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STATE OF CONNECTICUT
IN RE: BRIDGEPORT ASBESTOS LITIGATION
NO.: FBT-CV12-6034053-S

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KENNETH C. REED, III and RUTH E. REED, Plaintiffs,	*	SUPERIOR COURT
	*	J.D. OF FAIRFIELD
vs.	*	AT BRIDGEPORT
3M CO., et al., Defendants.	*	

* * * * * * * * * * * * * * * * * *

DEPOSITION OF: KRISTIN K. KUCSMA, M.A.
Wednesday, May 27, 2015
Courtyard by Marriott West Orange
8 Rooney Circle
West Orange, New Jersey
2:16 p.m. - 5:43 p.m.

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(none)

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be preserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom the within deposition was taken.

P R O C E E D I N G S

2:16 p.m.

West Orange, New Jersey

MR. ROBINSON: All right. Just for the record, usual stipulation, objection by one is good for all?

MR. BERQUIST: Yes.

MR. ROBINSON: All right.

So if you hear objection from the phone, you don't have to worry about it as which attorney it specifically is. Hopefully they won't be objecting to my questions, but in any event --

MR. BERQUIST: You'll know if it's me.

MR. ROBINSON: Yeah.

(Whereupon, the court reporter administered the oath to the witness.)

K R I S T I N K. K U C S M A, M.A., conducting business at Sobel Tinari Economics Group, 293 Eisenhower Parkway, Suite 190, Livingston, New Jersey 07039, having been first duly sworn or

affirmed by a Notary Public within and for the States of New York, New Jersey and Delaware, was examined and testified as follows:

EXAMINATION BY MR. ROBINSON:

Q. In any event, it's Professor Kucsma; correct?

A. Yes. Thank you.

Q. Kucsma. Okay.

My name is John Robinson. I represent one of the defendants in the matter where you've issued an expert report, the Ken Reed matter, okay?

A. Yes.

Q. Okay. We're here to take your deposition. I've seen your CV and I've seen your list of prior depositions. I understand that you've been deposed many, many times; correct?

A. Yes, I have.

Q. So you know the drill. I don't need to commence about all the ground rules and all that kind of stuff?

A. That's correct. Thank you though.

Q. All right. The one thing I will say is that if you want to take a break, it's fine. If

I've got a pending question, I'll ask you to answer it before we take that break, all right?

A. Sure.

Q. All right. And you know verbal responses, no nods of the head, those types of things?

A. Yes.

Q. Additionally, just try to let me finish the question and I'll try to let you finish your answer. We'll do the best we can with that so the court reporter can get down everything we say.

A. Sure.

Q. All right. Let me ask you to first start with what's been premarked as exhibit two.

Have you seen that document before?

A. Yes, I have.

Q. All right. And that's the notice of this deposition in this matter; right?

A. Yes, it is.

Q. Have you had the opportunity to go through the delineated requests for the production?

A. Yes, I did.

Q. All right. And have you produced everything in your file that is responsive to the

items delineated there?

A. Everything for which I have a hard copy is with me today, yes. I say that simply because some of the items that are referenced in my report are publicly available documents. I don't typically print them out and, therefore, they are not contained in my file.

Q. For that you mean reference literature, articles, points of citation, that type of thing that appear throughout your report; correct?

A. Yes, correct.

Q. All right. All of the substantive material with respect to this particular case, you produced that already; right?

A. Yes.

Q. Okay. And that was going to be my next question, but I think you sort of answered it already. All of those cites that you cite throughout the report and where you have not yet produced that underlying material, all of that is available in the public domain and we can obtain those without any complications ourselves; correct?

A. Yes.

Q. You do not have any handwritten notes, any calculations that you performed, anything like that that appear in a handwritten form?

A. That is correct.

Q. Okay. Now, I'm going to hand you what's been premarked, and I thank Attorney Polglase for doing this for me, but I'm going to hand you what's been premarked what appears to be your file, but I'm going to let you identify it for me, and as you can see it's already been organized in a premarked fashion so I just want you to just tell us exhibit by exhibit what we have in your file.

A. Sure.

(Whereupon, entire file, is received and marked as Kucsma Exhibit 1 for Identification.)

A. Exhibit one is my entire file.

(Whereupon, all invoices, canceled checks, billing materials, is received and marked as Kucsma Exhibit 1A for Identification.)

A. Exhibit 1A contains all of the invoices, canceled checks, billing materials.

(Whereupon, Kristin Kucsma report dated April 17, 2015, is received and marked as Kucsma Exhibit 1B for Identification.)

A. Exhibit 1B is a copy of my report dated April 17, 2015.

(Whereupon, Kristin Kucsma report dated December 15, 2014, is received and marked as Kucsma Exhibit 1C for Identification.)

A. Exhibit 1C is a copy of my report dated December 15, 2014.

(Whereupon, communications between witness and the Lanier Law Firm, is received and marked as Kucsma Exhibit 1D for Identification.)

A. Exhibit 1D contains communications between our office and Mr. Berquist's office, the Lanier Law Firm.

MR. ROBINSON: Just quickly, are those the additional materials we had not yet been provided?

MR. BERQUIST: E-mails, yeah, just e-mails.

MR. ROBINSON: Okay. So 1D is -- I'm just trying to make this simple as possible. Is 1D, Darron, the only material we had not yet been provided?

MR. BERQUIST: Yes, although some of those e-mails you may have seen. Some of them you

may have not seen.

MR. ROBINSON: But as we go through the rest of the one subcategories, they've all been -- they're all part of what you produced to us recently as the file; correct?

MR. BERQUIST: Other than -- well, I think the complaint, yes, I believe so. I mean, the complaint is listed there. I don't know if that's in the file or not.

MR. ROBINSON: Fair enough. Okay.

BY MR. ROBINSON:

Q. Go ahead.

(Whereupon, copy of the civil summons and the complaint, is received and marked as Kucsma Exhibit 1E for Identification.)

A. Exhibit 1E is a copy of the civil summons and the complaint.

(Whereupon, copy of the standard interrogatories and requests for production, is received and marked as Kucsma Exhibit 1F for Identification.)

A. Exhibit 1F is a copy of the standard interrogatories and requests for production.

(Whereupon, federal income tax

returns from 2005 through 2013, is received and marked as Kucsma Exhibit 1G for Identification.)

A. Exhibit 1G contains the tax returns for the plaintiff, specifically the federal income tax returns from 2005 through 2013.

(Whereupon, Georgia State income tax returns, is received and marked as Kucsma Exhibit 1H for Identification.)

A. Exhibit 1H contains some Georgia State income tax returns.

BY MR. ROBINSON:

Q. What years are those?

A. For the years 2013 back through 2008.

Q. Okay.

(Whereupon, payroll and personnel documents, is received and marked as Kucsma Exhibit 1I for Identification.)

A. Exhibit 1I contains some documents that look as if they were already Bates stamped, but these are documents -- payroll and personnel documents, paystubs and some other information about benefit deductions and so on.

MR. BERQUIST: Out of order, but that's okay.

A. I just want to make sure. It looks as if we have two exhibit 1Gs. I think this 1G is supposed to be 1J. That's my guess.

MS. POLGLASE: Is there a J?

THE WITNESS: No, and it's in between I and K.

BY MR. ROBINSON:

Q. Simple enough. We're going to fix that. We're going to fix that. This is J?

A. Yes.

Q. There you go.

A. Thank you. All right.

(Whereupon, copy of an application for UnitedHealthcare Life Insurance Company, is received and marked as Kucsma Exhibit 1J for Identification.)

A. Exhibit 1J is a copy of an application for UnitedHealthcare Life Insurance Company.

(Whereupon, reports regarding COBRA payments, is received and marked as Kucsma Exhibit 1K for Identification.)

A. Exhibit 1K consists of reports regarding COBRA payments.

(Whereupon, Weed Man invoice and several other invoices regarding landscaping services, is received and marked as Kucsma Exhibit 1L for Identification.)

A. Exhibit 1L is the Weed Man invoice and several other invoices regarding landscaping services.

(Whereupon, Social Security Administration documents, is received and marked as Kucsma Exhibit 1M for Identification.)

A. Exhibit 1M contains documents from the Social Security Administration.

(Whereupon, copy of the group benefit plan specifically for long-term disability benefits through Oracle America, Inc., is received and marked as Kucsma Exhibit 1N for Identification.)

A. Exhibit 1N is a copy of the group benefit plan specifically for long-term disability benefits through Oracle America, Inc.

(Whereupon, copy of the completed fact-finding questionnaire in this matter, is received and marked as Kucsma Exhibit 1O for Identification.)

A. And last, but not least, exhibit 1O

is a copy of the completed fact-finding questionnaire in this matter.

BY MR. ROBINSON:

Q. Okay.

MR. BERQUIST: And, John, just before you go forward, I see that you've marked Professor Kucsma's file here. The documents that we've produced a couple of days ago via e-mail, all of the Reeds' family Social Security numbers were redacted.

MR. ROBINSON: Correct.

MR. BERQUIST: Obviously I prefer to have those actually be the ones that are marked. So do you have an issue to that, once we mark those we replace them with redacted copies?

MR. ROBINSON: I have no problem with it. Anybody else?

MS. POLGLASE: I'm sorry. I missed that?

MR. ROBINSON: When Darron produced the -- for anyone on the phone, when Darron produced the -- you probably heard him better than me. When Darron produced the tax returns, Social Security numbers were redacted. This version is not redacted, and he wants to replace when we actually

make the exhibits to the deposition.

MS. POLGLASE: That's fine.

MR. ROBINSON: Okay.

MR. BERQUIST: Any objections? None? Okay.

MR. ROBINSON: No objection. Okay.

BY MR. ROBINSON:

Q. Is there anything in the materials that you just identified that really you didn't rely on in any way or didn't form a basis for your review and your opinions in this case?

A. I did not rely upon many of the e-mails. I also did not specifically rely upon some of the information contained with respect to life insurance, although there was some information in there about health insurance. That I didn't consider.

I did not specifically use the information contained in the Weed Man and the other landscaping invoices, and I did not specifically make use of the information in exhibits 1M and 1N. Those exhibits specifically are regarding the disability benefits. I did not value any collateral sources of income in my report.

Q. All right. Let me take a look at the e-mails.

A. Sure.

Q. Just because I haven't seen those yet.

For the record the e-mails are 1D; correct?

A. Yes.

Q. Actually now that I see the volume of what's here, maybe I'll wait.

MS. POLGLASE: Why don't you hand them to me. I'll look at them while you're doing that.

MR. ROBINSON: Yes, okay. All right.

Q. So I think what you told us was that the operative report in this matter is 1B; correct?

A. Yes.

Q. Now, you had issued a prior report on December 15, 2004 which is --

MR. BERQUIST: 2014.

MR. ROBINSON: I'm sorry. December 15, 2014 which has been marked as exhibit 1C.

Q. And I noticed that the ultimate N

values are not drastically different than they were in the subsequent report.

A. That is correct, yes.

Q. All right. What -- I have not scoured them line by line to determine what you did between December and the April report. Can you just describe in your words what the differences are?

A. Sure. The only differences between the December report and the April report consists of a slight change in the tax rate that I used and that was because when I prepared my report in December of 2014, I did not have all of the Georgia State income tax returns. They were subsequently provided to me. I reviewed them, and based on my review of those state tax returns, I reduced the adjustment I made for tax liabilities from 28 percent to 27 percent.

Other than that the only other change as you'll note when you look at the April 2015 report is that I updated it to reflect the current date, the fact that we were now into the first quarter of 2015 as opposed to the end of 2014, but there were no methodological changes, no substantive changes other than that one percent change in the tax rate.

Q. Okay. So the entire focus of the change between December and April was simply to adjust for the fact that he was living in Georgia and that the tax rate for state taxes is different there; correct?

A. Well, I was aware of the fact that he was living in Georgia when I prepared my original report, but I had not reviewed all of the state income tax returns. I had only reviewed the federal income tax return in December of 2014. I had estimated the Georgia State tax rate based on Georgia State tax rate schedules that are publicly available, but once I reviewed the actual state tax returns, I revised slightly the adjustment that I made overall for the effective combined federal state tax rate.

Q. Okay. Now, I think you told us -- maybe not. Your CV was produced with the underlying materials that were produced to us. Was the CV just marked as one of these exhibits within exhibit one?

MR. BERQUIST: No, it would not be in her files so it's not been marked as an exhibit.

MR. ROBINSON: All right.

MR. BERQUIST: I have a copy.

MR. ROBINSON: I do too. I'll pull it out. Let's use this. Why don't we go ahead and mark this as exhibit three.

(Whereupon, curriculum vitae, is received and marked as Kucsma Exhibit 3 for Identification.)

COURT REPORTER: Number three.

THE WITNESS: Thank you.

MR. ROBINSON: All right.

BY MR. ROBINSON:

Q. I'll ask you to take a look at what's been handed to you as exhibit three.

A. (Reviews.)

Q. Is that your current CV?

A. Yes, it is.

Q. All right. Is it up to date? Is there anything that's missing from it as far as, you know, your experience or recent articles or anything that you can think of that needs to be updated?

A. I believe it is up to date. The only slight change that might have to be made would be to the number of trials and depositions in which I've testified, but you see on the last page I have testified in several additional trials and

depositions since this CV was prepared in January of this year.

Q. All right. Now, why not be consistent?

MR. ROBINSON: Let's mark this as exhibit four.

(Whereupon, list of all trials, arbitrations and mediations Professor Kucsma testified through January 15 of 2015, is received and marked as Kucsma Exhibit 4 for Identification.)

COURT REPORTER: Number four.

THE WITNESS: Thank you.

BY MR. ROBINSON:

Q. Please describe what exhibit four is.

A. Exhibit four contains a list of all of the trials, arbitrations and mediations in which I had testified through January 15 of 2015.

Q. All right. Let me grab exhibit four. It's my only copy of that. All right.

So on how many occasions have you testified since January 15 of 2015?

A. I have no idea. I don't know.

Q. Can you estimate it?

A. I really have no idea. I would

estimate a couple of times. Certainly not more than 10, but I couldn't say any more specifically than that.

Q. Okay. So somewhere between a couple and 10 since January; correct?

A. Yes.

Q. All right.

Do you recall the cases or no? Were any of them asbestos cases?

A. I do not specifically recall any of the cases as I sit here today, but I do not believe any of them were asbestos-related cases.

Q. All right. Are any of the matters in which you've previously testified asbestos-related cases?

A. Yes. And if I could see exhibit four quickly because there may be one and I don't recall if it's on here or not. I believe I may have testified this year in one asbestos-related case, but I unfortunately do not remember the name of it and I could not tell you with certainty it was asbestos-related, but I believe it may have been.

Q. Okay. Have you ever worked with the Lanier Law Firm before?

A. Yes.
Q. All right. How many times?
A. That I could not say with any specificity, but it has not been a significant number of times. Perhaps a handful of times.
Q. Do you recall the first time you started working with the Lanier firm?
A. Off the top of my head, no.
Q. Recent? Last couple of years, or was it many years ago?
A. I would estimate that I personally began working with them within the last couple of years.
Q. All right. How about the firm you work for?
A. That I couldn't say.
Q. You qualified that answer as I personally. Something was in your mind. Were you thinking of somebody else that you've worked with that's worked with the Lanier firm?
A. No. The reason I said that is simply because our firm has been in existence since 1979, and it's quite possible that before I joined the firm, our firm might have worked with the Lanier Law

Firm in the past.

Q. Is your work as an expert witness, is it on behalf of plaintiffs and defendants or is it uniquely limited to plaintiffs or describe in your own words the nature of your work as an expert witness?

A. Sure. About 30 percent of the work I do is on behalf of defendants, which means about 70 percent of the work I do is on behalf of plaintiffs.

Q. Okay. Now, what percentage of your work is in the field of providing expert witness services? Is it 100 percent of what you do?

A. I would estimate that between 90 and 95 percent, probably closer to 95 percent of the work I do involves specifically evaluating damages for litigated matters.

Q. That other approximate 5 percent of your time is spent doing what?

A. On occasion we are retained to conduct economic research projects that are not related to litigated matters.

Q. All right. How long have you been working for Sobel Tinari?

A. I have been with the Tinari Economics Group since January 2, 2008.

We were acquired by Sobel & Company in January of 2013.

Q. Okay. Where were you prior to that?

A. Prior to joining the Sobel Tinari Economics Group, I enjoyed what I like to call my first career as a college professor. I was a member of the full-time faculty at Seton Hall and Drew Universities, and I was an adjunct professor at Saint Peter's College and Rutgers University.

Q. And for how long -- well, during the years that you held those positions, you were full-time faculty and that was your job; correct? You didn't have like an outside accounting job or something like that?

A. That is correct, yes.

Q. All right. And for how long were you in the academic setting?

A. I began teaching my own courses in or around 1991, 1992, and I left academics in the summer of 2006.

Q. All right. When I look at your CV there are obviously articles, publications,

presentations, that type of thing. Are you drawing specifically on any of them directly for any of your opinions in this case and I'm talking about your articles, your presentations.

A. I would not say that I specifically cited any of those publications in my report, but certainly, for example, one of my publications is an article that was published in the Journal of Forensic Economics. That is an article that talks very specifically about assessing economic damages in personal injury and wrongful death matters. It does focus on New Jersey, but nonetheless, many of the methods that I discuss in that article certainly are methods that I have used for purposes of calculating the economic losses in this matter.

Q. Okay. Now, there is a section at the back of your CV that says: Ms. Kucsma, Professor Kucsma has testified in over 100 trials, arbitrations and mediations in both federal and state court. She has testified in over 130 depositions.

Would those numbers be accurate as of January of 2015 or is that something that has not been updated in recent years?

A. Those statements certainly are accurate. Whether or not the 100 trials should now be 110 trials, that I couldn't say for sure, but certainly those statements are accurate.

Q. But it's not 200 trials?

A. That is correct, yes.

Q. Or 200 depositions?

A. That is correct.

Q. Okay. Your report has no opinions on the issue of punitive damages and you have no intention of rendering any opinions on punitive damages as it relates to any defendant in this case; correct?

A. That I couldn't say. Certainly my reports of April 2015, December 2014 do not include any discussion of punitive damages, however, I have authored reports regarding punitive damages in the past and if I were asked to do so in this case it is something that I might do.

Q. You have not been asked to do so; correct?

A. To date that is correct.

Q. So we couldn't question you about anything related to that work or any opinions

related thereto at this deposition because you've done nothing along those lines; correct?

A. That's probably correct. I'm not the legal expert in the room, but I believe that is correct.

Q. All right. Have any of your opinions ever been precluded at trial by a court?

A. Not to my knowledge.

Q. Not even on punitive damages?

A. Not to my knowledge.

Q. Not aware of any decisions out there where your efforts to render opinions on punitive damages were deemed inadmissible by a court?

A. The only document I know that is so to speak out there with respect to me and the issue of punitive damages is a document that was published by the Court I believe as a result of a Daubert hearing, and in that case, the methodology that I had described for considering and evaluating punitive damages was upheld by the Court, affirmed by the Court. I don't know what the right legal terminology is, but it certainly supported the methodology that I had described for evaluating punitive damages.

Q. Okay. Just briefly give us your educational background, please.

A. I have a bachelor of arts degree in economics that I received from Seton Hall University where I was graduated with highest honors. I have a master of arts degree in economics that I received from Rutgers University and I am also technically ABD, which literally stands for all but dissertation, and what that signifies is that over and above the requirements for a master of arts degree in economics, I completed all of my course work, passed all of my qualifying examinations in pursuit of a Ph.D. What I have not done is complete the dissertation.

Q. I noticed on your CV it talks about president of Bull & Bear Consulting from September 2006 to December 2007. Was your role there similar -- well, I'm looking at the description. That was a different kind of position. Explain to me what that was all about?

A. Sure. That was some personal consulting that I did on a part-time basis.

Q. All right. So when I look at your CV and your section called: Positions held, you've got

a position from 2008 through the present where 95 percent of your work is serving as an expert witness or an expert consultant in litigation matters and/or your various positions in the academic world; correct?

A. That is correct.

Q. All right. The list of depositions that you produced, is it -- with the exception of the couple that have happened since January, is it complete or is it, you know, the best available to you and there may be other depositions or other trial testimony or anything like that that didn't make its way into that list?

A. As of this date the list of both my trials and my depositions is complete in that it starts when I first began testifying and includes all of the trials, mediations, arbitrations and depositions in which I've testified since then.

Q. All right. On this particular matter, the Reed matter, can you estimate approximately how many hours you've spent working on it?

A. I would estimate that I spent between 10 and 15 hours on this case.

Q. All right. And I apologize, I know you've issued -- you've produced some bills, but what's your billing rate?

A. At present my hourly billing rate for the review of documents and the preparation of reports is $345.

Q. Okay. And that's for the review and preparation of reports. What's your rate to testify at a deposition?

A. My hourly billing rate for time spent either in a deposition or an in-person consultation is $470.

Q. All right. The in-person consultations would be any preparation that you do -- well, strike that.

How about the preparatory time that you spend getting ready to be deposed, do you bill that at the deposition rate or the file review rate?

A. That's generally billed at the file review rate, unless I spend some considerable time meeting with either counsel or plaintiffs --

Q. All right.

A. -- or defendants.

Q. All right. And then how about for

trial, what's your rate for testifying at trial?

A. Our fee for a half day appearance is $4,100.

Q. Okay. And typically a half day appearance at court would be a four-hour appearance; right?

A. Typically if the trial is relatively local, correct, it would be either a morning or afternoon.

Q. All right. So, you know, roughly and I don't want to mess with you on numbers, but roughly a thousand dollars an hour then for your testimony at trial?

A. That would be the rate for my time spent, yes, at trial.

Q. Okay. Now, how does it work? You're obviously a member of this firm. How many employees are affiliated with Sobel Tinari?

A. At present we have 15 employees.

Q. Okay. And how many of them actually testify as expert witnesses as opposed to support?

A. At present we have three people, three economists who work for the firm who testify, and we also have one consulting economist who also

testifies.

Q. Got it.

Now, are those four people the owners of the business, or how does it work?

A. No, all of us at this point -- three of us are employees of Sobel & Company and the fourth, as I indicated before, provides consulting services to us.

Q. Okay. When fees are received for your litigation work from -- like in this instance it's from the Lanier firm, are those -- is that your income, or is it the income of the business?

A. It is not my income. I'm a salaried employee.

Q. You're a salaried employee. So you're going to get paid the same either way?

A. Regardless of where I am today and what I do, I will be paid the same amount of money, that's correct.

Q. What's your 2015 salary?

A. I don't specifically know what my 2015 salary is. I believe it is approximately $180,000 a year. Could be a little higher. Could be a little lower.

Q. Okay. And then does that end up -- typically in the typical year, does that end up being your total compensation, or is there a bonus pool at the end of the year or something like that?

A. Typically I do receive a year-end bonus.

Q. Okay. And what percentage typically is that of your income?

A. That I couldn't say. It's varied considerable over the years.

Q. Very considerable meaning --

MR. BERQUIST: It's varied.

A. It has varied.

Q. Oh, it's varied considerably --

A. Yeah.

Q. -- over the years? All right.

So in 2014 how big was the bonus?

A. I don't recall specifically. I believe my bonus was approximately 25 to $28,000.

Q. Okay. All right. In this particular case do you anticipate doing any additional work or preparing any additional opinions as it relates in the case that you're aware of right now?

A. The only additional opinions so to

speak that I would prepare in this case would be in the event that this case went to trial some time in the future, at which point I would update my calculations to reflect the time of trial and also any newly available economic data. Of course, if I was requested to make other updates and revisions, I would do that as well, but as I sit here today, I have not received such a request yet.

Q. Okay. So if this case tried in June or July or September of this -- it wouldn't be June, July or September of this year, what you're telling us is that you will go back and revisit the numbers and present the numbers as of the date that you're testifying at trial?

A. That is correct.

Q. Okay.

MR. ROBINSON: Darron, the only thing I'm going to ask is that if she is going to render opinions that are different or she said rely on additional economic data, obviously produce them to us so we can figure out what, if anything, we'll do with it.

MR. BERQUIST: If Professor Kucsma relies on additional materials, we will make those

available to you.

MR. ROBINSON: Fair enough. Fair enough.

BY MR. ROBINSON:

Q. Now, your report and for all purposes unless I call it by saying your initial report or your draft report or your December report, I'm talking about your final report dated April 17, 2015 that's been marked as exhibit 1B, okay?

A. Great, yes.

Q. All right. So your report in this matter was co-authored by Kenneth Betz; correct?

A. That is correct.

Q. What role did Kenneth Betz play in preparing the report?

A. Mr. Betz's role in this case was quite limited. He was I believe involved in some preliminary discussions when the case first came into our office and he, of course, reviewed the report before he signed it, but other than that I was the lead economist in this case, which means I was the one responsible for determining what research needed to be done, how we would value the loss and so on.

Q. Is Mr. Betz one of the three testifying economists in your firm or is he the consulting person or is he someone different than that?

A. He is one of the three testifying economists who is an employee of our firm.

Q. Got it.

So what exactly was his role at the beginning?

A. Again, when the case first came into the office and we received the preliminary documents he and I had a conversation, a general conversation, about the nature of the case, a preliminary conversation about the elements of economic loss that would be valued in this matter.

Q. All right. Are there any portions of the report that were actually authored by Mr. Betz, meaning, meaning the content of the report itself or is that all your work?

A. It's hard to say only because there certainly are portions of this report that have or are the result, I should say, of collaboration within the firm. There are portions of this report that you will see in other reports and it's quite

possible that Mr. Betz had some input into those portions of the report at the time they were developed.

Q. As in he would receive a draft and red line it with comments, that type of thing or --

A. Correct. He would review it and if he had any comments, offer such comments, yes.

Q. The initially draft, the first draft, the first time it came out on paper, who typed it? Not who typed it. I don't know if there was a secretarial staff or something like that, but whose work went into the initial draft?

A. Most, if not all, of the initial draft was typed either by me or by one of our senior analysts and his name is Jeff Rella.

Q. All right. Do the senior analysts typically take the first run at these reports and then they get revised or get additional input from like someone like yourself or Mr. Betz?

A. No. The role of the senior analyst is to work directly under the supervision of an economist. So in this particular case when the file first came into our office, I reviewed the documents. I determined which senior analyst would

be working on the case and at that point the file was then provided to Mr. Rella who also reviewed the documents. He and I then sat down and discussed the case and I provided him with the guidance in terms of what research needed to be done and how we were going to proceed.

Q. Is Mr. Rella the senior analyst?

A. Yes.

Q. Okay. Any other analysts that were involved in the underlying work?

A. Not in this case, no.

Q. All right. So the only three people that were involved at all were Mr. Rella, Mr. Betz and yourself?

A. That's correct, other than possibly some administrative details in terms of responding to e-mails and so on.

Q. Okay. The final product when it's done, is it peer reviewed?

A. It certainly was, as I indicated before, reviewed by Mr. Betz.

Q. Okay. And you and Mr. Betz are the coauthors of the report. Anyone independent of the two of you?

A. I don't believe any of the other economists in the office reviewed this report, no.

Q. Okay. Have you ever spoken with Mr. Reed himself?

A. No.

Q. Have you -- okay. They haven't been produced so I'm sure you haven't. You haven't looked at any of his medical records or anything like that; correct?

A. That is correct. I have not.

Q. Obviously your opinions in this case presume and make the assumption of his complete inability to work at all; correct?

A. Yes.

Q. But you don't have any opinion one way or another as to the validity of that assumption; correct?

A. Well, I'm not a vocational expert or a medical doctor, so I am not here to offer any opinion on his functionality.

Q. All right. Fair enough.

The -- what's it called? Exhibit 10, the completed fact-finding questionnaire, and I don't know if you've got attached to the back of it,

but we were produced something called the client questionnaire supplemental information.

A. Yes, it is attached to the --

Q. It's attached to the back. So it's all part of one exhibit, exhibit 10?

A. Yes, it is.

Q. All right. Fair enough.

Is this your typical questionnaire that you will send out to counsel to fill out on behalf of their client for you guys to use in your preparation of your reports and opinions?

A. This is a document that we do frequently provide to counsel. That is correct.

Q. Okay. Do you know -- do you do anything to validate the various pieces of information that are provided within this document or are you just assuming them all to be accurate?

A. That depends in large part on the information. So, for example, typically if you look at page four of this document, you'll see there are questions about the yearly salary, hourly overtime wage rate. In this case there was information provided about those things. However, we typically do not rely exclusive, if at all, on that kind of

information as reported in the fact-finding questionnaire. We will rely upon other independent documentation, like paystubs, W2 wage and tax statements and so on.

Other information, for example, like information provided on page nine of our fact-finding questionnaire about the types of household chores that a plaintiff performed, that is not something that we will typically independently corroborate.

Q. All right. So you accept them as true, and if that's how it plays out, that's how it plays out; correct?

A. I do accept some of the statements as true, that is correct.

Q. Okay. Now, I think you were provided some of the documentation after the issuance of the December 15 report. Was that only Georgia tax returns or was any of the other information that you were provided given to you after the initial report was prepared?

A. I believe those were the only documents provided to us after we issued the December 2014 report. The only thing I don't recall

as I sit here today, off the top of my head at least, is when the collateral source documents were provided, but I believe if we look at the exhibit that has the e-mails? Do you still have that?

MS. POLGLASE: Yeah.

A. Oh, thank you. Thank you.

Q. Just refer to the exhibit by exhibit.

A. Sure. It's exhibit 1D.

Q. Thank you.

A. That looks as if I also had received the documents regarding the disability benefits before I authored my initial report as well.

Q. All right.

MS. POLGLASE: Jon, can I see 1O if you've got it while you're up?

MR. ROBINSON: Sure, if we can figure out what 1O is.

MS. POLGLASE: It's the one she was just looking at. Thank you. Thanks.

MR. ROBINSON: That's this; right?

MS. POLGLASE: Yes, yeah.

BY MR. ROBINSON:

Q. You referenced some things that you did not rely on that were in the material.

Obviously not the e-mails because most of the e-mails -- I haven't had a chance to look through them all yet, but I presume they're just e-mails about coordination and sending materials back and forth and things like that; correct?

A. That is correct.

Q. Okay. Then you said you did not specifically rely on some of the information regarding life insurance. Why?

A. I didn't value any loss or any economic value of life insurance in this case.

Q. Okay. You also said you didn't specifically use the Weed Man invoices or the landscaping invoices directly. Why is that?

A. I didn't specifically use those invoices because while those invoices were helpful for me to understand the value of some of the household chores that Mr. Reed is unable to perform, it was not a reflection of all of the household chores that he is no longer able to perform. So I reviewed them. They were consistent with the benchmarks statistical data and wage rates that I ultimately used in my report, but I did not expressly break those out as a separate component in

my report.

Q. Okay. So if you were to break it down hourly, the Weed Man and/or the landscaping invoices are basically consistent with the national average that you used in your report?

A. That is correct.

Q. You did not value any Social Security or disability benefits, no collateral source you said?

A. That is correct.

Q. Why?

A. It is my understanding that typically the collateral sources of income are considered by the Court. At the conclusion of the trial the Court either molds the verdict at that time once the Court has made a determination whether the collateral source offsets apply and if so, how much of them should be applied against an award.

Q. Have you done the analysis nonetheless so that you would know how the numbers would reflect if you didn't incorporate the fact that he's receiving these additional benefits?

A. To date, no, I have done no such analysis.

MR. ROBINSON: Strike that. I'll ask another question.

Q. You have not run the numbers to determine what your eventual values would be for Mr. Reed if you were to incorporate the fact that he has received the Social Security and disability benefits; correct?

MR. BERQUIST: Objection to form.

Answer.

A. That is correct. I have not run those numbers.

Q. If those numbers were taken into consideration, the eventual lump sum numbers at the end of the report would be lower; correct?

A. More likely than not, yes.

Q. Okay. Now, the last page of exhibit 10 is the client questionnaire supplemental information. Was this something that you understand to have arrived at the same time as you received the initial questionnaire, but they just needed more room to fill in the data or is this something that appeared later in the process?

A. No, that supplemental page arrived with the fact-finding questionnaire as one single

document.

Q. Okay. I'm going to give you this back so we can keep the exhibits together.

A. Thank you.

Q. Let's turn to your report, exhibit 1B.

At the bottom of page two you indicate: Further, our valuation does not take into account the ramifications of intangible noneconomic losses, such as human suffering, love, emotional feelings or consortium that may have been suffered by plaintiff or family members; correct?

A. Yes.

Q. Why do you include that in an economic loss report?

A. We want to make it very clear to the reader of the report that the figures contained in the report reflect only the pecuniary or the economic damages.

Q. All right. But you understand that -- you would agree that neither you or anyone at your firm is an expert in valuing any of these other things either; correct?

A. That is not something that we do.

That is correct.

Q. All right. Now, turning to page three of your report. Now, at first you use statistical retirement age of 69.46 years; correct?

A. That is correct, yes.

Q. All right. Now, you use two variables to get to this number, the age at the date of impairment and education; correct?

A. And gender.

Q. And gender, right.

A. Yes.

Q. All right. You don't do anything to look at the particular field in which Mr. Reed works; correct?

A. That statistical retirement age is not industry specific. That is correct.

Q. All right. Is it possible to do that? Can you determine anything more specific honed in on the type of an industry Mr. Reed works in?

A. The most reliable source of data from me that allows me to consider the retirement age based on those three variables is the source that I've used in my report.

Q. All right. So is the answer to my question, no, it can't be done?

A. In my professional opinion I have not seen any series of data that I would consider to be appropriate for that use.

Q. All right. Have you done anything at all to assess or confirm that people that work in a profession similar to Mr. Reed actually work to 69 years old?

A. Again, I have not specifically examined any study that is industry specific like that.

Q. What was his field?

A. He was -- as you see on page four of our report, he was employed in the IT industry. He had been --

Q. Just one second. Just for a second could I just have the report for a second?

A. Sure.

Q. All right. Just tell me what your recollection is of Mr. Reed's occupational history.

A. That he had started working at a very young age if I recall doing some more physical labor and I've forgotten specifically what he was doing.

I believe he then began his career in IT. I don't remember his specific titles. He might have been a systems analyst at some point. I don't recall, but my recollection was that some time in his twenties he started his career and his career was in the information and technology industry.

Q. Okay. Can you provide us with any further specificity as to what his job title was, what his job duties entailed, anything like that?

A. Oh, I'm sure I could if I reviewed some of the documents in my report. I had been provided with a full --

Q. Just for a moment before we go to the documents, we'll do that in a second.

A. Yes.

Q. I will absolutely let you refer to the documents. Before we do that, tell me as much as you recall about Mr. Reed's occupation and the nature of his job duties.

A. He was a manager again in the IT field, and again, I don't recall the progression of his positions without specifically looking at the documents.

Q. All right. Do you recall the nature

of any of the other types of occupations he held in -- throughout his lifetime?

A. I believe at one point he was a fitness trainer or a physical trainer. In his earlier career, say in his late teens early twenties, I don't recall off the top of my head specifically what jobs he held, but I do recall he started working at a fairly young age.

Q. Okay. Is that as much as you can recall about his occupational history?

A. Again, without reviewing the documents, yes.

Q. Fair enough. Now I'll give you your report back.

A. Thank you.

Q. Did you undertake any effort to inquire of Mr. Reed how long he personally intended to work?

A. I did not have a conversation with him about that and I don't believe that I had been provided with that information, no.

Q. I mean, rather than relying on the statistical data that's out there, wouldn't it be an important thing to do sitting in your seat in this

case to ask the individual, When do you plan to retire?

A. Not typically. In my professional opinion more often than not the statistical data gives us a better indication of when someone likely is to retire simply because many people may think they're going to retire at a certain age and then, in fact, they don't retire at that age. So for me it's much better typically for me to consider the benchmark's statistical data.

Q. And some retire earlier; right?

A. Certainly this is an average figure, so there certainly are some people in the population that retire before this date and others that work well beyond it.

Q. Would it be important to take into consideration someone's salary, their savings, their retirement accounts, that type of thing in assessing the viability of early retirement versus average retirement versus late retirement?

A. All of those factors that you just described are implicitly reflected in the data that I relied upon.

Q. Okay. When you say implicitly -- say

that again. They were implicitly what?

A. Reflected in the data that I relied upon.

Q. Okay. Where are they implicitly reflected in the data that you relied upon?

A. The data that I relied upon is, of course, based on the actual experience of roughly 51-year old males that have a professional degree.

Q. All right. Now, you also calculated his expected working years, correct, that was also at page three?

A. Yes, I did.

Q. All right. Now, obviously the statistical retirement age gives him 18.2 years to retirement, but the expected working years comes out at a 15.24-year number; correct?

A. Yes.

Q. Now, how is that different than the statistical retirement age?

A. The statistical date of retirement represents the point at which Mr. Reed would be expected to permanently remove himself from the labor force. So based on my research, I determined that on or around October 27, 2029, Mr. Reed would

permanently step out of the labor force and stop working altogether, stop looking for a job altogether permanently.

Having said that, the statistical date of retirement, that does not indicate that Mr. Reed would have worked continuously from the date of impairment through that date. In fact, the likelihood is that he would have missed some work here and there because of injury, illness, caring for a sick child. That's what that work life is designed to reflect.

So of the 18.2 years until his statistical date of retirement, I would expect Mr. Reed to, in fact, have been working and earning income 15.24 of those years.

Q. All right.

A. Or equivalently 83.7 percent of the time.

Q. Right, and that's considered the -- what's it called? You'll know better than I.

A. Work life to retirement ratio.

Q. The work life to retirement ratio is that fraction that you just discussed; correct?

A. That is correct, yes.

Q. Okay. How does that work life to retirement ratio then cranked into your analysis for purposes of coming up with the numbers you eventually come up with in the case?

A. That work life to retirement ratio is then applied to my calculation of Mr. Reed's earnings in each year from the date of impairment through his statistical date of retirement. So, in other words, what I do in each year from the date of impairment through 2029 is make a downward adjustment of 16.3 percent in each year to reflect the probability that Mr. Reed would have missed some work during that year and, therefore, not earned income.

Q. All right. So what you do -- if I'm not mistaken then, what you do is you do the numbers as though he works the full 18.2 years, but you use the percentage as for the actual income for those years; correct?

A. Correct. I project his earnings for a period of 18.2 years, but in each of those years I make a downward adjustment of 16.3 percent to take into account the periods of time he likely would not have been working and not earning income.

Q. Okay. Now, page four of your report you make a point that -- you make an assumption that: Plaintiff was exposed to asbestos in the mid-1980s; correct?

A. That is correct. I do include such a statement.

Q. Why?

A. In all of our reports we include a description of the incident, if for no other reason than to provide the reader with the full perspective of the incident or actions that gave rise to the economic damages that we're valuing.

Q. Okay. So it has nothing to do with the opinions you're going to render in the case; correct?

A. That is correct.

Q. And when you say it is reported, reported by whom?

A. The information that is provided in paragraph six of our report was derived from the fourth amended and revised complaint and also standard interrogatories and requests for production.

Q. All right. So you take that

information from the plaintiff's complaint and the plaintiff's responses to discovery; correct?

A. Yes.

Q. Now, at paragraph seven on the same page, page four, you indicate that his occupation and employment history at the time of impairment, Mr. Reed was employed as a national storage consultant with the Oracle of America, Inc. And you went on to talk a little more about his prior work history in Oracle and, you know, Storage Technology's acquisition by Sun, etc.; correct?

A. Yes.

Q. Okay. Now, did you do any research on Oracle at all?

A. Meaning what?

Q. Any research on the company related to -- well, again, your understanding is that Mr. Reed was in the IT field at Oracle; correct?

A. My understanding was that he was employed certainly by Oracle and some of the previous companies in the positions that are listed in my report. That's correct, yes.

Q. Well, what is a National Storage consultant?

A. Again, there may have been some additional description in the interrogatories. I don't recall, but certainly Mr. Reed was employed as a manager in these various companies.

Q. Right. And at that point in time he was a manager as you understand it as a National Storage consultant; correct?

A. That's correct, yes.

Q. Do you know what a National Storage consultant is?

A. Off the top of my head I couldn't say.

Q. Okay. Have you done anything to determine what it is?

A. I don't recall whether I saw some specific description of that or not.

Q. So if you did you don't remember it?

A. That is correct.

Q. Have you done any research on layoffs at Oracle?

A. Not specifically, no.

Q. Do you know anything about Oracle's intentions at the time that it made the acquisition of Mr. Reed's former company?

MR. BERQUIST: Objection to form.

A. Again, not specifically. I certainly have reviewed publicly available information about Oracle, information related to its stock prices, for example, other financial statistics.

Q. For purposes of this case?

A. For purposes of this case and possibly for purposes of other cases involving similar industries, yes.

Q. Okay. What specifically did you review that has anything to do with Oracle?

A. I don't recall specifically, but as I said, I certainly reviewed Oracle's stock prices over the last 10 years or so.

Q. When did you do that?

A. Most recently I reviewed that, within the last week or two.

Q. Okay.

A. And other various financial statistics that are typically published alongside.

Q. Okay. Taking out specifically, generally what do you recall looking at besides that for Oracle?

A. At one point I reviewed either an

annual report or a quarterly report for Oracle.

Q. When did you do that?

A. I would say within the last six to eight months.

Q. For what reason?

A. That I don't recall specifically.

Q. Was it for the Reed case?

A. I don't recall whether it was specifically for this case or another case involving Oracle.

Q. When you were looking at the stock prices for Oracle, was it for the Reed case or no?

A. At least once it was. In prior cases it may have been related to another matter.

Q. All right. Where did you look at that?

A. I looked at the stock price online and I don't recall as I sit here today whether it was through Yahoo! Finance or Bloomberg or some other site.

Q. All right, but you didn't print out and produce anything that you've looked at related to Oracle as part of your underlying file materials for this case; correct?

A. That's correct. I didn't specifically extract and use any of that data for my analysis.

Q. Okay. Regardless of what you may or may not have looked at related to Oracle, you'll agree with me that your opinions in this case are not in any way specific to Oracle or the plaintiff's particular occupation at Oracle; correct?

MR. BERQUIST: Objection to form.

You can answer.

A. I'm not sure I follow your question.

Q. There is nothing about your research -- I mean, the opinions that you've given are based on national averages, statistics. I asked you a few questions previously about whether you took his particular occupation into consideration. You said that that's all cranked into the national averages, but the point I'm making is that nothing about the opinions you've rendered are sort of specific to Oracle, any research you did on Oracle, average retirement age at Oracle, average retirement age of a person in the plaintiff's occupation at Oracle, nothing like that comes into play; correct?

A. I actually think I would disagree

with that statement only because the discussion we had before with respect to the plaintiff's specific occupation was very specifically about his statistical retirement age. Clearly his occupation and his industry were critical parts of my analysis because my calculation of lost earnings was a function of what Mr. Reed, in fact, himself had earned going as far back as 2005. So those earnings are very specific not only to his occupation and his industry, but to the employers through whom he was employed.

Q. All right. So it might be dependent on someone's actual occupation in industry?

A. Well, again, what's the it?

Q. Well --

A. We had previously been talking about statistical retirement, but certainly when we conduct an appraisal of economic loss and I have to calculate a person's earnings, more often than not those earnings will be related to the occupation and/or the industry in which that person was employed.

Q. All right. Does someone's actual occupation play a role in their continued growth

potential as far as their annual income?

MR. BERQUIST: Objection. Form.

You can answer.

A. What do you mean?

Q. What I mean is you obviously in your opinions you assume -- well, I'll tell you what, we'll do that when we get there. I'm getting ahead of myself.

MS. POLGLASE: I'm just going to grab part of the exhibit while you're doing that to save time.

MR. ROBINSON: Yes.

MS. POLGLASE: I'll grab your billing records.

THE WITNESS: Sure. Some of them may be stapled to the file.

MS. POLGLASE: Oh, stapled to the file. Do you mind if I pull it?

THE WITNESS: No. Go ahead. That's fine.

MS. POLGLASE: Thank you.

THE WITNESS: Sure.

BY MR. ROBINSON:

Q. Did you notice at page four in the

graph where you charted Mr. Reed's income the large growth between 2009 and 2010?

A. Yes.

Q. Do you have any understanding as to why that happened at that point in time?

A. Not specifically, no.

Q. No? Okay. How about generally?

A. I reviewed documentation of his earnings. I don't recall as I sit here today very specifically how those earnings were broken down in that year.

Q. All right. So you don't have any understanding as to what happened for Mr. Reed that sort of changed his income level pretty drastically at that point in time; correct?

MR. BERQUIST: Objection to form.

You can answer.

A. Your question implies that something happened to Mr. Reed. As I said --

Q. Strike it. I'll ask it again because that's not what I said.

MR. BERQUIST: Well, that's why I objected.

MR. ROBINSON: It's all right. It's

all right.

Q. Simply stated, you don't have any knowledge as to what happened in Mr. Reed's professional working life between 2009 and 2010 to cause such a significant hike in income as opposed to the types of changes he had had in previous years; correct?

A. What I do know, of course, is that in 2009 his previous employer Sun was acquired by Oracle. I was provided with some payroll records that provided a breakdown of his earnings, but beyond that, I don't recall as I sit today -- I sit here today whether there was any reference to any singular event.

Q. Okay. Now, you'll notice that in 2005 and 2006 he was pretty flat at $216,000, but then dropped in 2007 down to $203,000; right?

A. That's correct.

Q. Does your analysis take into consideration that -- any of those types of potential happenings in his future earnings?

MR. BERQUIST: Objection to form.

You can answer.

A. For purposes of calculating his lost

earnings I do use an average growth rate each year which is based on both increases -- I should say higher and lower increases going forward. In other words, the reason I use an average is to take into account the likelihood that going forward Mr. Reed's earnings would have increased perhaps significantly above average in some years and in other years he may have experienced slower than average increases.

Q. Okay. Is there any kind of statistical data out there that would be different for individuals that, for example, are in sales?

A. There is data regarding wages for managers, for computer and technology occupations and for sales for past years, yes.

Q. All right. Did you rely on any data like that for this case?

A. I reviewed all of that data that's published through the U.S. Department of Labor. I did not specifically use any one of those singular data points, but it is reflected in the growth rates that I used.

And if you look just at page seven of our report you'll see I do make specific references to the sales and related occupation data.

Q. I think I established this at the beginning. You have no opinion obviously because it's not in the nature of your profession as to whether Mr. Reed could continue working in the type of a job that he had; correct?

A. That is correct. I'm not offering any opinion about his employability.

Q. And you have no opinion regarding whether accommodations could be made, anything like that related to his ability to perform that job or some other job; correct?

MR. BERQUIST: Objection. Objection to form.

You can answer.

A. That is correct. I'm not offering any such opinion.

Q. At page five of your report you assumed a loss of 2 percent of earnings from his loss of his employer's 401(k) match?

A. Yes.

Q. All right. Where did you come up with the 2 percent?

A. That was based on a review of several documents. It was based on information that was

provided to us in the fact-finding questionnaire about the maximum employer contribution that Oracle would make, but we also reviewed documentation of the plaintiff's earnings to establish a fact that he was, in fact, making contributions into the 401(k) plan and, therefore, would have been eligible for the employer match.

Q. All right. So the materials that you were provided actually referenced that, that the company actually provides an up to 2 percent maximum match?

A. Actually, the information provided to us indicated that the match was up to $6,000 and then we considered that as a percentage of his earnings.

Q. Got it.

So it was a percentage of his earnings in any given year up to $300,000; correct?

MR. BERQUIST: Objection to form.

Q. If his income is $300,000 --

A. Correct.

Q. -- the 6,000 would be a 2 percent match; is that correct?

A. That is correct, yes.

Q. Okay.

A. Yes.

Q. Okay. So your projections have Mr. Reed making well beyond $300,000 in some years; correct?

A. That's correct, yes.

Q. All right. Do you cap him off at 6 percent in your analysis -- $6,000 in your analysis or do you -- the way the report reads is that your analysis allows for the 2 percent. So even if he goes up to making 450,000, he's going to get 2 percent even though the documentation caps him at 6,000.

Am I making sense?

A. I think you're making sense, yes.

Q. All right. So do you cap him at 6,000 in your analysis, or do you allow for the 2 percent all the way through even when his income is greater than 300,000?

A. I did not cap him, that's correct, at $6,000.

Q. So that portion of the analysis for all years in which he's making more than $300,000 isn't accurate; correct?

A. That I would not necessarily agree with. The only reason I say that is because when I reviewed the fact-finding questionnaire, what it said very specifically was that the employee contribution to the 401(k) plan was the maximum amount allowed by law; that the employer contribution was 50 cents per dollar up to $6,000. My interpretation of that was that the 50 cents per dollar up to $6,000 would likely increase along with the maximum amount allowed by law. So to the extent that the maximum amount allowed by law is not fixed, I also assumed that the employer contribution to the 401(k) plan would not be a fixed dollar amount, but also would change with the employee contribution as the maximum amount allowed by law increased.

Q. What did you rely on for that?

A. Information provided in the fact-finding questionnaire.

Q. All right. So did you rely on the actual underlying plan itself or just the information provided in the fact-finding questionnaire?

A. The information that was provided to me with respect to the 401(k) plan was the

information in the fact-finding questionnaire and then simply documentation of Mr. Reed's contributions.

Q. All right. So looking at page five of exhibit 10, the fact-finding questionnaire at retirement benefits, there was a line item that says: Employee contribution and next to that it says: Maximum amount allowed by law; correct?

A. That is correct, yes.

Q. And then there is a separate line that says: Employer, employer contribution 50 cents per dollar up to $6,000; correct?

A. That is correct.

Q. There is nothing in that line item that talks about any kind of growth of the employer's max at $6,000; correct?

A. That is correct.

Q. So you made that assumption really based on no information to allow for it; correct?

A. That was my --

MR. BERQUIST: Objection to form. You can answer.

A. That was my interpretation of the information provided in the fact-finding

questionnaire.

One other point though of interest when we're having this discussion, it is important to remember that in each year when we are discussing the amount of money that Mr. Reed would have earned and, therefore, having any discussion about the 401(k) contributions, we cannot rely on my projections of gross earnings, but we at a minimum have to reduce those figures each year to account for work life and unemployment.

MR. ROBINSON: Read that back, please.

COURT REPORTER: (Complies.)

(Whereupon, the requested portion is read back by the reporter as follows:

"ANSWER: That was my interpretation of the information provided in the fact-finding questionnaire.

"One other point though of interest when we're having this discussion, it is important to remember that in each year when we are discussing the amount of money that Mr. Reed would have earned and, therefore, having any discussion about the 401(k) contributions, we cannot rely on my

projections of gross earnings, but we at a minimum have to reduce those figures each year to account for work life and unemployment.")

MR. ROBINSON: All right.

BY MR. ROBINSON:

Q. So is what you're saying that -- what you're saying is that in those years where the income is greater than $300,000, the gross earnings are greater than $300,000, they're actually lower because of those adjustments?

A. That is correct.

Q. Okay.

A. Yes.

Q. So I think the point that you're making is that there may be a couple of more years where the 6,000 is accurate even if that assumption is wrong, but -- am I making sense? I think the point that you're making is that his actual income after those adjustments of up to -- of a point at which he's making greater than $300,000 is later in time than currently reflected?

A. By the gross earnings, that is correct, yes. I just wanted to make sure we were clear on that. If you look at, for example, page

11, column three, it appears as if starting in 2016 Mr. Reed's earnings are, in fact, in excess of $300,000. However, that figure of $310,636 would need to be reduced by about 20 percent to reflect the probability of both unemployment and work life expectancy.

Q. Okay. So your point then is if you go to adjusted earnings and take it out through 2029, he's at all times below the $300,000?

A. The adjusted earnings, that is correct, are below $300,000 through 2029, that's correct.

Q. All right. What was Mr. Reed's history as far as the contributions he was making to the 401(k)?

A. That I don't recall off the top of my head. I did not map those out specifically, but, for example, I have one document in exhibit 1I that indicates that he made a 15,000-dollar contribution into the 401(k).

Q. In what year?

A. That was in 2006. And that in the year 2007 I have another document, again all part of exhibit 1I, indicating he contributed $15,500. In

2008 I have a document that indicates that he contributed $15,500.

Q. So it appears that the backup documentation then validates that he would have qualified in those years for the $6,000 because he's -- at 50 cents on the dollar he's more than $12,000; correct?

A. Yes, that is correct.

Q. Now, at page five of your report you address health insurance and lost medical coverage?

A. Yes.

Q. Okay. Now, the medical insurance that's at issue is in part Mr. Reed's, but also in part Mrs. Reed's and in part the children; correct?

A. Yes.

Q. Now, do the numbers that you calculate as it relates to this issue include the loss to Mrs. Reed and the children as it relates to their health benefits?

MR. BERQUIST: Objection to form.

You can answer.

A. I believe the answer to your question is yes. I have calculated the loss of health insurance based on family coverage.

Q. Okay. Do you have any understanding of Connecticut law as to whether that portion of this area of the loss that relates to the children or Mrs. Reed are recoverable?

A. I could not offer any sort of legal opinion in that regard, no.

Q. You've done no research on that issue?

A. No.

Q. Okay. Now, at page six, and we're talking about the household services section now, you calculate or you estimate Mr. Reed's preimpairment ability to be 40 to 60 percent, between 40 and 60 percent?

A. The loss, that is correct, yes.

Q. Now, how do you come to that determination?

A. The 40 to 60 percent range is provided largely for illustrative purposes in our report, but it is based in part on information that was provided to us by way of a fact-finding questionnaire.

Q. Well, are you qualified to do that kind of a calculation, 40 and 60 percent analysis as

to his physical limitations?

A. What I am certainly qualified to do is provide the economic framework that the trier of fact would need to determine the appropriate value of lost household services. As I said, I provided the range of 40 to 60 percent here largely for illustrative purposes. If you look at page 18 of our report, you'll see that I have provided the trier of fact with the framework that he, she or they could use if they felt that some other range of loss was more appropriate, but the 50 to 60 percent range of loss was based in part on information provided in the fact-finding questionnaire which is why I selected that for illustrative purposes instead of something else.

Q. Okay. So you took that section of the fact-finding questionnaire, made a judgment call that this looks like somewhere in the 40 to 60 percent range of lost household services that he can't perform and then used that for analysis in this report; correct?

A. That is correct, yes.

Q. Okay. But you would agree that you're not a vocational consultant or an expert in

those areas; correct?

A. That is correct.

Q. All right. You're not a doctor?

A. That is correct.

Q. You're not a physical therapist?

A. That's correct.

Q. And so in coming to these percentages did you look at all at Mr. Reed's activities beyond that which is reported in the fact-finding questionnaire?

MR. BERQUIST: Objection to form.

A. I'm not sure of all of your question, but I had not been provided with additional information other than the information that's provided in the fact-finding questionnaire and possibly in the answers to interrogatories, although I don't recall whether there was specific mention in there.

Q. All right. Do you know anything about Mr. Reed -- Mr. Reed's workout regimen or his activities by going to the gym?

A. No.

Q. Do you know anything about whether prior to his diagnosis Mr. Reed employed people for

any of the same household services?

A. That I don't -- I don't recall. I don't believe I've been provided with any information other than as I said what was reported to me in the fact-finding questionnaire and if you look at page nine --

Q. Exhibit 1O?

A. Yes, 1O, and if you look at page nine, you'll see that we did ask for information specifically about what the plaintiff was doing before he was injured and what he is now doing after the injury or impairment. So the questions we asked here were very specific to those types of things that were being performed by the plaintiff before the impairment.

Q. So you're relying on this to say -- you're basically accepting it as true. This is what he did before and this is what he's able to do after; correct?

A. That's correct. That is what I used as my basis for the 40 to 60 percent.

Q. And for the record I said 1 zero. I meant 1O when we were referring to that exhibit.

Now, let's turn to page seven of your

report. I think you began here with doing adjusted past earnings; correct?

A. Yes.

Q. And that would be through April of this year; correct?

A. That is correct, yes.

Q. All right. And --

A. And actually I stand corrected. We actually extend our calculations through June of this year for past years.

Q. All right. So, in fact, when you did your report you projected forward into the summer with the numbers that appear in this report through June; correct?

A. That is correct, yes.

Q. All right. Now, you used his 2010 preimpairment earnings; correct?

A. Yes.

Q. And that would have been his last complete year of earnings, is that why?

A. That is correct, yes.

Q. Why wouldn't you use something along the lines of his average earnings over the last 10 years or five years or something like that?

A. At the time of his impairment he had a new employer, the new employer, of course, was Oracle and as you duly noted earlier his earnings through his new employer Oracle were greater than they had been in the past. So in this case because he was employed at the time by Oracle it was more appropriate to base my calculation of earnings on what he was earning at present through his present employer.

Q. Okay. And then, so then moving from 2011 through 2013 you used the actual growth rates because obviously those years are behind us; correct? You used the actual growth rates for doing your analysis; correct?

A. That is correct, aside from 2015, that's correct.

Q. Well, I think you did it through 2013, but then 2014 and 2015, or maybe you have done 2014 on, did you use the actual growth rate for 2014?

A. We now, as I sit here today, do have wage data for 2014, but it's not reflected in this report. The wage data was published shortly after I issued this report.

Q. Does it impact your analysis at all?

A. It might. I couldn't say as I sit here today what the actual wage growth was in 2014, the data had just become available.

Q. Then for 2015 why did you choose the number that you chose for wage growth?

A. Well, for both 2014 and 2015 in this report I used what we call the compound annual growth rate from 2009 through 2013 to estimate what wage growth likely would be in 2014 and '15.

Q. All right. Fair enough.

Now, moving forward though -- well, strike that.

Let's stay with this for the moment. So the data that you have as far as his earnings goes back as far as 2005; correct?

A. That is correct, yes.

Q. And I think I now understand your opinion. Because he's now working for Oracle and Oracle has taken over the business and he has a substantial change in his income, at least in that first year, that you feel comfortable relying on that income as you sort of move into your analysis projecting forward; correct?

A. That is a large part of it, but in addition to that his income in 2010 was a better reflection of his earnings at or around the time of his impairment than, for example, what he may have been earning four or five years prior.

Q. Okay. In any of your historical reports and litigation, have you relied on gross earnings for a larger range of years leading up to the time of demarcation?

A. Oh, certainly. In some reports I have looked at earnings for a single year. In some reports I've looked at earnings over a two, three-year period. It depends on the unique facts of each case which is most appropriate.

Q. Do you ever look at a five-year period or a 10-year period?

A. I may have looked at a five-year period. I would not ever use a 10-year period for establishing someone's earnings base, at least not without making appropriate adjustments for the wage inflation that had occurred over that 10-year period.

Q. Okay. How do you make the judgment call in any given case whether you go to five years,

you go two or three years or you use just one given year?

A. It depends largely on the unique facts of the case; the pattern of a person's earnings; whether they were subject to a collective bargaining agreement; what occupation they might have been in; what industry; what was happening with the general economy in the years preceding the date of injury; and so on. So there are many factors that ultimately determine what I determine is most appropriate.

Q. Okay. You would agree if you used a two-year or a three-year or a five-year analysis for purposes of this case that the numbers, the overall numbers would then be lower; correct?

A. In my professional opinion it would not be appropriate to do so, but certainly if for whatever reason I decided to use an average of, for example, the last three years, then all other things held constant my numbers would drop.

Q. Okay. Have you done that analysis at all?

A. No.

Q. Now, you do the analysis by using

gross salary and then go through the analysis and then later deduct I believe a 27 percent for taxes; correct?

A. I'm not sure if I follow your question, but --

Q. Yeah, let me see if -- I mean, let me see if I can articulate it differently.

Is one option or one method of doing the analysis to use the adjusted salary to start your model as opposed to using gross salary to start a model and then doing the deductions later on, like for taxes at 27 percent?

A. Again, I'm not sure I follow your question.

Q. Maybe it's a lousy question. I'm prone to that. I'll come back to it.

MR. ROBINSON: This is a good time for a five-minute break.

(Whereupon, a recess is taken.)

MR. ROBINSON: Back on the record.

BY MR. ROBINSON:

Q. Turning to page eight of your report, you assume an effective tax rate of 27 percent. How did you come up with that?

A. That was based on my review of plaintiff's tax returns, so I did review his federal income tax returns as well as his state tax returns in past years, however, when I reviewed each of those tax returns his effective tax rates were lower than 27 percent. So I then needed to take into account the fact that in my analysis his level of earnings were higher than they had been when he filed the tax returns I reviewed, so I also reviewed the tax rate schedules published by the IRS and the State of Georgia to make the appropriate adjustment.

Q. All right, but do you assume the 27 percent throughout moving forward?

A. I do, yes.

Q. All right. Don't you think that based on the growth that you're projecting of his income that his tax rate would go up?

A. Probably not and the reason I say that is simply because basic inflation and wage growth typically does not push people into higher tax brackets. Tax brackets generally are indexed to inflation.

Q. Now, turning to page 10 you do an analysis for adjusted future earnings and we had

talked earlier about the lower percentages and then 1.3 percent that you used in 2014 and 2015, but now you jump to a 3.7 percent wage increase. Why?

A. On average that is correct. And that's based on -- primarily on two sources, both of which are referenced in my report.

Number one, I looked back in time at how much wages had, in fact, increased in past years, and I looked at various occupations, computers and technology, management, and also sales, and when I went back further in time, specifically before the most recent recession, I did see actual wage growth in some years in or around 3.8 and sometimes in excess of 4 percent per year. So that was one thing I considered.

The second source I considered was the annual report of the Board of Trustees of the Social Security Administration that includes projections of anticipated wage growth going forward. So based on my review of those two sources and the information contained therein I determined that on average Mr. Reed's wages would increase by 3.7 percent each year through 2029.

Q. All right. But the model assumes an

abrupt jump from 1.3 to 3.7 percent, correct, in 2016?

A. Not specifically. I know it looks that way, but the 3.7 percent is an average. I certainly would expect in some years Mr. Reed's earnings may increase by more than 3.7 percent and other years less, but I did for purposes of calculation use an average rate each year of 3.7 percent.

Q. Turn to page 11. You have a chart outlining adjusted earnings which you then discount by 3.25 percent present value; correct?

A. Yes.

Q. All right. And you do this based off of -- your present value discounted by 3.25 percent, you do it based on the tax-free return on high grade municipal bonds; right?

A. That is what I use as my starting point, that is correct.

Q. Why?

A. The reason that I use the tax-free municipal bonds as my starting point is because if I used as my starting point a taxable security, for example, a U.S. Treasury security, then in each year

some of the interest earned on the lump sum would leak out in the form of taxes and the plaintiff, in this case Mr. Reed, would not be made whole at the end.

Q. Okay. Are high grade municipal bonds at risk of default?

A. Technically speaking, yes. However, because they're high grade municipal bonds the risk of default is considered to be very lower.

Q. Why don't you use returns for like the Dow Jones or another market index as opposed to this?

A. In this case I consider financial instruments that are relatively low risk, that are relatively liquid and things like the Dow Jones Industrial Index would not fit into that category.

Q. All right. When you're doing your health insurance costs analysis at pages 12 and 13 and just jumping forward to when you moved to the future years you compound at 5 percent per annum. Why did you pick 5 percent?

A. That is based very specifically on data that is published by the Kaiser Institute and that is a reflection of the compound growth that we

have seen in the employer and the employee contributions to health insurance premiums.

Q. So it's anticipated from that that -- that as the years go on, the health care costs are going to take a larger chunk of our overall income; correct?

A. Based on my review of the Kaiser Institute data I would expect the cost of health insurance to increase on average 5 percent each year.

Q. Right, but you're also assuming a 3.7 percent growth in wage increase; right?

A. That is correct.

Q. So if health care costs are going to continue to grow at 5 percent, it's going to take a larger chunk of our income; is that right?

A. Proportionately speaking the cost of health insurance in that example, yes, would begin to represent a larger proportion of a person's income.

Q. Why do you rely on Kaiser?

A. The Kaiser Institute data provides very comprehensive data on the employee contributions to health insurance, the employer

contributions to health insurance, the average premiums. It presents this data across different geographic regions and it also provided this data over the last several decades.

Q. It's a minor point, but you indicate that the annual increase wage average would be 3.7 percent, but for your future household services you assume a 3.8 percent increase, why?

MR. BERQUIST: Sorry, John, where are you looking?

MR. ROBINSON: I'm not really looking at a particular location. Just asking a question, but she --

MR. BERQUIST: You're not referencing her report anywhere?

MR. ROBINSON: It's in the report.

MR. BERQUIST: For my purposes where in the report are you looking at?

MR. ROBINSON: Household services. She assumes a 3.8 percent increase. Wages she assumes a 3.7 percent increase.

BY MR. ROBINSON:

Q. Why are they different?

A. It's a great question. I also use a

different discount rate for purposes of calculating --

Q. Yes, you do. That was the next question.

A. The reason I used a higher growth rate and a higher discount rate for purposes of calculating future household services is because when I am calculating the loss of household services, I'm looking at a future period of roughly 25 years.

When I calculate the present value of lost earnings, I'm looking at a period of roughly 14 future years. As I get further into the future, further and further away from the recent recession, I would expect wage growth on average to be higher. With respect to discount rates, an individual who invests money for a longer period of time can typically get a higher annual increase or interest rate I should say.

Q. Have you done any analysis of the economic loss in this case if Mr. Reed were not to live -- live to his expected retirement age?

A. I'm not sure I follow your question.

Q. All right. Well, you mentioned in

your report that -- the diagnosis of mesothelioma; correct?

A. Yes.

Q. All right. And have you looked at any data that relates to the average life expectancy of one diagnosed with mesothelioma?

A. No.

Q. Okay. And the claim the plaintiffs are making is this is an asbestos-related mesothelioma. You understand that; right?

A. Yes.

Q. Okay. And so you're not familiar with any data that suggests an average life expectancy of two years from diagnosis?

A. Not specifically, no.

Q. All right. Have you done any analysis of the economic loss -- obviously Mr. Reed is beyond two years from diagnosis; correct?

A. Yes.

Q. Have you done any analysis that takes into account the potential of the death of Mr. Reed?

A. Again, the only reason I'm not sure I understand your question is because it isn't clear to me that if Mr. Reed -- or what I should say is I

would assume that if Mr. Reed died as a result of the mesothelioma, that this may then become a wrongful death action, and if it were a wrongful death action, then my method for evaluating the economic losses would be different. So again that's why I don't quite understand your question.

Q. All right. So, in other words -- so the point you're making is you haven't done that analysis yet?

A. That is correct.

Q. And your analysis would be different; correct?

A. That is correct.

Q. Your eventual numbers would be different; correct?

A. That is correct.

Q. Okay. You indicated in your report a range.

A. Yes.

Q. Your values range from $3,574,774 to $3,625,933. Why is there a range? Why are there two numbers?

A. The range of the total present value figures is a function of the fact that I presented a

range of loss for the household services. So I'm not here to offer any specific opinion about precisely what diminution Mr. Reed has suffered with respect to his ability to perform household services. Rather I provided a range. And that's what's driving the range of the present total lost figures -- total present value lost figures on page 19.

Q. So the lower number is based on a 40 percent and the higher number is based on a 60 percent loss of household services?

A. That's correct.

Q. Okay.

MR. ROBINSON: I'm going to pass the witness because I know my colleague over here has another area she want to cover before she makes a train.

MS. POLGLASE: Thank you.

MR. ROBINSON: You want to just do it from there?

MS. POLGLASE: Yeah. Can you hear me on the phone?

AN ATTORNEY: Yes, we can.

AN ATTORNEY: Yes, we can.

MS. POLGLASE: Thank you.

EXAMINATION BY MS. POLGLASE:

Q. I wanted to talk to you about your CV a little bit.

A. Sure.

Q. Okay? John, Mr. Robinson, went through your background fairly quickly and I want to make sure I understand some things.

So you got your BA in economics in 1991. And then you went into a master's program at Rutgers; correct?

A. No, then I entered the Ph.D. program at Rutgers.

Q. Okay. And along the way you got your master's?

A. Yes.

Q. All right. And that is -- strike that.

Looking at your positions held, the first position held in 1992 is listed as teaching assistant, Department of Economics, Rutgers; correct?

A. That is correct.

Q. All right. Before 1992 had you had any professional jobs other than, you know, sort of waiting tables, that sort of thing, college related type jobs?

A. I had -- I had worked at CVS. I also had worked for, way back when, Kidder Peabody many moons ago and probably I had one or two other jobs that I don't recall.

Q. Okay. So were those part-time jobs while you were in college?

A. The job with CVS was a part-time job. Many of my other jobs were temp work that I did.

Q. Okay. And again, that's work that you did while putting yourself through school? I'm just trying to get a sense --

A. Sure.

Q. When did you graduate from high school?

A. I graduated from high school in 1984.

Q. Okay.

A. Yes.

Q. So what did you do when you graduated from high school?

A. I spent one year at an engineering

school.

Q. Okay. And what school was that?

A. Rensselaer Polytechnic Institute.

Q. And why did you leave Rensselaer?

A. I decided after spending a year at an engineering school that that was not the course of study that I wanted to pursue.

Q. Okay. Did you leave Rensselaer voluntarily?

A. I did, yes.

Q. Where did you go when you left Rensselaer?

A. I then returned home and I worked for two years before I entered Seton Hall University.

Q. Okay. So that takes us -- I'm sorry, you mentioned 1984 you graduated from high school?

A. Yes.

Q. Okay. So you're at Rensselaer until the spring of 1985?

A. Yes, I believe that's correct.

Q. All right. Then where did you work for two years?

A. One of the jobs that I had during that time was with Kidder Peabody.

Q. What did you do for Kidder Peabody?

A. I don't recall my official title any longer. I believe I was a sales assistant. I worked specifically for two of the brokers within the firm.

Q. By the way, did you grow up in New Jersey?

A. Primarily, yes.

Q. Okay.

A. I have lived in New Jersey since I was about six years old.

Q. Okay. So you did two years at Kidder Peabody. That takes us up to about 1987?

A. Correct. I don't believe I worked at Kidder Peabody the full two years. Before I joined them I worked for a company that I believe was called Home Life Insurance Company at the time.

Q. And what did you do for them?

A. I started out as a receptionist and I was then promoted I believe to an administrative assistant was the title I guess.

Q. Okay. And did you leave Home Life Insurance voluntarily?

A. Yes.

Q. How about Kidder Peabody?
A. Yes, to return to college.
Q. Okay. So your work at Home Life Insurance and Kidder Peabody takes us up to about 1987?
A. Yes.
Q. Is that when you entered Seton Hall?
A. I believe so, yes.
Q. So prior to entering Seton Hall no other full-time jobs other than Kidder Peabody or Home Life Insurance?
A. I believe that's correct, yes.
Q. Did you go straight through four years at Seton Hall?
A. I did, yes.
Q. All right. And you graduated in 1991?
A. I believe that was my date of graduation and I say that simply because I had to take one or two courses over the summer after the official graduation dates. I don't recall as I sit here today ultimately what my official date of graduation was, but I believe it was 1991.
Q. Okay. Well, it says on your CV 1991?

A. Yes, I believe that's correct, yes.
Q. Did you have any jobs while you went to Seton Hall?
A. I did. I worked on campus and I also worked at CVS at some point in time.
Q. Was that a part-time job at CVS?
A. Yes.
Q. Cashier-type job?
A. Yes.
Q. And any other jobs?
A. I did temp work regularly, mostly during the summers, perhaps during some of my breaks.
Q. Okay. Any internships or anything of that nature while you were at Seton Hall?
A. I don't recall, but I don't believe that I was ever enrolled in a formal internship through the school.
Q. Okay. So you graduated in 1991. What did you do next?
A. I then started my graduate work with Rutgers University.
Q. And the master's was in 1993?
A. Yes.

Q. Okay. Now -- my learned colleague would like me to ask a question.

A. I gathered as much.

Q. You can tell by the whispering.

How is it that you ended up with a master's in the Ph.D. program?

A. Typically when one progresses through the Ph.D. program he or she gets a master's degree along the way, there are one of two ways, or at least there were at the time, of getting a master's degree. One would be to write a master's thesis. Alternatively the other way to obtain a master's degree, the way I obtained my master's degree was by passing what they call your qualifying examination and completing X number of credits of course work.

Q. Okay. So as part of your Ph.D. program you had a teaching assistant position '91 to '92 and then you were an instructor. Tell me the difference.

A. The difference between the two is that as a teaching assistant I was, as the name suggests, an assistant to a professor, which means my main responsibilities included grading exams, leading recitations. Once I became an instructor, I

was, in fact, teaching my own courses.

Q. Now, I don't see any other teaching positions at Rutgers after 1995. Is that accurate?

A. That is correct.

Q. And why did you leave Rutgers as of 1995?

A. Why did I stop teaching for them?

Q. Yes.

A. I stopped teaching for them primarily because at that time I had been offered an adjunct position through Saint Peter's College and one of my advisors at the time recommended that I take a position through someone outside of Rutgers University.

Q. And why is that?

MR. BERQUIST: Why was that recommendation made?

MS. POLGLASE: Yeah, to her knowledge why was that recommendation made?

A. I believe part of the conversation I had at the time involved a discussion about the fact that sometimes future potential employers give more weight to a graduate student who has been hired by an institution outside of their graduate

institution.

In other words, there is sometimes an interpretation, not necessarily correct interpretation, that students that teach while they're in graduate school are simply given those positions, but they're part of the graduate program and not necessarily because they're the best qualified ones for the position.

Q. Were you -- okay, strike that.

When did you finish your course work in the Ph.D. program?

A. I believe that I was last enrolled and I finished my course work in 1995 or 1996. I don't recall specifically in what semester I completed that.

Q. Were you -- when you finished your course work at Rutgers, were you offered a teaching position?

A. No.

Q. And why is it that you did not complete your dissertation?

A. I had completed about two thirds of my dissertation when life got in the way. My father was very ill and subsequently died. My mother was

very ill, fortunately is still with us, and I simply felt that my priority needed to be my family at the time.

Q. Is there some particular reason why you have not gone back and finished your dissertation?

A. Again, I would have to say that life got in the way. I began teaching. I enjoyed it very much. I was very dedicated to my teaching positions, won numerous awards and that took a tremendous amount of my time.

Q. So you were at Saint Peter's College as an instructor in their Department of Economics from 1995 to 1998?

A. That sounds about right, yes.

Q. Okay. What is Saint Peter's College?

A. It is now Saint Peter's University and it is a university located in Jersey City, New Jersey.

Q. And you -- it says you taught on campus as well as at corporate satellite centers. Can you tell me what that means?

A. Sure. At the time Saint Peter's College offered courses off campus specifically for

people that were working, but wanted to complete their undergraduate degrees.

Q. Were you -- why did you leave Saint Peter's College?

A. I was offered a full-time position with Drew University.

Q. Okay. Were you asked to leave Saint Peter's College or did you leave voluntarily?

A. No, in fact, I was asked to stay at Saint Peter's College.

Q. And then you went to Drew University. You were there two years?

A. I was. I was hired specifically for a two-year position by Drew University.

Q. Was that a two-year contract position?

A. Yes.

Q. And at the end of two years your contract was not renewed?

A. It's not that it wasn't renewed per se, but I was hired very specifically to fill in for a faculty member who was on sabbatical for two years. So after the two-year period she returned.

Q. And you were not offered another

position at Drew University; correct?

A. I don't believe there was one available, but I was not offered another position, that's correct, at the time. I was later offered another position by Drew University.

Q. So in 1998 to 1999 you went to Seton Hall?

A. I was during that time teaching at Seton Hall part-time as an adjunct.

Q. Did you have any other employment from '98 to '99?

A. I was also teaching at Drew University during that time.

Q. Right. My apologies. See, you lived it and I'm just experiencing it.

A. I lived it, but boy, it's been a while, so it's good to go back and relive it.

Q. Okay. So from -- so you left the two-year position at Drew and then did you get a full-time position at Seton Hall?

A. Yes, I did.

Q. Okay.

Tell me what the full-time position was at Seton Hall.

A. I was a faculty associate at Seton Hall which meant that like any other full-time faculty member, I had responsibilities in primarily three areas, teaching, scholarship and then also service to the university.

Q. And was this your first full-time faculty position after leaving Rutgers?

A. No. Technically my position with Drew University was a full-time position.

Q. So aside -- since leaving Rutgers, aside from the Drew University position, your first full-time faculty position was in Seton Hall in '99; correct?

A. Aside from Drew University, that's correct, yes.

Q. All right. And it looks like you left in July of 2004; correct?

A. That is correct.

Q. Why did you leave in July of 2004?

A. I left at that point because I had gotten a call from Drew University. They once again had a two-year position open and they had hoped that I would be able to rejoin them and fulfill that two-year position for them.

Q. Were you asked to leave Seton Hall or did you leave voluntarily?

A. Not at all. I actually was asked to stay at Seton Hall.

Q. So the position in Drew University from '04 to '06 was another two-year contract position?

A. It was, yes.

Q. And were you offered another position after that position ended?

A. No.

Q. And were you offered a position at Seton Hall after that time period?

A. I didn't go back to Seton Hall. At that point in time I was trying to decide whether or not I wanted to remain in academics.

Q. And what was it about academics that made you wonder about whether you wanted to remain in economics?

A. I found that my philosophy as a professor was not as closely aligned any longer with the policies of many of the institutions of higher education.

Q. Can you explain what you mean by

that?

A. It would probably take me many hours to explain, but, for example, I had concerns about the fact or I should say concerns that some of the policies and procedures that were being implemented by administration at the colleges and universities were making it increasingly difficult for professors to focus on maintaining high standards in the classroom.

Q. Just generally tell me what these policies and procedures were that troubled you.

A. There are many. I could give you one example. For example, when I had been at Seton Hall University one of the requirements that the university had with respect to submitting grades was that final grades at the end of the semester had to be submitted within a 48-hour period. For me this was troubling because at the same time this discussion was taking place, there were discussions within the university about the importance of developing strong written communication skills amongst students. My position as a professor was it was very important for professors to have their students write in class, write papers, write essay

examples. At the time I also was teaching well over 150, 160 students per semester, so you can begin to see where the problem comes in. If I have 150 or 160 students, I'm having them all write papers, I'm giving them all final exams that require written answers, and I then somehow have to get all those graded within a 48-hour period, I simply felt that I could not honor my true obligation to my students and also adhere to some of those policies and procedures, and of greater significance I believed that it was undermining the quality of the education that the students were getting.

Q. So how did you come to start getting into litigation consulting?

A. I had known Dr. Tinari who is the founder of our predecessor company. He had been a professor at Seton Hall University when I was a student there, although I had never taken a class with him. He also was a professor at Seton Hall University when I was a professor at Seton Hall University and I reached out to him really to have just a general discussion about what I might do next, whether I would stay within academics or not, and at that point in time he mentioned to me that he

was looking for an economist. He asked if I thought I might be interested. We sat down and had lunch. He described the job to me, and the rest, as they say, is history.

Q. The Bull & Bear Consulting, that was something other than litigation consulting?

A. Yes.

Q. Can you tell me what type of consulting that was?

A. Sure. As I mentioned earlier, it was very limited consulting, but basically what I did was work with a small handful of individuals and provide them guidance with respect to their retirement planning, but what I did very specifically was make recommendations to them about other professionals they might want to contact with respect to their retirement planning, long-term care insurance experts, financial analysts, brokers and so on.

Q. In any of the positions, the academic positions that you had were you ever offered tenure?

A. No, I was never on a tenure track.

Q. Have you given lectures to groups of attorneys?

A. Yes.

Q. Speeches? Okay.

What types of groups of attorneys have you spoken to?

A. I'm not quite sure what you mean, but I've spoken to a wide variety of attorneys that include plaintiffs' attorneys, defense attorneys, attorneys that focus primarily on personal injury, wrongful death. In some cases I've spoken to audiences of attorneys that focus more on employment matters.

Q. I should have been more clear in my question. Have you given speeches or presentations to groups of plaintiffs' attorneys?

A. I believe that in nearly every audience to whom I've spoken there has been a mix of plaintiffs' and defense attorneys.

Q. The Tinari firm, what was that called when you joined it?

A. It was called the Tinari Economics Group at the time I joined the firm.

Q. All right. And looking at the Sobel Tinari Economics Group website, it lists Frank Tinari, yourself, Stephen Levinson and Kevin Betz.

Are those the four individuals you were speaking about earlier?

A. Yes.

Q. And who was the owner of the Tinari Economics Group? Was that Frank Tinari?

A. Who was the owner? Yes, it was Frank Tinari.

Q. And he was the one that was bought out?

A. That is correct.

Q. You've been an employee of either Tinari Economics Group or Sobel Tinari Economics Group since you started with them in 2008; correct?

A. That is correct.

Q. And you are listed as a managing director on your CV?

A. I am currently the managing director, that is correct, yes.

Q. So is Frank Tinari semi-retired?

A. He is still working with us on a consulting basis.

Q. Okay. So you're in charge of the office?

A. I am, indeed.

Q. Okay. And is part of your responsibility to bring in business?

A. I suppose technically it is, although most of the time I spend is not on any sort of proactive business development. My main responsibilities include overseeing the day-to-day operations of the firm. I do have another member of the firm who focuses more on marketing and business development.

Q. And which one is that?

A. His name is Mike Brennan.

Q. Is your income affected, either your bonus or increases in salary, is it affected by the amount of business that you develop directly?

A. No.

Q. And how are you incentivized at your firm in terms of salary and bonus?

MR. BERQUIST: Objection to form.

You can answer.

A. I have basically no idea. What I mean by that simply is that there is no formula for my bonus.

Q. Okay. So it's not based on a percentage of business you bring in or anything of

that nature?

A. No.

MS. POLGLASE: And can I see that? No, the other one. Yeah.

MR. ROBINSON: I've got it.

MS. POLGLASE: The one in your right hand.

MR. ROBINSON: I pulled a couple out.

MS. POLGLASE: That's okay. I want this thing.

BY MS. POLGLASE:

Q. I'm going to show you something I'm going to pull out of exhibit 1D and I'll come over here since we only have one copy.

What is this orange form? It's entitled: Tinari Economics Group Inquiry?

A. The orange form is a form that we frequently, although not always, use to take notes when we're first contacted about a new case.

Q. Okay. Is this your handwriting on this form?

A. Yes, it is.

Q. Okay. So you got the call on this case?

A. I did.

Q. Okay. And it lists, it says: How did you hear about us and then it says: Repeat.

A. Correct.

Q. Can you tell me what that means?

A. That means that we had worked with the Lanier Law Firm prior to this phone call.

Q. Okay. So when you say we, do you mean you or the Tinari firm or both?

A. Both.

Q. Okay. And I think you may have been asked this -- I'm going to put this back in the pile here so it doesn't get lost. I think you may have been asked this and if so I apologize, but how many times have you personally worked with the Lanier Law Firm?

A. That I don't know. It's been a small handful of times though.

Q. Half a dozen?

A. I don't even think it's been a half dozen, although I couldn't say for sure.

Q. And how often -- or strike that.

Would you quantify the relationship between the Tinari firm and the Lanier firm?

MR. BERQUIST: Objection to form.

A. I'm not sure how to answer that other than to say that we work, we meaning the Sobel Tinari Economics Group, work with thousands of law firms and as I indicated a moment ago we've worked on just a small handful of cases with the Lanier Law Firm. They do not represent in any way, shape or form any significant portion of our business.

MS. POLGLASE: Those are all the questions I think I have.

THE WITNESS: Thank you.

MR. ROBINSON: Do you have any?

MS. DeVOS: No.

MR. ROBINSON: Anybody on the phone have any questions?

MR. CARON: I do have a few questions. This is Jason Caron.

EXAMINATION BY MR. CARON:

Q. Can you hear me okay?

A. Yes, we can. I can.

Q. All right. Hello, professor. Again, my name is Jason Caron. I have no economics background so some of my questions might remind you

of your undergrad, but I'm going to try to do the best I can.

Can I refer you back to page three of your report for just a moment?

A. Sure.

Q. I want to follow up on something you discussed earlier.

A. Sure.

Q. In paragraph three when you talk about the statistical retirement age and the 18.2 years to retirement, does that in any way account for or address reduction in hours worked by a plaintiff?

A. I'm not sure I understand your question.

Q. Well, in other words, does that tell us that a plaintiff is going to work on average another 18.2 years to retirement at the same level of hours or could it be that, you know, on average a plaintiff may work less or fewer hours during that time?

A. Yeah, again, I'm not sure I follow your question, you know, simply because certainly I have not assumed that Mr. Reed would necessarily

work the same number of hours or continuously for 18.2 years. That's why I needed to make the downward adjustments that I made for both work life expectancy and unemployment.

Q. Okay. Let me follow up on that then.

The 15.24 years of work life expectancy, I understand that taking into account periods in which Mr. Reed may be out of work completely due to unemployment or family or something like that. Is that fair to say?

A. No, actually the 15.24 years, first of all, it does not consider unemployment. I make a separate adjustment for unemployment.

Q. I know.

A. But secondly, it takes into account all of the different types of things that may reduce the number of hours, days or weeks that an individual might work. So it takes into account the probability of illness, injury, the time spent caring for a sick child and so on.

Q. Okay. Does it account for -- apart from those, you know, sort of family reasons and external reasons, does it account for simple variation in the hours that a person works due to

the demand of their job?

MR. BERQUIST: Objection to form.

You can answer.

A. It also includes both involuntary and voluntary. So it also takes into account the possibility that someone may simply choose to remove himself from the work force for a period of time. So that also was included in that work life expectancy figure.

Q. Okay. I understand.

Now, at Oracle Mr. Reed was an hourly worker; right?

A. Yes.

Q. And to extrapolate his future earnings from his 2010 earnings is it fair to say you had to make an assumption about how many hours he would have worked in those future years?

A. I did not expressly make any assumption about the number of hours that Mr. Reed would have worked going forward. What I did do was based on his earnings in 2010 and also his earnings in 2011 through August he was certainly on target in 2011 to earn as much, if not more, than he had in 2010, based on my review of his overall earnings I

based my opinion of what he would earn going forward on those figures.

Q. Would you agree with me that if, in fact, he worked fewer hours in future years than he did in 2010 obviously he would make less money?

MR. BERQUIST: Objection to form.

You can answer.

A. And that's specifically why, among other reasons, I make the downward adjustment each year for work life expectancy.

Q. Okay. So you feel that any reduction in his hours is already captured in the work life expectancy number?

A. I have taken into account periods of missed work, that's correct.

Q. Okay. Again, I'm not talking about missing work. I'm talking about being employed full-time, but simply working fewer hours. Does the work life expectancy take account of that as opposed to time completely missed when he completely missed work?

A. Well, as I mentioned before, the work life expectancy takes into account any period of time missed either for involuntary reasons like

illness or injury or voluntary reasons because somebody simply chooses not to work for a period of time.

Q. Right, right. That's what I'm -- what I'm trying to get at is this: Does work life expectancy tell you anything about whether someone went to their job on a given week and worked 40 hours, or 50 hours or 60 hours, or does it just tell you whether they were at work or not at work?

MR. BERQUIST: Objection to form.

You can answer.

A. The work life expectancy data simply reveals on average what proportion of the time a 51 year old male with an advanced degree would work. The data does not present each specific reason for why males in that category may not have been working for part of the time.

Q. Right. And it doesn't tell you how many hours a person would work; correct?

A. That is correct, yes.

Q. So would you agree with me that for income to remain constant based on the 2010 numbers, you know, other than the average growth rate, he would need to work the same hours in those future

years as he worked in 2010?

MR. BERQUIST: Objection to form.

A. I would not necessarily agree with that, no.

Q. Okay. And you'll agree with me that the amount a wage earner earns is a function of the amount of the wage and the hours that he works; isn't that right?

A. In part certainly, yes.

Q. Okay. So the amount he'd earn at least with respect to his regular hourly wages, it would only stay constant if the number of hours he worked stayed constant; right?

A. Again, I wouldn't necessarily agree with that simply because there could be other elements of a person's compensation. There could be bonuses. There could be overtime, for example.

Q. Okay. And we'll talk about bonuses and overtime next I think, but in the household section of your report I noticed that you included a reduction or modifier to account for the fact that as people get older and particularly in the late sixties they perform less household work. Is that a fair summary?

A. That's correct. I do make a downward adjustment at age 65 and 75, yes.

Q. I wonder and my question is: Is the same true in a workplace? In other words, as people get older particularly into their sixties that they tend to work fewer hours?

A. Again, I'm not sure I follow your question, but to the extent that somebody may not be capable of working as much, that is reflected in that work life adjustment. That's specifically why I make that work life expectancy adjustment, is to take into account in that example involuntary reasons why someone may not be able to work as much.

Q. Right. Regarding the work life expectancy, are those tables based on both salaried and hourly employees or just one or the other?

A. Both. They're based on the actual experience of all 51-year old males who have an advanced degree.

Q. Assuming that salaried employees would not report all of their hours, how could the work life expectancy capture variations in hours among different salaried employees?

MR. BERQUIST: Objection to form.

You can answer.

A. I'm not sure I said it did that. In fact, I think I said specifically before that the work life expectancy data does not identify each individual reason why people may work less. Rather what it does is look at the aggregate group of all 51-year old males who have an advanced degree and looked at the actual experience of those males in terms of how often and how much they work.

Q. Okay. Let's say it's the case that -- and we'll take salaried workers, let's say it's the case that as salaried workers in sales enter their sixties, they begin on average to work fewer hours, how would the work life expectancy pick up on that given that a salaried worker doesn't record their hours?

A. Again, I'm not sure I follow your question. You know, the fact that a salaried worker doesn't record their hours doesn't mean that the number of hours they work would not be implicitly reflected in a wide variety of data.

Q. I guess I'm not sure I understand that response. Well, let me ask it this way: Are you aware of any data specifically regarding whether

or not older workers as they approach retirement tend to work fewer hours for reasons other than health-related conditions?

A. Off the top of my head, no. Interestingly enough what I can tell you is that when I do examine the work life expectancy data, if I hold everything constant other than a person's age and I look at older people compared to younger people, I see that the work life adjustment that I would make for older people would actually be lower than that for younger people. That much I can tell you. So, in other words, when I look at older people, all other things held constant, their proportion of time they work between, in this example, injury and retirement actually increases as they age.

Q. Okay. I see.

Well, let me -- sort of to wrap up that area, if it were the case that workers as they get older without missing time from work simply began to work fewer hours at their job each day, would that show up in the work life expectancy?

A. Well, it would depend. It would be implicitly reflected in the work life expectancy

data, yes.

Q. And how would it be reflected?

A. Well, again, because the work life expectancy data is based on the actual experience of, in this case, 51-year old males with an advanced degree.

Q. Okay.

A. Some of whom may be missing work so to speak or not working simply because they are not working as many hours.

Q. I see. Do you have any sense of what the sample size is to calculate the work life expectancy?

A. Off the top of my head I don't recall.

Q. Okay. And do you know whether or not workers can calculate that, workers were specifically asked how many hours they work in a week or a day?

A. No. The work life expectancy data is focused more again on shifts in patterns of employment here, so I don't believe that any specific questions about the number of hours worked were asked.

Q. Okay. If I could just direct you to page seven of your report quickly. I just had a couple of quick questions about that.

Now, I understand you sort of extrapolated the future earnings by applying the U.S. Department of Labor data and my question is: With regard to the U.S. Department of Labor data that you used for the wage growth figure, is that data looking just at the change in the hourly wage or is it looking at the change in earnings for wage earners?

A. The wage growth rates you see on page seven in my report are based very specifically on the change in the median hourly earnings.

Q. Okay. I guess my question is: By hourly earnings do you mean the rate, in other words, $20 an hour, $21 an hour or are you saying the total earnings by each worker, the growth rate of those total earnings was considered?

A. No, I looked very specifically at the hourly wage rates and then calculated how those dollar per hour rates had changed year over year.

Q. Okay. I understand. And would you agree with me that since earnings are a function of

both hours worked and the wage rate, the wage rate doesn't tell you anything about someone's earnings unless you also make an assumption about the hours they've worked?

A. Again, I'm not making any assumption about the number of hours that an individual works because of the fact that an individual's earnings can be affected by things other than simply the number of hours that they work. So I'm not forming any specific opinion in this case about the number of hours that Mr. Reed may or may not have worked. I am, however, using his overall earnings in 2010 to determine on average what he would earn going forward in each year.

Q. Okay. And just to see if I understand what you said, are you saying that even if Mr. Reed may have worked fewer hours in future years, that may have been offset by nonwage compensation like bonuses and so it's still fair to use the 2010 numbers as an estimate?

A. It could be. It is also not unusual to see individuals in some cases work fewer hours or change their status within a company, but be paid a significantly higher hourly wage rate. I haven't

made any assumptions about the likelihood of any of those things happening going forward for Mr. Reed.

Q. Well, you have assumed that 2010 would be his base; right? So you have assumed that he's going to be compensated the same way he was in 2010?

A. On average that is correct, yes. And certainly in 2011 he was on target to do as well, if not better, than he had in terms of compensation in 2010.

Q. Okay. I'm a little bit of at a loss here because I don't know exactly which Bates numbered documents you have in front of you, but I think I want to refer you to exhibit 1I. I think you said those were Bates numbered documents, payroll records?

A. Yes.

Q. I have a couple of different sets of Bates numbered documents so I want to make sure I have the right one. I'm looking at page six of what I think you have in front of you and it looks like a payroll record for like December 2010, so it's sort of a year-end payroll record?

A. Yes.

Q. Is that something like what you have hopefully?

A. Yes, that sounds like exactly what I'm looking at right now.

Q. Okay. Well, you were asked earlier if you had sort of an understanding of why his pay changed so much between 2009 and 2010 and I'd like to propose one possible reason for that and see if you agree with me.

About seven lines down it says overtime and it has a number $42,978.28 in overtime pay.

A. Correct.

Q. Do you see that?

A. I see that, yes.

Q. Would you agree with me that one significant component of his earnings from 2010 is due to the fact that he was working a lot of overtime hours?

MR. BERQUIST: Objection to form.

You can answer.

A. I would certainly agree that he is working overtime in 2010. That is correct, yes.

Q. And by using 2010 as your base year,

aren't you assuming going forward that he was going to keep up that pace of working overtime hours in order to keep his income at the 2010 level?

A. On average, yes, that is implicitly reflected in the earnings base I use, that's correct.

Q. Have you ever looked at any data or searched for any data on whether workers nearing retirement entering their sixties continue to work overtime hours at the same rate that younger workers do?

A. I have not specifically seen what I would consider to be any reliable study in that regard, no.

Q. And do you have an understanding one way or another of between 2006 and 2009 whether -- what hours Mr. Reed worked at his job?

A. Do I have a breakdown of the hours that he worked over that time period?

Q. I don't think I do, but I'm wondering if you do somewhere in your materials?

A. No. I don't believe I do have such a breakdown.

Q. And if there were data presented to

you showing that older workers approaching retirement tend to work fewer overtime hours, would that factor into your calculation of what you would anticipate Mr. Reed working for overtime hours as he got older?

A. Probably not.

Q. Okay. And why not?

A. I couldn't say because I have no idea what that study might be, what population it might be covering, who might have conducted the study, so without a lot more detail I couldn't say one way or another.

Q. And related to the last question, by using 2010 as your base year aren't you assuming not only that Mr. Reed would be willing and able to work those overtime hours, but that Oracle would allow him and make available those overtime hours?

A. Again, certainly the fact that I used his 2010 earnings, which, again, I just want to reiterate are consistent with what he was on target to earn in 2011, but certainly to the extent that I use his 2010 earnings as my basis for going forward, I am implicitly assuming that his overall compensation is going to continue to be relatively

similar to what it was in 2010 on average.

Q. But, in other words, you don't have any specific information regarding Oracle's policy on overtime hours or whether they were going to allow him to continue doing that or whether he wanted to continue doing that?

A. I do --

Q. Fair to say?

A. That is correct. I don't -- I have not reviewed any documentation with respect to what policies Oracle may or may not have regarding overtime.

Q. Okay. Looking again at page six, the same page we were on, second line from the bottom it has commission K of 46,176.81.

Do you see that?

A. I do.

Q. And so does your -- by using 2010 as your base, are you assuming that he would on average make a roughly similar commission going forward?

MR. BERQUIST: Objection to form.

You can answer.

A. Well, again, not necessarily and I just want to be very clear for the record. I'm not

forming any opinion at all about the individual components of Mr. Reed's compensation. So, for example, it's quite possible that in subsequent years he didn't work as much overtime, but he earned a lot more commission. So I'm not forming any opinion about whether or not these individual components of his compensation might remain constant going forward.

What I have done is reviewed how much he, in fact, earned in 2010, how much he was on track to earn for a full year of 2011, and based on my review of his overall compensation I have assumed that on average going forward his compensation in future years would be consistent with what he had earned overall in 2010.

Q. Right. I understand you to be saying that you're not making any assumptions about the individual components of his compensation, but aren't you -- you are assuming that all of those individual components wouldn't go down; right?

A. Collectively all at once?

Q. Right.

A. Well, certainly if every component of Mr. Reed's compensation went down, then presumably

his overall compensation would go down. That is correct. And I have --

Q. If some components went down, that other components would increase to exactly offset them?

A. I'm sorry, what was that?

Q. You are assuming that if some individual components of his earnings went down, that other components would increase to offset that?

A. Well, as I indicated a moment ago, I certainly am assuming that overall on average his compensation will be consistent with what he earned in 2010, that is correct.

Q. Have you been presented with or do you have any information regarding how Mr. Reed's commission pay at Oracle was calculated in 2010?

A. I don't believe I was provided with any specific commission structure, no.

Q. Okay. And you don't have any information regarding, you know, what he had to do to earn it, whether it was, you know, targets he had to meet or the company or anything like that?

A. No, again, I don't believe I had been provided with any documentation of the commission

structure, that is correct.

Q. Would that information -- wouldn't that be important to know if you're trying to determine the likelihood that he would earn the same commission or greater commission going forward?

A. Probably not, no.

Q. And again, to a layman that just sounds a little odd because I would think that if you're trying to predict what he would earn in the future, you'd probably want to know what he had to do to earn it. So why wouldn't that be a relevant factor?

MR. BERQUIST: Objection to form.

You can answer.

A. Again, in this case I'm not forming any specific opinion about each element of his overall compensation, so I'm not expressly calculating what his commission payments might have been going forward.

Q. Have you asked for any information regarding how his commission was calculated either in 2010 or going forward?

A. I don't believe so, no.

Q. Because you don't consider that

relevant?

A. Well, again, it's not that I don't consider it relevant, but I would not expressly project Mr. Reed's commission. Rather, I am looking at his overall compensation going forward.

Q. Have you ever looked at any data or searched for any data regarding whether older workers as they approach retirement specifically in the sales industry are able to earn commissions to the same degree that younger workers are able to earn them?

A. Again, I think I answered this before, but I have not to my knowledge come across what I would consider to be any sort of useful or reliable studies in that regard.

Q. Have you looked for any?

A. I haven't specifically looked for them, but certainly a regular part of my job is to review the literature about a wide variety of factors that include, among other things, compensation.

Q. If you were presented with data showing that older workers in the sales industry tend to be less effective at earning commissions,

would that affect your calculation?

A. Probably not for the same reasons I mentioned earlier, without knowing what that study was, what types of salespeople, over what period of time, what was happening to the economy during that time, what industry it was, who had conducted the study and so on, I really couldn't say.

Q. Again, we talked before about the Department of Labor data that you used for wage growth. Is it fair to say that that wage growth data doesn't apply to commission pay?

A. I would not necessarily agree with that statement, and what I mean by that is certainly the wage growth rates I used are based on hourly wage rates so they do not expressly reflect commission payments. However, to the extent that individuals may consider commission rates alongside with wage rates for making determinations about employment, the wage data that I used probably implicitly reflects various commission structures.

Q. Yeah, I'm not sure I quite understand that. So the Department of Labor in determining its median hourly earnings for sales in related occupations, it didn't look at commission data, did

it?

A. Not expressly, that is correct, not explicitly.

Q. You think it looked at that implicitly?

A. Well, it certainly did. I know it did simply because I know that wage rates in labor markets are influenced by, among other things, the supply and demand for labor, and when people make decisions about what jobs to take, to the extent that they consider all the factors that might influence their compensation, things like commission rates, I could expect that to drive changes in the supply of labor and I would expect that to be reflected in various wage rates that are reported by, among other groups, the U.S. Department of Labor.

Q. Okay. So you think the change in wage rates is driven by commission rates?

A. No, not at all. I don't think that's what I said at all. Wage rates in labor markets as the price of labor, they are driven primarily by changes in the demand for labor and the supply of labor. The supply of labor is determined by, among

other things, decisions that individuals make about whether or not to seek out various types of employment. To the extent that one of the things people may consider when they make these decisions depending on their industry is a commission structure, it could be implicitly reflected in the wage rates.

Q. Okay. Do you have any data or have you looked at any data showing the anticipated -- showing the growth of commissions in the sales industry?

A. I don't believe so, no.

Q. And if you had that data, would that be important to your calculation in this case?

A. Again, my answer would be the same, probably not, but again, without knowing what the data is, what the time period is, what industry, what occupations, who compiled the data and so on, I couldn't say for sure.

Q. So if you had information from what you consider to be a reliable source showing that commissions in an industry in which Mr. Reed worked had decreased for the five prior years, that wouldn't -- that probably wouldn't weigh into your

calculation in any way?

A. Probably not, no.

Q. Okay. Just a couple of quick questions about health insurance.

You mentioned that Mr. Reed is now carrying private insurance through UnitedHealthcare. Do I have that right?

A. Yes.

Q. Do you have any information regarding the coverages that he had under his health insurance with Oracle versus the one he had under UnitedHealthcare or -- I'm sorry. Go ahead.

A. I was going to say that I don't believe I had any specific information about the coverages in terms of copays and things like that.

Q. Okay. Would that -- would you agree that that information would be important in trying to compare one plan to the other?

A. I'm not sure I follow your question.

Q. Well, in other words, you've made a calculation of his loss in part based upon the cost of the Oracle plan to him versus the cost of the UnitedHealthcare plan; is that right?

A. Yes, that's correct.

Q. Now, if it were the case that the coverages, deductibles and copay and so forth under one plan were very different from the other plan, would you agree that comparing them wouldn't really be apples to apples because they're different products?

A. I do not offer any opinion about the qualitative nature or value of various insurance plans.

Q. Okay. Well, maybe let me ask it this way: Assume for the moment that UnitedHealthcare coverage is much more comprehensive and a much better insurance plan than what he had with Oracle, would it, therefore, suggest to you that the UnitedHealthcare insurance was worth more to him?

A. Again, I am not qualified to offer any sort of opinion about qualitatively whether one health insurance plan might be better than another.

Q. But you would agree with me that if one health care plan covers more conditions and has a lower deductible and has lower copays, it has more value to an individual than another plan that doesn't have those features?

A. I'm not sure I follow your question.

Q. Well, let me put it this way: If you could have a health care plan that covered any sort of treatment and had a zero deductible and no copays, wouldn't that clearly -- not in a qualitative sense, but clearly quantitatively be better than one that covers only half of all conditions and had a high deductible and high copays? No reasonable person would choose, you know, the more expensive plan, would they?

A. I'm sorry, one reasonable person would what?

Q. No reasonable person would choose a plan that has lower coverage, higher deductibles, and higher copays, would they?

A. I couldn't really say, but I'm a little unclear about your question simply in the sense that for purposes of calculating the economic loss in this matter, the only two pieces of information that matter are the cost that Mr. Reed would have to pay to buy replacement insurance compared to what he was paying when he was employed through Oracle.

Q. Right. I'm trying to get to why those are the only two factors because if the

replacement insurance was better insurance and would over time be expected to result in fewer out-of-pocket costs for him, why wouldn't you factor that in when comparing the two plans?

A. I would have no way of determining whether something would result in lower out-of-pocket costs in the future or not.

Q. Well, couldn't you ask what the deductibles on the plans were? Wouldn't that give you one indication?

A. The deductibles and the copays in a plan only come into play if they have to be used and I'm not a medical expert. I would have no way of offering any opinion about the likelihood that those out-of-pocket expenses would actually be incurred in the future. What I do know is that an individual who needs to purchase health insurance will pay premiums and I am able to determine what those premiums are and compare them to the out-of-pocket costs or the employee contributions they may have been making in the past.

Q. Okay. I understand.

So from your perspective you have no way to distinguish one medical plan from another or

determine whether one may have more value to Mr. Reed?

A. That's correct. I have offered no opinion about whether one plan may be, quote, better, end quote, than another, that's true.

Q. Okay.

MR. CARON: Well, thank you. Those are all my questions. I appreciate your time.

THE WITNESS: Thank you.

MR. ROBINSON: Anybody else on the phone?

UNIDENTIFIED FEMALE: None.

MR. ROBINSON: Okay.

MR. VOSSLER: This is Chris Vossler. I've got a couple.

MR. ROBINSON: Go ahead, Chris. All set.

MR. VOSSLER: Okay. Thanks.

EXAMINATION BY MR. VOSSLER:

Q. Good afternoon.

A. Hi, Chris.

Q. Hi. I've just got a couple of follow-up questions for you here. I'm going to try

to be very brief.

Do you have your report in front of you? This is the one dated April 17, 2015?

A. I do.

Q. All right. On page nine there is a series of calculations that results in an adjusted earnings factor and it's 58.44 percent. Are you with me?

A. I am.

Q. All right. Do you know who did the math that resulted in that result or that number of 58.44 percent?

A. I don't recall if I --

MS. POLGLASE: Sorry.

A. -- performed that calculation or I had my senior analyst perform that calculation.

Q. You didn't actually perform that calculation?

A. I don't recall as I sit here today.

Q. Now, if we move on to -- bear with me, I'm just going through my outline here trying to make sure I don't reask anything, turning to page 12 there is a graph towards the bottom of the page and it breaks down certain expenses and payroll

contributions and things by year. Are you there?

A. I am.

Q. All right. Under out-of-pocket expenses for 2015 there is a figure of $12,030. Can you explain for us how you came up with that figure?

A. Sure. That figure is based on information presented on page five of our report, the Medicare expenses and the UnitedHealthcare expenses.

Q. Okay. I'm just going to flip to page five.

A. So basically if you add the figure of $3,077 for Medicare expenses for 2015 and $8,953 for UnitedHealthcare expenses for 2015 you should get $12,030 for the sum of those two.

Q. All right. Then if we move across the columns to payroll contributions there is a figure of $6,052?

A. That is correct.

Q. Can you explain for us how you arrived at that figure?

A. I'm just looking at my report. I thought that we had typed it somewhere, but perhaps we didn't. If you go back to again page five of our

report, you'll see that we did estimate Mr. Reed's employee contributions to his health insurance at $10,704 per year in 2011. You'll see that in paragraph 11 on page five of our report.

Q. Okay. I see that.

A. In order to determine what his employee contributions would have been in 2015, we apply an average annual increase of 5 percent to those premiums each year and that 5 percent is based on the data that is published by the Kaiser Institute.

Q. All right. You already explained earlier you rely on the Kaiser information; correct?

A. That is correct, yes.

Q. Do you happen to know if the plaintiff's employers, whether it was Oracle or the prior employer, paid for the plaintiff's disability insurance?

A. I do not recall off the top of my head whether those premiums were paid by plaintiff, his employer or a combination of the two. As I mentioned earlier, I didn't specifically analyze the collateral source offset, so I don't recall as I sit here today who was paying those premiums.

And, by the way, if you look at page 13 of our report, I knew we had the numbers somewhere, if you look at page 13 of our report and you look at the first full paragraph all the way over to the right, the fourth line down you'll see the estimate of what Mr. Reed's payroll contributions would have been in 2015, $12,105. Half of that, of course, gives you the figure of $6,052 you were asking me about before on page 12.

Q. Now, I apologize if this was asked before. I was straining to hear some of the questions on the phone, but I've got a couple of questions about household services analysis.

If I recall correctly you made an assumption that the annual increase of wages for the plaintiff would be in the range of 3.7 percent; is that right?

A. Yes.

Q. And then you also used a discount rate of 3.25 percent insofar as Mr. Reed's future earnings were concerned; right?

A. That is correct, yes.

Q. And that discount rate was related to tax-free municipal bonds; is that right?

A. That's what I used as my starting point, yes, that is correct.

Q. All right. Now, for the value of household services you assumed that the cost of services will increase by 3.8 percent; true?

A. Yes.

Q. And that would be greater than the rate of increase for wages which you had at 3.7 percent; is that right?

A. On average, that is correct, yes. I also used, of course, a higher discount rate for purposes of calculating the present value of lost household services in future years compared to the discount rate I used for purposes of calculating the present value of lost earnings in future years.

Q. How did you arrive at the 3.8 percent for the increase in the cost of services?

A. In each case, whether it was the 3.7 percent that I used for the annual increase in earnings or the 3.8 percent that I used for the annual increase in the wage rates for household services, in each case if you look at the footnote on page 10 of my report you'll see I describe specifically how I determined those wage rates. So

basically I considered two sources. I looked back at how much wages had, in fact, increased very specifically between 2009 and 2013 and I also considered projections of future wage growth that are published by the Board of Trustees -- Board of Trustees of the Social Security Administration in their annual report.

Q. You said something earlier about the fact that you would employ a different analysis or different methodology if this was a wrongful death case which it currently is not.

Could you explain for me what methodology or what different process you would use if this was a wrongful death case?

A. Sure. My general starting point would, of course, be the same because my starting point is always, but for the incident, either the impairment or the death, what would this person's life have been like from an economic standpoint. So my starting point and my general overall methodology would be no different. However, having said that, one of the key differences when I calculate economic losses in wrongful death matters compared to when I calculate economic losses in personal injury matters

has to do with the types of services that I am allowed by law to include as part of my analysis. So, for example, when I'm considering the wrongful death of a parent, in addition to household services I also typically calculate the economic value of the loss of advice, guidance and counsel that he would have provided to his spouse and to his children. That is not something that typically is compensable under law in personal injury matters.

From an economic standpoint it's a valid element of economic loss regardless, but, of course, I am guided by the court rules in terms of what elements of economic loss I can include in these reports.

Q. Is that the only thing that you would be doing differently?

A. That is one of the things that I would be doing differently, again, including additional lost services. In some cases I also include the economic value of companionship services, parental nurturing, other special care services if a decedent had been providing those types of services to his family. So there are several extra elements of losses with respect to the

services that I typically and frequently I should say do value in wrongful death matters, but do not value in personal injury matters.

In addition to that, the way I calculate the income to the household is slightly different in wrongful death matters than the method I used to calculate the loss of earnings to an individual who was still alive, as is the case in a personal injury matter.

Q. Coming back to the issue of insurance expenses and the calculations that you made, I believe that you told one of the other lawyers that you utilized information or you utilized costs associated with the purchase of family coverage or coverage that would extend to both of the daughters; is that correct?

A. Yes.

Q. And then going forward do your calculations take into account that at some point in the future neither one of those daughters will be able to be covered under a family policy such as the one that you considered?

A. I did not expressly make any adjustment, assuming it would be appropriate to do

so, for the time in which the daughters may no longer be on the policy.

Q. Would you agree with the proposition or the general proposition that at some point when the daughters are no longer on the policy that the cost of that health insurance or the premiums will increase?

A. No, I wouldn't agree with that as a general statement simply because that is not always the case. In some cases a family policy refers to a policy that has anyone in addition to the individual who is seeking the insurance. So, in other words, in some cases whether an individual obtains coverage for himself and his wife or himself, his wife and children, the same family coverage has to be obtained. So I wouldn't agree with that overall general statement.

Q. Have you -- withdraw that.

Have you done any analysis on any other similar case where you did make a reduction or an adjustment for the fact that once a child obtains a certain age, the insurance that is purchased by the parents will no longer cover that child and the cost of the premiums will decrease?

A. I definitely have worked on at least one or two other cases in which I made a downward adjustment when the child turned 26. In those cases, however, the family coverage was originally for I believe it was a father in both cases, but a father and his child. So it was not a situation where I had coverage for a married couple and children, but rather I had at least one case, and I don't remember the name of it right now, but at least one case where I had a father that did have coverage for himself and his child, so then it was clear that once the child was no longer on the policy, he would no longer have family coverage, but he would have single coverage instead and I definitely made a downward adjustment to reflect that in one or two prior reports.

Q. Do you recall the name of that case?

A. No, I don't. I apologize.

Q. Do you recall the venue?

A. No. I believe, although I'm not 100 percent positive, that it was a New York case, but that is unfortunately about the best I can do.

Q. Do you recall the name of the attorney who retained you?

A. No. I apologize.

Q. All right. I'm just about done. I just want to go back to something that I believe you said earlier today and that is that as far as Mr. Reed's functional ability to work is concerned, you are not expressing any opinions whatsoever as to whether he can or cannot work; is that correct?

A. That is correct. Yes.

Q. So you would be relying on information provided to you by others or you would be making an assumption that his work function has been destroyed?

MR. BERQUIST: Objection to the form.

Q. His ability to work is just not here anymore?

MR. BERQUIST: Objection to form.

A. I would be offering no opinion and I really would ultimately be leaving it up to the trier of fact to make that determination.

Q. All right.

MR. VOSSLER: I don't have any other questions for you at this point. Thank you for your time.

THE WITNESS: Thank you.

MR. ROBINSON: Anyone else on the phone?

MR. FLYNN: Yes. This is Rob Flynn.

EXAMINATION BY MR. FLYNN:

Q. Good evening, Professor.

A. Hi, Rob.

Q. I have just a couple of questions. And my questions have to do specifically with a factor that you use, and it appears on pages seven and eight of your report. It's the unemployment adjustment factor. And I see that you use a 4.3 percent per annum unemployment rate, that's your starting point that you rely on from -- it's a statistics from the Department of Labor?

A. Yes, it is.

Q. So what that, in essence, is an average unemployment rate for all people of Mr. Reed's age and gender; is that correct?

A. Well, very specifically it is based on unemployment rates for males at various ages, very specifically the ages that Mr. Reed would have been from the time of impairment through his statistical date of retirement.

Q. I see. Is the 4.3 percent an average of those annual unemployment rates, in other words, unemployment rates by age --

A. Yes.

Q. -- for that entire time period? I see.

A. That is correct. Yes.

Q. Okay. My question is: If you had information that would indicate that your subject, the person whose income you're analyzing, was likely to experience a layoff in the near future, how would that impact the unemployment adjustment factor you would apply to your analysis?

MR. BERQUIST: Objection to form.

A. It would probably have no impact simply because that is the reason that we make such an adjustment in our analysis, to take into account the likelihood that a person may become unemployed for, among other reasons, layoff.

Q. Okay. And I want to test this. I like going with previous questioners. I don't have a background in economics, but -- so I'm going to rely on my view of the world.

The statistics that we're looking at

indicates that in each year Mr. Reed has a 4.3 percent on average likelihood of becoming unemployed. And that would mean he has a 95.7 percent -- I'm sorry, he has 95.7, I think my math is correct, 95.7 percent likelihood of remaining employed, but you have information that indicates that it is highly likely that he will be laid off in the near future. It doesn't seem to make sense to me, but I'm asking you as an economist, wouldn't that have an impact on the percentage of -- the unemployment adjustment factor you would use to indicate whether or not he would continue to earn -- receive gross earnings at a specific rate?

MR. BERQUIST: Objection to form.

A. I'm not sure I follow your question.

Q. Yes. Let me see if I can rephrase it. This assumes, you're assuming in this analysis that in each year Mr. Reed has on average a 95.7 percent chance of remaining employed of consistent employment; is that correct?

A. Yes and no. What I am doing is I'm not forming any opinion about specifically when, if at all, in the future Mr. Reed may become

unemployed. I'm not offering that opinion, but what I'm doing most appropriately is allowing for the possibility that in any given year he may become unemployed.

Q. I see. And my question is a hypothetical, and that is: If you -- if you were presented with a different fact in this case, how would you respond to it in your analysis and that fact that you'd be presented with is that you have information that Mr. Reed would be laid off next year?

MR. BERQUIST: Objection. Asked and answered.

Q. So his unemployment for that year would be a certainty as opposed to a probability. How would that impact your analysis?

MR. BERQUIST: Asked and answered.

Q. Let me be more specific. Would it impact the unemployment adjustment figure that you apply to this particular case?

A. No.

MR. BERQUIST: Same objection.

Q. It would not, okay.

Would it be appropriate for you as an

economist if you knew that he was going to experience a layoff in the next year to use the unemployment adjustment factor as you have in this case to analyze his income going forward?

MR. BERQUIST: Objection to form.

You can answer.

A. Yes, that's specifically why I apply the unemployment factor, to allow for the possibility that he could become unemployed next year, the year thereafter, or any other year through 2029.

Q. Right. And again, excuse me, if I'm not following you, but I've changed the fact in my hypothetical. It's no longer a possibility that you're looking at, but rather a certainty that he would be laid off next year and he will be unemployed, no longer working for Oracle, if that is the fact and that's my hypothetical, how would you -- how would that impact your analysis of his earning capability in the coming years?

MR. BERQUIST: Asked and answered.

A. It probably would have no impact on my analysis.

Q. Okay. A general question about data:

Is there data that economists rely on, like yourself, rely on that indicates how difficult it is for someone of Mr. Reed's salary level to find reemployment after a layoff?

A. If your question is whether or not it would be appropriate for an economist to form an opinion about someone's employability, whether it's after a layoff or not, my answer would be that it is not appropriate for an economist to offer that kind of opinion.

Q. I'll ask a follow-up one because I'm not sure how you used the word employability. You know, I hear this -- I'm around Mr. Reed's age and I hear this, that when people are let go at my age and at a certain salary range, they have a very difficult time finding employment, and that's the issue I'm turning to, and so when you say employability -- and I'm asking: Is there data out there that indicates how difficult it is for someone of Mr. Reed's salary level to find reemployment in relation to folks, for example, who might make a lot less than Mr. Reed does, is there data out there that indicates how much more difficult it is for someone at that salary range to find another job

with a comparable salary?

A. My answer would be largely the same answer I've offered for some other questions and that is in terms of me responding to a question about data I really couldn't say without knowing what the data was, who gathered the data, specifically whether it was for a particular industry. I really couldn't comment without having more information about the data.

Q. Okay.

MR. FLYNN: Thank you. Those are my questions.

THE WITNESS: Thank you.

MR. ROBINSON: Okay. Anyone else on the phone?

Okay. Just we're almost done.

THE WITNESS: Uh-oh.

EXAMINATION BY MR. ROBINSON:

Q. Just a couple of quick questions.

A. Sure.

Q. I've had a chance to look through the documents that I hadn't seen before.

A. Sure.

Q. Who is Nicholas Casci?

A. He is one of our junior analysts.

Q. So did he work on this matter as well?

A. No. I shouldn't say no. He did certainly assist with some of the more administrative tasks that I mentioned earlier today, following up on some e-mails, copying some documents and so on for us.

Q. So he didn't do any of the substantive work for the report?

A. That is correct, he did not.

Q. I've just got to understand the progression of certain e-mails and they're in here and if I ask you something and you want to look at it I'll hand it to you, but there is an e-mail from December 15 from Jeff Rella of your office, you're copied on it, to Attorney Berquist saying: Darron, attached is a draft of our analysis. Please review and contact us with any comments or questions.

So at that point in time had your draft report been executed?

A. We had, yes, prepared our report and we had sent a copy to counsel.

Q. Signed? Finished?

A. No. It was finished, but it was not signed.

Q. Why not signed?

A. Typically we do not send out a signed copy of our report at first. We send out an unsigned copy and we ask counsel to review it for factual misstatements and to give us some feedback in the event that there is something that we may need to correct. In this case I am happy to say there were no factual misstatements and I believe counsel followed up with an e-mail and asked us to simply send a signed copy.

Q. Yeah, I have a follow-up e-mail -- well, I don't know. There may be one similar. I've got one in April, on April 17 from Jeff Rella to Attorney Berquist. You're copied on it saying: I sent an unsigned copy so you and your client could review. If there are no changes let me know and we can e-mail you the signed version. Attorney Berquist responded: Okay, we'll take a quick look.

Were there any changes made, any revisions, anything in April?

A. No.

Q. And the same was true back in December --

A. That is correct.

Q. -- of 2014.

Now, this is the one that's throwing me off. I've got a letter from your office to Attorney Berquist dated February 3, 2015 which in part -- and it's executed by you, which in part says: Enclosed -- please find enclosed the final report in the above matter.

What happened in February?

A. That probably is around the time that we received payment for the remainder of the cost of the report. That's typically when we send a hard copy out. Yes, it looks like late January of 2015 we received payment in the amount of $1,300 which represented the outstanding balance due for the December 2014 report. Our bookkeeper would have processed that payment, passed that information along to my administrative assistant, who, therefore, would have prepared a hard copy of our final report and sent it out to counsel.

Q. All right. So I guess this letter comes bare, without the attached report to it. Is

there --

A. That letter --

Q. Is there a third version of the report? We have the December 15 one.

A. That letter came -- what's the date on that letter?

Q. The date on that is February 3, 2015.

A. Perfect. It came with this report. You'll see --

Q. Okay.

A. -- it clearly marked there.

Q. Okay. And where is the draft that was sent on December 15?

A. We don't kill trees, so we did not print out a draft of the report that was sent to counsel. It was saved electronically. Then when it came time to generate a hard copy, we printed it out on paper, and that's what you have there in your hand as exhibit something.

Q. But it was attached to the e-mail; correct?

A. Well, it was electronically attached to the e-mail. It doesn't mean we get to print it out on a hard piece of paper.

Q. I'd just like to get a copy of the draft that was attached to the December 15 e-mail just so I know exactly what that one says. Because apparently the version I have is the December 15 report that was transmitted on February 3; correct?

MR. BERQUIST: John, I think I can help you clarify this. I don't know that you guys are entitled to draft reports anyway, but we did provide it. So if you look at the materials we gave you, that is this one.

MR. ROBINSON: This, this e-mail.

MR. BERQUIST: It doesn't have her stamp on it.

MR. ROBINSON: So this is the e-mail version.

MR. BERQUIST: They're probably out of order because I've been shuffling through them.

MR. ROBINSON: Yeah, it is out of order.

MR. BERQUIST: You have it in an e-mail we sent you on May 22.

MR. ROBINSON: Okay. So, I mean, just so the record is clear, we've got a December 15, 2014 version of a report that was

produced in the materials that were sent to us with your letter on May 22, 2015, which is the printout of the report that was attached to the December 15 e-mail from Mr. Rella.

MR. BERQUIST: Of the December 15 draft report, correct.

MR. ROBINSON: The one that actually showed up on December 15?

MR. BERQUIST: Yes.

MR. ROBINSON: Okay. And so and if I understand correctly then what's been marked as exhibit --

A. The other one --

BY MR. ROBINSON:

Q. Not this one. Exhibit -- exhibit 1C is the actual mail via UPS version of that same December 15 report?

MR. BERQUIST: Right, after they received payment.

MR. ROBINSON: Okay. I think I understand now. Okay. All right. So you can have that back, and I will put these back.

Those are all my questions.

THE WITNESS: Great. Thank you.

MR. ROBINSON: Thank you.

MR. BERQUIST: Does anybody else have any questions?

(No response.)

MR. BERQUIST: All right, we're done. Thank you.

For purposes of the record, this is Darron Berquist for the plaintiffs. We are going to retain the marked exhibits from the deposition. Once we redact the tax records, we will send them either via e-mail or mail to Eppley, at which point we will return Professor Kucsma her files.

(Time noted: 5:42 p.m.)

STATE OF _____) Pg. of Pgs.
) ss.:
COUNTY OF _____)

I wish to make the following changes, for the following reasons:

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I, KRISTIN K. KUCSMA, M.A., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
KRISTIN K. KUCSMA, M.A.

STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appearing KRISTIN K. KUCSMA, M.A. known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____ 2015.

Subscribed and sworn to before me
this _____ day of _____ 2015.

_____

C E R T I F I C A T E

STATE OF _____)
) :ss.
COUNTY OF _____)

I, RICH GERMOSEN, a Certified Court Reporter, (License No. 30XI00184700), Certified Realtime Court Reporter-NJ, (License No. 30XR00016800), NCRA Certified Realtime Reporter, and Notary Public within and for the States of New York and New Jersey, do hereby certify:

That KRISTIN K. KUCSMA, M.A. the witness whose deposition is hereinbefore set forth, having been duly sworn by a Notary Public of the States of New York and New Jersey, and that such deposition is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this____day of_____ 2015.

_____

RICH GERMOSEN, CCR, CRCR, CRR, RMR, CLR
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LICENSE NO. 30XR00016800

VOLUME I
PAGES: 1-204
EXHIBITS: 1-10 and 1-4

STATE OF CONNECTICUT
IN RE: BRIDGEPORT ASBESTOS LITIGATION
NO.: FBT-CV12-6034053-S

* * * * * * * * * * * * * * * * * * *

KENNETH C. REED, III and RUTH E. REED, Plaintiffs,	*	SUPERIOR COURT
vs.	*	J.D. OF FAIRFIELD
3M CO., et al., Defendants.	*	AT BRIDGEPORT

* * * * * * * * * * * * * * * * * * *

DEPOSITION OF: KRISTIN K. KUCSMA, M.A.
Wednesday, May 27, 2015
Courtyard by Marriott West Orange
8 Rooney Circle
West Orange, New Jersey
2:16 p.m. - 5:43 p.m.

I, RICH GERMOSEN, a Certified Court Reporter, (License No. 30XI00184700), Certified Realtime Court Reporter-NJ, (License No. 30XR00016800), NCRA Registered Merit Reporter, NCRA Certified Realtime Reporter, and Notary Public within and for the States of New York and New Jersey, do hereby certify:

That the witness, KRISTIN K. KUCSMA, M.A., was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on _____ to the witness or to the attorney for the witness for examination, signature and return to me by _____;

That the amount of time used by each party at the deposition is as follows:

Mr. Robinson - (01:55:50)

Ms. Polglase - (00:25:05)

Mr. Caron - (00:35:41)

Mr. Vossler - (00:16:53)

Mr. Flynn - (00:07:46)

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

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I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to me this ____ of _____, 2015.

_____

RICH GERMOSEN, CCR, CRCR, CRR, RMR

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