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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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KATHLEEN McHUGH AND DEANNA SCHNEIDER,  
Individually and on behalf of all  
person similarly situated,

Plaintiffs,

v. Case No. 11-CV-724

MADISON-KIPP CORPORATION, CONTINENTAL  
CASUALTY COMPANY, UNITED STATES FIRE INSURANCE  
COMPANY and ABC INSURANCE COMPANIES 1 - 50,

Defendants,

and  
MADISON-KIPP CORPORATION,  
Cross-Claimant,

vs.

CONTINENTAL CASUALTY COMPANY, COLUMBIA  
CASUALTY COMPANY, and UNITED STATES  
FIRE INSURANCE COMPANY,  
Cross-Claim Defendants,

and  
CONTINENTAL CASUALTY COMPANY and  
COLUMBIA CASUALTY COMPANY,  
Cross-Claim Defendants,

and  
LUMBERMANS MUTUAL CASUALTY COMPANY, AMERICAN  
MOTORISTS INSURANCE COMPANY, and JOHN DOE  
INSURANCE COMPANIES 1 - 20,  
Third-Party Defendants.

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DEPOSITION OF  
ELAINA BOTT

Madison, Wisconsin  
December 12, 2012  
9:00 a.m. to 10:15 a.m.

Kim M. Peterson  
Registered Professional Reporter

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A P P E A R A N C E S

THE COLLINS LAW FIRM, P.C., 1770 North  
Park Street, Suite 200, Naperville, Illinois, 69563,  
ejm@collinslaw.com, by MR. EDWARD J. MANZKE, appeared on  
behalf of the Plaintiffs.

VARGA, BERGER, LEDSKY, HAYES & CASEY,  
125 South Wachter Drive, Suite 1250, Chicago, Illinois,  
60606-4473, nberger@vblhc.com, by MR. NORMAN B. BERGER,  
appeared on behalf of the Plaintiffs.

MICHAEL, BEST & FRIEDRICH, LLP, 100  
East Wisconsin Avenue, Milwaukee, Wisconsin, 53202 ,  
jabusch@michaelbest.com, by MR. JOHN A. BUSCH, appeared  
on behalf of the Madison-Kipp Corporation.

MICHAEL, BEST & FRIEDRICH, LLP, 100  
South Pinckney Street, Suite 700, P.O. Box 1806, Madison,  
Wisconsin, 53701-1806, abianchi@michaelbest.com and  
lhziemba@michaelbest.com, by MR. ALBERT BIANCHI, JR. and  
MS. LEAH H. ZIEMBA, appeared on behalf of the  
Madison-Kipp Corporation.

TROUTMAN SANDERS, LLP, 55 West Monroe  
Street, Suite 3000, Chicago, Illinois, 60603-5758,  
christopher.white@troutmansanders.com, by MR. CHRISTOPHER  
WHITE, appeared on behalf of the Continental Casualty  
Company.

MEISSNER, TIERNEY, FISHER & NICHOLS,

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1 S.C., 111 East Kilbourn Avenue, 19th Flor, Milwaukee,  
2 Wisconsin, 53202-6622, jbk@mtfn.com, by MS. JENNIFER A.B.  
3 KREIL, appeared on behalf of the United States Fire  
4 Insurance Company.  
5 DEUTCH & WEISS, LLC, 7670 North Port  
6 Washington Road, Suite 200, Whitefish Bay, Wisconsin,  
7 53217, charles.kramer@mweisslaw.net, by MR. CHARLES W.  
8 KRAMER, appeared on behalf of Lumbermens Mutual Casualty  
9 Company.  
10  
11 I N D E X  
12 WITNESS EXAMINATION PAGE  
13 ELAINE BOTT By Mr. Busch 4  
14 By Mr. White 48  
15 By Ms. Kreil 51  
16 E X H I B I T S  
17 EXHIBIT NO.: MARKED ID'D  
18 1 - 110 S. Marquette Street documents ..... 4 8  
19 2 - Bott answers to MKC document request .... 4 8  
20 3 - Bott answers to US Fire document request 4 8  
21 4 - Bott responses to MKC interrogatories ... 4 43  
22 5 - Bott responses to US Fire interrogatories 43 43  
23 (The original exhibits were attached to the original  
24 transcript.)  
25 (The original transcript was sent to Mr. Busch.)

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P R O C E E D I N G S

(Exhibit Nos. 1 through 4 were marked  
for identification.)

ELAINA BOTT, called as a witness  
herein by the Defendants, after having been first  
duly sworn, was examined and testified as follows:

E X A M I N A T I O N

BY MR. BUSCH:

Q Please state your name.  
A Elaina Bott.  
Q And what is your current home address?  
A 110 South Marquette Street.  
Q Can you briefly describe for me your educational  
background?  
A I have a Bachelor's of Art in -- excuse me,  
Bachelor's of Art in Art History from the Ohio  
State University, and I have uncompleted work  
towards a master's at UW-Madison.  
Q Okay. And you're one of the plaintiffs in the  
matter of McHugh versus Madison-Kipp?  
A Yes.  
Q And are you married?  
A Yes.  
Q And what is your husband's name?  
A Eric Bott.

|   |   |
|---|---|
| Page 5  | Page 7  |
| <p>1 Q To your knowledge, is Mr. Bott also a plaintiff in<br/>                 2 the matter of McHugh versus Madison-Kipp?<br/>                 3 A Yes.<br/>                 4 Q And you live together?<br/>                 5 A Yes.<br/>                 6 Q At the home at 110 South Marquette Street?<br/>                 7 A Yes.<br/>                 8 Q Can you briefly describe for me your work history.<br/>                 9 A I am currently employed as a consultant at Vonlay<br/>                 10 Consulting.<br/>                 11 Q And what do you do there?<br/>                 12 A I'm a -- currently a healthcare IT consultant.<br/>                 13 I'm working at SVA on their EPM project.<br/>                 14 Q And how long have you had that position?<br/>                 15 A I recently started on that project in October of<br/>                 16 this year.<br/>                 17 Q Prior to that what was your job history?<br/>                 18 A I worked as a consultant through Vonlay at the<br/>                 19 University of Wisconsin's Hospitals and Clinics.<br/>                 20 Q In what area?<br/>                 21 A In their Data Security IT Division, as a<br/>                 22 consultant.<br/>                 23 Q Prior to that what was your job?<br/>                 24 A Prior to that I worked as a consultant with Safe<br/>                 25 Bridge Solutions.</p>  | <p>1 Q And how long has he held a position with the<br/>                 2 legislature?<br/>                 3 A With the legislature as a whole?<br/>                 4 Q Yes.<br/>                 5 A He's been there 10 years, approximately.<br/>                 6 Q Prior to that do you know what his job was?<br/>                 7 A He was in college.<br/>                 8 Q Okay. Do you have children?<br/>                 9 A Two.<br/>                 10 Q Their ages, please.<br/>                 11 A Two, and three months.<br/>                 12 Q Do you smoke?<br/>                 13 A No.<br/>                 14 Q Does your husband smoke?<br/>                 15 A No.<br/>                 16 Q Do you know approximately when your house was<br/>                 17 constructed?<br/>                 18 A In the teens. It -- It may be the '20s.<br/>                 19 Q And when did you purchase your house?<br/>                 20 A I myself purchased the house with my husband in, I<br/>                 21 believe, 2007.<br/>                 22 Q And from whom did you purchase it?<br/>                 23 A His parents.<br/>                 24 Q How long did his parents live at that home?<br/>                 25 A His parents never lived at that home.</p>  |
| Page 6  | Page 8  |
| <p>1 Q And what were your job duties there?<br/>                 2 A I was a consultant on various projects at CUNA<br/>                 3 Mutual.<br/>                 4 Q Prior to that?<br/>                 5 A Prior to that I was an implementation services<br/>                 6 team member at Epic Systems.<br/>                 7 Q And can you briefly describe for me what your job<br/>                 8 duties entailed there?<br/>                 9 A Mostly business analyst, project management work,<br/>                 10 systems analysis and design for Epic Systems.<br/>                 11 Q Prior to that?<br/>                 12 A Ongoing I've worked as a waitress at various<br/>                 13 restaurants, and prior to that was grad school.<br/>                 14 Q How is your husband employed, if you know?<br/>                 15 A Through the State of Wisconsin.<br/>                 16 Q And what is his job?<br/>                 17 A His current job title is in the air. He recently<br/>                 18 transitioned from the State Assembly to the State<br/>                 19 Senate.<br/>                 20 Q And what are his job duties?<br/>                 21 A I would say it would be equivalent of Director of<br/>                 22 the Budget, Policy Director for the Senate<br/>                 23 Majority Leader. He was previously the Policy<br/>                 24 Budget Director of the Speaker of the State of<br/>                 25 Wisconsin.</p> | <p>1 Q Did they own it as a rental property?<br/>                 2 A Yes.<br/>                 3 Q And do you know how long they owned it as a rental<br/>                 4 property?<br/>                 5 A I believe approximately around 2002.<br/>                 6 Q 2002?<br/>                 7 A Um-hum.<br/>                 8 Q Let me show you what's been marked as Bott<br/>                 9 Exhibit No. 1.<br/>                 10 A Okay.<br/>                 11 Q Do you recall at some point in time you were asked<br/>                 12 to accumulate documents responsive to a request<br/>                 13 for production of documents?<br/>                 14 A Yes.<br/>                 15 Q And I will represent to you, and we can confirm it<br/>                 16 later on, that I believe that's the entirety of<br/>                 17 the documents that -- that were produced by you.<br/>                 18 If you want to take a moment to take a<br/>                 19 look to see if that comports with your<br/>                 20 recollection, if you have one in that regard.<br/>                 21 A From what I can see, this is what we provided.<br/>                 22 Q Okay. Let me show you also what's been marked as<br/>                 23 Bott Exhibit No. 2, which is answers to one set of<br/>                 24 interrogatories, and then Bott Exhibit No. 3,<br/>                 25 which is a response to another set of</p> |

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1 interrogatories.  
 2 Take a look at that and see if those  
 3 are, in fact, responses that you and your husband  
 4 submitted in this matter.  
 5 A Yes, this was provided by my husband, as was this.  
 6 Q Can you briefly describe for me the -- how you use  
 7 your basement, and if it's changed since 2007.  
 8 A We use our basement primarily for storage and for  
 9 laundry.  
 10 Q And has that changed at all since 2007?  
 11 A I would say we are less likely to kind of use it  
 12 throughout the day. We kind of cluster how we use  
 13 it. We avoid the basement at all costs.  
 14 Q And why?  
 15 A Partial reason would be the fear that we have from  
 16 what could be coming up through the sub-slab, and  
 17 the work that's been done by the various people  
 18 doing tests down there. We also have not enjoyed  
 19 maintaining it, and so it's a bit dirty right now.  
 20 Q Has -- Has any person told you not to use your  
 21 basement in a -- in the way in which you used it  
 22 previously?  
 23 A No. I would say, though, we have been told to do  
 24 a lot of extra hand washing and other things to  
 25 mitigate anything we're coming into contact with

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1 in the soil or in the basement.  
 2 Q And from -- by whom were you told that?  
 3 A The Department of Health and Human Services.  
 4 Q Anyone in particular?  
 5 A It was told to my husband.  
 6 Q Okay. What is the heat source in your home?  
 7 A We have central heating.  
 8 Q And is it natural gas?  
 9 A Yes.  
 10 Q How old is your -- Is it a boiler system, or is it  
 11 a forced-air system?  
 12 A I don't know.  
 13 Q Okay. Does it have radiators, or does it have --  
 14 ventilated?  
 15 A Ventilated.  
 16 Q Or vents.  
 17 A Vents, yeah. No, it's not helping me.  
 18 Q Okay. Do you know how old that -- your furnace  
 19 is?  
 20 A No.  
 21 Q Does your basement have a -- what used to be a  
 22 coal bin in it?  
 23 A I don't know.  
 24 Q I believe you said you used the basement for  
 25 storage.

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1 A Yes.  
 2 Q What types of materials do you store there?  
 3 A We store extra clothing, books, extra dishes,  
 4 things we're not using in general.  
 5 Q Do you ever store paint?  
 6 A We have stored no VOC paint down there in the  
 7 past. It's no longer stored there.  
 8 Q You say no VOC paint?  
 9 A Yes.  
 10 Q And -- And what do you mean when you say VOC  
 11 paint?  
 12 A So, volatile chemicals. There's an option now to  
 13 buy paint that has no VOC's in it.  
 14 Q And that's what you've used?  
 15 A That's what we used throughout our renovations.  
 16 Q And when did you last renovate?  
 17 A The last maintenance or renovation we did the  
 18 house would have been 2010.  
 19 Q And what did you do?  
 20 A We would have resurfaced some walls with spackle  
 21 and painted that year.  
 22 Q And --  
 23 A And we refinished some floors.  
 24 Q I'm sorry.  
 25 A And we refinished some floors. We put in some new

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1 fixtures.  
 2 Q If you could roughly guesstimate for me the -- the  
 3 square footage of the -- of the walls that you  
 4 re-speckled. I mean, if it's -- was it one wall,  
 5 or the whole house, or how much?  
 6 A You have to understand renovations are rolling.  
 7 Q Yes.  
 8 A So in that particular year --  
 9 Q Let me -- Let me withdraw the question. You took  
 10 possession of the house in 2007, or did you live  
 11 there before?  
 12 A We lived in it before.  
 13 Q And when did you first move there?  
 14 A Myself? I first moved in there in, I believe,  
 15 2006.  
 16 Q And had your husband lived there previously?  
 17 A Yes.  
 18 Q And when did he first --  
 19 A 2002.  
 20 Q 2002. Is it fair to say that at least in your  
 21 experience from 2006 through 2010 there were a --  
 22 from time to time you would either remodel or  
 23 refresh your house?  
 24 A Yes.  
 25 Q And -- And in 2010, at least, there was a

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|---------|---|---------|---|
| Page 13 | <p>1 continuation of resurfacing and spackling of some</p> <p>2 of the walls?</p> <p>3 A Yes.</p> <p>4 Q Which may have occurred as well in 2005 or 2004?</p> <p>5 A Yes.</p> <p>6 Q And that the paint you used was a non-VOC paint,</p> <p>7 correct?</p> <p>8 A In 2010, yes.</p> <p>9 Q Okay. Before 2010 did you use a non-VOC paint?</p> <p>10 A I don't know.</p> <p>11 Q Okay. And then in 2010 you also resurfaced the</p> <p>12 floors or refinished the floors?</p> <p>13 A Two bedroom floors.</p> <p>14 Q Had you done floors between 2006 and 2010?</p> <p>15 A Yes.</p> <p>16 Q So once again, it was a rolling kind of</p> <p>17 refurnishing?</p> <p>18 A No. New floors were put in throughout the</p> <p>19 kitchen, the living room and dining room. We also</p> <p>20 put on an addition, which had floors that were put</p> <p>21 in.</p> <p>22 Q And what kind of floors were these?</p> <p>23 A Hardwood floors.</p> <p>24 Q Which you stained?</p> <p>25 A No. We had a service do it.</p> | Page 15 | <p>1 A He was formerly a contractor.</p> <p>2 Q Okay. What's his current line of business?</p> <p>3 A He is -- He sells reclaimed wood and does</p> <p>4 consulting on timber frame structures and</p> <p>5 restoration.</p> <p>6 Q To your knowledge, did you pull permits for this</p> <p>7 reconstruction -- or you weren't living there. To</p> <p>8 your knowledge, were permits pulled?</p> <p>9 A I was involved with the property since 2011.</p> <p>10 Q Okay.</p> <p>11 A Yes, there was a permit for the addition.</p> <p>12 Q Okay. And do you know if there were plans</p> <p>13 submitted to the --</p> <p>14 A Yes. To my knowledge there were.</p> <p>15 Q In deciding to purchase the home in 2007, what due</p> <p>16 diligence, if any, and I -- if you don't know what</p> <p>17 I mean by due diligence let me know, but what due</p> <p>18 diligence did you do, if any, in preparation for</p> <p>19 that purchase?</p> <p>20 A None.</p> <p>21 Q Is that because you lived in the house and you</p> <p>22 knew what the house was about?</p> <p>23 A The house was purchased for my husband in 2002 by</p> <p>24 his parents.</p> <p>25 Q Okay.</p>   |
| Page 14 | <p>1 Q Okay. Did you -- Did you keep any of the excess</p> <p>2 stain or -- or coating?</p> <p>3 A Absolutely not.</p> <p>4 Q Did you say, and I may have missed this, in 2010</p> <p>5 did you add square footage to the -- to the</p> <p>6 facility?</p> <p>7 A Not in 2010, no.</p> <p>8 Q What year did you add square footage?</p> <p>9 A 2005. I believe it was 2005.</p> <p>10 Q Okay. And what was added?</p> <p>11 A A backward general use -- back of the house</p> <p>12 general use room.</p> <p>13 Q Is it -- Do you use it as a family room,</p> <p>14 basically?</p> <p>15 A We use it as a TV room.</p> <p>16 Q Okay. How many square feet did you add?</p> <p>17 A I don't know.</p> <p>18 Q Who was your contractor?</p> <p>19 A My father-in-law.</p> <p>20 Q Is he a -- a builder?</p> <p>21 A Not exactly.</p> <p>22 Q Okay. Does he -- Is he a remodeler?</p> <p>23 A No.</p> <p>24 Q This is -- But he's sufficiently proficient that</p> <p>25 you used him.</p>                            | Page 16 | <p>1 A So the due diligence was done in 2002.</p> <p>2 Q So you did not use a realtor in 2007?</p> <p>3 A No.</p> <p>4 Q Did you receive -- As part of that did you receive</p> <p>5 any data sheet or disclosures at the time that you</p> <p>6 and your husband purchased the property in 2007,</p> <p>7 do you know?</p> <p>8 A Not that I'm aware of. When -- I'm sorry. Let me</p> <p>9 back up. What do you mean by data sheets or</p> <p>10 disclosures?</p> <p>11 Q Oftentimes in the -- in a real estate transaction</p> <p>12 the State of Wisconsin, as part of the</p> <p>13 transaction, there is a disclosure sheet that's</p> <p>14 put together that either realtors or private</p> <p>15 parties talking about various conditions of the</p> <p>16 real estate. And I just want to know -- because I</p> <p>17 didn't see one in the -- in the materials that</p> <p>18 were --</p> <p>19 A I can't -- I can't answer that question then. I</p> <p>20 don't know. The one additional legal document we</p> <p>21 had was regarding our nonmarital status and how we</p> <p>22 would divide the property. There may have been</p> <p>23 additional documents included.</p> <p>24 Q In Bott Exhibit 1 you'll note that there's a -- on</p> <p>25 the bottom there's what's called a Bates stamp.</p> |

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1 It says PLF 110 S and then has numbers.  
 2 A Yes.  
 3 Q If you would take a look at the one that's marked  
 4 page 148 through 171, please.  
 5 A Yes.  
 6 Q Do you recognize that document?  
 7 A No.  
 8 Q It purports to be a residential, if I've got the  
 9 right number, it purports to be a residential  
 10 appraisal report?  
 11 A Okay.  
 12 Q It was -- I'll represent to you that it was part  
 13 of the documents that you gave me. You don't  
 14 recall seeing this document before?  
 15 A I may have seen it. I don't recall.  
 16 Q Okay. And I apologize, it's not the easiest to  
 17 read, but it -- it appears to be done in  
 18 connection with a loan, a refinance transaction.  
 19 Do you see that on about the fifth line?  
 20 A Yes.  
 21 Q And I believe it was done in -- I had the date on  
 22 here and I lost it. I think it was done in  
 23 respect to the 2010 refinance. Let me take a  
 24 moment here and --  
 25 MR. BIANCHI: Yeah. Signature was

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1 May 2010.  
 2 MR. BUSCH: What page?  
 3 MR. BIANCHI: 153.  
 4 BY MR. BUSCH:  
 5 Q Directing your attention to page 153, there's the  
 6 signature of a gentleman by the name of Alfred  
 7 Willie, III. Do you see that?  
 8 A Yes. I do recall this document.  
 9 Q Okay. Do you -- Do you recall meeting with  
 10 Mr. Willie at all in regard to this appraisal  
 11 report?  
 12 A Yes.  
 13 Q And describe for me your interactions with him.  
 14 A I took him on a tour of the property so he could  
 15 perform his appraisal.  
 16 Q And this is done in regard to your refinancing?  
 17 A In 2010, yes.  
 18 Q And in respect to that refinancing, did you simply  
 19 refinance the current balance, or did you increase  
 20 your mortgage?  
 21 A I'm not sure. I believe we increased the  
 22 mortgage.  
 23 Q All right. Was this done in connection with any  
 24 of your remodeling efforts?  
 25 A Yes.

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1 Q Okay. And do you recall speaking with Mr. Willie  
 2 at all about neighborhood conditions?  
 3 MR. MANZKE: Just object to the form  
 4 of the question.  
 5 MR. BUSCH: It's a vague question.  
 6 Q Do you recall, did Mr. Willie ask you any  
 7 questions about any environmental concerns you had  
 8 in 2010?  
 9 A Not that I recall.  
 10 Q Did you volunteer any?  
 11 A Not that I recall.  
 12 Q Did he ask you generally about your -- about  
 13 the -- the condition of the neighborhood?  
 14 A Not that I recall.  
 15 MR. BUSCH: Excuse me for a moment.  
 16 (Discussion off the record.)  
 17 BY MR. BUSCH:  
 18 Q Did he ask you about any environmental conditions  
 19 at your home?  
 20 A Not that I recall. If I recall, he didn't ask me  
 21 any questions.  
 22 Q You simply took him around.  
 23 A Correct.  
 24 Q Do you recall when you received a copy of the  
 25 uniform residential appraisal report that you have

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1 in front of you?  
 2 A Vaguely.  
 3 Q And when did you receive it?  
 4 A Shortly after the appraisal.  
 5 Q During the process of the refinancing?  
 6 A Correct.  
 7 Q Did you read it?  
 8 A Yes.  
 9 Q Directing your attention to pages 161, 162, which  
 10 I believe are the environmental addendum, do you  
 11 see that?  
 12 A Yes.  
 13 Q In reading that did you -- Do you recall reading  
 14 that in 2010?  
 15 A Vaguely.  
 16 Q And do you recall, did you discuss with anyone  
 17 the -- the content of the environmental addendum?  
 18 A No.  
 19 Q Do you recall speaking with your lender about  
 20 environmental conditions at your property?  
 21 A No.  
 22 Q When you reviewed the uniform residential  
 23 appraisal report did you look at the valuation  
 24 given to your property?  
 25 A Yes.

|         |   |         |  |
|---------|---|---------|--|
| Page 21 | <p>1 Q Did you believe it to be a fair valuation?</p> <p>2 A No.</p> <p>3 Q Why not?</p> <p>4 A I felt that the house was worth five to 10,000</p> <p>5 more.</p> <p>6 Q And what was your basis for that?</p> <p>7 A Looking at the properties that he selected to do a</p> <p>8 comparison with, I felt that he did not fully</p> <p>9 understand our neighborhood and the boundaries of</p> <p>10 our neighborhood that would help bring the value</p> <p>11 of our house up.</p> <p>12 Q Did you bring this to Mr. Willie's attention?</p> <p>13 A Yes.</p> <p>14 Q And how did you do so?</p> <p>15 A I contacted the lender and asked them to have him</p> <p>16 take a look at it.</p> <p>17 Q Take a look at his conclusions?</p> <p>18 A His appraisal, yes.</p> <p>19 Q And what happened thereafter?</p> <p>20 A There was no change.</p> <p>21 Q Did the appraisal impact at all the amount of</p> <p>22 money that you were allowed to mortgage?</p> <p>23 A I'm not sure I can answer that question.</p> <p>24 Q And what would you need in order for you to answer</p> <p>25 that question?</p>  | Page 23 | <p>1 A Correct.</p> <p>2 Q Take a moment and look at the appraisal report and</p> <p>3 see if there's is anything in there -- and I</p> <p>4 apologize for the -- the photocopy. I believe the</p> <p>5 substantive -- I'll have you look at pages 148,</p> <p>6 149 and 150, which I believe are -- are specific</p> <p>7 to your home, and ask if you can ascertain whether</p> <p>8 anything stated therein is inaccurate, number one,</p> <p>9 or has changed since this was done.</p> <p>10 A Just page 148?</p> <p>11 Q Yes.</p> <p>12 A Looks correct.</p> <p>13 Q Can you look at 149? And I recognize in the</p> <p>14 comparable sale information that's not within your</p> <p>15 knowledge, but anything else that you can confirm.</p> <p>16 A It appears correct.</p> <p>17 Q Thank you. What did you pay for your house?</p> <p>18 A I don't recall.</p> <p>19 Q Do you recall if you paid what you believed to be</p> <p>20 the fair market value?</p> <p>21 A We did not.</p> <p>22 Q Is that in part because you were purchasing it</p> <p>23 from a relative?</p> <p>24 A Correct.</p> <p>25 Q You had been living in the Madison area for some</p> |
| Page 22 | <p>1 A You're asking me a what-if scenario. I don't know</p> <p>2 what decision we would have made based upon a</p> <p>3 different appraisal.</p> <p>4 Q Did you -- When you made your application to the</p> <p>5 lender, did you ask for a certain amount of money?</p> <p>6 A We asked for the maximum amount. However, we had</p> <p>7 to get mortgage insurance because we only left</p> <p>8 15 percent equity in the house. Had there been a</p> <p>9 higher appraisal, I'm not sure what decision we</p> <p>10 would have made.</p> <p>11 Q Do you have any reason to believe that the -- any</p> <p>12 of the facts and circumstances that you allege in</p> <p>13 your complaint against Madison-Kipp had any impact</p> <p>14 upon Mr. Willie's appraisal?</p> <p>15 A Not at that time, no.</p> <p>16 Q What about the character of your neighborhood did</p> <p>17 you believe distinguished your property from those</p> <p>18 that were alleged to have been comparables?</p> <p>19 A Property values for homes across the railroad</p> <p>20 tracks from our house tend to be of lesser value.</p> <p>21 It's literally another-side-of-the-tracks kind of</p> <p>22 story. There's a little bit of a higher crime</p> <p>23 rate and other factors.</p> <p>24 Q And that's based upon your experience having lived</p> <p>25 in the neighborhood, correct?</p> | Page 24 | <p>1 time prior to the purchase?</p> <p>2 A Correct.</p> <p>3 Q And your husband had been living there since -- at</p> <p>4 least at that home since 2002?</p> <p>5 A Correct.</p> <p>6 Q Had he lived in Madison his whole life?</p> <p>7 A No.</p> <p>8 Q How long had he lived in Madison? Has he lived in</p> <p>9 Madison.</p> <p>10 A I can't answer that.</p> <p>11 Q How long have you lived in Madison?</p> <p>12 A I lived in Madison since 2003.</p> <p>13 Q To your knowledge, has your husband at all been</p> <p>14 involved with the neighborhood association since</p> <p>15 he moved there in 2002?</p> <p>16 A Somewhat.</p> <p>17 Q And can you describe for me his involvement with</p> <p>18 the neighborhood association. And I'm talking</p> <p>19 about the S-A-S-Y Neighborhood Association.</p> <p>20 A I know that he receives e-mails from them.</p> <p>21 Q Okay.</p> <p>22 A He's on their mailing list. I don't know of any</p> <p>23 other involvement.</p> <p>24 Q And if I use the term SASY, would that -- SASY</p> <p>25 or -- is there a term that you like to -- that is</p>   |

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1 more current than what I'm using?  
 2 A What is ever you --  
 3 Q Okay. I'll use S-A-S-Y because I don't want to --  
 4 Okay. All right. And that is -- those are the  
 5 right initials, correct, S-A-S-Y?  
 6 A I don't know.  
 7 Q Okay.  
 8 A I don't receive the mailings.  
 9 Q All right. But to your knowledge, he's on the  
 10 e-mail list?  
 11 A We have access to each other's e-mails. I see  
 12 that e-mails hit his box.  
 13 Q Do you ever read them?  
 14 A On a very rare occasion.  
 15 Q Let me direct your attention to, in Exhibit 1,  
 16 a -- document 135 and 136 and 139, 140 through 147  
 17 start out with.  
 18 A 136 was your first number?  
 19 Q 135 through 147. I think they're like three or  
 20 four documents.  
 21 A Okay.  
 22 Q Can you identify -- I believe all those relate to  
 23 a marketing proposal from a Liz Lauer &  
 24 Associates. Do you see that?  
 25 A Correct.

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1 Q And also in that pile, although I won't take it  
 2 out of context, but we're going to look at a  
 3 little later is pages 106 through, I think, 134,  
 4 which is a comparative market analysis. Do you  
 5 see that?  
 6 A Yes.  
 7 Q Can you describe to me the circumstances under  
 8 which -- First of all, at some point in time did  
 9 you and/or your husband contact Ms. Lauer in  
 10 regard to a marketing proposal?  
 11 A We contacted her more than once.  
 12 Q Okay. And can you describe for me the  
 13 circumstances under which you contacted her.  
 14 A We -- I recently found out that I was pregnant  
 15 with my second child. The Kipp environmental  
 16 issues became an issue when the DNR showed up at  
 17 my house, and due to that we felt that it would be  
 18 prudent to find out what our house was worth and  
 19 to find out if we should put it on the market at  
 20 that time.  
 21 Q And so what did you do?  
 22 A So I had contacted Liz in the past. She actually  
 23 is the one who sold us the house in -- or Eric's  
 24 parents' house in 2002. So we've had an ongoing  
 25 relationship with her. I contacted Liz and asked

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1 her to come and look at the property and provide a  
 2 marketing proposal.  
 3 Q And did she do so?  
 4 A She did.  
 5 Q And when was this?  
 6 A Winter of last year, or this year. Is it 2012?  
 7 Q 2012?  
 8 A Winter of this year.  
 9 Q So in the calendar year 2012?  
 10 A During the snow months.  
 11 Q And I believe you said your concern was heightened  
 12 when the DNR showed up at your house?  
 13 A Correct.  
 14 Q And when did the DNR show up at your house?  
 15 A Approximately the same time period.  
 16 Q About a year ago?  
 17 A Little less because I didn't find out I was  
 18 pregnant until the end of December. So it was the  
 19 January, February timeframe, I believe, to my  
 20 recollection.  
 21 Q Okay.  
 22 A I'm not sure exactly.  
 23 Q That's fair. And who showed up at your house, if  
 24 you recall?  
 25 A I was actually getting home as they were leaving.

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1 There was a man and a woman. I believe one was  
 2 from the Department of Health and Human Services  
 3 and one was from the DNR.  
 4 Q And to your knowledge had they interacted with  
 5 your husband as you showed up?  
 6 A Yes. I walked on to the end of the conversation.  
 7 Q And did you engage in the conversation at that  
 8 point in time?  
 9 A I did.  
 10 Q Okay. Did you ask what their purpose was for  
 11 being there?  
 12 A I did.  
 13 Q And what did they say their purpose was?  
 14 A They informed us that some of the contamination  
 15 from Kipp Corp. that we had heard about in the  
 16 neighborhood, neighbors five or so houses down,  
 17 was discovered to have possibly entered our  
 18 property as well. That the -- the contamination  
 19 might have been more widespread than initially  
 20 thought, and that we had possibly been impacted.  
 21 And I believe they -- I believe they gave us their  
 22 business card and maybe a little bit of  
 23 information.  
 24 And I had, you know, being pregnant,  
 25 and having a two-year-old at my side, because I

|         |   |         |  |
|---------|---|---------|--|
| Page 29 | <p>1 believe my husband had just picked him up from</p> <p>2 school and I came to the door and there were two</p> <p>3 people talking to my husband and my child, and I</p> <p>4 started asking them some questions about health</p> <p>5 concerns --</p> <p>6 Q Yes.</p> <p>7 A -- related to the contamination and what it would</p> <p>8 mean for both me as a pregnant woman and my young</p> <p>9 developing child.</p> <p>10 And then also told them they should</p> <p>11 talk to my neighbor because he's lived on the</p> <p>12 property for over 50 years, I believe, and he has</p> <p>13 several forms of cancer, and I don't know if</p> <p>14 there's ever been any kind of link between</p> <p>15 environmental concerns and why he has those</p> <p>16 cancers. So I had directed them to talk to my</p> <p>17 neighbor.</p> <p>18 Q Do you recall as you sit here today the names of</p> <p>19 the people with whom you spoke?</p> <p>20 A No.</p> <p>21 Q Did you retain their cards, do you know?</p> <p>22 A Their cards are likely in my house somewhere.</p> <p>23 Q Did they respond to your inquiries?</p> <p>24 A Yes.</p> <p>25 Q What did they say?</p>  | Page 31 | <p>1 A There were multiple times.</p> <p>2 Q Okay. And it was in response to this visit that</p> <p>3 you contacted Ms. Lauer?</p> <p>4 A It was around the same time.</p> <p>5 Q Okay. Was it in response to that visit, or was</p> <p>6 there another reason for your --</p> <p>7 A It expedited us contacting Liz Lauer, yes.</p> <p>8 Q Had you thought about selling before?</p> <p>9 A Yes.</p> <p>10 Q Just because it was time to move?</p> <p>11 A We have a growing family, and we were also aware</p> <p>12 of what was happening in the neighborhood a few</p> <p>13 doors down and were concerned that something like</p> <p>14 this might happen. And it did.</p> <p>15 Q You mean the testing?</p> <p>16 A Not just the testing. That there actually be</p> <p>17 contaminants on our property. We were concerned</p> <p>18 about that, and we were concerned about our</p> <p>19 property value.</p> <p>20 Q So you contacted Ms. Lauer.</p> <p>21 A So we contacted Ms. Lauer.</p> <p>22 Q And did Ms. Lauer present to you a marketing</p> <p>23 proposal?</p> <p>24 A She did.</p> <p>25 Q Did you retain her to do a marketing proposal?</p> |
| Page 30 | <p>1 A To be honest, it sounded like Spanish. I mean, I</p> <p>2 think that I was emotionally heightened at the</p> <p>3 time and a little overwhelmed. And so it was hard</p> <p>4 for me to absorb what they were saying.</p> <p>5 Q Okay. Did you ever follow up with them?</p> <p>6 A There was an informational meeting, I believe,</p> <p>7 scheduled for around that time.</p> <p>8 Q Okay. Did you attend?</p> <p>9 A My husband did.</p> <p>10 Q Okay. So as you sit here today you can't recall</p> <p>11 what they told you.</p> <p>12 A I recall that they told me that there was concern</p> <p>13 that the contamination was far spread than</p> <p>14 initially thought. I recall that they had told us</p> <p>15 that they were going to likely have people come</p> <p>16 perform samples at our house.</p> <p>17 I recall that they said that there may</p> <p>18 or may not be health concerns. And I -- what I</p> <p>19 remember most from the meeting was being given a</p> <p>20 card and told to contact them if I had further</p> <p>21 questions.</p> <p>22 Q Okay. Thereafter were there tests performed at --</p> <p>23 on your property?</p> <p>24 A Yes.</p> <p>25 Q And how many times, do you know?</p> | Page 32 | <p>1 A No.</p> <p>2 Q To your knowledge, what -- what -- there's a</p> <p>3 what's called a comparative marketing analysis</p> <p>4 that says prepared for Eric and Elaina Bott, which</p> <p>5 is 106 through 134. Do you see that?</p> <p>6 A Yes.</p> <p>7 Q And you did not retain Ms. Lauer to do this?</p> <p>8 A I'm sorry. We retained her to do this. I thought</p> <p>9 you meant to actually implement the marketing and</p> <p>10 put the house on market.</p> <p>11 Q You asked her to do a comparative market analysis?</p> <p>12 A Yes, we asked her to do this.</p> <p>13 Q And is -- is 106 through 134 the results of her</p> <p>14 market analysis?</p> <p>15 A Yes.</p> <p>16 Q And when you got it did you review it?</p> <p>17 A Yes.</p> <p>18 Q And did you take any action thereon?</p> <p>19 A We discussed whether or not to move forward with</p> <p>20 putting the house on the market.</p> <p>21 Q And you decided not to?</p> <p>22 A We decided not to.</p> <p>23 Q And 135 is the marketing proposal, correct?</p> <p>24 Page 135, that's the actual proposal?</p> <p>25 A Yes.</p>   |



|         |  |         |   |
|---------|--|---------|---|
| Page 33 | <p>1 Q And that preceded 106 through 134?</p> <p>2 A Correct.</p> <p>3 Q And 136 through 138 is a guaranteed performance agreement. Do you see that?</p> <p>4 A Yes.</p> <p>6 Q Did you -- You did not execute that?</p> <p>7 A No.</p> <p>8 Q Okay. And then 139 is a listing flow chart, correct?</p> <p>9 A Correct.</p> <p>11 Q And 140 through 147 are some marketing literature about Ms. Lauer?</p> <p>12 A Correct.</p> <p>14 Q If I told you that according to public records your mortgage -- your original mortgage in 2007 was for \$133,600 and that it was increased to \$152,096 in 2010, would that comport with your recollection?</p> <p>19 A Yes.</p> <p>20 Q Take a look at Exhibits 2 and 3, please. I don't know which one I have in front of me is 2 and which one's 3. The one I have -- I'm looking at one that's seven pages before the signature line of your husband.</p> <p>24 A Page 7 is the signature line?</p>                                      | Page 35 | <p>1 Q Have you done anything other than retaining Ms. Lauer to ascertain the value of your home?</p> <p>2 A No.</p> <p>4 Q Have you retained an appraiser?</p> <p>5 A No.</p> <p>6 Q To your knowledge has any appraiser come through your house in the last 12 months?</p> <p>8 A No.</p> <p>9 Q Directing your attention to the answer to Interrogatory No. 4.</p> <p>11 A Um-hum.</p> <p>12 Q You state in there at the fourth paragraph that you no longer garden, correct?</p> <p>14 A We do garden.</p> <p>15 Q But on different -- Explain to me how you've changed your gardening.</p> <p>17 A We use -- In a -- We use a box. So that we bring soil from off site, and we're a little bit more careful about what plants we select.</p> <p>20 Q And you've also built a raised sandbox for your child?</p> <p>22 A Correct. And the Wisconsin Department of Health also told us that he should only play in that raised sandbox.</p> <p>24 Q Who from the Department of -- Did you say the</p>  |
| Page 34 | <p>1 Q Yes.</p> <p>2 A Yes.</p> <p>3 Q It's on for both, I think.</p> <p>4 A Oh, I'm sorry. Page 8 is mine and his signatures.</p> <p>5 Q Okay. That's not going to help me either. Oh, I know how to do this. Take a look at the one that says Answers to Madison-Kipp Corporation's First Set of Interrogatories. Which number is that?</p> <p>9 It's on the first page.</p> <p>10 A That's 2.</p> <p>11 Q Okay. Take a look at Exhibit 2, please. Do you recall answering these with your husband?</p> <p>12 A Yes.</p> <p>14 Q Okay. Directing your attention to the answer to Interrogatory No. 3 --</p> <p>15 A Um-hum.</p> <p>17 Q -- which is on page 3, you state in there that you no longer enjoy spending time in your home. Is that still accurate?</p> <p>19 A We hate our home.</p> <p>21 Q Okay. And you state that you believe your property has lost its value?</p> <p>22 A Yes.</p> <p>24 Q You have not put your house up for sale, however.</p> <p>25 A No.</p> | Page 36 | <p>1 Department of Health, or the DNR?</p> <p>2 A I was told the Department of Health by my husband.</p> <p>3 Q When did the Department of Health tell your husband that your son should not play in the dirt in your yard, if you know?</p> <p>6 A I -- I don't know.</p> <p>7 Q Was it a time different than the time you encountered them in early 2012?</p> <p>9 A Correct. It was at an open meeting here.</p> <p>10 Q Did anyone tell you that you should not grow vegetables in the soil that's -- that's on your property?</p> <p>12 A I do not know.</p> <p>14 Q Do you know what led you to create a raised garden?</p> <p>15 A There were several factors, most of which was concerns over soil quality. The back land behind our garage doesn't grow anything, it's like a dead zone, that's directly abutted to Kipp Corp.</p> <p>20 Q And have you attempted to grow things back there in the past?</p> <p>21 A Yes. The closer you get to our property line towards Kipp Corp., the worse it seems to get. It's also a no-go zone for my son.</p> <p>24 Q Now, at page 7 of those answers to interrogatories</p> |

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1 you say you never let your son go in the basement  
 2 because of the PCE contamination?  
 3 A Yes.  
 4 Q Did someone tell you that your son shouldn't go  
 5 into the basement because of the PCE?  
 6 A I don't recall.  
 7 Q Directing your attention to page 4 of Exhibit 1.  
 8 A Yes.  
 9 Q Take a look at that. Is the information contained  
 10 therein, as far as you know, is that accurate?  
 11 A With the exception that we do not have pets. Oh,  
 12 this page.  
 13 Q I'm sorry.  
 14 MR. BERGER: Did you mean Exhibit 1?  
 15 BY MR. BUSCH:  
 16 Q Yeah, I'm sorry. Exhibit 1.  
 17 A I'm sorry. Got you.  
 18 Q Page 4.  
 19 A This is correct.  
 20 Q That's correct? To your knowledge, was your  
 21 husband at all part of a group protest against any  
 22 air permitting by Kipp in the early 2000s?  
 23 A In the early 2000s?  
 24 Q Yes.  
 25 A I don't know. Can you be more specific about a

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1 year?  
 2 Q 2001?  
 3 A Highly unlikely.  
 4 Q 2002?  
 5 A Highly unlikely.  
 6 Q 2003?  
 7 A Highly unlikely.  
 8 Q And what's the basis of your statement that it was  
 9 highly unlikely?  
 10 A Not only was my husband in college at the time and  
 11 unlikely to protest, my husband generally does not  
 12 protest.  
 13 Q Okay. Do you have a mitigation system at all in  
 14 your house?  
 15 A Not at this time.  
 16 Q Have you been offered one?  
 17 A Yes.  
 18 Q By whom?  
 19 A The DNR.  
 20 Q And what did the DNR tell you, if you recall, in  
 21 regard to the placement of that mitigation system?  
 22 A We had a contractor come over, and he's drawing up  
 23 plans to put one in.  
 24 Q And did you decide not to have it put in?  
 25 A They haven't put it in yet.

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1 Q Okay. Are you going to have it put in?  
 2 A Yes.  
 3 Q Did the -- Did you engage in any conversations  
 4 with the DNR about what the impact or affect will  
 5 be of the mitigation system?  
 6 A Not me, no.  
 7 Q Your husband did?  
 8 A I'm not sure.  
 9 Q Okay. Since you've lived there have you seen any  
 10 conduct on the part of Madison-Kipp which you  
 11 believe to be in violation of any laws?  
 12 A Not that I've seen.  
 13 Q Have you -- Since you've lived there have you seen  
 14 any conduct that -- on the part of Madison-Kipp  
 15 which you believe was intended to harm you?  
 16 A Not that I've seen.  
 17 Q Have you seen since you lived there --  
 18 MR. BERGER: Are you talking about  
 19 physic -- observed with eyes?  
 20 THE WITNESS: Physically --  
 21 MR. BUSCH: Yes, observed. Yes,  
 22 observed.  
 23 MR. BERGER: Okay.  
 24 BY MR. BUSCH:  
 25 Q I'm just -- Since you've lived there, looking

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1 across the --  
 2 A I have not physically observed with my eyeballs  
 3 Kipp doing something that I believed to be  
 4 illegal.  
 5 Q Okay. And have you observed, seen, anything that  
 6 you believe to be negligent conduct on the part of  
 7 MKC since you've lived there?  
 8 A I have very limited vision into the inner workings  
 9 of Kipp and their physical location.  
 10 Q So the answer's no?  
 11 A No.  
 12 Q The answer is no?  
 13 A The answer is no.  
 14 Q Thank you. When did you first become aware of --  
 15 of any issues in regard to alleged pollution on  
 16 your property from -- emanating from Madison-Kipp?  
 17 A I'm not sure.  
 18 Q Did -- Well, you've lived there since 2006,  
 19 correct?  
 20 A Correct.  
 21 Q Did you know before you moved in that there were  
 22 potential issues in regard to pollution emanating  
 23 from Madison-Kipp?  
 24 A No.  
 25 Q Did your husband tell you?

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1 A No.  
 2 Q So it was sometime after 2006 that you became  
 3 aware of pollution issues.  
 4 A I would say approximately, I can't give you a  
 5 date, around the time that our neighbors  
 6 discovered issues and it became part of the  
 7 knowledge in the neighborhood that they had  
 8 mitigation systems I became aware.  
 9 Q And is there any particular neighbor that you  
 10 recall that led you to this understanding?  
 11 A No.  
 12 Q But it was the installation of mitigation systems  
 13 that -- that prompted your first becoming aware of  
 14 pollution issues?  
 15 A My husband relaying to me about some sort of  
 16 neighborhood events.  
 17 Q Linked you you said?  
 18 A I'm sorry?  
 19 Q Did you say linked you? I didn't hear.  
 20 A My husband relayed to me --  
 21 Q Oh, related to you. I'm sorry.  
 22 A -- that there were some concerns in the  
 23 neighborhood for some of our neighbors and that  
 24 they had mitigation systems now.  
 25 Q Okay. And that was after 2006?

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1 A I'm sure, yes.  
 2 Q Before 2010?  
 3 A I'm not sure.  
 4 Q Did you take any action when you heard that?  
 5 A At the time it seemed like something that was  
 6 happening further down the block, and what had  
 7 been told to me was that it was probably related  
 8 to a specific spill.  
 9 Q And who told you that?  
 10 A My husband. So my understanding at the time was  
 11 that it was isolated and accidental.  
 12 Q Has your house ever been tested, to your  
 13 knowledge, for radon?  
 14 A I don't know. I think geologically, though, radon  
 15 isn't common in our area.  
 16 Q And have you -- when you say your area you mean  
 17 the -- the S-A-S-Y neighborhood?  
 18 A I would say so. In our general geology of our  
 19 part of the city I believe that radon is not  
 20 common.  
 21 Q And have you done -- how did you come to that  
 22 understanding?  
 23 A Discussions with my husband.  
 24 Q Pardon me?  
 25 A Discussions with my husband.

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1 Q Okay.  
 2 (Exhibit No. 5 was marked for  
 3 identification.)  
 4 BY MR. BUSCH:  
 5 Q Ms. Bott, why don't you take a look at the ones  
 6 that are marked. They're the same, but it will be  
 7 easier for identification. Looking at the first  
 8 page of Exhibit 4 --  
 9 A 4?  
 10 Q Yeah. At the bottom, which one is marked as 4?  
 11 Is it the -- Is it Madison-Kipp? Is it a request  
 12 from Madison-Kipp?  
 13 A Yes.  
 14 Q And then 5 is the ones from the United States Fire  
 15 Insurance?  
 16 A Yes.  
 17 Q Okay.  
 18 MR. MANZKE: Are these document  
 19 request responses?  
 20 MR. BUSCH: Yes.  
 21 Q Directing your attention to Exhibit 4, and in  
 22 particular to the response to Interrogatory 7, the  
 23 request is all documents concerning Class Members'  
 24 first awareness of the alleged contamination of  
 25 the environment surrounding Class Members'

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1 properties. Do you see that?  
 2 A I'm sorry, where?  
 3 Q Page 4 of Exhibit 4, question 7. Do you see that?  
 4 All documents concerning Class Members' first  
 5 awareness of the alleged contamination of the  
 6 environment surrounding Class Members' properties.  
 7 Do you see that request?  
 8 A Yes.  
 9 Q And then it says documents responsive to this  
 10 request are from the DNR and the defendant are  
 11 among those identified in response to request  
 12 number 1 above. See that?  
 13 A Yes.  
 14 Q Do you recall -- You obviously went through and  
 15 looked for documents that you believed to be  
 16 responsive to the document requests, correct?  
 17 A We gathered any documents we could find, yes.  
 18 Q In so doing, did you cull any e-mails off your  
 19 computer?  
 20 A I did not receive any e-mails directly from my  
 21 computer. I did not.  
 22 Q Okay. None were produced. You say you do share a  
 23 computer with your husband?  
 24 A I do.  
 25 Q And you have access to his account?

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1 A Correct.

2 Q To your knowledge, are there still on his computer

3 various e-mails relating to the contamination of

4 the environment surrounding your property?

5 A I have no idea.

6 MR. BUSCH: Okay. Norm, I'd ask that

7 you would have a discussion with your client

8 and -- and ask her -- or advise her that to the

9 extent, whatever it is right now, not to do

10 anything in regard to it. And -- and You and I'll

11 have a conversation about how we're going to

12 handle this, but I would like to see some of these

13 e-mails.

14 MR. MANZKE: And for the record, we

15 made a request of all of our Class Members.

16 MR. BUSCH: I have no doubt about

17 that. I know this -- And I know that the

18 instructions are here, but things happen.

19 These -- I'm not upset about it. I just want to

20 make sure that to the extent we can cull them we

21 can in the future.

22 THE WITNESS: You're saying e-mails

23 that are not part of our attorney communications?

24 BY MR. BUSCH:

25 Q Yes, yes. I don't want any attorney -- And that's

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1 why I'm making the request to him because he knows

2 what I'm asking for. I don't want any privileged

3 ones.

4 MR. BERGER: Right.

5 MR. BUSCH: But there may be e-mails

6 that go back in time in regard to this. And

7 particularly in the sense that I believe she

8 testified that -- that her husband has been part

9 of the -- has received e-mails from the S-A-S-Y

10 Neighborhood Association. I'd just like to know

11 how far back he's got them.

12 MR. BERGER: Okay.

13 THE WITNESS: Do you want unopened

14 e-mails as well?

15 BY MR. BUSCH:

16 Q Pardon me?

17 A Do you want unopened e-mails as well?

18 Q Yeah. I mean, I -- I'll work with Norm on that.

19 I guess the way I would like to do it is just make

20 sure that there's no destruction going forward.

21 MR. BERGER: Sure.

22 MR. BUSCH: Why don't we take five

23 minutes.

24 (Recess taken.)

25 BY MR. BUSCH:

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1 Q If you could go back to Exhibit 1.

2 A Um-hum.

3 Q And turn to page 93.

4 A Let me shuffle.

5 Q There's a -- There are two handwritten notations.

6 A Yes.

7 Q Do you know whose handwriting that is?

8 A That's my husband's. And it's not legible to me.

9 Q All right. So the one that started on the -- by

10 arsenic, that looks look it says could be

11 background. Do you see that?

12 A Yes.

13 Q Do you recall having any discussions with anyone

14 about what background meant?

15 A Whether or not it's prevalent in the area in

16 general, I believe.

17 Q Okay. Do you recall having a discussion with

18 anybody other than your husband about the fact

19 that that could be background?

20 A No, I do not. And I don't know that my husband

21 had had a conversation with anybody about that or

22 was doing his own research.

23 Q Okay.

24 MR. BUSCH: Leah, I don't have any

25 more questions. I'm finished Ms. Bott, but there

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1 are other people in the room, so I can't speak for

2 them.

3 EXAMINATION

4 BY MR. WHITE:

5 Q Good morning, Ms. Bott. My name is Chris White,

6 and I'm one of the lawyers for Continental

7 Casualty Company and Columbia Casualty Company,

8 who are some of Madison-Kipp's insurance

9 companies. I have very few questions for you.

10 A Okay.

11 Q Can you please tell me where you were living on

12 January 1st, 1980?

13 A Well, I was recently five days old. So I can tell

14 you that my parents told me that I was likely

15 living in New Carlisle, Indiana.

16 Q Okay.

17 MR. BERGER: Maybe you should ask were

18 you living on January 1st.

19 MR. WHITE: Perhaps so.

20 Q And how long did you remain living in New

21 Carlisle, Pennsylvania (sic)?

22 A I'm not sure.

23 Q Approximately --

24 A Two to three years.

25 Q And do you recall where your family moved when

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1 they moved from New Carlisle?  
 2 A To Granger, Indiana.  
 3 Q Okay. So that's approximately 1982 or 1983  
 4 sometime?  
 5 A Um-hum.  
 6 Q How long did you remain living in Granger,  
 7 Indiana?  
 8 A You're about to get a very complicated history, my  
 9 friend. Approximately 1989. 1988, 1989.  
 10 Q Okay. So between January 1st, 1980 and 1988 or  
 11 1989 you lived either in New Carlisle,  
 12 Pennsylvania --  
 13 A New Carlisle, Indiana.  
 14 Q Oh, New Carlisle, Indiana. I'm sorry. So between  
 15 those two dates you lived either in New Carlisle,  
 16 Indiana or Granger, Indiana and nowhere else; is  
 17 that correct?  
 18 A I believe.  
 19 Q I believe you said earlier your husband first  
 20 moved to Madison in 2002; is that right?  
 21 A I wasn't sure. I believe he moved around -- He  
 22 moved to Madison probably between 2000, 2001.  
 23 Q Okay. To your knowledge, did he live in Madison  
 24 at any time prior to 2000, 2001?  
 25 A No.

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1 Q Earlier you mentioned a dead zone on your property  
 2 as you approach the Madison-Kipp property line?  
 3 A Um-hum.  
 4 Q Where vegetables don't grow and --  
 5 A Things just don't grow, right.  
 6 Q When did you first discover this dead zone?  
 7 A We have always noted that the land behind the  
 8 garage doesn't grow very well. And I believe I  
 9 tried to plant a raspberry bush back there in  
 10 around 2004, 2005.  
 11 Q Did you take any steps to figure out why it was  
 12 that things weren't growing back there --  
 13 A No.  
 14 Q -- in 2004, 2005?  
 15 A No.  
 16 Q Wasn't something that concerned you?  
 17 A We knew that Kipp was abutting the property.  
 18 Whether or not there was contamination we did not  
 19 think about.  
 20 Q Okay. And then lastly, do you know if your home  
 21 contains asbestos?  
 22 A I'm 99 percent sure that it does not.  
 23 Q And what is the basis for that?  
 24 A Conversations I've had and looking at the pipes in  
 25 our basement, and having grown up in one location

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1 where there was wrapped asbestos pipes or seeing  
 2 them in older homes, I know what it looks like.  
 3 Q Have you ever had an inspector or contractor or  
 4 anyone come and inspect your home for asbestos?  
 5 A I have not.  
 6 Q Do you know if anyone else has?  
 7 A I don't know.  
 8 MR. WHITE: Okay. That's all I have.  
 9 EXAMINATION  
 10 BY MS. KREIL:  
 11 Q I just have a couple as well. My name is Jennifer  
 12 Kreil. I represent the United States Fire  
 13 Insurance Company. We're another of  
 14 Madison-Kipp's insurers.  
 15 Earlier you mentioned that you told  
 16 the person from DHHS and DNR to talk to your  
 17 neighbor who had had several different forms of  
 18 cancer?  
 19 A He's been battling cancer for five or so years.  
 20 Q What neighbor is that?  
 21 A The one who is -- So it's -- What's his name?  
 22 Steve. I don't know his last name.  
 23 Q Okay. Do you know where -- Do you have his  
 24 address?  
 25 A I could derive it. I think it's probably 108 or

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1 112 South Marquette. I'm not sure.  
 2 Q Do you know if he's also a plaintiff in this -- in  
 3 this class action?  
 4 A I'm not sure.  
 5 Q Okay. Just one last question. What was your  
 6 maiden name?  
 7 A Anthes. A-N-T-H-E-S.  
 8 MS. KREIL: All right. I don't have  
 9 any other questions.  
 10 MR. KRAMER: Nothing.  
 11 MR. MANZKE: We're done.  
 12 (At 10:15 a.m. the deposition  
 13 concluded.)  
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 24  
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1 STATE OF WISCONSIN )  
 2 MILWAUKEE COUNTY ) SS:  
 3 I, KIM M. PETERSON, CM, Registered  
 4 Professional Reporter and Notary Public in and for the  
 5 State of Wisconsin, do hereby certify that the deposition  
 6 of ELAINA BOTT, was taken before me at the Goodman  
 7 Community Center, 149 Waubesa Street, Madison, Wisconsin,  
 8 on the 12th day of December, 2012, commencing at 9  
 9 o'clock in the forenoon.  
 10 That it was taken at the instance of  
 11 the Defendants upon verbal interrogatories.  
 12 That said deposition was taken to be  
 13 used in an action now pending in the United States  
 14 District Court, Western District of Wisconsin, Wisconsin,  
 15 in which KATHLEEN McHUGH AND DEANNA SCHNEIDER, et al.,  
 16 are the Plaintiffs, MADISON-KIPP CORPORATION, CONTINENTAL  
 17 CASUALTY COMPANY, UNITED STATES FIRE INSURANCE COMPANY  
 18 and ABC INSURANCE COMPANIES 1-50, are the Defendants,  
 19 MADISON-KIPP CORPORATION, is the Cross-Claimant,  
 20 CONTINENTAL CASUALTY COMPANY, COLUMBIA CASUALTY COMPANY  
 21 and UNITED STATES FIRE INSURANCE COMPANY, are the  
 22 Cross-Claim Defendants, CONTINENTAL CASUALTY COMPANY and  
 23 COLUMBIA CASUALTY COMPANY, are the Cross-Claim  
 24 Defendants, and LUMBERMENS MUTUAL CASUALTY COMPANY,  
 25 AMERICAN MOTORISTS INSURANCE COMPANY and JOHN DOE

Page 55

1 MEISSNER, TIERNEY, FISHER & NICHOLS,  
 2 S.C., 111 East Kilbourn Avenue, 19th Flor, Milwaukee,  
 3 Wisconsin, 53202-6622, jbk@mtfn.com, by MS. JENNIFER A.B.  
 4 KREIL, appeared on behalf of the United States Fire  
 5 Insurance Company.  
 6 DEUTCH & WEISS, LLC, 7670 North Port  
 7 Washington Road, Suite 200, Whitefish Bay, Wisconsin,  
 8 53217, charles.kramer@mweisslaw.net, by MR. CHARLES W.  
 9 KRAMER, appeared on behalf of Lumbermens Mutual Casualty  
 10 Company.  
 11 That said deponent, before  
 12 examination, was sworn to testify the truth, the whole  
 13 truth, and nothing but the truth relative to said cause.  
 14 That the foregoing is a full, true and  
 15 correct record of all the proceedings had in the matter  
 16 of the taking of said deposition, as reflected by my  
 17 original machine shorthand notes taken at said time and  
 18 place.  
 19  
 20  
 21 \_\_\_\_\_  
 22 Notary Public in and for  
 23 the State of Wisconsin  
 24 Dated this 18th day of December, 2012,  
 Milwaukee, Wisconsin.  
 25 My commission expires March 9, 2014.  
 Halma-Jilek Reporting, Inc. (414) 271-4466

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1 INSURANCE COMPANIES 1-20, are the Third-Party Defendants.  
 2 A P P E A R A N C E S  
 3 THE COLLINS LAW FIRM, P.C., 1770 North  
 4 Park Street, Suite 200, Naperville, Illinois, 69563,  
 5 ejm@collinslaw.com, by MR. EDWARD J. MANZKE, appeared on  
 6 behalf of the Plaintiffs.  
 7 VARGA, BERGER, LEDSKY, HAYES & CASEY,  
 8 125 South Wacher Drive, Suite 1250, Chicago, Illinois,  
 9 60606-4473, nberger@vblhc.com, by MR. NORMAN B. BERGER,  
 10 appeared on behalf of the Plaintiffs.  
 11 MICHAEL, BEST & FRIEDRICH, LLP, 100  
 12 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202 ,  
 13 jabusch@michaelbest.com, by MR. JOHN A. BUSCH, appeared  
 14 on behalf of the Madison-Kipp Corporation.  
 15 MICHAEL, BEST & FRIEDRICH, LLP, 100  
 16 South Pinckney Street, Suite 700, P.O. Box 1806, Madison,  
 17 Wisconsin, 53701-1806, abianchi@michaelbest.com and  
 18 lhziemba@michaelbest.com, by MR. ALBERT BIANCHI, JR. and  
 19 MS. LEAH H. ZIEMBA, appeared on behalf of the  
 20 Madison-Kipp Corporation.  
 21 TROUTMAN SANDERS, LLP, 55 West Monroe  
 22 Street, Suite 3000, Chicago, Illinois, 60603-5758,  
 23 christopher.white@troutmansanders.com, by MR. CHRISTOPHER  
 24 WHITE, appeared on behalf of the Continental Casualty  
 25 Company.

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