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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

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.

DEPOSITION OF
BARRY CARLSEN

Madison, Wisconsin
December 12, 2012
2:57 p.m. to 3:47 p.m.

Kim M. Peterson
Registered Professional Reporter

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1 APPEARANCES

2 THE COLLINS LAW FIRM, P.C., 1770 North

3 Park Street, Suite 200, Naperville, Illinois, 69563,

4 ejm@collinslaw.com, by MR. EDWARD J. MANZKE, appeared on

5 behalf of the Plaintiffs.

6 VARGA, BERGER, LEDSKY, HAYES & CASEY,

7 125 South Wachter Drive, Suite 1250, Chicago, Illinois,

8 60606-4473, nberger@vblhc.com, by MR. NORMAN B. BERGER,

9 appeared on behalf of the Plaintiffs.

10 MICHAEL, BEST & FRIEDRICH, LLP, 100

11 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202 ,

12 jabusch@michaelbest.com, by MR. JOHN A. BUSCH, appeared

13 on behalf of the Madison-Kipp Corporation.

14 MICHAEL, BEST & FRIEDRICH, LLP, 100

15 South Pinckney Street, Suite 700, P.O. Box 1806, Madison,

16 Wisconsin, 53701-1806, abianchi@michaelbest.com and

17 lhziemba@michaelbest.com, by MR. ALBERT BIANCHI, JR. and

18 MS. LEAH H. ZIEMBA, appeared on behalf of the

19 Madison-Kipp Corporation.

20 TROUTMAN SANDERS, LLP, 55 West Monroe

21 Street, Suite 3000, Chicago, Illinois, 60603-5758,

22 christopher.white@troutmansanders.com, by MR. CHRISTOPHER

23 WHITE, appeared on behalf of the Continental Casualty

24 Company.

25 MEISSNER, TIERNEY, FISHER & NICHOLS,

Page 3

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.

I N D E X

11 WITNESS	EXAMINATION	PAGE
12 BARRY CARLSEN	By Mr. Busch	4
13	By Mr. White	28
14		
E X H I B I T S		
16 EXHIBIT NO.:		MARKED ID'D
17 1 - 130 South Marquette documents		4 5
18 2 - Carlsen answers to MKC interrogatories ...		4 5
19 3 - Carlsen answers to USF interrogatories ...		4 6
20 4 - Carlsen response to MKC document request .		4 6
21 5 - Carlsen response to USF document request .		4 6
22		
23 (The original exhibits were attached to the original		
24 transcript.)		
25 (The original transcript was sent to Mr. Busch.)		

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1 PROCEEDINGS

2 (Exhibit Nos. 1 through 5 were marked

3 for identification.)

4 BARRY CARLSEN, called as a witness

5 herein by the Defendants, after having been first

6 duly sworn, was examined and testified as follows:

EXAMINATION

8 BY MR. BUSCH:

9 Q Please state your name.

10 A Barry Carlsen.

11 Q And what is your current home address?

12 A 130 South Marquette.

13 Q How long have you lived there?

14 A Since the summer of '86.

15 Q Can you briefly describe for me your educational

16 background?

17 A Yeah. I went to high school in Omaha, Nebraska,

18 moved up and -- went to undergraduate school

19 there, moved up here for graduate school. Have an

20 MFA and BFA in Fine Arts.

21 Q And can you briefly describe for me your work

22 history since your undergraduate degree?

23 A I was a TA at the university here.

24 Q Yes.

25 A And I work currently at the university as a

Page 5	Page 7
1 graphic designer, I guess for the last 28 years.	1 regarding correspondence between Class Members and
2 Twenty-nine.	2 any other person relating to the Madison-Kipp
3 Q Okay. And you share the home at --	3 Corporation site. Do you see that?
4 A 130 South --	4 A Yes.
5 Q -- with someone else?	5 Q Now, I don't know if you saw the -- the
6 A Yes. My wife Marja Barger.	6 definitions, but the definition of documents
7 Q And how long has she lived there?	7 included any e-mails. Do you know, did you do any
8 A As long as I have.	8 searching of your records with regard to e-mail
9 Q Directing your attention to what's been marked as	9 transmissions that you may have retained?
10 Carlsen Exhibit, I believe, No. 1. Do you see	10 A No. The only e-mails I've gotten were through the
11 that in front of you?	11 DNR liserv and those between the lawyers and
12 A Yes, sir.	12 myself.
13 Q We had requested that you produce certain	13 Q Okay. Were you ever a member of a liserv
14 described documents to us, and this was -- this is	14 sponsored by the S-A-S-Y --
15 a list of -- or excuse me, a compilation of the	15 A No.
16 documents that were provided to us regarding your	16 Q -- Neighborhood Association?
17 home.	17 A Never been a member. Never got correspondence
18 Can you take a brief look at this, and	18 with them.
19 does that comport with your recollection of the	19 Q Do you know what year your house was constructed?
20 documents you compiled in response to our request	20 A I want to say 1922. It's '20 or '22, someplace in
21 to produce?	21 those few years.
22 A To the best of my knowledge it seems to be.	22 Q And since you've lived there, and I believe you
23 Q Okay. And then there -- Exhibit 2 in front of you	23 said you moved there in 1986?
24 is -- is your answers to Madison-Kipp's	24 A (Witness nods.)
25 interrogatories, correct?	25 Q Have you done any remodeling or reconstruction of
Page 6	Page 8
1 A Yes, sir.	1 the building?
2 Q Exhibit 3 in front of you is your answers to the	2 A Yeah. I personally did all the reconstruction and
3 interrogatories from the United States Fire	3 remodeling that's been existing. It's consisted
4 Insurance Company, correct?	4 of cosmetics things like, you know, fixing
5 A Yes, I believe so.	5 drywall, stuff like that, adding insulation.
6 Q And Exhibit 4 are your responses to the first set	6 Q And is it -- Okay. Is there -- Was there any
7 of requests for documents from Madison-Kipp,	7 single time where there was a year in which there
8 correct?	8 was more work done than others?
9 A I don't remember filling all these things out.	9 A I couldn't pinpoint one that would be, you know,
10 Q Well, you probably didn't fill them out.	10 that I could cite to you that was. I mean, this
11 A Okay. Well, yeah.	11 is something that's been ongoing through the
12 Q Typically, lawyers fill these things out and you	12 course of living there.
13 do the background information for it. So that's	13 Q Okay.
14 the typical kind of thing.	14 A It's -- It's not -- We didn't have a big building
15 A Right.	15 flurry at any particular time.
16 Q And Exhibit 5 is the responses to the United	16 Q Did you physically add to the structure at any
17 States Fire Insurance first set of request for	17 point in time?
18 production of documents, correct? And I'm just	18 A Yes. Actually, we put a screen porch on just this
19 doing this to identify what these exhibits are,	19 last year.
20 but that's -- is that correct?	20 Q In 2012?
21 A Yes, sir.	21 A Yes.
22 Q Okay. Directing your attention to the responses	22 Q Is that off the back?
23 to Madison-Kipp's first request for production and	23 A Yes.
24 things, which is Exhibit 4, and particularly page	24 Q Did you pull a permit for that?
25 4, it asks at -- at number 6 all documents	25 A Yes, sir.

Page 9

1 Q Okay. Did you do -- Have you done any other
 2 construction on the property?
 3 A About seven years ago I built a -- a workshop in
 4 the backyard.
 5 Q Any other construction?
 6 A No.
 7 Q Have you redone any floors?
 8 A Well, when we first moved in we had refinishing
 9 done on the floor, but that's the extent of it.
 10 Q Have you done any significant replacement of any
 11 pipes or electrical conduits?
 12 A Some electrical work due to the insulation.
 13 Q Okay. Have you ever had your house inspected
 14 for -- for asbestos?
 15 A No, but I know the siding is asbestos.
 16 Q And you've not had that removed or --
 17 A No.
 18 Q Okay.
 19 A Just painted. Try not to disturb it.
 20 Q The -- How do you use your basement?
 21 A Minimally. I use it to do laundry and that's
 22 pretty much it.
 23 Q Okay. Do you store materials in the basement?
 24 A Clothing, boxes, photographs, fishing equipment,
 25 stuff like that.

Page 10

1 Q Do you store any paints or --
 2 A No.
 3 Q Okay. The -- When was the last time you recall
 4 refinancing your home?
 5 A Interestingly enough, right at the same time I
 6 became aware of this problem. I can't say -- It
 7 was like within days or weeks of -- I couldn't
 8 even tell you which one came first, but it was
 9 right at that same time.
 10 Q What year would that have been?
 11 A I guess it's -- it would have to be early '11
 12 maybe. I honestly don't remember if it was '10 or
 13 '11, but right at the time. The turn of the year.
 14 Q Did you -- Do you recall, did you refinance your
 15 house in 2012?
 16 A No, not in '12.
 17 Q You think it was in 2010?
 18 A I'm sorry. I should know some of this stuff
 19 better than I do, but I'm not entirely sure.
 20 Q No, you don't have to apologize.
 21 A My wife is more financially --
 22 Q Okay. But your recollection is that it was
 23 reasonably contemporaneous with you learning
 24 something about that which brings us here today?
 25 A Right, yes.

Page 11

1 Q And what did you learn at or about that time?
 2 A Well, I just -- I heard through the grapevine
 3 first and then in the newspaper that there was a
 4 release of toxic chemicals and it infiltrated the
 5 groundwater and -- and neighborhood houses.
 6 Vapors and soil contamination.
 7 Q And up until that time had you had anyone do any
 8 testing on your property?
 9 A No.
 10 Q Since that time have you had any testing done on
 11 your property?
 12 A Yes, sir.
 13 Q And what have you had done on your property?
 14 A There's been two separate soil tests exterior to
 15 the house, and two separate interior air samples
 16 done both ambient and sub-slab.
 17 Q And those were done subsequent to the time in
 18 which you became aware of the --
 19 A Yes.
 20 Q Okay. Directing your attention to Exhibit 1,
 21 which is the compilation of documents, and in
 22 particular, there are numbers on the bottom. If
 23 you would look at documents that are numbered 11
 24 through 16. Do you see that?
 25 A Um-hum, yes.

Page 12

1 Q Do you recall receiving this indoor air quality
 2 building survey at some point in time?
 3 A Yeah, I do.
 4 Q Okay. And do you recall the circumstances under
 5 which it was A, put together, if you recall, and
 6 B, how you got it?
 7 A Not exactly how it was put together, but I
 8 remember -- I received a lot of stuff in the last
 9 year or so.
 10 Q Okay.
 11 A The details, I'm not sure. I think it came -- I
 12 think it may have come before the first test --
 13 Q Okay.
 14 A -- I guess.
 15 Q On page 12, the -- under the type of heating, hot
 16 air circulation, is that accurate? Is that how
 17 your house is heated?
 18 A Yes, sir.
 19 Q And it's by natural gas?
 20 A Yes.
 21 Q Okay. Then on page 13 there's a list of chemical
 22 contaminants?
 23 A Um-hum.
 24 Q And it's got paints as latex.
 25 A Yes.

Page 13	<p>1 Q Do you know where you keep that latex?</p> <p>2 A Right now in my studio. At the time I think I was painting the living room --</p> <p>3</p> <p>4 Q Okay.</p> <p>5 A -- and upstairs.</p> <p>6 Q All right. And as you look here as of this date, is that an accurate portrayal of the -- the chemicals that you -- that you had in your house, at least as of March 7th, 2012?</p> <p>7</p> <p>8</p> <p>9</p> <p>10 A Yes.</p> <p>11 Q It also indicates that there had been a recent remodeling of the upstairs bedroom, three weeks old?</p> <p>12</p> <p>13</p> <p>14 A Yes.</p> <p>15 Q Can you tell me what you did in regard to that remodeling?</p> <p>16</p> <p>17 A I had some added insulation in the attic, and I put foam board insulation and drywall on the slanted wall surfaces in the upstairs.</p> <p>18</p> <p>19</p> <p>20 Q Okay. If you to go page 53 and 54, 55 and 56, those are laboratory results. Do you recall receiving those?</p> <p>21</p> <p>22</p> <p>23 A Um-hum, yes.</p> <p>24 Q And did you get them on or about the time that they -- The date received from the lab is</p> <p>25</p>	Page 15	<p>1 Q Okay. Do you have any reason to believe that the DNR is inaccurate in the --</p> <p>2</p> <p>3 A I'm no expert in that. I have no reason to assume one way or the other.</p> <p>4</p> <p>5 Q Okay. Directing your attention to page 9 and page 10. That's a letter from Madison-Kipp to you dated March 30, 2012?</p> <p>6</p> <p>7</p> <p>8 A Yes.</p> <p>9 Q It likewise reports certain sampling results, do you see that?</p> <p>10</p> <p>11 A Um-hum.</p> <p>12 Q You have to answer yes or no for her.</p> <p>13</p> <p>14 A Yes, sir.</p> <p>15 Q Do you have any reason to disbelieve the results of those?</p> <p>16</p> <p>17 A I withhold judgment on that, too. I mean, I -- I don't know.</p> <p>18 Q Okay. Have you done any sampling on your own?</p> <p>19</p> <p>20 A No.</p> <p>21 Q Directing your attention to pages 2, 3 and 4 of the Exhibit 1, if you would take a moment and look at those three pages and advise me as to whether you believe there's anything that's inaccurate. And I recognize there's some information on that that you may not have any knowledge of, but</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 14	<p>1 March 14th, 2012, correct?</p> <p>2</p> <p>3 A Yes.</p> <p>4 Q Okay. Directing your attention to pages 51 and 52, do you have those in front of you?</p> <p>5</p> <p>6 A Um-hum, yep.</p> <p>7 Q That's a letter from the Department of Health Services?</p> <p>8</p> <p>9 A Yes.</p> <p>10 Q State of Wisconsin?</p> <p>11</p> <p>12 A Um-hum.</p> <p>13 Q And it talks about, at the fifth paragraph, it says that quote, "PCE was detected in your sub-slab samples. PCE was found in concentrations of 2.87 and 0.732 parts per billion by volume. Attached is a copy of the WSLH report for these samples. These concentrations are less than the current Wisconsin DNR residential sub-slab soil action for PCE of 60 ppv and are also less than the previous DNR action level of PCE of 6.0 ppv." Do you see that?</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 A Yes, I do.</p> <p>22 Q In relation to the time in which you refinanced your home, was -- did this come before or after you last refinanced your home, do you know?</p> <p>23</p> <p>24</p> <p>25 A After.</p>	Page 16	<p>1 anything that you see you believe to be inaccurate, if you'd let me know.</p> <p>2</p> <p>3 A Okay. Only that we actually had the roof replaced this year.</p> <p>4</p> <p>5 Q Okay.</p> <p>6 A Had hail damage. And with the addition of the screen porch it seemed like the right time to do it.</p> <p>7</p> <p>8</p> <p>9 Q Okay.</p> <p>10 A We had the insurance company give a settlement on that, so that helped.</p> <p>11</p> <p>12 Q All right.</p> <p>13 A Other than that, I don't think there's any inaccuracies --</p> <p>14</p> <p>15 Q Okay.</p> <p>16 A -- that I can see.</p> <p>17 Q In connection with your most recent refinancing, do you know if there was a -- an appraisal that was done?</p> <p>18</p> <p>19</p> <p>20 A Not to my knowledge.</p> <p>21 Q How many times have you refinanced in the last five years, if you know? I only ask that because I know a lot of people have several times.</p> <p>22</p> <p>23</p> <p>24 A Well, I think in the last five years it would be just this one time. Prior to that we did one</p> <p>25</p>

Page 17	<p>1 refinance.</p> <p>2 Q And was that refinancing with --</p> <p>3 A Credit Union. UW --</p> <p>4 Q The Wisconsin Credit Union?</p> <p>5 A Yes.</p> <p>6 Q Okay. Do you retain any documents associated with</p> <p>7 that refinancing?</p> <p>8 A None that I haven't supplied.</p> <p>9 Q When, to your recollection, was the last time your</p> <p>10 house was appraised?</p> <p>11 A I don't know. It's -- I've never received an</p> <p>12 appraisal from the city, other than what we get</p> <p>13 the taxes and --</p> <p>14 Q And in connection with any of your refinancing you</p> <p>15 don't recall receiving any appraisals?</p> <p>16 A Nope, never did. Quick re-fi on this last time.</p> <p>17 Went real fast.</p> <p>18 Q Okay. At any point in time, sir, have you been</p> <p>19 offered a mitigation system for your home?</p> <p>20 A Yes, sir.</p> <p>21 Q Have you installed one?</p> <p>22 A I submitted it to the DNR. I've yet to receive</p> <p>23 the unit.</p> <p>24 Q It's your intention to --</p> <p>25 A Yes.</p>	Page 19	<p>1 believe constituted a violation of law?</p> <p>2 A None that would regard this case, probably say</p> <p>3 that.</p> <p>4 Q Okay. Have you seen anything -- any conduct on</p> <p>5 the part of Madison-Kipp since you've lived there</p> <p>6 which from your viewpoint as you observed it to be</p> <p>7 negligent?</p> <p>8 A Yes.</p> <p>9 Q What have you seen?</p> <p>10 A Oh, lots of throwing of beer cans and things like</p> <p>11 that over the fence, and loud noises, lots of kind</p> <p>12 of employee misbehavior in the back, but like,</p> <p>13 again, it doesn't -- I don't think that affects --</p> <p>14 Q Not this case. It may be activity that you would</p> <p>15 have believed should have been curbed on the part</p> <p>16 of employees?</p> <p>17 A Yeah.</p> <p>18 Q Okay.</p> <p>19 A Things like that.</p> <p>20 Q Okay. Now, at some point in time you became aware</p> <p>21 back in the '90's that Madison-Kipp --</p> <p>22 A Oh, I will back up. There was actually something</p> <p>23 I did see, and this is -- this is years ago, but</p> <p>24 it's within the scope of the use of this chemical.</p> <p>25 Q Okay.</p>
Page 18	<p>1 Q Okay. And what -- what do you believe the -- the</p> <p>2 purpose of the mitigation system to be?</p> <p>3 A To protect my family.</p> <p>4 Q Okay. Protect it from?</p> <p>5 A Well, presence of chemicals. Be they negligible</p> <p>6 or above actionable standards, they're not</p> <p>7 supposed to be in my house.</p> <p>8 Q Okay. Have you put your house up for sale in the</p> <p>9 last several years?</p> <p>10 A No.</p> <p>11 Q Okay. You've lived there since 1986?</p> <p>12 A Yes, sir.</p> <p>13 Q Have you ever seen with your own eyes any conduct</p> <p>14 at Madison-Kipp which you viewed to be</p> <p>15 intentionally -- done intentionally to harm you?</p> <p>16 A To harm me personally? No.</p> <p>17 Q Okay. Or your property?</p> <p>18 A I -- I don't know what that would have been,</p> <p>19 but --</p> <p>20 Q You didn't see anything --</p> <p>21 A Well, nothing that I'd recognize as intent to harm</p> <p>22 me, no.</p> <p>23 Q Okay. And since you've lived there since 1986,</p> <p>24 have you seen, with your own eyes observed, any</p> <p>25 conduct on the part of Madison-Kipp which you</p>	Page 20	<p>1 A Our neighbors at one time had this pool of</p> <p>2 petroleum -- appearance of a petroleum-based</p> <p>3 substance that ran after a heavy rain into their</p> <p>4 property, into their garden area, and we all</p> <p>5 looked at it. It was very shiny and kind of --</p> <p>6 would look like an oil slick.</p> <p>7 Q And you believe it came from --</p> <p>8 A Well --</p> <p>9 Q -- Madison-Kipp?</p> <p>10 A That's my best guess.</p> <p>11 Q And what property was it, do you recall?</p> <p>12 A It's the property that's to -- as you face the</p> <p>13 street to my left, I think that's 120 -- No. It</p> <p>14 would be 132 or 34. I honestly don't know the --</p> <p>15 Q We'll find that out. Do you recall what year that</p> <p>16 was?</p> <p>17 A Oh, man. It's maybe 15, 20 years ago. No, it</p> <p>18 wouldn't be 20 because they -- So sometime in the</p> <p>19 range of 15, 17 years ago.</p> <p>20 Q Did you take any action in response to --</p> <p>21 A Well, it didn't run into our yard, so no, I did</p> <p>22 not. They've subsequently moved many years ago.</p> <p>23 Q Did you see anything upon your property?</p> <p>24 A No, I didn't see anything there.</p> <p>25 Q Okay. At some point in time you became aware that</p>

Page 21

1 Madison-Kipp was interested in the '90's in
 2 extending its stacks, correct?
 3 A Um-hum.
 4 Q And were you involved at all in that -- in that
 5 issue?
 6 A No. I checked out by then. I was -- Prior to
 7 that I was interested in the noise mitigation
 8 issues. And then them subsequently sealing the
 9 factory up it solved that problem, and I think it
 10 actually cleared up a lot of the ambient air in
 11 our neighborhood.
 12 Q Okay. So you -- you did not involve yourself at
 13 all in the Clean Air Madison matter?
 14 A No. I was done with it by then. And I didn't
 15 agree with those people.
 16 Q I believe you said you heard through the grapevine
 17 something about some contamination on your
 18 property.
 19 A No, I didn't -- I said that I heard that there was
 20 some spill and contamination in the neighborhood.
 21 Q Okay. And that was within the last two years you
 22 think?
 23 A It was right within a week or so of the
 24 notification in the paper. Prior to it.
 25 Q And what notification in the paper are you

Page 22

1 speaking about?
 2 A I seem to remember an article in the State
 3 Journal, I think it was, or maybe it was the
 4 Isthmus.
 5 Q To what effect?
 6 A Well, I don't have it in front of me to know, but
 7 that there was a release of chemicals from the
 8 Kipp Corporation and some investigation was
 9 ensuing. I couldn't be more specific than.
 10 Q Okay. Do you know Deanna Schneider?
 11 A Yes.
 12 Q Okay. Have you ever spoken with her about
 13 groundwater and/or soil and/or vapor
 14 contamination?
 15 A Yes.
 16 Q And when's the first time, if you can recall, you
 17 spoke with her about it?
 18 A I think all these things came quite close in
 19 proximity. So it would have been at the time that
 20 this article came out. And hearing through the
 21 grapevine, I went down and spoke more to her
 22 because I knew that she had -- you know, this
 23 grapevine alerted me to the fact that she had some
 24 contamination issues in her house.
 25 Q The newspaper article did, or --

Page 23

1 A I don't think it was the article. I think it was
 2 the -- the conversations.
 3 Q And do you recall what she said to you?
 4 A I think at that time they were installing a
 5 mitigation unit. She had measurable levels in her
 6 basement, concerns for her child's health and
 7 herself and what property damages there would be
 8 from a financial standpoint.
 9 Q And this all fell within about the same time of
 10 your awareness, correct?
 11 A Yes, sir.
 12 Q And if we could peg -- did she have the mitigation
 13 system in her home at that time, or was it to be
 14 installed?
 15 A I'm not entirely sure. I think it might have been
 16 just as it was installed.
 17 Q Okay. And once these concatenation of events took
 18 place, did you take any action or do anything in
 19 response thereto?
 20 A Not at that time. I kind of thought for some
 21 reason that the buffer of a few feet would have
 22 made a difference, but no. So not initially.
 23 Q Okay. What's the first action that -- if any,
 24 that you took in response to your belief about
 25 contamination?

Page 24

1 A Well, I don't, again, have the -- the specific
 2 date, but it was upon attending one of the
 3 meetings here at the Goodman Center in the course
 4 of the last year-and-a-half.
 5 Q So that -- you started educating yourself?
 6 A Yes, sir.
 7 Q Okay. Do you still have any children at home?
 8 A No.
 9 Q Is it your belief that your house is diminished in
 10 value because of the conduct of Madison-Kipp?
 11 A Yes.
 12 Q What have you done to ascertain that?
 13 A At this present time none, but through the example
 14 of a neighbor's lack of salability of the property
 15 he purchased, I'm assuming since I'm in the same
 16 proximity that it's going to be the same result.
 17 Q And what neighbor of whom do you speak?
 18 A I don't know his name personally. He owned a
 19 rental property up the street. A little white
 20 house toward Atwood Avenue.
 21 Q Okay.
 22 A I know the history of the circumstances there.
 23 Q And it's your belief that he was unable to sell
 24 his house because of the -- the --
 25 A My understanding is that the bank did not grant a

Page 25

1 loan due to the property being -- a risk on their
 2 part to grant a loan.
 3 Q When you last refinanced with the credit union, do
 4 you recall having any discussions with them about
 5 the --
 6 A No.
 7 Q -- presence --
 8 A It was, like I say, right at the very advent of
 9 the announcement. I was not part of the lawsuit
 10 at that time. I thought it was probably something
 11 I would avoid. I still wish it was.
 12 MR. BUSCH: Let's take five minutes.
 13 Is that okay with you guys?
 14 (Recess taken.)
 15 BY MR. BUSCH:
 16 Q Mr. Carlsen, in your answers to interrogatories,
 17 which is Exhibit -- to the Madison-Kipp
 18 interrogatory, which I think is Exhibit 2.
 19 A Okay.
 20 Q And I'm looking at page 3, question 3. The answer
 21 says we've lost the full use and enjoyment of our
 22 property. Can you be more explicit in how you've
 23 lost the use and enjoyment of your property?
 24 A Well, we, you know, don't use our basement as we
 25 used to. We minimally use it to do the laundry,

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1 as I mentioned. It used to be considered kind of
 2 a guest space. Wouldn't consider that again, at
 3 least until I'm satisfied about the safety.
 4 And just, I don't know, just gives a
 5 feeling of slight well-being just knowing that
 6 there's something in our house that's not --
 7 that's a proven carcinogen even in its given
 8 amounts, and I'm not happy with it in the house.
 9 Q Has anyone from the DNR or from the Health
 10 Department indicated to you that you shouldn't use
 11 your basement?
 12 A They've not said that, but it's my property and
 13 that's the way I feel.
 14 Q Has anyone at all told you not to use your
 15 basement?
 16 A No.
 17 Q You recall sometime in 2004 being interviewed by
 18 Channel 3000?
 19 A There was a news crew there. I don't remember --
 20 I don't remember being interviewed, no.
 21 Q Okay. Do you recall in the 2004 time period
 22 talking to Miss Schneider about PCE?
 23 A No. I didn't even know what that was at the time.
 24 I'm not sure I still do, except it's bad.
 25 Q Do you recall reading anywhere in the newspaper

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1 about PCE in Miss Schneider's property -- on
 2 Miss Schneider's property in 2004?
 3 A I don't recall any articles at that time.
 4 Q Do you recall reading any articles in 2004 about
 5 the presence of PCE in groundwater?
 6 A No.
 7 Q Do you subscribe to any -- In 2004 through 2007
 8 did you subscribe to any periodicals, local
 9 periodicals?
 10 A Oh, yeah. The State Journal.
 11 Q Did you read it generally each day?
 12 A No. Just Sundays. It's a Sunday paper only.
 13 Q Do you make it a habit to watch TV news?
 14 A Very minimally.
 15 Q Prior to coming to the meeting after you became
 16 aware, you know, in the last two years of the
 17 potential contamination, did you regularly attend
 18 neighborhood association meetings?
 19 A No.
 20 Q You don't rent your property, do you?
 21 A No.
 22 Q So to the extent that you believe you may lose
 23 value with regard to your property it would be at
 24 the time you sell?
 25 A Yes.

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1 MR. BUSCH: Okay. Okay. I don't have
 2 anything further.
 3 EXAMINATION
 4 BY MR. WHITE:
 5 Q Good afternoon, Mr. Carlsen. My name is Chris
 6 White. I represent some of Madison-Kipp's
 7 insurance companies; Continental Casualty Company
 8 and Columbia Casualty Company. I just have a
 9 couple questions.
 10 A Sure.
 11 Q On January 1st of 1980 where were you living?
 12 A 1980?
 13 Q Yes.
 14 A Omaha, Nebraska.
 15 Q And how long did you remain at your residence in
 16 Nebraska?
 17 A Well, I was born there. So I guess at that point
 18 it had been 23 years, and then I moved up here.
 19 Q When was it that you moved from Omaha to Madison?
 20 A It would have been in the fall of that year. '80.
 21 Q The fall of 1986?
 22 A No. '80 you said, right?
 23 Q Yes, 1980.
 24 A Okay. That's when I moved here.
 25 Q Where did you live when you first moved to

Page 29	Page 31
1 Madison?	1 A Then I think we moved to Dayton Street, 1133
2 A Langdon Street.	2 Dayton, which is kind of like midway between where
3 Q And --	3 we're presently at and the Capitol Square.
4 A 104 Langdon.	4 Q Okay. And still a couple of miles from
5 Q And relative to where we are today, where	5 Madison-Kipp and the Goodman Center where we are
6 approximately is --	6 today?
7 A It's --	7 A Yeah, probably so.
8 Q -- Langdon Street?	8 Q And how long did you remain at that residence?
9 A -- maybe six blocks from the Capitol.	9 A A year.
10 Q Okay.	10 Q So are we up to fall of '84 now?
11 A Downtown.	11 A Yeah.
12 Q So it's a couple miles from here.	12 Q Where did you move in the fall of 1984?
13 A Oh, yeah.	13 A Norris Court Apartments. That was back toward
14 Q How long did you remain in your residence on	14 downtown by a few blocks on Gorham and Patterson
15 Langdon Street?	15 Street, I think. I think -- Yeah. That was a
16 A The academic year. That would have been, I guess,	16 year as well.
17 you know, nine months or so.	17 Q Okay. And Norris Court Apartments also, again,
18 Q So that's the fall of 1980 until the spring of	18 several miles from here?
19 1981?	19 A Yes.
20 A Yes.	20 Q So we're up to the fall of '85?
21 Q Where did you move in the spring or summer of	21 A Yeah.
22 1981?	22 Q Where did you move in the fall of 1985?
23 A I moved back to Omaha for the summer.	23 A Then we moved to Olin Avenue, which is even
24 Q Okay.	24 further from here, about two miles from the
25 A Then I came back here.	25 Capitol south. So four, maybe five miles from
Page 30	Page 32
1 Q Okay. So is the -- the next time you returned to	1 here.
2 Madison then would be the fall of 1982?	2 Q Okay. And how long did you remain at the
3 A Right, yeah. No, '81, wouldn't it? Yeah.	3 residence on Olin Street?
4 Q And where did you reside when you came back to	4 A Just a year.
5 Madison in the fall of 1981?	5 Q And --
6 A Pinckney Street, a block closer to the Square.	6 A And I think that brings us to '86, right?
7 Q Okay. And again, that residence also several	7 Q Yes. Now, if you look at Exhibit 1, page 4 --
8 miles from where we are?	8 A Okay.
9 A Yeah. It was three blocks from the first	9 Q -- according to this it looks like you purchased
10 residence.	10 your current home in July of 1986; is that
11 Q Okay. And how long did you remain in the	11 correct?
12 residence on Pinckney Street?	12 A Yep. Yep.
13 A That was a year. Solid year.	13 Q And that is when you purchased your current home?
14 Q Okay. So that brings us to the fall of 1982?	14 A Yep.
15 A Yeah.	15 Q And then did you move in shortly thereafter?
16 Q And where did you move in the fall of 1982?	16 A Yes.
17 A Let's see. Then we moved to Gorham Street. Once	17 Q Okay. Now, you said you're married, correct?
18 again downtown, still miles from here, probably	18 A Yes, sir.
19 seven blocks from the Capitol.	19 Q Your wife's name is Marja?
20 Q Okay. And how long did you remain in the	20 A Marja Barger.
21 residence on Gorham Street?	21 Q Were you and your wife married on January 1st of
22 A A year.	22 1980?
23 Q So are we now up to the fall of 1983?	23 A No, not January 1st. Oh, I'm sorry. Yeah. We
24 A Yeah.	24 were -- We got married in '82. December 18th,
25 Q Okay. Where did you move in the fall of 1983?	25 actually. Thirty years next Tuesday.

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1 Q Okay. Congratulations. Have you and your wife
 2 always lived together from the time you were
 3 married to the present?
 4 A Yes.
 5 Q Do you know where your wife lived prior to your
 6 becoming married in 1982?
 7 A Yeah. Couple years with me, and then before that
 8 in Omaha.
 9 Q Oh. So you and your wife lived together --
 10 A Before we were married.
 11 Q Okay. And would that -- have you and your wife
 12 lived together consecutively from January 1st,
 13 1980 to the present?
 14 A No, not from '80. She came up in '81, I believe.
 15 Yeah.
 16 Q Where did she live prior to 1981?
 17 A In Omaha, Nebraska.
 18 Q Okay. Didn't live in Madison prior to 1981?
 19 A No.
 20 Q Okay. I think earlier when you were talking about
 21 some of the home renovations that you had done
 22 yourself you mentioned that you did some drywall
 23 work?
 24 A Um-hum.
 25 Q Did that involve taking down old drywall and --

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1 A No. I put foam board up and drywall over the top.
 2 And in the basement I built walls, and they're
 3 drywalled.
 4 Q Have you removed any of the old drywall?
 5 A No.
 6 Q Okay. You also mentioned that you did some work
 7 with insulation?
 8 A It wasn't drywall to start with. It was plaster
 9 lathe, but no, I didn't remove walls of that.
 10 Q So you haven't knocked down or -- or cut into any
 11 of the old walls.
 12 A Well, I did make two doorways bigger in the
 13 bedroom for closet space, but that's, you know,
 14 some square footage. Not --
 15 Q And when did you --
 16 A 1980 when we first moved in.
 17 Q Okay.
 18 A Or not '80, I'm sorry. '86.
 19 Q Prior to doing that work did you make any efforts
 20 to see if the wall material was
 21 asbestos-containing?
 22 A To my knowledge, there was no asbestos in plaster
 23 back then, so I didn't think to check.
 24 Q Did you take any steps to verify there was no
 25 asbestos in the plaster?

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1 A No. It was my knowledge through, you know, common
 2 parlance at that just wasn't there. So I didn't
 3 take steps, no.
 4 Q Okay. When you mentioned that you did some
 5 insulation work on your home, did that involve
 6 taking out old insulation or simply adding
 7 additional insulation?
 8 A Professionally they removed insulation. I had a
 9 contractor remove insulation from the attic space,
 10 which was old cellulose and -- Yeah. I guess it
 11 was just old crappy cellulose and some fiberglass.
 12 Q You personally haven't removed any insulation from
 13 your house?
 14 A No.
 15 MR. WHITE: Okay. That's all I have.
 16 MR. KRAMER: No.
 17 MS. KREIL: I have nothing anything.
 18 MR. MANZKE: John, anything else?
 19 MR. BUSCH: No.
 20 (At 3:47 p.m. the deposition
 21 concluded.)
 22
 23
 24
 25

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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 BARRY CARLSEN, 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 2:57
 9 o'clock in the afternoon.
 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

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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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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 Notary Public in and for
 21 the State of Wisconsin
 22 Dated this 20th day of December, 2012,
 23 Milwaukee, Wisconsin.
 24 My commission expires March 9, 2014.
 25 Halma-Jilek Reporting, Inc. (414) 271-4466

10 (Pages 37 to 38)