

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

KATHLEEN McHUGH, and DEANNA SCHNEIDER, Individually and on behalf of all persons similarly situated,
Plaintiffs,
vs. 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,

(Caption continued)
DEPOSITION OF
CARRIE E. POMIJE
Madison, Wisconsin
January 8, 2013
10:24 a.m. to 11:26 a.m.
Kathy A. Halma, RPR

Page 2

1 and
2 CONTINENTAL CASUALTY COMPANY and
3 COLUMBIA CASUALTY COMPANY,
4
5 Cross-Claim Defendants
6
7 and
8
9 LUMBERMENS MUTUAL CASUALTY
10 COMPANY, AMERICAN MOTORISTS
11 INSURANCE COMPANY, and JOHN DOE
12 INSURANCE COMPANIES 1-20,
13 Third-Party Defendants.
14
15
16
17
18
19
20
21
22
23
24
25

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, 60563, by MR. EDWARD J. MANZKE, ejmanzke@collinslaw.com, appeared on behalf of the Plaintiffs.

VARGA, BERGER, LEDSKY, HAYES & CASEY, 125 South Wacker Drive, Suite 1250, Chicago, Illinois, 60606-4473, by MR. MICHAEL D. HAYES, mhayes@vblhc.com, appeared on behalf of the Plaintiffs.

MICHAEL, BEST & FRIEDRICH, LLP, One South Pinckney Street, Suite 700, Madison, Wisconsin, 53703, by MS. LEAH H. ZIEMBA and MR. ALBERT BIANCHI, JR., lhziemba@michaelbest.com and abianchi@michaelbest.com, appeared on behalf of Madison-Kipp Corporation.

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

MEISSNER, TIERNEY, FISHER & NICHOLS, S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee, Wisconsin, 53202-6622, by MS. JENNIFER KREIL, jbk@mtfn.com, appeared on behalf of United States Fire Insurance Company.

Page 3

1 DEUTCH & WEISS, LLC, 7670 North Port
2 Washington Road, Milwaukee, Wisconsin, 53217, by MR.
3 CHARLES W. KRAMER, charles.kramer@mweisslaw.net,
4 appeared on behalf of American Motorists Insurance
5 Company.
6
7 I N D E X
8
9 KEVIN FLOREK
10
11 By Mr. Bianchi.....5
12 By Mr. White.....37
13 By Ms. Kreil.....52
14 By Mr. Bianchi.....56
15
16 E X H I B I T S
17
18 No. 1 Discovery Documents; PLF_253_WAUB_000001
19 to 000162.....5
20
21 No. 2 Answers to Defendant Madison-Kipp Corporation's
22 First Set of Interrogatories.....5
23
24 No. 3 Answers to Defendant United States Fire
25 Insurance Company's First Set of
Interrogatories.....5
No. 4 Responses to Defendant Madison-Kipp Corporation's First Set of Requests for Documents and Things.....5
No. 5 Responses to Defendant United States Fire Insurance Company's First Set of Requests for Production.....5

Page 4

1 (The original transcript was sent to Attorney
2 Bianchi.)
3
4 (The original exhibits were retained by the court
5 reporter and attached to the original transcript.
6 Copies were attached to all ordered copies.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

| | |
|---|---|
| Page 5 | Page 7 |
| <p>1 TRANSCRIPT OF PROCEEDINGS 2 (Exhibits 1 through 5 were marked.) 3 CARRIE E. POMIJE, called as a witness 4 herein by the Defendants, after having been first 5 duly sworn, was examined and testified as 6 follows: 7 EXAMINATION 8 BY MR. BIANCHI: 9 Q Good morning. 10 A Good morning. 11 Q Please state and spell your name for the record. 12 A Carrie Pomije; C-A-R-R-I-E, P, as in Paul, O-M, 13 as in Mary, I-J, as in Jake, E. 14 Q All right. Ms. Pomije, have you ever had your 15 deposition taken before? 16 A Yes. 17 Q When was that? 18 A I don't know. I'm a social worker for Dane 19 County Human Services, so when we do termination 20 of parental rights, I would be deposed. So 21 probably four times in the last ten years. 22 Q Okay. I'll give you a couple ground rules to 23 just kind of refresh your memory. The court 24 reporter, Kathy, is taking down everything that 25 we say, so to make that easier for her, it's</p> | <p>1 Early Head Start, and I worked at Community 2 Partnerships, and I have been working for Dane 3 County Human Services for the past ten and 4 one-half years. 5 Q And what exactly do you do in your current job? 6 A Right now I am an ongoing case manager in 7 Juvenile Delinquency. I have also done Child 8 Protective Services, and in two weeks I'm going 9 to Adult Developmental Disabilities, all with 10 Dane County. 11 Q And you said you live at 34 Bradford Lane. How 12 long have you lived there? 13 A About two years, two and one-half years. 14 Q And you are also the owner of 253 Waubesa Street? 15 A Correct. 16 Q Who currently lives there? 17 A My son Owen and his housemate Hannah Berghoff and 18 their live-in attendant, and then various people 19 stay there because they each need one-on-one 20 care. 21 Q And prior to two years ago when you lived at 34 22 Bradford, were you living in the home? 23 A Correct. 24 Q How come you moved out? 25 A Because my son turned 18 and I didn't want him to</p> |
| Page 6 | Page 8 |
| <p>1 always best if you allow me to finish my question 2 even if you know the answer before I get to it. 3 A Okay. 4 Q And verbal answers are helpful, too, because if 5 you do a head nod, she can't type that down. 6 A Okay. 7 Q Perfect. What's your address? 8 A 34 Bradford Lane, and that's in Madison, 9 Wisconsin, 53714. 10 Q And what's your educational background, please? 11 A I have a master's degree in social work. 12 Q Where did you obtain that degree? 13 A University of Wisconsin-Madison. 14 Q And how about your undergraduate? 15 A UW-Madison, BSSW. 16 Q And what year did you graduate to obtain your 17 undergraduate degree? 18 A 2000. 19 Q And how about your master's? 20 A 2001. 21 Q And starting with 2000, what's been your work 22 experience? 23 A In 2000 I believe I was not working. I had a 24 fellowship to attend graduate school. Then in 25 2001 I graduated and worked for a short time in</p> | <p>1 have to go to a residential home with strangers, 2 with seven other strangers, so I thought even 3 though change is hard, it would be better for me 4 to move out and let him live there and get adult 5 services. It's where he's grown up most of his 6 life. He has special needs. Change is hard. 7 Q You said there's rotating caretakers that live 8 there, as well? 9 A There's one live-in caregiver, and on the 10 weekends or when she gets time off, there are 11 other people that spend time there. There are 12 people there during the day. 13 Q Besides your son Owen, Hannah and then the 14 full-time caretaker, no one else lives there full 15 time? 16 A Correct. 17 Q And do you smoke? 18 A No. 19 Q Does Owen or Hannah or the current caretaker 20 smoke? 21 A I don't know if the current caretaker smokes. 22 Q Do you know does anyone smoke in the house? 23 A No. Not allowed. 24 Q I'm going to hand you what's been marked as 25 Exhibit No. 1. I'll have you kind of just kind</p> |

| | |
|---|--|
| Page 9 | Page 11 |
| <p>1 of look through it a little bit. I'm going to</p> <p>2 represent to you that Exhibit 1 is all the</p> <p>3 documents that we received from you in response</p> <p>4 to our discovery requests.</p> <p>5 A Okay.</p> <p>6 Q Does that look right?</p> <p>7 A Yes.</p> <p>8 Q Okay. So if you'd look in the lower, right-hand</p> <p>9 corner, there's kind of some letters PLF_253_WAUB</p> <p>10 and then numbers.</p> <p>11 A Yes.</p> <p>12 Q Those are called Bates numbers. To help us go</p> <p>13 these documents, I will refer to those sometimes.</p> <p>14 A Okay. I'm listening.</p> <p>15 Q If at any time if you need a break or need water</p> <p>16 or anything, just let me know.</p> <p>17 A Thank you.</p> <p>18 Q I'm going to have you turn to what's been Bates</p> <p>19 numbered 00002. It's the very first section.</p> <p>20 Just kind of look over these first two pages</p> <p>21 here. Does everything there look correct?</p> <p>22 A Other than the roof, yes.</p> <p>23 Q Okay. What's wrong with the roof?</p> <p>24 A It was -- It's been replaced since then.</p> <p>25 Q When was that?</p> | <p>1 Q Do you know the month that you moved out?</p> <p>2 A May 31st. The caregiver started June 1st.</p> <p>3 Q 2010?</p> <p>4 A Correct.</p> <p>5 Q And how is the home heated?</p> <p>6 A Forced air.</p> <p>7 Q Do you know was there ever a coal bin in the</p> <p>8 basement?</p> <p>9 A Not to my knowledge.</p> <p>10 Q And how is the basement used at that home?</p> <p>11 A The washer and dryer are down there. There's a</p> <p>12 therapeutic swing that's mounted to the joists</p> <p>13 for sensory integration for my son and his</p> <p>14 housemate. They both have severe autism.</p> <p>15 There's a room down there where they watch TV,</p> <p>16 and the overnight caregivers, not the live-in,</p> <p>17 but the weekend caregivers, they used to sleep</p> <p>18 down there, but now they don't. The futon has</p> <p>19 been removed so they can't sleep down there. But</p> <p>20 Owen and Hannah will watch TV down there, because</p> <p>21 they don't understand that they shouldn't go down</p> <p>22 there and we can't stop them from going down</p> <p>23 there due to their special needs.</p> <p>24 Q Did someone tell you that people shouldn't go in</p> <p>25 your basement any longer?</p> |
| Page 10 | Page 12 |
| <p>1 A When Eric and Katie Pritzel owned it, so the late</p> <p>2 '90s, they replaced two-thirds of it, and I</p> <p>3 replaced one-third of it two years ago.</p> <p>4 Q Everything else appears to be correct, as far as</p> <p>5 you're aware?</p> <p>6 A Yes.</p> <p>7 Q And I see between the assessment year 2011 and</p> <p>8 2012 the value actually went up on your home. Do</p> <p>9 you know why that is?</p> <p>10 A I'm guessing because I put a new roof on, and I</p> <p>11 put a new driveway in since I bought it.</p> <p>12 Q When was the new driveway put in?</p> <p>13 A Probably three years ago, and then I also two</p> <p>14 years ago when I moved out had a bathroom put</p> <p>15 upstairs for the live-in caregiver.</p> <p>16 Q You remodeled the bathroom or you put in a new</p> <p>17 bathroom?</p> <p>18 A I had a new bathroom put in.</p> <p>19 Q When you say "three years ago," like 2009, 2010?</p> <p>20 A It was right before I moved out. Three years ago</p> <p>21 was the driveway, I believe. It's around the</p> <p>22 time my mother was dying the new bathroom was put</p> <p>23 in, and the one-third of the roof was put in two</p> <p>24 years ago when I moved out, right before I moved</p> <p>25 out.</p> | <p>1 A Well, just the results that I have gotten, you</p> <p>2 know, that it's hazardous to be in the basement.</p> <p>3 I don't need someone to tell me not to have</p> <p>4 someone go down there when it's not safe.</p> <p>5 Q Who told you it's not safe?</p> <p>6 A Well, I believe it's not safe given the results.</p> <p>7 Q When was the date that the caregiver stopped</p> <p>8 sleeping in the basement?</p> <p>9 A Probably June or maybe a little earlier of this</p> <p>10 year. It was when the first testing was done and</p> <p>11 I got the results, March, April.</p> <p>12 Q And is there currently a mitigation system</p> <p>13 installed in your home?</p> <p>14 A Yes, there is.</p> <p>15 Q Do you remember when that was installed?</p> <p>16 A About August, I think, of this year.</p> <p>17 MR. HAYES: Last year?</p> <p>18 THE WITNESS: I'm sorry. Yes.</p> <p>19 MR. BIANCHI: I understood what you were</p> <p>20 saying.</p> <p>21 THE WITNESS: It's early yet in the</p> <p>22 year.</p> <p>23 MR. HAYES: I will let the first one go.</p> <p>24 MR. BIANCHI: I appreciate that. Thank</p> <p>25 you.</p> |

| | |
|---|--|
| Page 13 | Page 15 |
| <p>1 BY MR. BIANCHI: 2 Q August 13, 2012? 3 A Correct. 4 Q And since then caregivers still aren't sleeping 5 in the basement? 6 A Correct. 7 Q And there's been no change of your view regarding 8 the danger of the basement since the mitigation 9 system has been installed? 10 A Correct. 11 Q Why is that? 12 A I still have my doubts. I just think it should 13 be used as little as possible. I don't feel the 14 same about it anymore. 15 Q Had you ever had the basement tested for radon? 16 A No. 17 Q And how far, you know, I don't recognize the 18 Bradford Lane address. How far is that from the 19 Waubesa Street address? 20 A 1.3 miles down the bike path. 21 Q Have you ever had your -- Is there a basement in 22 that home? 23 A Yes. 24 Q Do you use the basement? 25 A Yes.</p> | <p>1 originally, Joe and Martha Bonk, and they had 2 lived there almost since the existing of the 3 home, or most of that time. I knew the current 4 owners, Eric and Katie Pritzel. I knew the house 5 was well cared for and tended. The price was 6 right and I was able to afford it with assistance 7 from the city. 8 Q Did you use a realtor? 9 A No, I got it through Eric and Katie. I worked 10 with Eric. 11 Q And do you know did they provide any kind of 12 environmental disclosures? 13 A Not to my knowledge. 14 Q And when you lived across the street, did you own 15 that property or rent? 16 A I rented it. 17 Q Before you purchased the home, did you have any 18 appraisals done? 19 A Yes. 20 Q Do you remember in the appraisal was there any 21 mention of any kind of environmental issues with 22 the home or the surrounding area? 23 A No. No, nobody mentioned that. I don't remember 24 anybody looking or it being an issue or it being 25 discussed.</p> |
| Page 14 | Page 16 |
| <p>1 Q Have you ever had that basement tested for any 2 kind of chemicals? 3 A Yes. 4 Q And who tested it? 5 A My son tested it for a science experiment at the 6 university, and then I had a professional test 7 it. 8 Q What were the findings? 9 A The professional, no radon. 10 Q Anything else? 11 A No. That's all I tested for. 12 Q And did he test the sub-slab? 13 A No. 14 Q Just the indoor -- 15 A Ambient air, correct. 16 Q Have you ever had the sub-slab tested? 17 A No. 18 Q You purchased the home in 2002? 19 A Correct. 20 Q And have you tried to sell the home since then? 21 A No. 22 Q What due diligence or process did you use in 23 deciding to purchase the Waubesa Street property? 24 A I lived across the street at 250 Waubesa Street. 25 I had known the people that lived there</p> | <p>1 Q How long did you live in the rental property 2 across the street? 3 A Across the street? About eight years. 4 Q And what brought you to the neighborhood? 5 A It's a nice neighborhood and it was affordable. 6 It was a great deal, the house at 250. The rent 7 was extremely cheap. 8 Q And do you remember how much you paid when you 9 purchased the home? 10 A I think I paid \$119,000. 11 Q So the value of the home has increased since that 12 time? 13 A Correct. It's gone up and down. 14 Q And when were you first aware that 15 Madison-Kipp -- that the facility was nearby the 16 Waubesa Street property? 17 A When I lived at 250 Waubesa Street. 18 Q Did you believe that Madison-Kipp had any kind of 19 effect on the value of the properties in the 20 neighborhood? 21 A Yes. 22 Q What was that? 23 A I believe having an industry in your back yard 24 kind of lowers the property value, and that's why 25 I could afford it.</p> |

| | |
|---|--|
| Page 17 | Page 19 |
| <p>1 Q Did you look at any other homes to purchase</p> <p>2 before you bought the home at 253 Waubesa?</p> <p>3 A Yes.</p> <p>4 Q In the same neighborhood?</p> <p>5 A Various neighborhoods on the east side.</p> <p>6 Q Did you know any of the other people kind of in</p> <p>7 the neighborhood when you were renting across the</p> <p>8 street from 253 Waubesa?</p> <p>9 A I knew both the neighbors on either side of me,</p> <p>10 because I rented there, and I also knew the</p> <p>11 people two doors down from me currently there now</p> <p>12 just from being a neighbor.</p> <p>13 Q And at that time had any of them expressed any</p> <p>14 problems with Madison-Kipp?</p> <p>15 A At that point, other than noise, no. It was</p> <p>16 noise.</p> <p>17 Q When did you first become aware of the alleged</p> <p>18 pollution or contamination issues at the 253</p> <p>19 Waubesa property?</p> <p>20 A A couple of years ago as more and more things</p> <p>21 were coming out in the newspaper, radio, media.</p> <p>22 Q Did you first learn through the media?</p> <p>23 A Correct.</p> <p>24 Q And what was your response?</p> <p>25 A Concern. A lot of concern and anxiety. But</p> | <p>1 The neighbors and I were wondering what effect it</p> <p>2 would have on it.</p> <p>3 Q Did you contact the DNR?</p> <p>4 A No.</p> <p>5 Q Did you contact Kipp?</p> <p>6 A No.</p> <p>7 Q Did you attend any community meetings after that?</p> <p>8 A Yes.</p> <p>9 Q Do you recall which ones you attended?</p> <p>10 A I started attending meetings this summer.</p> <p>11 Q When you say "this summer," the summer of 2012?</p> <p>12 A Yes, the summer of 2012.</p> <p>13 Q I just want to make it clear.</p> <p>14 A Right.</p> <p>15 Q And what did you learn at those meetings?</p> <p>16 A That VOCs had been found in the soil in my back</p> <p>17 yard, in the sub-slab and in the ambient air.</p> <p>18 Q I will have you turn to in this Exhibit 1 what's</p> <p>19 been marked with Bates No. 60. There's just some</p> <p>20 underlining and a little bit of writing on this</p> <p>21 page. Is that your writing?</p> <p>22 A Yes, it is.</p> <p>23 Q The section that you underlined, "Additionally no</p> <p>24 PCE was found in the indoor air sample taken from</p> <p>25 your home," you underlined that. Why did you</p> |
| Page 18 | Page 20 |
| <p>1 given my situation, I don't know what other</p> <p>2 people have told you, but things are kind of</p> <p>3 different for me because I'm a single parent with</p> <p>4 two children, and one with severe special needs.</p> <p>5 He has severe autism, epilepsy and diabetes. I'm</p> <p>6 a single parent, and I'm trying to work and I</p> <p>7 work in a very stressful job, so I'm just keeping</p> <p>8 my head above water.</p> <p>9 Q Did you speak with any of your neighbors about</p> <p>10 the potential pollution or contamination issues?</p> <p>11 A Um-hum, yes.</p> <p>12 Q And what were those conversations about?</p> <p>13 A Just concern over health factors. We all garden.</p> <p>14 Not all of us, but some of the neighbors I speak</p> <p>15 to, we garden and we were wondering what effect</p> <p>16 all of this had on our gardening and whether we</p> <p>17 should still eat the produce. I cook all of my</p> <p>18 son's food. I thought it was organic. I don't</p> <p>19 put chemicals on his food. I count all the</p> <p>20 carbohydrates because of his diabetes. I count</p> <p>21 it up, proportion it.</p> <p>22 Q Did anybody tell you that there would be any</p> <p>23 problems continuing gardening after you learned</p> <p>24 of the potential pollution issues?</p> <p>25 A No, not at that time. I didn't know for sure.</p> | <p>1 underline it?</p> <p>2 A To point it out to myself later as I was</p> <p>3 reviewing things.</p> <p>4 Q And so you had that there were results that</p> <p>5 concerned you about the indoor air, but this</p> <p>6 letter from the DNR says that there was no PCE in</p> <p>7 your indoor air.</p> <p>8 A I also see trace and none written on the side.</p> <p>9 Q Say that again? Trace?</p> <p>10 A Yes, it says trace and none. You are only seeing</p> <p>11 the last three numbers.</p> <p>12 Q I see. So you disagreed with the DNR's findings?</p> <p>13 A From what I could ascertain from the reading I</p> <p>14 did and the results, it looked like there were</p> <p>15 trace amounts.</p> <p>16 MR. MANZKE: Just so the record is</p> <p>17 clear, there were detections in the indoor air in</p> <p>18 her property that are contained in Exhibit 1 that</p> <p>19 we are looking at.</p> <p>20 MR. BIANCHI: But not in this letter on</p> <p>21 Page 60, the DNR letter?</p> <p>22 MR. MANZKE: Apparently not on Page 60,</p> <p>23 but every time that it's been tested, they found</p> <p>24 it, so that's why I don't know why this letter is</p> <p>25 saying that.</p> |

| | |
|--|--|
| Page 21 | Page 23 |
| <p>1 THE WITNESS: Right, and that's why I</p> <p>2 wrote trace and none, because there was some</p> <p>3 found per my perusing their information.</p> <p>4 BY MR. BIANCHI:</p> <p>5 Q So in the results somewhere you read something</p> <p>6 that showed that there was some kind of</p> <p>7 detection?</p> <p>8 A Correct.</p> <p>9 Q And so then you obtained a mitigation system, you</p> <p>10 had said, correct?</p> <p>11 A Yes.</p> <p>12 Q I think if you turn to 62, and maybe this is what</p> <p>13 you were referring to. If you go under your</p> <p>14 results to the fourth sentence, it says "However,</p> <p>15 these PCE levels are below that which is</p> <p>16 considered potentially harmful to human health."</p> <p>17 Do you see that sentence?</p> <p>18 A Um-hum.</p> <p>19 Q You disagree with what the DNR was sharing with</p> <p>20 you?</p> <p>21 A I don't think there should be any, and I'm not</p> <p>22 sure I trust the DNR anymore.</p> <p>23 Q Have you ever had the professional who checked</p> <p>24 your home at 34 Bradford do any sampling at the</p> <p>25 home on 253 Waubesa?</p> | <p>1 A No.</p> <p>2 Q Let's take a look at Page 128 in Exhibit 1. This</p> <p>3 is an appraisal you had done by Meadowlark</p> <p>4 Appraisal?</p> <p>5 A Correct.</p> <p>6 Q And it was done September 25, 2012, or at least a</p> <p>7 report was produced then.</p> <p>8 A Yes.</p> <p>9 Q What was this appraisal done for?</p> <p>10 A Refinancing.</p> <p>11 Q Have you completed that refinancing?</p> <p>12 A I have.</p> <p>13 Q When did you complete that?</p> <p>14 A I believe the end of October.</p> <p>15 Q Through which lender?</p> <p>16 A Dane County Credit Union.</p> <p>17 Q And did you, in doing the refinancing, did you</p> <p>18 fill out any environmental disclosures that you</p> <p>19 provided to the Dane County Credit Union?</p> <p>20 A They didn't ask me for anything.</p> <p>21 Q I'm going to have you look at Page 130. If you</p> <p>22 go almost all the way to the bottom, there's a</p> <p>23 section that says, "Describe the condition of the</p> <p>24 property."</p> <p>25 A Um-hum.</p> |
| Page 22 | Page 24 |
| <p>1 A No.</p> <p>2 Q Would you trust his results?</p> <p>3 A Yes. I'm not saying I don't trust the DNR</p> <p>4 results, I don't think there should be any is</p> <p>5 what I'm saying, and for the DNR to say it's okay</p> <p>6 to have a small amount, I disagree.</p> <p>7 Q You said you use your basement for storage. Do</p> <p>8 you know what you store in the basement?</p> <p>9 A In my basement?</p> <p>10 Q In the basement at 253 Waubesa.</p> <p>11 A I didn't say I use it as storage.</p> <p>12 Q Is there anything stored in the basement?</p> <p>13 A Not currently, no.</p> <p>14 Q Has there been in the past?</p> <p>15 A Yes.</p> <p>16 Q What did you store in the basement?</p> <p>17 A Paint when I painted the house.</p> <p>18 Q Do you know how long the paint was stored down</p> <p>19 there?</p> <p>20 A Maybe for a year. It's when I first moved in and</p> <p>21 I painted.</p> <p>22 Q Indoor paint?</p> <p>23 A Indoor. I kept it for touch-up.</p> <p>24 Q Any other kind of cleaners that you kept in the</p> <p>25 basement?</p> | <p>1 Q In there there's no mention of any environmental</p> <p>2 contamination or the mitigation system. Did you</p> <p>3 mention that to the gentleman who was doing the</p> <p>4 appraisal?</p> <p>5 A No, I did not.</p> <p>6 Q Would he have seen it?</p> <p>7 A The appraisal?</p> <p>8 Q Yes. Would he have gone in your basement?</p> <p>9 A Oh, you mean the person that came?</p> <p>10 Q Correct.</p> <p>11 A Oh, I'm sorry. I thought you meant my lender.</p> <p>12 No, the appraiser guy, yes, he saw it, and I</p> <p>13 mentioned it.</p> <p>14 Q What kind of discussions did you have with him?</p> <p>15 A He came around the back of the house and he said,</p> <p>16 "What is that." It was sticking up the back of</p> <p>17 my house. I said, "It's a vapor mitigation</p> <p>18 system," and he said, "Is it for radon." I said,</p> <p>19 "It's for VOCs," and then we went in the</p> <p>20 basement. We started in the upstairs and went</p> <p>21 all the way down to the basement, and he said,</p> <p>22 "It's for radon," and walked out the door. I'm</p> <p>23 always honest.</p> <p>24 Q I'm going to have you turn to Page 134. Look at</p> <p>25 Paragraph 14. I will give you a minute to look</p> |

| | |
|--|--|
| Page 25 | Page 27 |
| <p>1 at it. So in this paragraph he talks about that</p> <p>2 he would note in the report any kind of adverse</p> <p>3 conditions, including adverse environmental</p> <p>4 conditions and toxic substances. Do you see</p> <p>5 that?</p> <p>6 A Um-hum.</p> <p>7 Q And nowhere in here does he mention any kind of</p> <p>8 PCE contamination in the appraisal.</p> <p>9 A I don't believe he did any testing for PCE</p> <p>10 contamination.</p> <p>11 Q He doesn't mention it or the mitigation system in</p> <p>12 the appraisal at all, correct?</p> <p>13 A The PCE? Well, he didn't do environmental</p> <p>14 testing. The mitigation system, that must have</p> <p>15 been his oversight, because we discussed it.</p> <p>16 Q Have you contacted the previous owners ever about</p> <p>17 the alleged environmental contamination on the</p> <p>18 property?</p> <p>19 A No.</p> <p>20 Q So besides this refinance that just happened in</p> <p>21 October, had you done any refinancing between the</p> <p>22 time you purchased the property in 2002 and the</p> <p>23 October 2012 refinancing?</p> <p>24 A Yes.</p> <p>25 Q And do you know at that time did the -- Do you</p> | <p>1 Q Anything else?</p> <p>2 A The reason I did the roof was I found that there</p> <p>3 was some water leakage and that it started</p> <p>4 molding in the attic, so I had all of that taken</p> <p>5 out and cleaned and soffits put in and extra air</p> <p>6 vents put in and then the new roof. That was at</p> <p>7 the same time the bathroom was done, and the</p> <p>8 driveway was done before that.</p> <p>9 Q For the new bathroom, what was the room before it</p> <p>10 was a bathroom?</p> <p>11 A My bedroom.</p> <p>12 Q And did you hire a contractor to do that?</p> <p>13 A Yes, I did.</p> <p>14 Q And do you know did he obtain permits from the</p> <p>15 city?</p> <p>16 A Yes, he did.</p> <p>17 Q I'm going to have you look through some other</p> <p>18 exhibits.</p> <p>19 A In this pile?</p> <p>20 Q I'm going to give you a new one.</p> <p>21 A Would you like these back?</p> <p>22 Q No, you can keep that right there for now. Thank</p> <p>23 you. Let's start with Exhibit 2. Could you just</p> <p>24 read the very first page at the bottom. Just</p> <p>25 read what those two lines say, please.</p> |
| Page 26 | Page 28 |
| <p>1 remember who the lender was?</p> <p>2 A It was Dane County Credit Union again.</p> <p>3 Q Do you know what year it was?</p> <p>4 A The year I moved out, so two and one-half years</p> <p>5 ago. It would have been 2010.</p> <p>6 Q And was there any environmental disclosures</p> <p>7 involved in that refinancing?</p> <p>8 A I get confused with the assessor and appraiser.</p> <p>9 The appraiser when he came through just noticed</p> <p>10 that Kipp was in the back yard and they had to</p> <p>11 look at other property values in the same area</p> <p>12 because of having an industry in the back yard.</p> <p>13 Q So as far as you understand it, Dane County</p> <p>14 Credit Union did not ask if there was any kind of</p> <p>15 environmental contamination issues with the</p> <p>16 property before they refinanced the mortgage?</p> <p>17 A They did not ask.</p> <p>18 Q And what changes and improvements have you made</p> <p>19 on the property since 2002? I know you mentioned</p> <p>20 that you redid part of the roof two years ago and</p> <p>21 put in a bathroom two years ago in the upstairs.</p> <p>22 What else?</p> <p>23 A And the new driveway.</p> <p>24 Q You said that was three years ago, approximately?</p> <p>25 A About that, um-hum, three or four.</p> | <p>1 A Out loud?</p> <p>2 Q Yes.</p> <p>3 A "Class Member's (Carrie Pomije) Answers to</p> <p>4 Defendant Madison-Kipp Corporation First Set of</p> <p>5 Interrogatories."</p> <p>6 Q Do you remember filling these out?</p> <p>7 A Yes.</p> <p>8 Q We'll turn to Exhibit No. 3 and have you do the</p> <p>9 same thing.</p> <p>10 A "Class Member's (Carrie Pomije) Answers to</p> <p>11 Defendant United States Fire Insurance Company's</p> <p>12 First Set of Interrogatories."</p> <p>13 Q And do you remember completing the responses to</p> <p>14 these, as well?</p> <p>15 A Yes.</p> <p>16 Q We will go to Exhibit 4. Same thing, please.</p> <p>17 A "Class Member's (Carrie Pomije) Responses to</p> <p>18 Defendant United States Fire Insurance Company's</p> <p>19 First Set of Requests for Production.</p> <p>20 Q And so you provided documents in response to</p> <p>21 these, is that correct?</p> <p>22 A Correct.</p> <p>23 Q And we will go to the next one, the very last</p> <p>24 one, please.</p> <p>25 A "Class Member's (Carrie Pomije's) Responses to</p> |

| | |
|--|--|
| Page 29 | Page 31 |
| <p>1 Defendant Madison-Kipp Corporation's First Set of</p> <p>2 Requests for Documents and Things."</p> <p>3 Q And, actually, what's the exhibit number on that</p> <p>4 one?</p> <p>5 A Exhibit 4.</p> <p>6 Q Thanks. And so the last exhibit, the United</p> <p>7 States Fire Insurance, was actually 5?</p> <p>8 A Exhibit 5. I'm sorry.</p> <p>9 Q That's okay. I wanted to make that clear for the</p> <p>10 record. So I'm going to have you look at Exhibit</p> <p>11 No. 4. Turn to Page 4 and look at Paragraphs 5</p> <p>12 and 6. You note here that you have no responsive</p> <p>13 documents, so I just want to kind of make clear</p> <p>14 did you provide the appraiser with any kind of</p> <p>15 guide to the appraisal in 2012, any kind of</p> <p>16 documents about the property?</p> <p>17 A No.</p> <p>18 Q Did you discuss with him about Madison-Kipp?</p> <p>19 A No.</p> <p>20 Q And do you ever email with any of your neighbors</p> <p>21 about issues related to Madison-Kipp?</p> <p>22 A No.</p> <p>23 Q I will have you go to Exhibit 2. I will have you</p> <p>24 turn to Page 4, Paragraph 5. Yes, Paragraph 5.</p> <p>25 So in here you talk about you don't believe that</p> | <p>1 Q And your knowledge of that is just based on your</p> <p>2 own understanding of the results?</p> <p>3 A What I told them is not necessarily that they</p> <p>4 could be harmed, but that this is the results of</p> <p>5 what has been -- People have been coming to do</p> <p>6 testing, this is the results, there have been</p> <p>7 some VOCs found on this property. This is what</p> <p>8 the effects are. It is your decision.</p> <p>9 Q Did you --</p> <p>10 A I wanted to be up front.</p> <p>11 Q Did you express with them that they are lower</p> <p>12 than the governmental standards?</p> <p>13 A Yes.</p> <p>14 Q And did that change your view of the effects of</p> <p>15 the VOCs?</p> <p>16 A No.</p> <p>17 Q I apologize for jumping between exhibits. I'm</p> <p>18 going to have you go back to Exhibit 1, Page 138.</p> <p>19 I will have you look at the fourth paragraph down</p> <p>20 where it says, "Neighborhood Market Conditions."</p> <p>21 In the second sentence it says, "There are no</p> <p>22 adverse factors affecting marketability of homes</p> <p>23 in the subject neighborhood." Do you see that?</p> <p>24 A Um-hum, yes.</p> <p>25 Q Did you discuss that at all with the appraiser?</p> |
| Page 30 | Page 32 |
| <p>1 the value of your property can be restored?</p> <p>2 A Um-hum.</p> <p>3 Q What value are you referring to?</p> <p>4 A I'm referring to the sale value of my house. I</p> <p>5 don't think it's sellable.</p> <p>6 Q And you just had it appraised at a value of</p> <p>7 \$170,000?</p> <p>8 A Um-hum.</p> <p>9 Q Have you tried to sell your home?</p> <p>10 A No.</p> <p>11 Q Have you tried to get the city assessor to reduce</p> <p>12 the value?</p> <p>13 A No.</p> <p>14 Q Why not?</p> <p>15 A Because I'm lazy. I'm overwhelmed with life. I</p> <p>16 don't have time to take more time off of work.</p> <p>17 Q You note also in these responses that --</p> <p>18 responses to Paragraph 4 about difficulty finding</p> <p>19 caregivers. Have you had any difficulty finding</p> <p>20 caregivers since finding out about the potential</p> <p>21 contamination?</p> <p>22 A A couple caregivers have left because of it.</p> <p>23 Q And they left because you told them there was a</p> <p>24 potential that they could be harmed?</p> <p>25 A Yes.</p> | <p>1 A When is this from?</p> <p>2 Q September 2012.</p> <p>3 A No. We did not discuss this.</p> <p>4 Q So you disagree with the appraiser?</p> <p>5 A Yes.</p> <p>6 Q And you provided this appraisal to the Dane</p> <p>7 County Credit Union to change the refinance?</p> <p>8 A They set it up, they hired him. He came, was</p> <p>9 there ten minutes and gave them his results.</p> <p>10 Q And did you discuss with him this lawsuit at all?</p> <p>11 A No.</p> <p>12 Q Did you discuss with him what you understood to</p> <p>13 be the contamination in the basement?</p> <p>14 A We discussed that vapor mitigation system.</p> <p>15 Q But you never mentioned to him --</p> <p>16 A I said VOCs, and he said radon.</p> <p>17 Q But you didn't specifically tell him that you had</p> <p>18 results that you believed showed that there was</p> <p>19 VOCs in the air in the basement?</p> <p>20 A He didn't ask me.</p> <p>21 Q Okay. But you didn't tell him?</p> <p>22 A No.</p> <p>23 Q Do you know the neighborhood association SASY?</p> <p>24 A Yes.</p> <p>25 Q Are you a part of that association?</p> |

| | |
|--|--|
| Page 33 | Page 35 |
| <p>1 A No.</p> <p>2 MR. BIANCHI: Let's take a quick break.</p> <p>3 (A recess was taken.)</p> <p>4 BY MR. BIANCHI:</p> <p>5 Q You had mentioned that two caregivers left in</p> <p>6 light of the -- what you shared with him about</p> <p>7 the results. Do you know their names?</p> <p>8 A No, I'd have to ask the agency. Caregivers come</p> <p>9 and go frequently.</p> <p>10 Q And they gave as a reason for not wanting to be</p> <p>11 there, that was the only reason?</p> <p>12 A Correct.</p> <p>13 Q Had you ever spoken with them personally?</p> <p>14 A No. I think I put a note on the counter, if I</p> <p>15 remember correctly.</p> <p>16 Q Do you have a copy of that note?</p> <p>17 A No.</p> <p>18 Q Do you remember when each of them had left?</p> <p>19 A No.</p> <p>20 Q But currently there is a caregiver living there?</p> <p>21 A Yes, a live-in caregiver. There has to be.</p> <p>22 Q How long has the live-in caregiver been there?</p> <p>23 A I think she started I want to say the end of</p> <p>24 October or beginning of November, maybe.</p> <p>25 Q And before that how long had that live-in</p> | <p>1 person in two years for the actual live-in</p> <p>2 caregiver. The other ones sometimes are</p> <p>3 overnights, and that is random.</p> <p>4 Q Sorry. I didn't mean to cut you off. So the</p> <p>5 caregivers who left, how did you find out about</p> <p>6 why they left?</p> <p>7 A Just through word-of-mouth rumor from other</p> <p>8 caregivers.</p> <p>9 Q So the agency never said anything?</p> <p>10 A I didn't ask the agency.</p> <p>11 Q And you didn't talk with those caregivers</p> <p>12 specifically?</p> <p>13 A They were already gone. Like I told you, people</p> <p>14 come and go.</p> <p>15 Q And so you don't actually decide who the</p> <p>16 caregivers are?</p> <p>17 A Correct.</p> <p>18 Q That's decided by the state?</p> <p>19 A No, it's decided by the agency that provides care</p> <p>20 for my son.</p> <p>21 Q Have you ever spoken with the City Department of</p> <p>22 Health about gardening, the City of Madison</p> <p>23 Department of Health?</p> <p>24 A I spoke with somebody at the City Health</p> <p>25 Department, but I don't know if it was</p> |
| Page 34 | Page 36 |
| <p>1 caregiver been there?</p> <p>2 A About ten months.</p> <p>3 Q And when did the -- let's say the first caregiver</p> <p>4 who left in light of the information about the</p> <p>5 environmental contamination?</p> <p>6 A I'm sorry. Are you confusing caregiver with</p> <p>7 live-in?</p> <p>8 Q No. Well, why don't you explain who decided</p> <p>9 not -- Let me strike all that, because that made</p> <p>10 no sense.</p> <p>11 When you said that two caregivers left</p> <p>12 because of the potential, you know, contamination</p> <p>13 in the basement, were they live-in caregivers?</p> <p>14 A No.</p> <p>15 Q They were weekend caregivers?</p> <p>16 A They are people -- I don't think you understand.</p> <p>17 Both of these people are severely, severely</p> <p>18 disabled, so people come and go. There are so</p> <p>19 many people that I don't even know their names</p> <p>20 sometimes. Sometimes they spend the night on the</p> <p>21 weekend, sometimes they don't. Sometimes they</p> <p>22 need to fill in for someone. You never know -- I</p> <p>23 never know who's going to be there and when. So</p> <p>24 they were not the people that were actually hired</p> <p>25 to live in that dwelling. We're on our fourth</p> | <p>1 necessarily referring to gardening.</p> <p>2 Q Do you know who it was, who the person was?</p> <p>3 A Steve. His name is in some of these papers.</p> <p>4 Q Okay. And who contacted who?</p> <p>5 A I contacted him.</p> <p>6 Q And do you recall what you asked him?</p> <p>7 A Not exactly. I think I wanted -- I think I was</p> <p>8 asking him if he would help me decipher some of</p> <p>9 the results, but I'm not sure which ones. I</p> <p>10 contacted my Dane County ombudsman, and he gave</p> <p>11 me this man's name.</p> <p>12 Q And do you remember what Steve told you?</p> <p>13 A Basically that there shouldn't be any VOCs.</p> <p>14 Q Shouldn't be any VOCs where?</p> <p>15 A In your home. That none are safe.</p> <p>16 Q And you believed him over the DNR?</p> <p>17 A I believe there should be none.</p> <p>18 Q And did he say anything about using your</p> <p>19 basement?</p> <p>20 A I don't remember asking him.</p> <p>21 Q And he didn't offer anything?</p> <p>22 A I'm sorry. I just don't remember.</p> <p>23 Q And it was a conversation by phone?</p> <p>24 A Yes.</p> <p>25 Q Any emails with him?</p> |

| | |
|--|---|
| Page 37 | Page 39 |
| <p>1 A I don't think so.</p> <p>2 Q Did you check your emails?</p> <p>3 A Yes. No, I'm pretty sure I called Andy and Andy</p> <p>4 gave me this guy's name, because I'm picturing</p> <p>5 sitting at my desk, because I was taking a break</p> <p>6 from work quick because I have to do all of this</p> <p>7 in my five-minute breaks. I remember making a</p> <p>8 call to him and that was it.</p> <p>9 Q I'm sorry. You mentioned Andy?</p> <p>10 A Andy Heidt, H-E-I-D-T, Dane County ombudsman.</p> <p>11 Q So your Dane County representative?</p> <p>12 A Um-hum.</p> <p>13 MR. BIANCHI: That's all I have. Thank</p> <p>14 you.</p> <p>15 EXAMINATION</p> <p>16 BY MR. WHITE:</p> <p>17 Q Good morning, Ms. Pomije. My name is Chris</p> <p>18 White. I represent two of Madison-Kipp's</p> <p>19 insurance companies. I have a couple follow-up</p> <p>20 questions for you. I just want to -- I'm not</p> <p>21 entirely clear on the caregiver situation. If I</p> <p>22 can walk through this for my own benefit. Did I</p> <p>23 understand correctly that there's always one</p> <p>24 live-in caregiver living with your son?</p> <p>25 A Yes.</p> | <p>1 agency?</p> <p>2 A Private non-profit.</p> <p>3 Q Has Options in Community --</p> <p>4 A You can just call it Options.</p> <p>5 Q Has Options at all times been able to provide you</p> <p>6 with the number of caregivers that are necessary</p> <p>7 for your son?</p> <p>8 A They have to.</p> <p>9 Q Have you had any conversation with anyone at</p> <p>10 Options where they have told you that they are</p> <p>11 unable to locate a caregiver, either live-in or</p> <p>12 occasional, to take care of your son?</p> <p>13 A Yes.</p> <p>14 Q When?</p> <p>15 A I can't tell you how many times, because then the</p> <p>16 case managers have to fill in.</p> <p>17 Q Is this a situation where you have a scheduled</p> <p>18 conflict, a one-time thing?</p> <p>19 A Correct, random.</p> <p>20 Q Have you ever had a conversation with Options</p> <p>21 where they have told you that they are unable to</p> <p>22 find any caregivers who are willing to work in</p> <p>23 your home?</p> <p>24 A Could you repeat that or rephrase it?</p> <p>25 Q Certainly. You rely on Options to provide you</p> |
| Page 38 | Page 40 |
| <p>1 Q And in addition to the one live-in caregiver, are</p> <p>2 there also other people that come occasionally as</p> <p>3 needed on the nights and weekends?</p> <p>4 A What there is is there's one live-in caregiver</p> <p>5 who is hired to provide services Sunday night</p> <p>6 through Friday morning, and then they each -- and</p> <p>7 that is until 8:00 in the morning or something,</p> <p>8 9:00, something like that. They each have</p> <p>9 one-on-one starting at 6:00 a.m. Someone comes</p> <p>10 in to help them get ready for school. They are</p> <p>11 both severely disabled. My son needs insulin.</p> <p>12 He needs a lot of things. Then they stay until</p> <p>13 about 8:00 or 9:00 at night, and then it goes to</p> <p>14 the live-in person again. On the weekend they</p> <p>15 have various people fill in and spend the night.</p> <p>16 If sometimes if someone is sick or if the live-in</p> <p>17 wants a vacation or whatever, then they have to</p> <p>18 fill in and get -- pull people, whoever they can,</p> <p>19 to come in and spend the night.</p> <p>20 Q Do you hire both the live-in person and the</p> <p>21 people who come and go through the same agency?</p> <p>22 A The agency hires them.</p> <p>23 Q What's the name of the agency?</p> <p>24 A Options in Community Living.</p> <p>25 Q Is that a city or state agency or a private</p> | <p>1 with the caregivers that are necessary for your</p> <p>2 son?</p> <p>3 A Correct.</p> <p>4 Q Has Options always been able to provide with you</p> <p>5 the caregivers that you need for your son?</p> <p>6 A Yes.</p> <p>7 Q Has Options ever told you that as a result of the</p> <p>8 contamination issues with Madison-Kipp that they</p> <p>9 are unable to provide you with the caregivers</p> <p>10 that are necessary for your son?</p> <p>11 A No.</p> <p>12 Q Does your son's condition require any physical</p> <p>13 changes to the house?</p> <p>14 A Yes.</p> <p>15 Q What types of conditions? What types of changes?</p> <p>16 A Locks on the door in a high place. His housemate</p> <p>17 has broken a number of things due to her special</p> <p>18 needs that have had to be replaced.</p> <p>19 Q What has she broken?</p> <p>20 A She broke the bar in the shower, so they replaced</p> <p>21 that. She ripped the door off the medicine</p> <p>22 cabinet, so they replaced that. The light switch</p> <p>23 in the bathroom, so we replaced that.</p> <p>24 Q With respect to the bar in the bathroom and the</p> <p>25 medicine cabinet and the light switch, when those</p> |

| | |
|---|---|
| Page 41 | Page 43 |
| <p>1 items were replaced, were they replaced with 2 standard items that you would buy at Home Depot 3 or were they replaced with special custom items? 4 A Standard. 5 Q Have there been any other physical changes that 6 you have made to the house as a result of either 7 your son's condition or his housemate's 8 condition? 9 A Well, putting the bathroom in upstairs. I had to 10 put that in so she could get a live-in caregiver. 11 That was one. Putting the swing in in the 12 basement for sensory integration. I'm trying to 13 think. I can't think of anything else. 14 Q We have talked a little bit about your son's 15 housemate Hannah? 16 A Yes. 17 Q How is it that you came to meet Hannah? 18 A Hannah was a schoolmate of Owen's and his best 19 friend. 20 Q How long ago did Owen and Hannah meet? 21 A They met their freshman year of high school, and 22 they are 21 now. 23 Q So when was that? 24 A Oh, man. Probably when they were about 15, and 25 they are 21 now. Owen is 21, Hannah is 20. Five</p> | <p>1 Q Has the \$300 per month remained constant the 2 entire time she's lived there? 3 A Yes. 4 Q Have you had any conversations with anyone at 5 Options about whether it is still safe for Hannah 6 to live in the home? 7 A Yes. 8 Q What conversations have you had? Let's begin 9 with who did you talk to. 10 A When I found out what the results were, I spoke 11 with my son's case manager at Options and 12 Hannah's case manager at Options and the director 13 at Options, and we discussed the hazard of both 14 of them living there. I am my son's guardian; 15 Hannah has a different guardian. We decided we 16 have to weigh our pros and cons with severe 17 special needs and change and transitions and what 18 else is out there, so we decided that getting the 19 vapor mitigation system put in would be the best 20 alternative for both of them. 21 Q Based on your conversations with Options, did you 22 and Options collectively determine that it would 23 be safe for Owen and Hannah to continue living in 24 the home provided there was a mitigation system 25 installed?</p> |
| Page 42 | Page 44 |
| <p>1 years ago, five, six years ago. 2 Q Does Hannah's family also live in the Madison 3 area? 4 A Her father does. 5 Q Does her mother? Is her mother still alive? 6 A Yes. 7 Q Does her mother live near Madison? 8 A I don't know. 9 Q Do you just deal exclusively with Hannah's father 10 about the issues that arise with her? 11 A I don't deal with Hannah's father at all. 12 Q Does Hannah or her family pay any rent to you for 13 use of the house? 14 A Yes. 15 Q Who pays the rent? 16 A Options pays it for Hannah, on behalf of Hannah. 17 Q Does the Waubesa Street property have any type of 18 certification from Options or another agency or 19 organization certifying it as a place for people 20 with this condition to live? 21 A No, it's not a group home. It's a home. 22 Q How much rent does Options pay for Hannah? 23 A \$300 for Hannah. 24 Q Is that per month? 25 A Yes.</p> | <p>1 A Again, I will use the term "best option." I 2 don't think you understand what it's like to have 3 Owen and Hannah -- or what it's like out there. 4 I mean, I work with -- I'm sorry. I work in this 5 area, and I know the abuse that goes on in the 6 group homes and with people who aren't monitored. 7 By having me in my home and me moving out, I had 8 to jump through a million hoops to do that, and 9 this is his only chance and hers, too. 10 Q Have you had any discussions with anyone at 11 Options about potentially moving Owen and Hannah 12 to a new residence, even if not a group home, as 13 a result of the contamination issues? 14 A It would be a group home. That's all that's 15 left. There are no new residences. I was 16 groundbreaking in getting my son to be able to 17 stay in his own home. No other parents have done 18 that. Again, you don't know what I had to do and 19 who I had to plea to for this to happen. When 20 you get off a county waiting list, which is 21 decades long usually, you get put into a group 22 home anywhere in the county with people you don't 23 know. They would be split up and they would be 24 put in a home with strangers, whether they get 25 along with them or not. It's not like you who</p> |

| Page 45 | Page 47 |
|--|---|
| 1 gets to pick who you want to live with. They are | 1 Q To completely switch gears, can you tell me where |
| 2 just shoved with someone, with various people | 2 you were living on January 1st of 1980? |
| 3 who, frankly, their backgrounds are sketchy. The | 3 A January 1st of 1980? |
| 4 rate of abuse is huge. | 4 Q Yes. |
| 5 Q Do you need a minute, by the way? | 5 A Okay. Let me see. I believe I was living on |
| 6 A No. I'm fine. | 6 Harding Street in Janesville, Wisconsin. |
| 7 Q I want to switch gears a little bit. When you | 7 Q And how long did you continue to live on Harding |
| 8 purchased the home, you mentioned something about | 8 Street in Janesville, Wisconsin? |
| 9 financial assistance from the city? | 9 A I think until September of 1980. |
| 10 A Yes. | 10 Q Where did you move in September of 1980? |
| 11 Q Could you just explain what type of assistance | 11 A To Superior where my fiance went to school. Last |
| 12 you received? | 12 year of college. |
| 13 A There's a program called Moving Out, and it's for | 13 Q Superior, Wisconsin? |
| 14 people with special needs or their families to | 14 A Yes. |
| 15 get assistance to get a home that you wouldn't | 15 Q How long did you live in Superior, Wisconsin? |
| 16 normally be able to get due to your financial | 16 A Two semesters. Ten months. |
| 17 circumstances. | 17 Q So that takes us to approximately the fall of |
| 18 Q Is that a grant program? | 18 1981? |
| 19 A Yes, it is. | 19 A Until about the spring, summer of '81. We moved |
| 20 Q How large of a grant did you get? | 20 to lowered burg, New Mexico I could. |
| 21 A It was \$20,000. | 21 Q How long did you continue to live in Lordsburg, |
| 22 Q Are there any repayment conditions associated | 22 New Mexico? |
| 23 with that \$20,000? | 23 A Until 1985. |
| 24 A Yes. | 24 Q Where did you move in 1985? |
| 25 Q What are the payment conditions? | 25 A Madison. |
| Page 46 | Page 48 |
| 1 A When I moved out two years ago, I had to repay | 1 Q Where in Madison? |
| 2 the \$20,000 plus I can't remember how much extra. | 2 A On East Dayton Street. |
| 3 It was a couple thousand in fees. | 3 Q Where in Madison is East Dayton Street located? |
| 4 Q So it's more of a loan program than a grant | 4 A It's on the east side. It's probably three miles |
| 5 program? | 5 that way down East Washington, whichever |
| 6 A Correct. | 6 direction we're in. |
| 7 Q Is there any sort of back deck or back porch on | 7 Q It's a matter of several miles from the Dayton |
| 8 the Waubesa Street property that you own? | 8 Street address to where Madison-Kipp is located? |
| 9 A No. There's a patio. | 9 A Correct. |
| 10 Q Is the patio the furthest point back in your | 10 Q How long did you continue to live on Dayton |
| 11 home? | 11 Street? |
| 12 A No. | 12 A I'm guessing maybe three years. |
| 13 Q What is the furthest -- What I mean is before you | 13 Q And roughly where does that bring us up to |
| 14 get to the back yard, what's the last part of | 14 chronologically? |
| 15 your house? | 15 A About '88. |
| 16 A Oh, the patio. | 16 Q And where did you move in 1988? |
| 17 Q How far is it from your patio to the Madison-Kipp | 17 A In or around that year I moved to 250 Waubesa |
| 18 facility, approximately? | 18 Street. |
| 19 A I'm bad with spacial. Maybe 40 feet. I'm not | 19 Q That's the property that you were renting that's |
| 20 sure. | 20 across the street from the property you |
| 21 Q Did you install the patio after you purchased the | 21 ultimately purchased? |
| 22 house? | 22 A Um-hum. |
| 23 A I installed it myself. | 23 Q Are you married? |
| 24 Q When did you install the patio? | 24 A No, I'm not. |
| 25 A Probably five or six years ago. | 25 Q Were you previously married? |

| | |
|--|---|
| Page 49 | Page 51 |
| <p>1 A For five minutes in 1980, '81.</p> <p>2 Q Was that the New Mexico period?</p> <p>3 A Um-hum.</p> <p>4 Q Apart from that you have never been married?</p> <p>5 A Correct.</p> <p>6 Q And when were your two sons born?</p> <p>7 A Taylor was born 6/16/80 and Owen 11/18/91.</p> <p>8 Q Owen was '91, you said?</p> <p>9 A Um-hum, yes.</p> <p>10 Q Your oldest son, did he live with you</p> <p>11 continuously from the time he was born until the</p> <p>12 time he went to college?</p> <p>13 A Yes.</p> <p>14 Q In this lawsuit are you claiming that you</p> <p>15 sustained any damages between January 1st of 1980</p> <p>16 to January 1st of 1987?</p> <p>17 A No.</p> <p>18 Q Does your son have a regular doctor that he sees</p> <p>19 as a result of his autism and other conditions?</p> <p>20 A Several.</p> <p>21 Q Have you spoken with any of your son's doctors</p> <p>22 about the contamination issue at the Waubesa</p> <p>23 Street property?</p> <p>24 A No.</p> <p>25 Q Why not?</p> | <p>1 A I'm sorry. Which one?</p> <p>2 Q It's the document that starts at 128.</p> <p>3 A Exhibit 1?</p> <p>4 Q Yes. Thank you. And specifically Page 134.</p> <p>5 A So 128. So this one you are looking at</p> <p>6 (indicating)?</p> <p>7 Q Yes.</p> <p>8 A Okay.</p> <p>9 Q Can you describe for me the conversation you had</p> <p>10 with the appraiser about the sub-slab</p> <p>11 pressurization system or mitigation system on</p> <p>12 your home?</p> <p>13 MR. MANZKE: Just object that it's been</p> <p>14 asked and answered. You can tell him again.</p> <p>15 THE WITNESS: He walked around the back</p> <p>16 of the house and he said, "What is this," and I</p> <p>17 said, "It's a vapor mitigation system." He said,</p> <p>18 "Is it for radon," and I said, "No, it's for</p> <p>19 VOCs." We then walked in the house, he went</p> <p>20 upstairs, completed his inspection. He went to</p> <p>21 the basement and he looked at it and he said, "It</p> <p>22 says radon." I said, "Okay."</p> <p>23 Q Looking at Page 134, his report, the last</p> <p>24 sentence, Paragraph 14 which says, "I have</p> <p>25 considered these adverse conditions in my</p> |
| Page 50 | Page 52 |
| <p>1 A Why.</p> <p>2 Q Have you asked any of your son's doctors whether</p> <p>3 it's safe for your son to continue to live in the</p> <p>4 Waubesa Street property?</p> <p>5 A I have no place else for him to go. I don't</p> <p>6 think you understand. No matter what their</p> <p>7 answer is, I have no place else for him to go.</p> <p>8 They can't change it.</p> <p>9 Q Have you had any discussions with anyone at the</p> <p>10 DNR about whether it is safe for anyone to live</p> <p>11 on the Waubesa Street property?</p> <p>12 A I have had discussions regarding the results, and</p> <p>13 I'm told there should be no VOCs.</p> <p>14 Q Is that discussion the discussion that you had</p> <p>15 with Steve?</p> <p>16 A Mike.</p> <p>17 Q Mike Schmoller?</p> <p>18 A Yes.</p> <p>19 Q Apart from Mike Schmoller, have you spoken with</p> <p>20 anyone else about whether it is safe for people</p> <p>21 to live at the Waubesa Street property?</p> <p>22 A No.</p> <p>23 Q And lastly I just wanted to ask you a few</p> <p>24 questions about this appraisal which is the</p> <p>25 document that starts at 128.</p> | <p>1 analysis of property value, and I have reported</p> <p>2 on the effect of the conditions on the value and</p> <p>3 marketability of the subject property." Do you</p> <p>4 see that?</p> <p>5 A Yes.</p> <p>6 Q Looking down at Paragraph 15, do you see the</p> <p>7 statement that says, "I have not knowingly</p> <p>8 withheld any significant information from this</p> <p>9 appraisal report, and to the best of my knowledge</p> <p>10 all statements and information in the appraisal</p> <p>11 report are true and correct?"</p> <p>12 A Yes.</p> <p>13 Q And do you believe this appraisal was true and</p> <p>14 correct?</p> <p>15 A Yes. I don't think he did any testing in my</p> <p>16 backyard or the sub-slabs, so yes.</p> <p>17 MS. KREIL: I just have a couple</p> <p>18 follow-up questions.</p> <p>19 EXAMINATION</p> <p>20 BY MS. KREIL:</p> <p>21 Q My name is Jennifer Kreil. I represent United</p> <p>22 States Fire Insurance Company, which is another</p> <p>23 one of Madison-Kipp's insurance companies in the</p> <p>24 case. I apologize, I will jump around a little</p> <p>25 bit, but the first want to go back to the</p> |

| | |
|--|--|
| Page 53 | Page 55 |
| <p>1 caregivers and the live-in situation. Do Hannah 2 and Owen share caregivers or are there separate 3 people that come in just for Hannah and separate 4 people that come in just for Owen? 5 A For the most part, no, they try to get them -- 6 Because sometimes it's hard to try to find 7 people, they want them to get used to different 8 people that have to come in and out of the house. 9 Q To your knowledge, have any of Hannah's 10 caregivers refused to come to the home because of 11 the contamination? 12 A I don't know. 13 Q And I want to go back to your conversations 14 with -- that you had with the caregivers about 15 the contamination. I have here that you told 16 them that there were VOCs on the property and 17 this is what the effects are. Is that right? 18 A Basically, yes. 19 Q What did you mean by "what the effects are?" 20 A That there could be some long-term effects to 21 being exposed to VOCs. 22 Q And where did you get that information? 23 A From the DNR web page, from research I have done 24 -- 25 Q Did that research --</p> | <p>1 looking through all of them until I find his 2 name. I don't mean to be rude, I just don't know 3 which one it is. I want to say that I'm thinking 4 that his name was on one where Ed was cc'd and -- 5 Q Who is the "Ed" you are referring to? 6 A Manzke. I'm not seeing it in any of these 7 exhibits. I think Mike's name was on there, this 8 person's name was on there, Ed's name and then I 9 want to say someone else. I'm not finding it. 10 Q We can follow up on that. That's fine. This 11 isn't supposed to be a memory test. But aside 12 from the conversations with Mike and Steve, do 13 you recall any other conversations that you may 14 have had with anyone else about the -- what you 15 believe the long-term effects of the exposure to 16 VOCs are? 17 A No. 18 Q Okay. I think the last question I have for you 19 is did you state that Michael Schmoller told you 20 that there should be no VOCs on your property? 21 A I believe so. 22 Q And was this during the conversation you 23 mentioned where he called you and you were on a 24 walk? 25 A Yes.</p> |
| Page 54 | Page 56 |
| <p>1 A -- just on line. 2 Q Did the research involve talking to anyone at the 3 DNR? 4 A Well, it's the information that I have got in all 5 these papers. 6 Q Sure. And I understand you did some online 7 research and you have the paperwork, but did you 8 actually have a conversation with anyone at DNR 9 about what the long-term effects are? 10 A I spoke with Mike Schmoller, but I can't remember 11 if we actually discussed that specific thing or 12 just how to read my results. I remember I was 13 out on a walk when he called me, so I had no 14 paper or anything else to write down our 15 discussion. 16 Q Aside from that conversation with Michael 17 Schmoller, do you recall any conversations with 18 anyone outside of the DNR relating to what you 19 believe the long-term effects are? 20 A Steve. Do you want me to look his name up? 21 Q That would be helpful, if we have a minute. 22 A He's on the bottom of one of these as a cc. 23 Q (By Ms. Kreil) Just for the record, are 24 you looking through just Exhibit 1? 25 A I don't know what I'm looking through. I'm</p> | <p>1 Q And he told you what? Can you tell me to the 2 best of your recollection what he said? 3 A To the best of my recollection, he was telling me 4 what the results were, which were hard for me to 5 understand because I was out for a walk and 6 couldn't just stop in the middle of Atwood Avenue 7 and listen to what someone was telling me. He 8 was telling me what the levels are, and I believe 9 I asked him what should they be, and 10 theoretically they should be none, we should not 11 have any. 12 Q And those are his words or what your take away 13 from was that conversation was? 14 A Yes. 15 MS. KREIL: Okay. I don't I any other 16 questions. 17 MR. KRAMER: No questions. 18 EXAMINATION 19 BY MR. BIANCHI: 20 Q I just have one follow-up. It's the document 21 that's labeled No. 62 in that Exhibit 1. 22 A So this one (indicating)? 23 Q It's a letter from the DNR dated April 26th. 24 A Yes. 25 Q Under the section "Your Test Results," you kind</p> |

Page 57

1 of already looked at this, at the sentence that
 2 starts, "however," the next sentence says, "The
 3 WSLH laboratory report also shows very low levels
 4 of VOCs other than PCE in soil vapors from
 5 beneath your home and indoor air. This is likely
 6 due to trace amounts of VOCs from products,
 7 paints, adhesives, fragrances, et cetera,
 8 commonly found in the typical home, and unrelated
 9 to the activities that took place at Madison-Kipp
 10 in the past."
 11 A Um-hum.
 12 Q Do you recognize having read that before?
 13 A Um-hum, yes.
 14 Q And, again, you did not believe the DNR when they
 15 told you that the small amounts of PCE found in
 16 the air could be related to that?
 17 A I believe some of it could possibly. The only
 18 thing we have is paint or had was paint down
 19 there, but the VOCs -- I mean, the VOCs come from
 20 Kipp in the sub-slab. They came from Kipp. I
 21 didn't ask for that.
 22 Q So you disagree with this sentence?
 23 A Yes, I do.
 24 MR. BIANCHI: No further questions.
 25 MR. HAYES: We will reserve signature.

Page 58

1 Thank you.
 2 (At 11:26 a.m. the deposition
 3 concluded.)
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 59

1 CERTIFICATE OF WITNESS
 2
 3
 4 I, CARRIE E. POMIJE, have read the
 5 foregoing page and the corrections, if any, having been
 6 noted. The same is now a true and correct transcript
 7 of my testimony.
 8
 9
 10 _____
 11 CARRIE J. POMIJE
 12
 13 STATE OF WISCONSIN)
 14 _____ COUNTY)
 15
 16 Subscribed and sworn to before me this
 17 ____ day of _____, 2013.
 18
 19 _____
 20 Notary Public
 21 In and for the State of Wisconsin
 22 My commission expires _____, ____.
 23
 24
 25

Page 60

1 STATE OF WISCONSIN)
 2 MILWAUKEE COUNTY)
 3 I, KATHY A. HALMA, Registered
 4 Professional Reporter and Notary Public in and for the
 5 State of Wisconsin, do hereby certify that the
 6 deposition of CARRIE E. POMIJE, was taken before me at
 7 the law offices of MICHAEL, BEST & FRIEDRICH, LLP, One
 8 South Pinckney Street, Suite 700, Madison, Wisconsin,
 9 on the 8th day of January, 2013, commencing at 10:24
 10 o'clock in the forenoon.
 11 That it was taken at the instance of the
 12 Defendants upon verbal interrogatories.
 13 That said statement was taken to be used
 14 in an action now pending in the UNITED STATES DISTRICT
 15 COURT FOR THE WESTERN DISTRICT OF WISCONSIN, in which
 16 KATHLEEN MC HUGH, et al., are the Plaintiffs and
 17 MADISON-KIPP, et al., are the Defendants and
 18 MADISON-KIPP CORPORATION is the Cross-Claimant and
 19 CONTINENTAL CASUALTY COMPANY, et al., are the
 20 Cross-Complainants and LUMBERMENS MUTUAL CASUALTY
 21 COMPANY are the Third-Party Defendants.
 22 A P P E A R A N C E S
 23 THE COLLINS LAW FIRM, P.C, 1770 North
 24 Park Street, Suite 200, Naperville, Illinois, 60563, by
 25 MR. EDWARD J. MANZKE, ejmanzke@collinslaw.com, appeared
 on behalf of the Plaintiffs.

Page 61

1 VARGA, BERGER, LEDSKY, HAYES & CASEY,
125 South Wacker Drive, Suite 1250, Chicago, Illinois,
2 60606-4473, by MR. MICHAEL D. HAYES, mhayes@vblhc.com,
appeared on behalf of the Plaintiffs.

3
4 MICHAEL, BEST & FRIEDRICH, LLP, One
South Pinckney Street, Suite 700, Madison, Wisconsin,
53703, by MS. LEAH H. ZIEMBA and MR. ALBERT BIANCHI,
5 JR., lhziemba@michaelbest.com and
abianchi@michaelbest.com, appeared on behalf of
6 Madison-Kipp Corporation.

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

10 MEISSNER, TIERNEY, FISHER & NICHOLS,
S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee,
11 Wisconsin, 53202-6622, by MS. JENNIFER KREIL,
jbk@mtfn.com, appeared on behalf of United States Fire
12 Insurance Company.

13 DEUTCH & WEISS, LLC, 7670 North Port
Washington Road, Milwaukee, Wisconsin, 53217, by MR.
14 CHARLES W. KRAMER, charles.kramer@mweisslaw.net,
appeared on behalf of American Motorists Insurance
15 Company.

16 That said deponent, before examination,
17 was sworn to testify the truth, the whole truth, and
18 nothing but the truth relative to said cause.

19 That the foregoing is a full, true and
20 correct record of all the proceedings had in the matter
21 of the taking of said deposition, as reflected by my
22 original machine shorthand notes taken at said time and
23 place.

Page 62

1
2
3
4
5
6 _____
Notary Public in and
7 for the State of Wisconsin

8
9
10 Dated this 14th day of January, 2013,
11 Milwaukee, Wisconsin.