

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
KATHLEEN M. MC HUGH
Madison, Wisconsin
February 21, 2013
12:07 p.m. to 12:52 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,
Third-Party Defendants.

A P P E A R A N C E S

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

11 Park Street, Suite 200, Naperville, Illinois, 60563, by

12 MR. EDWARD J. MANZKE, ejmanzke@collinslaw.com, appeared

13 on behalf of the Plaintiffs.

14 MICHAEL, BEST & FRIEDRICH, LLP, One

15 South Pinckney Street, Suite 700, Madison, Wisconsin,

16 53703, by MS. LEAH H. ZIEMBA and MR. ALBERT BIANCHI,

17 JR., lhziemba@michaelbest.com and

18 abianchi@michaelbest.com, appeared on behalf of

19 Madison-Kipp Corporation.

20 TROUTMAN SANDERS, LLP, 55 West Monroe

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

22 MR. CHRISTOPHER H. WHITE,

23 christopher.white@troutmansanders.com, appeared on

24 behalf of the Defendant Continental Casualty Company.

25 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.

NISTLER LAW OFFICE, S.C., 3235 North

124th Street, Brookfield, Wisconsin, 53005, by MR.

MICHAEL F. TUCHALSKI, mtuchalski@nistlerlaw.com,

jcondon@nistlerlaw.com, appeared on behalf of American

Motorists Insurance Company.

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.)

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Page 5

1 TRANSCRIPT OF PROCEEDINGS
 2 (Exhibits 1 through 6 were marked.)
 3 KATHLEEN M. MC HUGH, 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. Will you please state and spell
 10 your full name for the record.
 11 A Kathleen, K-A-T-H-L-E-E-N, Mary, M-A-R-Y, McHugh,
 12 M-C-H-U-G-H.
 13 Q And what is your home address?
 14 A 146 South Marquette Street, Madison, Wisconsin,
 15 53704.
 16 MR. BIANCHI: And just kind of a
 17 procedural thing. There are actually 2 through
 18 6, because there was two responses to the
 19 document requests, one before the class was
 20 certified and one was after, so just confirm
 21 those are what they say.
 22 MR. MANZKE: Yes, Exhibits 2 through 6
 23 are the plaintiffs' responses to those discovery
 24 requests.
 25 BY MR. BIANCHI:

Page 6

1 Q Okay. And Ms. McHugh -- Is it McHugh?
 2 A McHugh, and it sounds like McHugh. Sorry.
 3 Q No, no, I just want to make sure I say it right.
 4 Ms. McHugh, what's your educational background?
 5 A I have a bachelor's in social work and I'm
 6 currently working on my Montessori certification.
 7 Q And where did you get your bachelor's from?
 8 A UW-Oshkosh.
 9 Q And what year did you graduate?
 10 A 2004.
 11 Q And when will you complete your certificate or
 12 intend to complete your certificate?
 13 A End of March, 2013.
 14 Q And are you currently employed?
 15 A Yes.
 16 Q Who is your employment?
 17 A Toad Hill Children's House.
 18 Q And what do you do there?
 19 A I'm the lead teacher in the classroom for two and
 20 one-half to six-year-olds.
 21 Q And that's a Montessori school, I take it?
 22 A Yes.
 23 Q Where is that located?
 24 A East side of Madison.
 25 Q How long have you worked there?

Page 7

1 A Since 2007, June 2007.
 2 Q And where did you work prior to that?
 3 A Working Partnerships, LLC.
 4 Q And what is Working Partnerships, LLC?
 5 A I was a job coach for developmentally-disabled
 6 adults.
 7 Q How long did you work at Working Partnerships,
 8 LLC?
 9 A One year.
 10 Q So from 2006 to 2007?
 11 A Um-hum.
 12 Q How about the job before that?
 13 A Plexus Corp.
 14 Q What is Plexus Corp?
 15 A Manufactures pick and play circuit boards.
 16 Q What did you do there?
 17 A I was a machine operator.
 18 Q How long were you there?
 19 A Six years.
 20 Q Was that all through college then?
 21 A Yes.
 22 Q And where is that located?
 23 A Neenah, Wisconsin.
 24 Q So when did you move to Madison?
 25 A 2001, I believe.

Page 8

1 Q And you said you graduated from UW-Oshkosh in
 2 '04?
 3 A Um-hum. Yes, I did drive that.
 4 Q Wow. Very impressive. And who currently lives
 5 at the home at 146 Marquette with you?
 6 A My husband, Eric Fuller.
 7 Q Anyone else?
 8 A My two daughters.
 9 Q And when you moved to Madison in 2011 or, sorry,
 10 2001, were you already married?
 11 A No.
 12 Q When did you get married?
 13 A October of 2002.
 14 Q And I believe you purchased the home at 146
 15 Marquette in 2006, is that correct?
 16 A Um-hum, yes.
 17 Q And where did you live before that in Madison
 18 before 2006?
 19 A The house next door.
 20 Q And was that --
 21 A It's a rental.
 22 Q What number is that?
 23 A 142.
 24 Q How long were you there?
 25 A I want to say four years, just under four years.

Page 9

1 Q So basically from the time you got married until
 2 you purchased the home at 146?
 3 A Yes.
 4 Q How about before that?
 5 A Just before that we lived in a flat on Buena
 6 Vista Street, which is about two blocks away from
 7 Marquette.
 8 Q And do you smoke?
 9 A No.
 10 Q And does your husband smoke?
 11 A No.
 12 Q I'm going to have you look at what's been marked
 13 as Exhibit No. 1. If you look in the lower,
 14 right-hand corner, those are Bates numbers. Just
 15 look at the Pages 2 and 3, the property search
 16 details. Do you recognize this document?
 17 A I do.
 18 Q Can you just look at it and tell me if you -- if
 19 there's anything incorrect on this property
 20 detail sheet?
 21 A It all looks correct.
 22 Q And then Page 4 shows the purchase of the home?
 23 A Um-hum.
 24 Q And it's broken up into two parts. Do you know
 25 why that is?

Page 10

1 A I believe it's because the mother that was living
 2 there, the elderly woman that was living there
 3 passed away and it was divided up into -- because
 4 she had three daughters, so I believe that's why.
 5 Q So you had to pay the different children who
 6 obtained the home?
 7 A I don't remember how that worked, but I think the
 8 three of them had to sign off for the sale.
 9 Q So do you recall what the overall purchase price
 10 was?
 11 A The overall purchase price was \$112,000.
 12 Q Do you know how the home is currently heated?
 13 A Natural gas, and we have an enclosed wood stove.
 14 Q Where is the wood stove?
 15 A In the living room.
 16 Q Did you guys put that in the home?
 17 A Yes.
 18 Q When did you do that?
 19 A 2010.
 20 Q And who did that? Like did you contract the work
 21 out?
 22 A Yes, yes. The Fireplace Folks.
 23 Q Have you had any problems with the exhaust from
 24 that fireplace at all?
 25 A No. It's enclosed. It's a wood stove. It's a

Page 11

1 wood burning stove. It's not a fireplace where
 2 it's open.
 3 Q Gotcha. And how do you use the basement at 146
 4 Marquette?
 5 A Storage and laundry.
 6 Q And what do you store down there?
 7 A Camping stuff, Christmas decorations, stuff like
 8 that.
 9 Q Do you store any paint down there?
 10 A I believe there are a couple cans of paint down
 11 there, yes.
 12 Q Do you know if it's paint for painting the
 13 outside of the home or the inside?
 14 A Inside. The stuff for the outside is in the
 15 garage.
 16 Q Any kind of paint thinners in the basement?
 17 A No.
 18 Q Any kind of cleaning chemicals for cleaning your
 19 car, cleaning your house in the basement?
 20 A Unh-unh, no.
 21 Q Any glue, any like hobby glue or woodworking
 22 glue?
 23 A I don't think so.
 24 Q And you currently have a mitigation system in the
 25 basement, is that correct?

Page 12

1 A Yes.
 2 Q I believe that was installed sometime in 2011, is
 3 that right?
 4 A I believe so.
 5 Q Since you purchased the home in 2006, have you
 6 made any attempt to try and sell it?
 7 A No.
 8 Q Have you ever had the home tested for radon?
 9 A No.
 10 Q And do you know the most recent appraisal you've
 11 had done on the home?
 12 A We as a couple have never had an appraisal done.
 13 The bank had an appraisal when we bought it, but
 14 we haven't.
 15 Q So just the 2006 appraisal you provided us?
 16 A Yes, that's the only one that I know of.
 17 Q And that was before you actually purchased the
 18 home, right?
 19 A Yes, I think so.
 20 Q I'm going to have you look at what's been marked
 21 as Exhibit No. 6. Turn to Page 4.
 22 A Okay.
 23 Q If you look at Question 5, I just want to confirm
 24 that you -- Do you email with any of the other
 25 class members not involving your attorney?

Page 13

1 A About this?

2 Q Correct.

3 A No, not really. We have got -- maybe I had

4 something forwarded from a neighbor, but not, no.

5 Q Do you know the last time maybe that you emailed?

6 A About this?

7 Q About the lawsuit or about Kipp's contamination

8 issues, those sort of things.

9 A No, I can't tell you for sure.

10 Q Have you emailed with anybody besides fellow

11 class members about potential Kipp contamination

12 issues? And, again, not including your lawyers.

13 A No.

14 Q How about your husband?

15 A No.

16 Q Have you spoken with anyone that you would

17 consider an environmental professional or some

18 kind of scientist regarding the contamination?

19 A No.

20 Q When you purchased the home in 2006, what kind of

21 due diligence or process did you use before you

22 purchased the home?

23 A The elderly woman who owned the property and

24 lived there with two of her daughters passed

25 away, and the daughter who was not residing there

Page 14

1 and her husband wanted to sell the property, so

2 they approached us with an offer on the house,

3 because they knew that we wanted to stay in the

4 neighborhood.

5 Q So you did not use a realtor?

6 A No.

7 Q So you said her two -- two of the daughters lived

8 with her, is that correct?

9 A Yes.

10 Q Do you remember their names?

11 A Can I look?

12 Q Oh, absolutely. Please.

13 A Geraldine was not, no. Eunice was one of them.

14 Q Okay.

15 A And Francine.

16 Q So the entire time that you guys were living next

17 door --

18 A Eunice and Francine were in the home, yes.

19 Q And how old were they, do you recall? Like an

20 estimate. Like they were adults, right?

21 A Yes, but one had Down's Syndrome and one was --

22 had mental illness, so they didn't ever leave the

23 home.

24 Q And do you recall did you receive a Property

25 Condition Report when you purchased the home?

Page 15

1 A I don't recall.

2 Q Do you still have all the closing documents that

3 you had when you purchased it?

4 A Yes.

5 Q And so would it be in there, if you did receive

6 some kind of disclosure?

7 A Yes.

8 Q Do you recall them telling you anything about

9 potentially contaminated soil at the property?

10 A No.

11 Q They didn't talk about having received letters

12 from the WDNR?

13 A No.

14 Q Were you aware of any of the testing that was

15 being done at the time?

16 A No.

17 Q Would that have been something you would have

18 wanted to know before you purchased the home?

19 A Of course.

20 Q Have you ever gone back to contact the one

21 daughter that approached you about purchasing the

22 home, why they didn't tell you?

23 A No.

24 Q Would you be surprised to know they had received

25 multiple letters about the testing before selling

Page 16

1 the home?

2 A I guess so.

3 Q And that's something that you would have wanted

4 them to tell you?

5 A Of course.

6 Q And do you currently have a mortgage on the home?

7 A Yes.

8 Q Do you remember the last time you refinanced?

9 A I didn't. I haven't refinanced.

10 Q Okay. And in Exhibit 1 on Page 2 there's the

11 city's assessment -- tax assessment on the

12 property. Have you ever tried to challenge that

13 tax assessment?

14 A No.

15 Q And this might sound like a silly question, but

16 when did you first become aware that Kipp was

17 located right next to the properties that you

18 were living in, both the rental and the one you

19 purchased?

20 A I looked out the back window.

21 Q So before you purchased?

22 A Yes.

23 Q And did you believe that that had any kind of

24 impact on the value of the home before you

25 purchased it?

Page 17

1 A Probably, yes.

2 Q And what did you think the impact was?

3 A Well, it's not pretty. It's a factory. I mean,

4 it's smokestacks, it's not trees or a lake.

5 Q So did you think that made the value less than

6 what a similar house would be not located next to

7 a factory?

8 A Probably, yes.

9 Q And did you talk to any of the other, you know,

10 having lived there talk to any of the other

11 neighbors about Kipp before you purchased the

12 home?

13 A I had asked a neighbor if they knew about any

14 contamination issues or of any problems with the

15 property, and nobody knew anything about the

16 property. That's why I'm very surprised that

17 there are letters stating that there were tests

18 done on the property before we bought it. Do you

19 have those?

20 Q I might. I will have to --

21 A Maybe for after.

22 Q -- see if I have copies. Do you recall when you

23 first became aware of the alleged pollution

24 contamination issues that serve as the basis of

25 the current lawsuit?

Page 18

1 A April 2011.

2 Q And do you remember how you were informed?

3 A We were invited to a meeting at Kipp Corporation.

4 Q And what did you do after that meeting?

5 A Cried.

6 Q Did you contact the DNR to obtain any

7 additional --

8 A They were there.

9 Q Did you contact them to get any further

10 information after the meeting?

11 A No, we kind of sat on the information that we

12 had, because they had plenty of handouts on what

13 is PCE, how it can be absorbed into the body,

14 stuff like that. So we sat on the information

15 that we had from them at the meeting.

16 Q And did you attend any other meetings after that?

17 A In July I believe there was a public meeting for

18 the general neighborhood. It was hosted by Kipp,

19 DNR and Public Health.

20 Q And do you recall if you learned anything new at

21 that meeting or what you learned at that meeting?

22 A We did not learn anything new at that meeting.

23 They were just informing the broader neighborhood

24 of what they had informed us in April.

25 Q And in light of what they had informed you, did

Page 19

1 you know whether your property had any issues

2 specifically?

3 A It was an assumption, since I was invited to the

4 meeting, and when they addressed us, they

5 addressed us "as we found this," so yes.

6 Q And since you have had the mitigation system, has

7 that helped deal with any concern or fear you had

8 about the contamination?

9 A It makes me feel better than if I did not have

10 it.

11 Q And do you know since that April 2011 meeting

12 your home has been tested for potential

13 contaminants in the indoor air?

14 A Could you say that again?

15 Q Sure.

16 A Sorry.

17 Q No, no. So since that April meeting someone has

18 come and took samples of the indoor air in your

19 home, correct?

20 A Not until after the mitigation system was put in.

21 Q And do you remember what the results were?

22 A There was no indoor air contamination.

23 Q And previous to having the mitigation system put

24 in, did you ask -- do you recall if you asked to

25 have your home sampled?

Page 20

1 A Yes.

2 Q And do you know who you asked?

3 A DNR and Kipp.

4 Q Do you remember what their response was?

5 A It's DNR's job, it's Kipp's job.

6 Q Do you remember who you talked to specifically

7 that told you that?

8 A Mike Schmoller, DNR, and Mark Meunier, Kipp.

9 Q And so Mr. Schmoller told you that it was Kipp's

10 job to test your home?

11 A Um-hum.

12 Q And Mr. Meunier told you that it was DNR's job to

13 test your home?

14 A Um-hum.

15 Q Sorry. I apologize, but we need verbal answers

16 so Kathy can take them down.

17 A Sorry. Yes.

18 Q That was my fault. I forgot to tell you that.

19 A No. I'm sorry. Yes.

20 Q And do you remember whose decision it was to put

21 in a mitigation system without testing your home?

22 A Kipp.

23 Q Did you ever challenge that and say, "I want my

24 home tested first?"

25 A I did.

Page 21

1 Q And was that, do you remember, by phone or by
 2 email?
 3 A That was in person at one of the meetings.
 4 Q Do you remember which meeting?
 5 A I believe it was at the July meeting.
 6 Q And their response was that they weren't going to
 7 test?
 8 A Their response was putting in a mitigation system
 9 would alleviate anything anyway, so they didn't
 10 want to spend the money to do the testing, they
 11 just wanted to put the system in.
 12 Q And did someone say that, they didn't want to
 13 spend the money to test?
 14 A Yes.
 15 Q Do you remember who said that?
 16 A That was Mike Schmoller.
 17 Q And I'm going to have you look at Document No. 2.
 18 On Page 3 -- Sorry. Exhibit 2, Page 3.
 19 A Okay.
 20 Q In (i) you note that the value of your home has
 21 been destroyed. Why is that?
 22 A Because I don't think that anyone would want to
 23 buy my home with contamination when there are
 24 homes out there that aren't.
 25 Q And you believe that's true even with the

Page 22

1 mitigation system in it?
 2 A Yes.
 3 Q So you don't think someone would buy it just at a
 4 reduced price in light of what was going on?
 5 A I don't think so, if they were intending to use
 6 it the way that I did.
 7 Q And how is that?
 8 A To have full reign of my home without worrying
 9 about my children getting sick, to be able to
 10 send them out to the back yard without fear of
 11 them touching the ground. To garden, to do all
 12 the things that I had intended to do in my home.
 13 I don't think anyone else would want to buy it,
 14 if those were their intentions.
 15 Q Did someone tell you you can't garden in your
 16 back yard?
 17 A We were given some paperwork by the DNR that told
 18 us that PCE can enter your system dermally, it
 19 can be inhaled and it can be ingested. Gardening
 20 covers all three of those. It's pretty much a no
 21 brainer that you shouldn't do it.
 22 Q But did someone tell you that your specific back
 23 yard, that you couldn't --
 24 A It's there, but no one said, "You can't garden."
 25 Q And did anyone tell you that it was unsafe? Did

Page 23

1 someone tell you it's unsafe to garden?
 2 A They told me to wash my hands. They told me not
 3 to eat the food that I grew.
 4 Q Who told you that?
 5 A That would be the Health Department.
 6 Q Do you remember a specific name?
 7 A Henry.
 8 Q And he told -- Do you recall did he tell you that
 9 specifically or at a meeting generally?
 10 A No, we had met in the back yard and he said he
 11 wouldn't. Why would you.
 12 Q And has anyone told you that it's unsafe to live
 13 in your home currently?
 14 A No.
 15 Q So even now with the mitigation system, do you
 16 still believe it's unsafe to live in your home?
 17 A Yes.
 18 Q Why is that?
 19 A Because there's a direct pathway from Kipp
 20 Corporation to my home. It's been proven because
 21 it's there, and recent testing done at Kipp shows
 22 that there is a -- an extreme amount of PCE on
 23 their property and there's nothing to stop it
 24 from coming to mine.
 25 Q Are you aware of any of the ways that Kipp is

Page 24

1 potentially remediating the PCE on its property?
 2 A I know that they have been testing, and I know
 3 they have remediated for some PCBs and PAHs. I
 4 know they remediated somewhat for the PCE, but I
 5 do not know that they have remediated since they
 6 found -- since they were testing the underground
 7 water, if they have remediated that, the findings
 8 based on that.
 9 Q And you said that the tests of your indoor air
 10 found that there was no PCE in the indoor air?
 11 A Yes.
 12 Q And that doesn't change your view about the
 13 safety of your home, that they didn't find any?
 14 A No.
 15 Q And why is that?
 16 A Well, they never did a baseline test on my home,
 17 so it could be that the remediation system
 18 worked, is working, but it's there. It's on
 19 Kipp's property. It's not going away. That is
 20 always there.
 21 Q So if Kipp had a way of remediating it on its
 22 property that it wouldn't go on your property,
 23 then there would be no more concern for you?
 24 A I can't answer that.
 25 MR. BIANCHI: Let's take a quick break.

Page 25

1 MR. MANZKE: Sure.
 2 (A recess was taken.)
 3 MR. BIANCHI: Just a couple more
 4 questions.
 5 BY MR. BIANCHI:
 6 Q Are you aware that there is a soil vapor
 7 extraction system on Kipp's property right now
 8 remediating the PCE?
 9 A I am.
 10 Q And do you know where it's located in relation to
 11 your property? Are you aware of it?
 12 A Yes.
 13 Q And that doesn't change your view as to the
 14 effects of whether the PCE is going to come to
 15 your property?
 16 A From what I have seen, it's not doing a whole lot
 17 right now, so no.
 18 Q And what did you see? What's that based on?
 19 A There's still an insurmountable amount of PCE in
 20 the ground. It's not fast enough for me.
 21 Q And where is the result that you are referring to
 22 about the amount of the PCE in the ground?
 23 A The groundwater testing that they just did.
 24 Q So it's your understanding that the vapors are
 25 coming from the groundwater?

Page 26

1 A I'm not sure. It's there.
 2 Q And you referred to a back yard meeting with a
 3 Henry from the Department of Health?
 4 A Yes.
 5 Q Who else was present at that meeting, do you
 6 recall?
 7 A There was a woman, she was also from the Health
 8 Department, and I don't remember her name.
 9 Q Was it just the three of you?
 10 A Yes.
 11 Q So there was a woman from the Health Department,
 12 Henry from the Health Department and yourself?
 13 A Yes.
 14 Q And do you know had your property been tested
 15 yet? Had the soil been tested at that time?
 16 A No.
 17 Q And if the testing of your soil for PCE had
 18 results that were below government standards,
 19 that wouldn't change your view of use of the
 20 property?
 21 A No.
 22 Q Why is that?
 23 A It's there and I did not put it there.
 24 Q Do you know if the amounts are similar to amounts
 25 that can be found in any other back yards

Page 27

1 anywhere else?
 2 A I don't.
 3 Q I'm sorry if I already asked you this question,
 4 but did you previously ever have the home tested
 5 for radon?
 6 A You did ask it, and we did not.
 7 Q Sorry. Thank you. And, again, going back to the
 8 back yard meeting, do you -- I'm just trying to
 9 understand. So Henry told you that you should
 10 not garden based on the levels of PCE that were
 11 in your back yard?
 12 A He said he wouldn't.
 13 Q That he wouldn't?
 14 A Yes.
 15 Q Okay.
 16 A He didn't say garden as in like flower gardening,
 17 he meant consuming the things that I had grown,
 18 because I'm an avid gardener or was. I grew a
 19 lot of our food.
 20 MR. BIANCHI: That's all the questions
 21 that I have, but some of the other gentlemen may
 22 have some.
 23 EXAMINATION
 24 BY MR. WHITE:
 25 Q Good afternoon. My name is Chris White. I

Page 28

1 represent Continental Casualty Company and
 2 Columbia Casualty Company, which are a couple of
 3 Madison-Kipp's past insurance companies. A
 4 couple additional questions. The April 2011
 5 meeting that you mentioned that was at
 6 Madison-Kipp, how many people were at that
 7 meeting? And by "how many people" I mean how
 8 many residents from the neighborhood.
 9 A Are you including just households, because like
 10 my husband and I were there and our two kids. Do
 11 you want number of people or households?
 12 Q How many households, if you know.
 13 A Seven, I believe.
 14 Q Do you know if only those seven households were
 15 invited to this meeting or if --
 16 A I don't know.
 17 Q Do you have any idea how it was determined that
 18 you would be invited to this particular meeting?
 19 A I don't know.
 20 Q How old are your children?
 21 A Ten and seven.
 22 Q And what is your birthday?
 23 A August 2, 1973.
 24 Q On January 1 of 1980, where were you living?
 25 A Wabeno, Wisconsin.

7 (Pages 25 to 28)

Page 29

1 Q How long did you continue to live in Wabeno,
 2 Wisconsin?
 3 A Until I was 18.
 4 Q When did you turn 18?
 5 A You want me to do the math? 1991.
 6 Q Your husband is Eric Fuller?
 7 A Yes.
 8 Q You were married in 2002?
 9 A Yes.
 10 Q Do you know where your husband lived prior to you
 11 getting married?
 12 A Yes.
 13 Q Where did he live?
 14 A Madison for a little while. Fond du Lac is where
 15 he was born and grew up. Fond du Lac, Wisconsin.
 16 Q Let me put it this way. Do you know where your
 17 husband was living on January 1st of 1980?
 18 A No. I can guess, but no. I will say no.
 19 Q Was it most likely in Fond du Lac?
 20 A Most likely it was in Fond du Lac, Wisconsin.
 21 Q Is it your understanding that between 1980 and
 22 1987 your husband would have been living in Fond
 23 du Lac that entire time?
 24 A Yes.
 25 Q In this lawsuit are you claiming that you

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1 sustained any damages that occurred between
 2 January 1st of 1980 and January 1st of 1987?
 3 A Can you repeat that?
 4 Q In this lawsuit are you claiming that you
 5 sustained any damages that occurred between
 6 January 1, 1980 and January 1, 1987?
 7 A No.
 8 Q Have you done any renovations since you have
 9 owned your house that involved ripping out old
 10 building materials and replacing them with new
 11 building materials?
 12 A No.
 13 Q Have you considered moving out of your house and
 14 putting your house up for rent?
 15 A No.
 16 Q Why not?
 17 A I can't do that to someone else.
 18 Q Are you aware of whether there are other rental
 19 properties on Marquette Street?
 20 A Yes.
 21 Q Are you aware that there are several other rental
 22 properties on Marquette Street and Waubesa Street
 23 that are currently rented?
 24 A Yes.
 25 Q If your neighbors are able to rent their homes,

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1 why couldn't you rent your home out?
 2 A It's a family home, and I don't want to rent to
 3 another family with children. It's not a rental
 4 unit where it's two the flats or it's designed to
 5 be a rental. It's a family home. I can't put
 6 another family in there.
 7 Q At the time you purchased the house, had you
 8 heard of any issues -- Do you need a minute?
 9 MR. MANZKE: Are you okay?
 10 THE WITNESS: Yes.
 11 BY MR. WHITE:
 12 Q At the time you purchased the house, were you
 13 aware of any issues involving air pollution from
 14 Madison-Kipp?
 15 A I did not experience any. Being that I lived in
 16 the neighborhood before that, I had never
 17 experienced any air pollution issues.
 18 Q Had you heard about any previous air pollution
 19 issues?
 20 A I had heard about some in the past.
 21 Q What had you heard about air pollution prior to
 22 your decision to purchase the home?
 23 A They had gone over particulate matter emission
 24 levels. That the air quality was bad. I believe
 25 this was happening before we were in the

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1 neighborhood. We had spoken to some other
 2 neighbor who raised their children in the
 3 neighborhood, and they said there was a
 4 significant difference from when their kids were
 5 growing up until now, and we didn't experience
 6 any air quality issues outside of what you would
 7 expect being right next to a factory.
 8 Q Was it your understanding that the air pollution
 9 issues that had previously existed had been
 10 rectified by the time you purchased the house?
 11 A Yes.
 12 MR. WHITE: That's all I have. Thank
 13 you.
 14 MR. TUCHALSKI: No questions.
 15 MS. KREIL: I actually just have one.
 16 EXAMINATION
 17 BY MS. KREIL:
 18 Q I think you said you have not refinanced your
 19 home, is that correct?
 20 A Correct.
 21 Q Have you attempted to refinance?
 22 A No.
 23 MS. KREIL: Okay. That's all I have.
 24 MR. MANZKE: We will reserve.
 25 (At 12:52 p.m. the deposition

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1 concluded.)
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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 KATHLEEN M. MC HUGH, was taken before me
 7 at the law offices of MICHAEL, BEST & FRIEDRICH, LLP,
 8 One South Pinckney Street, Suite 700, Madison,
 9 Wisconsin, on the 9th day of January, 2013, commencing
 10 at 12:07 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.

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1 CERTIFICATE OF WITNESS
 2
 3
 4 I, KATHLEEN M. MC HUGH, 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 KATHLEEN M. MC HUGH
 12
 13 STATE OF WISCONSIN)
 14 _____ COUNTY)
 15
 16 Subscribed and sworn to before me this
 17 ____ day of _____, 2013.
 18
 19
 20 _____
 21 Notary Public
 22 In and for the State of Wisconsin
 23 My commission expires _____, ____.
 24
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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,
 4 appeared on behalf of the Plaintiffs.
 5
 6 MICHAEL, BEST & FRIEDRICH, LLP, One
 7 South Pinckney Street, Suite 700, Madison, Wisconsin,
 8 53703, by MS. LEAH H. ZIEMBA and MR. ALBERT BIANCHI,
 9 JR., lhziemba@michaelbest.com and
 10 abianchi@michaelbest.com, appeared on behalf of
 11 Madison-Kipp Corporation.
 12 TROUTMAN SANDERS, LLP, 55 West Monroe
 13 Street, Suite 3000, Chicago, Illinois, 60603-5758, by
 14 MR. CHRISTOPHER H. WHITE,
 15 christopher.white@troutmansanders.com, appeared on
 16 behalf of the Defendant Continental Casualty Company.
 17 MEISSNER, TIERNEY, FISHER & NICHOLS,
 18 S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee,
 19 Wisconsin, 53202-6622, by MS. JENNIFER KREIL,
 20 jbk@mtfn.com, appeared on behalf of United States Fire
 21 Insurance Company.
 22 NISTLER LAW OFFICE, S.C., 3235 North
 23 124th Street, Brookfield, Wisconsin, 53005, by MR.
 24 JACQUES C. CONDON, jcondon@nistlerlaw.com, appeared on
 25 behalf of American Motorists Insurance Company.
 That said deponent, before examination,
 was sworn to testify the truth, the whole truth, and
 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.

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**Notary Public in and
for the State of Wisconsin**

**Dated this 25th day of February, 2013,
Milwaukee, Wisconsin.**