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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
DANIEL J. STEVENS
Madison, Wisconsin
January 8, 2013
12:13 p.m. to 1:05 p.m.
Kathy A. Halma, RPR

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1 and
2 CONTINENTAL CASUALTY COMPANY and
3 COLUMBIA CASUALTY COMPANY,
4 Cross-Claim Defendants
5 and
6 LUMBERMENS MUTUAL CASUALTY
7 COMPANY, AMERICAN MOTORISTS
8 INSURANCE COMPANY, and JOHN DOE
9 INSURANCE COMPANIES 1-20,
10 Third-Party Defendants.

11 A P P E A R A N C E S
12 THE COLLINS LAW FIRM, P.C., 1770 North
13 Park Street, Suite 200, Naperville, Illinois, 60563, by
14 MR. EDWARD J. MANZKE, ejmanzke@collinslaw.com, appeared
15 on behalf of the Plaintiffs.
16 VARGA, BERGER, LEDSKY, HAYES & CASEY,
17 125 South Wacker Drive, Suite 1250, Chicago, Illinois,
18 60606-4473, by MR. MICHAEL D. HAYES, mhayes@vblhc.com,
19 appeared on behalf of the Plaintiffs.
20 MICHAEL, BEST & FRIEDRICH, LLP, One
21 South Pinckney Street, Suite 700, Madison, Wisconsin,
22 53703, by MS. LEAH H. ZIEMBA and MR. ALBERT BIANCHI,
23 JR., lhziemba@michaelbest.com and
24 abianchi@michaelbest.com, appeared on behalf of
25 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.

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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 I N D E X
7 DANIEL J. STEVENS
8 By Mr. Bianchi.....5
9 By Mr. White.....26
10 E X H I B I T S
11 No. 1 Discovery Documents; PLF_230_S_MARQ_000001
12 to 000005.....5
13 No. 2 Answers to Defendant Madison-Kipp Corporation's
14 First Set of Interrogatories.....5
15 No. 3 Answers to Defendant United States Fire
16 Insurance Company's First Set of
17 Interrogatories.....5
18 No. 4 Responses to Defendant Madison-Kipp
19 Corporation's First Set of Requests for
20 Documents and Things.....5
21 No. 5 Responses to Defendant United States Fire
22 Insurance Company's First Set of Requests
23 for Production.....5
24
25

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1 (The original transcript was sent to Attorney
2 Bianchi.)
3
4
5 (The original exhibits were retained by the court
6 reporter and attached to the original transcript.
7 Copies were attached to all ordered copies.)
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<p>1 TRANSCRIPT OF PROCEEDINGS 2 (Exhibits 1 through 5 were marked.) 3 DANIEL J. STEVENS, 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 afternoon. 10 A Thank you. 11 Q Could you please state and spell your name for 12 the record. 13 A Daniel J. Stevens. Last name is S-T-E-V-E-N-S. 14 D-A-N-I-E-L. Middle initial is J. 15 Q And what's your address? 16 A My home address? 17 Q Your home address. 18 A 5314 Knightsbridge Road, Madison, 53714. 19 Q And where in Madison is that? 20 A It's on the far east side. 21 Q And how far is it from the 230 South Marquette 22 Street home? 23 A About ten minutes; three, four miles. 24 Q Have you ever been deposed before? 25 A No, never have.</p>	<p>1 of industry is that? 2 A The best way to describe them is probably very 3 similar to teletype. They were automatic 4 typewriters, some accounting equipment. 5 Q What was your involvement with that? 6 A I was the repairman. 7 Q What were the dates that you were involved in the 8 business machine industry? 9 A Approximately 1962 to 1969. 10 Q Were you living in Madison at that time? 11 A Part of the time. 12 Q Where were you living the other part of the time? 13 A Milwaukee. 14 Q Are you from Wisconsin? 15 A Nebraska originally. 16 Q When did you move to Wisconsin? 17 A 1962. 18 Q When did you get into real estate? 19 A 1969. 20 Q And you said you did that for 20 years? 21 A Almost 30. 22 Q And then fair to say you retired? 23 A Yes. 24 Q Currently are you employed? 25 A The best answer to that is yes, but I'm kind of</p>
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<p>1 Q I'm going to give you a couple quick ground rules 2 then that will kind of make this hopefully go 3 smoothly, and also because it sometimes can be a 4 little awkward, because the way that we need to 5 converse is because we have a court reporter 6 here, Kathy, who's taking everything down, we 7 need to talk separately. So even if you know the 8 answer to my question, just let me finish, and I 9 will try to also let you finish your responses. 10 A Okay. 11 Q And we also need verbal responses so that she can 12 type them all down. If at any time you need to 13 get up, take a break, use the restroom, you want 14 some more water or something, just let me know. 15 A Okay. 16 Q Mr. Stevens, what is your educational background? 17 A Twelve years of high school, a few odd courses 18 between here and there. 19 Q What kind of courses? 20 A I was involved in the business machine industry 21 for quite awhile, so mechanical courses of that 22 nature. I spent about 30 years as a real estate 23 agent, and I had a number of required courses in 24 that. 25 Q You said "business machine industry." What kind</p>	<p>1 in a retired mode. 2 Q And what employment is that? 3 A I'm involved in the courier business. I had a 4 courier business of my own that I operated for 5 awhile, and now I'm employed with another. 6 Q What was the name of the courier business? What 7 is the name of the courier business that you are 8 working for? 9 A Gold Cross Courier. 10 Q What do you do there? 11 A We haul medical specimens from the laboratory to 12 Fed Ex. 13 Q You said you owned a courier business. What was 14 the name of that? 15 A Daniel J. Stevens Courier Service. 16 Q And how long -- From what date to what date did 17 you own it? 18 A About 13 years. I ended in 2006. 19 Q What got you into the courier business? 20 A Pardon me? 21 Q What got you into the courier business? 22 A It was about the time I retired from real estate. 23 I was looking for something to do. 24 Q And this home on Knightsbridge, how long have you 25 lived there?</p>

Page 9	Page 11
<p>1 A Since 1983.</p> <p>2 Q Okay. And this home at 230 Marquette, did you</p> <p>3 ever live in that home?</p> <p>4 A Never have.</p> <p>5 Q So it was always purchased as a rental property?</p> <p>6 A Yes.</p> <p>7 Q Do you recall when you purchased it?</p> <p>8 A August 31, 1973, I believe is the date.</p> <p>9 Q And is it currently rented?</p> <p>10 A Yes, it is.</p> <p>11 Q Do any of the tenants smoke in the house?</p> <p>12 A I don't think so.</p> <p>13 Q Do you permit smoking in the home?</p> <p>14 A The issue has never come up.</p> <p>15 Q So you don't forbid smoking?</p> <p>16 A I don't forbid it.</p> <p>17 Q And how long have you current tenants lived in</p> <p>18 the home?</p> <p>19 A The downstairs tenant has been there since</p> <p>20 August, I believe. The upstairs tenant has been</p> <p>21 there a long time.</p> <p>22 Q You say August. August 2012? Is that what you</p> <p>23 are referring to?</p> <p>24 A Yes.</p> <p>25 Q And upstairs, long-time tenant, any kind of</p>	<p>1 A I pay the heat and water services.</p> <p>2 Q And are there appliances?</p> <p>3 A Yes.</p> <p>4 Q What appliances do you provide?</p> <p>5 A Range and refrigerator only.</p> <p>6 Q Any laundry?</p> <p>7 A There are hookups, but I don't supply any washer</p> <p>8 or dryer.</p> <p>9 Q Where are the hookups?</p> <p>10 A They are in the basement.</p> <p>11 Q How about for your upstairs renter?</p> <p>12 A Range and refrigerator, as well.</p> <p>13 Q Do you provide -- Is it a male or female</p> <p>14 upstairs?</p> <p>15 A Pardon me?</p> <p>16 Q Are the renters upstairs one person? A family?</p> <p>17 A One person.</p> <p>18 Q A woman?</p> <p>19 A No, a single man.</p> <p>20 Q Does he have laundry in the basement?</p> <p>21 A No.</p> <p>22 Q Do you know what the basement is used for?</p> <p>23 A It's pretty much vacant.</p> <p>24 Q How long has it been vacant?</p> <p>25 A I don't think any of my tenants have ever used it</p>
Page 10	Page 12
<p>1 estimate? Five years?</p> <p>2 A It will be in excess of 25 years.</p> <p>3 Q How did you obtain the renter in the downstairs?</p> <p>4 A I typically have been using some internet</p> <p>5 sources.</p> <p>6 Q So this person found the property on the internet</p> <p>7 and --</p> <p>8 A Yes.</p> <p>9 Q And previous to the current renter who started</p> <p>10 renting in August 2012 downstairs, how long had</p> <p>11 the previous downstairs tenant lived there?</p> <p>12 A They were there a year.</p> <p>13 Q Does the current downstairs tenant pay a</p> <p>14 different rent than the previous downstairs</p> <p>15 tenant?</p> <p>16 A Yes.</p> <p>17 Q More or less?</p> <p>18 A A little bit more.</p> <p>19 Q What was the rent for the previous downstairs</p> <p>20 renter?</p> <p>21 A Previous was 875, and the current rent is 900.</p> <p>22 Q You believe that's fair market value for that</p> <p>23 property?</p> <p>24 A It might be a little under.</p> <p>25 Q And what is provided to the renters?</p>	<p>1 to any large extent.</p> <p>2 Q Did you have any difficulty obtaining the current</p> <p>3 renter in the downstairs unit?</p> <p>4 A This last time it seemed to take longer to find</p> <p>5 the tenant.</p> <p>6 Q Did the property ever go unrented, the</p> <p>7 downstairs?</p> <p>8 A Yes, it was vacant for half-a-month.</p> <p>9 Q Was the rent paid for, though, for the full</p> <p>10 month? Like did the tenant leave early?</p> <p>11 A The previous tenant was paid fully until the time</p> <p>12 he left.</p> <p>13 Q And so that half-a-month that it was vacant it</p> <p>14 had still been paid for, is that correct?</p> <p>15 A No, it was just vacant. I hadn't yet rented it.</p> <p>16 Q Do you know approximately how many people you had</p> <p>17 come and visit the property or --</p> <p>18 A How many showings?</p> <p>19 Q Yes, showings.</p> <p>20 A Somewhere between six and ten.</p> <p>21 Q And do you manage the property?</p> <p>22 A Yes, I do.</p> <p>23 Q I'm going to give you what's been marked as</p> <p>24 Exhibit 1. I'm just going to have you kind of</p> <p>25 look through it a little bit. It's only a couple</p>

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<p>1 pages, I think four or five, five. I'm going to 2 represent to you that these are the documents 3 that you provided in response -- you likely 4 provided to your attorney in response to document 5 requests that we issued. Does that sound right? 6 A They appear to be. 7 Q Okay. And I'm going to have you look at 8 specifically -- If you see in the lower, 9 right-hand corner, there's kind of some letters 10 and then numbers. The letters are 11 PLF_230_S_MARQ. 12 A Yes, I see that. 13 Q And I'm going to have you look at the page that 14 starts with 000002. I'll just have you look at 15 that and then the next page that's 3. 16 A The one with the zeroes and the five? 17 Q No, no, the zeroes and the 2 and the zeroes and 18 the 3. It's the property search results. 19 MR. MANZKE: There you go. It's those 20 two (indicating). 21 THE WITNESS: I have those. 22 BY MR. BIANCHI: 23 Q Can you look over those pages and tell me if 24 there's any information that's incorrect that you 25 would recognize.</p>	<p>1 year. 2 Q And how about the upstairs tenant? 3 A The same. 4 Q And is the upstairs rent the same as the 5 downstairs? 6 A No, it's much less. 7 Q And why is that? 8 A It's a long-time tenant. 9 Q What's the upstairs rent? 10 A 705. 11 Q I'm going to have you look at -- This is Exhibit 12 No. 2, and if you could just read this bottom 13 portion for me, please. 14 A "Class Members' (Dan to Pamela Stevens) Answers 15 to Defendant Madison-Kipp Corporation's First Set 16 of Interrogatories." 17 Q Okay. I will have you look through the document 18 and please confirm for me that these are the 19 answers that you provided. 20 A This looks familiar. 21 Q Okay. 22 A And that is my signature. 23 Q All right. I'm going to have you turn to Page 24 No. 4 and look at Paragraph 5. The second 25 sentence says, "Subject to, and without waiving</p>
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<p>1 A The bedroom information is not correct. 2 Q How many bedrooms are there? 3 A There's two bedrooms with each unit. The rest of 4 it appears to be correct. 5 Q Have you ever -- Do you see at the top of the 6 page it shows the assessment is \$164,500? 7 A Yes. 8 Q Have you ever tried to reduce that assessment? 9 A Not on that building. 10 Q You have done it before on other buildings? 11 A Yes. 12 Q Do you know the process to do it? 13 A I'm familiar with it, yes. 14 Q And you currently said that the basement is 15 vacant. Do you provide the tenants with 16 permission to use the basement, though? 17 A Its open for their usage. 18 Q Have you ever had the basement or the home tested 19 for radon? 20 A No. 21 Q Have you made any attempts to sell the building? 22 A No. 23 Q And how long is the current lease that you have 24 with the downstairs tenant? 25 A I believe that expires in July of 2013, this</p>	<p>1 their objection, we do not believe that the value 2 of our property can be restored." Why is that? 3 A Well, there's a public perception of the problem 4 that exists there, and until that goes away, you 5 are just not going to find many buyers for that 6 property. 7 Q Do you have plans to sell the property? 8 A Yes, I do. 9 Q Have you tried to sell the property? 10 A No. 11 Q Do you believe that the city's assessment of the 12 property's value is wrong? 13 A That's really difficult to say, because there's 14 been no comparable sales. 15 Q Do you know of any other appraisals that have 16 been done in the neighborhood? 17 A I have some basic knowledge of another one. A 18 friend of mine owns a property down the street 19 that he tried to sell and couldn't. 20 Q And who is that? 21 A Peter Uttech. 22 Q But you have made no attempts to try and sell the 23 property? 24 A No. 25 Q And have you had any appraisals done on the</p>

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<p>1 property within the last ten years?</p> <p>2 A Not on that, no.</p> <p>3 Q Do you have a mortgage on the property?</p> <p>4 A No.</p> <p>5 Q Have you taken any equity out of it?</p> <p>6 A No.</p> <p>7 Q When you purchased the property in 1973, were you</p> <p>8 aware that Madison-Kipp was nearby?</p> <p>9 A Oh, sure.</p> <p>10 Q Did you believe that that had any impact on the</p> <p>11 value of the property?</p> <p>12 A I didn't consider that at the time.</p> <p>13 Q Why is that?</p> <p>14 A Well, the market was really strong at that point.</p> <p>15 Q Did you have any concerns about Madison-Kipp</p> <p>16 being there?</p> <p>17 A I didn't at the time, no.</p> <p>18 Q Did you ever have any problems with Madison-Kipp</p> <p>19 while owning the property?</p> <p>20 A No, not at all.</p> <p>21 Q Any of your tenants report any problems with</p> <p>22 Madison-Kipp?</p> <p>23 A They would complain about the noise from time to</p> <p>24 time.</p> <p>25 Q That's it?</p>	<p>1 of pollution and contamination issues with</p> <p>2 Madison-Kipp?</p> <p>3 A There were articles in the newspaper.</p> <p>4 Q And what did you do upon reading those newspaper</p> <p>5 articles?</p> <p>6 A There wasn't much to do. There wasn't anything</p> <p>7 that I could do.</p> <p>8 Q Did you contact the DNR?</p> <p>9 A No.</p> <p>10 Q The City Department of Health?</p> <p>11 A No.</p> <p>12 Q State Department of Health?</p> <p>13 A No.</p> <p>14 Q Did you talk to your tenants about it at all?</p> <p>15 A Not immediately.</p> <p>16 Q When did you talk to your tenants about it?</p> <p>17 A Well, the subject didn't come up until the</p> <p>18 current tenants moved in.</p> <p>19 Q And how did it come up?</p> <p>20 A They wanted to know what's that, pointing to</p> <p>21 Kipp.</p> <p>22 Q Just what the company was?</p> <p>23 A Yes, and they wanted to know what the problems</p> <p>24 were, and I had to disclose to them what was</p> <p>25 going on.</p>
Page 18	Page 20
<p>1 A That's it to my knowledge.</p> <p>2 Q Did you ever have any communications with anybody</p> <p>3 at Madison-Kipp over the years?</p> <p>4 A Yes.</p> <p>5 Q Do you know their names, any of them?</p> <p>6 A One gentleman I talked to is Reid Coleman.</p> <p>7 Q What kind of conversations did you have with</p> <p>8 Reid?</p> <p>9 A They had purchased an adjoining property on the</p> <p>10 corner, and not too long after they purchased it</p> <p>11 they converted the usage into a parking lot and</p> <p>12 paved it. This resulted in water running from</p> <p>13 their parking lot down into my property.</p> <p>14 Q So your conversation with Reid was about that?</p> <p>15 A Related to diverting the water elsewhere, which</p> <p>16 they did.</p> <p>17 Q What exactly did they do?</p> <p>18 A Built a pretty good size curb around the edge of</p> <p>19 the parking lot area and diverted it out to the</p> <p>20 street.</p> <p>21 Q And did that resolve the property?</p> <p>22 A It did.</p> <p>23 Q Any other interactions with Reid?</p> <p>24 A No.</p> <p>25 Q How did you first become aware of the allegations</p>	<p>1 Q What exactly did you disclose to them?</p> <p>2 A I told them basically there were articles in the</p> <p>3 newspaper about contamination of the soil and</p> <p>4 groundwater and what have you.</p> <p>5 Q Did you tell them whether you believed your</p> <p>6 property had been contaminated at all?</p> <p>7 A I didn't know that my property had been</p> <p>8 contaminated, just that there were articles in</p> <p>9 the newspaper and it covered pretty much the</p> <p>10 whole area.</p> <p>11 Q Has your property ever been tested for any</p> <p>12 potential contamination?</p> <p>13 A The best answer is I don't know. I was contacted</p> <p>14 about that, a gentleman came over and did some</p> <p>15 work in the basement, but I don't know any</p> <p>16 results of any testing that they may have done.</p> <p>17 Q Would you want your home to be tested?</p> <p>18 A I believe I did already agree to that.</p> <p>19 Q Have you ever contacted the DNR or anybody at</p> <p>20 Madison-Kipp to obtain testing?</p> <p>21 A DNR, yes.</p> <p>22 Q And who did you contact there?</p> <p>23 A I don't recall the name. There was some mail</p> <p>24 that came, as I recall, or I got a telephone</p> <p>25 call, I forget which, that was the result, and</p>

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<p>1 they wanted access to the basement, which I gave</p> <p>2 them.</p> <p>3 Q And did you tell your tenants to give the DNR</p> <p>4 access to the basement, as well?</p> <p>5 A No, but I told the tenants that I had given</p> <p>6 access.</p> <p>7 Q So after disclosing to the current tenants these</p> <p>8 kind of general issues, was there any further</p> <p>9 conversation about the contamination?</p> <p>10 A Yes, they decided they needed to think it over</p> <p>11 whether they were going to rent or not.</p> <p>12 Q And they eventually decided to?</p> <p>13 A They eventually did.</p> <p>14 Q Was there any kind of reduction in rent?</p> <p>15 A No.</p> <p>16 Q I know you have owned the home for a long time,</p> <p>17 since 1973. What kind of changes and</p> <p>18 improvements have you made to the home?</p> <p>19 A Well, there's been some general maintenance in</p> <p>20 terms of a new roof.</p> <p>21 Q When was that, the new roof?</p> <p>22 A Actually, just about a year ago. Refurbishing</p> <p>23 the inside from time to time.</p> <p>24 Q Do you know was there a city permit obtained for</p> <p>25 the reroof of the house?</p>	<p>1 again?</p> <p>2 A "Class Members' (Dan and Pamela Stevens) Answers</p> <p>3 to Defendant United States Fire Insurance</p> <p>4 Company's First Set of Interrogatories."</p> <p>5 Q And do you recognize these, as well? These are</p> <p>6 your responses to those?</p> <p>7 A Yes, that looks familiar and that, again, is my</p> <p>8 signature.</p> <p>9 Q Okay. Let's do the same thing with Exhibit</p> <p>10 No. 4, please.</p> <p>11 A You want me to read this, as well?</p> <p>12 Q Correct, please. Thank you.</p> <p>13 A "Class Members' (Dan and Pamela Stevens)</p> <p>14 Responses to Defendant Madison-Kipp Corporation's</p> <p>15 First Set of Requests for Documents and Things."</p> <p>16 Q And in response to this request you provided</p> <p>17 those documents that were in Exhibit 1, about</p> <p>18 five documents. Does that sound right?</p> <p>19 A Yes, that's about right.</p> <p>20 Q And let's go to Exhibit 5.</p> <p>21 A "Class Members' (Dan and Pamela Stevens)</p> <p>22 Responses to Defendant United States Fire</p> <p>23 Insurance Company's First Set of Requests for</p> <p>24 Production."</p> <p>25 Q And do you remember receiving this and providing</p>
Page 22	Page 24
<p>1 A Yes.</p> <p>2 Q Any other major remodeling since you purchased</p> <p>3 the home?</p> <p>4 A No.</p> <p>5 Q So no like adding new bathrooms?</p> <p>6 A No.</p> <p>7 Q Do you know whether there is any contamination on</p> <p>8 your property?</p> <p>9 A I don't know.</p> <p>10 Q So when you say the home has lost value, that's</p> <p>11 your understanding based on the effect on the</p> <p>12 neighborhood in general?</p> <p>13 A Yes.</p> <p>14 Q Not on your specific home?</p> <p>15 A That's right.</p> <p>16 Q Has anyone ever told you that it would be</p> <p>17 dangerous to use the basement in the home?</p> <p>18 A No.</p> <p>19 MR. BIANCHI: Let's take a quick break.</p> <p>20 (A recess was taken.)</p> <p>21 BY MR. BIANCHI:</p> <p>22 Q A couple more things. I'm going to go through a</p> <p>23 couple additional documents here just to get them</p> <p>24 on the record as exhibits. What's been marked as</p> <p>25 Exhibit 3, can you read the little bottom portion</p>	<p>1 responses, as well?</p> <p>2 A I don't remember this one. I don't see my</p> <p>3 signature anywhere or my wife's signature. I may</p> <p>4 have seen it, I just don't recall it.</p> <p>5 Q Now you said you were a realtor for 30 years?</p> <p>6 A Just about, yes.</p> <p>7 Q Where were you a realtor?</p> <p>8 A In Madison.</p> <p>9 Q Just Madison, Dane County?</p> <p>10 A Madison, Dane County.</p> <p>11 Q And were you ever involved in the sale of a home</p> <p>12 that had any kind of environmental contamination</p> <p>13 issues? Radon, maybe?</p> <p>14 A Towards the latter part of the time, say the last</p> <p>15 year or two, radon was a matter of concern to any</p> <p>16 number of people, and most of the offers to</p> <p>17 purchases that I dealt with had some kind of</p> <p>18 clause in there with respect to a radon test.</p> <p>19 Q And did that affect the value of the home?</p> <p>20 A In my cases, no, because none of them came back</p> <p>21 with radon or a large enough sample to cause</p> <p>22 concern.</p> <p>23 Q When you say "a large enough sample," you mean in</p> <p>24 some cases there might have been a detection, but</p> <p>25 it wasn't --</p>

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<p>1 A It wasn't of a certain level.</p> <p>2 Q If it didn't hit a certain level, then it didn't</p> <p>3 affect the value of the home?</p> <p>4 A To my knowledge, no.</p> <p>5 Q And in looking at the current neighborhood, that</p> <p>6 230 Marquette Street, have you done kind of an</p> <p>7 examination as you would as a realtor to</p> <p>8 determine whether the property could be sold</p> <p>9 right now?</p> <p>10 A I have not tried to sell the property, so I</p> <p>11 haven't done anything in that regard.</p> <p>12 Q Like have you searched for other comparables?</p> <p>13 A No. Well, I should amend that. I have gone up</p> <p>14 and down the street looking for comparables, and</p> <p>15 there are none.</p> <p>16 Q Why do you say there are none?</p> <p>17 A Well, at least I didn't find any.</p> <p>18 Q That are currently for sale, you mean?</p> <p>19 A That and ones that have sold recently.</p> <p>20 Q And as far as your renters, do you have like</p> <p>21 written rental agreements with them?</p> <p>22 A I have leases, yes.</p> <p>23 Q Signed leases?</p> <p>24 A Yes.</p> <p>25 Q And the renter upstairs, do you have any reason</p>	<p>1 Q Do you own other rental properties in addition to</p> <p>2 the property on Marquette Street?</p> <p>3 A Yes, I do.</p> <p>4 Q How many other properties do you own?</p> <p>5 A Eight others in total. I have a total of nine.</p> <p>6 Q Are they all in Madison?</p> <p>7 A Yes. Well, no, one is in Monona, but the Madison</p> <p>8 metropolitan area.</p> <p>9 Q Do you believe the assessment on the Marquette</p> <p>10 Street property to be accurate?</p> <p>11 A I really have no way of knowing, because we can't</p> <p>12 test it.</p> <p>13 Q When you said you have gone through the process</p> <p>14 of challenging the assessed values on other</p> <p>15 properties, is that on the other -- some of the</p> <p>16 other eight properties that you own for rental</p> <p>17 purposes?</p> <p>18 A No, I didn't compare it to that, because that's a</p> <p>19 two-unit building, and although I have other</p> <p>20 two-unit buildings, the ratios are different.</p> <p>21 Q What other properties have you gone through the</p> <p>22 process of challenging an assessment on?</p> <p>23 A I'm sorry. What?</p> <p>24 Q On what other properties have you gone through</p> <p>25 the process of challenging the assessed value?</p>
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<p>1 to believe that he doesn't intend to rent next</p> <p>2 year from you?</p> <p>3 A I have no indication of that.</p> <p>4 Q Do you know why the people who were renting until</p> <p>5 this past July of 2012, why they stopped renting?</p> <p>6 A Yes, I do.</p> <p>7 Q Why is that?</p> <p>8 A It was a man and a woman, and they had a breakup.</p> <p>9 Q Were you ever involved in the sale of a home that</p> <p>10 had a radon mitigation system in it?</p> <p>11 A No.</p> <p>12 MR. BIANCHI: I don't have any other</p> <p>13 questions.</p> <p>14 EXAMINATION</p> <p>15 BY MR. WHITE:</p> <p>16 Q Hello. My name is Chris White. I represent</p> <p>17 Continental Casualty Company and Columbia</p> <p>18 Casualty Company, which are some of</p> <p>19 Madison-Kipp's insurance companies. I have just</p> <p>20 a couple additional questions for you.</p> <p>21 A Okay. You might want to speak up a little bit,</p> <p>22 because I'm getting old and hard of hearing.</p> <p>23 Q I'm sorry. I will be sure to do that. Can you</p> <p>24 hear me now?</p> <p>25 A Yes.</p>	<p>1 A I have a property on East Washington Avenue.</p> <p>2 This goes back some years. The assessed</p> <p>3 valuation at the time was about \$60,000, and the</p> <p>4 building immediately in back of my building,</p> <p>5 which is an identical building, had just sold for</p> <p>6 50. I appealed that and lost.</p> <p>7 Q Is that the only assessment appeal that you have</p> <p>8 made?</p> <p>9 A Yes. Well, let me amend that. There's an</p> <p>10 informal process of calling up the Assessor's</p> <p>11 Office and telling them you don't like a</p> <p>12 particular assessment. They may say something</p> <p>13 like, "Well, what would you agree to," and if you</p> <p>14 tell them you want something, they may agree to</p> <p>15 it, if it's a small amount. Otherwise they</p> <p>16 won't.</p> <p>17 Q Have you asked for an informal reduction to your</p> <p>18 assessment on any of your rental properties?</p> <p>19 A Not in recent memory.</p> <p>20 Q Are there some that are -- you have done further</p> <p>21 in the past?</p> <p>22 A Yes, I believe so.</p> <p>23 Q About how long ago?</p> <p>24 A Probably ten years or more.</p> <p>25 Q Have you made any efforts to have any sort of</p>

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<p>1 informal conversation with the Assessor's Office 2 about the assessment on the Marquette Street 3 property? 4 A No. 5 Q Do you have a mitigation system installed on the 6 Marquette Street property? 7 A No. 8 Q Do you have any plans to install one? 9 A That remains to be seen. 10 Q Remains to be seen based on what? 11 A If this is something that needs to be done and is 12 required, we will certainly do that. 13 Q How will you determine if it needs to be done? 14 A Once I get the results of the testing that's done 15 there, then it would be likely to be done if it 16 showed that there was contamination at the site. 17 Q If all of the test results on your property were 18 to come back with complete non-detects, do you 19 believe it would be wise to install a mitigation 20 system? 21 A In terms of marketing, it probably would be. 22 Q As far as marketing is concerned, you mentioned 23 earlier that you hadn't tried to sell the 24 property, but you had some plans to sell the 25 property?</p>	<p>1 Electric is about \$80 a month for gas. Water and 2 sewer will run pretty close to \$600 a year total 3 for the entire building. 4 Q Do you have any other monthly costs associated 5 with maintaining the Marquette Street property? 6 A Well, I pay everything else on an annual basis or 7 any repair expenses I pay as they accrue. What 8 I'm thinking of is if maybe you are referring to 9 annual taxes, that's paid in an annual 10 installment. 11 Q What are the annual taxes on the property? 12 A This year the 2012 taxes I believe are about 13 \$3,300 or \$3,400. 14 Q Do you have insurance on the property? 15 A Yes. 16 Q What's your insurance cost? 17 A That's changing, so I can't give you a good -- an 18 accurate answer, but I'm guessing about \$700 per 19 annum. 20 Q So when you add up all of the costs of 21 maintaining and operating the Marquette Street 22 property and compare that to the rent that you 23 receive from your tenants, it sounds to me like 24 the Marquette Street property is a profitable one 25 for you. Is that accurate?</p>
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<p>1 A Yes. 2 Q Can you elaborate on what your plans are for the 3 Marquette Street property? 4 A Sure. I'm 72-years-old, and by the time I'm 80, 5 I don't want to own these things anymore. 6 Q Just because you want to go from being 7 semi-retired to being fully retired? 8 A Yes, that describes it pretty fully. 9 Q So at some point in the next eight years you 10 would like to sell these properties. Is that an 11 accurate assessment? 12 A Yes. 13 Q I know earlier you mentioned that you provided 14 your tenants with water and gas. Did I hear that 15 correctly? 16 A That's right, natural gas, water and sewer 17 service. 18 Q And what is the approximate monthly charge for 19 those utilities you provide to your tenants? 20 A Well, there's just one furnace and one water 21 heater, so there's just one gas bill which is 22 incorporated with the first floor apartment. The 23 upstairs tenants pays his own gas, which is 24 cooking. I should have checked that, but I 25 believe my current budget plan with Madison Gas &</p>	<p>1 A That's accurate. 2 Q Has it generally always been a profitable 3 property for you going back to 1973? 4 A Perhaps not in the very early years. Within five 5 years or so it should have been profitable. 6 Q And has the property been continuously profitable 7 from 1978 or so continuously to the present? 8 A Yes. 9 Q The upstairs tenant, what is his name? 10 A Jones, Richard Jones. Or Frederick. I'm sorry. 11 Frederick Jones. 12 Q The current rent Mr. Jones pays is \$705? 13 A \$705, yes. 14 Q And you said he'd been there 25 years or so? 15 A I believe the initial lease was 1979. 16 Q So he's been there more than 30 years? 17 A Yes. 18 Q I realize this is going way back in time, but do 19 you happen to recall about what the rent was in 20 1979? 21 A About \$235 I think was his first month's rent. 22 Q From the time the rent was \$235 in 1979 until its 23 current value, has it just sort of gradually 24 increased over time? 25 A Yes.</p>

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<p>1 Q Has Mr. Jones requested any reduction to his rent 2 as a result of the issues with Madison-Kipp? 3 A No, he hasn't. 4 Q With respect to the downstairs unit, what are the 5 names of the tenants who lived there? 6 A Adam and Tonya Striefer. 7 Q And the rent that the Striefers pay is \$900, you 8 said? 9 A That's right. 10 Q And then prior to the Striefers, you said there 11 was another couple that lived there, and that's 12 the couple that got divorced? 13 A Yes. 14 Q And your understanding is the reason they moved 15 out is because they got divorced? 16 A Yes. 17 Q And not because of anything having to do with 18 Madison-Kipp? 19 A I believe that's right. 20 Q Well, do you remember the name of that couple? 21 A The man's name was Davis, Tyler Davis. The 22 woman's name was a long Polish name, and I don't 23 know if I could even pronounce it. 24 Q That's fine. Approximately how long did 25 Mr. Davis and his ex-wife live in the unit?</p>	<p>1 any difficulty finding a new tenant? 2 A No, not at that time. 3 Q Earlier you mentioned Peter Uttech? 4 A Yes. 5 Q A neighbor from down the street? 6 A Yes. 7 Q Did I understand that you had some conversations 8 with Mr. Uttech about his attempts to sell his 9 house? 10 A Yes. 11 Q Could you describe those conversations to me? 12 A I have known Pete for quite some time, and we do 13 talk on occasion about other things, as well, but 14 in this particular case he was relating to me the 15 difficulty he was having trying to sell. It was 16 difficult for him, number one, to get a buyer to 17 begin with. He did get an offer to purchase. 18 That buyer had difficulty obtaining financing and 19 it fell through. The second buyer came along and 20 was well qualified, but when he went to get a 21 mortgage, the mortgage lender would not make the 22 mortgage because of the adverse publicity, so 23 that deal fell apart. 24 Q When were these conversations? 25 A In the last year.</p>
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<p>1 A I don't believe she was his wife. They were just 2 living together. They moved out before the year 3 lease was over. I think maybe about three months 4 prior to the time that it was ready to expire. 5 Q How long had Mr. Davis lived there? 6 A When he left, it had been a year. 7 Q Was the unit rented prior to the time that 8 Mr. Davis lived there? 9 A I'm sorry? 10 Q Was the unit rented prior to the time that 11 Mr. Davis lived there? 12 A Yes. 13 Q And do you remember the name of that tenant? 14 A Not without getting into my records. 15 Q Do you recall how long that tenant had lived 16 there? 17 A I believe they were there for two years. 18 Q Generally speaking, apart from occasional gaps of 19 a few weeks or a month or two, have both units 20 been continuously rented from the 1970s through 21 the present? 22 A That's essentially true. The downstairs unit I 23 recently refurbished, and that took several 24 months, but that was at my option. 25 Q Once the unit was refurbished, you didn't have</p>	<p>1 Q Did Mr. Uttech identify for you what the basis of 2 his understanding was, the difficulty of the 3 sales were due to Madison-Kipp? 4 A I don't know if I could tell you precisely, but 5 my recollection is that it had to do with the 6 lender's knowledge of the controversy in the 7 area. 8 Q Do you know if Mr. Uttech had spoken with the 9 lender directly? 10 A No, I don't know. 11 Q Do you know if Mr. Uttech was relating 12 conversations with his realtor to you? 13 A I don't know that. 14 Q Do you have any specific information about the 15 source of the information that Mr. Uttech was 16 providing to you? 17 A No. Other than what he had told me, none. 18 Q Have you, during the course of time that you have 19 owned the property, done any paint stripping? 20 A No. 21 Q Have you had any issues with peeling or chipping 22 paint in the house? 23 A No. 24 Q Have you done any renovation work that involved 25 demolishing old building materials and then</p>

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<p>1 putting in new building materials? 2 A No. I will amend that slightly. I put in some 3 new closet doors, so -- 4 Q Did you just remove the old closet doors and put 5 new doors in or did you change the shape of the 6 doorway? 7 A I had to change the framing slightly. 8 Q Did you do that yourself or did you hire a 9 professional? 10 A I did it. 11 Q Prior to doing that work on the closet, did you 12 make any effort to determine if the wall material 13 contained any asbestos? 14 A No, I didn't. 15 Q Now earlier I believe you said that you live on 16 Knightsbridge Road here in Madison? 17 A That's right. 18 Q And you have lived there since 1983, 19 approximately? 20 A Yes. 21 Q Where did you live prior to the Knightsbridge 22 Road address? 23 A It's a tongue-twister, isn't it. 5604 Brim Trim 24 Road in Madison. 25 Q Where relative to Madison-Kipp is the Brim Trim</p>	<p>1 MS. KREIL: I have no questions. 2 MS. KRAMER: No questions. 3 MR. MANZKE: Okay. 4 MR. BIANCHI: All done. 5 MR. MANZKE: We will reserve. Thanks, 6 Dan. You are finished and I'm your taxi service. 7 (At 1:05 p.m. the deposition concluded.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 Road address? 2 A About two to three miles south. 3 Q How long did you live at that address? 4 A From 1970 or '71 to 1983. About 15 years. 5 Q Are you married? 6 A Yes. 7 Q When were you married? 8 A 1965. 9 Q And have you and your wife lived together 10 continuously from 1965 through the present? 11 A Yes. 12 Q Do you have any children? 13 A Yes. 14 Q How many children do you have? 15 A Four. 16 Q Did your children live with you continuously from 17 the time they were born until they left home to 18 go off to work or off to college? 19 A Yes. 20 Q In this lawsuit are you claiming that you 21 sustained any damages between January 1st of 1980 22 and January 1st of 1987? 23 A No. 24 MR. WHITE: That's all I have. Thank 25 you very much.</p>	<p>1 CERTIFICATE OF WITNESS 2 3 4 I, DANIEL J. STEVENS, 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 DANIEL J. STEVENS 11 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</p>

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<p>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 DANIEL J. STEVENS, 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 12:13 10 o'clock in the afternoon. 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.</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>Notary Public in and for the State of Wisconsin</p> <p>Dated this 14th day of January, 2013, Milwaukee, Wisconsin.</p>
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<p>1 VARGA, BERGER, LEDSKY, HAYES & CASEY, 2 125 South Wacker Drive, Suite 1250, Chicago, Illinois, 3 60606-4473, by MR. MICHAEL D. HAYES, mhayes@vblhc.com, appeared on behalf of the Plaintiffs. 4 MICHAEL, BEST & FRIEDRICH, LLP, One 5 South Pinckney Street, Suite 700, Madison, Wisconsin, 6 53703, by MS. LEAH H. ZIEMBA and MR. ALBERT BIANCHI, 7 JR., lhziemba@michaelbest.com and 8 abianchi@michaelbest.com, appeared on behalf of Madison-Kipp Corporation. 9 TROUTMAN SANDERS, LLP, 55 West Monroe 10 Street, Suite 3000, Chicago, Illinois, 60603-5758, by 11 MR. CHRISTOPHER H. WHITE, 12 christopher.white@troutmansanders.com, appeared on behalf of the Defendant Continental Casualty Company. 13 MEISSNER, TIERNEY, FISHER & NICHOLS, 14 S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee, 15 Wisconsin, 53202-6622, by MS. JENNIFER KREIL, 16 jbk@mtfn.com, appeared on behalf of United States Fire 17 Insurance Company. 18 DEUTCH & WEISS, LLC, 7670 North Port 19 Washington Road, Milwaukee, Wisconsin, 53217, by MR. 20 CHARLES W. KRAMER, charles.kramer@mweisslaw.net, 21 appeared on behalf of American Motorists Insurance 22 Company. 23 That said deponent, before examination, 24 was sworn to testify the truth, the whole truth, and 25 nothing but the truth relative to said cause. That the foregoing is a full, true and correct record of all the proceedings had in the matter of the taking of said deposition, as reflected by my original machine shorthand notes taken at said time and place.</p>	