TIGERMAN: OKAY.

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

28 MR. TIGERMAN: SIR, YOUR HONOR, YOU HAVE

1 THE EXHIBIT, COPY OF THE BOOK UP THERE?

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

6 MR. TIGERMAN:

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

9 A. IN 1968, YES.

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

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

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

16 WAS THAT MARKED?

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

19 THE WITNESS: THIS?

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

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

24 THE COURT: ALL RIGHT.

25 MR. TIGERMAN: IT IS THE PAGE WITH
26 PICTURES.

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

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

3 MR. LOPEZ: WHAT NUMBER IS THAT BEING
4 MARKED.

5 THE COURT: I HAVE IT AS 50.

6 MR. LOPEZ: ARE THESE EXCERPTS FROM 49.

7 THE COURT: THIS IS THE --

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

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

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

13 MR. TIGERMAN:

14 Q. SIR, IN FRONT OF YOU IS AN EXCERPT FROM THE
15 1963 BECHTEL BRIEFS AND UNDER THE HEADING, FIRST OF ALL,
16 LOOK AT THIS.

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

20 A. IN '63?

21 Q. '63.

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

23 Q. YES.

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

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

27 A. THAT'S MY PICTURE?

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

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

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

4 MR. TIGERMAN: YES, SURE. THIS IS FROM
5 '63, SAME EDITION.

6 MR. LOPEZ: HE HAVE THE WHOLE BRIEF.

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

11 THE WITNESS: YES.

12 THE COURT: WHERE?

13 THE WITNESS: YES.

14 THE COURT: WHERE? YOU SEE YOUR PICTURE?

15 THE WITNESS: MY PICTURE?

16 THE COURT: YES.

17 THE WITNESS: YES.

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

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

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

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

28 THE WITNESS: WAIT A MINUTE, SOMETHING JUST

1 CAME TO MY MIND.

2 THE COURT: YES.

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

7 THE COURT: YES, SO --

8 THE WITNESS: THERE WE ARE.

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

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

14 THE WITNESS: YES, YES.

15 MR. TIGERMAN:

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

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

20 THE WITNESS: HUH?

21 THE COURT: DOES THAT HELP?

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

24 MR. TIGERMAN:

25 Q. STEPHEN BECHTEL YOUR PRESIDENT AND DIRECTOR?

26 A. PRESIDENT DIRECTOR.

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

1 A. YES.

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

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

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

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

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

10 A. YES.

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

13 A. NOT TO MY KNOWLEDGE.

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

16 A. DURING THE WAR?

17 Q. YES.

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

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

23 A. I HAVE NO INFORMATION ON THAT AT ALL.

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

27 MR. TIGERMAN: ALL RIGHT. THANKS.

28 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?

1 MR. LOPEZ: OBJECTION, MISCHARACTERIZES THE
2 TESTIMONY.

3 THE COURT: SUSTAINED.

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

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

8 MR. LOPEZ: NOT A QUESTION PENDING.

9 THE COURT: HE IS EXPLAINING HIS ANSWER.

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

13 THE WITNESS: THAT'S RIGHT.

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

16 THE WITNESS: THAT'S CORRECT.

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

19 THE WITNESS: I DID.

20 THE COURT: WHAT WAS THAT DECISION?

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

24 THE COURT: THEN WAS THE SHIPYARD BUILT?

25 THE WITNESS: YES.

26 THE COURT: WHAT WAS THE NAME OF THE
27 SHIPYARD?

28 THE COURT: CALSHIP BUILDING IS WHAT I

1 RECALL.

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

5 THE WITNESS: THAT'S RIGHT.

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

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

14 THE COURT: WHO WAS DOING THE ENGINEERING.

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

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

19 THE WITNESS: YES.

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

22 THE WITNESS: YES, THEN --

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

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

1 THE COURT: ALL RIGHT.

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

9 MR. TIGERMAN: OKAY.

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

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

14 THE WITNESS: I HAVE --

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

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

20 THE COURT: DON'T WANT YOU TO GUESS.

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

22 THE COURT: WAS IT IN '41?

23 THE WITNESS: I DON'T KNOW.

24 THE COURT: BEGINNING OF WORLD WAR TWO.

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

27 THE COURT: ALL RIGHT.

28 MR. TIGERMAN:

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

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

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

7 A. YES, YES.

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

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

14 Q. THAT'S IN SAUSALITO?

15 A. YES.

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

18 A. YES.

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

22 MR. LOPEZ: OBJECTION, VAGUE, LACKS
23 FOUNDATION.

24 THE COURT: OVERRULED. OVERRULED.

25 THE WITNESS: WOULD YOU EXPLAIN THAT?

26 MR. TIGERMAN:

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

1 MR. LOPEZ: OBJECTION --

2 THE COURT: OVERRULED.

3 THE WITNESS: THAT IS TRUE, YES.

4 MR. TIGERMAN: ALL RIGHT.

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

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

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

13 A. KIELY KOMES.

14 Q. ANY OTHERS?

15 A. THAT'S ALL I CAN REMEMBER.

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

18 A. YES.

19 Q. AND AN OFFICER, DIDN'T HE?

20 A. YES.

21 Q. AND --

22 THE COURT: "DENTED" HE.

23 MR. TIGERMAN: I THOUGHT I SAID --

24 THE COURT: "DENTED" HE.

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

28 Q. AND THE OTHER ONE YOU MENTIONED WAS KOMES?

1 A. WHO?

2 Q. WHO WAS THE OTHERS?

3 A. KOMES.

4 Q. - KOMES, K-O-M-E-S.

5 A. YES.

6 Q. WHO, KOMES WAS AT CALSHIP, WASN'T HE?

7 A. THAT IS WHAT I SAID.

8 Q. HE ROSE THROUGH THE ORGANIZATION TO BECOME A
9 DIRECTOR AND OFFICER OF BECHTEL, DIDN'T HE?

10 A. YES.

11 Q. AND ISN'T IT TRUE, SIR, DID YOU EVER GO TO THE
12 CALSHIP ORGANIZATION ONCE IT STARTED?

13 A. I WAS INVOLVED, INVITED TO GO DOWN THERE TO THE
14 CELEBRATION OF THE FIRST, WHAT THEY CALL IT THEN, SHOVE IT
15 IN, THE FIRST SHIP IS, THERE IS A WORD FOR IT; BUT, YOU
16 KNOW, IT WAS ESSENTIALLY FINISHED.

17 Q. LAUNCH OF THE FIRST SHIP?

18 A. THE LAUNCH, THE LAUNCHING.

19 Q. WHERE YOU DO THE CHAMPAGNE BOTTLE ON THE --

20 A. THAT'S THE SORT OF THING. I WAS THERE. THAT'S
21 ALL.

22 Q. A CHRISTENING THAT'S THE WORD?

23 A. YES.

24 Q. OKAY. ISN'T IT TRUE, SIR, THAT, AS FAR AS
25 MARINESHIP, WEREN'T THERE, IT ALSO HAD PEOPLE IN IT THAT
26 WORKED THERE AND WHEN THE WAR WAS OVER, THEY ROSE THROUGH
27 THE RANKS OF THE BECHTEL ORGANIZATION TOO, ISN'T THAT
28 TRUE?

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

3 THE COURT: OVERRULED.

4 THE WITNESS: THE OTHER SHIPYARDS?

5 MR. TIGERMAN: YES.

6 Q. MARINESHIP, MARINESHIP.

7 A. I DON'T REMEMBER.

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

9 A. I DON'T REMEMBER.

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

11 A. WASTE WAS WITH BECHTEL, BECHTEL COMPANY LONG

12 BEFORE I BECAME AN EMPLOYEE OF BECHTEL, MCCONE, PARSONS
13 CORPORATION.

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

15 A. BEFORE ME, YES.

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

18 A. I DO NOT RECALL HIS BEING A SUPERINTENDENT.

19 Q. BUT HE WAS AT MARINESHIP?

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

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

23 A. YES.

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

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

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

1 A. DON'T RECALL THAT.

2 MR. LOPEZ: OBJECTION, VAGUE AS TO TIME.

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

5 MR. TIGERMAN:

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

7 LET'S FIND THAT INTERROGATORY ANSWER.

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

10 THE COURT: OVERRULED. OVER WHAT COMPANY?

11 MR. TIGERMAN:

12 Q. WAS HE OVER BECHTEL BROTHERS MCCONE.

13 A. NOT TO MY KNOWLEDGE.

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

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

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

20 A. THAT IS CORRECT.

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

24 A. I NEVER HEARD THAT.

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

28 MR. LOPEZ: VAGUE AS TO WHAT HE MEANS BY

1 ORGANIZATION.

2 THE COURT: OVERRULED.

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

6 MR. TIGERMAN:

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

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

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

17 Q. ALL RIGHT.

18 A. BEST WAY TO DESCRIBE IT.

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

21 A. WELL, MANAGEMENT OF PAPER.

22 Q. OKAY.

23 A. BEST I CAN DO.

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

26 A. THAT'S --

27 Q. HE WAS CONSIDERED YOUR SUPERIOR, RIGHT?

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

1 DIDN'T KNOW.

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

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

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

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

13 THE COURT: OVERRULED.

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

16 MR. TIGERMAN:

17 Q. ALL RIGHT?

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

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

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

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

27 A. OF MARINESHIP, IN CHARGE OF IT?

28 Q. WASN'T HE A SUPERINTENDENT?

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

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

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

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

10 A. NO.

11 Q. YOU JUST WENT THERE ONCE?

12 A. ONLY ONCE THAT I KNOW OF.

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

14 A. I DON'T KNOW.

15 Q. YOU, IT WAS AT THE REQUEST --

16 A. I DON'T REMEMBER THAT.

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

18 A. HUH?

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

21 A. YES.

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

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

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

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

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

3 MR. LOPEZ: OBJECTION, VAGUE.

4 THE COURT: OVERRULED.

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

9 MR. TIGERMAN:

10 Q. ALL RIGHT.

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

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

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

17 THE COURT: OVERRULED. HE IS ASKING HIM
18 NOW.

19 THE WITNESS: SAY THAT AGAIN.

20 MR. TIGERMAN:

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

23 A. I AM TOLD HE WAS.

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

26 A. YES.

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

1 THAT BECHTEL UNDERTOOK, YOU RECALL THAT?

2 A. I, WE HAVE HEARD THIS --

3 Q. WELL, THAT'S?

4 A. --USED AS --

5 Q. IS THAT WHAT YOU JUST SAID?

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

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

14 MR. LOPEZ: OBJECTION, FOUNDA --

15 THE WITNESS: I CAN NOT SAY, SO --

16 THE COURT: OVERRULED.

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

20 MR. TIGERMAN:

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

22 A. I DIDN'T KNOW WHO WAS RESPONSIBLE.

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

26 MR. LOPEZ: OBJECTION, VAGUE.

27 THE COURT: OVERRULED.

28 THE WITNESS: I DO.

1 MR. TIGERMAN:

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

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

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

9 A. YES.

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

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

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

17 A. IN THE LATER YEARS?

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

20 A. THAT IS CORRECT.

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

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

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

1 A. I DID NOT HEAR THAT.

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

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

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

9 A. YES.

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

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

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

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

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

19 MR. LOPEZ: WHAT IS THE ISSUE RELEVANT TO?

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

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

25 MR. TIGERMAN: SIR, I WOULD LIKE TO MARK
26 AS PLAINTIFF'S NEXT IN ORDER A PAGE FROM THE JUNE,
27 1958 BECHTEL BRIEFS?

28 THE COURT: THAT IS 49 OR IS THERE ANOTHER

1 NUMBER?

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

4 THE COURT: 49 WHAT?

5 THE CLERK: 49-D, YOUR HONOR.

6 THE COURT: ALL RIGHT. THANK YOU.

7 WHEREUPON DOCUMENT WAS MARKED

8 PLAINTIFF'S EXHIBIT NO 49-D FOR
9 IDENTIFICATION ONLY.

10 THE COURT: IS THERE A YEAR TO THIS.

11 MR. TIGERMAN: YES, YOUR HONOR, JUNE,
12 1958.

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

15 MR. TIGERMAN: YES, YOUR HONOR.

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

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

20 THE COURT: FINE.

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

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

26 MR. TIGERMAN:

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

28 A. OKAY.

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

5 A. PUBLICATION UNDER THE DIRECTION OF INDUSTRIAL
6 RELATIONSHIP DEPARTMENT. YOU ARE ASKING ME IF THIS RINGS
7 A BELL THAT HE WAS --

8 Q. VICE PRESIDENT OF THAT DEPARTMENT?

9 A. THAT I KNEW --

10 Q. ALL RIGHT. OKAY.

11 A. --YES.

12 Q. DID YOU ALSO KNOW THAT ROBERT INGRAM WAS PUBLIC
13 RELATIONS MANAGER FOR THE COMPANY IN 1958?

14 A. I DID NOT, I DO NOT RECALL THAT.

15 Q. AND THIS DOESN'T REFRESH --

16 A. I, THAT DOESN'T MEAN IT WASN'T; BUT I DON'T
17 RECALL IT.

18 Q. -- THIS DOESN'T HELP YOU REMEMBER THAT?

19 A. NO.

20 Q. OKAY. NOW, SIR, WITH RESPECT TO MR. O'CONNELL,
21 YOU KNEW MR. O'CONNELL, DIDN'T YOU?

22 A. I DID.

23 Q. YOU SPOKE TO HIM ON MANY OCCASIONS, DIDN'T YOU?

24 A. VERY WELL.

25 Q. AND IN ANY OF YOUR DISCUSSIONS WITH
26 MR. O'CONNELL DID HE EVER TELL YOU THAT HE WENT TO ANY
27 MEETING IN 1942 AT WHICH THE HAZARDS OF ABESTOS WAS
28 DISCUSSED?

1 A. NEVER. I HAVE NEVER HEARD OF IT.

2 Q. IN THE ENTIRE TIME YOU KNEW MR. O'CONNELL DID
3 HE EVER TELL YOU HE WENT TO A MEETING IN 1942 REGARDING
4 THE HAZARDS OF INSULATION MATERIALS, AT WHICH THAT WAS
5 DISCUSSED?

6 A. NOT A'TAL. I NEVER HEARD ANY DISCUSSIONS.

7 Q. NOW, SINCE HE WAS AN OFFICER AND DIRECTOR OF
8 THE COMPANY AT VARIOUS TIMES, DO YOU CONSIDER THAT YOU, IT
9 WOULD HAVE BEEN HIS OBLIGATION TO THE COMPANY TO REVEAL
10 INFORMATION ABOUT THE HAZARDS THAT THE COMPANY WAS
11 CREATING BY THE USE OF DANGEROUS MATERIALS?

12 MR. GILBERT: OBJECTION, CALLS FOR
13 SPECULATION.

14 THE WITNESS: MAY I --

15 THE COURT: OVERRULED.

16 THE WITNESS: --TO CLARIFY THIS, MAY I ASK
17 YOU A QUESTION.

18 MR. TIGERMAN:

19 Q. SURE?

20 A. AT WHAT POINT IN --

21 MR. LOPEZ: VAGUE AS TO TIME.

22 THE WITNESS: --TIME? DO YOU MEAN THAT
23 THESE WERE DISCUSSED, YOU TALKING ABOUT --

24 THE COURT: SUSTAIN THE OBJECTION.

25 THE WITNESS: --WAR TIME OR LATER ON? JUST
26 WHERE?

27 MR. TIGERMAN:

28 Q. SURE. IF MR. O'CONNELL WENT TO A MEETING IN

1 1942, DURING THE WAR --

2 A. YES.

3 Q. -- AT WHICH THE HAZARDS OF ABESTOS WAS
4 DISCUSSED --

5 MR. GILBERT: COULD I OBJECT TO THE LAST
6 QUESTION. OBJECTION, HE HASN'T ESTABLISHED ANY
7 FOUNDATION THAT THE WITNESS HAS ANY KNOWLEDGE ABOUT
8 WHAT MR. O'CONNELL DID.

9 THE COURT: THAT IS WHY HE USED THE
10 HYPOTHETICAL.

11 MR. LOPEZ: ISN'T HE A PERCIPIENT WITNESS.

12 THE COURT: YES, SO, YOU SEE, CANNOT ASK
13 HYPOTHETICALS.

14 MR. LOPEZ: THAT'S RIGHT.

15 THE COURT: SUSTAINED.

16 MR. TIGERMAN:

17 Q. SIR, YOU KNEW HIM AS A FELLOW OFFICER AT ONE
18 POINT, CORRECT?

19 A. AN OFFICER OF WHAT?

20 Q. YOU WERE BOTH OFFICERS?

21 THE COURT: YOU ALREADY ESTABLISHED THAT HE
22 KNOW THAT. HE ALREADY SAID THAT.

23 MR. TIGERMAN:

24 Q. DURING THE TIME YOU WERE BOTH OFFICERS, WOULD
25 YOU HAVE EXPECTED MR. O'CONNELL TO TELL YOU IF HE KNEW
26 THAT BECHTEL WAS USING MATERIALS THAT WAS CAUSING HAZARDS
27 TO OTHER PEOPLE'S HEALTH? WOULD YOU HAVE EXPECTED HIM TO
28 TELL YOU THAT?

1 MR. LOPEZ: OBJECTION, CALL FOR
2 SPECULATION.

3 THE COURT: OVERRULED.

4 THE WITNESS: I WOULD NOT HAVE EXPECTED HIM
5 TO SAY SUCH A THING AND I CANNOT RECALL ANY SUCH
6 DISCUSSION WITH HIM.

7 MR. TIGERMAN:

8 Q. IF MR. O'CONNELL HAD KNOWN ABOUT HAZARDOUS
9 MATERIAL THAT WAS BEING PLACED OUT TO REFINERIES, WOULD
10 YOU HAVE, AS A FELLOW DIRECTOR, HAVE CONSIDERED THAT HIS
11 DUTY TO DISCLOSE THAT TO THE CORPORATION?

12 MR. LOPEZ: CALLS FOR SPECULATION,
13 HYPOTHETICAL, NOT PERCIPIENT KNOWLEDGE TO THIS
14 WITNESS.

15 THE COURT: OVERRULED.

16 THE WITNESS: MY ANSWER IS, NOT NECESSARILY
17 IN THE BOARD MEETINGS WOULD THIS COME OUT.

18 MR. TIGERMAN:

19 Q. DID YOU --

20 A. IT MAY OR MAY NOT BUT I DO NOT RECALL ANY SUCH
21 THING.

22 Q. I AM NOT ASKING WHETHER IT WAS ACTUALLY
23 DISCUSSED YET?

24 A. YES.

25 Q. I AM ASKING WHETHER IT WAS EVER YOUR
26 EXPECTATION THAT IF YOUR FELLOW DIRECTOR FOUND OUT THAT
27 BECHTEL WAS DOING SOMETHING THAT WAS DANGEROUS TO OTHER
28 PEOPLE THAT THE DIRECTOR WOULD BRING IT TO THE COMPANY'S

1 ATTENTION?

2 A. IT NEVER OCCURRED TO ME TO THINK ABOUT WHAT
3 SHOULD BE DISCUSSED AT THE BOARD MEETINGS.

4 Q. - SO, YOU DIDN'T HAVE ANY EXPECTATION AS TO THE
5 DUTIES THAT YOUR FELLOW BOARD MEMBERS HAD TO THE
6 CORPORATION, IS THAT WHAT YOU WERE SAYING?

7 MR. LOPEZ: OBJECTION, YOUR HONOR --

8 THE COURT: SUSTAINED.

9 MR. TIGERMAN:

10 Q. YOU DIDN'T CONSIDER FELLOW BOARD MEMBERS TO
11 HAVE A DUTY TO THE COMPANY TO KEEP IT FROM ENGAGING IN
12 DANGEROUS ACTIVITIES?

13 MR. LOPEZ: YOUR HONOR, OBJECTION.

14 THE COURT: SUSTAINED. LET ME ASK YOU THIS
15 SO WE CAN MOVE THIS THING ALONG.

16 WHEN YOU WERE ATTENDING THE BROAD OF
17 DIRECTORS MEETINGS, YOU ALREADY ESTABLISHED YOU
18 TALKED ABOUT BUSINESS POLICY. POLICY, WE ALREADY
19 DISCUSSED THAT YOU USE, EVEN BEFORE YOU WERE ON THE
20 BOARD OF DIRECTORS, IS IT, OF SHIP YARDS, RIGHT?

21 THE WITNESS: BEFORE THE SHIPYARD?

22 THE COURT: YES. BEFORE YOU WERE ON THE
23 BOARD OF DIRECTORS EVEN AS AN OFFICER, THEY USED YOU
24 FOR YOUR OPINIONS IN REFERENCE TO WHAT SITES TO GET
25 FOR THE SHIPYARD, IS THAT RIGHT?

26 THE WITNESS: YES, UH-HUH.

27 THE COURT: IS THAT RIGHT?

28 THE WITNESS: UH-HUH.

1 THE COURT: BUT THE IDEA OF WHETHER OR NOT
2 TO BUY OR TO CONSTRUCT A SHIPYARD COMES FROM THE TOP,
3 RIGHT?

4 THE WITNESS: DIDN'T HAVE ANYTHING TO DO
5 WITH THAT. THAT'S RIGHT.

6 THE COURT: ONLY THING YOU HAD TO SAY WAS
7 THIS IS A GOOD PIECE OF PROPERTY FOR IT OR NOT?

8 THE WITNESS: THAT IS ALL.

9 THE COURT: THAT IS WHAT WE ARE TALKING
10 ABOUT, POLICY DECISIONS, COME FROM THE TOP?

11 THE WITNESS: THAT'S RIGHT.

12 THE COURT: AT SOME POINT YOU BECAME A
13 POLICY MAKER BECAUSE YOU WERE ON THE BOARD OF
14 DIRECTORS?

15 THE WITNESS: THAT'S CORRECT.

16 THE COURT: YOU WOULD TALK TO THE OTHER
17 PEOPLE ON THE BOARD OF DIRECTORS?

18 THE WITNESS: INDEED.

19 THE COURT: TALKED EXPANSION, REDUCTION, I
20 IMAGINE, IS THAT CORRECT, JUST GENERAL AREAS.

21 THE WITNESS: IN DEED, IN DEED.

22 THE COURT: YOU ALSO TALKED ABOUT SAFETY.

23 THE WITNESS: YES, WE, THE COMPANY, IF IT
24 WAS NECESSARY, AND I AM NOT, I AM SAYING THAT IT IS
25 LOGICAL THAT WE WERE DOING THAT. THAT, I CANNOT SAY
26 THAT I REMEMBER IT.

27 THE COURT: I UNDERSTAND THAT. WE ARE
28 TALKING ABOUT GENERAL TOPICS IN REFERENCE TO SAFETY,

1 THE GENERAL WELFARE OF YOUR EMPLOYEES.

2 THE WITNESS: YES, THOSE THINGS.

3 THE COURT: ALL THOSE THINGS. NOW YOU ARE
4 REFERRING TO DUTY, ARE YOU GETTING INTO AN AREA, HE
5 IS GETTING INTO AN AREA, I AM JUST ONLY ASKING THESE
6 QUESTIONS, SO WE CAN GET MOVING HERE.

7 DID YOU EVER GET INTO THE AREA OF A
8 DISCUSSION OF THE MATERIALS THAT MAY BE USED BY
9 BECHTEL IN ITS CONSTRUCTION THAT MAY BE HAZARDOUS TO
10 IT WORKERS OR OTHERS?

11 THE WITNESS: PERSONALLY, I DO NOT RECALL
12 EVER HAVING THAT SORT OF A DISCUSSION.

13 THE COURT: AND MR. O'CONNELL --

14 THE WITNESS: AND MOST OF THE DISCUSSION
15 WAS IN BUSINESS LINES, DOING THINGS LIKE THAT.

16 THE COURT: MR. O'CONNELL WAS, REFRESH
17 MEMORY THERE, HE WAS HEAD OF WHAT? THERE, IT SAYS ON
18 THE BECHTEL BRIEFS.

19 THE WITNESS: THERE, THE ADDRESS ON THERE,
20 I CAN'T FIND IT.

21 THE COURT: WANT TO HELP --

22 THE WITNESS: SAYS 1958.

23 THE COURT: YES.

24 MR. TIGERMAN: RIGHT.

25 THE WITNESS: THERE HE WAS, JOHN O'CONNELL
26 WAS VICE PRESIDENT OF, LET'S SEE, INDUSTRIAL
27 RELATIONS DEPARTMENT.

28 THE COURT: OF --

1 THE WITNESS: GUESS THAT THIS LITTLE --

2 THE COURT: --OF INDUSTRIAL RELATIONS. YOU
3 KNOW WHAT THAT DEPARTMENT DID?

4 THE WITNESS: LOOKS LIKE VICE PRESIDENT FOR
5 BECHTEL BRIEFS. R. M. DORFMAN WAS MANAGER OF IT. I
6 MEAN, THESE ARE MERELY THE TWO PEOPLE THAT WERE
7 RESPONSIBLE FOR THE BECHTEL BRIEFS.

8 THE COURT: AND THE BECHTEL BRIEFS WAS
9 PUBLISHED BY THE COMPANY.

10 THE WITNESS: YES.

11 THE COURT: ALL RIGHT.

12 THE WITNESS: YES.

13 THE COURT: AND MR. INGRAM WAS PUBLIC
14 RELATIONS DIRECTOR OF THE COMPANY AND MAKES GOOD
15 PUBLIC RELATIONS FOR THE COMPANY TO --

16 THE WITNESS: YES.

17 THE COURT: --PUBLISH --

18 THE WITNESS: YES.

19 THE COURT: --THIS BECHTEL BRIEF FOR ITS
20 EMPLOYEES?

21 THE WITNESS: I DON'T KNOW. WELL, HE HAD
22 SOMETHING TO DO WITH IT BUT WHAT IT WAS, I DON'T
23 KNOW.

24 THE COURT: LET ME ASK YOU, YOU WERE A
25 FORMER BOARD OF DIRECTOR. YOU THINK IT WAS GOOD
26 PUBLIC RELATIONS --

27 THE WITNESS: YES, YES.

28 THE COURT: --FOR THE COMPANY TO PUBLISH A

1 NEWSPAPER --

2 THE WITNESS: YES, YES.

3 THE COURT: --FOR THE EMPLOYEES --

4 THE WITNESS: YES.

5 THE COURT: --MANAGEMENT,

6 EMPLOYEES-EMPLOYER RELATIONS.

7 THE WITNESS: YES. THAT IS RIGHT.

8 MR. TIGERMAN:

9 Q. AS AN OFFICER AND DIRECTOR OF THE COMPANY WOULD
10 YOU HAVE EXPECTED THAT IF SOMETHING INACCURATE HAD BEEN
11 PUBLISHED IN ONE OF THOSE MAGAZINES OR IN ONE OF THOSE
12 JOURNALS WOULD THAT HAVE BEEN BROUGHT TO SOMEBODY'S
13 ATTENTION AND CORRECTED?

14 MR. LOPEZ: CALLS FOR SPECULATION.

15 THE COURT: SUSTAINED.

16 THE WITNESS: WELL --

17 MR. TIGERMAN:

18 Q. DID YOU EVER SEE ANYTHING IN ONE OF THOSE
19 BRIEFS THAT YOU CONSIDERED TO BE FALSE OR UNTRUE?

20 A. I CAN NOT REMEMBER ANY SUCH THING.

21 Q. DID YOU --

22 MR. LOPEZ: WHAT IS THE RELEVANCE, YOUR
23 HONOR.

24 MR. TIGERMAN:

25 Q. -- THINK WHEN THE COMPANY WAS MAKING STATEMENTS
26 IN THE BECHTEL BRIEFS FOR THE EMPLOYEES THAT IT WAS
27 DISSEMINATING TRUTHFUL INFORMATION TO THE EMPLOYEES?

28 MR. LOPEZ: OBJECTION, CALLS FOR

1 SPECULATION.

2 THE COURT: I WILL ALLOW THAT.

3 THE WITNESS: I CAN ONLY EXPECT IT TO BE,
4 ACCEPTED IT, WE ACCEPTED IT AS TRUE.

5 MR. TIGERMAN:

6 Q. IT WAS ACCEPTED AS TRUE?

7 A. ANYTHING THAT I KNOW OF.

8 Q. ALL RIGHT.

9 A. THAT ISN'T EVERYTHING THAT WAS DISCUSSED.

10 Q. BUT WHEN YOU READ THIS NEWSPAPER, YOU ACCEPTED
11 WHAT WAS IT IN AS TRUE BECAUSE IT WAS GIVEN BY THE COMPANY
12 TO YOU, CORRECT?

13 A. I DIDN'T LOOK AT IT FROM THAT POINT OF VIEW.
14 TO ME, THIS WAS SOMETHING THAT I COULD PICK UP AND SCAN
15 AND SEE WAS THERE, TAKE A LOOK AT THE HEADLINES, VERY
16 SELDOM WENT DOWN THROUGH THE WHOLE THING.

17 Q. DID YOU EXPECT IT TO BE FICTION? DID YOU
18 EXPECT IT NOT TO BE TRUE?

19 THE COURT: EXPECT WHAT?

20 MR. LOPEZ: OBJECTION, VAGUE.

21 MR. TIGERMAN:

22 Q. ANY OF THE MATERIAL IN THE BECHTEL BRIEFS, DID
23 YOU EXPECT IT, ANY OF IT TO BE FICTION?

24 THE COURT: YOU KNOW, SOMETHING MIGHT BE AN
25 ARTICLE DEALING WITH AN OPINION BY SOMEONE.

26 MR. LOPEZ: ESTABLISH --

27 THE COURT: I WILL SUSTAIN THAT OBJECTION.

28 MR. TIGERMAN:

1 Q. DID YOU, WHEN YOU READ THE BECHTEL BRIEFS, HAVE
2 AN EXPECTATION THAT THE COMPANY WAS IMPARTING TO YOU
3 TRUTHFUL INFORMATION?

4 MR. LOPEZ: OBJECTION, ASKED AND ANSWERED.

5 THE COURT: OVERRULED. I WILL ALLOW THAT.

6 THE WITNESS: I HAVE NO WAY OF EVALUATING
7 THAT AT ALL.

8 MR. TIGERMAN:

9 Q. SO, YOU DIDN'T EXPECT THAT WHAT WAS IN HERE WAS
10 TO BE ACCEPTED AS TRUE, IS THAT WHAT YOU ARE SAYING?

11 MR. LOPEZ: OBJECTION, VAGUE.

12 THE COURT: ARGUMENTATIVE. HE DIDN'T QUITE
13 SAY THAT.

14 THE WITNESS: I DID NOT BECAUSE I HAD NO
15 REASON.

16 THE COURT: DO YOU BELIEVE EVERYTHING YOU
17 READ IN A NEWSPAPER?

18 THE WITNESS: NO.

19 THE COURT: ALL RIGHT. IN REFERENCE TO
20 THIS BECHTEL NEWSPAPER, DID YOU BELIEVE EVERYTHING
21 YOU READ IN THAT.

22 THE WITNESS: IT WOULD BE THE SAME AS THE
23 NEWSPAPER.

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

25 MR. TIGERMAN:

26 Q. SIR, LET'S TALK ABOUT STEPHEN BECHTEL. STEPHEN
27 BECHTEL, HE HAS BEEN INVOLVED IN THE, HE WAS INVOLVED IN
28 THE BECHTEL ORGANIZATION FOR A LONG TIME, WASN'T HE?

1 A. YOU TALKING ABOUT --

2 MR. LOPEZ: OBJECTION, VAGUE.

3 THE COURT: OVERRULED.

4 THE WITNESS: --STEPHEN BECHTEL, SENIOR?

5 MR. TIGERMAN:

6 Q. YES?

7 A. HE WAS INVOLVED FOR A LONG TIME?

8 Q. YES.

9 A. YES.

10 Q. ALL RIGHT. ISN'T IT TRUE THAT WHEN YOU CAME ON
11 STEPHEN BECHTEL, SENIOR, AND WE ARE TALKING ABOUT STEPHEN
12 BECHTEL SENIOR NOW, JUST SO THAT WE ARE STRAIGHT THAT
13 STEPHEN BECHTEL SENIOR WAS ALREADY AN OFFICER OR A
14 DIRECTOR IN ONE OF THE BECHTEL ENTITIES?

15 A. WHEN I JOINED?

16 Q. YES.

17 A. YES, HE WAS.

18 Q. ALL RIGHT. ISN'T IT TRUE THAT WHEN THE WAR
19 BROKE OUT, HE BECAME THE PRESIDENT OF CALSHIP?

20 A. I CANNOT RECALL WHO THE PRESIDENT OF CALSHIP
21 WAS. I DON'T KNOW.

22 Q. OH, ALL RIGHT. SIR, DO YOU RECALL THAT STEPHEN
23 BECHTEL WAS INVOLVED IN CALSHIP?

24 A. WAS INVOLVED?

25 Q. YES.

26 A. WELL, I, YES, HE HAD TO BE INVOLVED IN IT IN
27 SOME WAY.

28 Q. WHY DO YOU SAY THAT?

1 MCCONE

2 WOULD IT REFRESH YOUR RECOLLECTION IF I TOLD YOU
3 THAT?

4 A. I DO KNOW. DO NOT RECALL THAT HE WAS A
5 DIRECTOR AT THAT TIME.

6 Q. HE LATER BECAME DIRECTOR, THOUGH, YOU KNOW
7 THAT?

8 A. I DO NOT KNOW THAT.

9 Q. YOU DON'T KNOW THAT HE WAS EVER A DIRECTOR?

10 A. LET ME EXPLAIN THAT KENNETH BECHTEL HAD HIS OWN
11 BUSINESS. IT WAS ANOTHER, AN INSURANCE BUSINESS. MOST OF
12 HIS TIME WAS THERE AND WHETHER HE BECAME DIRECTOR OF A
13 BECHTEL COMPANY TO SPEAK OF, I DO NOT REMEMBER.

14 Q. WASN'T HE A DIRECTOR OF BECHTEL CORPORATION AT
15 THE SAME TIME YOU WERE A DIRECTOR OF BECHTEL CORPORATION?

16 A. I AM JUST TELLING YOU, I DO NOT RECALL HIS
17 BEING THERE.

18 Q. LET ME HAVE YOU --

19 A. COULD BE. I DON'T KNOW.

20 Q. -- LET ME HAVE YOU LOOK AT PLAINTIFF'S EXHIBIT
21 49. I WILL ASK WHETHER OR NOT, DOWN IN THE LEFT-HAND
22 CORNER, THAT CORNER, KENNETH BECHTEL?

23 A. ALL RIGHT. YOU HAVE PROVED THAT HE WAS.

24 Q. SO, HE WAS A DIRECTOR AT THE SAME TIME YOU
25 WERE, RIGHT?

26 A. WITHOUT, YES, APPARENTLY HE WAS BECAUSE WE ARE
27 ON THE SAME PAGE.

28 Q. AS FAR AS KENNETH BECHTEL GOES, SIR, ISN'T IT

1 TRUE THAT KENNETH BECHTEL WAS, IT WAS GENERALLY KNOWN
2 AMONG PEOPLE IN THE CORPORATION THAT KENNETH BECHTEL WAS
3 INVOLVED IN SOME HIGH OFFICIAL CAPACITY OVER AT MARINESHIP
4 DURING THE- WAR YEARS?

5 MR. LOPEZ: OBJECTION, CALL FOR
6 SPECULATION, "GENERALLY KNOWN."

7 THE COURT: SUSTAINED.

8 THE WITNESS: I HAVE NO INFORMATION ABOUT
9 THAT.

10 MR. TIGERMAN:

11 Q. YOU HAVE ABSOLUTELY NO RECOLLECTION WHETHER OR
12 NOT KENNETH BECHTEL WAS INVOLVED WITH MARINESHIP
13 CORPORATION, IS THAT CORRECT?

14 A. THAT IS CORRECT.

15 Q. DO YOU HAVE ANY INFORMATION, SIR, ABOUT WHETHER
16 OR NOT MR. WASTE WAS INVOLVED IN A, WELL, DO YOU HAVE ANY
17 KNOWLEDGE ABOUT WHETHER MR. WASTE WAS INVOLVED IN SOME
18 MANAGERIAL CAPACITY OVER AT MARINESHIP?

19 A. THAT I DON'T KNOW.

20 MR. LOPEZ: OBJECTION, ALREADY GONE OVER
21 THIS, OVER AND OVER.

22 THE COURT: OVERRULED. I WANT TO HEAR THE
23 ANSWER.

24 THE WITNESS: NO.

25 THE COURT: ANSWER IS "NO."

26 MR. TIGERMAN:

27 Q. MR. O'CONNELL, ALSO DON'T KNOW WHETHER
28 MR. O'CONNELL WAS INVOLVED OVER AT MARINESHIP, IS THAT

1 WHAT YOU ARE SAYING?

2 A. I HAVE SAID THAT AND I WILL SAY IT AGAIN.

3 Q. NOW, SIR, WHEN THE MARINESHIP CORPORATION WAS
4 FORMED, IT HAD THE EXACT SAME OWNERSHIP, EXACTLY SAME
5 MANAGERS AS W. A. BECHTEL AND THE MARINESHIP BUILDING
6 DIVISION HAD THE SAME OWNERSHIP?

7 A. I DID NOT HAVE ACCESS TO ANY INFORMATION ABOUT
8 THOSE COMPANIES. I WAS NOT AT THAT LEVEL IN THE COMPANY
9 AND I KNEW NOTHING ABOUT IT.

10 Q. ALL RIGHT. AS DIRECTOR AND OFFICER OF THE
11 CORPORATION DID YOU EVER HAVE AN OPPORTUNITY TO GO BACK TO
12 HISTORICAL DATA FROM THE CORPORATION AND REVIEW SOME OF
13 THAT HISTORICAL DATA AS A PART OF YOUR JOB?

14 A. NO, I HAVE NEVER DONE THAT.

15 Q. YOU NEVER HAD OCCASIONS IN THE COURSE OF YOUR
16 JOB TO FIND OUT WHAT PEOPLE HAD DONE BEFORE YOU SO YOU
17 COULD HAVE SOME CONCEPT?

18 A. I DID NOT REMEMBER ANY SUCH THING.

19 Q. YOU DIDN'T CONSIDER IT PART OF YOUR JOB TO KNOW
20 THE HISTORY OF THE CORPORATION?

21 A. TO A DEGREE BUT NOT TO A GREAT DEGREE, WAS MORE
22 CONCERNED WITH WHAT WAS AHEAD.

23 Q. ALL RIGHT. YOU ALREADY TOLD US, FOR EXAMPLE, A
24 RAILCAR WAS DONATED TO STEPHEN BECHTEL AT ONE POINT IN
25 TIME BECAUSE THE COMPANY HAD BEEN INVOLVED IN THE RAILROAD
26 BUSINESS.

27 HOW DID YOU COME ABOUT THAT INFORMATION?

28 A. I DON'T KNOW THAT THE COMPANY WAS INVOLVED IN

1 THAT AT ALL.

2 Q. YOU --

3 A. LISTEN, YOU TALKED ABOUT A COMPANY. THIS WAS A
4 TIME WHEN THE BECHTELS WERE W. A. BECHTEL COMPANY AND EVEN
5 BEFORE THAT, I DON'T KNOW WHEN W. A. BECHTEL COMPANY
6 STARTED.

7 SO, SOMETIMES THE FAMILY WAS ALTOGETHER IN DOING
8 THIS BUT IT GOES CLEAR BACK TO THE TURN OF THE CENTURY AND
9 THERE, I COULDN'T TELL YOU WHETHER HE WAS AN OFFICER OF
10 ANY COMPANY OR NOT AT THAT TIME.

11 Q. ALL RIGHT. WERE ALL OF THESE DIFFERENT BECHTEL
12 COMPANIES KNOWN AT VARIOUS TIMES AS PART OF THE BECHTEL
13 ORGANIZATION?

14 A. MEANING THEY ARE KNOWN AS THAT?

15 Q. YES.

16 A. QUITE POSSIBLY KNOWN FOR SUCH THINGS?

17 Q. DIDN'T THE OVERHEADS THAT WE SHOWED TO THE
18 JURY, IN THAT OVERHEAD IT STATES --

19 THE COURT: TWO MORE MINUTES, WE WILL BREAK
20 FOR LUNCH, MR. TIGERMAN.

21 MR. TIGERMAN:

22 Q. --IT SAYS: 65TH ANNIVERSARY OF THIS, "65TH
23 YEAR OF BECHTEL ORGANIZATION STARTING IN BUSINESS."

24 DOES THIS REFRESH YOU THAT PEOPLE USE TO CALL
25 ALL THESE DIFFERENT COMPANIES PART OF THE BECHTEL
26 ORGANIZATION?

27 A. IT STARTED IN 1898 AND FROM THERE ON.

28 Q. ALL RIGHT. IN FACT IN THIS STATEMENT ABOUT THE

1 ANNIVERSARY, AT THE BOTTOM IT SAY, LITTLE LOGO THAT SAYS
2 "WABCO." IS THAT THE LOGO THAT WAS USED FOR THE W. A.
3 BECHTEL CORPORATION?

4 A. - APPARENTLY IT WAS. I NEVER SEEN IT BEFORE BUT
5 I WOULD JUDGE THAT THAT'S WHAT IT MEANS.

6 Q. YOU NEVER SEEN THAT BEFORE YOURSELF?

7 A. NOT THAT I RECALL.

8 Q. ALL RIGHT. IN THE STATEMENT THAT IT IS THE
9 65TH ANNIVERSARY OF THE BECHTEL ORGANIZATION STARTING IN
10 BUYS, DO YOU HAVE ANY REASON TO DISPUTE THAT STATEMENT AS
11 BEING TRUE?

12 A. THE STATEMENT THAT, YOU MEAN THIS STATEMENT?

13 Q. YES.

14 A. I HAVE NO BASIS FOR DISPUTING IT, REALLY. I
15 DIDN'T KNOW ENOUGH ABOUT IT.

16 Q. NOW, AS YOU SIT HERE RIGHT NOW, DO YOU HAVE ANY
17 REASON TO DISPUTE THE TRUTH OF THAT STATEMENT?

18 MR. LOPEZ: OBJECTION, RELEVANCE, YOUR
19 HONOR.

20 THE COURT: I WILL ALLOW IT.

21 THE WITNESS: WELL, I WOULDN'T HAVE ANY
22 REASON FOR DISPUTING IT ONE WAY OR THE OTHER.

23 MR. TIGERMAN: ALL RIGHT.

24 Q. ISN'T IT TRUE, SIR, THAT WHEN PEOPLE TALK ABOUT
25 ALL THE VARIOUS BECHTEL COMPANIES THEY FREQUENTLY REFER TO
26 IT AS THE BECHTEL ORGANIZATION?

27 MR. LOPEZ: OBJECTION, CALLS FOR
28 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

1 MY ADMONITION. DON'T TALK ABOUT THIS CASE, EXPRESS
2 ANY OPINIONS.

3 I UNDERSTAND THAT ONE OF THE JURORS HAVE TO
4 GO AT-WHAT TIME, 03:30, HAVE TO GO AT 03:00. ALL
5 RIGHT.

6 REMEMBER MY ADMONITION.

7 (RECESS)

8 MR. TIGERMAN: COULD THE JURORS CAME BACK
9 FIFTEEN MINUTES LATER.

10 THE COURT: ALL RIGHT. SEE YOU BACK AT
11 01:30. SEE YOU GUYS AT 01:15.

12 (OUTSIDE JURORS PRESENCE)

13 THE COURT: LET THE RECORD REFLECT THE
14 COURT IS IN SESSION, THE ATTORNEYS ARE PRESENT AND
15 THE JURY IS NOT PRESENT.

16 I AM GOING TO LISTEN TO THIS TESTIMONY
17 UNDER 765. I HAVE ASKED SOME QUESTIONS, HOPEFULLY
18 NEUTRAL QUESTIONS, JUST TO MOVE THIS THING A LONG.

19 THERE APPEARS TO BE SOME RECOLLECTION
20 PROBLEMS ON THE PART OF THE WITNESS, CONSIDERING HIS
21 AGE. I DON'T EVEN KNOW HIS AGE.

22 MR. GILBERT: 86.

23 MR. LOPEZ: 86.

24 THE COURT: I DON'T KNOW BUT HE APPEARS TO
25 BE AGED, A SENIOR CITIZEN. IN ANY EVENT, CERTAIN
26 EVIDENCE IS BEING ALLOWED HERE AND THIS IS PENDING A
27 MOTION TO STRIKE AS TO ITS RELEVANCE.

28 ALL I WANT TO KNOW IS THIS, IN THIS

1 NUMBER-LETTER EXHIBIT, 49-A, THIS WAS ALLOWED ONLY ON
2 THE BASIS OF AN IMPLIED ADMISSION THAT THE BECHTEL
3 ORGANIZATION INCLUDED W. A. BECHTEL COMPANY AND W. H.
4 BECHTEL COMPANY OR WHATEVER, RIGHT?

5 THAT WILL BE A 403 OF THE EVIDENCE CODE
6 ISSUE, RIGHT?

7 MR. TIGERMAN: RIGHT.

8 THE COURT: NOW, BUT IN HEARING YOUR
9 QUESTIONS, LET ME ASK YOU THIS: THROUGH THIS WITNESS
10 OR ANY OTHER WITNESS ARE YOU GOING TO PROVE A
11 STATUTORY MERGER BETWEEN THESE CORPORATIONS,
12 COMPANIES.

13 I HAVE THE SHEET OF PAPER HERE THAT
14 INDICATES ALL THE NAMES OF THE CORPORATIONS FROM THE
15 40'S AND 50'S.

16 MR. TIGERMAN: FROM '45 ON, IT IS ADMITTED
17 TO BE THE SAME BY THE DEFENDANTS.

18 MR. LOPEZ: THAT IS THE ONLY REFERENCE TO
19 BECHTEL CORPORATION WHICH CAME INTO EXISTENCE IN 1945
20 WHICH IS CURRENTLY KNOWN AS SEQUOIA VENTURES,
21 ORIGINALLY IT IS BECHTEL BROTHERS MCCONE.

22 THE COURT: INTERROGATORY NUMBER 3, HAVE
23 YOU EVER BEEN, HAVE YOU EVER BEEN IDENTIFIED, KNOWN,
24 THIS IS THE INTERROGATORIES OF SEQUOIA VENTURES, HAVE
25 YOU EVER BEEN KNOWN OR DONE BUSINESS UNDER ANY OTHER
26 NAMES.

27 THEY SAID BECHTEL BROTHERS MCCONE, BECHTEL
28 CORPORATION AND THEN SEQUOIA VENTURES.

1 MR. TIGERMAN: RIGHT.

2 THE COURT: THIS STEMS ALL THE WAY TO 1945.

3 MR. TIGERMAN: RIGHT, SO THE ISSUE --

4 THE COURT: ARE YOU TRYING TO SHOW THAT
5 THIS SEQUOIA VENTURES HAD BEEN KNOWN BY BECHTEL CORP
6 OR BECHTEL BROTHERS MCCONE COMPANY, THAT THEY WERE
7 ONE AND THE SAME CORPORATION.

8 MR. TIGERMAN: NO, THAT IS ALREADY
9 ADMITTED.

10 THE COURT: ARE YOU SAYING THERE IS AN
11 ADMISSION OF A STATUTORY MERGER?

12 MR. TIGERMAN: NO, IT IS AN ADMISSION,
13 CONTINUATION.

14 MR. LOPEZ: THAT IS THE SAME COMPANY. ALL
15 THOSE COMPANIES ARE THE SAME COMPANY RIGHT THERE.

16 THE COURT: THESE ARE THE SAME?

17 MR. LOPEZ: THAT'S THE SAME COMPANY, 1945.
18 WHAT IS THE DATE ON IT?

19 MR. TIGERMAN: RIGHT, '45.

20 THE COURT: SEPTEMBER 10, 1945.

21 MR. LOPEZ: THAT IS ONE COMPANY THERE.
22 THAT IS NOT --

23 THE COURT: THAT IS NOT CONTESTED, DOESN'T
24 HAVE TO PROVE STATUTORY MERGER, DEFACTO MERGER, ASSET
25 SALE OF ONE COMPANY --

26 MR. LOPEZ: IT COME IN EXISTENCE IN 1945.

27 MR. TIGERMAN: OUR ARGUMENT IS --

28 MR. LOPEZ: ANOTHER COMPANY, WE HAVE

1 BEEN --

2 THE COURT: WHICH COMPANY ARE THESE?

3 MR. LOPEZ: --WITH A BECHTEL CORP.

4 BECHTEL, MCCONE, PARSONS IS A DIFFERENT COMPANY, NOT
5 PART OF SEQUOIA VENTURES ALSO KNOWN AS BECHTEL
6 CORPORATION.

7 THE COURT: THAT'S WHAT YOU'RE SAYING YOU
8 ARE TRYING TO PROVE, THAT THOSE COMPANIES THAT YOU
9 JUST REFERRED TO, PRIOR TO 1945, ARE PART AND PARCEL
10 OF THIS COMPANY?

11 MR. TIGERMAN: THAT'S RIGHT, YOUR HONOR.

12 THE COURT: ALL RIGHT. NOW, ARE YOU DOING
13 IT BY WAY OF STATUTORY MERGER? YOU HAVE TO PROVE
14 STATUTORY MERGER OF THOSE PREDECESSOR COMPANIES IN
15 1945.

16 MR. TIGERMAN: WHAT I HAVE EVIDENCE OF,
17 YOUR HONOR --

18 THE COURT: JUST ANSWER MY QUESTION.
19 THOSE --

20 MR. TIGERMAN: NO.

21 THE COURT: NO STATUTORY MERGER. NOW, ARE
22 YOU GOING TO SHOW A DEFACTO MERGER?

23 MR. TIGERMAN: I THINK SO. THAT IS ONE OF
24 THE ISSUES.

25 THE COURT: BY DEFACTO MERGER, ARE YOU
26 GOING TO W. A --

27 MR. LOPEZ: W. A. BECHTEL CORP.

28 THE COURT: LET ME WRITE THIS DOWN. GET IT

1 TOGETHER. THE RECORD WILL SHOW THAT THIS REALLY
2 HASN'T BEEN OUTLINED TO ME. W. H --

3 MR. GILBERT: W. A.

4 MR. TIGERMAN: A --

5 THE COURT: --A.

6 MR. TIGERMAN: --BECHTEL COMPANY.

7 THE COURT: --BECHTEL COMPANY. WHAT OTHER
8 COMPANY.

9 MR. TIGERMAN: BECHTEL, PARSONS, MCCONE.

10 THE COURT: PARSONS, MCCONE. THESE ARE,
11 EXISTED PRIOR TO 1945. ARE YOU GOING TO SHOW THAT W.
12 A. BECHTEL AND BECHTEL, PARSONS, MCCONE TRANSFERRED
13 THESE ASSETS TO BECHTEL BROTHERS MCCONE COMPANY IN A
14 TRANSACTION RESEMBLING A MERGER ABOUT WHICH WAS
15 CHARACTERIZED AS THE SELLS OF ASSETS FOR PROCEDURAL
16 PURPOSES?

17 MR. TIGERMAN: YES, YES.

18 THE COURT: SO WHICH WITNESS, THIS WITNESS?

19 MR. TIGERMAN: THROUGH DOCUMENTS AND
20 THROUGH MR. BRIDGES. I HOPE THROUGH DOCUMENTS
21 BECAUSE THE DOCUMENTS, THE BECHTEL BRIEFS REPEATEDLY
22 REFER TO IT AS A CONSOLIDATION OF THE ORGANIZATION.

23 THAT IS WHAT THEY CALLED IT. THAT IS WHAT
24 THEY CALLED A CONSOLIDATION.

25 THE COURT: YES, BUT, IF A NEWSPAPER USES
26 LANGUAGE, DOES THAT INDICATE THAT THAT LITERARY
27 LANGUAGE HAS LEGAL SIGNIFICANT TO THE POINT THAT IT
28 IS ADMISSION OF A DEFACTO OR STATUTORY MERGER?

1 MR. TIGERMAN: THE PERSON WHO WROTE THAT
2 PART OF THE NEWSPAPER IS THE PUBLIC RELATIONS
3 DIRECTOR AND THAT NEWSPAPER IS PUBLISHED BY THE
4 COMPANY FOR THE COMPANY AND THESE ARE STATEMENTS
5 ABOUT THE COMPANY.

6 THE COURT: YES; BUT HE IS TALKING ABOUT 3
7 GENERATIONS OF BECHTELS. SO, WE ARE TALKING ABOUT 3
8 FAMILIES.

9 IT APPEARS TO ME WHAT YOU ARE TRYING TO DO,
10 YOU KNOW, YOU HAVE GENERATIONS OF FORDS BUT IT WAS
11 ALL ONE FORD CORPORATION.

12 HERE YOU CAN HAVE BECHTELS INVOLVED
13 SPANNING A WHOLE BUNCH OF YEARS; BUT DOESN'T
14 NECESSARILY MEANS THAT THE PARTICIPATION OF DIFFERENT
15 GENERATIONS OF BECHTELS IS ONE CORPORATION.

16 MR. TIGERMAN: OF COURSE IT DOESN'T
17 NECESSARILY MEANS THAT. THE QUESTION IS, IS THERE
18 SUFFICIENT EVIDENCE TO GO TO THE JURY.

19 MR. LOPEZ: THAT IS ALL HE HAS.

20 MR. TIGERMAN: HOLD ON, HOLD ON. WHEN HE
21 IS SAYING WE ARE CELEBRATING OUR 65TH ANNIVERSARY --

22 THE COURT: ARE THESE THE BECHTELS WHO ARE
23 CELEBRATING THIS OR IS IT, HOW ARE THEY CELEBRATING
24 IT?

25 ARE THEY CELEBRATING IT AS 3 GENERATIONS OF
26 BECHTELS INVOLVED IN DIFFERENT CORPORATIONS?

27 MR. TIGERMAN: WHAT YOU HAVE SEEN, YOUR
28 HONOR, SAYS --

1 MR. LOPEZ: 3 GENERATIONS, OVER A THIRD OF
2 A CENTURY.

3 MR. TIGERMAN: WHAT IT SAYS, "IN REVIEWING
4 OUR BUSINESS HISTORY, I AM GRATIFIED BY ADHERENCE TO
5 TWO POLICIES THAT IS TRADITION AT BECHTEL, FAIR
6 DEALING, GOOD HOUSEKEEPING."

7 THE COURT: ARE YOU GOING TO HAVE THE
8 EVIDENCE.

9 MR. TIGERMAN: "BOTH ARE AS OLD AS THE 65
10 YEAR BUSINESS." THEY ARE TREATING IT AS A SINGLE
11 BUSINESS, YOUR HONOR.

12 THE ONLY POINT OF IT IS THIS, AS FAR AS THE
13 QUESTION OF FACT, WHEN THEY, PEOPLE WANT TO BRAG, THE
14 BUSINESS IS 65 YEARS OLD.

15 WHEN THEY ARE SUBJECT TO LIABILITY, ALL OF
16 A SUDDEN, IT IS THE OTHER --

17 THE COURT: WHAT IS MORE IMPORTANT IS, IT
18 IS JUST A NEWSPAPER ARTICLE.

19 MR. TIGERMAN: IT IS NOT. IT IS WRITTEN
20 BY THE PRESIDENT.

21 THE COURT: THAT'S RIGHT. AND IS THE
22 PRESIDENT USING THE TERMS: THAT WE HAVE BEEN DOING
23 BUSINESS FOR 65 YEARS WITH LEGAL SIGNIFICANCE THAT
24 INDICATES THAT IT IS ONE CORPORATION?

25 I MEAN, FOR YOU TO PROVE THAT THERE WAS
26 DEFACTO MERGER, YOU'VE GOT TO PROVE THAT BY OTHER
27 THAN AN STATEMENT MADE BY AN OFFICER OF SEQUOIA OR
28 BECHTEL CORPORATION.

1 YOU'VE GOT TO PROVE THAT THERE WAS AN
2 ACQUIRING OF THE CORPORATION, USED IT OWN STOCK AS
3 CONSIDERATION RATHER THAN CASH OR PROMISSORY NOTES.

4 THE FACT THAT HE ACQUIRED THE CORPORATION
5 OF W. A. BECHTEL CORPORATION, AND BECHTEL, PARSONS,
6 MCCONE WAS REQUIRED TO DISSOLVE ON ITS ACQUISITION,
7 THE FACT THAT THESE ACQUIRING CORPORATION, W. A.
8 BECHTEL COMPANY AND BECHTEL, PARSONS, MCCONE WAS
9 MERGED INTO ACQUIRING CORPORATIONS AFTER ITS STOCK
10 HAD BEEN ACQUIRED AND IN FACT THAT THE ASSETS OF THE
11 LARGER CORPORATION WAS BEING PURCHASED BY THE SMALLER
12 CORPORATION.

13 I MEAN, THERE IS A LOT OF THINGS TO COVER.
14 SO, WHAT I AM SAYING IS THIS EVIDENCE THAT I AM
15 HEARING IS FOR THE PURPOSES OF SHOWING AN ALTERED
16 EGO?

17 MR. TIGERMAN: YES.

18 THE COURT: I HAVE NOT READ ANYTHING THAT
19 ALTERED EGO, THE MERE FACT THAT SOME OF THIS, ALL THE
20 OFFICER ARE THE ONLY ONES WHO OWN THE CORPORATION,
21 DOESN'T APPEAR TO BE THAT TYPE OF ALTERED EGO.

22 MR. TIGERMAN: THAT'S ONLY A FACTOR. THE
23 ISSUE OF OWNERSHIP IS BECAUSE, UNDER ALTER EGO YOU
24 NEED BOTH OWNERSHIP AND CONTROL.

25 SO, THAT GOES TO OWNERSHIP. WHO OWNS IT.
26 SO, THAT THAT'S ISSUE.

27 THE COURT: YOU NEED MORE THAN THAT. YOU
28 HAVE OWNERSHIP CONTROL AND YOU HAVE TO SHOW SOME

1 INEQUITIES.

2 MR. TIGERMAN: YES, INEQUITIES.

3 THE COURT: THIS IS USUALLY USED TO PIERCE
4 THE CORPORATE VEIL FOR THE BASIS OF LIABILITIES.

5 MR. TIGERMAN: RIGHT.

6 MR. LOPEZ: NOT KNOWLEDGE.

7 MR. TIGERMAN: INEQUITY HERE IS TO ALLOW
8 THIS ORGANIZATION TO HAVE THE PEOPLE ON ITS PAYROLL
9 THAT ACQUIRED KNOWLEDGE ABOUT HAZARDS AND THEN TO
10 DISAVOW THAT, THAT IS, THE KNOWLEDGE OF THIS
11 CORPORATION, WOULD BE INEQUITABLE

12 IN THE WORDS, HARRY WARTNICK FOUND OUT
13 ABOUT IT WHILE WE WERE CARTWRIGHT, AS MEMBERS OF THE
14 MANAGEMENT COMMITTEE THAT THAT PARTICULAR EMPLOYEE
15 WAS SEXUALLY HARASSED AT OUR OTHER COMPANY AS AN
16 EMPLOYEE AND THEY THEN STARTED OUR WARTNICK, CHABER
17 FIRM.

18 WE REHIRED THAT EMPLOYEE, IT WOULD NOT
19 BEHOVE HARRY WARTNICK TO SAYS, WELL, GEE, THE
20 KNOWLEDGE WE HAD ABOUT --

21 MR. LOPEZ: DIFFERENT THEORY.

22 THE COURT: DIFFERENT THEORY, CAN'T DO IT
23 ON ULTRA EGO, DON'T YOU TELL ME THAT YOU AS A SENIOR
24 PARTNER IN YOUR PRESENT FIRM WAS THE ULTRA EGO OF
25 CARTWRIGHT.

26 MR. TIGERMAN: IMPUTED KNOWLEDGE, I HAVE
27 KNOWLEDGE OF THE CORPORATION. I HAVE KNOWLEDGE OF
28 WARTNICK

1 THE COURT: I AM ONLY ADDRESSING THE ISSUE
2 OF ALTER EGO.

3 MR. TIGERMAN: I UNDERSTAND. WHAT
4 EVIDENCE WILL HAVE ALTER EGO OTHER THAN WHAT YOU HAVE
5 ADMITTED HERE.

6 MR. TIGERMAN: OTHER THAN ADMISSION, SAME
7 ORGANIZATION, SAME BUSINESS. IT SAYS WE ARE THE SOME
8 BUSINESS. OUR BUSINESS IS 65 YEARS OLD. IT IS AN
9 ADMISSION.

10 THE COURT: I AM READY TO RULE AT THIS TIME
11 UNLESS YOU HAVE OTHER EVIDENCE. THE ALTER EGO THEORY
12 CANNOT BE USED FOR THE PURPOSES OF INDICATING AFTER,
13 ACQUIRED KNOWLEDGE ON THE PART OF BECHTEL
14 CORPORATION.

15 MR. TIGERMAN: I INTEND TO TRY TO DRAW
16 THAT OUT OF MR. BRIDGES.

17 THE COURT: ON ALTER EGO.

18 MR. TIGERMAN: MR. BRIDGES WAS THE LAWYER
19 FOR ALL THE ORGANIZATION. HE WAS ALSO A DIRECTOR.

20 THE COURT: NUMBER TWO, SINGLE ENTERPRISE
21 THEORY, NOW, PROCEEDING ON THE SINGLE ENTERPRISE
22 THEORY, WHAT ELEMENTS MUST BE SHOWN.

23 MR. TIGERMAN: THE ELEMENTS OF SINGLE
24 ENTERPRISE THEORY ARE, YOUR HONOR, THAT THERE ARE
25 MORE THAN ONE ENTITY THAT HAS AN UNITY OF INTERESTS,
26 A UNITY OF OWNERSHIP SUCH THAT SEPARATENESS OF THE
27 CORPORATION HAS IN EFFECT CEASED TO EXIST.

28 UNDER THOSE CIRCUMSTANCES, IT WOULD BE

1 INEQUITABLE TO A UNIT IN INTEREST AND OWNERSHIP SUCH
2 THAT SEPARATENESS HAS CEASED TO EXIST.

3 THAT'S ALSO WHAT THIS 65 YEAR OLD BUSINESS
4 STATEMENT GOES TO.

5 IT SHOWS THAT THERE IS A UNIT OF INTEREST
6 IN TERMS OF THEIR VIEW POINT. THEY VIEW THESE ALL AS
7 BEING A SINGLE ENTITY.

8 MR. LOPEZ: YOU KNOW HE HASN'T EVEN COME
9 CLOSE TO TELLING USE WHO OWN THE, HE SAYS BECHTEL HAS
10 SOME INTERESTS IN IT OR SOME BECHTEL COMPANY HAS SOME
11 INTEREST.

12 HE HASN'T EVEN GOT TO WHO MARINESHIP IS.
13 HOW CAN WE EVEN BEGIN TO BELIEF THAT IF BECHTEL, ONE
14 BECHTEL ENTITY HAD SOME INTEREST, THAT A LATER
15 BECHTEL CORPORATION AT A POINT OF INTEREST WOULD BE
16 LIABLE UNDER SOME ENTERPRISE THEORY. I HAVE THE SAME
17 PROBLEM.

18 MR. TIGERMAN: THEY HAD IDENTITY.

19 THE COURT: ARE YOU GOING TO BE ASKING HIM
20 QUESTIONS?

21 MR. LOPEZ: NOT ON THAT. I AM GOING TO ASK
22 HIM ABOUT HIS AGE.

23 MR. TIGERMAN: THIS HISTORY OF W. A.
24 BECHTEL STARTED --

25 THE COURT: ARE YOU GOING TO BE ABLE TO
26 PROVE THIS.

27 MR. TIGERMAN: I AM GOING TO TRY, YOUR
28 HONOR, THAT IS WHY I AM BRINGING IN BRIDGES. THAT IS

1 WHY I AM OFFERING THESE DOCUMENTS.

2 MR. LOPEZ: THESE DOCUMENTS DON'T PROVE THE
3 HISTORY.

4 - MR. TIGERMAN: BY THE WAY, YOUR HONOR.

5 THE COURT: I CAN'T, I DON'T KNOW THAT BUT
6 I THINK I NEED AN OFFER OF PROOF FOR BRINGING THE
7 DOCUMENTS.

8 MR. LOPEZ: WE HAVE GIVEN YOU IN OUR JUNE
9 26, 1995 DECLARATION OF JAMES J. OCCUTATE,
10 (PHONETICALLY,) THE CORPORATE DOCUMENTS RELATED TO
11 MARINESHIP AND BECHTEL CORPORATION.

12 SO, WE HAVE GIVEN THE COURT THE LEGAL
13 DOCUMENTS FROM THE SECRETARY OF STATE AND WHAT HE HAS
14 IS SIMPLY SOME REFERENCE TO BECHTEL ORGANIZATION THE
15 BECHTEL BRIEFS AND THAT'S IT.

16 MR. TIGERMAN: I HAVE REFERENCES TO THE
17 FACT THAT W. A. BECHTEL BUILT THE SHIPYARD AT
18 MARINESHIP. THEY SET UP A MARINESHIP DIVISION.
19 RIGHT BEFORE THE MEETING OCCURRED, THEY FORMED AN
20 MARINESHIP CORPORATION.

21 THE MARINESHIP CORPORATION HAD THE SAME
22 OWNERS AND SAME MANAGERS AND SAME DIRECTORS AS THOSE
23 PEOPLE WHO WERE RUNNING THE W. A. BECHTEL MARINESHIP
24 DIVISION.

25 SO, THE FACT THAT THE NEW CORPORATION WAS
26 SET UP IS IRRELEVANT BECAUSE THEY HAVE THE SAME
27 OWNERS. THEY HAVE THE SAME MANAGERS.

28 MR. LOPEZ: TELL US WHO THAT IS.

1 MR. TIGERMAN: WELL, I AM GOING TO GET
2 THAT OUT OF BRIDGES; BUT IT IS IN --

3 MR. LOPEZ: DO YOU KNOW?

4 MR. TIGERMAN: YOUR HONOR, IT IS IN THE
5 DOCUMENTS, OKAY. IF THE DOCUMENTS DON'T COME IN,
6 THAT'S FINE. THEN, I HAVEN'T PROVEN MY CASE.

7 IF I CAN'T GET IT OUT OF BRIDGES, THAT IS
8 FINE.

9 THE COURT: MR. BRIDGES GOING TO BE HERE
10 TOMORROW.

11 MR. TIGERMAN: IF WE HAD, ACCORDING TO
12 MR. PLACIER.

13 MR. LOPEZ: WE STILL HAVE THE ISSUE TO
14 ADDRESS WITH THE COURT OF THE MEDICAL CONDITION OF
15 WHETHER HE CAN EVEN TESTIFY BUT WEDNESDAY WOULD BE
16 THE DATE.

17 MR. TIGERMAN: NOW, MR. BRIDGES WAS LEGAL
18 ADVISOR FOR ALL THOSE YEARS AND I HAVE A GOOD FAITH
19 BASIS FOR ASKING THIS BECAUSE I HAVE DOCUMENTS THAT
20 SAYS --

21 MR. LOPEZ: HE HAS --

22 MR. TIGERMAN: OWNERS AND MANAGERS.

23 MR. LOPEZ: HE WOULDN'T EVEN GO LOOK AT THE
24 CORPORATION DOCUMENTS, FIGURE OUT, MAKE AN OFFER OF
25 PROOF TO THE COURT.

26 I THINK YOU HAVE TO GET UP HERE AND MAKE AN
27 OFFER OF PROOF.

28 THE COURT: HERE IS WHAT I AM GOING TO SAY,

1 IT DOESN'T APPEAR THROUGH THIS WITNESS THAT WE HAVE
2 HERE THAT YOU ARE SHOWING A SINGLE ENTERPRISE THEORY
3 OR YOU ARE SHOWING AN ALTER EGO.

4 MR. TIGERMAN: WELL, THIS WITNESS ISN'T
5 GOING TO MAKE IT. THAT'S FOR SURE.

6 THE COURT: MOST OF YOUR QUESTIONS HAVE
7 BEEN IN REFERENCE TO ALL THE OFFICERS HAD STOCK, ALL
8 THE OFFICERS HAD STOCK.

9 TO ME, IT SOUNDS LIKE YOU ARE GETTING INTO
10 ALTER EGO.

11 MR. TIGERMAN: RIGHT, I AM TRYING TO PROVE
12 OWNERSHIP BUT CAN WE GET ONTO THE DOCUMENTS I INTEND
13 TO USE WITH THE WITNESS SO WE CAN SHORTCUT --

14 MR. LOPEZ: I MEAN, THIS IS IMPORTANT, WE
15 OUGHT TO KNOW WHERE THIS IS GOING WHICH IS CONSUMING
16 AN ENORMOUS AMOUNT OF TIME FOR THE COURT AND THE
17 JURY.

18 THE COURT: FOR ME SO FAR, IT LOOKS LIKE IT
19 IS GOING TO IMPLIED ADMISSION.

20 MR. LOPEZ: WHY CAN'T WE MAKE HIM MAKE AN
21 OFFER OF PROOF RIGHT NOW. GET --

22 THE COURT: HE IS DOING IT THROUGH THE
23 RECORDS. LET'S SEE.

24 MR. TIGERMAN: ALL RIGHT. FIRST OF ALL,
25 YOUR HONOR, I INTEND TO USE PAGE 1402 OF THE BECHTEL
26 BRIEFS. IT IS THE OBITUARY. I WILL HAND YOU THE
27 DOCUMENTS.

28 MR. LOPEZ: WHAT IS THE BATES STAMP?

1 MR. TIGERMAN: 1402.

2 MR. LOPEZ: 1402.

3 MR. TIGERMAN: THEY ARE IN ORDER, YOUR
4 HONOR. YOUR HONOR SEE THE BATES STAMP NUMBERS. I
5 WILL GIVE A HARD COPY.

6 THE COURT: WHY DON'T YOU DO IT BEFORE WE
7 PICK, GET THE JURY. 1402. I HAVE 1402.

8 MR. TIGERMAN: 7 PARAGRAPHS DOWN IN GEORGE
9 EDWARD WALLING OBITUARY WHICH YOU SEE, DURING THE WAR
10 YEARS, DURING THE WAR YEARS HE SERVED IN A DIRECTOR
11 OR AN ADVISORY CAPACITY ON THE ORGANIZATIONS PRIME
12 WAR TIME PROJECT, INCLUDING CALSHIP, MARINESHIP AND
13 SO ON.

14 IT READS ON.

15 NOW, THIS IS AN OBITUARY PUBLISHED, THIS IS
16 A COMPANY AUTHORIZED NEWSLETTER BY THEIR PUBLIC
17 RELATIONS DEPARTMENT, BY THOSE AUTHORIZED TO SPEAK ON
18 THE PART OF THE CORPORATION AND IT SAYS RIGHT IN IT,
19 THAT THE ORGANIZATION'S PRIME WAR TIME PARTNERS --

20 THE COURT: WHO WROTE THIS ARTICLE?

21 MR. TIGERMAN: ONE OF THE PEOPLE, THE
22 QUESTION IS --

23 THE COURT: HOW DO YOU KNOW IT WASN'T A
24 FAMILY MEMBER THAT CONTRIBUTED THIS OBITUARY? HOW DO
25 WE KNOW IT WASN'T THE MORTICIAN?

26 MR. TIGERMAN: DOESN'T MATTER WHO
27 CONTRIBUTED. WHAT MATTERS IS THAT IT WAS PUBLISHED
28 BY BECHTEL UNDER THE AUSPICES OF THE PUBLIC RELATIONS

1 THE COURT: HE REQUEST WHETHER OR NOT YOUR
2 CLIENT COULD ADOPTED THIS.

3 MR. LOPEZ: WELL --

4 MR. TIGERMAN: THIS WAS 1961.

5 THE COURT: ALL RIGHT. THIS GOES TO 403 AS
6 FAR AS SUFFICIENCY, NOT ON THE BASIS OF ALTER EGO,
7 NOT ON THE BASIS OF --

8 MR. LOPEZ: ENTERPRISE.

9 THE COURT: --A SINGLE ENTERPRISE,
10 STATUTORY, DEFACTO MERGER, ONLY ON THE BASIS OF
11 WHETHER IT IS AN AUTHORIZED ADMISSION, RIGHT?

12 MR. TIGERMAN: RIGHT.

13 THE COURT: WHAT IS THE NEXT ONE?

14 MR. TIGERMAN: NEXT ONE IS INSTALLMENT.

15 MR. LOPEZ: IS HE GOING TO SITE THIS, SHOW
16 THAT TO THE WITNESS. THE WITNESS ISN'T GOING TO HAVE
17 ANY RECOLLECTION OF THAT.

18 WHY, HE CAN ASK HIM THE QUESTION, DOES HE
19 RECALL, SHOW IT TO HIM; BUT THEN, JUST WANT TO GET
20 UP, PUBLISH, IT DOESN'T, HE CAN DO THAT LATER. DON'T
21 HAVE TO DO IT WITH THIS WITNESS.

22 THIS WITNESS DOESN'T HAVE ANY KNOWLEDGE.

23 THE COURT: DON'T HAVE TO DO IT WITH THIS
24 WITNESS.

25 MR. LOPEZ: HE ALREADY ESTABLISHED --

26 MR. TIGERMAN: CAN I DO IT AT ANY TIME
27 PLEASE, YOUR HONOR.

28 MR. LOPEZ: IT IS UNDUE CONSUMPTION OF

1 TIME.

2 MR. TIGERMAN: GOING TO CONSUME TIME LATER
3 IF IT DOESN'T CONSUME IT NOW.

4 THE COURT: PUT IT OFF. I WILL LET HIM PUT
5 IT ON.

6 NEXT.

7 MR. TIGERMAN: NEXT ONE, YOUR HONOR, IS
8 FROM PAGE 1293 OF THE BECHTEL BRIEFS.

9 THE COURT: YOU HAVE ANYMORE OF THESE.

10 MR. TIGERMAN: FOUR OF THEM OR FIVE.

11 THE COURT: WHAT IS LEAD.

12 MR. TIGERMAN: IT IS TOWARD THE FRONT,
13 THEY ARE IN ORDER.

14 MR. LOPEZ: WHAT NUMBER, YOUR HONOR.

15 MR. GILBERT: 293.

16 THE COURT: YOU OWE ME TIGERMAN.

17 MR. TIGERMAN: SORRY.

18 THE COURT: I SUPPOSE TO MAKE GOOD
19 DECISIONS ON THIS TIME STUFF RIGHT NOW? 29 --

20 MR. TIGERMAN: WHAT, 293.

21 MR. LOPEZ: ON THIS, BY THE WAY, THIS IS A
22 REPRINT OF BOOKS, I TAKE IT, IN THE BECHTEL BRIEFS,
23 SO, NOW --

24 MR. TIGERMAN: THAT'S CORRECT. THEY TOOK
25 BOOKS AND THEY PUBLISHED IT IN THEIR NEWSLETTERS.

26 MR. LOPEZ: NOW WE HAVE HEARSAY ON HEARSAY,
27 YOUR HONOR.

28 MR. TIGERMAN: NO, ON --

1 MR. LOPEZ: SURE, WE DO.

2 MR. TIGERMAN: BOOK WAS PUBLISHED IN THE
3 NEWSLETTER. IT SAYS: BECHTEL BRIEFS IS PRIVILEGED
4 TO PRESENT IN A SERIES OF INSTALLMENTS A BOOK
5 PUBLISHED BY HIS FAMILY, WRITTEN AND COPYRIGHTED BY
6 ROBERT L. INGRAM. SAYS THAT RIGHT ON THE RIGHT-HAND
7 BOTTOM. HE FACT HE TOOK THE BOOK, PUBLISHED IT IN
8 HIS OWN INTERNAL NEWSLETTER, THIS MAKE IT AN ADOPTED
9 ADMISSION, EXPRESSED ADMISSION.

10 THE COURT: WHAT DO YOU WANT --

11 MR. TIGERMAN: BOTTOM OF THE FIRST COLUMN,
12 THE LAST SENTENCE OF THAT COLUMN, BECHTEL SPONSORED
13 YARDS DELIVERED 570 SHIPS.

14 MR. LOPEZ: WHAT IS THAT?

15 MR. TIGERMAN: THEN, LET'S GO TO THE NEXT
16 PARAGRAPH, A GROUP OF TWO BIG PACIFIC COMPANY YARDS
17 DESIGNED, BUILT AND OPERATED BY BECHTEL INTEREST
18 INVITES SPECIAL ATTENTION.

19 MR. GILBERT: SO, WHAT, BECHTEL INTEREST?
20 WHAT DOES THAT PROVE IN TERMS OF WHAT ENTITIES
21 WERE --DOESN'T GO TO ANY OF THAT. HE CAN PUBLISH
22 THIS LATER ON.

23 WE ARE JUST GOING TO BE USING A WITNESS WHO
24 DOESN'T HAVE ANY KNOWLEDGE OF THIS TO SITE THIS AND
25 LIKE LET HIM READ THIS, ASK THE WITNESS, DO YOU KNOW
26 AND HE WILL SAYS, I DON'T KNOW.

27 THE COURT: DOESN'T SHOW INTEREST.

28 MR. TIGERMAN: IT SAID THERE WERE SPECS,

1 BECHTEL SPONSORED YARDS.

2 MR. GILBERT: WHAT DOES "SPONSORED" MEAN?

3 MR. TIGERMAN: TWO SPECS DELIVERED 570
4 SHIP, THEY SAID THEY HAD NOTHING TO DO WITH THIS,
5 YOUR HONOR.

6 MR. GILBERT: WE HAVE SAID ANYTHING,

7 MR. GILBERT: IT IS A WAR SPONSORED LITTLE
8 LEAGUE TEAM.

9 THE COURT: WHAT IS THE NEXT ONE.

10 MR. TIGERMAN: 3 AND 4, NEXT CHAPTER
11 MR. O'CONNELL AND PROVES WHO HE WAS.

12 MR. GILBERT: WHAT NUMBER?

13 MR. TIGERMAN: PAGE 3 AND 4.

14 THE COURT: ALL RIGHT.

15 MR. TIGERMAN: FIRST COLUMN, TEN, STARTING
16 TEN LINES FROM THE BOTTOM OF THE FIRST COLUMN WITH
17 THE WORD "CERTAINLY."

18 CERTAINLY JOHN O'CONNELL WHO WAS THERE (AND
19 TO LOOKED AT LABOR RELATIONS UNDER HEINY HEINMARK)
20 GOT OFF TO A GOOD START MARINESHIP'S HEALTHY LABOR
21 CLIMATE.

22 SO, IT GOES TO SHOW THAT JOHN O'CONNELL WAS
23 AT MARINESHIP AND HE WAS INVOLVED WITH THE LABOR
24 DEPARTMENT.

25 MR. GILBERT: LET ME SEE HOW THIS WORKS.
26 WE GOT A BOOK WHERE THE AUTHOR HAS PROBABLE GONE OUT,
27 TAKEN OUT OF COURT STATEMENTS FROM A THIRD PARTY TO
28 WRITE A BOOK AND PUBLISH A BOOK, THEN COMES OUT OF

1 COURT STATEMENT BY AN AUTHOR IN A BOOK, IS THEN
2 REPUBLISHED IN A NEWSPAPER OF GENERAL INTEREST FOR
3 THE EMPLOYEES AND ALL OF A SUDDEN THAT HAS MET THE
4 TEST OF DOUBLE HEARSAY AND OUGHT TO COME IN?

5 THE COURT: NO, THAT PREVIOUS ARTICLE,
6 PREVIOUS PAGE BEFORE THIS ONE.

7 MR. TIGERMAN: YES.

8 THE COURT: THAT'S OUT. THIS ONE, ANYTHING
9 ELSE.

10 MR. TIGERMAN: YES, YOUR HONOR. IN FACT
11 JUST BY WAY OF BACKGROUND NOW, WHERE DID THE
12 INFORMATION FOR THIS ARTICLE COME FROM. CAME FROM
13 THE INTERVIEW WITH BOB BRIDGES, THAT IS WHAT THE
14 ARTICLE SAYS AT THE VERY BEGINNING, VERY FIRST
15 INSTALLMENT SAID I GOT ALL THIS INFORMATION FROM BOB
16 BRIDGES WHO IS DIRECTOR. HE WAS THERE.

17 THE COURT: GOT THAT. I HAVE BOB BRIDGES.

18 MR. TIGERMAN: HE IS COMING UP --

19 THE COURT: THAT IS OUT TO.

20 MR. TIGERMAN: HE COMES IN --

21 THE COURT: THIS IS OUT THROUGH THIS
22 WITNESS. OUT.

23 MR. TIGERMAN: THROUGH THIS WITNESS, OKAY.
24 THE NEXT ONE, YOUR HONOR, IS ON PAGE 2227. IT IS WAY
25 BACK TOWARD THE BACK.

26 THE COURT: IN THE BACK.

27 MR. TIGERMAN: YES, 2227.

28 THE COURT: IN FRONT OR BACK.

1 MR. TIGERMAN: THEY ARE IN ORDER, 2227 IS
2 TWO THOUSAND TWO HUNDRED TWENTY-SEVEN.

3 THE COURT: OH, OH, OH. SHOW MY STATE OF
4 CONFUSION. I AM TRYING TO FIND A PAGE, THAT'S 2000.
5 ALL RIGHT, 2227.

6 MR. TIGERMAN: GREAT MOMENTS FROM HISTORY.

7 THE COURT: YES.

8 MR. TIGERMAN: UNDER THE CUTTING PRODUCTS,
9 PRODUCTION MANAGER EXCELS, IN THE SECOND COLUMN. YOU
10 SEE THAT HEADING.

11 THE COURT: UH-HUH.

12 MR. TIGERMAN: SECOND PARAGRAPH BELOW
13 THAT, HUNDREDS OF OTHERS IN BECHTEL CORPORATION
14 ALUMNAE OF GREAT SHIPYARDS, ACCORDING TO ESTIMATE BY
15 WASTE, SENIOR VICE PRESIDENT, JOHN O'CONNELL FOR ONE
16 WAS LABOR RELATIONS EXPERT AT MARINESHIP.

17 IT IS TO PROVE WHO MR. O'CONNELL WAS AND
18 WHAT HE DID AT MARINESHIP ON THE, IN THE, IN THE
19 ISSUE OF WHETHER OR NOT THE IMPUTED KNOWLEDGE THAT
20 O'CONNELL ACQUIRED AS LABOR RELATIONS EXPERT AT ONE
21 PLACE, GOES TO THE NEXT PLACE AT WHICH HE IS A LABOR
22 RELATIONS EXPERT.

23 MR. GILBERT: HOLD IT AN, IT IS CLEARLY
24 HEARSAY AGAIN.

25 THE COURT: IT IS AN ADMISSION AGAIN.

26 MR. GILBERT: HEARSAY AND HE CAN ASK THIS
27 WITNESS, IN HE FACT HE ALREADY ASKED THIS WITNESS TO
28 USE THIS DOCUMENT. THIS WITNESS HAS ALREADY SAID --

1 THE COURT: THIS WILL BE ADMITTED. ALL
2 RIGHT THIS ON 403 ON SUFFICIENCY. THEY ARE GOING TO
3 HAVE TO DECIDE THIS, WHETHER THERE IS AN AUTHORIZED
4 ADMISSION BY WASTE.

5 MR. GILBERT: BUT, YOUR HONOR, THIS
6 WITNESS HAS ALREADY TESTIFIED TO WHAT HE KNOWS ABOUT
7 THAT. ALL HE CAN USE THIS FOR IS TO REFRESH HIS
8 RECOLLECTION. THIS WITNESS IS NOT GOING TO HAVE ANY
9 RECOLLECTION OF THIS.

10 THE COURT: I DON'T KNOW THAT UNTIL THE
11 WITNESS TAKES THE STAND.

12 MR. GILBERT: YOUR HONOR, HE TESTIFIED THE
13 WHOLE MORNING HE HAD A BAD MEMORY. HE DIDN'T HAVE,
14 REMEMBER THE BECHTEL BRIEFS. HE ALREADY ASKED ABOUT
15 JOHN O'CONNELL.

16 THE COURT: HIS MEMORY WAS JOGGED WITH
17 PICTURES.

18 MR. GILBERT: I WOULD SUGGEST THEN ALL HE
19 BE ALLOWED TO DO IS SHOW HIM THIS.

20 THE COURT: WE, LET'S START THAT WAY, THEN
21 WE WILL SEE WHERE WE GO.

22 MR. GILBERT: NO REASON TO BE PUBLISHING
23 THIS THROUGH THE WITNESS. DO IT LATER, GET IT IN
24 ANOTHER WAY.

25 MR. TIGERMAN: I SHOULD GET TO PUBLISH IT.

26 THE COURT: I WILL RULE FROM THE BENCH ON
27 THIS. GET THE JURY IN. THAT, IT IS WHAT YOU HAVE
28 WITH THESE.

1 MR. TIGERMAN: LAST LITTLE THING, YOUR
2 HONOR, I CAN JUST SEE IF THESE REFRESH HIS
3 RECOLLECTION BUT WHAT YOU, I HAVE HERE, YOU HAVE, I
4 HAVE ALL THE EXCERPTS WHERE THEY ANNOUNCED EVERY ONE
5 OF THOSE JOBS AT AVON ASSOCIATED CREW UNITS GOES ON
6 STREAM AS ONE OF THEM, ANOTHER ONE, CATALYTIC
7 REFORMER, READY BY SECOND PHASE, TIDEWATER EXPANDED.

8 THE COURT: BRING IN THE JURY.

9 MR. LOPEZ: WE HAVE GOT ANOTHER ISSUE.

10 MR. GILBERT: WE HAVE, ONE FELL THROUGH,
11 ONE JUROR --

12 MR. TIGERMAN: ONE JUROR WAS WALKING, WELL,
13 HOW, HOW IS A MEMBER OF THE FAMILY, SOMETHING LIKE
14 THAT.

15 MR. GILBERT: LET ME CLEAR THIS, DAVID
16 MULFER, DAVID MULFER IS INHOUSE LAWYER AT BECHTEL
17 CORPORATION. AS I UNDERSTAND WHAT HAPPENED, DAVID
18 CAN EXPLAIN IT FOR THE COURT. JUROR, ALTERNATE
19 NUMBER TWO, I BELIEVE MRS. HANLIN, ELDERLY LADY
20 WALKED UP TO DAVID AND SAID, ARE YOU --

21 MR. MULFER: AT THE LUNCH RECESS, YOUR
22 HONOR, I WAS SEATED HERE. MS. HANLIN CAME UP, SAID,
23 ARE YOU DAVID MULFER? I SAID, YES, I AM. SHE SAID I
24 AM SARAH HANLIN'S MOTHER.

25 SARAH HANLIN WAS A SCHOOL MATE 20, 30 YEARS
26 AGO OF ONE OF MY SISTERS.

27 I SAID IT IS NICE O SEE YOU. I CAN'T TALK
28 TO YOU. PLEASE SAYS HI TO SARAH AND THAT WAS THE END

1 OF THE CONVERSATION.

2 MR. TIGERMAN: RIGHT, PLEASE, SAYS HI TO
3 SARAH WAS A PROBLEM.

4 - THE COURT: WHAT YOU WANT ME TO DO NOW?

5 MR. GILBERT: THINK WE OUGHT TO SHOOT HIM
6 RIGHT NOW.

7 MR. TIGERMAN: THIS IS THE SAME JUROR WHO
8 KNEW THE THELEN FAMILY.

9 MR. GILBERT: WELL, NO, NO. SHE GOT
10 KICKED OFF.

11 MR. TIGERMAN: THEN I AM CONFUSED.

12 THE COURT: WANT TO BRING THE JURY IN.

13 MR. TIGERMAN: NO, YOUR HONOR. I THINK
14 THAT --

15 THE COURT: I WILL, IF YOU WANT ME TO, YOU
16 THINK THAT MAYBE THIS IS A PROBLEM.

17 MR. TIGERMAN: IT MAKES ME WONDER WHETHER
18 OR NOT ONCE SHE KNOWS HE IS ASSOCIATED WITH BECHTEL,
19 THERE MIGHT BE SOME BIAS CREATED.

20 WE CAN DO THAT AT THE END OF THE DAY.

21 THE COURT: NOT NOW. I DON'T WANT ANY
22 STALLING, NO WAY, NO WAY. I AM NOT SUGGESTING YOU
23 WANT TO STALL.

24 MR. TIGERMAN: I AM STALLING, IS WHAT WE
25 ARE SAYING?

26 THE COURT: THAT IS THE WAY I AM PUTTING IT
27 ON THE RECORD. I AM NOT SUGGESTING YOU WANT TO
28 STALL. I AM JUST SAYING, I DON'T WANT TO STALL,

1 OKAY.

2 MR. TIGERMAN: OKAY.

3 THE COURT: LET'S BRING THE JURY IN.

4 MR. GILBERT: I HAVE TO RUN TO THE
5 RESTROOM, BACK IN A SECOND.

6 THE COURT: LET THE RECORD REFLECT THAT THE
7 WITNESS IS BACK ON THE STAND. REMEMBER YOU HAVE BEEN
8 SWORN. JURY IS PRESENT.

9 MR. TIGERMAN:

10 Q. ALL RIGHT, SIR, I WOULD JUST LIKE TO ASK YOU
11 ABOUT A COUPLE OF NAMES, SEE IF YOU RECOGNIZE THEM. DO
12 YOU RECOGNIZE THE NAME OF EDGAR GOLDSTEIN.

13 A. EDGAR GOLDSTEIN?

14 Q. GOLDSTEIN.

15 A. I DO NOT RECALL IT.

16 Q. DO YOU RECOGNIZE THE NAME CLARENCE MAYHEW?

17 A. NO.

18 Q. WHAT ABOUT LAWRENCE MILLER?

19 A. NO.

20 Q. JOHN F. O'CONNELL, YOU RECOGNIZE, CORRECT?

21 A. YES.

22 Q. BARON SCHNEIDER?

23 A. NO.

24 Q. AND MR. VANDORAN, W S VANDORAN?

25 A. NO.

26 Q. DO YOU RECOGNIZE THE NAME OF MR. R L HAMILTON?

27 A. R O?

28 Q. R L HAMILTON?

1 A. HAMILTON, NO.

2 Q. WHAT ABOUT GRAMOBOW, R F GRAMOBOW,
3 G-R-A-M-O-B-O W?

4 A. _ YES.

5 Q. WHAT DO YOU KNOW HIM FROM?

6 A. WELL, HE WORKED IN THE SAME COMPANY THAT I DID
7 AND UNDER ME AT ONE POINT. I DON'T REMEMBER WHEN IT WAS
8 BUT, BUT ONE --

9 THE COURT: WHAT WAS THE NAME OF THAT
10 COMPANY.

11 THE WITNESS: WELL, IT SEEMS TO ME,
12 BECHTEL, BECHTEL, ONLY THERE WERE 3 NAMES. I SAID IT
13 5 TIMES TODAY OR MORE. I CAN'T SAY IT AGAIN. THE
14 ONE, THE ONE WHEN HE WENT TO WORK THERE, THE NAME IN
15 1937.

16 THE COURT: WHAT WAS THAT.

17 THE WITNESS: BECHTEL MCCONE; BECHTEL,
18 MCCONE, PARSONS.

19 THE COURT: BECHTEL, PARSONS, MCCONE.

20 THE WITNESS: BECHTEL, MCCONE, PARSONS
21 CORPORATION.

22 MR. TIGERMAN: RIGHT.

23 Q. HE WORKED THERE WHEN YOU WERE THERE?

24 A. I BELIEVE HE DID. I AM NOT SURE. I AM NOT
25 POSITIVE BUT I BELIEVE HE WAS.

26 Q. DID HE CONTINUE TO WORK FOR THE BECHTEL
27 ORGANIZATION AFTER THAT?

28 A. YES, FOR QUITE AWHILE.

1 Q. DID HE CONTINUE TO WORK INTO THE LATE, AFTER
2 THE WAR YEARS?

3 A. UH-HUH.

4 Q. - "YES"? YOU HAVE TO SAY "YES" FOR THE REPORTER?

5 A. YES.

6 Q. DO YOU KNOW WHAT JOB HE DID AFTER THE WAR
7 YEARS?

8 A. NO.

9 Q. OKAY. DID YOU EVER COME TO FIND OUT
10 MR. GRAMOBOW WAS ON THE OPERATING COMMITTEE AT MARINESHIP?

11 A. AU, WHAT ABOUT IT?

12 Q. DID YOU EVER COME TO KNOW THAT HE WAS WORKING
13 AT MARINESHIP?

14 A. NO, I DID NOT KNOW THAT.

15 Q. ALL RIGHT. SO YOU KNEW, YOU KNEW HIM OR YOU
16 KNEW ABOUT HIM BEFORE THE WAR AND YOU KNOW WHAT HE DID
17 AFTER THE WAR BUT YOU DON'T KNOW WHAT HE DID DURING THE
18 WAR?

19 A. I CAN'T RECALL NOW WHAT HE DID DURING THE WAR.
20 HE DID OPERATE SOMETIME WITH ME BETWEEN THE WAR TIME AND
21 THE TIME I LEFT BUT I DON'T REMEMBER NOW WHAT HE DID.

22 Q. OKAY. DID HE WORK UNDER YOU IN ANY OF YOUR
23 ENDEAVORS AT THE BECHTEL ORGANIZATION?

24 A. NOT DIRECTLY TO ME.

25 Q. INDIRECTLY?

26 A. INDIRECTLY.

27 Q. WHAT WAS, WHAT DID HE DO UNDER YOU AT THE
28 BECHTEL ORGANIZATION?

1 A. THAT IS WHAT I JUST SAID I DO NOT RECALL.

2 Q. YOU DON'T RECALL?

3 A. NOT RECALL.

4 Q. -- OKAY. KENNETH BECHTEL, DO YOU KNOW WHETHER OR
5 NOT, STRIKE THAT. DO YOU KNOW ABOUT WHAT DECADE KENNETH
6 BECHTEL BECAME AN OFFICER OR DIRECTOR OF ANY OF THE
7 BECHTEL ENTITIES?

8 A. I DO NOT KNOW WHEN AND, I JUST DON'T RECALL.

9 Q. OH, ALL RIGHT. YOU THINK IT GOES BACK, AS FAR
10 BACK AS THE 40'S THAT KENNETH BECHTEL WAS DIRECTOR OF THE
11 BECHTEL ORGANIZATION, A DIRECTOR OF PART OF THE BECHTEL
12 ORGANIZATION?

13 MR. LOPEZ: OBJECTION, VAGUE

14 THE COURT: SUSTAINED.

15 THE WITNESS: I DON'T KNOW.

16 THE COURT: LET'S GET THIS STRAIGHT. I,
17 WHEN YOU FIRST WENT TO WORK, YOU WENT TO WORK FOR
18 BECHTEL, PARSONS, MCCONE?

19 THE WITNESS: BECHTEL, MCCONE, PARSONS IS
20 MY RECOLLECTION OF THE NAME OF THE COMPANY.

21 THE COURT: WHAT YEAR WAS THAT?

22 THE WITNESS: 1937.

23 THE COURT: ALL RIGHT. DID YOU REMAIN
24 EMPLOYED BY BECHTEL, MCCONE, PARSONS UNTIL YOU
25 RETIRED?

26 THE WITNESS: NO.

27 THE COURT: WHAT HAPPENED?

28 THE WITNESS: I WAS THERE ALL THROUGH THE

1 WAR YEARS AND THEN AFTER THE WAR YEARS BECHTEL,
2 MCCONE, PARSONS CORPORATION WAS, IT STOPPED. IT
3 BECAME A NEW COMPANY. IT, AS I RECALL, IT WAS
4 BECHTEL, MCCONE; BECHTEL CORPORATION; BECHTEL,
5 MCCONE, PARSONS.

6 THE COURT: BECHTEL, MCCONE, PARSONS, YOU
7 STARTED WITH IN 1937?

8 THE WITNESS: BECHTEL, MCCONE, PARSONS, I
9 STARTED IN 1937?

10 THE COURT: YES.

11 THE WITNESS: AND STAYED THROUGHOUT THE
12 WAR, UNTIL THE TIME THAT THAT COMPANY WAS --

13 THE COURT: WERE YOU AN OFFICER AT THAT
14 TIME.

15 THE WITNESS: NO, INDEED. I WAS AN
16 ENGINEER PRIMARILY.

17 THE COURT: SO, YOU ARE NOT AN OFFICER OF
18 BECHTEL, MCCONE, PARSONS?

19 THE WITNESS: NO.

20 THE COURT: BUT LATER ON YOU BECAME ON THE
21 BOARD OF DIRECTORS OF WHAT CORPORATION?

22 THE WITNESS: BECHTEL CORPORATION. I
23 BELIEVE I AM CORRECT IN THAT. I CAN'T SAY POSITIVE
24 BUT I BELIEVE IT WAS BECHTEL.

25 THE COURT: IN YOUR WORK FROM 1937, HOW
26 MUCH, WERE THERE ANY NAME CHANGES OR WHAT WAS THE
27 NAME OF THE DIFFERENT COMPANIES YOU WORKED FOR?

28 THE WITNESS: I KNOW, OTHER THAN THE ONE

1 THAT I WAS --

2 THE COURT: THAT WAS BECHTEL, MCCONE,
3 PARSONS?

4 THE WITNESS: YES.

5 THE COURT: AND THEN WHAT WAS THE OTHER
6 NAME?

7 THE WITNESS: I DIDN'T WORK FOR ANY OTHER
8 CORPORATION THAT I KNOW OF. I CAN'T RECALL IT.

9 THE COURT: YOU KNOW ANYTHING ABOUT WHETHER
10 OR NOT BECHTEL, MCCONE, PARSONS UNDERWENT A MERGER
11 WITH ANOTHER CORPORATION TO BECOME A NEW CORPORATION?
12 YOU KNOW ANY OF ITS HISTORY?

13 THE WITNESS: I DO NOT RECALL THAT,
14 ANYTHING LIKE THAT.

15 THE COURT: YOU KNOW ANYTHING ABOUT
16 STATUTORY MERGERS OR DEFACTO MERGERS OR ASSET SALES
17 OF ONE CORPORATION TO ANOTHER.

18 THE WITNESS: THAT PART OF THE BUSINESS WAS
19 NOT IN MY FIELD. I JUST DIDN'T KNOW ANYTHING ABOUT
20 IT.

21 THE COURT: WHEN YOU WERE ON THE BOARD OF
22 DIRECTORS, DID YOU DISCUSS THE LEGAL RAMIFICATIONS OF
23 THE CORPORATIONS THAT WERE ACQUIRED OR SOLD BY THE
24 BECHTEL COMPANY?

25 THE WITNESS: IF THEY WERE DISCUSSED,
26 DISCUSSED IN MEETINGS, I WOULD HAVE BEEN INVOLVED. I
27 DO NOT RECALL THAT IT WAS; THAT, THAT SUCH THINGS
28 WERE DISCUSSED.

1 THE COURT: LET ME ASK YOU ANOTHER
2 QUESTION.

3 THE WITNESS: YES.

4 THE COURT: IT MAY SOUND PERSONAL BUT IT IS
5 RELEVANT. HOW OLD ARE YOU?

6 THE WITNESS: 86.

7 THE COURT: YOU ARE 86?

8 THE WITNESS: YES.

9 THE COURT: ALL RIGHT. GO ON.

10 MR. TIGERMAN:

11 Q. SIR, LET ME JUST ASK YOU ABOUT BECHTEL, MCCONE,
12 PARSONS. NOW AT THAT SAME TIME, THERE WAS A TIME THERE
13 WAS A COMPANY CALLED BECHTEL, MCCONE, PARSONS AND ANOTHER
14 COMPANY CALLED W. A. BECHTEL COMPANY, ISN'T THAT TRUE?

15 A. YES.

16 Q. THEY BOTH RAN AT THE SAME TIME?

17 A. THEY, I CAN'T SAY THAT THEY DID AT THE SAME
18 TIME, DO KNOW THAT MOST OF THE WORK, ALL THE CONSTRUCTION
19 WORK SEEMED TO BE WITH, AS FAR AS I KNEW, WAS WITH
20 BECHTEL, ONE, JUST W. A. BECHTEL --

21 Q. RIGHT.

22 A. --UNTIL 1937 AND THEN THAT'S ALL I KNOW ABOUT
23 IT.

24 Q. ALL RIGHT.

25 A. WHETHER THEY STOPPED W. A. BECHTEL, I MEAN,
26 YES, W. A. BECHTEL AT THAT TIME OR NOT, I DON'T KNOW. IT
27 MAY HAVE GONE ON BUT I WOULD NOT HAVE KNOWN. I HAVE NO
28 WAY OF KNOWING.

1 Q. YOU DIDN'T KNOW, YOU DIDN'T KNOW, I AM NOT
2 TALKING ABOUT IDENTICAL TIME PERIODS. I AM JUST ASKING
3 WHETHER FOR ANY PERIOD OF TIME THERE WERE TWO COMPANIES
4 THAT WERE RUNNING AT ONE TIME?

5 A. ONE COMPANY WAS W. A. BECHTEL COMPANY AND THE
6 OTHER COMPANY IS BECHTEL, MCCONE, PARSONS.

7 Q. WAS THERE A TIME BEFORE THE WAR WHEN ONE
8 COMPANY WAS, FOR EXAMPLE, THE MAIN OFFICE OF W. A. BECHTEL
9 AND THE OTHER COMPANY HAD A MAIN OFFICE IN SAN FRANCISCO
10 AND THEY WERE RUNNING AT THE SAME TIME?

11 A. THAT'S QUITE LIKELY.

12 Q. ALL RIGHT.

13 A. THAT IS ALL I CAN SAY.

14 Q. NOW, AFTER THE WAR, W. A. BECHTEL COMPANY WAS
15 NO MORE, ISN'T THAT TRUE?

16 A. AFTER THE WAR?

17 Q. YES.

18 A. I DON'T KNOW WHEN IT TERMINATED. I NEVER DID
19 KNOW.

20 THE COURT: LET ME ASK YOU THIS, DID IT
21 TERMINATE?

22 THE WITNESS: I DO NOT KNOW. I NEVER DID
23 KNOW.

24 MR. TIGERMAN:

25 Q. ALL RIGHT. AFTER THE WAR DID BECHTEL, MCCONE,
26 PARSONS, DID THEY STOP RUNNING AFTER THE WAR?

27 A. YES, YES.

28 Q. DID THE MANAGERS FROM THAT COMPANY GO TO THE

1 NEW BECHTEL COMPANY?

2 A. SOME OF THEM DID.

3 Q. DID THE DIRECTORS FROM THAT COMPANY, OTHER THAN
4 JOHN MCCONE, LET'S LEAVE JOHN MCCONE OUT OF THIS. DID THE
5 REST OF THE DIRECTORS GO OVER TO THE NEW BECHTEL COMPANY?

6 A. I CAN'T ANSWER THAT BECAUSE I HAD NO REASON TO
7 KNOW WHO THE DIRECTORS WERE. REMEMBER, I WAS A VERY YOUNG
8 GUY THEN.

9 Q. YOU ARE SUPERVISOR, WHO WAS YOUR SUPERVISOR
10 WHEN YOU WERE AT BECHTEL, MCCONE, PARSONS? WHO DID YOU
11 REPORT TO?

12 A. OH, WHEN, FIRST TIME I STARTED THERE IN 1937, I
13 REPORTED TO ANOTHER ENGINEER WHO WAS JUST A STEP UP ABOVE
14 THE LADDER AND I REPORTED TO HIM.

15 Q. WHAT WAS HIS NAME AND HIS TITLE?

16 A. I WOULD LIKE TO TELL YOU BUT I CAN'T.

17 Q. DID HE CONTINUE TO WORK FOR THE BECHTEL
18 ORGANIZATION?

19 A. NOT VERY LONG.

20 Q. WHO DID YOU REPORT TO AFTER YOU REPORTED TO
21 THEM OVER AT BECHTEL, MCCONE, PARSONS?

22 A. I REALLY CAN'T TELL YOU. I DON'T REMEMBER.

23 Q. WHO WAS THE HEAD OF YOUR DEPARTMENT AT BECHTEL,
24 MCCONE, PARSONS?

25 A. WELL, AGAIN I HAVE TO SAY WE WEREN'T ORGANIZED
26 WITH DEPARTMENTS, WASN'T THAT KIND OF THING.

27 Q. ALL RIGHT. THE GUY WHO YOU REPORTED TO, WHO
28 DID HE REPORT TO?

1 A. HE MAY HAVE, I DON'T KNOW. I JUST, I CAN'T
2 TELL YOU THAT. I DON'T KNOW.

3 Q. OKAY. NOW, SIR, YOU REMEMBER A GENTLEMAN BY
4 THE NAME OF HEINY HEINMARK?

5 A. YES, I DO.

6 Q. WHO WAS HEINY HEINMARK?

7 A. HE WAS THE TOP MAN IN THE COMPANY IN
8 CONSTRUCTION, ALL CONSTRUCTION WAS UNDER HIM.

9 Q. ALL RIGHT. AND HE WAS THERE BEFORE YOU JOINED
10 THE BECHTEL ORGANIZATION?

11 A. OH, YES.

12 Q. AND HE WAS THERE AFTER THE WAR, WASN'T HE?

13 A. YES, YES.

14 Q. AND AFTER, ACTUALLY HE WAS THERE EVEN INTO THE
15 50'S, WASN'T HE?

16 A. YES.

17 Q. WAS HE IN CHARGED OF REFINERY AND CHEMICAL
18 ACTIVITIES FOR ANY PERIOD OF TIME?

19 A. NOT, NO, NOT, AS, ONLY THE CONSTRUCTION PARTS
20 OF IT.

21 Q. OKAY.

22 A. THE REST OF IT, NO.

23 Q. ISN'T IT TRUE THAT HEINY HEINMARK CONTINUED TO
24 WORK FOR THE BECHTEL ORGANIZATION FROM THE TIME YOU GOT
25 THERE TO THE TIME THAT HE RETIRED?

26 A. NO, HE DID NOT. HE RETIRED MUCH BEFORE I DID.

27 Q. BUT WHEN DID HE RETIRE?

28 A. I CAN'T TELL YOU.

1 Q. BUT WHEN HE RETIRED, HE RETIRED FROM BECHTEL
2 CORPORATION, CORRECT?

3 A. I BELIEVE THAT'S CORRECT.

4 Q. -- AND GEORGE KOOLY JUNIOR, DO YOU REMEMBER GEORGE
5 KOOLY, JUNIOR?

6 A. YES.

7 Q. YOU REMEMBER GEORGE KOOLY JUNIOR WAS A VICE
8 PRESIDENT WITH W. A. BECHTEL WHEN YOU CAME ON WITH
9 BECHTEL, PARSONS, MCCONE, YOU KNOW THAT?

10 A. I DIDN'T KNOW IT FOR SURE.

11 Q. YOU KNOW IT NOW?

12 A. I KNOW IT NOW.

13 Q. OKAY. ISN'T IT TRUE GEORGE KOOLY JUNIOR
14 CONTINUED TO WORK FOR BECHTEL CORPORATION THROUGHOUT THE
15 WAR AND INTO THE 50'S?

16 A. YES, THAT'S CORRECT. IN FACT HE DIED I THINK
17 IN BAGDAD WHEN HE WAS ATTACKED --

18 Q. BY A GROUP OF PEOPLE?

19 A. --YES, SOMEWHERE IN THE MIDDLE EAST.

20 Q. THAT WAS LATE 50'S THAT THAT HAPPENED?

21 A. BELIEVE IT WAS IN THE 50'S.

22 Q. AND BOTH KOOLY JUNIOR AND HEINMARK WERE PRETTY
23 IMPORTANT GUYS IN THE BECHTEL CORPORATION, ISN'T THAT
24 TRUE?

25 A. YES, THEY WERE.

26 Q. NOW, I WOULD LIKE TO JUST GO BACK TO THE ISSUE
27 OF MR. JOHN O'CONNELL. YOU INDICATED EARLIER THAT YOU
28 COULDN'T RECALL PRECISELY WHAT IT WAS THAT O'CONNELL DID

1 DURING THE WAR YEARS.

2 SIR, I WOULD LIKE TO SHOW YOU PLAINTIFF'S
3 EXHIBIT NUMBER 49?

4 THE COURT: 49 WHAT?

5 MR. TIGERMAN: E.

6 THE COURT: B?

7 MR. TIGERMAN: "E" AS IN ELEPHANT.

8 THE WITNESS: UH-HUH.

9 MR. LOPEZ: WHICH WOULD HAVE A BATES STAMP
10 NUMBER ON IT.

11 MR. TIGERMAN: YES, ONE, 1402.

12 THE COURT: LADIES AND GENTLEMEN WHEN THE
13 ATTORNEYS REFER TO BATES STAMP, IT IS JUST A WAY OF
14 THE ATTORNEYS MARKING THE PAGES SO THAT EACH SIDE GET
15 ON THE SAME PAGE.

16 MR. TIGERMAN: ACTUALLY, I AM ON THE WRONG
17 ONE.

18 THE COURT: NOT THE SAME PAGE.

19 MR. TIGERMAN: 49-F.

20 MR. GILBERT: WHAT IS THE NUMBER OF THE
21 BATES STAMP NUMBER ON 49-F.

22 MR. TIGERMAN: 2227, TWO THOUSAND TWO
23 HUNDRED TWENTY-SEVEN. THIS PARAGRAPH HERE I WOULD
24 LIKE TO START WITH.

25 MR. GILBERT: MAYBE YOU CAN SHOW ME THE
26 DOCUMENT.

27 THE WITNESS: HUNDREDS OF OTHERS IN THE
28 BECHTEL CORPORATION --

1 MR. TIGERMAN:

2 Q. YOU DON'T HAVE YOU TO READ IT A LOUD RIGHT NOW,
3 JUST READ IT TO YOURSELF.

4 A. - ALL RIGHT.

5 Q. READ THAT PARAGRAPH.

6 THE COURT: YOU ARE SHOWING HIM 49-F WHICH
7 IS A PAGE FROM THE BECHTEL BRIEFS NEWSPAPER, IS THAT
8 RIGHT?

9 MR. TIGERMAN: RIGHT.

10 THE COURT: OKAY.

11 MR. TIGERMAN: ALL RIGHT.

12 Q. HAVE YOU READ THAT?

13 A. I DON'T QUITE UNDERSTAND IT. OKAY.

14 THE COURT: READ IT.

15 MR. TIGERMAN:

16 Q. DOES THAT REFRESH YOUR RECOLLECTION THAT JOHN
17 O'CONNELL WAS A LABOR RELATIONS EXPERT AT MARINESHIP.

18 A. THIS TELLS ME THAT IT WAS BEFORE THAT. I
19 DIDN'T KNOW.

20 Q. OKAY.

21 A. AT LEAST, I CAN'T REMEMBER IT IF I DID KNOW.

22 MR. GILBERT: WITH THE COURT'S PERMISSION,
23 THE COURT ALREADY MADE A RULING ON THIS, YOUR HONOR.

24 THE COURT: YES, I HAVE. THIS HAS NOT
25 REFRESHED HIS MEMORY BUT APPLY TO 403, 1221, 22 OF
26 THE EVIDENCE CODE.

27 MR. GILBERT: I AGREE, YOUR HONOR, BUT IT
28 IS NOT RELEVANT TO THE EXAMINATION OF THIS WITNESS.

1 HE DOESN'T RECALL IT AND THERE IS NO QUESTION PENDING
2 TO THE WITNESS.

3 THE COURT: FINE.

4 MR. GILBERT: THIS WILL BE AN UNDUE
5 CONSUMPTION OF TIME AS WELL.

6 THE COURT: OVERRULED. 352 DOES NOT GO
7 INTO THE COLLATERAL ISSUES.

8 MR. TIGERMAN: ALL RIGHT.

9 Q. SIR, IT SAYS HERE: HUNDREDS OF OTHERS IN
10 BECHTEL CORPORATION TODAY ARE ALUMNAE OF THE GREAT
11 SHIPYARDS ACCORDING TO ESTIMATE BY WASTE. SENIOR VICE
12 PRESIDENT, JOHN O'CONNELL, FOR ONE WAS A LABOR RELATIONS
13 EXPERT AT MARINESHIP.

14 NOW, LET ME ASK YOU ABOUT THIS. WHEN IT REFERS
15 TO WASTE, YOU KNEW A MR. WASTE, DIDN'T YOU?

16 A. YES.

17 Q. MR. WASTE WAS ACTUALLY AN OFFICER OF THE
18 BECHTEL CORPORATION, ISN'T THAT TRUE?

19 A. YES.

20 Q. OKAY. NOW, I WOULD LIKE TO TALK WITH YOU JUST
21 VERY QUICKLY ABOUT THE ISSUE OF THE OWNERSHIP OR THE
22 CONTROL OF MARINESHIP.

23 NOW, YOU USE TO GET THE BECHTEL BRIEFS ON YOUR
24 DESK, IS THAT TRUE?

25 A. THAT IS TRUE.

26 THE COURT: THAT IS ASKED AND ANSWERED. HE
27 SAID SO.

28 MR. TIGERMAN: ALL RIGHT. I WOULD LIKE TO

1 SHOW AN OBITUARY IN THE BECHTEL BRIEFS.

2 MR. GILBERT: WHAT NUMBER?

3 MR. TIGERMAN: WE ARE ON NUMBER 49-E AS IN
4 ELEPHANT, BATES STAMP NUMBER 1402.

5 THE COURT: EXHIBIT NUMBER?

6 MR. TIGERMAN:

7 Q. JUST READ THAT.

8 A. THIS IS ABOUT GEORGE WALLING.

9 Q. GENTLEMAN, WHO WAS GEORGE WALLING?

10 A. GEORGE WALLING WAS A LAWYER, IF I AM CORRECT.

11 Q. ALL RIGHT. DO YOU REMEMBER MR. WALLING WORKING
12 FOR THE BECHTEL COMPANY?

13 A. YES, I DO. I DO, DURING THE WAR YEARS IN
14 WASHINGTON, I HAD MEETINGS WITH HIM, SO ON; BUT THAT'S, I
15 DON'T REMEMBER WHAT BECAME OF HIM.

16 Q. OH, ALL RIGHT. GO AHEAD, TAKE A LOOK AT THE
17 PARAGRAPH, STARTS WITH THE WORD "DURING"?

18 THE COURT: WHAT EXHIBIT NUMBER IS THIS?

19 MR. TIGERMAN: THIS IS 49-E AS IN
20 ELEPHANT.

21 THE WITNESS: YES, HE IS NOW.

22 MR. TIGERMAN:

23 Q. ALL RIGHT. DOES THIS REFRESH YOUR RECOLLECTION
24 THAT DURING THE WAR YEARS HE SERVED IN A DIRECTOR ADVISORY
25 CAPACITY IN THE ORGANIZATION'S PRIME WAR TIME PROJECTS
26 INCLUDING CALSHIP AND MARINESHIP?

27 A. YES, I CAN UNDERSTAND THAT AND --

28 THE COURT: DOES THAT REFRESH YOUR MEMORY.

1 THE WITNESS: YES, YES.

2 MR. TIGERMAN: ALL RIGHT. WITH THE
3 COURT'S PERMISSION, I WOULD LIKE TO SHOW THIS.

4 THE COURT: SURE.

5 MR. TIGERMAN: ALL RIGHT.

6 Q. THAT GENTLEMAN THERE WITH THE BOW TIE, DO YOU
7 REMEMBER THAT IS WHAT MR. WALLING LOOK LIKE.

8 A. NOT A VERY GOOD PICTURE. GIVES ME AN IDEA. I
9 REMEMBER HIM NOW.

10 Q. AND RIGHT HERE IS THE LANGUAGE I REFER TO YOU
11 THAT SAYS: DURING WAR YEARS HE SERVED IN A DIRECTOR
12 ADVISORY CAPACITY ON BECHTEL ORGANIZATION'S PRINCIPAL WAR
13 TIME PROJECTS INCLUDING CALSHIP AND MARINESHIP, THE
14 BURMINGHAM MILITARY AIRCRAFT CENTER, THE CANOL PIPELINE
15 AND JOSHUA HENDY SHIP YARD?

16 DID YOU WORK ON ANY OF THOSE?

17 A. I THINK THOSE CLOSELY THROUGH, I WILL TELL YOU.

18 Q. CALSHIP, WE'VE BEEN THROUGH, RIGHT?

19 A. WE'VE BEEN THROUGH.

20 Q. MARINESHIP?

21 A. WE'VE BEEN THERE TO.

22 Q. WHAT ABOUT THE BURMINGHAM MILITARY AIRCRAFT
23 CENTER?

24 A. I WAS THERE FOR SOMETIME.

25 Q. WHAT DID YOU DO FOR THE ORGANIZATION THERE?

26 A. I WAS RESPONSIBLE FOR KEEPING TRACK OF ALL THE
27 MAJOR, THE HEAVY BOOMER THAT CAME IN FROM OUT OF VOCATION
28 AND WERE RELEASED. THERE WERE HUNDREDS AND HUNDREDS OF

1 THOUSANDS OF THEM. I HAD TO KEEP TRACT OF THEM.

2 Q. YOU ACTUALLY DID AIRCRAFT ENGINEERING?

3 A. WELL, I DIDN'T, WHEN I SAY KEEPING TRACT OF
4 THEM, ISN'T EXACTLY DESIGNING AIRPLANES.

5 Q. ALL RIGHT. HOW LONG DID YOU DO THAT FOR THE
6 ORGANIZATION?

7 A. ABOUT A YEAR ROUGHLY.

8 Q. WHAT ABOUT THE CANOL PIPELINE, DID YOU HAVE ANY
9 INVOLVEMENT WITH THAT?

10 A. CANOL PIPELINE, TRYING TO RECALL. I DON'T
11 BELIEVE I HAD ANY INVOLVEMENT IN THAT.

12 Q. WHAT ABOUT JOSHUA HENDY SHIPYARD, DID YOU HAVE
13 ANY INVOLVEMENT ON BEHALF OF THE ORGANIZATION IN THAT?

14 A. I HEARD THE NAME, DON'T KNOW WHAT IT WAS AT
15 THIS TIME POINT NOW.

16 Q. BEST YOU RECALL, YOU WEREN'T INVOLVED IN ANY
17 ASPECT OF THE, IT WOULD BE FAIR TO SAY YOU WOULD PROBABLY
18 REMEMBER BEING THERE?

19 A. THAT IS RIGHT.

20 Q. NOW, SIR, YOU HAVE ALREADY DISCUSSED THE FACT
21 THAT OFFICERS AND DIRECTORS OF THE COMPANY. YOU WERE IN
22 CHARGE OF SETTING POLICY OR YOU WERE ONE OF THE PEOPLE WHO
23 SET POLICY, IS THAT TRUE?

24 A. TO THE EXTENT THAT ANY BOARD MEMBER IS INVOLVED
25 IN THESE BUT NOT, THAT DOESN'T MEAN THAT BASIC THINGS WERE
26 STARTED THERE. THEY WERE JUST REVIEWED BY THE, BY --

27 THE COURT: JUST SAVE TIME, AS A MEMBER OF
28 THE BOARD OF DIRECTORS, YOU WOULD VOTE?

1 THE WITNESS: YOU WOULD VOTE.

2 THE COURT: WOULD YOU VOTE ON DIFFERENT
3 MATTERS?

4 THE WITNESS: OCCASIONALLY, NOT OFTEN BUT
5 ON OCCASIONS.

6 THE COURT: SOME OF THE THINGS THAT YOU
7 VOTED ON WAS POLICY MAKING MATTERS?

8 THE WITNESS: COULD HAVE BEEN.

9 THE COURT: YOU COULD HAVE BEEN WITH THE
10 MAJORITY, WITH THE DISSENTS BUT YOU VOTED?

11 THE WITNESS: THAT'S TRUE.

12 THE COURT: LET'S GO.

13 MR. TIGERMAN:

14 Q. SIR, ISN'T IT TRUE THERE WERE POLICY WITHIN
15 THIS COMPANY REGARDING EMPLOYEE SAFETY?

16 A. WOULD YOU REPEAT THAT.

17 Q. THE COMPANY HAD POLICY, ONE OF ITS POLICIES WAS
18 TO PROMOTE EMPLOYEE SAFETY, WASN'T IT?

19 A. I THINK IT IS IN THE MIND OF ALL OF THE PEOPLE
20 AND I DON'T RECALL IT BEING SOMETHING THAT WAS DISCUSSED
21 PARTICULARLY. IT MAY HAVE BEEN BUT I DON'T RECALL IT.

22 Q. THERE WAS A SAFETY DEPARTMENT OR SAFETY
23 MANAGER?

24 A. I DON'T KNOW OF A SAFETY MANAGER. IT COULD
25 HAVE BEEN.

26 Q. YOU DON'T KNOW WHETHER OR NOT BECHTEL HAD A
27 SAFETY DEPARTMENT OR SAFETY MANAGER?

28 A. WELL, TELL YOU THEY HAD A LOT OF HIGH GRADE

1 CONSTRUCTION PEOPLE WHO WERE, WHO WERE IN THAT CAPACITY.
2 NOW, I DO NOT RECALL IF THERE WAS ANY PARTICULAR PERSONS
3 THAT TOOK VIEW OF THE WHOLE THING, OF THE COMPANY.

4 _THEY COULD HAVE BEEN BUT I DON'T RECALL THAT.

5 Q. OKAY, SIR, I HAVE ALREADY ASKED YOU ABOUT WHAT
6 YOU WOULD HAVE EXPECTED MR. O'CONNELL TO DO.

7 NOW, I WANT TO ASK YOU ABOUT YOURSELF. IF YOU
8 HAD KNOWN BECHTEL WAS USING DANGEROUS PRODUCTS AND
9 EXPOSING ITS EMPLOYEES WITH THE PRODUCT, WOULD YOU HAVE
10 BROUGHT THAT UP WITH THE ORGANIZATION?

11 MR. LOPEZ: OBJECTION, CALLS FOR
12 SPECULATION.

13 THE COURT: OVERRULED.

14 THE WITNESS: SAY THAT AGAIN?

15 MR. TIGERMAN:

16 Q. IF YOU HAD KNOWN BECHTEL WAS USING HAZARDOUS
17 PRODUCTS AND WAS EXPOSING ITS WORKERS TO THAT PRODUCT,
18 WOULD YOU HAVE BROUGHT THAT UP WITH THE ORGANIZATION?

19 A. I MAY OR MAY NOT.

20 Q. AND WHY NOT?

21 A. A REASON, BECAUSE THERE WERE LOTS OF OTHER
22 PEOPLE THAT WERE CONCERN WITH THESE THINGS, IF THEY
23 EXISTED, AND IT WASN'T MY PARTICULAR JOB TO DO THAT.

24 YOU SEE WHAT I MEAN?

25 Q. SO, WASN'T YOUR JOB TO BRING TO THE COMPANY'S
26 ATTENTION THINGS THAT YOU FOUND OUT WERE DANGEROUS?

27 MR. LOPEZ: LET ME OBJECT. NO FOUNDATION.

28 THE COURT: SUSTAINED, ARGUMENTATIVE.

1 MR. LOPEZ: AND ARGUMENTATIVE.

2 THE COURT: SUSTAINED ON THAT.

3 MR. TIGERMAN: ALL RIGHT.

4 Q. - WHEN YOU SAY IT WASN'T YOUR JOB TO DO, TELL ME
5 WHAT YOU MEAN?

6 MR. LOPEZ: WELL, SAME OBJECTION ON --

7 THE COURT: I WILL ALLOW THAT. OVERRULED.

8 MR. TIGERMAN:

9 Q. WHAT DO YOU MEAN?

10 A. WAS NEVER APPOINTED TO BE THE PERSON WHO WAS
11 RESPONSIBLE FOR THAT AND HAD TO TELL EVERYBODY WHAT WAS
12 GOING ON.

13 THE COURT: WHAT HE IS ASKING YOU IS, AS A
14 MEMBER OF THE BOARD OF DIRECTORS --

15 THE WITNESS: YES.

16 THE COURT: --NOW, YOU ARE NOT
17 COMPARTMENTALIZED?

18 THE WITNESS: NO, NOT A BIT.

19 THE COURT: SO, YOUR PREVIOUS ANSWER IN
20 REFERENCE TO YOUR DEPARTMENT, YOU DID YOUR DEPARTMENT
21 WORK, THAT'S IT.

22 RIGHT NOW HE IS ASKING YOU A QUESTION AS,
23 ON THE BOARD OF DIRECTORS WHERE IT IS THE WHOLE
24 DEPARTMENT.

25 THE WITNESS: THAT'S RIGHT.

26 THE COURT: NOW, ASK THE QUESTION.

27 THE WITNESS: YES.

28 MR. TIGERMAN:

1 Q. GIVEN THE FACT YOU WERE ON THE BOARD OF
2 DIRECTORS AT SOME POINT, ARE OVERSEEING THE ENTIRE
3 CORPORATION, IF YOU HAD LEARNED THAT SOMETHING WAS
4 DANGEROUS AND IT WAS ENDANGERING EMPLOYEES, WOULD YOU AT
5 LEAST HAVE INVESTIGATED OR BROUGHT THAT TO SOMEBODY'S
6 ATTENTION TO MAKE SURE THAT IT WAS BEING ADDRESSED?

7 THE COURT: OR ORDERED AN INVESTIGATION?

8 THE WITNESS: I CERTAINLY WOULD UNLESS I
9 KNEW THAT SOMEBODY ELSE WAS DOING IT.

10 MR. TIGERMAN: ALL RIGHT.

11 Q. AND THAT'S BECAUSE AS A DIRECTOR OF THE
12 CORPORATION YOU HAVE A RESPONSIBILITY FOR THE SAFETY OF
13 THE WORKERS, ISN'T THAT TRUE?

14 A. AS A, SAY THAT AGAIN?

15 Q. AS A DIRECTOR OF THE CORPORATION YOU HAVE A
16 RESPONSIBILITY FOR THE WHOLE CORPORATION INCLUDING THE
17 SAFETY OF THE WORKERS, ISN'T THAT TRUE?

18 A. WELL, TO THE EXTENT THAT ANY BOARD MEMBER IS
19 RESPONSIBILITY FOR IT.

20 Q. THE BUCK STOPS, THE BUCK STOPS THERE, RIGHT,
21 STOPS AT THE TOP, DOESN'T IT?

22 A. IT COULD.

23 Q. OKAY. ISN'T IT TRUE, SIR, THAT IN ADDITION TO
24 WHAT WE HAVE TALKED ABOUT, IF YOU WERE THE, WHEN YOU WERE
25 THE DIRECTOR OF THE COMPANY AND IF YOU HAD, IF YOU
26 ACQUIRED KNOWLEDGE THAT A PARTICULAR SUBSTANCE THAT
27 BECHTEL WAS USING ON A REGULAR BASIS WAS DANGEROUS TO
28 PEOPLE WHO WERE BEING EXPOSED TO IT, WOULD YOU HAVE AT

1 LEAST INSTITUTED AN INVESTIGATION INTO THAT?

2 MR. LOPEZ: OBJECTION, ARGUMENTATIVE, CALLS
3 FOR SPECULATION AND ASKED AND ANSWERED.

4 THE COURT: IT IS.

5 MR. GILBERT: HE HAS ALREADY GIVEN HIS
6 ANSWER.

7 MR. TIGERMAN: FIRST ONE WAS EMPLOYEES.
8 THIS IS A THIRD PARTY.

9 THE COURT: THIS GOES TO THE WHOLE.

10 MR. LOPEZ: HE HAS ALREADY GIVEN HIS
11 ANSWER.

12 THE COURT: SUSTAINED.

13 MR. TIGERMAN: ALL RIGHT.

14 Q. DID YOU CONSIDER IT YOUR RESPONSIBILITY AS
15 BEING ONE OF THE TOP LEVEL AT BECHTEL TO MAKE SURE THAT
16 THE COMPANY WASN'T INJURING PEOPLE BY THE PROJECTS IT WAS
17 PERFORMING?

18 THE COURT: ARE YOU SUGGESTION IT WAS HIS
19 JOB AS A MEMBER OF THE BOARD OF DIRECTORS TO DO AN
20 INDEPENDENT INVESTIGATION?

21 MR. TIGERMAN: NO. AT LEAST GET AN
22 INVESTIGATION GOING.

23 THE COURT: WHY DON'T WE ASK IT
24 DIFFERENTLY.

25 MR. TIGERMAN: ALL RIGHT.

26 THE COURT: IF INFORMATION CAME TO YOU THAT
27 YOU CONSIDERED COULD POSSIBLY BE A DANGER TO
28 EMPLOYEES WORKING FOR THE CORPORATION AND YOU

1 DISCUSSED IT WITH, WHETHER YOU FOUND OUT ABOUT IT
2 YOURSELF OR SOMEONE BROUGHT IT TO YOUR ATTENTION
3 EITHER AT A CONFERENCE TABLE OR WHATEVER, WOULD YOU
4 ORDER AN INVESTIGATION ON THAT TO FIND OUT WHAT THE
5 FACTS ARE?

6 THE WITNESS: I WOULD, IF I HAD NOT, IF I
7 HAD, IF I HAD NOT KNOWN THERE WAS SOMEONE ELSE THERE
8 BEING RESPONSIBLE.

9 THE COURT: IF THERE WAS SOMEONE ELSE THERE
10 RESPONSIBILITY WHO WAS INVESTIGATING THAT, WOULD YOU,
11 AS A MEMBER OF THE BOARD OF DIRECTORS WANT TO FIND
12 OUT WHAT THE CONCLUSIONS ARE, ASK FOR A REPORT OF
13 WHAT WAS DISCOVERED?

14 THE WITNESS: DEPENDS ON THE MAGNITUDE.

15 THE COURT: THE MAGNITUDE.

16 THE WITNESS: THE MAGNITUDE OF THIS THING
17 IS, THERE IS SO MANY THINGS, WHEN I STOPPED TO THINK,
18 THERE WERE HUNDREDS OF BIG PROJECTS GOING ON.

19 THERE IS NO ONE MAN THERE THAT KNOW ALL,
20 WHAT ALL THE THINGS WERE, LIKE, THAT SORT OF THING.

21 THE COURT: IF IT WASN'T DEALING WITH, SAY,
22 SLIPPERY LINOLEUM IN THE HALLWAY OF ANY PARTICULAR
23 BECHTEL BUILDING BUT SAY IT IS, MAYBE IT IS A PRODUCT
24 THAT IT IS USING ALL OVER, THERE IS A BIG DIFFERENCE.
25 YOU HAVE INDICATED SOMETHING TRIVIAL AND SOMETHING
26 MORE IMPORTANT.

27 THE WITNESS: WELL, LET ME SAY THIS, THAT
28 YOU CAN'T DO THE THINGS THAT WE WERE DOING IN THOSE

1 YEARS WITHOUT THERE BEING MANY SUCH THINGS THAT ARE
2 DANGEROUS. AND I DON'T THINK THAT ANY COMPANY THAT'S
3 IN THIS KIND OF BUSINESS COULD AVOID IT.

4 THE COURT: BY, WHAT DANGEROUS THINGS ARE
5 YOU REFERRING TO?

6 THE WITNESS: I MEAN ANYTHING THAT WAS
7 CLAIMED TO BE DANGEROUS OR WAS HURTING EMPLOYEES.

8 THE COURT: COULD YOU GIVE US AN EXAMPLE?

9 THE WITNESS: WELL, TRUCK DRIVERS, FOR
10 EXAMPLE, ARE CARTING STUFF AROUND, THEY ARE IN A
11 DANGEROUS POSITION AT TIMES.

12 MR. TIGERMAN: ALL RIGHT.

13 Q. SIR, DID YOU ACTUALLY PARTICIPATE IN, AT TIMES,
14 IN WORKING WITH REFINERY OWNERS ON BUILDING REFINERY
15 PROJECTS, IS THAT TRUE?

16 A. YOU SAY --

17 Q. YOU PARTICIPATED --

18 A. -- IN --

19 Q. -- IN GETTING REFINERY PROJECTS OFF THE GROUND?

20 A. NOT ONLY THOSE --

21 Q. OKAY.

22 A. -- BUT I DID SOME --

23 Q. ALL RIGHT.

24 A. BUT LOTS OF OTHER THINGS, TOO.

25 Q. AND IT IS WAS TYPICAL IN THAT KIND OF WORK,
26 LOTS OF PIPE INSULATION WOULD HAVE TO BE USED TO INSULATE
27 ALL THE PIPES, ISN'T THAT TRUE?

28 A. IT IS DEPENDING UPON WHAT THE, WHETHER OR NOT

1 THE PIPE, THE PIPE REQUIRED THAT SORT OF THING.

2 Q. ALL RIGHT.

3 A. DON'T, VERY FEW OF THEM REQUIRED IT.

4 Q. IF IT WAS LOTS OF PIPE AND IT WAS AT AN OIL
5 REFINERY, IT WOULD REQUIRE SOME SORT OF INSULATION,
6 WOULDN'T IT?

7 A. NOT NECESSARILY.

8 Q. ALL RIGHT. BUT BECHTEL USED LOTS OF INSULATION
9 ON IT PROJECTS, DIDN'T IT?

10 THE COURT: ON ITS PIPING PROJECTS?

11 MR. TIGERMAN:

12 Q. PIPING PROJECTS?

13 A. BECHTEL, BECHTEL ENGINEERS PUT INTO IT WHAT
14 THEY BELIEVED WAS PROPER THINGS, WHETHER IT NEEDED TO BE
15 COVERED OR NOT --

16 Q. IF A SUBSTANCE WAS BEING USED OVER AND OVER
17 AGAIN, PROJECT AFTER PROJECT AND IT CAME TO YOUR ATTENTION
18 THAT THE SUBSTANCE THAT WAS REPEATEDLY BEING USED PROJECT
19 AFTER PROJECT POSED A HAZARD TO HUMAN HEALTH, THAT CAME TO
20 YOUR ATTENTION AND YOU DIDN'T KNOW WHETHER OR NOT ANYBODY
21 ELSE WAS INVESTIGATING IT, WOULD YOU ORDER AN
22 INVESTIGATION?

23 MR. LOPEZ: OBJECTION, CALLS FOR
24 SPECULATION.

25 THE COURT: SUSTAINED.

26 MR. TIGERMAN:

27 Q. SIR --

28 A. I MUST TELL YOU, I WAS NOT LOOKING AROUND FOR

1 TROUBLE. I WAS SO BUSY, WAS LOOKING FOR OTHER THINGS, WAS
2 NOT LIKELY THAT I WAS GOING TO TRY TO PICK UP THINGS LIKE
3 THAT AND REPORT THEM. IT JUST, I COULDN'T DO ALL OF THOSE
4 THINGS. -

5 Q. I UNDERSTAND, SIR. MY QUESTION, THOUGH, I WILL
6 REPHRASE SO THAT HOPEFULLY IT IS A BETTER QUESTION?

7 MR. LOPEZ: WHAT --

8 MR. TIGERMAN:

9 Q. IF IT CAME TO YOUR ATTENTION THAT A SUBSTANCE
10 BECHTEL WAS USING JOB AFTER JOB WAS A DANGEROUS
11 SUBSTANCE --

12 A. IF?

13 Q. -- "IF" IT CAME TO YOUR ATTENTION --

14 A. YES.

15 Q. -- AND YOU DIDN'T KNOW THAT ANYBODY ELSE WAS
16 LOOKING INTO IT, WOULD YOU HAVE DONE SOMETHING ABOUT IT?

17 MR. LOPEZ: OBJECTION, ARGUMENTATIVE, ASKED
18 AND ANSWERED.

19 THE COURT: SUSTAINED. LET ME ASK YOU
20 THIS. WHILE YOU WERE WORKING THERE, DID YOU
21 PERSONALLY EVER COME ACROSS ANY INFORMATION, YOU --

22 THE WITNESS: YES.

23 THE COURT: NO MATTER WHAT THE SOURCE, COME
24 ACROSS ANY INFORMATION THAT MADE YOU SUSPECT THAT ANY
25 MATERIALS USED BY YOUR COMPANY IN INSULATING PIPES
26 WAS DANGEROUS TO THE EMPLOYEES?

27 THE WITNESS: I HAVE NEVER HAD THAT
28 EXPERIENCE.

1 MR. TIGERMAN: OKAY.

2 Q. LET ME JUST ASK IT THIS WAY. LET'S ASSUME WHEN
3 YOU WERE ON THE BOARD OF DIRECTORS AND YOU WERE AN OFFICER
4 YOU HAD LOTS OF PEOPLE REPORTING TO YOU, ISN'T THAT TRUE?

5 A. NOT BECAUSE I WAS ON THE BOARD. THEY HAD TO
6 REPORT TO ME NOT BECAUSE I WAS ON THE BOARD BUT BECAUSE I
7 WAS AN OFFICER AND RESPONSIBLE FOR CERTAIN PROJECTS.

8 Q. AS AN OFFICER OF THE CORPORATION, IF ONE OF THE
9 PEOPLE BELOW YOU, IF IT HAD COME TO THEIR ATTENTION THAT A
10 SUBSTANCE THAT BECHTEL WAS USING WAS DANGEROUS, WOULD YOU
11 HAVE EXPECTED ONE OF THOSE PEOPLE BELOW YOU TO DO
12 SOMETHING ABOUT IT OR REPORT IT TO SOMEBODY WHO WOULD DO
13 SOMETHING ABOUT IT?

14 MR. GILBERT: OBJECTION, ASKED AND
15 ANSWERED.

16 THE COURT: ASKED AND ANSWERED,
17 SPECULATION, ARGUMENTATIVE, HYPOTHETICAL, NOT HERE AS
18 AN EXPERT.

19 MR. TIGERMAN: ALL RIGHT.

20 Q. SIR, DID YOU AT ANY TIME EXPECT THE PEOPLE
21 BELOW YOU TO REPORT DANGERS, TO DO SOMETHING ABOUT THAT,
22 TO MAKE SURE THEY WERE TAKEN CARE OF?

23 MR. LOPEZ: SAME OBJECTION.

24 THE COURT: SUSTAINED.

25 THE WITNESS: YOU SAY --

26 THE COURT: DON'T HAVE TO ANSWER.

27 THE WITNESS: ALL RIGHT.

28 MR. TIGERMAN:

1 Q. SIR, WAS THERE A COMPANY POLICY THAT THE
2 COMPANY ENGAGE IN FAIR DEALINGS?

3 A. SORRY?

4 Q. _ WAS THERE A CORPORATE POLICY THAT THE COMPANY
5 ENGAGE IN FAIR DEALING?

6 A. IN WHAT DEALING?

7 THE COURT: WERE YOU FAIR IN YOUR
8 NEGOTIATIONS AND YOUR DEALINGS? IS THAT WHAT YOU ARE
9 GETTING INTO? I DON'T KNOW WHAT YOU ARE GETTING
10 INTO.

11 SUSTAINED.

12 MR. LOPEZ: I DO, THANKS.

13 THE COURT: "FAIR DEALING," VAGUE,
14 AMBIGUOUS. YOU TALKING ABOUT CONTRACTS, BIDS, WAGE
15 ASSIGNMENTS?

16 MR. TIGERMAN:

17 Q. SIR, THIS EXHIBIT, THERE WAS A LETTER THAT IS
18 SIGNED BY STEPHEN D BECHTEL. AND IN THIS LETTER, IT IS UP
19 SIDE DOWN RIGHT NOW. IS IT POSSIBLE IN THIS LETTER, IT
20 SAYS:

21 "IN REVIEWING OUR BUSINESS HISTORY, I AM
22 GRATIFIED BY ADHERENCE TO TWO IMPORTANT POLICIES THAT ARE
23 TRADITIONAL WITH THE BECHTEL COMPANY, FAIR DEALING AND
24 GOOD HOUSEKEEPING."

25 DID YOU UNDERSTAND AT ANY TIME THAT THESE WERE
26 IMPORTANT POLICIES THAT ARE TRADITIONAL WITH THE BECHTEL
27 COMPANY?

28 A. YOU SAID, DID I BELIEVE THAT IT WAS?

1 Q. TRADITIONAL POLICIES OF THE ORGANIZATION TO
2 ENGAGE IN FAIR DEALING?

3 A. YES, I BELIEVED IN THAT BECAUSE I HAD TO DO A
4 LOT OF IT.

5 Q. AND DID FAIR DEALING MEAN TELLING YOUR
6 CUSTOMERS ABOUT THE THINGS THAT YOU WERE DOING FOR THEM?

7 MR. LOPEZ: OBJECTION, RELEVANCE, YOUR
8 HONOR.

9 THE COURT: OVERRULED. I WILL ALLOW THAT.
10 I WILL ALLOW, THAT IS A LITTLE LOOSE, "TELLING
11 CUSTOMERS."

12 MR. LOPEZ: VAGUE, AMBIGUOUS.

13 MR. TIGERMAN:

14 Q. THIS INVOLVED PROPERLY ADVISING YOUR CUSTOMERS
15 AS TO WHAT IT WAS YOU WERE PLACING AT THEIR BUSINESSES.

16 MR. LOPEZ: OBJECTION.

17 THE COURT: YOU UNDERSTAND THE QUESTION.

18 THE WITNESS: DON'T UNDERSTAND THE
19 QUESTION.

20 MR. TIGERMAN:

21 Q. DID YOU EVER CONSIDER IT TO BE A CONCEPT OF
22 FAIR DEALING TO LET THE REFINERY KNOW IF YOU WERE PUTTING
23 SOMETHING DANGEROUS ON THEIR PROPERTY?

24 A. WELL, THAT'S AN "IF."

25 MR. LOPEZ: OBJECTION, VAGUE.

26 THE COURT: OVERRULED. I WILL ALLOW IT.

27 THE WITNESS: I STILL THINK IT DIDN'T
28 EFFECT THAT STATEMENT.

1 MR. TIGERMAN: ALL RIGHT. CAN I HEAR THAT
2 BACK. CAN YOU READ THAT BACK.

3 THE WITNESS: DON'T QUITE, I GUESS I DON'T
4 QUITE UNDERSTAND YOUR QUESTION YET.

5 MR. TIGERMAN:

6 Q. WELL, ALL SORTS OF THINGS THAT YOU PUT AT A
7 CUSTOMER'S PLACE OF BUSINESS CAN BE DANGEROUS IF THEY ARE
8 NOT OPERATED CORRECTLY, ISN'T THAT TRUE?

9 A. NOT NECESSARILY.

10 Q. ALL RIGHT. YOU DON'T THINK THAT SOMETIMES IN
11 THE JOBS THAT YOU WORKED ON THAT SOME OF THE EQUIPMENT YOU
12 PUT ON PEOPLE'S PROPERTIES COULD BE DANGEROUS IF THEY
13 DIDN'T KNOW HOW TO WORK WITH IT CORRECTLY?

14 A. THINK YOU GOT TO DETERMINE HOW SERIOUS A
15 PROBLEM, POTENTIAL PROBLEM IS BECAUSE EVERY TIME YOU TAKE
16 A STEP, IT IS A PROBLEM.

17 Q. ALL RIGHT.

18 A. BUT I THINK WE'VE GOT TO BE MORE SPECIFIC.

19 Q. SO, THE FIRST STEP IS TO DETERMINE HOW SERIOUS
20 A PROBLEM IS BEFORE YOU DECIDE WHETHER OR NOT YOU SHOULD
21 BE TELLING SOMEBODY ABOUT SOMETHING THAT IS POTENTIALLY
22 DANGEROUS THAT YOU ARE PUTTING ON THEIR PROPERTY?

23 MR. GILBERT: OBJECTION, HYPOTHETICAL,
24 SPECULATION.

25 THE WITNESS: IS THIS GOING --

26 MR. TIGERMAN: THESE ARE HIS WORDS.

27 THE COURT: HIS WORDS IN LIGHT OF YOUR
28 QUESTION.

1 MR. TIGERMAN:

2 Q. YOU SAID YOU HAVE TO DETERMINE HOW SERIOUS THE
3 PROBLEM IS FIRST. WHAT DO YOU MEAN BY THAT?

4 MR. LOPEZ: OBJECTION, YOUR HONOR, WE DON'T
5 REALLY HAVE --

6 THE COURT: OVERRULED. LET ME ASK YOU: IF
7 YOU WERE SELLING A STEP LADDER, RIGHT, SELLING A STEP
8 LADDER, RIGHT, A STEP LADDER CAN BE DANGER IF IT IS
9 NOT USED CORRECTLY.

10 THE WITNESS: YOU DAMN RIGHT?

11 THE COURT: STEEL STEP LADDER, ARE YOU
12 GOING TO TELL THE CUSTOMER, LISTEN, WHEN YOU CLIMB,
13 USE THE LEFT FOOT FIRST OR YOUR RIGHT FOOT, DEPENDS
14 WHETHER YOU ARE LEFT FOOT, RIGHT FOOT, IT IS PATENT,
15 OBVIOUS PERILS.

16 ARE YOU GOING TO ADVISE PEOPLE OF THE
17 OBVIOUS PERILS?

18 THE WITNESS: I DON'T THINK I EVER HAD THE
19 TIME TO DO THAT.

20 THE COURT: ALL RIGHT; BUT IF YOU
21 DISCOVERED THAT THERE MIGHT BE SOME HIDDEN LATEN
22 DEFECTS OR HIDDEN DEFECTS, YOU KNOW WHAT I AM
23 REFERRING TO? IF YOU TAKE A PILL, A PILL MIGHT BE
24 GOOD FOR YOU BUT YOU MIGHT HAVE SIDE EFFECTS, MIGHT
25 LOSE SOME HAIR, WHATEVER. YOU KNOW WHAT I AM TALKING
26 ABOUT?

27 SO, YOU WANT TO BE ADVISED BEFORE YOU TAKE
28 THE PILL OF THE SIDE EFFECTS.

1 IF YOU SALE A PRODUCT, THERE MAY BE, I AM
2 USING THE WORDS LOOSELY "SIDE EFFECTS." IF YOU KNEW
3 IT HAD SIDE EFFECTS, WOULD YOU AS A MEMBER OF THE
4 BOARD OF DIRECTORS, AT LEAST, GET SOMEONE TO ADVISE
5 THE PURCHASER OF THE POSSIBILITY OF THE DANGEROUS
6 EFFECTS ONE WAY OR ANOTHER?

7 THE WITNESS: I WOULD BE DOING THAT NOT AS
8 A MEMBER OF THE BOARD BUT AS A TOP EXECUTIVE OF THAT
9 PROJECT OR WHATEVER IT IS.

10 THE COURT: IF YOUR TOP EXECUTIVE OF A
11 DEPARTMENT WAS NOT DOING IT, YOU FOUND OUT ABOUT IT,
12 YOU ARE ON THE BOARD OF DIRECTORS --

13 THE WITNESS: RIGHT.

14 THE COURT: --WOULD YOU WANT TO TELL THEM?

15 THE WITNESS: THEN OF COURSE I WOULD.

16 THE COURT: OKAY. SEE THE THING, PROBLEM
17 WITH THE QUESTION WHEN YOU ARE THINKING FROM THE
18 BOARD OF DIRECTORS, YOU ARE SAYING, TALKING, HE
19 DOESN'T TALK TO CUSTOMERS. HE TALKS AT CONFERENCE
20 TABLES.

21 MR. TIGERMAN: ALL RIGHT.

22 Q. NOW, OH, WHILE YOU WERE ON THE BOARD OF
23 DIRECTORS YOU WERE ALSO AN OFFICER, ACTUALLY HAD
24 DAY-TO-DAY OBLIGATIONS IN TERMS OF ACTUALLY BUSINESS,
25 ISN'T THAT TRUE?

26 MR. LOPEZ: LET ME JUST OBJECT. THIS IS
27 CUMULATIVE. WE HAVE GONE OVER THIS.

28 THE COURT: HE ALREADY INDICATED WHEN HE

1 WAS ON THE BOARD OF DIRECTORS HE WAS AN OFFICER. YOU
2 HAVE ESTABLISHED THAT.

3 SUSTAINED.

4 MR. TIGERMAN:

5 Q. SIR, WITH RESPECT TO THE ANSWER YOU GAVE, IF
6 YOU FOUND OUT SOMEONE WASN'T FOLLOWING UP ON WHAT WAS A
7 HIDDEN DANGER IN SOMETHING THAT WAS BEING DONE BY BECHTEL,
8 WOULD YOU CONSIDER IT A MATTER OF FAIR DEALING THAT THAT
9 BE FOLLOWED UP ON?

10 A. FAIR DEALING?

11 Q. YES.

12 MR. LOPEZ: OBJECTION.

13 THE WITNESS: DON'T REGARD IT AS DEALING.
14 I DON'T QUITE UNDERSTAND YOU. WHAT WOULD I DO ABOUT
15 IT, YOU MEAN?

16 MR. TIGERMAN:

17 Q. WELL, WE TALKED ABOUT MAKING SURE A CUSTOMER IS
18 ADVISED OF HIDDEN DANGERS. IS THAT PART OF FAIR DEALING?

19 A. IF WE --

20 MR. LOPEZ: OBJECTION, YOUR HONOR.

21 THE COURT: OVERRULED.

22 THE WITNESS: IF SOMETHING HAPPENED, THE
23 CUSTOMER DIDN'T KNOW?

24 MR. TIGERMAN:

25 Q. AND IT WAS A HIDDEN DANGEROUS, IT WOULD BE
26 PART --

27 THE COURT: IT IS A HIDDEN DANGER THAT THE
28 CUSTOMER WOULD NOT KNOW ABOUT BUT YOU WOULD KNOW

1 ABOUT.

2 THE WITNESS: OKAY. IF THAT'S --

3 THE COURT: YES. THAT'S THE QUESTION?

4 - MR. TIGERMAN: RIGHT.

5 THE COURT: THEN WOULD YOU HAVE SOMEONE
6 INFORM THE CUSTOMER, HEY, LOOK OUT, THERE IS A HIDDEN
7 TRAP HERE SOMEWHERE.

8 THE WITNESS: THIS CAME UP, I WOULD
9 INSTRUCT MY PEOPLE TO DO SOMETHING.

10 THE COURT: IS THAT FAIR.

11 THE WITNESS: THAT IS FAIR.

12 THE COURT: IS THAT HOW YOU WANT TO DEAL
13 WITH THE CUSTOMER?

14 THE WITNESS: YOU'VE GOT TO.

15 THE COURT: SO, PUT THEM, IT IS FAIR
16 DEALINGS?

17 THE WITNESS: OH, ALL RIGHT, YES.

18 THE COURT: THAT IS WHAT HE IS GETTING
19 INTO.

20 MR. TIGERMAN:

21 Q. SIR, JUST THE LAST AREA, ONE LAST AREA, WHILE
22 YOU WERE WITH THE COMPANY ISN'T IT TRUE THAT THE COMPANY
23 DID A GOOD DEAL OF WORK OUT AT THE AVON REFINERY IN
24 MARTINEZ?

25 A. AVON REFINERY.

26 Q. YES, TIDEWATER, AT ONE TIME IT WAS CALLED LYON?

27 A. YES, I AM AWARE WE DID SOME THINGS THERE.

28 Q. ARE YOU AWARE, FOR EXAMPLE, THAT YOUR COMPANY

1 WAS INVOLVED IN BUILDING A COOKER OUT THERE?

2 A. I DID NOT RECALL NOW WHAT IT WAS BUT IT COULD
3 WELL HAVE BEEN.

4 Q. ARE YOU AWARE THAT IN 1957 YOUR COMPANY WAS
5 INVOLVED IN A LARGE GIGANTIC FLUID COOKING UNIT?

6 A. YES.

7 Q. ALL RIGHT.

8 A. I AM NOT SAYING I REMEMBER IT, BUT IT IS THE
9 KIND OF THING THAT WE MIGHT WELL HAVE DONE.

10 Q. ARE YOU AWARE THAT IN 1957 YOUR COMPANY
11 PARTICIPATED IN A CATALYTIC REFORMER CONSTRUCTION OUT AT
12 TIDEWATER, AT AVON?

13 A. COULD VERY WELL HAVE BEEN.

14 Q. OKAY. YOU DON'T RECALL ONE WAY OR THE OTHER?

15 A. NO, DO NOT.

16 Q. OKAY.

17 A. THAT IS TOO FAR BACK.

18 Q. DID YOU GET INVOLVED IN ANY PROJECT INVOLVING
19 THE AVON REFINERY?

20 A. BELIEVE I DID DIRECTLY OR INDIRECTLY.

21 Q. YOU KNOW HOW MANY SUCH PROJECTS YOU WERE
22 INVOLVED IN DIRECTING IN?

23 A. NO, I DON'T.

24 Q. YOU KNOW WHETHER EITHER, ANY PROJECT THAT WE
25 TALKED ABOUT INVOLVED THE COOKER AND CATALYTIC REFORMER?

26 A. SOME OF THEM, MANY OF THE PLANTS DID INCLUDE
27 THOSE THINGS, NOTHING NEW ABOUT IT.

28 Q. DO YOU KNOW WHETHER IN 1958 YOUR COMPANY

1 PARTICIPATE IN A LARGE EXPANSION OF THE REFINERY OUT AT
2 AVON?

3 A. I DO NOT RECALL WHAT THE DATE WAS OR JUST
4 EXACTLY WHAT IT WAS BUT KNEW THEY WERE GOOD CUSTOMERS OF
5 OURS. WE WORKED OUT THERE. IT IS ABOUT ALL I CAN TELL
6 YOU.

7 Q. WHEN YOU SAY "GOOD CUSTOMER OF OURS," WHAT DO
8 YOU MEAN?

9 A. A GOOD CUSTOMER. ONE --

10 Q. ONE WITH REPEAT BUSINESS.

11 A. YES, THAT'S RIGHT, REPEAT BUSINESS IS PROBABLY
12 THE BEST INDICATION?

13 Q. THOSE WHO GIVE REPEAT BUSINESS ARE BETTER
14 CUSTOMERS?

15 A. SOMETIMES, NOT ALWAYS.

16 Q. BUT THEY WERE GOOD CUSTOMERS BECAUSE THEY, YOU
17 GOT MULTIPLE JOBS THAT YOU DID OUT THERE, IS THAT CORRECT?

18 A. WELL, THAT WOULD BE ONE OF THE REASONS.

19 Q. WAS IT ONE OF THE REASONS?

20 A. DON'T KNOW. YOU HAVE TO ASK THE CUSTOMER.

21 Q. DO YOU RECALL WHETHER YOUR COMPANY WAS INVOLVED
22 IN THE ISOCRACKER COMPLEX?

23 A. THE WHAT?

24 Q. ISOCRACKER COMPLEX?

25 A. ISOCRACKER?

26 Q. YOU REMEMBER THAT ISOCRACKER?

27 A. I NEVER HEARD OF ONE, OF SUCH A THING.

28 Q. SIR, YOU ARE AN ENGINEER AND YOU ACTUALLY DID

1 AT TIMES FAMILIARIZE YOURSELF WITH SOME PROJECTS THAT WERE
2 BEING DONE AT THE REFINERIES, ISN'T THAT TRUE?

3 A. THAT IS CORRECT.

4 Q. _ AND ISN'T IT TRUE THAT ON CERTAIN PROJECTS
5 THERE WOULD BE UP TO 20 MILES OF PIPE INSULATION?

6 A. YES, WHY NOT.

7 Q. AND ISN'T IT TRUE THAT THE BECHTEL ENGINEERS
8 BACK IN THE 40'S AND THE 50'S AND THE 60'S FOR PIPE
9 INSULATION ON HOT PIPE WOULD SPECIFY EITHER CALCIUM
10 SILICATE OR 85 PERCENT MAGNESIUM PIPE FITTING THAT
11 CONTAINED ABESTOS?

12 A. THE COMPANY, YOU REPEAT THAT AND I WILL --

13 Q. ALL RIGHT. DO YOU KNOW WHETHER OR NOT YOU HAVE
14 EVER HEARD OF 85 PERCENT MAGNESIUM?

15 A. HAVE HEARD TO --

16 Q. HAVE YOU EVER HEARD OF IT?

17 A. PROBABLY DID WHEN I WAS A DESIGNER WAY BACK.
18 THAT, I DON'T REMEMBER.

19 Q. DO YOU KNOW WHETHER OR NOT ANY OF THE PRODUCTS
20 THAT BECHTEL USED CONTAINED ABESTOS PIPE COVERING?

21 A. TODAY, I COULDN'T TELL YOU. I HAVE NO IDEA.

22 Q. MIGHT HAVE KNOWN BACK THEN BUT DON'T REMEMBER
23 NOW?

24 A. THAT'S RIGHT, REMEMBER THAT WAS 60 YEARS AGO
25 THAT I WAS GETTING INTO THAT SORT OF THING, NEAR '55 ANY
26 WAY.

27 Q. WHEN A JOB WAS BEING DONE AT A MAJOR REFINERY
28 SUCH AS AVON DID YOU SEE THE PLANS OR ESTIMATES OR THE

1 BIDS FOR ANY OF THOSE PROJECTS?

2 A. PROBABLY NOT.

3 Q. THOSE WOULD BE --

4 A. BECAUSE I HAD THE ENGINEERS WORKING FOR ME WHO
5 DID THAT. I DIDN'T NEED TO.

6 Q. DO YOU KNOW HOW MANY FEET THERE ARE IN A MILE?

7 A. HOW MANY FEET?

8 Q. FEET IN A MILE?

9 A. FEET IN A MILE, 5280.

10 Q. WOULD IT BE ALL RIGHT, WOULD IT BE, DO YOU,

11 ISN'T IT TRUE THAT ON CERTAIN BECHTEL JOBS OUT AT THE

12 REFINERIES AS MUCH AS AN 150 THOUSAND LINEAR FEET OF

13 ABESTOS CONTAINING OF, STRIKE THAT.

14 MR. LOPEZ: YOUR HONOR --

15 MR. TIGERMAN:

16 Q. ISN'T IT TRUE THAT AT REFINERY JOBS UP TO
17 150,000 FEET OF PIPING INSULATION COULD BE USED?

18 MR. LOPEZ: YOUR HONOR, LET ME JUST OBJECT
19 TO RELEVANCE. WE WILL STIPULATE REFINERIES HAVE A
20 LOT OF PIPE AND A LOT OF INSULATION.

21 THE COURT: I DON'T KNOW WHETHER HE WANTS
22 TO ACCEPT "A LOT."

23 MR. TIGERMAN: NO. I'D RATHER HAVE
24 150,000 THAN A LOT.

25 MR. GILBERT: I DON'T KNOW, DOES HE HAVE
26 DOCUMENTS.

27 MR. TIGERMAN: OF COURSE I DO. THEY
28 STIPULATED TO THEIR ADMISSIBILITY.

1 THE COURT: DON'T ARGUMENT IN FRONT OF THE
2 JURY, STIPULATION OFFERED TO SAVE TIME. LET'S ACCEPT
3 IT AND MOVE ON.

4 MR. TIGERMAN: THEY DID STIPULATE.

5 MR. LOPEZ: HE WAS GOING TO ENTER THESE
6 DOCUMENTS IN. I AM NOT SURE WHAT THE PURPOSE OF
7 THIS --

8 MR. TIGERMAN: ALL RIGHT. I WILL ENTER
9 THEM IN NOW. I WILL MARK PLAINTIFF'S NEXT IN ORDER,
10 EXHIBIT FROM THE CUSTODIAN'S DEPOSITION.

11 THE COURT: ALL RIGHT. WHAT NUMBER IS IT.

12 MR. LOPEZ: HE IS GOING TO ASK THIS WITNESS
13 IF HE HAS SEEN THESE DOCUMENTS, YOUR HONOR.

14 THE COURT: DON'T KNOW. WHAT ARE YOU
15 MARKING?

16 MR. TIGERMAN: THESE ARE DOCUMENTS
17 PRODUCED AT THE CUSTODIAN OF RECORDS DEPOSITION.

18 THE COURT: ALL RIGHT. FINE. THAT DOESN'T
19 MEAN ANYTHING TO THE JURY.

20 MR. TIGERMAN: THAT IS WHY I DON'T WANT TO
21 PUBLISH IT TO THE JURY. I AM SAYING THIS BECAUSE IT
22 IS GENERIC. THIS DOCUMENT IS FROM DEPOSES. IT
23 REGARDS, REGARDING OUT AT AVON.

24 THE COURT: YOU STIPULATE THESE ARE THE
25 RECORDS?

26 MR. LOPEZ: STIPULATE TO AUTHENTICITY. I
27 DON'T THINK THIS WITNESS, HE CAN SHOW THEM TO HIM.

28 MR. TIGERMAN: THIS IS WHAT WE DISCUSSED

1 YESTERDAY THAT THEY STIPULATED.

2 THE COURT: ALL RIGHT. SO THERE IS A
3 STIPULATION THAT THESE RECORDS CAN BE MARKED FOR
4 IDENTIFICATION AND THERE IS NO NEED TO HAVE A
5 CUSTODIAN TO COME IN AND AUTHENTICATE THEM.

6 THESE ARE AUTHENTIC RECORDS, IS THAT RIGHT?

7 MR. LOPEZ: THAT'S RIGHT, YOUR HONOR.

8 THE COURT: ALL RIGHT.

9 THE CLERK: PLAINTIFF'S 60, YOUR HONOR.

10 WHEREUPON DOCUMENTS WAS MARKED
11 PLAINTIFF'S EXHIBIT NO 60 FOR
12 IDENTIFICATION ONLY.

13 MR. TIGERMAN:

14 Q. NOW, SIR, LET ME JUST GIVE YOU SOME DATES, ASK
15 WHETHER OR NOT THESE REFRESH YOUR RECOLLECTION.

16 IN 1953 WERE YOU INVOLVED IN THE NUMBER FOUR GAS
17 PLANT ADDITION AT THE AVON REFINERY?

18 A. I DO NOT RECALL HAVING BEEN THERE.

19 Q. NOW, IN A SITUATION WHERE A PROJECT WAS BEING
20 DONE BY BECHTEL AT A REFINERY, AND INSULATION WORK HAD TO
21 BE DONE, WAS IT UNUSUAL FOR BECHTEL TO SUBCONTRACT OUT THE
22 WORK TO DO THE INSULATION? WAS THAT UNUSUAL?

23 A. TO SUBCONTRACT IT?

24 Q. YES.

25 A. TO CONTRACT ON A REFINERY JOB, FOR EXAMPLE?

26 Q. TO SUBCONTRACT THE INSULATION WORK ON A
27 REFINERY JOB, IS THAT SOMETHING THAT WAS UNUSUAL FOR
28 BECHTEL?

1 A. NO, WELL, YES. I THINK PROBABLY UNUSUAL BUT
2 THEY CAN DO IT EITHER WAY. PROBABLY DID IT BOTH WAYS. I
3 DON'T KNOW.

4 Q. _ WELL, ON THE REFINERY PROJECT YOU WERE INVOLVED
5 IN, ISN'T IT TRUE THAT, THAT BECHTEL WOULD HIRE INSULATION
6 CONTRACTORS TO COME OUT AND DO THE WORK?

7 A. WELL, YOU ARE ASKING ME ABOUT SOMETHING THAT I
8 DID IN 1850 AND BEFORE THAT. AND I CAN'T, CAN'T SAY THAT
9 I REMEMBER ANY OF THAT.

10 Q. ALL RIGHT, SIR. WERE YOU INVOLVED IN ANY WAY
11 OR, WELL, LET ME BACK UP. EVEN THOUGH YOU WEREN'T
12 INVOLVED, DON'T RECALL BEING INVOLVED AT THE NUMBER FOUR
13 GAS PLANT EDITION IN 1953, DO YOU KNOW THAT BECHTEL WAS
14 INVOLVED IN THE NUMBER FOUR GAS PLANT EDITION IN 1953 AT
15 AVON?

16 A. SPECIFICALLY THAT ONE, THAT IS ONE OF THOUSANDS
17 OF JOBS THAT WE DID. I CAN'T TELL YOU THAT ONE, PICK OUT
18 ANY ONE AND TELL YOU THAT WE DID THEM AND WHEN.

19 Q. ALL RIGHT, WITH RESPECT TO, FOR EXAMPLE, WORK
20 THAT WAS DONE OUT AT AVON REFINERY, HAVE YOU EVER HEARD OF
21 A COMPANY CALLED BY THE NAME OF PLANT ABESTOS?

22 A. NO.

23 Q. ARE YOU FAMILIAR WITH ANY WORK THAT WAS DONE BY
24 BECHTEL IN 1954 AND 1955 AND 1956 REGARDING AN EXPANSION
25 AT AVON?

26 A. NO, I CAN'T RECALL IT.

27 Q. ARE YOU FAMILIAR WITH ANY JOBS AT AVON THAT
28 LASTED 83 WEEKS OR MORE THAN 80 WEEKS?

1 A. I, REPEAT, I DON'T REMEMBER WHEN ANY OF THOSE
2 PLANTS, THOSE PROJECTS WERE DONE AT THAT TIME.

3 Q. ALL RIGHT. MY QUESTION IS ARE YOU FAMILIAR
4 WITH ANY JOBS THAT BECHTEL DID AT AVON THAT LASTED MORE
5 THAN 80 WEEKS?

6 MR. LOPEZ: YOUR HONOR --

7 THE WITNESS: I HAVE NO WAY OF KNOWING
8 THAT.

9 MR. LOPEZ: I AM, ASKED AND ANSWERED. HE
10 SAID HE DOESN'T --

11 THE COURT: OVERRULED.

12 MR. TIGERMAN:

13 Q. SIR --

14 THE COURT: OVERRULED.

15 MR. TIGERMAN:

16 Q. -- ARE YOU FAMILIAR WITH ANY JOBS THAT WERE
17 DONE BY BECHTEL OUT AT AVON?

18 THE COURT: ARE YOU FAMILIAR WITH ANY JOB
19 DONE AT AVON?

20 THE WITNESS: ONLY HEARD ABOUT THEM. VERY
21 LITTLE OF IT I KNOW ANYTHING ABOUT.

22 THE COURT: WHAT'S THE USE OF GOING THROUGH
23 ALL OF THESE IF HE SAYS, I DON'T KNOW.

24 MR. TIGERMAN: BECAUSE HE SAYS HE KNOWS
25 ABOUT SOME INDIRECTLY.

26 THE WITNESS: KNOW IT IS GOING ON SOMETIME,
27 WAY BACK THERE.

28 THE COURT: YOU KNOW WHICH PROJECT WAS

1 DONE.

2 THE WITNESS: NO.

3 THE COURT: YOU KNOW WHAT WAS --

4 THE WITNESS: NOT AT THIS POINT.

5 MR. TIGERMAN: ALL RIGHT.

6 Q. ALL RIGHT, JUST ONE LAST QUESTION. DO YOU
7 BELIEVE THAT A CORPORATION HAS A MORALE RESPONSIBILITY TO
8 THE PEOPLE WHO ARE EFFECTED BY ITS CONDUCT?

9 MR. LOPEZ: OBJECTION, YOUR HONOR, CALLS
10 FOR SPECULATION, IMPROPER --

11 THE COURT: SPECULATIVE.

12 MR. GILBERT: ARGUMENTATIVE, YOUR HONOR.

13 THE COURT: IT IS ARGUMENTATIVE AS TO
14 WHETHER OR NOT THE CORPORATION OWES A MORALE
15 RESPONSIBILITY TO WHO?

16 MR. TIGERMAN: TO THOSE WHO ARE EFFECTED
17 BY THE CONDUCT.

18 THE COURT: HOW EFFECTED BY ITS CONDUCT? I
19 MEAN, THAT IS PRETTY VAGUE. MIGHT HAVE A GOOD EFFECT
20 AS OPPOSED TO A BAD EFFECT.

21 MR. TIGERMAN:

22 Q. IF A CORPORATION HAS A MORALE RESPONSIBILITY TO
23 THOSE WHO ARE HARMED BY IT CONDUCTS BECAUSE OF SOME LATEN
24 PROBLEM THAT IS CREATED BY THAT CORPORATION?

25 MR. LOPEZ: OBJECTION --

26 THE COURT: TOO LOOSE, TOO LOOSE OF A
27 QUESTION. SUSTAINED.

28 MR. TIGERMAN:

1 Q. IF THE COMPANY CREATES LATENT HAZARDS THAT'S
2 KNOWN TO THE COMPANY BUT NOT KNOWN TO THE CUSTOMER, DO YOU
3 BELIEVE THAT THE CORPORATION HAS A MORAL RESPONSIBILITY TO
4 REVEAL THAT?

5 MR. LOPEZ: OBJECTION, YOUR HONOR --

6 THE COURT: ARE YOU USING THE WORDS, "MORAL
7 RESPONSIBILITY" AS OPPOSED TO "LEGAL RESPONSIBILITY."

8 MR. TIGERMAN:

9 Q. WELL, DO THEY HAVE RESPONSIBILITY --

10 THE WITNESS: I THINK I CAN ANSWER.

11 THE COURT: CAN YOU ANSWER THAT?

12 THE WITNESS: I THINK I CAN ANSWER.

13 THEY --

14 THE COURT: GOOD. ANSWER IT.

15 THE WITNESS: I HAVE TO ANSWER IT BECAUSE
16 THE FACTS ARE THAT A GOOD DEAL OF WHAT IS DONE BY
17 BECHTEL OR ANY OTHER CONTRACTOR IN BUILDING A
18 REFINERY, THE CONTRACTOR, EVEN THOUGH, HE DESIGNS
19 MUCH OF IT, DOES NOT NECESSARILY PUT THE
20 SPECIFICATIONS IN, IN THE HANDS OF THE DESIGNER.

21 IT COMES FROM THE CUSTOMER VERY OFTEN. SO,
22 YOU CAN'T SAY THAT IT WAS JUST A CONTRACTOR THAT HAS
23 THE RESPONSIBILITY. THE OWNER HIMSELF IS SPECIFYING
24 OFTEN WHAT HE WANTS TO DO.

25 MR. TIGERMAN:

26 Q. AS TO THE AVON PROJECT DON'T KNOW WHETHER THE
27 SPECIFICATIONS CAME FROM THE OWNER OR FROM BECHTEL, DO
28 YOU?

1 A. I DON'T, I HAVE NO WAY OF KNOWING.

2 Q. AND THE SPECIFICATIONS COME FROM BECHTEL AND
3 THOSE SPECIFICATIONS CALL FOR A MATERIAL WHICH IS A HAZARD
4 KNOWN TO BECHTEL BUT NOT KNOWN TO THE CUSTOMER, DO YOU
5 THINK THE COMPANY HAS A RESPONSIBILITY TO REVEAL THAT?

6 MR. LOPEZ: OBJECTION, YOUR HONOR,
7 ARGUMENTATIVE.

8 THE COURT: ASSUMES A FACT --

9 MR. LOPEZ: ARGUMENTATIVE.

10 THE COURT: ASSUMES A FACT NOT IN EVIDENCE.
11 SUSTAINED.

12 MR. TIGERMAN: THAT'S ALL I HAVE.

13 THANK YOU, SIR.

14 THE COURT: ANY QUESTIONS.

15 MR. LOPEZ: JUST A COUPLE, YOUR HONOR.

16

17 CROSS-EXAMINATION

18 MR. LOPEZ:

19 Q. GOOD AFTERNOON, MR. DRANIY. WHAT YEAR WERE YOU
20 BORN?

21 A. WHAT YEAR? 1909, APRIL.

22 Q. SO, YOU RECENTLY HAD A BIRTHDAY. YOU TURNED
23 86?

24 A. RIGHT.

25 Q. AND YOU FIRST TOOK A JOB IN WHAT YEAR?

26 A. FIRST JOB YOU MEAN IN MY LIFE?

27 Q. YES, OUT OF ENGINEERING SCHOOL?

28 A. OUT OF ENGINEERING SCHOOL, THERE WEREN'T ANY

1 JOBS IN 1932. I GOT A JOB IN TEXAS WITH A SMALL REFINERY
2 AS A TECHNICIAN, TECHNOLOGIST OR WHATEVER AND MY MAIN JOB
3 WAS DOING THE, TESTING THE PRODUCTS EVERY DAY AND SEEING
4 THAT THEY ARE UP TO SPECIFICATIONS AND THAT SORT OF THING.

5 Q. AND WHAT YEAR WAS THAT?

6 A. THAT WAS, THAT WAS LATE '32, '33, AND '33.

7 Q. HOW OLD WERE YOU AT THAT TIME?

8 A. I WAS, LET'S SEE, I MUST HAVE BEEN '39, 23, 9,
9 23, IS, THAT'S '31, 1931, HUH.

10 Q. SO, YOU WERE 23 YEARS OLD?

11 A. ABOUT THAT, YES.

12 Q. AND THEN YOU WORKED FOR BECHTEL, MCCONE,
13 PARSONS IN 1937?

14 A. YES.

15 MR. TIGERMAN: OBJECTION, LEADING.

16 THE WITNESS: YES, IN THE MEAN TIME I WAS
17 WORKING WITH ANOTHER REFINERY.

18 THE COURT: HE SAID THAT.

19 MR. LOPEZ:

20 Q. HOW OLD WERE YOU THEN?

21 A. WHEN I WENT TO WORK FOR --

22 Q. BECHTEL, MCCONE, PARSONS?

23 A. 28. I THINK THAT FIGURES OUT.

24 Q. YOU HAVE A PROBLEM WITH YOUR MEMORY.

25 A. I DO NOW. I NEVER USE TO.

26 Q. WHEN DID THAT HAPPEN?

27 A. JUST WITHIN THE PAST COUPLE OF WE, YEARS.

28 Q. WHAT HAPPENED?

1 A. WELL, JUST FORGET, CAN'T BRING THINGS TO MIND.

2 Q. SO, SOMETIMES YOU HAVE A DIFFICULTY RECALLING
3 THE WORDS YOU WANT TO USE?

4 A. _ THAT'S RIGHT. YOU PROBABLY NOTED THAT HERE. I
5 DON'T KNOW WHAT WORD TO USE.

6 Q. I TAKE IT YOU ARE NOT TRYING TO BE EVASIVE IN
7 YOUR ANSWERS?

8 A. I AM NOT TRYING TO BE EVASIVE A BIT.

9 MR. TIGERMAN: TOO LEADING.

10 THE COURT: I, JUST, OH, NO LEADING, NO
11 LEADING.

12 MR. LOPEZ:

13 Q. DID YOU GET SUBPOENAED TO COME HERE?

14 A. YES.

15 Q. YOU HAVE A COPY OF THAT SUBPOENA?

16 A. YES.

17 Q. WHAT DOES THAT SUBPOENA SAY?

18 A. WHAT IT SAYS? IT SAYS --WELL, IT INSTRUCTS ME
19 TO APPEAR HERE AT A DESIGNATED TIME AND I WAS TO BE A
20 WITNESS IN CONNECTION WITH A, LET'S SEE, WELL, PLAINTIFF'S
21 PETITION OF ANGELO AND ANNA VIALE AND DEFENDANTS
22 CORPORATION RAYBESTOS MANHATTAN, ET AL. THAT IS WHAT I
23 CAME OUT HERE TO TALK ABOUT.

24 Q. OKAY. THEN DID YOU GET A CALL FROM
25 MR. TIGERMAN'S OFFICE?

26 A. ABOUT THIS?

27 Q. YES.

28 A. YES.

1 Q. YES?

2 A. YES, MORE THAN ONE.

3 Q. WHAT WERE YOU TOLD?

4 A. WELL, HE WANTED, WANTED TO GET SOME INFORMATION
5 ABOUT, UNDER THIS THINGS, THEY LIKE TO GET SOME
6 INFORMATION ABOUT SOME THINGS THAT WENT ON AT BECHTEL IN
7 PARTICULAR, THIS SHIP BUILDING.

8 Q. DID HE TELL YOU BECHTEL WAS A DEFENDANT IN THE
9 CASE?

10 A. NO. I WAS VERY SURPRISED.

11 Q. YOU WERE SURPRISED WHEN?

12 A. WHEN I GOT HERE.

13 Q. NOW, OVER THE COURSE OF YOUR CAREER, DID YOU
14 EVER BELIEVE ABESTOS WAS HAZARDOUS?

15 A. I HAVE KNOWN WAY BACK THAT IT IS SOMETHING YOU
16 HAVE TO BE A LITTLE CAREFUL ABOUT. THAT IT WAS NOT VIEWED
17 IN THOSE DAYS AS SOMETHING THAT YOU HAD TO GO TO SPECIAL
18 ARRANGEMENTS IN ORDER TO DO IT.

19 AND MY, BEST OF MY RECOMMENDATION, THIS REALLY
20 GOT HOT ABOUT 20 YEARS AGO. AND THE REASON I SAY THAT, I
21 SEEN IT USED SO MUCH IN BUILDING HOUSES, EVERYTHING ELSE
22 UP TO THAT TIME AND I DON'T RECALL VERY MUCH SAID ABOUT IT
23 BEING DANGEROUS.

24 Q. SO YOUR RECOLLECTION IS ABOUT TWENTY YEARS AGO?

25 A. THAT IS ALL I CAN RECALL ON IT, YES.

26 Q. PRIOR TO THAT TIME, DIDN'T HAVE ANY KNOWLEDGE
27 THAT IT WAS A HAZARDOUS MATERIAL?

28 A. WELL, I THINK THAT, LIKE MANY THINGS, CERTAIN

1 PAINTS AND SO ON, YOU ALWAYS KNOW YOU CAN'T DRINK IT.
2 YOU'VE GOT TO BE CAREFUL, THAT SORT OF THING; BUT IT
3 WASN'T SO SERIOUS THAT, IF IT HAD BEEN, WE CERTAINLY WOULD
4 HAVE DONE SOMETHING ABOUT IT.

5 MR. LOPEZ: THANK YOU.

6

7 REDIRECT EXAMINATION

8 MR. TIGERMAN: SIR, GOT JUST A COUPLE OF
9 QUESTIONS.

10 Q. FIRST OF ALL WHEN I SPOKE WITH YOU ON THE
11 TELEPHONE DIDN'T I TELL YOU I WAS INTERESTED IN
12 MR. O'CONNELL AND WHAT YOU KNEW ABOUT MR. O'CONNELL?

13 A. UH-HUH.

14 Q. YES?

15 A. DID YOU WHAT?

16 Q. DIDN'T I TELL YOU I WAS INTERESTED IN
17 MR. O'CONNELL. I WANTED TO KNOW ABOUT MR. O'CONNELL?

18 A. YOU DID AND WE SPOKE ABOUT IT.

19 Q. AND DIDN'T I TELL YOU THAT PART OF THIS CASE
20 WAS ABOUT WHAT MR. O'CONNELL LEARNED AND DIDN'T TELL THE
21 COMPANY? DIDN'T I TELL YOU THAT?

22 A. I DON'T KNOW WHAT YOU SPEAK OF.

23 Q. DIDN'T I TELL YOU MR. O'CONNELL WENT TO A
24 MEETING IN 1942. AT THE MEETING HE LEARNED ABOUT THE
25 HAZARDS OF ABESTOS, DIDN'T I TELL YOU THE BECHTEL
26 CORPORATION, THAT WAS WHAT THIS WAS ABOUT?

27 A. WHEN WAS THIS?

28 Q. IN 1942?

1 THE COURT: COUNSEL --

2 MR. GILBERT: OBJECTION --

3 THE COURT: --WE ARE GETTING INTO MY
4 CONFERENCE.

5 I AM GOING TO MAKE YOU BE A WITNESS AND AN
6 ATTORNEY AND ALLOW YOU TO BLOW YOUR OWN CREDIBILITY.
7 IF THIS WAS KNOWN, YOU'VE GOT TO GET ANOTHER
8 ATTORNEY, JUST AS MUCH AS A JUROR CAN'T BE A WITNESS
9 AND A JUROR --

10 MR. TIGERMAN: I AM NOT PROPOSING TO
11 TESTIFY.

12 THE COURT: I AM NOT GOING TO HAVE YOU
13 DEBATE WHETHER YOU ARE RIGHT IN A TELEPHONE
14 CONVERSATION WITH HIM BECAUSE YOU ARE NOT UNDER OATH.
15 I AM NOT GOING TO HAVE YOU TAKE THE STAND.

16 MR. TIGERMAN: THIS IS INTRINSIC, NOT
17 EXTRINSIC, DON'T PROPOSE TO DO ANYTHING EXTRINSIC.

18 THE COURT: ALL RIGHT.

19 MR. TIGERMAN:

20 Q. DIDN'T I TELL YOU ONE OF THE ISSUES WAS WHAT
21 MR. O'CONNELL KNEW AND DIDN'T TELL THE PLAINTIFF?

22 MR. LOPEZ: OBJECTION --

23 THE WITNESS: WHEN?

24 MR. TIGERMAN:

25 Q. ON THE SECOND PHONE CALL?

26 A. I DON'T RECALL.

27 Q. DIDN'T I TELL YOU THAT PARTS OF THIS WAS ABOUT
28 THE HISTORY OF BECHTEL, THIS CASE?

1 A. NO, I DON'T RECALL THAT. I DON'T, I RECALL
2 ONLY SOME DISCUSSION OF WHAT WENT ON IN THE, BETWEEN
3 BECHTEL AND SHIP BUILDING.

4 Q. DIDN'T I TELL YOU THAT ONE OF THE ISSUES IN THE
5 CASE WAS WHETHER OR NOT THE FORMATION OF THE BECHTEL
6 COMPANY IN 1945 AND HOW THAT WAS ACHIEVED, YOU REMEMBER
7 THAT, YOU SAID YOU KNEW SOMETHING ABOUT THAT?

8 A. YES, I TOLD YOU.

9 THE COURT: ALL RIGHT.

10 MR. TIGERMAN:

11 Q. NOW, SIR, A SECOND AGO YOU SAID THAT YOUR
12 MEMORY GOT BAD, YOU SAID, IN THE LAST COUPLE OF WEEKS THEN
13 WENT TO MONTHS.

14 MR. LOPEZ: OBJECTION, YOUR HONOR.

15 MR. TIGERMAN:

16 Q. DIDN'T YOU ALMOST SAY IN THE LAST COUPLE OF
17 WEEKS?

18 A. DID I SAY WHAT?

19 Q. DIDN'T YOU ALMOST SAY YOUR MEMORY GOT BAD IN
20 THE LAST COUPLE OF WEEKS?

21 THE COURT: OVERRULED.

22 THE WITNESS: I DID NOT SAY THAT. I SAID
23 IN THE LAST TWO YEARS.

24 MR. TIGERMAN:

25 Q. BUT YOU ALMOST SAID LAST COUPLE OF WEEKS,
26 DIDN'T YOU?

27 A. I --

28 Q. YOU SAID "WEEKS."

1 THE COURT: HE SAID WA, WA.

2 MR. TIGERMAN: HE SAID "WE" THEN CHANGED
3 THE ANSWER.

4 Q. SIR, ALL I AM ASKING IS WHETHER OR NOT YOU
5 ALMOST SAID, WHETHER YOUR MEMBER GOT BAD IN THE LAST
6 COUPLE OF WEEKS?

7 A. I DID NOT SAY THAT.

8 Q. SIR, ISN'T IT TRUE A SUBPOENA WAS SERVED ON YOU
9 IN THE LAST COUPLE OF WEEKS?

10 MR. GILBERT: OBJECTION, YOUR HONOR.

11 THE COURT: OVERRULED. GOES TO ITS WEIGHT.

12 THE WITNESS: YES, IT WAS.

13 MR. TIGERMAN:

14 Q. WAS IT?

15 A. YES, OF COURSE, IT WAS.

16 Q. YOU SAID SOMETHING TO THE EFFECT THAT YOU KNEW
17 WAY BACK THAT ABESTOS WAS SOMETHING THAT PEOPLE HAD TO BE
18 A LITTLE CAREFUL ABOUT?

19 A. YOU WERE ASKING ME ABOUT IT AND I TOLD YOU JUST
20 A WHILE AGO THAT IT HAS BEEN KNOWN WAY BACK THAT THAT IS
21 SOMETHING YOU HAVE TO BE CAREFUL ABOUT; BUT NOT THE ONLY
22 ONE, JUST AS MUCH SO AS PAINTS AND OTHER THINGS.

23 MR. TIGERMAN: THANK YOU.

24 THE COURT: BEFORE I ASK, YOU HAVE ANY
25 QUESTION, THERE IS A NOTE FROM THE JURY, MIGHT WANT
26 TO LOOK AT IT.

27 HAVING LOOKED AT THE NOTE, YOU HAVE ANY
28 FURTHER QUESTIONS? YOU WANT TO ASK ANY FURTHER

1 QUESTIONS.

2 MR. TIGERMAN: I AM, NO, I AM SATISFIED
3 WITH THE ANSWER.

4 THE COURT: COUNSEL, YOU HAVE ANY QUESTIONS
5 YOU WANT TO ASK?

6 MR. LOPEZ: NO, YOUR HONOR.

7 MR. TIGERMAN: WELL, ACTUALLY LET ME
8 EXPAND A LITTLE BIT.

9 ALLOW ME TO REOPEN IN LIGHT OF THE FACT
10 THAT A QUESTION WAS ASKED.

11 Q. WHEN YOU SAY YOU KNEW WAY BACK THAT ABESTOS WAS
12 ONE OF THE THINGS THAT YOU HAD TO BE CAREFUL ABOUT, HOW
13 FAR BACK ARE YOU TALKING ABOUT WHEN YOU SAY "WAY BACK"?

14 A. CAN'T PUT A NUMBER ON THAT. DON'T REMEMBER
15 WHEN. THESE THINGS CREEP UP ON YOU; BUT I COULD ONLY
16 GUESS THAT IT IS SOMETIME WITHIN THE MID POINT OF MY
17 CAREER. NO WAY I CAN TELL YOU WHEN THAT WAS.

18 Q. ALL RIGHT. SO, THE MID POINT OF YOUR CAREER,
19 YOU WENT FROM '37 TO '74. THAT IS 37 YEARS. AND THE MID
20 POINT OF YOUR CAREER THEN WAS 1955, IS THAT CORRECT?

21 A. YES. I AM NOT TELLING YOU WITH THAT DEGREE OF
22 MEASUREMENT.

23 Q. ALL RIGHT. AND, SIR, WHEN YOU SAID IT WAS JUST
24 ONE OF THE THINGS THAT PEOPLE HAD TO BE CAREFUL ABOUT,
25 THERE WERE OTHER THINGS LIKE WELDING FUMES AND OTHER
26 THINGS, RIGHT?

27 A. OF COURSE.

28 Q. AND WASN'T, DIDN'T YOU FEEL IT WAS YOUR

1 RESPONSIBILITY AS THE PERSON WHO WAS OPERATING A
2 DEPARTMENT TO MAKE SURE THAT PEOPLE WERE NOT BEING INJURED
3 BY ALL OF THESE DANGEROUS ITEMS THAT YOU JUST REFERENCED?

4 A. MY RESPONSIBILITY?

5 Q. TO MAKE SURE SOMETHING WAS BEING DONE ABOUT IT?

6 A. ABOUT WHAT.

7 Q. ABOUT ALL THE THINGS, DANGEROUS THINGS YOU SAID
8 YOU WERE AWARE OF?

9 A. I THINK YOU LEARN THAT FROM THE DAY YOU START
10 TO LEARN HOW TO CONSTRUCT SOMETHING. THAT'S NOT, THAT'S
11 BEING GOING ON FOR DECADES.

12 Q. WHAT HAS BEEN GOING ON FOR DECADES.

13 A. THAT SAME PROBLEM THAT YOU JUST DEFINED.

14 Q. SO --

15 A. I MEAN YOU CAN GO BACK, THE OTHER, PREVIOUS
16 CENTURY, ALWAYS HAD PROBLEMS LIKE THAT.

17 Q. ALL RIGHT. BUT MY QUESTION IS YOU SAID YOU
18 KNEW IT WAS ONE OF SEVERAL OR MANY PROBLEMS, YOU KNEW IT
19 WAY BACK.

20 MY QUESTION IS, DID YOU DO ANYTHING ABOUT IT
21 WHEN YOU FOUND OUT ABOUT IT?

22 A. NOT ANYMORE THAN I DID IN THE CASE THAT
23 ELECTRICITY GOT OUT OF HAND AND EXECUTED SOMEBODY. THIS
24 COULD HAPPEN. IT WAS AN ACCIDENT. ELECTRICITY IS ONE OF
25 THOSE THINGS YOU GOT TO BE CAREFUL OF AND THERE ARE
26 JILLIONS OF THEM?

27 Q. EVERYBODY KNOWS ABOUT THE HAZARDS OF
28 ELECTRICITY, ISN'T THAT TRUE?

1 A. I DON'T KNOW. I'VE KNOWN LOTS OF PEOPLE THAT
2 DON'T?

3 Q. YOU THINK EVERYBODY KNEW ABOUT THE HAZARDS OF
4 ABESTOS WHEN YOU FOUND OUT ABOUT IT?

5 A. DEFENDS UPON HOW WIDESPREAD IT WAS BEING USED.

6 Q. YOU SAID YOU KNEW MANY YEARS AGO, YOU SAID
7 PROBABLY AROUND THE MID POINT OF YOUR CAREER.

8 AT THE MID POINT OF YOUR CAREER, DO YOU THINK IT
9 WAS WIDESPREAD KNOWLEDGE, THAT EVERYBODY KNEW THAT ABESTOS
10 WAS DANGEROUS THE SAME WAY THAT EVERYBODY KNOWS THAT
11 ELECTRICITY IS DANGEROUS?

12 A. I DON'T KNOW. IT COULD BE.

13 MR. TIGERMAN: OKAY. THANK YOU.

14

15 RE CROSS-EXAMINATION

16 MR. LOPEZ:

17 Q. YOU CAN'T PINPOINT FOR US WHEN YOU GAINED ANY
18 KNOWLEDGE?

19 A. PINPOINT WHAT?

20 Q. YOU CAN'T PINPOINT FOR US WHEN YOU GAINED ANY
21 KNOWLEDGE THAT ABESTOS WAS HAZARDOUS?

22 MR. TIGERMAN: LEADING.

23 MR. LOPEZ:

24 Q. CAN YOU, YOU CAN'T PINPOINT--

25 MR. TIGERMAN: OBJECTION, LEADING.

26 THE COURT: LEADING.

27 THE WITNESS: WELL --

28 THE COURT: NO, NO, IT WAS A LEADING

1 QUESTION. YOU CAN'T, THE FORM, JUST THE FORM OF THE
2 QUESTION IS LEADING.

3 MR. LOPEZ:

4 Q. AS YOU SIT HERE TODAY YOU INDICATED THAT YOUR
5 MEMORY IS BAD, IS THAT CORRECT?

6 A. YES.

7 Q. IT IS NOT AS GOOD AS IT USE TO BE?

8 A. THAT IS RIGHT.

9 MR. TIGERMAN: LEADING.

10 THE WITNESS: APOLOGIZE FOR IT. I AM SORRY
11 I HAD TO ANSWER THE WAY I DID. I DID MY VERY BEST.

12 MR. LOPEZ:

13 Q. OKAY. AS YOU SIT HERE TODAY, YOU CAN'T
14 PINPOINT--

15 MR. TIGERMAN: OBJECTION, LEADING.

16 THE COURT: "YOU CAN'T PINPOINT" IS
17 LEADING. IT IS TESTIFYING. IT IS SUGGESTING AN
18 ANSWER. THERE IS ANOTHER WAY TO DO IT.

19 OPEN ENDED QUESTION.

20 MR. LOPEZ: YES, YOUR HONOR.

21 THE COURT: YOU WANT TO APPROACH THE SIDE
22 BAR BEFORE YOU START ASKING QUESTIONS. THE RECORD
23 SHOULD INDICATE I HAVE BEEN RECEIVING A SERIES OF
24 NOTES FROM THE JURY, OR A JUROR.

25 (SIDEBAR)

26 THE COURT: ANY FURTHER QUESTIONS.

27 MR. LOPEZ:

28 Q. YOU TOLD US YOUR MEMORY IS BAD, IS THAT

1 CORRECT?

2 MR. TIGERMAN: OBJECTION, LEADING.

3 THE COURT: NO. ASKED AND ANSWERED. HE
4 ALREADY SAID THAT.

5 MR. LOPEZ:

6 Q. IT GOT BAD ABOUT TWO YEARS AGO --

7 MR. TIGERMAN: OBJECTION, LEADING AND
8 SUGGESTIVE.

9 THE COURT: SUSTAINED.

10 MR. LOPEZ:

11 Q. -- IS THAT CORRECT?

12 MR. TIGERMAN: SAME OBJECTION. YOU CAN'T
13 MAKE IT BETTER BY SAYING, "IS THAT CORRECT."

14 THE COURT: I WILL ALLOW IT, HIS ANSWER.
15 WHAT IS YOUR ANSWER.

16 THE WITNESS: THAT'S WHEN I BECAME AWARE OF
17 IT.

18 MR. LOPEZ: OKAY. NO FURTHER QUESTIONS.

19 MR. TIGERMAN: ALL RIGHT. THAT'S ALL. I
20 WOULD HAVE ANOTHER WITNESS. I WOULD LIKE TO TRY TO
21 GET ON.

22 THE COURT: OKAY. THANKS. YOU ARE
23 EXCUSED, NO FURTHER QUESTIONS. JUST LEAVE THE
24 EXHIBITS HERE.

25 ALL RIGHT, SO --

26 MR. TIGERMAN: CAN WE START.

27 THE COURT: ALL RIGHT. GO 7 MINUTES, COME
28 ON.

1 ANNIE VIALE

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

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

6 THE WITNESS: MRS. ANNIE VIALE, V-I-A-L-E.

7 THE COURT: MS. VIALE, PLEASE SPEAK INTO
8 THE MICROPHONE. LET'S GO. FINE.

9 DIRECT EXAMINATION

10 MR. TIGERMAN:

11 Q. HI, MRS. VIALE, HOW ARE YOU.

12 A. FINE.

13 Q. ARE YOU A LITTLE BIT NERVOUS BEING HERE ON THE
14 STAND?

15 A. YES.

16 Q. MRS. VIALE, DO YOU KNOW ANGELO VIALE?

17 A. YES.

18 Q. WHO IS HE?

19 A. MY HUSBAND.

20 Q. HOW LONG HAS HE BEEN YOUR HUSBAND FOR?

21 A. NEARLY 50 YEARS.

22 Q. WHEN DID YOU AND ANGELO MEET?

23 A. 19, LET'S SEE, 40.

24 Q. WHEN IS IT THAT YOU FIRST MET? DID YOU GROW UP
25 IN THE SAME NEIGHBORHOOD? DID YOU MET SOMEWHERE ALONG THE
26 WAY?

27 A. NO. WE KNEW EACH OTHER THROUGH HIGH SCHOOL.

28 WE MET, PRACTICALLY THE DATE, AT MY GRADUATION.

1 Q. YOUR GRADUATION HAPPENED WHAT YEAR?

2 A. IN JUNE OF 1940.

3 Q. YOU DATED AFTER YOUR GRADUATION?

4 A. JUST FOR A COUPLE OF MONTHS.

5 Q. THEN WHAT HAPPENED?

6 A. HE WENT INTO THE SERVICE IN AUGUST OF 1940.

7 Q. WHEN ANGELO WENT TO THE SERVICE, DID YOU
8 CONTINUE TO HEAR FROM HIM?

9 A. VERY RARELY BECAUSE HIS LETTERS WERE ALL
10 SHOPPED. IT WAS THE B-MAIL. AT THE TIME THEY WERE
11 WRITTEN ON BOTH SIDES. THEY, OF COURSE, THEY WERE CUT
12 OPEN. I DON'T KNOW IF, YOU KNOW, WHAT B-MAIL IS.

13 Q. NO. WHAT WAS IT?

14 A. PHOTOSTATIC LETTERS THAT WERE SENT, CUT OUT
15 PART OF IT SO YOU COULDN'T MAKE IT OUT.

16 THE COURT: THAT WAS MILITARY SECURITY, SO
17 ON.

18 LET'S GO ON.

19 MR. TIGERMAN:

20 Q. AFTER ANGELO CAME BACK, DID YOU GUYS CONTINUE
21 DATING?

22 A. HE, FOUR YEARS LATER, HE CAME BACK AND WE DATED
23 FROM JUNE UNTIL JANUARY AND WE WERE MARRIED.

24 Q. NOW, WHERE DO YOU AND ANGELO LIVE NOW?

25 A. ON MERLE AVENUE IN MARTINEZ.

26 Q. WHEN DID YOU START LIVING THERE?

27 A. 1952.

28 Q. DID YOU GUYS JUST MOVE INTO THAT HOUSE?

1 A. NO, HE BUILT IT.

2 Q. HE BUILT IT HIMSELF?

3 A. YES.

4 Q. _ WITH HIS OWN HANDS, JUST MAKE PLANS FOR
5 SOMEBODY ELSE?

6 A. NO, HE BUILT IT HIMSELF.

7 Q. AND ARE YOU GUYS, ARE YOU STILL LIVING IN THAT
8 SAME HOUSE THAT ANGELO BUILT?

9 A. YES.

10 Q. NOW, WHEN ANGELO CAME BACK FROM THE WAR, IT WAS
11 ABOUT WHAT YEAR?

12 A. 45.

13 Q. DID YOU CONTINUE TO DATE, DID YOU GET MARRIED
14 RIGHT AWAY?

15 A. 6 MONTHS LATER. WE GOT MARRIED IN '46.

16 Q. AT THAT TIME, WHAT, WHERE WAS ANGELO WORKING?

17 A. OUT AT, IT WAS TIDEWATER THEN --

18 Q. THERE --

19 A. --NEAR AVON.

20 Q. AT THAT TIME DID YOU EVER WASH ANGELO'S
21 CLOTHES?

22 A. YES.

23 Q. CAN YOU TELL ME WHETHER OR NOT WHEN HE CAME
24 BACK FROM WORK WHETHER HIS CLOTHES WOULD BE COVERED WITH
25 DUST?

26 A. YES. I WOULD TAKE THEM OUT, SHACK THEM OUT AND
27 JUST THROW THEM IN WITH THE FAMILY WASH.

28 Q. NOW, HOW LONG AFTER YOU AND ANGELO GOT MARRIED

1 DID YOU HAVE YOUR FIRST CHILD?

2 A. WE HAD OUR FIRST ONE IN 1949.

3 Q. WAS THAT A BOY OR GIRL?

4 A. GIRL.

5 Q. WHAT WAS HER NAME?

6 A. MARGARET.

7 Q. WHERE DOES MARGARET LIVE NOW?

8 A. SHE LIVES IN ARIZONA.

9 Q. DOES SHE LIVE THERE WITH ANYBODY?

10 A. YES.

11 THE COURT: WHAT IS THE RELEVANCY OF THIS?

12 MR. TIGERMAN:

13 Q. WELL, DOES ANGELO HAVE ANY GRANDCHILDREN?

14 A. YES, HE HAS 6. WE HAVE 6.

15 Q. HOW MANY GRANDCHILDREN DO YOU HAVE BY YOUR
16 DAUGHTER?

17 A. TWO.

18 Q. NOW, IN 19, WELL, STRIKE THAT. DID YOU HAVE
19 ANY OTHER CHILDREN?

20 A. NO. WE HAVE TWO CHILDREN.

21 Q. SO, YOU HAVE TWO TOTAL?

22 A. YES.

23 Q. DISCUSSED YOUR DAUGHTER. WHO IS YOUR OTHER
24 CHILD?

25 A. OUR SON.

26 Q. IS THAT ROBERT?

27 A. YES.

28 Q. HOW MANY CHILDREN DOES ROBERT HAVE?

1 A. FOUR.

2 Q. SO, TWO FROM YOUR DAUGHTER, FOUR FROM YOUR SON,
3 THAT'S 6?

4 A. RIGHT.

5 Q. NO, I, BEFORE ANGELO GOT SICK, DID YOU EVER USE
6 TO DO ANYTHING WITH THESE GRANDCHILDREN?

7 A. WE USE TO TAKE THEM CAMPING EVERY YEAR, ALL 6
8 OF THEM?

9 Q. ALL 6 AT ONCE?

10 A. YES.

11 Q. WHAT ARE THE AGES OF THESE GRAND CHILDREN?

12 A. WELL, QUITE A BIT SMALLER THEN BUT NOW THEY
13 HAVE GROWN?

14 Q. IS THIS SOMETHING ANGELO WOULD DO BY HIMSELF?

15 A. HE AND I BOTH, GIVE THE PARENTS A VACATION.

16 Q. OKAY, NOW, MRS. VIALE, AFTER ANGELO BUILT YOUR
17 HOUSE IN 1952, DID HE CONTINUE WORKING AT THE AVON
18 REFINERY?

19 A. YES.

20 Q. WHEN DID HE RETIRE FROM THE AVON REFINERY?

21 A. 1975.

22 Q. WHY IS IT THAT ANGELO RETIRED, IF YOU KNOW?

23 A. HE TOOK EARLY RETIREMENT BECAUSE WE COULD SEE
24 OUR WAY, YOU KNOW, WE HAD OUR HOME. SO, HE JUST DID SOME
25 ODD JOBS BUT JUST FOR FRIENDS.

26 Q. NOW, AFTER, WELL, BEFORE RETIREMENT, DID ANGELO
27 DO ANY HOBBIES?

28 A. YES, HE HAD LOTS OF HOBBIES.

1 Q. GIVE ME SOME EXAMPLE?

2 A. WE LIKE TO HIKE AND HUNT AND FISH OUT OF STATE,
3 HIGH ALTITUDE.

4 Q. DID HE EVER DIVE?

5 A. YES, SKIN DIVE.

6 Q. WHAT ABOUT YOU, WHEN HE DID THESE THINGS, DID
7 HE LEAVE YOU ALONE?

8 A. NO, WENT WITH HIM. WE DID A LOT OF TRAVELING.

9 Q. DID YOU GO WITH HIM WHEN HE WENT FISHING?

10 A. YES.

11 Q. WHAT DID YOU DO WHILE HE WAS OUT ON THE RIVER
12 BANK?

13 A. WOULD OUT GO WITH HIM. I FISHED TO. I LOVED
14 IT.

15 Q. DID YOU GO WITH HIM WHEN HE WENT HUNTING?

16 A. YES.

17 Q. WHAT DID YOU DO WHEN HE WAS RUNNING AROUND IN
18 THE WOODS?

19 A. WAS WITH HIM?

20 Q. YOU WERE HUNTING, TOO?

21 A. YES.

22 Q. WHEN ANGELO WAS OUT DIVING, DID YOU DRIVE WITH
23 HIM TO THE PLACE WHERE HE DID THE DIVING?

24 A. WOULD GO TO THE BEACH. I WOULD NOT GO IN THE
25 WATER BECAUSE I DON'T LIKE WATER.

26 Q. NOW, DID YOU AND ANGELO TRAVEL AT ALL?

27 A. YES. HE DID A LOT OF TRAVELING.

28 Q. GIVE ME AN IDEA OF THE TRAVELING, THE KIND YOU

1 DID?

2 A. WE WENT TO NEW ZEALAND, AUSTRIA, EUROPE,
3 HAWAII, SEVERAL TIMES, WHEN TO ALL THE LEGION OF VALOR
4 CONVENTIONS AROUND THE UNITED STATES.

5 Q. LEGION OF VALOR, WHAT ARE THOSE?

6 A. WELL, IT IS A GROUP, JUST FOR HIGHLY DECORATED
7 SOLDIERS. THEY MEET EVERY YEAR. SO, WE DID THAT.

8 Q. NOW, SINCE ANGELO HAS BEEN SICK, WELL, FIRST OF
9 ALL, LET ME JUST TALK ABOUT THE LEGION OF VALOR FOR A
10 SECOND.

11 WHAT IS YOUR UNDERSTANDING OF THE LEGION OF
12 VALOR? WHAT IT IS FOR?

13 MR. GILBERT: OBJECTION, RELEVANCY.

14 THE COURT: RELEVANCY, SUSTAINED. WE
15 ALREADY HEARD THAT. WE KNOW THAT ALREADY. THE JURY
16 KNOWS.

17 MR. TIGERMAN:

18 Q. WHEN HE WENT TO THE LEGION OF VALOR CONVENTION,
19 DID YOU ALWAYS GO TOGETHER?

20 A. YES.

21 Q. SINCE ANGELO HAS BEEN RETIRED --

22 A. UH-HUH.

23 Q. -- CAN YOU GIVE US AN IDEA HOW MUCH TIME THE
24 TWO OF HAVE ACTUALLY SPENT TOGETHER AS OPPOSED TO HIM OFF
25 DOING HIS OWN THING?

26 A. WE HAVE ALWAYS GONE TOGETHER. WE WENT
27 EVERYWHERE TOGETHER.

28 Q. BEFORE ANGELO GOT SICK, DID YOU FIND HIM TO BE

1 A SOURCE OF MORAL SUPPORT?

2 A. YES.

3 Q. IN WHAT WAY?

4 A. WELL, HE IS THE ONLY ONE I HAD. I HAVE NO
5 OTHER, I HAVE A BROTHER BUT WE ARE NOT THAT CLOSE. SO, HE
6 WAS THE ONLY ONE I HAVE REALLY.

7 Q. DID YOU CONFIDE IN HIM AND SEEK ADVISE?

8 A. YES.

9 MR. GILBERT: OBJECTION, LEADING.

10 THE COURT: I WILL ALLOW IT. OVERRULED BUT
11 DON'T LEAD.

12 MR. TIGERMAN:

13 Q. NOW SINCE ANGELO HAS BEEN SICK, HAVE YOU BEEN
14 ABLE TO GET THE SAME KIND OF MORAL SUPPORT THAT YOU GOT IN
15 THE PAST?

16 A. WELL, HE DOESN'T SAY MUCH. SO, JUST DOESN'T
17 TALK.

18 Q. HAVE YOU FOUND THERE IS A DIFFERENCE IN YOUR
19 ABILITY TO CONFIDE IN HIM ABOUT THINGS THAT TROUBLE YOU?

20 A. VERY MUCH.

21 Q. WHY DON'T YOU DO THAT ANY MORE?

22 A. WELL, DON'T WANT HIM TO FEEL BAD, SO, JUST
23 DON'T TALK ABOUT IT.

24 Q. HAVE YOU TRIED?

25 A. YES.

26 Q. WOULD YOU, HAVE YOU EVER TALKED WITH ANGELO
27 ABOUT HOW HE FEELS ABOUT PASSING AWAY?

28 A. I TRIED NOT TO.

1 Q. HAS HE SAID ANYTHING TO YOU ABOUT PASSING AWAY?

2 A. NOT VERY MUCH, JUST MADE A FEW COMMENTS BUT
3 NOT --

4 Q. GIVE ME AN EXAMPLE OF THE COMMENTS THAT COMES?

5 A. WELL, THE OTHER DAY HE WAS IN TERRIBLE PAIN. I
6 SAID, WHAT'S THE MATTER. HE SAID --

7 MR. GILBERT: OBJECT, YOUR HONOR, HEARSAY.

8 MR. TIGERMAN: STATE OF MIND, PHYSICAL
9 STATE.

10 MR. GILBERT: PHYSICAL STATE IS ONE THING,
11 GOES INTO SOME, SOMETHING ELSE --

12 THE COURT: SUSTAINED, 352. ALSO 352.

13 MR. TIGERMAN: MAY WE HAVE A SIDEBAR?

14 THE COURT: I HAVE ALREADY RULED. I AM
15 SORRY. NEXT QUESTION.

16 MR. TIGERMAN: ALL RIGHT.

17 Q. DO YOU KNOW, HAS ANGELO MADE ANY REMARKS TO YOU
18 THAT REVEAL HOW HE FEELS ABOUT WHAT IS HAPPENING WITH HIM?

19 A. DOESN'T SAY VERY MUCH. HE JUST SAID THE OTHER
20 DAY THAT THE LIGHTS ARE GETTING DIMMER, SO.

21 Q. ARE YOU ABLE TO GET THE SAME KIND OF EMOTIONAL
22 SUPPORT FROM ANGELO THAT YOU GOT BEFORE HE WAS SICK?

23 MR. GILBERT: ASKED AND ANSWERED, YOUR
24 HONOR.

25 MR. TIGERMAN: THAT WAS MORAL.

26 THE COURT: SUSTAINED. YOU WILL LOSE IF
27 YOU WANT QUARREL WITH ME.

28 MR. TIGERMAN: OCCASIONALLY HAVE BEEN

1 SUCCESSFUL.

2 THE COURT: SOMETIMES BUT NOT THIS ONE.

3 MR. TIGERMAN: MRS. VIALE, THAT IS ALL I
4 HAVE NOW.

5 I DO WANT TO TALK ABOUT THE PROGRESSION OF
6 ANGELO'S CONDITION. WE WILL SAVE THAT.

7 THE COURT: THEN, WOULD YOU HAVE MUCH MORE?
8 HOW MUCH MORE?

9 MR. TIGERMAN: ANOTHER FIFTEEN MINUTES BUT
10 IF WE HAVE A JUROR WHO NEEDS TO GO, YOUR HONOR.

11 THE COURT: ANOTHER 5 OR 10 MINUTES.

12 MR. TIGERMAN: MAXIMUM.

13 A JUROR: GO AHEAD, I WILL TAKE A TAXI

14 THE COURT: YOU ARE GOING TO HAVE
15 QUESTIONS.

16 MR. GILBERT: I DOUBT IT.

17 THE COURT: COME ON.

18 MR. TIGERMAN:

19 Q. MRS. VIALE, WHEN YOU FIRST FOUND OUT THAT
20 ANGELO WAS SICK, WHERE WERE THE TWO OF YOU?

21 A. I GUESS WE WERE AT THE DOCTOR'S OFFICE.

22 Q. NOW, WAS THERE SOMETHING THAT LEAD UP TO THAT?

23 A. YES. WE WERE UP IN TENNESSEE I GUESS AND WE
24 WERE WALKING AND USUALLY HE IS WAY AHEAD OF ME. HE
25 COULDN'T KEEP UP WITH ME AND SO I KNEW SOMETHING WAS
26 WRONG.

27 WHEN WE GOT HOME, HE STARTED FOR A WALK, HE
28 COULDN'T MAKE IT AND SAID, WELL, SOMETHING IS WRONG. SO,

1 HE WENT TO THE DOCTOR. THAT'S WHEN THEY FOUND THE FLUID.

2 Q. SINCE THAT TIME, SINCE THAT FIRST TIME, DID
3 ANGELO TRY TO DO ANYMORE HIKING OR CAMPING OR ANY OF THE
4 OTHER ACTIVITIES?

5 A. HE WENT ON A FEW MORE PHEASANT HUNTS WHERE IT
6 IS ALL LEVEL BUT THAT'S ABOUT IT.

7 Q. SINCE THAT TIME THAT ANGELO FIRST GOT SICK,
8 HAVE THE TWO YOU TRAVELED MUCH?

9 A. NO, NOT AT ALL.

10 Q. WHY NOT?

11 A. JUST CAN'T.

12 Q. SINCE THAT TIME WHEN YOU FIRST FOUND OUT THAT
13 ANGELO WAS SICK, HAVE THE TWO OF YOU TRIED TO GO DIVING?

14 A. OH, NO.

15 Q. HAVE THE TWO OF YOU TAKEN THE GRAND CHILDREN
16 OUT CAMPING?

17 A. NO. WE STOPPED.

18 Q. NOW BEFORE ANGELO GOT SICK, DID HE BUILD DECKS
19 ON THE HOUSE?

20 A. JUST BEFORE THAT, JUST BEFORE.

21 Q. SINCE HE GOT SICK, HAS HE DONE MUCH AROUND THE
22 HOUSE?

23 A. NO, HE HAVEN'T.

24 Q. WAS ANGELO A VERY HANDY GUY BEFORE HE GOT SICK?

25 A. VERY HANDY. HE BUILT THE HOUSE. HE BUILT
26 DECKS. HE TOOK CARE OF THE HOUSE, FIXED EVERYTHING THAT
27 NEEDED FIXING.

28 Q. WAS HE ABLE TO DO ANYTHING OF THOSE THINGS?

1 A. NO, NO.

2 Q. I TAKE IT YOU LEFT HIM TODAY, IS THAT RIGHT?

3 A. LEFT MY GRANDSON WITH HIM.

4 Q. HOW WAS HE WHEN YOU LEFT?

5 A. HE WAS IN HIS RECLINING CHAIR, SLEEPING IN IT
6 ALL NIGHT, CAN'T EVEN MAKE IT ONTO THE BED, JUST STAYS IN
7 THE RECLINING CHAIR.

8 Q. HAS ANGELO LOST WEIGHT?

9 A. VERY MUCH.

10 Q. HOW MUCH?

11 A. 40 POUNDS.

12 Q. WHAT ABOUT HIS BREATHING, DO YOU OBSERVE HIM
13 BREATHING?

14 A. VERY, VERY DEEP, VERY HEAVY.

15 Q. DOES ANGELO EVER TELL YOU WHEN HE IS IN PAIN?

16 A. NO, HE TRIES NOT TO COMPLAINT BUT I CAN TELL
17 WHEN HE IS IN PAIN.

18 Q. HOW CAN YOU TELL WHEN ANGELO IS IN PAIN?

19 A. I CAN TELL FROM HIS EXPRESSION, YOU KNOW. HE
20 MIGHT MOAN LIGHTLY. I SAY, WHAT IS THE MATTER, HE SAY, OH
21 NOTHING; AND I SAY, HOW YOU FEEL, HE SAYS, OH, I AM ALL
22 RIGHT AND I KNOW HE IS NOT.

23 Q. SINCE ANGELO HAS BEEN DIAGNOSED WITH CANCER,
24 HOW HAS HIS MOOD BEEN?

25 A. HIS MOOD?

26 Q. YES.

27 A. WELL, KIND OF GETS A LITTLE DEPRESSED.

28 Q. DO YOU EVER HAVE ANY SUCCESS IN TRYING TO MAKE

1 A. NO, NO.

2 Q. I TAKE IT YOU LEFT HIM TODAY, IS THAT RIGHT?

3 A. LEFT MY GRANDSON WITH HIM.

4 Q. HOW WAS HE WHEN YOU LEFT?

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20 MIGHT MOAN LIGHTLY. I SAY, WHAT IS THE MATTER, HE SAY, OH
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22 RIGHT AND I KNOW HE IS NOT.

23 Q. SINCE ANGELO HAS BEEN DIAGNOSED WITH CANCER,
24 HOW HAS HIS MOOD BEEN?

25 A. HIS MOOD?

26 Q. YES.

27 A. WELL, KIND OF GETS A LITTLE DEPRESSED.

28 Q. DO YOU EVER HAVE ANY SUCCESS IN TRYING TO MAKE

1 HIM FEEL BETTER?

2 A. NOT MUCH I CAN DO. FRIENDS COME BY TO SEE HIM,
3 TALK TO HIM, CHEERS HIM UP THAT WAY. THAT'S ABOUT IT.

4 MR. TIGERMAN: ALL RIGHT. THANK YOU.
5 THAT'S ALL I HAVE.

6 THE COURT: ANY QUESTIONS?

7 MR. GILBERT: NO QUESTION HERE, YOUR HONOR.

8 MR. LOPEZ: NO.

9 THE COURT: THANK YOU. YOU ARE EXCUSED.

10 LADIES AND GENTLEMEN, REMEMBER THE
11 ADMONITION OVER THE LONG 4TH OF JULY VACATION PERIOD.
12 DON'T TALK ABOUT THIS CASE, EXCHANGE NUMBERS, DON'T
13 CALL EACH OTHER, TALK ABOUT THE CASE. REMEMBER MY
14 ADMONITION.

15 YOU HAVEN'T HEARD ALL THE CASE YET, KEEP AN
16 OPEN MIND. WE WILL SEE YOU WEDNESDAY AT 9:00
17 O'CLOCK. COURT IS IN RECESS FOR 15 MINUTES THEN
18 COUNSEL AND I WILL SPEND THE REST OF THE AFTERNOON
19 WITH A WHOLE BUNCH OF STUFF.

20 (OUT OF JURY PRESENCE)

21 THE COURT: THE ATTORNEYS ARE PRESENT, THE
22 JURY IS NOT PRESENT.

23 IN REFERENCE TO 48, EXHIBIT 48 WHICH WAS A
24 PLAINTIFF PREPARED PHOTOCOPY OF THE DUPLICATE
25 ORIGINAL COPY WHICH HAS THE SEAL ON IT, YESTERDAY, WE
26 SPENT SOMETIME SHOWING THAT.

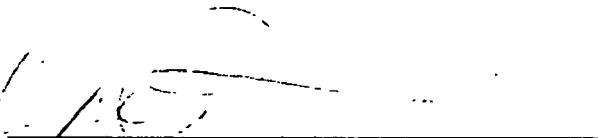
27 SOME OF THE PAGES DOES NOT FOLLOW IN ORDER.
28 WASN'T THAT 48, WAS NOT A GOOD CORRECT COPY, SOME

1
2
3 STATE OF CALIFORNIA)
4 CITY AND COUNTY OF SAN FRANCISCO)
5

6 I, MILDRED BAKER, A CERTIFIED SHORTHAND REPORTER, DO
7 HEREBY CERTIFY:

8 THAT THE FOREGOING IS A FULL, TRUE AND CORRECT TRANSCRIPT
9 OF THE PROCEEDINGS HAD IN THE WITHIN-ENTITLED AND NUMBERED
10 CAUSE ON THE DATE HEREINBEFORE SET FORTH, AND I DO FURTHER
11 CERTIFY THAT SAID TRANSCRIPT HAS BEEN PREPARED BY ME.
12
13
14

15 DATED: JULY 24, 1995
16
17

18
19 
20 MILDRED BAKER, CSR 3505
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