

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF WISCONSIN

3 \_\_\_\_\_  
4 KATHLEEN McHUGH, and DEANNA  
5 SCHNEIDER, Individually and on behalf  
6 of all persons similarly situated,  
7 Plaintiffs,

8 vs. CASE NO. 11-CV-724

9 MADISON-KIPP CORPORATION,  
10 CONTINENTAL CASUALTY COMPANY,  
11 UNITED STATES FIRE INSURANCE  
12 COMPANY and ABC INSURANCE  
13 COMPANIES 1-50,  
14 Defendants,

15 and

16 MADISON-KIPP CORPORATION,  
17 Cross-Claimant,

18 vs.

19 CONTINENTAL CASUALTY COMPANY,  
20 COLUMBIA CASUALTY COMPANY and  
21 UNITED STATES FIRE INSURANCE  
22 COMPANY,

23 Cross-Claim Defendants,  
24 \_\_\_\_\_

25 (Caption continued)

DEPOSITION OF

MARK D. DANIEL

Milwaukee, Wisconsin  
April 8, 2013

9:10 a.m. to 12:53 p.m.

Kathy A. Halma, RPR

Page 2

1 and  
 2 CONTINENTAL CASUALTY COMPANY and  
 3 COLUMBIA CASUALTY COMPANY,  
 4  
 5 Cross-Claim Defendants  
 6 and  
 7 LUMBERMENS MUTUAL CASUALTY  
 8 COMPANY, AMERICAN MOTORISTS  
 9 INSURANCE COMPANY, and JOHN DOE  
 10 INSURANCE COMPANIES 1-20,  
 11 Third-Party Defendants.  
 12  
 13 APPEARANCES  
 14 VARGA, BERGER, LEDSKY, HAYES & CASEY,  
 15 125 South Wacker Drive, Suite 1250, Chicago, Illinois,  
 16 60606-4473, by MR. MICHAEL HAYES, appeared on behalf of  
 17 the Plaintiffs.  
 18  
 19 MICHAEL, BEST & FRIEDRICH, LLP, Two  
 20 Riverwood Place, Suite 200, N19 W24133 Riverwood Drive,  
 21 Waukesha, Wisconsin, 53188-1174, by MR. LEE M. SEESE  
 22 and MR. NATHAN L. MOENCK, appeared on behalf of  
 23 Madison-Kipp Corporation.  
 24  
 25 TROUTMAN SANDERS, LLP, 55 West Monroe  
 Street, Suite 3000, Chicago, Illinois, 60603-5758, by  
 MS. REBECCA L. ROSS, 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 MR. MICHAEL J. COHEN,  
 appeared on behalf of United States Fire Insurance  
 Company.  
 WEISS LAW OFFICE, S.C., 1017 West Glen  
 Oaks Lane, Suite 207, Mequon, Wisconsin, 53092, by MR.  
 MONTE E. WEISS, appeared on behalf of the Defendants  
 Lumbermens and American Motorists.

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1 TRANSCRIPT OF PROCEEDINGS  
 2 MARK D. DANIEL, called as a witness  
 3 herein by the Cross-Claim Defendants, after  
 4 having been first duly sworn, was examined and  
 5 testified as follows:  
 6 EXAMINATION  
 7 BY MS. ROSS:  
 8 Q Mr. Daniel, can you please state your full name  
 9 for the record?  
 10 A Mark D. Daniel.  
 11 Q And what is your -- Are you employed?  
 12 A Yes.  
 13 Q At Madison-Kipp?  
 14 A I'm the Vice President of Finance for  
 15 Madison-Kipp Corporation.  
 16 Q And what are your duties and responsibilities as  
 17 the Vice President of Finance at Madison-Kipp?  
 18 A Largely the financial organization, treasury and  
 19 the information systems fall under my  
 20 responsibility, strategic planning and focus on  
 21 improving the business.  
 22 Q Do the insurance issues fall under your  
 23 jurisdiction?  
 24 A They do now, yes.  
 25 Q Have you ever had your deposition taken before?

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 20  
 21 (The original transcript was sent to Attorney  
 22 Ross.)  
 23 (Original Exhibits 1, 2 and 4 through 9 were retained  
 24 by the court reporter and attached to the original  
 25 transcript. Copies were attached to all ordered  
 copies. Exhibit 3 was retained by Attorney Moenck to  
 be provided electronically via an FTP site.)

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1 A No, I have not.  
 2 Q As you can tell, there's a court reporter here  
 3 and she is taking down my questions and your  
 4 answers. Do you understand that?  
 5 A Correct, yes.  
 6 Q And so during a deposition it's important that  
 7 she has the opportunity to get my full question  
 8 and your full answer, so I would ask that you not  
 9 talk over me, and I will try not to talk over  
 10 you. Is that okay?  
 11 A Thank you.  
 12 Q You also have a right to a break at any time that  
 13 you want it. I would prefer that you not ask for  
 14 a break between a question and an answer, unless  
 15 you really need a break, and then tell me and we  
 16 will stop.  
 17 A Thank you.  
 18 Q With respect to the questions I will ask, I will  
 19 try to be as clear as I possibly can be, but if  
 20 at any point you don't understand my question,  
 21 will you please tell me?  
 22 A Yes.  
 23 Q And so I'm going to assume that if you answer my  
 24 question, you have understood it. Okay?  
 25 A Yes.

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1 Q Now you are appearing here today on behalf of  
 2 Madison-Kipp, is that correct?  
 3 A That is correct.  
 4 Q And have you been designated to respond to the  
 5 Amended Notice of Rule 30(b)(6) Deposition of  
 6 Madison-Kipp Corporation?  
 7 A Yes, I have.  
 8 (Exhibit 1 was marked.)  
 9 BY MS. ROSS:  
 10 Q Showing you what has been marked as Exhibit 1,  
 11 can you briefly look through that and tell me if  
 12 there are any of the matters of examination for  
 13 which you are not designated to respond today?  
 14 A Not at this time.  
 15 MR. SEESE: Hold on. Do you understand  
 16 the question she asked?  
 17 THE WITNESS: I believe so.  
 18 MR. SEESE: She's asking you what topics  
 19 you are not designated on.  
 20 THE WITNESS: I'm designated on the  
 21 topics under the examination. Correct?  
 22 MR. SEESE: What I'd like to do is can  
 23 we put into evidence as Exhibit No. 2 our  
 24 objections in response to the Notice of  
 25 Examination so I don't have to restate them?

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1 payable and invoice copies in this relationship.  
 2 Q Did you do anything else?  
 3 A No.  
 4 Q Did you talk to anyone?  
 5 A I talked with Lee Seese, the attorney for  
 6 Madison-Kipp Corporation.  
 7 Q Other than Mr. --  
 8 MS. ROSS: How do you pronounce your  
 9 name?  
 10 MR. SEESE: Seese.  
 11 BY MS. ROSS:  
 12 Q Other than Mr. Seese, was anyone else present in  
 13 your conversation?  
 14 A Mr. Busch and Mr. Crass on different occasions.  
 15 Q On how many different occasions did you meet with  
 16 Mr. Seese?  
 17 A Three.  
 18 Q And when was the first time?  
 19 A Approximately three weeks ago.  
 20 Q How long did you meet?  
 21 A Approximately an hour.  
 22 Q When was the second time?  
 23 A A week and one-half ago. It was about a two-hour  
 24 session.  
 25 Q And when was the third time?

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1 MS. ROSS: I don't really have any  
 2 objection to your putting them in. Do you have  
 3 copies or not?  
 4 MR. SEESE: I only have one copy. Sorry  
 5 about that. I don't think it's a controversial  
 6 document.  
 7 (Exhibit 2 was marked.)  
 8 BY MS. ROSS:  
 9 Q Mr. Daniel, can you identify what Exhibit 2 is?  
 10 Do you know what it is?  
 11 A I have seen this, yes.  
 12 Q And what is that document?  
 13 A It's the rebuttal from the original thing.  
 14 Q And do you know whose rebuttal it is?  
 15 A It's Madison-Kipp's.  
 16 Q Did you have any involvement in the drafting of  
 17 that document, Exhibit 2?  
 18 A No, I did not.  
 19 Q Did you approve it before it was sent out?  
 20 A No.  
 21 Q What did you do to prepare for your deposition  
 22 today?  
 23 A We reviewed the documents that are enclosed in  
 24 this book, which are the insurance coverages, all  
 25 correspondence that have been found and accounts

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1 A We had a phone call on Friday for about 20  
 2 minutes.  
 3 Q Were you asked to obtain any information other  
 4 than the information that's contained in the  
 5 binder in front of you?  
 6 A No.  
 7 Q Can I look at that binder, please?  
 8 A Yes.  
 9 MR. SEESE: If you want, I have got  
 10 extra copies.  
 11 MS. ROSS: Okay.  
 12 MR. SEESE: I have got two extra copies.  
 13 It's a big stack. So if you guys want to share  
 14 or I will give them to you guys first.  
 15 MS. ROSS: For now let's just see what  
 16 we have got.  
 17 BY MS. ROSS:  
 18 Q Mr. Daniel, are these set up -- This binder is  
 19 set up with certain tabs, is that correct?  
 20 A Yes.  
 21 Q And do the tabs relate to particular items in the  
 22 Notice of Deposition?  
 23 A Yes.  
 24 Q In your copy are there any markings on any of the  
 25 documents?

Page 10	Page 11
<p>1 A Other than highlighting names and dates, no.</p> <p>2 Q And when you say "other than highlighting names</p> <p>3 and dates," where did you highlight names and</p> <p>4 dates?</p> <p>5 A An example is on the first letter under Section</p> <p>6 3.</p> <p>7 Q Yes.</p> <p>8 A The date June 5, 1991, Continental Insurance.</p> <p>9 The reference Refuse Hideaway Landfill, and the</p> <p>10 author being Holly Sewall.</p> <p>11 Q Okay. What did you highlight on that?</p> <p>12 A Just those four lines.</p> <p>13 Q Okay. And why did you highlight those particular</p> <p>14 lines?</p> <p>15 A Just to be able to provide succinct answers to</p> <p>16 the questions being posed.</p> <p>17 Q Can you walk through with me with respect to what</p> <p>18 you have listed under Item 3? What did you</p> <p>19 attempt to gather to put behind Item 3?</p> <p>20 A As outlined in the deposition request, all</p> <p>21 notices or tenders to Continental Casualty</p> <p>22 Company or Columbia Casualty Company for any</p> <p>23 environmental contamination claims relating to or</p> <p>24 arising out of the Madison-Kipp facility.</p> <p>25 Q So you looked not only for the notices that</p>	<p>1 related in any manner to the actual contamination</p> <p>2 at the site, but also any environmental</p> <p>3 contamination that came from the site, is that</p> <p>4 correct?</p> <p>5 MR. SEESE: Object to form. You can</p> <p>6 answer.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MS. ROSS:</p> <p>9 Q Were you attempting to also gather information to</p> <p>10 and from the DNR?</p> <p>11 A Yes.</p> <p>12 Q And was that information that was then provided</p> <p>13 to Continental Casualty Company or Columbia</p> <p>14 Casualty Company? Is that the reason that you</p> <p>15 put it in under No. 3?</p> <p>16 A Yes.</p> <p>17 Q So did you attempt to determine all of the</p> <p>18 documents that have been sent to Continental</p> <p>19 Casualty Company or Columbia Casualty Company</p> <p>20 relating in any way to the environmental</p> <p>21 contamination?</p> <p>22 A To the best of my knowledge, yes.</p> <p>23 Q Under 5 and 12, the second tab, what did you</p> <p>24 attempt to gather with respect to that -- those</p> <p>25 documents?</p>
Page 12	Page 13
<p>1 A Tab No. 5 and No. 12. All costs, both defense</p> <p>2 and indemnity, that Madison-Kipp has incurred</p> <p>3 related to the environmental contamination at or</p> <p>4 arising out of the Madison-Kipp facility for</p> <p>5 which Madison-Kipp has not been paid or</p> <p>6 reimbursed by any person. This includes, but is</p> <p>7 not limited to, the dates such costs were</p> <p>8 incurred and the amounts of those costs.</p> <p>9 Q And are these the costs that were incurred prior</p> <p>10 to July 25, 2011?</p> <p>11 A Yes.</p> <p>12 Q And where did you get the information that is</p> <p>13 contained behind the tab marked 5 and 12?</p> <p>14 A From the accounting records of Madison-Kipp</p> <p>15 Corporation.</p> <p>16 Q And then with respect to Item 7 and 8, the third</p> <p>17 tab, what did you attempt to gather to put behind</p> <p>18 Tab 7 and 8?</p> <p>19 A All communications Madison-Kipp had with anyone</p> <p>20 at Continental Casualty Company relating to</p> <p>21 environmental contamination at or arising out of</p> <p>22 the Madison-Kipp facility prior to July 25, 2011.</p> <p>23 Q Okay. And, once again, this includes</p> <p>24 communications that relate to sites other than</p> <p>25 the Madison-Kipp facility or the homes</p>	<p>1 immediately surrounding the Madison-Kipp</p> <p>2 facility, is that correct?</p> <p>3 MR. SEESE: Object to form. You can</p> <p>4 answer.</p> <p>5 THE WITNESS: Yes, that is correct.</p> <p>6 BY MS. ROSS:</p> <p>7 Q And what did you attempt to gather behind the tab</p> <p>8 that's marked 9?</p> <p>9 A All notices or tenders to United States Fire</p> <p>10 Insurance Company of any environmental</p> <p>11 contamination claims relating to or arising out</p> <p>12 of the Madison-Kipp facility.</p> <p>13 Q And, once again, with respect to Tab No. 9, this</p> <p>14 included notices or tenders that related both to</p> <p>15 the contamination at the Madison-Kipp facility</p> <p>16 and its surrounding area, as well as any</p> <p>17 contamination allegedly arising from the</p> <p>18 Madison-Kipp facility, is that right?</p> <p>19 MR. SEESE: Object to form. You can</p> <p>20 answer.</p> <p>21 THE WITNESS: That is correct.</p> <p>22 BY MS. ROSS:</p> <p>23 Q What did you attempt to put behind Tab No. 11?</p> <p>24 A All communications Madison-Kipp had with United</p> <p>25 States Fire Insurance Company relating to</p>

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1 environmental contamination at or arising out of  
 2 the Madison-Kipp facility prior to July 25, 2011.  
 3 Q And what did you attempt to put behind the tab  
 4 marked 14 and 15?  
 5 A All communications concerning whether to provide  
 6 notice of environmental contamination at the  
 7 Madison-Kipp facility to any insurer. That was  
 8 No. 14. No. 15, all communication concerning  
 9 when to provide notice of environmental  
 10 contamination at the Madison-Kipp facility to any  
 11 insurer and why notice was provided at such time.  
 12 Q Were 14 and 15 designed -- Are the documents  
 13 behind 14 and 15 designed to be all of the  
 14 communications concerning when to provide notice  
 15 of these claims?  
 16 MR. SEESE: I object to that on the  
 17 grounds of privilege and instruct the witness to  
 18 answer that question, but in doing so, do not  
 19 disclose attorney-client privileged information.  
 20 THE WITNESS: To the best of my  
 21 knowledge, yes.  
 22 BY MS. ROSS:  
 23 Q What did you attempt to gather with respect to  
 24 the documents behind Tab 20 to 21?  
 25 A All communications between Madison-Kipp and

Page 16

1 contained under Tab 22?  
 2 A Extensive research of all of the archive files of  
 3 Madison-Kipp Corporation.  
 4 Q What kind of research did you do?  
 5 A I went to all of our storage locations reviewing  
 6 all of the storage files that we have. We also  
 7 brought in a researcher to help with that  
 8 research in this process.  
 9 Q Do you know what the researcher's name was?  
 10 A I do not.  
 11 Q Did you conduct the research to obtain the  
 12 documents behind Tab No. 22?  
 13 A I assisted in the research, yes.  
 14 Q Who conducted that research?  
 15 A There was a small team which included our Vice  
 16 President of Human Resources, Mark Meunier,  
 17 myself and a clerical individual, Nancy  
 18 Gilminder.  
 19 Q Was anyone else involved?  
 20 A No.  
 21 Q Was there anyone involved from the Michael Best  
 22 law firm?  
 23 A No.  
 24 Q Was the researcher involved?  
 25 A Yes.

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1 American Motorists Insurance Company concerning  
 2 the environmental contamination at the  
 3 Madison-Kipp facility. And 21, all  
 4 communications between Madison-Kipp and  
 5 Lumbermens Mutual Casualty Company concerning the  
 6 environmental contamination at the Madison-Kipp  
 7 facility.  
 8 Q So, once again, are these communications behind  
 9 Tab 20 and 21 designed to be communications with  
 10 Lumbermens and American Motorists that relate  
 11 both to the contamination at the Madison-Kipp  
 12 facility and surrounding area, as well as any  
 13 alleged contamination coming from the  
 14 Madison-Kipp facility?  
 15 MR. SEESE: Object to form. You can  
 16 answer.  
 17 THE WITNESS: That is correct.  
 18 BY MS. ROSS:  
 19 Q And what did you attempt to gather under the tab  
 20 marked 22?  
 21 A All claims of general liability coverage  
 22 Madison-Kipp has ever had made under any policies  
 23 issued by American Motorists Insurance Company or  
 24 Lumbermens Mutual Casualty Company.  
 25 Q How did you gather the documents that are

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1 Q Did you meet with the researcher?  
 2 A As an introductory and walked through the  
 3 facility, yes.  
 4 Q Where did you find the documents that you have  
 5 under Tab 22?  
 6 A I'm not sure.  
 7 Q For example, the first one is a November 8, 1973  
 8 letter to Richard Riesen from American Motorists  
 9 Insurance Company, right?  
 10 A Yes.  
 11 Q Do you know where that document came from?  
 12 A No, I do not.  
 13 Q If I were to ask you the same question with  
 14 respect to the remaining documents that are  
 15 contained under Tab 22, would you be able to tell  
 16 me where any of those documents came from?  
 17 A No, I would not.  
 18 Q Who would know?  
 19 A I would have to seek counsel on that. I don't  
 20 know.  
 21 Q Well, you told me that there were only four  
 22 people that were involved in the search, is that  
 23 right?  
 24 A That's correct.  
 25 Q So presumably one of those four people was the

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1 person that found the particular document, is  
 2 that right?  
 3 A I believe so, yes.  
 4 Q Were any of the documents given to you by  
 5 counsel?  
 6 A This book was given to me by counsel. I  
 7 physically did not provide these documents.  
 8 Q Were the documents that were -- that are behind  
 9 Tab 22 given to you by counsel?  
 10 A Again, the book was given to me by counsel.  
 11 Q Were the documents that are behind Tab 22  
 12 documents that your counsel first found and then  
 13 provided to Madison-Kipp?  
 14 A I do not know.  
 15 Q Where are the storage locations that were  
 16 searched?  
 17 A There was two vault areas in our basement in the  
 18 Madison-Kipp building.  
 19 Q And do those contain individual claim files?  
 20 MR. SEESE: I'm going to object to this  
 21 as beyond the scope of Topic 22. You can answer.  
 22 THE WITNESS: It stores all of our  
 23 archive material, so it's beyond that area.  
 24 BY MS. ROSS:  
 25 Q Does it store all of your insurance materials?

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1 Mr. Seese, Mr. Busch and Mr. Crass, did you have  
 2 conversations with any other employee of  
 3 Madison-Kipp?  
 4 A No.  
 5 Q How long did it take you to find the documents  
 6 that are contained in the binder that's sitting  
 7 in front of you?  
 8 MR. SEESE: Object to the form of that.  
 9 You can answer, if you are able.  
 10 THE WITNESS: The search started  
 11 midsummer in 2012.  
 12 BY MR. SEESE:  
 13 Q What was the reason for starting the search in  
 14 midsummer of 2001, do you know?  
 15 MR. SEESE: Object to that as beyond the  
 16 scope. You can answer, if you are able.  
 17 THE WITNESS: I don't know why.  
 18 MS. ROSS: I'd like to have marked as  
 19 Exhibit 3 the binder that the witness actually  
 20 has in front of him that as the highlighting on  
 21 it. Do you have any objection to that?  
 22 MR. SEESE: No objection, just that he  
 23 can use it then to the extent he's testified to,  
 24 but, yes, you can mark that one.  
 25 (Exhibit 3 was marked.)

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1 MR. SEESE: Same objection. You can  
 2 answer.  
 3 THE WITNESS: Yes.  
 4 BY MS. ROSS:  
 5 Q Are there folders that are marked "insurance  
 6 policies," for example?  
 7 A There were some.  
 8 Q Do you know what years those were?  
 9 MR. SEESE: I'm going to will object to  
 10 this whole line of questioning as beyond the  
 11 scope of what's noticed here. I'm not sure --  
 12 What topic are we actually on now?  
 13 MS. ROSS: Right now we're trying to  
 14 find out about the binder that the witness  
 15 provided to us.  
 16 MR. SEESE: So my objection is all of  
 17 this whole line of questioning is beyond the  
 18 scope of any of the topics in the notice. You  
 19 can answer to the extent you are able.  
 20 THE WITNESS: It included other areas,  
 21 as well, and the term "all," I cannot answer to  
 22 all because I do not physically look at every  
 23 document to see if it was all insurance policies.  
 24 BY MS. ROSS:  
 25 Q During the period of time that you met with

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1 BY MS. ROSS:  
 2 Q Mr. Daniel, could you please identify for the  
 3 record what Exhibit 3 is.  
 4 A It is a binder of copies of documents collected  
 5 to enter the deposition.  
 6 Q And this is the binder that you have been  
 7 describing in the last portion of your testimony,  
 8 is that correct?  
 9 A That is correct.  
 10 Q Okay. Can you tell me what years Madison-Kipp  
 11 claims that Continental Casualty Company issued  
 12 primary policies to Madison-Kipp?  
 13 MR. SEESE: I object to that as beyond  
 14 the scope of the notice, the deposition notice.  
 15 You can answer, to the extent you are able.  
 16 THE WITNESS: I'm not able to answer to  
 17 that.  
 18 BY MS. ROSS:  
 19 Q Topic No. 1 asks you to be prepared to talk about  
 20 the terms and conditions of any policies you  
 21 claim that Continental Casualty Company issued to  
 22 Madison-Kipp, is that right?  
 23 MR. SEESE: I object to that. He's not  
 24 designated here to respond to Topic No. 1.  
 25 MS. ROSS: You are not going to allow

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1 him to testify at all about Topic No. 1?  
 2 MR. SEESE: That's correct. It's the  
 3 subject of the pending motion for protective  
 4 order.  
 5 MS. ROSS: Could the court reporter  
 6 please mark as Exhibit 4 a multipage document  
 7 entitled "Stipulation Concerning the Terms and  
 8 Conditions of the Continental Casualty Company  
 9 Primary Policies."  
 10 (Exhibit 4 was marked.)  
 11 BY MS. ROSS:  
 12 Q Mr. Daniel, showing you what has been marked --  
 13 MS. ROSS: Can you hand these down,  
 14 Mike? Thank you.  
 15 BY MS. ROSS:  
 16 Q Showing you what has been marked as Exhibit 4,  
 17 Daniel Exhibit 4, have you ever seen that  
 18 document before?  
 19 A Not to my knowledge, but --  
 20 MR. SEESE: You have to answer her.  
 21 THE WITNESS: I have not seen this  
 22 document, no.  
 23 BY MS. ROSS:  
 24 Q This document on Page 2 of the document  
 25 identifies six primary policies issued by

Page 24

1 answer.  
 2 THE WITNESS: No, I have not.  
 3 BY MS. ROSS:  
 4 Q Do you know anything about the negotiation of  
 5 those policies with Continental Casualty Company?  
 6 MR. SEESE: Same objection. You can  
 7 answer.  
 8 THE WITNESS: No, I do not.  
 9 BY MS. ROSS:  
 10 Q Are you aware of Madison-Kipp's understanding of  
 11 any of the terms and conditions of the primary  
 12 policies issued by Continental Casualty Company  
 13 to Madison-Kipp?  
 14 MR. SEESE: I'm sorry. I was a little  
 15 distracted. Would you mind reading that question  
 16 back?  
 17 COURT REPORTER: "Are you aware of  
 18 Madison-Kipp's understanding of any of the terms  
 19 and conditions of the primary policies issued by  
 20 Continental Casualty Company to Madison-Kipp?"  
 21 MR. SEESE: Okay. I object to that as  
 22 beyond the scope of any of the deposition topics  
 23 and beyond the scope of what this witness has  
 24 been designated to testify about. Subject to  
 25 that, you can answer.

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1 Continental to Madison-Kipp. Do you see that?  
 2 MR. SEESE: I'm going to object to the  
 3 whole line of questioning on this document as  
 4 beyond the scope of the deposition notice and  
 5 beyond the scope of the topics on which he's been  
 6 designated. You can answer that question, if you  
 7 are able.  
 8 THE WITNESS: I'm not able to address  
 9 this.  
 10 BY MS. ROSS:  
 11 Q Do you know whether Madison-Kipp claims that  
 12 Continental Casualty Company issued any primary  
 13 policies other than for the period of time from  
 14 1981 through 1987?  
 15 MR. SEESE: I will object to that.  
 16 Again, it's beyond the scope of the deposition  
 17 notice itself, and it's beyond the scope of any  
 18 topic on which this witness has been designated.  
 19 Subject to that objection, you can answer.  
 20 THE WITNESS: I'm not aware.  
 21 BY MS. ROSS:  
 22 Q Have you reviewed any of the copies of any of the  
 23 primary policies issued by Continental Casualty  
 24 Company to Madison-Kipp?  
 25 MR. SEESE: Same objection. You can

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1 THE WITNESS: I'm not aware.  
 2 BY MS. ROSS:  
 3 Q Do you have any understanding concerning  
 4 Madison-Kipp's responsibilities under the primary  
 5 policies in the event of an occurrence?  
 6 MR. SEESE: Same objection. You can  
 7 answer, if you know.  
 8 THE WITNESS: No, I do not.  
 9 BY MS. ROSS:  
 10 Q Have you had a discussion with anyone at  
 11 Madison-Kipp concerning Madison-Kipp's  
 12 understanding of the pollution exclusions in the  
 13 Continental Casualty Company primary policies?  
 14 MR. SEESE: I object to that as beyond  
 15 the scope of the deposition notice, beyond the  
 16 scope of the topics on which this witness has  
 17 been designated. I also object to that one on  
 18 the grounds of privilege and instruct the witness  
 19 not to answer the question to the extent it  
 20 requires you to disclose attorney-client  
 21 privileged communications.  
 22 THE WITNESS: I am not aware.  
 23 BY MS. ROSS:  
 24 Q Is there any testimony that you are not providing  
 25 because of the instruction not to answer?

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1 A No.  
 2 Q Does Madison-Kipp believe that it has the right  
 3 to voluntarily make a payment or assume an  
 4 obligation or incur an expense without  
 5 Continental Casualty Company's consent under the  
 6 primary policies?  
 7 MR. SEESE: Same objections. The  
 8 objection is to scope of the deposition notice of  
 9 the areas on which he's been designated, and I  
 10 will instruct you not to answer that to the  
 11 extent it requires disclosure of attorney-client  
 12 privileged communications. Counsel, can we agree  
 13 when I say that objection it will be scope and  
 14 privilege so I don't have to say it again?  
 15 MS. ROSS: That's fine.  
 16 MR. SEESE: Thank you.  
 17 THE WITNESS: No, I'm not aware.  
 18 BY MS. ROSS:  
 19 Q Is there any testimony that you are not providing  
 20 because of the instruction not to answer?  
 21 A No.  
 22 Q What excess policies does Madison-Kipp claim that  
 23 Continental Casualty Company issued to  
 24 Madison-Kipp?  
 25 MR. SEESE: I object to that on the

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1 THE WITNESS: No, I am not.  
 2 BY MS. ROSS:  
 3 Q Are you aware of -- Have you ever read any of the  
 4 excess policies issued or allegedly issued by  
 5 Continental Casualty Company to Madison-Kipp?  
 6 MR. SEESE: Object to that as beyond the  
 7 scope. You can answer.  
 8 THE WITNESS: No, I have not.  
 9 BY MS. ROSS:  
 10 Q Is it correct to say that you have no  
 11 understanding of any of the provisions of the  
 12 excess policies issued or allegedly issued to  
 13 Madison-Kipp by Continental Casualty Company?  
 14 MR. SEESE: Object to beyond the scope.  
 15 You can answer.  
 16 THE WITNESS: I'm not aware of any of  
 17 those discussions or terms.  
 18 BY MS. ROSS:  
 19 Q Are you aware of any understanding Madison-Kipp  
 20 has concerning any of the pollution exclusions in  
 21 any of the policies issued or allegedly issued by  
 22 Continental Casualty Company to Madison-Kipp?  
 23 MR. SEESE: Object to that on the  
 24 grounds of scope and privilege. Subject to that,  
 25 you can answer.

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1 grounds of scope and privilege. You can answer.  
 2 THE WITNESS: I'm not aware.  
 3 BY MS. ROSS:  
 4 Q Is there any testimony you are not providing  
 5 because of the instruction not to answer?  
 6 A No.  
 7 Q Do you know of any discussion -- Strike that.  
 8 Are you aware of any of the negotiations  
 9 for any excess policies issued by Continental  
 10 Casualty Company to Madison-Kipp?  
 11 MR. SEESE: I object to that as beyond  
 12 the scope. You can answer.  
 13 THE WITNESS: I know there's discussions  
 14 going on, but that's all my knowledge.  
 15 BY MS. ROSS:  
 16 Q You know that discussions are presently ongoing?  
 17 A Yes.  
 18 MS. ROSS: Same objection.  
 19 BY MS. ROSS:  
 20 Q Are you aware of any discussions between  
 21 Continental Casualty Company and Madison-Kipp at  
 22 the time the policies -- the excess policies were  
 23 negotiated?  
 24 MR. SEESE: Object to that as beyond the  
 25 scope. You can answer.

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1 THE WITNESS: No, I am not.  
 2 BY MS. ROSS:  
 3 Q Are you aware of Madison-Kipp's understanding of  
 4 the reduction of the aggregate provision  
 5 contained in any of the excess policies issued or  
 6 allegedly issued by Continental Casualty Company  
 7 to Madison-Kipp?  
 8 MR. SEESE: Same objection, scope and  
 9 privilege.  
 10 THE WITNESS: No, I'm not.  
 11 BY MS. ROSS:  
 12 Q Do you have any information that Madison-Kipp  
 13 ever paid any premiums on any excess policies  
 14 issued or allegedly issued by Continental  
 15 Casualty Company to Madison-Kipp?  
 16 MR. SEESE: Object to that on grounds of  
 17 scope. You can answer.  
 18 THE WITNESS: I have no knowledge.  
 19 That's prior to my tenure with Madison-Kipp.  
 20 BY MS. ROSS:  
 21 Q Do you have any knowledge concerning whether  
 22 Continental Casualty Company issued any excess  
 23 policies to Madison-Kipp?  
 24 MR. SEESE: Objection to beyond the  
 25 scope. Subject to that, you can answer.



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1 THE WITNESS: I'm not aware of any  
 2 policies.  
 3 BY MS. ROSS:  
 4 Q Does Madison-Kipp claim that Continental Casualty  
 5 Company issued any umbrella policies to  
 6 Madison-Kipp?  
 7 MR. SEESE: Object to beyond the scope.  
 8 Subject to that, you can answer.  
 9 THE WITNESS: Again, not being an  
 10 employee of Madison-Kipp at that time, I'm not  
 11 aware.  
 12 BY MS. ROSS:  
 13 Q Are you aware of any of the terms and conditions  
 14 of any umbrella policies issued or allegedly  
 15 issued to Madison-Kipp by Continental Casualty  
 16 Company?  
 17 MR. SEESE: I object to that as beyond  
 18 the scope. It's also subject to the protective  
 19 order, so I'm going to instruct the witness not  
 20 to answer. Topics 1 and 2 are the subject of a  
 21 protective order, and he's specifically not  
 22 designated on those topic areas. The agreement  
 23 was is that we would produce him and if, after  
 24 the court decides it, if the court says you get  
 25 to ask questions about those, we will produce a

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1 Madison-Kipp?  
 2 MR. SEESE: Objection, beyond the scope.  
 3 THE WITNESS: And I'm not aware.  
 4 MS. ROSS: Could the court reporter  
 5 please mark as Exhibit 5 a copy of a policy with  
 6 Policy No. RDX022079387.  
 7 (Exhibit 5 was marked.)  
 8 BY MS. ROSS:  
 9 Q Mr. Daniel, could you briefly review Exhibit 5  
 10 and tell me whether you have ever seen that  
 11 document before.  
 12 A If it is, it would be in the book. This is from  
 13 Continental?  
 14 Q Yes.  
 15 A I do not believe I have seen that.  
 16 Q Is there anyone else at Madison-Kipp that has  
 17 responsibility for Madison-Kipp's insurance  
 18 coverage?  
 19 MR. SEESE: Object to form. Object to  
 20 the scope of that question. Subject to those  
 21 objections, you can answer.  
 22 THE WITNESS: May I ask a framing  
 23 question? What time frame are we addressing?  
 24 MS. ROSS: I'm asking whether there's  
 25 anyone at Madison-Kipp presently that has any

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1 corporate witness again.  
 2 MS. ROSS: I will simply say in response  
 3 to that that I think your motion for protective  
 4 order is much narrower than the instructions that  
 5 you are giving the witness at this point in time.  
 6 And, furthermore, I think that the agreement  
 7 between us is that you can instruct him not to  
 8 answer any time you deem it to be appropriate,  
 9 but that's not going to keep us from asking the  
 10 questions. I understand you have instructed him  
 11 not to answer. Is that correct?  
 12 MR. SEESE: That's correct.  
 13 BY MS. ROSS:  
 14 Q Okay. Do you have any knowledge of any  
 15 negotiations concerning any of the umbrella  
 16 policies that Madison-Kipp claims that  
 17 Continental Casualty Company issued or allegedly  
 18 issued to Madison-Kipp?  
 19 MR. SEESE: I object to that as beyond  
 20 the scope. Subject to that, you can answer.  
 21 THE WITNESS: No, I do not.  
 22 BY MS. ROSS:  
 23 Q Are you aware of the policy limits of any  
 24 umbrella policy Madison-Kipp claims that  
 25 Continental Casualty Company issued to

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1 responsibility for Madison-Kipp's insurance  
 2 program other than you.  
 3 THE WITNESS: No.  
 4 MR. SEESE: Object to the form and the  
 5 scope of that. You have to have a little pause  
 6 so I can object.  
 7 BY MS. ROSS:  
 8 Q Is it fair to say that since you have never read  
 9 this Exhibit 5, you have no position on the  
 10 meaning of any of its terms or conditions?  
 11 MR. SEESE: Object to the form of that.  
 12 I also object to it as beyond the scope. Subject  
 13 to that, you can answer.  
 14 THE WITNESS: Not having reviewed this,  
 15 not -- I do not have a position or understanding  
 16 of the document.  
 17 BY MS. ROSS:  
 18 Q Do you understand that policies contain  
 19 declarations pages generally?  
 20 MR. SEESE: I object to the form of that  
 21 as beyond the scope, and I think now we're going  
 22 into the topics of 1 and 2, specific terms and  
 23 conditions, on which we have a pending motion for  
 24 protective order, and so I will instruct the  
 25 witness not to answer.

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1 BY MS. ROSS:  
 2 Q Do you know what policy form Madison-Kipp  
 3 believes was utilized with respect to Exhibit 5?  
 4 MR. SEESE: I object to that as beyond  
 5 the scope, and it's also getting into specific  
 6 terms and conditions on which there's a pending  
 7 motion for protective order, so I'd instruct the  
 8 witness not to answer.  
 9 BY MS. ROSS:  
 10 Q What policies does Madison-Kipp claim that  
 11 Columbia issued to Madison-Kipp?  
 12 MR. SEESE: I object to that as beyond  
 13 the scope. The witness can answer to the extent  
 14 you are able.  
 15 THE WITNESS: I'm not sure what policies  
 16 were issued.  
 17 MS. ROSS: Could the court reporter  
 18 please mark as Exhibit 6 a multipage document  
 19 entitled, "Stipulation Concerning the Terms and  
 20 Conditions of the Columbia Casualty Company  
 21 Umbrella Policies."  
 22 (Exhibit 6 was marked.)  
 23 BY MS. ROSS:  
 24 Q Mr. Daniel, showing you a copy of Exhibit 6, is  
 25 that a document that you have ever reviewed

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1 BY MS. ROSS:  
 2 Q Are you aware of any representations concerning  
 3 the terms and conditions of the policies listed  
 4 on Page 2 of Exhibit 6?  
 5 MR. SEESE: I object to that as beyond  
 6 the scope. You are also now referring to terms  
 7 and conditions, which is subject to a protective  
 8 order. I instruct the witness not to answer.  
 9 BY MS. ROSS:  
 10 Q With respect -- Are you aware of any payments by  
 11 Madison-Kipp to Columbia Casualty Company related  
 12 to the policies listed on Page 2 of Exhibit 6?  
 13 MR. SEESE: Objection, beyond the scope.  
 14 Subject to that, you can answer.  
 15 THE WITNESS: I'm not aware.  
 16 BY MS. ROSS:  
 17 Q Are you aware of any payments by Kemper under a  
 18 1980 to '81 policy, primary policy, issued to  
 19 Madison-Kipp?  
 20 MR. SEESE: Same objection.  
 21 THE WITNESS: I'm not aware.  
 22 BY MS. ROSS:  
 23 Q Do you have any understanding concerning any of  
 24 the pollution exclusions contained in any of the  
 25 policies listed on Page 2 of Exhibit 6?

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1 before?  
 2 A No.  
 3 Q On Page 2 of that document it lists four policies  
 4 that Columbia Casualty Company issued to  
 5 Madison-Kipp for the period of time from  
 6 January 1, 1981 through January 1, 1984. Do you  
 7 see that?  
 8 MR. SEESE: I will object to this line  
 9 of questioning on this document. It's beyond the  
 10 scope on which he's been designated. Subject to  
 11 that, you can answer.  
 12 THE WITNESS: I see the items listed,  
 13 but I know nothing more than that.  
 14 BY MS. ROSS:  
 15 Q Do you know whether Madison-Kipp claims that  
 16 Columbia Casualty Company issued any policies  
 17 other than those listed on Page 2 of Exhibit 6?  
 18 MR. SEESE: Same objection.  
 19 THE WITNESS: No.  
 20 BY MS. ROSS:  
 21 Q Are you aware of any of the negotiations relating  
 22 to the policies identified on Page 2 of  
 23 Exhibit 6?  
 24 MR. SEESE: Same objection.  
 25 THE WITNESS: Nope.

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1 MR. SEESE: Object to the scope of that.  
 2 Also caution the witness not to disclose  
 3 attorney-client privileged communications.  
 4 Subject to that, you can answer.  
 5 THE WITNESS: I'm not aware.  
 6 BY MS. ROSS:  
 7 Q Are there -- Is there testimony you are not  
 8 providing because of the instruction by your  
 9 counsel?  
 10 A No.  
 11 Q Do you have any understanding of the limits of  
 12 liability provision in the Columbia Casualty  
 13 Company umbrella policies?  
 14 MR. SEESE: Object to that as beyond the  
 15 scope. Now we're talking about specific terms  
 16 and conditions, so I'll instruct the witness not  
 17 to answer.  
 18 BY MS. ROSS:  
 19 Q Do you have any understanding of the maintenance  
 20 of underlying insurance provision contained in  
 21 the Columbia Casualty Company policies?  
 22 MR. SEESE: Same objection. I instruct  
 23 the witness not to answer.  
 24 BY MS. ROSS:  
 25 Q Are you aware of what responsibilities

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<p>1 Madison-Kipp has if a claim is made against 2 Madison-Kipp? What responsibilities Madison-Kipp 3 has under the Columbia policies if a claim is 4 made against Madison-Kipp? 5 MR. SEESE: Object to that as beyond the 6 scope. Subject to the object, you can answer. 7 THE WITNESS: I'm not aware. 8 BY MS. ROSS: 9 Q Are you aware of any other policies that Columbia 10 Casualty Company issued or allegedly issued to 11 Madison-Kipp other than those set forth on Page 2 12 of Exhibit 6? 13 MR. SEESE: Objection, beyond the scope. 14 Subject to that, you can answer. 15 THE WITNESS: I'm not aware. 16 BY MS. ROSS: 17 Q When did Madison-Kipp first provide notice to 18 Continental Casualty Company about the 19 environmental contamination claims at the 20 Madison-Kipp facility? 21 A What question are we addressing? 22 Q It comes out of Topics 3, 7 and 8. 23 A If we turn to the document -- 24 Q Are you looking at Exhibit 3? 25 A I'm looking at Exhibit 3. August 1, 2003 formal</p>	<p>1 notice, which is the fourth, I believe, divider 2 back, August 1st letter to John Walter Williams, 3 CNA Insurance, in reference to site Waubesa 4 Street facility penned by David Crass. 5 Q And at the point in time that notice was given on 6 August 1, 2003, Madison-Kipp had been cleaning up 7 the Madison-Kipp facility for a number of years, 8 is that correct? 9 MR. SEESE: Object to that as beyond the 10 scope. Subject to that, you can answer. 11 THE WITNESS: To my knowledge, they had 12 been doing remedial work, yes. 13 BY MS. ROSS: 14 Q Why didn't Madison-Kipp -- Why didn't 15 Madison-Kipp provide notice to Continental 16 Casualty Company prior to August 1, 2003? 17 MR. SEESE: I object to that to the 18 extent it calls for attorney-client privileged 19 communications. Subject to that, you can answer 20 without disclosing privileged communications. 21 THE WITNESS: As referenced in the 22 letter dated August 1, 2003 in Tab 14 and 15, the 23 insurance or the law was changed. Therefore, 24 there was a filing made at that time. 25</p>
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<p>1 BY MS. ROSS: 2 Q And you are referencing an August 1, 2003 letter 3 to Christine Beyrent at Riverstone Claims 4 Management, is that correct? 5 A Yes, and that's a different -- I'm sorry. There 6 was a similar letter sent to Columbia. 7 Q And so is your answer that there was a change in 8 the law? Is that correct? 9 A That is correct. 10 Q Prior to the change in the law, did Madison-Kipp 11 ever provide a notice of occurrence to 12 Continental Casualty Company? 13 A Not to my knowledge. 14 Q Did Madison-Kipp ever provide a notice of 15 occurrence to Columbia Casualty Company relating 16 to the Madison-Kipp facility? 17 MR. SEESE: Object to the form of that 18 as vague as to time. 19 MS. ROSS: At any point prior to 20 August 1, 2003. 21 THE WITNESS: Not to my knowledge. 22 BY MS. ROSS: 23 Q Between 1994 and 2003, what actions did 24 Madison-Kipp take in response to the 1994 DNR 25 letter?</p>	<p>1 MR. SEESE: I object to that as beyond 2 the scope. It's also subject to an agreement by 3 counsel that we would respond by interrogatory, 4 so I instruct the witness not to answer. 5 MS. ROSS: Our understanding of our 6 agreement was that you would respond by 7 interrogatory prior to this deposition. I 8 recognize we have a disagreement of our agreement 9 on that. 10 MR. SEESE: We do have a disagreement of 11 the agreement or about whether an agreement 12 exists, but yes. 13 MS. ROSS: Were you instructing him not 14 to answer? 15 MR. SEESE: I did. Yes, I maintain the 16 instruction not to answer. 17 BY MS. ROSS: 18 Q Did Madison-Kipp incur defense costs between 1994 19 and 2003? 20 A Both defense and indemnity. We incurred 21 approximately \$565,000 as outlined in Tab No. 5. 22 Q And that \$565,000 is both defense and indemnity? 23 A I believe so, yes. 24 Q And it's prior to what date? 25 A It's costs prior to 2009, 2009 and older.</p>

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1 Q So \$565,000 in defense and indemnity was incurred  
 2 by Madison-Kipp prior to 2009. Is that your  
 3 testimony?  
 4 A Yes, it is.  
 5 Q How much of that defense and indemnity was  
 6 incurred prior to August 1, 2003?  
 7 A I'm not prepared to answer that question. We  
 8 have the detail here that goes back to 2001,  
 9 which is the total of \$565,000. There's a  
 10 mixture.  
 11 Q Were there costs incurred between 1994 and 2001  
 12 relating to contamination at the Madison-Kipp  
 13 facility?  
 14 A I'm not aware.  
 15 Q So to the best of your knowledge, there were no  
 16 costs incurred in that time period?  
 17 MR. SEESE: Object to the form of that,  
 18 misstates his testimony. You can answer.  
 19 THE WITNESS: I'm not aware.  
 20 BY MS. ROSS:  
 21 Q Does that mean you don't know one way or the  
 22 other?  
 23 A I do not know one way or another.  
 24 Q How would you find out?  
 25 A We would have to go back to the old financial

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1 something, you are welcome to do so.  
 2 A All correspondence is included in the binder  
 3 under Tab 3 for Continental and No. 8, correct?  
 4 MR. SEESE: You have to answer her.  
 5 THE WITNESS: No. 3 and No. 8. All  
 6 communications, as defined earlier, are 3, 7 and  
 7 8. They all refer to the question that's posed.  
 8 BY MS. ROSS:  
 9 Q Well, I'm asking you a pretty specific question  
 10 without -- You can look at anything you want to  
 11 look at, but my question to you is what  
 12 communications were there between Madison-Kipp  
 13 and Continental Casualty Company between  
 14 August 1, 2003 and July of 2011 concerning  
 15 contamination at the Madison-Kipp facility,  
 16 July 19, 2011.  
 17 MR. SEESE: I just want to make sure you  
 18 are talking about contamination regarding  
 19 environmental contamination at the facility, not  
 20 contamination regarding things sent elsewhere.  
 21 Is that fair? Is that the question?  
 22 MS. ROSS: Right. That's the question.  
 23 MR. SEESE: Do you understand her  
 24 question?  
 25 THE WITNESS: Yes, I believe so. Thank

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1 system, which is now obsolete, prior to 2001.  
 2 Q Did you attempt to do that?  
 3 A Yes, we did.  
 4 Q And what did you find out?  
 5 A We were unable to resurrect any of the  
 6 information.  
 7 Q Do you have any estimate of the amount of defense  
 8 or indemnity that Madison-Kipp incurred between  
 9 1994 and 2001 relating to contamination at the  
 10 Madison-Kipp facility?  
 11 A No, I'm not aware.  
 12 Q I assume Madison-Kipp is not seeking any coverage  
 13 for the defense or indemnity that it allegedly  
 14 incurred between 1994 and 2001, is that correct?  
 15 MR. SEESE: Object to form and  
 16 foundation, also beyond the scope. Subject to  
 17 that, you can answer.  
 18 THE WITNESS: I'm not aware.  
 19 BY MS. ROSS:  
 20 Q Between August 1, 2003 and July 2011, what  
 21 communications were there between Madison-Kipp  
 22 and Continental Casualty Company concerning the  
 23 contamination at the Madison-Kipp facility?  
 24 A Are we referring to Item 3 in the binder?  
 25 Q I'm asking my question. If you need to refer to

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1 you. Would you reread the question for me,  
 2 please.  
 3 COURT REPORTER: "Well, I'm asking you a  
 4 pretty specific question without -- You can look  
 5 at anything you want to look at, but my question  
 6 to you is what communications were there between  
 7 Madison-Kipp and Continental Casualty Company  
 8 between August 1, 2003 and July of 2011  
 9 concerning contamination at the Madison-Kipp  
 10 facility, July 19, 2011."  
 11 THE WITNESS: Okay. We have the letter  
 12 dated August 1, No. 3, from David Crass to CNA  
 13 Insurance, John Walter Williams, in reference to  
 14 the Waubesa Street site. On July 25, 2011 a  
 15 letter from David Crass to, again, CNA Insurance,  
 16 John Walter Williams, and that included the  
 17 August 1, 2003 letter. There was a letter from  
 18 David Crass to a Gina Marsari, Resolute  
 19 Management.  
 20 BY MS. ROSS:  
 21 Q What date is that?  
 22 A October 21, 2011.  
 23 Q I'm not trying to interrupt you, but I'm looking  
 24 for communications between August 1, 2003 and  
 25 July 24, 2011.

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1 A I believe then the only would be the August 1,  
 2 2003 letter in reference to the Madison property.  
 3 Q So between August 1, 2003 and July 25, 2011,  
 4 Madison-Kipp did not communicate with Continental  
 5 Casualty Company in any way concerning the  
 6 contamination at the Waubesa Street facility, is  
 7 that correct?  
 8 A Other than the August 1, 2003 letter, to my  
 9 knowledge there was no other communication.  
 10 Q There was no oral communication of any type, is  
 11 that correct?  
 12 A Not to my knowledge.  
 13 Q Of the \$565,000 in defense and indemnity that  
 14 Madison-Kipp incurred during that period of time,  
 15 were any of the bills for those \$565,000 ever  
 16 forwarded to Continental Casualty Company?  
 17 MR. SEESE: Object to the form of that.  
 18 You can answer.  
 19 THE WITNESS: Not to my knowledge.  
 20 BY MS. ROSS:  
 21 Q In the August 1, 2003 letter that you reference  
 22 to CNA Insurance Companies, can you look at  
 23 Page 4 of that letter, please.  
 24 A Yes.  
 25 Q In the next to the last paragraph of the letter

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1 MR. SEESE: Object to the form of that.  
 2 Subject to that, you can answer.  
 3 THE WITNESS: Not that I'm aware.  
 4 BY MS. ROSS:  
 5 Q What communications did Madison-Kipp have with  
 6 Columbia Casualty Company between August 1, 2003  
 7 and July 19, 2011?  
 8 A I'm not aware of any.  
 9 Q And Madison-Kipp also did not submit any invoices  
 10 to Columbia Casualty Company, is that correct?  
 11 A Not that I'm aware of.  
 12 MR. SEESE: When you get a chance, I'd  
 13 like to take a break whenever it's okay.  
 14 MS. ROSS: I will get through a couple  
 15 more questions, unless you want it right this  
 16 minute.  
 17 MR. SEESE: No, that's okay.  
 18 BY MS. ROSS:  
 19 Q Did Madison-Kipp ever seek approval from  
 20 Continental Casualty Company for incurring any  
 21 expense between 2003 and July of 2011?  
 22 A I'm not aware of any.  
 23 Q Did Madison-Kipp ever seek approval for incurring  
 24 any expense between 2003 and July of 2011 from  
 25 Columbia Casualty Company?

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1 it says, "We hereby place your company on notice  
 2 of a claim for defense and indemnity obligations  
 3 stemming from liabilities that have been and will  
 4 be incurred by your insured in response to and as  
 5 a result of WDNR's demands with respect to this  
 6 site." Do you see that?  
 7 A Yes.  
 8 Q And then it says, "We request that your company  
 9 analyze this matter and accept duties of defense  
 10 and then indemnity owed under the CGL and/or  
 11 umbrella policies." Do you see that?  
 12 A Yes.  
 13 Q Now you understand that to be a demand by  
 14 Madison-Kipp to Continental Casualty Company and  
 15 Columbia Casualty Company to accept defense and  
 16 indemnity with respect to the Waubesa site, is  
 17 that correct?  
 18 A Yes.  
 19 Q With respect to the next sentence it says, "We  
 20 will provide you with further information as it  
 21 is developed in this matter." Do you see that?  
 22 A Yes.  
 23 Q Prior to July of 2011, did Madison-Kipp ever  
 24 provide Continental Casualty with further  
 25 information as it was developed in this matter?

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1 MR. SEESE: Objection, beyond the scope.  
 2 Subject though that, you can answer.  
 3 THE WITNESS: Not to my knowledge.  
 4 BY MS. ROSS:  
 5 Q Did Madison-Kipp ever discuss any actions it  
 6 intended to take with respect to the Madison-Kipp  
 7 site with Continental Casualty Company between  
 8 2003 and July of 2011?  
 9 A I'm not aware of any.  
 10 Q Did Madison-Kipp ever discuss any actions it  
 11 intended to take with respect to the Madison-Kipp  
 12 site with Columbia Casualty Company between 2003  
 13 and July of 2011?  
 14 A I'm not aware of any.  
 15 Q Was Madison-Kipp aware in August of 2003 that  
 16 Columbia Casualty Company had not located any of  
 17 the policies Madison-Kipp claimed it had issued?  
 18 MR. SEESE: Object to form. Also beyond  
 19 the scope. Subject to that, you can answer.  
 20 THE WITNESS: Not to my knowledge.  
 21 MS. ROSS: Okay. Let's take a short  
 22 break.  
 23 (A recess was taken.)  
 24 BY MS. ROSS:  
 25 Q Mr. Daniel, when did you start at Madison-Kipp?

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1 A March of 2002.  
 2 Q And in what position?  
 3 A As controller.  
 4 Q How long did you remain controller?  
 5 A For approximately one year.  
 6 Q And then what position did you undertake?  
 7 A VP of Finance.  
 8 Q Have you been the VP of Finance ever since then?  
 9 A That is correct.  
 10 Q Why didn't Madison-Kipp provide any further  
 11 information to Continental Casualty or Columbia  
 12 Casualty Company between August 1, 2003 and July  
 13 of 2011?  
 14 MR. SEESE: I object to that. It calls  
 15 for attorney-client privileged communications. I  
 16 instruct the witness to answer, but in doing so,  
 17 do not disclose attorney-client privileged  
 18 communications.  
 19 THE WITNESS: I'm not sure.  
 20 BY MS. ROSS:  
 21 Q Is there any information you are not providing  
 22 because of the instruction not to answer?  
 23 A No.  
 24 Q Do you have -- Does Madison-Kipp have any  
 25 justification that you are aware of for not

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1 BY MS. ROSS:  
 2 Q But it doesn't include the primary policy from  
 3 1983 to 1984, does it?  
 4 A What time period?  
 5 Q 1/1/83 to 1/1/84, primary policy.  
 6 A There is a policy listed on the first page  
 7 covering that time period.  
 8 Q Do you know whether that's a primary policy or an  
 9 excess policy?  
 10 A It is grouped under the Continental Casualty CGL  
 11 and umbrella policies.  
 12 Q So do you know whether it's a primary policy or  
 13 an excess policy?  
 14 A I do not know.  
 15 Q Do you know of any other notice that Madison-Kipp  
 16 gave of contamination at the Waubesa Street  
 17 facility under the 1983 to '84 primary policy?  
 18 A Beyond --  
 19 MR. SEESE: Object to the form of that.  
 20 Go ahead. You can answer.  
 21 THE WITNESS: Beyond the August 1, 2003  
 22 letter, I'm not aware.  
 23 BY MS. ROSS:  
 24 Q The letter on the second page -- just a minute --  
 25 on the second page lists Policy 1781934, and then

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1 having communications with Continental Casualty  
 2 Company or Columbia Casualty Company between  
 3 August 1, 2003 and July of 2011?  
 4 MR. SEESE: I object to the form of  
 5 that. Also object to the extent it calls for  
 6 privilege. You may answer the question, but do  
 7 not disclose attorney-client privileged  
 8 communication.  
 9 THE WITNESS: Not to my knowledge.  
 10 BY MS. ROSS:  
 11 Q Can you look at that August 1, 2003 letter,  
 12 please, that is under Tab 3 in your -- in the  
 13 binder that is Exhibit 3. That letter identifies  
 14 specific Continental Casualty Company CGL and  
 15 umbrella policies, is that correct?  
 16 A That is correct.  
 17 Q And it identifies policies under Continental  
 18 Casualty Company that go between 1981 and 1987.  
 19 Do you see that?  
 20 A I see that, yes.  
 21 Q And it includes certain primary policies issued  
 22 by Continental Casualty Company, is that right?  
 23 MR. SEESE: Object to the form. You an  
 24 answer.  
 25 THE WITNESS: Yes.

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1 it parentheses it says 1/1/82 to '83. Do you see  
 2 that?  
 3 A Yes.  
 4 Q Do you know what kind of policy that is?  
 5 A I do not.  
 6 MR. SEESE: Object to form, beyond the  
 7 scope. Subject to that, you can answer.  
 8 THE WITNESS: I do not.  
 9 BY MS. ROSS:  
 10 Q Do you know -- Have you ever seen a copy of that  
 11 policy?  
 12 MR. SEESE: Same objection. You can  
 13 answer.  
 14 THE WITNESS: Not to my knowledge.  
 15 BY MS. ROSS:  
 16 Q Do you have any information concerning the terms  
 17 and conditions of that policy under which  
 18 Madison-Kipp provided notice?  
 19 MR. SEESE: Can you read that back?  
 20 COURT REPORTER: "Do you have any  
 21 information concerning the terms and conditions  
 22 of that policy under which Madison-Kipp provided  
 23 notice?"  
 24 THE WITNESS: Yes, that question is  
 25 subject to the protective order, and so I'm going

<p style="text-align: right;">Page 54</p> <p>1 to instruct the witness not to answer.</p> <p>2 BY MS. ROSS:</p> <p>3 Q Do you see in the fourth line on Page 2 a Policy</p> <p>4 No. 1781806 and then in parentheses 1/1/81 to</p> <p>5 '82? Do you see that?</p> <p>6 A Yes, I do.</p> <p>7 Q Do you know what kind of policy that allegedly</p> <p>8 is?</p> <p>9 MR. SEESE: Objection, beyond the scope.</p> <p>10 Subject to that, you can answer.</p> <p>11 THE WITNESS: No, I do not.</p> <p>12 BY MS. ROSS:</p> <p>13 Q Have you ever seen a copy of that policy?</p> <p>14 MR. SEESE: Same objection.</p> <p>15 THE WITNESS: No, I have not.</p> <p>16 BY MS. ROSS:</p> <p>17 Q Have you -- Do you know anything about the terms</p> <p>18 and conditions of that policy?</p> <p>19 MR. SEESE: I instruct the witness not</p> <p>20 to answer. That topic is the subject of a</p> <p>21 protective order.</p> <p>22 BY MS. ROSS:</p> <p>23 Q With respect to Columbia Casualty Company, under</p> <p>24 the August 1, 2003 letter it lists three policy</p> <p>25 numbers. Do you see that?</p>	<p style="text-align: right;">Page 55</p> <p>1 A Yes, I see that.</p> <p>2 Q And it lists dates from 1/1/81 through 1/1/84.</p> <p>3 Do you see that?</p> <p>4 A Yes, I see that.</p> <p>5 Q Now there's no listing of any Columbia policy for</p> <p>6 1980 to '81, is there?</p> <p>7 A That's correct.</p> <p>8 Q Did Madison-Kipp have the 1980 to '81 Columbia</p> <p>9 policy in August of 2003?</p> <p>10 MR. SEESE: Object to form and</p> <p>11 foundation. Also beyond the scope. Subject to</p> <p>12 that, you can answer.</p> <p>13 THE WITNESS: I'm not aware.</p> <p>14 BY MS. ROSS:</p> <p>15 Q Do you have any understanding concerning why</p> <p>16 Madison-Kipp did not provide notice under the</p> <p>17 1980 to '81 Columbia policy in the August 1, 2003</p> <p>18 letter?</p> <p>19 A No.</p> <p>20 Q Do you have any understanding concerning why</p> <p>21 Madison-Kipp never sent bills to Continental or</p> <p>22 Columbia between August 1, 2003 and July of 2011?</p> <p>23 A I'm not aware.</p> <p>24 Q Do you have any understanding concerning why</p> <p>25 Madison-Kipp did not discuss potential remedial</p>
<p style="text-align: right;">Page 56</p> <p>1 options with Continental Casualty Company or</p> <p>2 Columbia Casualty Company between August 1, 2003</p> <p>3 and July of 2011?</p> <p>4 MR. SEESE: Object to the form of that.</p> <p>5 Subject to that, you can answer.</p> <p>6 THE WITNESS: Not to my knowledge.</p> <p>7 BY MS. ROSS:</p> <p>8 Q Does Madison-Kipp claim that its failure to</p> <p>9 provide timely notice did not prejudice</p> <p>10 Continental Casualty Company? Is that a claim by</p> <p>11 Madison-Kipp?</p> <p>12 MR. SEESE: I object to the form of</p> <p>13 that. I also object as beyond the scope.</p> <p>14 Subject to that, you can answer.</p> <p>15 THE WITNESS: Do you have a specific</p> <p>16 topic you are referring to?</p> <p>17 MS. ROSS: It's within the topics.</p> <p>18 MR. SEESE: Which topic?</p> <p>19 MS. ROSS: I'm not going to get into a</p> <p>20 discussion with you.</p> <p>21 MR. SEESE: Well, it's a 30(b)(6)</p> <p>22 deposition.</p> <p>23 MS. ROSS: That's right.</p> <p>24 MR. SEESE: I want to know what topic we</p> <p>25 are on.</p>	<p style="text-align: right;">Page 57</p> <p>1 MS. ROSS: Four.</p> <p>2 MR. SEESE: Okay.</p> <p>3 THE WITNESS: Topic 4. At this time the</p> <p>4 factual basis of MKC's claim that neither</p> <p>5 Continental nor Columbia suffered prejudice is</p> <p>6 that MKC provided notice to Continental and</p> <p>7 Columbia on August 1, 2003. Neither Continental</p> <p>8 nor Columbia responded to that notice. As a</p> <p>9 result, neither Continental nor Columbia can</p> <p>10 claim prejudice as a result of what happened at</p> <p>11 the site from August 1, 2003 through July 25,</p> <p>12 2011. In addition, when MKC first received</p> <p>13 notice of the DNR's claim in 1994, there was no</p> <p>14 insurance coverage for such claims. There is no</p> <p>15 indication that Continental or Columbia would</p> <p>16 have done anything other than deny MKC's claim</p> <p>17 had MKC given notice to Continental and Columbia</p> <p>18 in 1984.</p> <p>19 BY MS. ROSS:</p> <p>20 Q Are you reading from something?</p> <p>21 A Yes, I am.</p> <p>22 Q What are you reading from?</p> <p>23 A A response, formal response.</p> <p>24 Q A formal response drafted by whom?</p> <p>25 A Our legal counsel.</p>

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1 Q So your counsel wrote out your answer for you, is  
 2 that right?  
 3 A That is correct.  
 4 MS. ROSS: Can I have a copy of that,  
 5 please?  
 6 MR. SEESE: You can.  
 7 BY MS. ROSS:  
 8 Q Does your copy have handwriting on it?  
 9 A It has one sentence.  
 10 Q And what does it say?  
 11 A "What topics are we addressing."  
 12 MS. ROSS: And can you hand your copy to  
 13 the court reporter, please. Could the court  
 14 reporter please mark this as Exhibit 7.  
 15 (Exhibit 7 was marked.)  
 16 BY MS. ROSS:  
 17 Q Is this a three-page document, Mr. Daniel?  
 18 A It is a three-page document.  
 19 Q And is this a document that your counsel wrote  
 20 out for you?  
 21 A That is correct.  
 22 Q And what input did you have into the response on  
 23 Topic No. 4?  
 24 MR. SEESE: I object to that as it calls  
 25 for attorney-client privileged information. Do

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1 knowledge of any legal issues in this situation,  
 2 whether it's prejudiced or not.  
 3 BY MS. ROSS:  
 4 Q Okay. My question originally was what input, if  
 5 any, did you have to the response to Topic 4 that  
 6 is set forth on Exhibit 7?  
 7 MR. SEESE: I object to that to the  
 8 extent it calls for attorney-client privileged  
 9 communications. To the extent you can answer it  
 10 without disclosing privileged communications, you  
 11 may answer.  
 12 THE WITNESS: Again, I choose not to  
 13 answer that question.  
 14 BY MS. ROSS:  
 15 Q Did you have any input into the answer on Topic  
 16 4. That's a yes or a no.  
 17 A No.  
 18 Q When you look at Topic 10, did you have any input  
 19 into the answer on Topic 10?  
 20 A No.  
 21 Q When you look at the response to Topic 13, did  
 22 you have any input into the response to Topic 13?  
 23 A No.  
 24 Q Did anyone at Madison-Kipp, to the best of your  
 25 knowledge, have any input into the response to

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1 not disclose attorney-client privileged  
 2 communications. If you can respond to that  
 3 without disclosing attorney-client privilege, you  
 4 can answer.  
 5 THE WITNESS: I choose not to respond.  
 6 BY MS. ROSS:  
 7 Q Are you choosing not to respond because the only  
 8 information is information that your counsel has  
 9 instructed you not to answer?  
 10 MR. SEESE: Object to the form of that,  
 11 and also repeat the instruction that to the  
 12 extent that question calls for the disclosure of  
 13 attorney-client privileged information, you are  
 14 not to answer.  
 15 THE WITNESS: I choose not to answer.  
 16 BY MS. ROSS:  
 17 Q I'm trying to understand the basis for your  
 18 choice. Is your choice not to answer because you  
 19 simply don't want to answer or because you  
 20 believe that the information that you would  
 21 provide would be privileged under your counsel's  
 22 instruction?  
 23 MR. SEESE: Object to form. You can  
 24 answer.  
 25 THE WITNESS: I have no working

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1 Topic 4?  
 2 A Not to my knowledge.  
 3 Q Did anyone at Madison-Kipp have any input into  
 4 the response to Topic 10?  
 5 A Not to my knowledge.  
 6 Q Did anyone at Madison-Kipp have any input into  
 7 the response to Topic 13?  
 8 A Not to my knowledge.  
 9 Q Now you say there's no indication that  
 10 Continental or Columbia would have done anything  
 11 other than deny Madison-Kipp's claim had  
 12 Madison-Kipp given notice to Continental and  
 13 Columbia in 1994. Is that right?  
 14 A That is correct.  
 15 Q What is the basis for that statement?  
 16 A As the law at that time did not cover that based  
 17 on the letter that was written.  
 18 MR. SEESE: I will also object here to  
 19 the extent this is a topic that skirts the  
 20 attorney-client privilege, walks very closely to  
 21 what's privileged and not, and so I instruct the  
 22 witness in his answers do not disclose  
 23 attorney-client privileged communications.  
 24 BY MS. ROSS:  
 25 Q Was there any attorney-client communication that



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1 you did not provide in response to the last  
 2 question?  
 3 MR. SEESE: Object to the form of that.  
 4 Subject to that, you can answer.  
 5 BY MS. ROSS:  
 6 Q What I'm trying to find out is is there anything  
 7 that you didn't tell me because of the  
 8 instruction?  
 9 A Not to my knowledge, no.  
 10 Q Is it Madison-Kipp's position that if it had  
 11 submitted a bill to Continental or Columbia after  
 12 August 1, 2003, that bill would not have been  
 13 paid?  
 14 MR. SEESE: Object to that. Calls for a  
 15 legal conclusion. Also it's beyond the scope of  
 16 any of the noticed topics. Subject to that, you  
 17 can answer, if you are able.  
 18 THE WITNESS: Not to my knowledge.  
 19 BY MS. ROSS:  
 20 Q Is it Madison-Kipp's position that if it had  
 21 submitted invoices for remediation costs to  
 22 Continental Casualty Company after August 1,  
 23 2003, they would not have been paid?  
 24 MR. SEESE: Same objections.  
 25 THE WITNESS: Not to my knowledge.

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1 Continental Casualty Company indicated that it  
 2 had not -- it did not have any copies of the  
 3 policies, isn't that right?  
 4 A I do not know. I do not know.  
 5 Q In June of 2003 Continental Casualty Company  
 6 asked Madison-Kipp to provide copies of the  
 7 policies that it had, did it not?  
 8 A I'm not aware of that.  
 9 Q Who would know?  
 10 MR. SEESE: Object to form and beyond  
 11 the scope.  
 12 THE WITNESS: Legal counsel would be the  
 13 other ones, as they were our representatives, and  
 14 they searched their files, so --  
 15 BY MS. ROSS:  
 16 Q Well, were you responsible for insurance in June  
 17 of 2003?  
 18 A On a go-forward basis, yes.  
 19 Q So were you responsible for deciding that notice  
 20 should be given of the Amber Oil site?  
 21 A No, I was not.  
 22 Q Who was responsible for deciding that at  
 23 Madison-Kipp?  
 24 A It would have been Mr. Coleman and Mr. Meunier.  
 25 Q And what was Mr. Meunier's responsibilities with

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1 BY MS. ROSS:  
 2 Q At the time that Madison-Kipp gave notice to  
 3 Continental and Columbia about the environmental  
 4 contamination at the Waubesa Street facility,  
 5 were there other environmental claims pending at  
 6 that time?  
 7 A I do not believe so. If we go back to Item 3, we  
 8 had the Refuse Hideaway, Amber Oil site. The  
 9 Amber Oil site was an active site in 2003.  
 10 Q Do you know whether Refuse Hideaway Landfill was  
 11 an activity site in 2003?  
 12 A I'm not sure.  
 13 Q With respect to the Amber Oil site, that site is  
 14 referenced in the June 6, 2003 letter that is  
 15 behind Tab 3 in your binder, is that correct?  
 16 A Correct.  
 17 Q And Madison-Kipp provided notice of that claim on  
 18 June 6, 2003, is that right?  
 19 A That is correct.  
 20 Q And it provided notice under the same policies  
 21 that it provided notice of the Waubesa Street  
 22 site a couple of months later, is that right?  
 23 A I have not checked each line item, but I would  
 24 assume that it is the same policies.  
 25 Q And in response to the Amber Oil site,

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1 respect to providing notice of claims?  
 2 MR. SEESE: Object to that to the extent  
 3 it calls for attorney-client privileged  
 4 communications. Also, the term "legal notice" is  
 5 a term of -- the phrase "legal notice" is a term  
 6 of art. It calls for a legal conclusion.  
 7 Subject to that, you can answer.  
 8 THE WITNESS: Mr. Meunier is our  
 9 representative for the environmental issues.  
 10 BY MS. ROSS:  
 11 Q And has Mr. Meunier been your representative for  
 12 the environmental issues since you joined  
 13 Madison-Kipp?  
 14 A Yes.  
 15 Q Do you know what happened with respect to the  
 16 Amber Oil site?  
 17 MR. SEESE: Objection, beyond the scope.  
 18 Subject to that, you can answer.  
 19 THE WITNESS: The site was cleaned up  
 20 and there was a DNR release on that site.  
 21 BY MS. ROSS:  
 22 Q And in August of 2003 did Madison-Kipp propose  
 23 entering into an Administrative Order of Consent  
 24 under which Madison-Kipp would implement removal  
 25 actions required by the EPA?

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1 MR. SEESE: Objection, beyond the scope.  
 2 Subject to that, you can answer.  
 3 THE WITNESS: I don't know the breadth  
 4 and width of any agreements in reference to the  
 5 Amber Oil site.  
 6 BY MS. ROSS:  
 7 Q Do you know that Madison -- Do you know whether  
 8 Madison-Kipp told Continental Casualty Company in  
 9 November of 2003 that it was not seeking coverage  
 10 for the Amber Oil site under the Continental  
 11 policies?  
 12 A I'm not aware of --  
 13 MR. SEESE: What topic is that on?  
 14 MS. ROSS: There are a variety of topics  
 15 that goes to, including other claims.  
 16 MR. SEESE: Is it Continental?  
 17 MS. ROSS: Continental.  
 18 THE WITNESS: In Section 7 and 8 there  
 19 was correspondence with Columbia and Continental  
 20 June 17, 2003, August 4, 2003 from Mr. Crass to  
 21 Mr. Williams, September 8 from Mr. Crass to  
 22 Mr. Williams, and then Mr. Williams -- a letter  
 23 from Cynthia Smith to Mr. Williams November 25,  
 24 2003 in reference to the site.  
 25

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1 right?  
 2 A That is correct.  
 3 Q And in August of 2004 Madison-Kipp told  
 4 Continental not to take any further action with  
 5 respect to the Jepsco site, right?  
 6 A That is correct.  
 7 Q And in November of 2004 Madison-Kipp told  
 8 Continental that the EPA was not pursuing a claim  
 9 with respect to Jepsco, is that right?  
 10 A That is correct.  
 11 Q Now in the conversations between May of 2004 and  
 12 November of 2004, did Madison-Kipp ever raise any  
 13 question about Continental Casualty Company's  
 14 defense or indemnity with respect to the Waubesa  
 15 site?  
 16 A Not to my knowledge.  
 17 Q Why not?  
 18 MR. SEESE: Object to that to the extent  
 19 it calls for a legal conclusion and instruct the  
 20 witness not to answer to the extent it requires  
 21 disclosure of attorney-client privileged  
 22 communication.  
 23 THE WITNESS: I have no knowledge.  
 24 BY MS. ROSS:  
 25 Q Are you failing to provide any testimony based on

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1 BY MS. ROSS:  
 2 Q And with respect to the November 25, 2003 letter,  
 3 Madison-Kipp decided that -- it requests that its  
 4 claim be closed, is that correct?  
 5 A That's correct.  
 6 Q And the claim that it asked to be closed was the  
 7 Amber Oil site claim, is that right?  
 8 A That's correct.  
 9 Q During this period of time between August 1, 2003  
 10 and November 25, 2003, did Madison-Kipp ever once  
 11 say to Continental Casualty Company, "Hey, how  
 12 about that Waubesa Street site, you going to pay  
 13 anything on that?" Did Madison-Kipp ever say  
 14 anything during that time period?  
 15 MR. SEESE: Object to the form of that,  
 16 argumentative. Subject to that, you can answer.  
 17 THE WITNESS: Not to my knowledge.  
 18 BY MS. ROSS:  
 19 Q Did they ever say anything like that to Columbia  
 20 Casualty Company?  
 21 MR. SEESE: Same objection.  
 22 THE WITNESS: Not to my knowledge.  
 23 BY MS. ROSS:  
 24 Q At the same time in the 2003, 2004 time frame,  
 25 there was a claim at the Jepsco site, isn't that

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1 the instruction not to answer?  
 2 MR. SEESE: Well, I object to the form  
 3 of that, and I repeat the objection about not  
 4 disclosing -- not answering the question to the  
 5 extent it requires disclosure of attorney-client  
 6 privileged information.  
 7 MS. ROSS: It's a yes or a no.  
 8 THE WITNESS: No.  
 9 MS. ROSS: Thank you.  
 10 BY MS. ROSS:  
 11 Q Other than Continental and Columbia, who else did  
 12 Madison-Kipp provide notice to of the Waubesa  
 13 Street contamination?  
 14 A United States Fire Insurance Company and Kemper  
 15 Insurance Companies.  
 16 Q Can you look at your Tab 22. Do you see about 20  
 17 pages in there's the August 1, 2003 letter from  
 18 Michael Best to Kemper relating to the Waubesa  
 19 Street Facility?  
 20 A What was the date of that, please?  
 21 Q August 1, 2003.  
 22 A Yes.  
 23 Q In this letter, this August 1, 2003 letter to  
 24 Kemper, you list one policy number. Do you see  
 25 that?

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1 A Yes.  
 2 Q And that's F1M008598, is that right?  
 3 A That's correct.  
 4 Q Do you know what kind of a policy that is,  
 5 whether it's a primary umbrella or an excess  
 6 policy?  
 7 MR. SEESE: Objection, beyond the scope.  
 8 Subject to that, you can answer.  
 9 THE WITNESS: I don't know.  
 10 BY MS. ROSS:  
 11 Q Do you know whether it was a general liability  
 12 policy?  
 13 MR. SEESE: Same objection.  
 14 THE WITNESS: I don't know.  
 15 BY MS. ROSS:  
 16 Q Now Madison-Kipp knew that Kemper had issued  
 17 other policies in August of 2003, did they not?  
 18 MR. SEESE: Object to the form and  
 19 foundation of that. Also beyond the scope.  
 20 Subject to that, you can answer.  
 21 THE WITNESS: Not to my knowledge.  
 22 BY MS. ROSS:  
 23 Q What policies do you understand that Kemper  
 24 issued to Madison-Kipp?  
 25 MR. SEESE: Object to the form and

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1 A Yes, that's correct.  
 2 Q And in that letter Kemper indicates to you that  
 3 it -- after an exhaustive search, they have  
 4 failed to locate any policies, is that right?  
 5 A Yes.  
 6 Q And this relates to multiple sites in the Madison  
 7 area, is that right, claims relating to multiple  
 8 sites in the Madison area?  
 9 A That's what the definition of this site in this  
 10 letter indicates, yes.  
 11 Q Do you know where those multiple sites are?  
 12 A I have no knowledge of that.  
 13 Q Okay. Then immediately behind that is a  
 14 statement of Jack J. Maloney. Do you see that?  
 15 A Yes.  
 16 Q And who was Mr. Maloney?  
 17 A By reading the second paragraph here, he was  
 18 employed as an agent in the Kemper Insurance  
 19 Agency in Milwaukee, it's successor, from 1960  
 20 through 1990.  
 21 Q And have you ever spoken to Mr. Maloney?  
 22 A I have not, no.  
 23 Q Do you have any knowledge concerning whether the  
 24 statements made by Mr. Maloney are correct or  
 25 incorrect?

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1 foundation of that. Also beyond the scope of the  
 2 deposition notice and beyond the scope on which  
 3 he's been designated. Subject to that, you can  
 4 answer.  
 5 THE WITNESS: The breadth of my  
 6 knowledge is outlined here in these documents  
 7 with the letter dated August 1, 2003.  
 8 BY MS. ROSS:  
 9 Q Can you look at your Tab 20 and 21.  
 10 A Yes.  
 11 Q What does the information in Tab 20 and 21 --  
 12 What were you attempting to capture behind Tab 20  
 13 and 21?  
 14 A All communications between Madison-Kipp and  
 15 American Motorists Insurance Company concerning  
 16 the environmental contamination at the  
 17 Madison-Kipp facility and the Lumbermens Mutual  
 18 Casualty Company concerning the environmental  
 19 contamination at the Madison-Kipp facility.  
 20 Q Anything else?  
 21 A That's it.  
 22 Q The first letter that you have there is on  
 23 March 27, 1992, a letter from Kemper National  
 24 Insurance Company to Mr. Riesen at Madison-Kipp  
 25 Corporation, is that correct?

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1 MR. SEESE: Object to form and  
 2 foundation. Also beyond the scope. Subject to  
 3 that, you can answer.  
 4 THE WITNESS: Not to my knowledge.  
 5 BY MS. ROSS:  
 6 Q Not to my knowledge what?  
 7 A I haven't contacted him or talked to him.  
 8 Q So do you know whether any of the statements made  
 9 in the statement of Mr. Maloney are correct or  
 10 incorrect?  
 11 MR. SEESE: Object to form and  
 12 foundation. Also beyond the scope. Subject to  
 13 that, you can answer.  
 14 THE WITNESS: I can't answer that.  
 15 BY MS. ROSS:  
 16 Q With respect to Paragraph 6 of Mr. Maloney's  
 17 statement, he indicates that beginning in 1960  
 18 Madison-Kipp had a comprehensive general  
 19 liability policy with American  
 20 Motorists/Lumbermens Mutual in at least the  
 21 following amounts: 100,000 per occurrence,  
 22 300,000 annual aggregate and 100,000 property  
 23 damage. Do you see that?  
 24 A Yes.  
 25 Q Do you know whether -- Is that Madison-Kipp's

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1 position, that Madison-Kipp had a  
 2 comprehensive -- had comprehensive general  
 3 liability policies with Kemper beginning in 1960?  
 4 MR. SEESE: Object to that as beyond the  
 5 scope. It also calls for a legal conclusion.  
 6 Subject to that, you can answer.  
 7 MR. WEISS: Object to form and  
 8 foundation.  
 9 THE WITNESS: I have no knowledge of  
 10 that.  
 11 BY MS. ROSS:  
 12 Q The next letter in this is an April 13, 1992  
 13 letter from John Conway, general counsel of  
 14 Kemper National Insurance Companies, to Reid  
 15 Coleman. Do you see that?  
 16 A Yes.  
 17 Q This letter describes an agreement between Kemper  
 18 and Mr. Coleman concerning the manner in which  
 19 claims will be handled. Do you see that?  
 20 A Yes.  
 21 Q Do you know whether there are any other  
 22 agreements between Madison-Kipp and Kemper  
 23 concerning the manner in which claims will be  
 24 handled?  
 25 MR. SEESE: Objection, beyond the scope.

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1 Q And then immediately following that there's some  
 2 red lining, marking, on a document similar to  
 3 that?  
 4 A Um-hum, yes.  
 5 Q And then immediately behind that is a March 1,  
 6 1993 letter from Kemper saying, "We haven't  
 7 received a signed copy of the non-waiver  
 8 agreement." Do you see that?  
 9 A Yes.  
 10 Q I'm sorry. Did you answer the last question?  
 11 A Yes. I'm sorry.  
 12 Q I apologize. Then there's an April 5, 1993  
 13 letter from Kemper to Mr. Hanson at Michael Best  
 14 inquiring as to whether Madison-Kipp was going to  
 15 execute the non-waiver agreement. Do you see  
 16 that?  
 17 A Yes.  
 18 Q And then there is a letter or a message dated  
 19 April 12, 1993 enclosing the signed original  
 20 non-waiver agreement. Do you see that?  
 21 A Yes.  
 22 Q So Madison-Kipp ultimately entered into a  
 23 non-waiver agreement with Kemper concerning the  
 24 Refuse Hideaway Landfill site. Do you see that?  
 25 A I see a Lumbermens agreement, and if Kemper is

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1 Subject to that, you can answer.  
 2 THE WITNESS: Not to my knowledge.  
 3 BY MS. ROSS:  
 4 Q The next letter is a May 5, 1992 letter from Mr.  
 5 Riesen to Mr. Plank, the environmental claim  
 6 administrator, asking, among other things, that  
 7 Kemper attempt to find policies for Madison-Kipp,  
 8 is that correct?  
 9 A That's correct.  
 10 Q Did Kemper ever respond to that request?  
 11 MR. WEISS: Object to foundation, form.  
 12 THE WITNESS: I have no knowledge.  
 13 BY MS. ROSS:  
 14 Q Can you go to the January 1993 letter. Do you  
 15 see that it attaches a non-waiver agreement  
 16 relating to the Refuse Hideaway Landfill site?  
 17 A Yes.  
 18 Q Do you know whether that non-waiver agreement was  
 19 ever signed?  
 20 A I have no knowledge.  
 21 Q Can you look at the document that's immediately  
 22 behind that, January 12, 1993. There's a  
 23 non-waiver agreement that is signed by  
 24 Lumbermens. Do you see that?  
 25 A Yes.

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1 owned by Lumbermens, then yes.  
 2 Q You see an agreement between Madison-Kipp,  
 3 Lumbermens Mutual Casualty Company and American  
 4 Motorists Insurance Company?  
 5 A Yes.  
 6 Q And under that agreement Madison-Kipp and  
 7 Lumbermens and Amico agreed to cooperate in  
 8 information and exchange information relating to  
 9 the Refuse Hideaway Landfill site, is that right?  
 10 A Yes.  
 11 Q Was any similar kind of agreement ever reached  
 12 with Kemper with respect to the Waubesa site?  
 13 A In a letter dated August 1, 2003, Kemper Company  
 14 with Waubesa Street from Mr. Crass to Kemper,  
 15 followed on with further correspondence July of  
 16 2011 referring back to the August 1, 2003.  
 17 MR. SEESE: Do you understand the  
 18 question she's asked you?  
 19 THE WITNESS: Yes, I think so.  
 20 MR. SEESE: Okay.  
 21 THE WITNESS: I do not believe so.  
 22 BY MS. ROSS:  
 23 Q Can you look back at the November 5, 1993 letter  
 24 from Michael Best to Kemper?  
 25 A What was the date? I'm sorry.

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1 Q November 5, 1993.  
 2 A I'm having difficulty finding my -- And we're  
 3 referencing the Madison facility, is that  
 4 correct?  
 5 Q No, it references the Refuse Hideaway claim.  
 6 A Thank you.  
 7 Q On Page 2 of that letter in the first full  
 8 paragraph it says, "Madison-Kipp requests that  
 9 Kemper immediately accept its duty to defend and  
 10 indemnify Madison-Kipp for the costs associated  
 11 with the Refuse Hideaway. As you are probably  
 12 aware, Wisconsin law supports the insured's right  
 13 to defense and indemnity for environmental  
 14 claims. Until Kemper accepts these duties,  
 15 Madison-Kipp reserves the right to act in its  
 16 best business judgment in conducting  
 17 investigative and cleanup activities, including  
 18 negotiations with other PRPs and the EPA." Do  
 19 you see that?  
 20 A Yes.  
 21 Q Did Kemper accept its defense and indemnity  
 22 obligations as demanded by Madison-Kipp in the  
 23 November 5, 1993 letter?  
 24 MR. SEESE: Object to form and scope.  
 25 Subject to that, you can answer.

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1 that right?  
 2 A Yes.  
 3 Q And Mr. Zelle represented the Kemper Insurance  
 4 Companies, right?  
 5 A Yes.  
 6 Q And Mr. Sweeney in his letter says, "It's our  
 7 understanding that Kemper issued comprehensive  
 8 general liability policies and umbrella policies  
 9 to Madison-Kipp during the years 1970 through  
 10 1981." Do you see that?  
 11 A Yes.  
 12 Q And then he says, "We further understand that it  
 13 is Kemper's position that there was a policy in  
 14 1981 through 1982 which was not renewed by  
 15 Madison-Kipp." Do you see that?  
 16 A Yes.  
 17 Q And then Mr. Sweeney said that Kemper agreed to  
 18 provide all of the information regarding its  
 19 insurance policies in its possession. Do you see  
 20 that?  
 21 A Yes.  
 22 Q Then can you look at the letter from Mr. Zelle  
 23 dated January 28, 1994.  
 24 A Okay. Yes.  
 25 Q Now this is a letter that was in Madison-Kipp's

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1 MR. WEISS: Object to form and  
 2 foundation.  
 3 THE WITNESS: December 9, 1993 response  
 4 from Maria McGrath to Mr. Sweeney.  
 5 BY MS. ROSS:  
 6 Q And that letter requests a meeting, is that  
 7 right?  
 8 A That is correct. Subsequent letters of  
 9 December 9 and January 10, 1994. Meeting minutes  
 10 from a January 20th meeting, and then  
 11 Mr. Sweeney's follow-up letter January 24, 1994  
 12 to Lawrence Zelle, and a response from Mr. Zelle  
 13 on January 28, 1994.  
 14 Q Well, let's stop there for a minute. In the  
 15 January 10, 1994 letter, Lisa Keyes from Michael  
 16 Best indicates that she and Mr. Sweeney were  
 17 available for a meeting on January 20th to  
 18 discuss insurance coverage issues. Do you see  
 19 that?  
 20 A Yes.  
 21 Q And then about two pages back there's an agenda  
 22 for a January 20th meeting. Do you see that?  
 23 A Yes.  
 24 Q And then there's the January 24, 1994 letter from  
 25 Mr. Sweeney to Mr. Zelle at Zelle & Larson, is

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1 files, is that correct?  
 2 A Yes.  
 3 Q It was kept in the ordinary course of business at  
 4 Madison-Kipp?  
 5 A That's beyond my knowledge.  
 6 Q Indeed, all of the documents under 20 and 21 are  
 7 letters that were kept by Madison-Kipp in their  
 8 files, is that right?  
 9 A That's beyond my knowledge.  
 10 Q Well, where did they come from? I thought you  
 11 told me they came from Madison-Kipp's files.  
 12 A Using legal counsel part of our search was to  
 13 also look at the Michael, Best & Friedrich files  
 14 in these cases, so they may have come from the  
 15 Michael, Best & Friedrich files.  
 16 Q With respect to the letter from Mr. Zelle to  
 17 Mr. Sweeney, in the second paragraph it says, "It  
 18 appears I was mistaken in my recollection of the  
 19 earliest year for which we have any policy  
 20 information. The records reflect that the first  
 21 policy was for the period effective 1/1/71  
 22 through 1/1/72. There does not appear to have  
 23 been a policy for the year 1970, and I want to  
 24 clarify that point because of the reference to a  
 25 1970 policy in your January 24 letter." Do you

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1 see that?

2 A Yes.

3 Q And then he goes on to say, "Furthermore, I

4 believe I stated during our meeting that the last

5 policy year for which we had any information was

6 1/1/80 to 1/1/81, and the records for that policy

7 year indicate that it was not renewed." Do you

8 see that?

9 A Yes.

10 Q And then he indicates a little further down in

11 this letter, "I believe the records that I am

12 providing to you will illustrate what I was

13 saying. I want to make it clear, however, that

14 it is not Kemper's position that there was a

15 policy n 1981 through '82 which was not renewed

16 by Madison-Kipp." Do you see that?

17 A Yes.

18 Q And attached to this letter are the documents

19 that Kemper provided to Madison-Kipp, is that

20 correct?

21 MR. WEISS: Object, foundation, form.

22 THE WITNESS: I do not know.

23 BY MS. ROSS:

24 Q Well, where did the documents that are attached

25 to this letter come from, do you know?

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1 correct, at 500/500,000 for BI limits and

2 100/100,000 for PD limits?

3 MR. WEISS: Same objections.

4 THE WITNESS: That's what the cards

5 indicate, yes.

6 BY MS. ROSS:

7 Q Now if you go to the letter to Kemper on

8 August 1, 2003, why didn't Madison-Kipp list all

9 the policy numbers and all of the dates that it

10 had in its possession in the August 1, 2003

11 letter to Kemper?

12 MR. SEESE: Object to form, foundation,

13 scope. Subject to that, you can answer.

14 MR. WEISS: Object to form, foundation.

15 THE WITNESS: I do not know.

16 MS. ROSS: Could the reporter please

17 mark as Exhibit 8 a multipage document dated

18 January 24, 1994 with a variety of other

19 documents also attached behind it.

20 (Exhibit 8 was marked.)

21 BY MS. ROSS:

22 Q Mr. Daniel, I'm showing you what has been marked

23 as Exhibit 8, a multipage document the first page

24 of which reflect the January 24, 1994 letter and

25 January 28, 1998 letter that we were talking

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1 A I'm assuming they were attached with the Zelle

2 letter to Mr. Sweeney.

3 Q And those documents reflect Kemper's cards on

4 various policies issued to Madison-Kipp between

5 1970 and 1981, isn't that right?

6 MR. WEISS: Object to form and

7 foundation.

8 THE WITNESS: The dates on the cards

9 appear to cover years '71 -- January 1 of

10 '71 through January 1, 1981.

11 BY MS. ROSS:

12 Q And each of these cards contain policy numbers,

13 isn't that correct?

14 MR. WEISS: Object to form.

15 BY MS. ROSS:

16 Q For example, on the first page, if you look at

17 the 1980 to '81, which is at the bottom of the

18 page, there is a -- there are Policy Nos.

19 0YM398803 and 9YM398803, is that right?

20 MR. WEISS: Object to form, foundation.

21 Go ahead.

22 THE WITNESS: Those are the numbers that

23 are on the cards, yes.

24 BY MS. ROSS:

25 Q And it also includes BI limits and PD limits,

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1 about. Do you see that?

2 A Yes.

3 Q And then as you go back behind that, there is a

4 February 7, 1997 letter from Mr. Porten at Kemper

5 to Mr. Sweeney. Do you see that document?

6 A Yes.

7 Q Now in that letter in the second paragraph it

8 indicates that Madison-Kipp and Kemper have been

9 cooperating in the accumulation of information in

10 connection with certain activities by the EPA and

11 the DNR pursuant to a non-waiver agreement, and

12 it says -- and then this is a quote, "And with

13 the understanding that Madison-Kipp Corporation

14 does not expect Amico or LMC to take a position

15 with respect to any issues of insurance coverage

16 or to take any other action apart from receiving

17 the information provided from time to time by

18 Madison-Kipp Corporation." Do you see that?

19 A I see that, yes.

20 Q Was that the agreement between Madison-Kipp and

21 Kemper?

22 MR. WEISS: Object to form, foundation.

23 MR. SEESE: Object, form and foundation.

24 THE WITNESS: I don't know.

25

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1 BY MS. ROSS:  
 2 Q Who would know?  
 3 A The parties to the agreement, the waiver.  
 4 Q Who at Madison-Kipp would know?  
 5 MR. SEESE: Objection, beyond the scope  
 6 and object to foundation. Subject to that, you  
 7 can answer.  
 8 THE WITNESS: Other than the two names I  
 9 gave you earlier, Mr. Coleman and Mr. Meunier, I  
 10 don't know.  
 11 BY MS. ROSS:  
 12 Q Did Madison-Kipp decide it didn't want insurance  
 13 coverage from Kemper?  
 14 MR. SEESE: Object to form and  
 15 foundation. Also beyond the scope. Subject to  
 16 that, you can answer.  
 17 THE WITNESS: I have no knowledge as to  
 18 why it changed.  
 19 BY MS. ROSS:  
 20 Q With respect to the Waubesa Street facility, did  
 21 Madison-Kipp decide it didn't want coverage from  
 22 Kemper?  
 23 MR. SEESE: Same objections.  
 24 THE WITNESS: I have no knowledge of any  
 25 of that reasoning.

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1 Subject to that, you can answer.  
 2 THE WITNESS: I don't know.  
 3 BY MS. ROSS:  
 4 Q Do you know whether Madison-Kipp ever asked  
 5 Michael Best for any information it had on the  
 6 insurance coverage issued by Kemper prior to the  
 7 time that it sent the notice letter in August of  
 8 2003?  
 9 MR. SEESE: I object to the scope of --  
 10 I object to that as beyond the scope of the  
 11 deposition. I also object and instruct the  
 12 witness not to answer to the extent it calls for  
 13 the disclosure of attorney-client privileged  
 14 communications. If you can answer without  
 15 disclosing privileged information, you can  
 16 answer.  
 17 THE WITNESS: I'm not aware of any work  
 18 that was done on that matter.  
 19 BY MS. ROSS:  
 20 Q Did you also provide notice to U. S. Fire in  
 21 August of 2003?  
 22 MR. SEESE: It's Topic 9, I believe.  
 23 THE WITNESS: Topic 9. On which point?  
 24 MS. ROSS: On the Waubesa Street  
 25 facility. Did you provide notice to U. S. Fire

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1 BY MS. ROSS:  
 2 Q Can you look at the August 6, 1980 letter that's  
 3 a few pages back in Exhibit 8?  
 4 A Yes.  
 5 Q Now this is a letter from Margaret Larson at  
 6 Madison-Kipp to Kemper Group, right?  
 7 A Yes.  
 8 Q And it indicates that she is putting Kemper on  
 9 notice that when the underlying policy limits  
 10 have been reached, our Lumbermens Mutual Casualty  
 11 Company Umbrella Policy No. 7SX20121 effective  
 12 April 2, 1977 to January 1, 1978 for \$5 million  
 13 will provide coverage." Do you see that?  
 14 A Yes.  
 15 Q Do you know why that policy number was not listed  
 16 on the August 3, 2003 letter to Kemper?  
 17 MR. SEESE: Object to form, foundation,  
 18 scope.  
 19 MR. WEISS: Object to form, foundation.  
 20 THE WITNESS: I have no knowledge.  
 21 BY MS. ROSS:  
 22 Q Did Madison-Kipp do a search for Kemper coverage  
 23 when they sent the letter, the notice letter, in  
 24 2003?  
 25 MR. SEESE: Object to the scope of that.

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1 in August of 2003?  
 2 THE WITNESS: There's an August 1, 2003  
 3 letter dated to a Christine Beyrent at Riverside  
 4 or Riverstone Claims on the Waubesa Street  
 5 facility.  
 6 BY MS. ROSS:  
 7 Q And on Page 4 of that letter you also demanded a  
 8 defense and indemnity from U. S. Fire --  
 9 Madison-Kipp also demanded a defense and  
 10 indemnity from U. S. Fire, is that right?  
 11 A That is correct.  
 12 Q What discussions were there at Madison-Kipp  
 13 concerning whether to provide notice to any of  
 14 the insurers about the contamination at the  
 15 Madison-Kipp facility?  
 16 MR. SEESE: Objection, vague as to time  
 17 and instruct the witness not to answer to the  
 18 extent it calls for privileged communications.  
 19 THE WITNESS: I have no knowledge of any  
 20 communication.  
 21 BY MS. ROSS:  
 22 Q Are you refusing to answer any portion of that  
 23 question based on the instruction by your  
 24 counsel?  
 25 A No.

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1 Q Who made -- Who at Madison-Kipp made the decision  
 2 concerning when to give notice of the  
 3 environmental contamination at the Madison-Kipp  
 4 facility?  
 5 MR. SEESE: Objection, vague as to time.  
 6 It's also calling for attorney-client privileged  
 7 communications. To the extent you can answer  
 8 without disclosing privileged information, you  
 9 may do so.  
 10 THE WITNESS: I do not know.  
 11 BY MS. ROSS:  
 12 Q Is there any information you are not providing  
 13 because of the instruction by your counsel?  
 14 A No.  
 15 Q Do you know when the person at Madison-Kipp who  
 16 made the decision to give notice of the  
 17 environmental contamination at the Waubesa Street  
 18 site decided -- Let me start again.  
 19 Do you know when the person at  
 20 Madison-Kipp who decided to give notice of  
 21 contamination at the Waubesa Street site made  
 22 that decision?  
 23 A I have no knowledge about that.  
 24 MR. SEESE: Hold on. I object to that  
 25 as beyond the scope. I also object to the form

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1 BY MS. ROSS:  
 2 Q Are you aware of anyone at Madison-Kipp who was  
 3 involved in the decision concerning whether to  
 4 give notice of the contamination at Madison-Kipp  
 5 at any point between 1994 and 2011?  
 6 MR. SEESE: Object to that. To the  
 7 extent it calls for privilege, you are instructed  
 8 not to answer. If you can answer without  
 9 disclosing privilege, you may do so.  
 10 THE WITNESS: I have no knowledge of  
 11 that.  
 12 MR. SEESE: And what topic are we on  
 13 now, because if there's a topic, let's make sure  
 14 we are addressing it.  
 15 MS. ROSS: Well, I think there's a  
 16 question on the who a little later.  
 17 MR. SEESE: That's fine. Fair.  
 18 Fourteen and 15. Sorry.  
 19 BY MS. ROSS:  
 20 Q With respect to the costs incurred related to  
 21 environmental contamination at the Waubesa Street  
 22 facility prior to July 25, 2011, do you know when  
 23 those costs were first tendered to Continental  
 24 Casualty Company or Columbia Casualty Company?  
 25 MR. SEESE: Object to form and scope.

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1 and instruct the witness not to answer to the  
 2 extent it calls for disclosure of privileged  
 3 information.  
 4 BY MS. ROSS:  
 5 Q Do you know who decided -- who at Madison-Kipp  
 6 decided that Madison-Kipp would not submit any  
 7 bills to Continental Casualty Company or Columbia  
 8 Casualty Company between August of 2003 and July  
 9 of 2011?  
 10 MR. SEESE: Object to form, foundation,  
 11 calls for privilege. Also, what topic are we on  
 12 now?  
 13 MS. ROSS: It's in the group of stuff.  
 14 I don't know.  
 15 BY MS. ROSS:  
 16 Q Can you answer?  
 17 A I have no knowledge of that.  
 18 Q Do you know who decided that Madison-Kipp would  
 19 not consult with insurers before spending money  
 20 between August 1 of 2003 and July of 2011?  
 21 MR. SEESE: Objection to form,  
 22 foundation and scope. Subject to that, you can  
 23 answer.  
 24 THE WITNESS: I have no knowledge of  
 25 that.

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1 Subject to that, you can answer.  
 2 THE WITNESS: The claim was tendered in  
 3 2003 and invoices were not tendered -- There were  
 4 no invoices tendered prior to 2011.  
 5 BY MS. ROSS:  
 6 Q When after 2011 were those costs first tendered  
 7 to Continental Casualty Company or Columbia  
 8 Casualty Company?  
 9 MR. SEESE: Object to form and scope.  
 10 Subject to that, you can answer.  
 11 THE WITNESS: I'm not sure.  
 12 BY MS. ROSS:  
 13 Q How were they tendered to Continental Casualty  
 14 Company or Columbia Casualty Company?  
 15 MR. SEESE: Same objections.  
 16 THE WITNESS: That was outlined in our  
 17 12 tab. Yes.  
 18 BY MS. ROSS:  
 19 Q In your which tab?  
 20 A Tab 12.  
 21 Q So Tab 12?  
 22 A Yes, 5 and 12. All prior to 2011. I'm not aware  
 23 of how they were tendered after July of 2011.  
 24 Q Okay. Do you know whether they were ever --  
 25 Strike that.



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1 Does Madison-Kipp contend that  
 2 Continental Casualty Company acted in bad faith  
 3 with respect to any of the claims relating to  
 4 environmental contamination at the Waubesa Street  
 5 facility?  
 6 MR. SEESE: Object to form and scope.  
 7 Subject to that, you can answer. I caution the  
 8 witness not to disclose attorney-client  
 9 privileged communications. Subject to that, you  
 10 can answer.  
 11 THE WITNESS: It's included in  
 12 Exhibit 7, Topic 13. Continental and Columbia  
 13 exhibited bad faith in their failure and/or  
 14 refusal to respond to Madison-Kipp's tender of  
 15 its defense and indemnity to them on August 1,  
 16 2003. Continental and Columbia also acted in bad  
 17 faith by failing and/or not refusing to actually  
 18 defend Madison-Kipp against the claims of the DNR  
 19 until December 12, 2011.  
 20 BY MS. ROSS:  
 21 Q Now you were reading from Exhibit 7, is that  
 22 correct?  
 23 A That is correct.  
 24 Q When did Madison-Kipp first say to Continental or  
 25 Columbia, "Gosh, I think you are acting in bad

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1 December 12, 2011, is that right?  
 2 MR. SEESE: I object. It misstates what  
 3 the response actually says and what the witness  
 4 read. Subject to that, you can answer.  
 5 THE WITNESS: I stand with the written  
 6 statement a few moments ago.  
 7 BY MS. ROSS:  
 8 Q What bills did Continental or Columbia fail to  
 9 pay that were submitted to them prior to  
 10 December 12, 2011?  
 11 MR. SEESE: Object to form. Subject to  
 12 that, you can answer.  
 13 THE WITNESS: I do not have knowledge as  
 14 to what was or if there were submitted.  
 15 BY MS. ROSS:  
 16 Q In fact, to the best of your knowledge, none were  
 17 ever submitted prior to December 12, 2011, isn't  
 18 that correct?  
 19 MR. SEESE: Object to the form. Subject  
 20 to that, you can answer.  
 21 THE WITNESS: I have no knowledge of any  
 22 submissions.  
 23 BY MS. ROSS:  
 24 Q Is there any other action that Madison-Kipp  
 25 claims evidenced bad faith by Continental

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1 faith because you didn't defend us in response to  
 2 the August 1, 2003 letter?"  
 3 MR. SEESE: Objection, beyond the scope.  
 4 Also assumes facts not in evidence. Assumes a  
 5 duty not in evidence. Subject to that, you can  
 6 answer.  
 7 THE WITNESS: I'm not aware.  
 8 BY MS. ROSS:  
 9 Q Are you aware of whether Madison-Kipp ever told  
 10 Continental or Columbia that it thought that  
 11 their failure to respond to the August 1, 2003  
 12 letter evidenced bad faith?  
 13 MR. SEESE: Same objections. Object to  
 14 the form of all these questions. Subject to  
 15 that, you can answer.  
 16 THE WITNESS: I'm not aware.  
 17 BY MS. ROSS:  
 18 Q So you are not aware of any time when  
 19 Madison-Kipp ever did that, correct?  
 20 MR. SEESE: Same objections.  
 21 THE WITNESS: That's correct.  
 22 BY MS. ROSS:  
 23 Q And you indicate that Continental and Columbia  
 24 acted in bad faith by failing to defend  
 25 Madison-Kipp against the claims of the DNR until

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1 Casualty Company or Columbia Casualty Company?  
 2 A Outside of this read statement -- Well, I would  
 3 stay with that statement.  
 4 Q So there's nothing else?  
 5 A Correct.  
 6 Q In the cross-claim that Madison-Kipp filed  
 7 against Continental Casualty Company and Columbia  
 8 Casualty Company, are you aware whether they ever  
 9 claimed that Continental or Columbia acted in bad  
 10 faith?  
 11 MR. SEESE: Object to form and scope.  
 12 Does that include the affirmative defenses or are  
 13 you talking about just the text of the  
 14 cross-claim?  
 15 MS. ROSS: I'm talking about the  
 16 cross-claim.  
 17 MR. SEESE: My objection is noted on the  
 18 record. Subject to that, you can answer.  
 19 THE WITNESS: I'm not aware of the  
 20 details of that motion.  
 21 BY MS. ROSS:  
 22 Q Who at Madison-Kipp has knowledge of  
 23 Madison-Kipp's claim that Continental Casualty  
 24 Company or Columbia Casualty Company acted in bad  
 25 faith?

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1 MR. SEESE: Object to the form of that,  
 2 it calls for a legal conclusion, it calls for  
 3 attorney-client work product, it calls for  
 4 attorney-client privilege. It's beyond the  
 5 scope. Subject to that, you can answer.  
 6 THE WITNESS: Other than the two names I  
 7 referenced earlier, I don't know. I wouldn't  
 8 know.  
 9 BY MS. ROSS:  
 10 Q You are talking about Mr. Coleman and Mr.  
 11 Meunier?  
 12 A Correct.  
 13 Q And in terms of any tenders of any invoices prior  
 14 to December of 2011, who would have knowledge of  
 15 that within Madison-Kipp?  
 16 MR. SEESE: Object to the scope.  
 17 Subject to that, you can answer.  
 18 THE WITNESS: Please clarify your  
 19 question.  
 20 BY MS. ROSS:  
 21 Q I'm trying to find out who would have knowledge  
 22 concerning any -- who at Madison-Kipp would have  
 23 knowledge concerning any tender of any invoices  
 24 of any type relating to contamination at the  
 25 Waubesa Street facility prior to December of

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1 BY MS. ROSS:  
 2 Q Let me interrupt you there, if I could. Is it  
 3 your understanding that that letter relates in  
 4 any manner to the Waubesa Street site?  
 5 A I don't know.  
 6 MR. WEISS: Objection.  
 7 THE WITNESS: That's also subject to the  
 8 waiver agreement which we went through earlier.  
 9 MR. SEESE: She asked between August of  
 10 '03 and July 2011.  
 11 THE WITNESS: I'm sorry. Thank you for  
 12 the clarification. On July 25, 2011 from  
 13 Michael, Best & Friedrich, David Crass, to Kemper  
 14 Insurance it talks to the Waubesa Street  
 15 situation. There's an August 1, 2003. So that  
 16 would be the first.  
 17 BY MS. ROSS:  
 18 Q Between August 1, 2003 and July 25, 2011, were  
 19 there any communications with Kemper concerning  
 20 the contamination at the Waubesa Street site?  
 21 A As the document had been filed with no response,  
 22 Madison-Kipp did not follow up on that and was  
 23 waiting for further actions.  
 24 Q So is the answer, no, there were no further  
 25 communications between August 1, 2003 and

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1 2011.  
 2 MR. SEESE: Object to form and scope.  
 3 Subject to that, you can answer.  
 4 THE WITNESS: There were none tendered  
 5 prior to 2011.  
 6 BY MS. ROSS:  
 7 Q And none tendered prior to December 12, 2011?  
 8 A That's correct.  
 9 MS. ROSS: Let's take a short break.  
 10 (A recess was taken.)  
 11 BY MS. ROSS:  
 12 Q Mr. Daniel, between August of 2003 and July of  
 13 2011, did Madison-Kipp have any communications  
 14 with Kemper concerning contamination at the  
 15 Waubesa Street facility?  
 16 MR. WEISS: I'm sorry. Could you read  
 17 that back?  
 18 COURT REPORTER: "Mr. Daniel, between  
 19 August of 2003 and July of 2011, did Madison-Kipp  
 20 have any communications with Kemper concerning  
 21 contamination at the Waubesa Street facility?"  
 22 MR. WEISS: Thank you.  
 23 THE WITNESS: The initial letter which  
 24 was dated March 27, 1992 talked about multiple  
 25 Madison area sites in Section 20.

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1 July 25, 2011?  
 2 A That is correct.  
 3 Q And in the August 1, 2003 letter to Kemper,  
 4 Madison-Kipp also promised that it would provide  
 5 Kemper with further information as it is  
 6 developed in this matter. Do you see that on  
 7 Page 4?  
 8 MR. SEESE: Object to the form of that.  
 9 Go ahead. You can answer.  
 10 THE WITNESS: Yes.  
 11 BY MS. ROSS:  
 12 Q And Madison-Kipp did not ever provide further  
 13 information as it was developed in this matter  
 14 prior to July of 2011, did it?  
 15 MR. SEESE: Object to the form of that,  
 16 assumes facts and a legal duty not in evidence.  
 17 Subject to that, you can answer.  
 18 THE WITNESS: They did not respond and  
 19 we did not follow up.  
 20 BY MS. ROSS:  
 21 Q Okay. What general liability policies did Kemper  
 22 issue to Madison-Kipp?  
 23 MR. WEISS: Object to form, foundation.  
 24 MR. SEESE: Also object to the scope of  
 25 that. Subject to the objection, you can answer.

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1 Scope being beyond the scope of the notice.  
 2 THE WITNESS: Not to my knowledge.  
 3 MR. SEESE: I'm sorry.  
 4 BY MS. ROSS:  
 5 Q You don't know? Is that --  
 6 A I have no knowledge.  
 7 Q Okay. Do you have any knowledge concerning the  
 8 limits of any policies issued by Kemper to  
 9 Madison-Kipp?  
 10 MR. WEISS: Same objections.  
 11 MR. SEESE: Also object beyond the  
 12 scope. Subject to that, you can answer.  
 13 THE WITNESS: I have no knowledge.  
 14 BY MS. ROSS:  
 15 Q Do you have any knowledge concerning the period  
 16 of time any policies were issued by Kemper to  
 17 Madison-Kipp?  
 18 MR. WEISS: Same objections.  
 19 MR. SEESE: Same objections here, too.  
 20 THE WITNESS: It's beyond my knowledge.  
 21 BY MS. ROSS:  
 22 Q And do you have any knowledge concerning whether  
 23 any policies issued by Kemper were primary or  
 24 umbrella policies?  
 25 MR. WEISS: Same objections.

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1 BY MS. ROSS:  
 2 Q Can you look at the back of your Tab 20 and 21.  
 3 There's a November 15, 2012 letter from Lee Seese  
 4 to Kemper, and then two documents, two fairly  
 5 large documents.  
 6 A I have it.  
 7 Q Now that letter from Mr. Seese indicates that  
 8 he's updating the November 9, 2012 and October 1,  
 9 2012 letters regarding the claims at the Waubesa  
 10 Street facility. Do you see that?  
 11 A Yes.  
 12 Q And he further notes that Madison-Kipp has  
 13 recently discovered the attached policies, one  
 14 for 1978 to '79 and one for 1979 to '80. Do you  
 15 see that?  
 16 A Yes.  
 17 Q So does that refresh your recollection that  
 18 Madison-Kipp has copies of the 1978 to '79 Kemper  
 19 policy and the 1979 to '80 Kemper policy?  
 20 MR. WEISS: Object to form, foundation?  
 21 THE WITNESS: Yes.  
 22 BY MS. ROSS:  
 23 Q Is the document that is -- that immediately  
 24 follows the November 15, 2012 letter, which is a  
 25 certificate of insurance followed by a

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1 MR. SEESE: Same objections.  
 2 THE WITNESS: I have no knowledge of it.  
 3 BY MS. ROSS:  
 4 Q Are you aware that Madison-Kipp located all or  
 5 portions of the 1978/79 Kemper policy?  
 6 MR. WEISS: Object to form.  
 7 MR. SEESE: Also beyond the scope.  
 8 Subject to that, you can answer.  
 9 THE WITNESS: I'm not aware of that.  
 10 BY MS. ROSS:  
 11 Q Are you aware that Madison-Kipp located all or  
 12 part of a policy issued by Kemper for 1979 to  
 13 1980?  
 14 MR. WEISS: Object to form.  
 15 THE WITNESS: As outlined in the  
 16 November 4 letter from Ms. Holly Sewall to  
 17 Kemper.  
 18 BY MS. ROSS:  
 19 Q November 4 of what year?  
 20 A 1992. I'm sorry. Repeat the question, please.  
 21 COURT REPORTER: "Are you aware that  
 22 Madison-Kipp located all or part of a policy  
 23 issued by Kemper for 1979 to 1980?"  
 24 MS. ROSS: Let me withdraw that question  
 25 and ask a different question.

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1 declarations page with a Policy No. 8ZM398803 a  
 2 copy of the 1978 to '79 Kemper policy  
 3 Madison-Kipp located?  
 4 MR. WEISS: Object to form, foundation.  
 5 THE WITNESS: Yes.  
 6 BY MS. ROSS:  
 7 Q Then immediately behind that, I hope -- I'm  
 8 trying to find the beginning of it. Do you see  
 9 where it begins, the beginning of '79 to '80?  
 10 Okay. And then a little further back there's  
 11 another copy of the November 15, 2012 letter, and  
 12 immediately following that is a certificate of  
 13 insurance and following that is a declarations  
 14 page for a policy -- Wait a minute. That's not  
 15 it. Sorry. I'm getting close.  
 16 After the first policy there is a blank  
 17 page, and then there's another copy of a policy  
 18 that has a number 9YM398803 for the policy period  
 19 January 1, 1979 to January 1, 1980. Do you see  
 20 that?  
 21 A Yes.  
 22 Q Is that the copy of the 1979 to 1980 Kemper  
 23 policy that Madison-Kipp located?  
 24 MR. WEISS: Object to form, foundation.  
 25 THE WITNESS: Yes.

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1 BY MS. ROSS:  
 2 Q Other than the 1978 to '79 and the 1970 to 1980  
 3 Kemper policies, are there any other full  
 4 policies issued by a Kemper policy that  
 5 Madison-Kipp has presently located?  
 6 MR. WEISS: Object to form, foundation.  
 7 Also beyond the scope. Subject to that, you can  
 8 answer.  
 9 THE WITNESS: There appears to be one  
 10 from 1980 to 1981, OYM398803.  
 11 BY MS. ROSS:  
 12 Q And what document are you looking at?  
 13 A The December 4, 2012 letter to Mr. Condon and Mr.  
 14 Seese.  
 15 MR. WEISS: What's the date?  
 16 THE WITNESS: December 4, 2012.  
 17 BY MS. ROSS:  
 18 Q Is that in Tab 21?  
 19 A Yes.  
 20 Q Do you know whether Madison-Kipp has a copy of  
 21 that policy?  
 22 MR. SEESE: Objection, beyond the scope.  
 23 THE WITNESS: I'm not aware.  
 24 BY MS. ROSS:  
 25 Q Okay. Does Madison-Kipp have a position

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1 Q Does Exhibit A reflect the policies Madison-Kipp  
 2 presently believes that Kemper issued to  
 3 Madison-Kipp?  
 4 MR. SEESE: Objection, beyond the scope.  
 5 Subject to that, you can answer.  
 6 THE WITNESS: To my knowledge, that's  
 7 yes.  
 8 BY MS. ROSS:  
 9 Q I'm not positive, I may have asked you this, but  
 10 I didn't write down the answer. Do you know the  
 11 identity of every person at Madison-Kipp who  
 12 provided notice of any environmental  
 13 contamination at the Waubesa Street facility to  
 14 any insurer?  
 15 MR. SEESE: Object to the form. Subject  
 16 to that, you can answer.  
 17 THE WITNESS: To my knowledge, it would  
 18 be a Thomas Caldwell and a Joe Wojcik with  
 19 consultation from Mark Meunier.  
 20 BY MS. ROSS:  
 21 Q Thomas Caldwell?  
 22 A I'm sorry. Provided notice was Ms. Sewall, Dave  
 23 Crass, Ms. Cynthia Smith and Mr. Lee Seese.  
 24 Q And all of those people provided notice with  
 25 respect to the Waubesa Street facility, is that

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1 concerning whether Kemper issued coverage other  
 2 than the 1978 to '79 and 1979 to 1980 Kemper  
 3 primary policies?  
 4 MR. SEESE: Object to form and  
 5 foundation. Also beyond the scope, calls for a  
 6 legal conclusion and calls for attorney-client  
 7 work product. Subject to that, you can answer.  
 8 MR. WEISS: Object to form, foundation,  
 9 calls for a legal conclusion.  
 10 THE WITNESS: Not to my knowledge. I  
 11 have no knowledge.  
 12 BY MS. ROSS:  
 13 Q Can you look at the February 11, 2013 letter  
 14 right before Tab 22.  
 15 A Yes.  
 16 Q That's a letter from Mr. Seese to Mr. Condon, is  
 17 that correct?  
 18 A Yes.  
 19 Q And in that letter Mr. Seese requested a number  
 20 of documents from Mr. Condon, is that correct?  
 21 A Yes.  
 22 Q And at the end of the document there's a document  
 23 entitled, "Exhibit A, Kemper Policies." Do you  
 24 see that?  
 25 A Yes.

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1 correct?  
 2 MR. SEESE: Object to form.  
 3 THE WITNESS: To my knowledge.  
 4 BY MS. ROSS:  
 5 Q Are you reading from a document on which you made  
 6 notes?  
 7 A Yes.  
 8 Q Can I look at it, please?  
 9 A Um-hum.  
 10 MS. ROSS: Would the court reporter  
 11 please mark as Exhibit 9 a copy of the Amended  
 12 Notice of Rule 30(b)(6) Deposition of  
 13 Madison-Kipp with the witness' handwritten notes  
 14 on it.  
 15 (Exhibit 9 was marked.)  
 16 BY MS. ROSS:  
 17 Q Mr. Daniel, are all of the notes that are  
 18 contained on Exhibit 9 your handwriting?  
 19 A Yes.  
 20 Q Okay. Is this effectively a cheat sheet for the  
 21 deposition?  
 22 A Yes.  
 23 MR. SEESE: Object to form. Go ahead.  
 24 You can answer.  
 25 THE WITNESS: Yes.

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<p>1 MS. ROSS: I'm sorry, we have only got 2 one copy, so I will put it like this and we can 3 look at it together. 4 BY MS. ROSS: 5 Q With respect to No. 5, there's a note on the side 6 that says, "Total approximately \$565,000." Do 7 you see that? 8 A Yes. 9 Q Is that the notice -- Is that an indication to 10 you that with respect to the defense and 11 indemnity that was incurred prior to July of 12 2011, the amount was \$565,000? 13 A Yes. 14 Q And then with respect to No. 7, I think it says 15 "Similar to response in No. 3?" 16 A Yes. 17 Q What does that mean? 18 A That the No. 7 paragraph is a similar response as 19 all the notices in the Continental, because I 20 believe that is a different organization or 3 21 and -- 3 was included in -- 3 was the same as the 22 7 questions. 23 Q In terms of the information that you needed to 24 provide? 25 A Yes.</p>	<p>1 Q Okay. Then immediately below that it says, 2 "8/20/03." Do you know what that means? Or 3 maybe it says "8/2003." 4 A It's August of 2003. 5 Q Okay. Then it says "Follow up to letter?" 6 A Um-hum. 7 Q What does that mean? 8 A It means that there was no follow up from the 9 8/23 or 8/2003 letter. 10 Q That there was no follow up to that letter? 11 A Correct. 12 Q Okay. And then it says, quote, "Not to my 13 knowledge," end quote. What does that mean? 14 A If there was any further communication beyond 15 what had been submitted. 16 Q And then "They did not respond; we did not follow 17 up." 18 A Um-hum. 19 Q That's immediately below that? 20 A Right. 21 Q What does that mean? 22 A That was referring to the question in No. 8 with 23 the filing of the letter, and then there was no 24 response from the insurers and Madison-Kipp did 25 not follow up.</p>
<p>Page 112</p> <p>1 Q Now were these notes on Page 5 of Exhibit 9 2 written at different times? 3 A Yes. 4 Q And when were the purple -- When was the purple 5 handwriting written? 6 A At our second meeting to review the documents. 7 Q And when was the dark blue written? 8 A When I was reviewing the documents themselves, so 9 within that next couple days. 10 Q And was the quote "not to my knowledge" something 11 that your counsel suggested to you that you say 12 in response to Topic 8? 13 MR. SEESE: Object to form and 14 foundation, calls for attorney-client privilege. 15 Subject to that, you can answer. 16 THE WITNESS: No. 17 BY MS. ROSS: 18 Q Looking at Page 6 next to No. 12 you have 19 "Summarized in No. 5," is that right? 20 A Yes. 21 Q And what does that mean? 22 A That No. 12 question is summarized in No. 5. 23 Five and 12 go together. That's the 24 disbursements. 25 Q In your binder?</p>	<p>Page 113</p> <p>1 A Yes. 2 Q Okay. And then immediately underneath that it 3 says "They were not tendered until," and then 4 what does it say under that? 5 A "The invoices were not tendered prior to 2011." 6 Q And then there's a no? 7 A Correct. 8 MR. SEESE: Let me see that one to be 9 sure. 10 BY MS. ROSS: 11 Q What does that mean? 12 A It just means that we did not tender invoices 13 prior to 2011. 14 Q And then it says "Tendered claim 2003," right? 15 A Correct. 16 Q And then under 16 there are a list of names, is 17 that correct? 18 A Yes. 19 Q And where did you get those names? 20 A They were extracted off of the letters of 21 correspondence. 22 Q And under 17 there are also names, is that right? 23 A Yes. 24 Q And where did you get those names? 25 A Recollection of who was in the organization at</p>

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<p>1 that point in time.</p> <p>2 Q Now there are dates. You have 1994 Thomas</p> <p>3 Caldwell, 2003 Joe Wojcik with consultation from</p> <p>4 Mark Meunier, is that correct?</p> <p>5 A Yes.</p> <p>6 Q And is that the response to the people -- the</p> <p>7 identity of the people responsible for the</p> <p>8 decision to provide notice of environmental</p> <p>9 contamination at the Madison-Kipp facility to any</p> <p>10 insurer?</p> <p>11 A Yes.</p> <p>12 Q What does the date 1994 mean?</p> <p>13 A That's when Mr. Caldwell was the president of the</p> <p>14 organization.</p> <p>15 Q Did he provide notice of the environmental</p> <p>16 contamination at Madison-Kipp to any insurer in</p> <p>17 1994?</p> <p>18 A Answering the question that was asked, the</p> <p>19 identity of each person responsible for the</p> <p>20 decision, it would have been Mr. Caldwell at that</p> <p>21 point.</p> <p>22 Q Okay. Do you know whether Mr. Caldwell provided</p> <p>23 any notice to any insurer prior to 2003?</p> <p>24 A No.</p> <p>25 Q No, you don't know?</p>	<p>1 A I do not know.</p> <p>2 Q Then on Page 7 you have under 20, 21 and 22, you</p> <p>3 have "Book" to the side?</p> <p>4 A Yes.</p> <p>5 Q And are you referring to Exhibit 3 in front of</p> <p>6 you?</p> <p>7 A Yes.</p> <p>8 Q And then in 24 you have I think the word "words,"</p> <p>9 is that correct, "and below?"</p> <p>10 A Yes.</p> <p>11 Q What does that mean?</p> <p>12 A As we looked at the question, there's none at</p> <p>13 this time answering that question.</p> <p>14 Q Is none at this time the answer to the question</p> <p>15 of whether there are policies issued to</p> <p>16 Madison-Kipp after January 1, 1987 that provide</p> <p>17 coverage for any costs or expense incurred by</p> <p>18 Madison-Kipp relating to the environmental</p> <p>19 contamination at the Madison-Kipp facility?</p> <p>20 MR. SEESE: Objection to form. You can</p> <p>21 answer.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MS. ROSS:</p> <p>24 Q Then under 25 and 26, can you read to me what you</p> <p>25 wrote under 25?</p>
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<p>1 A No. 25 says, "Summarized in 3, 7 and 8," and then</p> <p>2 "Jepscor, Amber Oil and Waubesa Street."</p> <p>3 Q And what does it say under 26?</p> <p>4 A It regurgitates summarized in No. 9 and 11, and</p> <p>5 the same three sites, Amber Oil, Jepscor and</p> <p>6 Waubesa Street.</p> <p>7 Q So going back to the identity of people who</p> <p>8 provided notice of the environmental</p> <p>9 contamination at the Madison-Kipp facility to any</p> <p>10 insurer, you listed Sewall, Crass, Smith and</p> <p>11 Seese, is that correct?</p> <p>12 A That is correct.</p> <p>13 Q Is the information that you have concerning their</p> <p>14 providing of notice solely the documents that are</p> <p>15 contained in Exhibit 3?</p> <p>16 A Yes.</p> <p>17 Q And the identity of each person responsible for</p> <p>18 the decision to provide notice of environmental</p> <p>19 contamination at the Madison-Kipp facility to any</p> <p>20 insurer, you listed Mr. Caldwell and Mr. Meunier,</p> <p>21 is that right?</p> <p>22 A And Mr. Wojcik.</p> <p>23 Q Wojcik.</p> <p>24 A With consultation from Mr. Meunier.</p> <p>25 Q Okay. I never get his name pronounced properly.</p>	<p>1 What involvement did Mr. Wojcik have?</p> <p>2 A He was the president during the 2002, 2003 time</p> <p>3 period.</p> <p>4 Q Was Mr. Caldwell president from '94 to 2002?</p> <p>5 A Yes, yes.</p> <p>6 Q On Paragraph 21 of the deposition notice it seeks</p> <p>7 information concerning communications between</p> <p>8 Madison-Kipp and Lumbermens concerning</p> <p>9 environmental contamination at the Madison-Kipp</p> <p>10 facility. Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Is all such communication reflected in Exhibit 3?</p> <p>13 A To my knowledge it is, yes.</p> <p>14 Q In Paragraph 22 it asks for information</p> <p>15 concerning all claims for general liability</p> <p>16 coverage Madison-Kipp has ever made under any</p> <p>17 policy issued by American Motorists Insurance</p> <p>18 Company or Lumbermens Mutual Casualty Company.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q All of the information that you have that</p> <p>22 documents that are contained under Tab 22 in</p> <p>23 Exhibit 3?</p> <p>24 A To the best of my knowledge, yes.</p> <p>25 Q Were there documents that related to insurance</p>

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1 coverage for Madison-Kipp that were lost in a  
 2 flood? Do you know?  
 3 MR. SEESE: Object to form and beyond  
 4 the scope. Subject to that, you can answer.  
 5 THE WITNESS: I'm aware that some of the  
 6 archived forms or boxes were destroyed in a  
 7 flood, yes.  
 8 BY MS. ROSS:  
 9 Q When did that flood occur?  
 10 MR. SEESE: Same objections. Actually,  
 11 no, just objection to scope there.  
 12 THE WITNESS: I'm not sure.  
 13 BY MS. ROSS:  
 14 Q Do you know what decade it occurred?  
 15 A No.  
 16 Q Did it occur after you came to Madison-Kipp?  
 17 A No, it was prior.  
 18 MR. SEESE: Beyond the scope. You can  
 19 answer.  
 20 THE WITNESS: It was prior to 2002.  
 21 BY MS. ROSS:  
 22 Q What policies does Madison-Kipp claim provide  
 23 coverage for any cost or expense incurred by  
 24 Madison-Kipp relating to the environmental  
 25 contamination at the Waubesa facility?

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1 I also incorporate Exhibit 2. Subject to that,  
 2 you can answer.  
 3 THE WITNESS: As outlined in Object 3  
 4 here, it would be defined here.  
 5 BY MS. ROSS:  
 6 Q What would be defined there?  
 7 A The policies that Madison-Kipp feels are covered  
 8 in that time period.  
 9 Q I'm looking for the policies that were issued to  
 10 Madison-Kipp after January 1, 1987 that  
 11 Madison-Kipp claims provide coverage for any  
 12 costs or expenses incurred by Madison-Kipp with  
 13 respect to the contamination at the Waubesa  
 14 Street facility.  
 15 MR. SEESE: Same objections. Subject to  
 16 that, you can answer.  
 17 THE WITNESS: As defined in No. 9,  
 18 Answer 24, none at this time.  
 19 BY MS. ROSS:  
 20 Q Not at this time?  
 21 A None at this time.  
 22 Q Did you review the terms and conditions of any of  
 23 the policies issued to Madison-Kipp after  
 24 January 1, 1987 to determine whether they  
 25 provided coverage?

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1 MR. SEESE: Objection. That's beyond  
 2 the scope of the notice. It calls for a legal  
 3 conclusion. It calls for attorney-client work  
 4 product. It calls for work product. Subject to  
 5 that, you can answer.  
 6 THE WITNESS: I'm not prepared to answer  
 7 that at this time.  
 8 BY MS. ROSS:  
 9 Q Have you been asked to determine that?  
 10 MR. SEESE: Same objections. You can  
 11 answer.  
 12 THE WITNESS: No, I have not.  
 13 BY MS. ROSS:  
 14 Q What policies issued to Madison-Kipp after  
 15 January 1, 1987 does Madison-Kipp claim provide  
 16 coverage for any cost or expense incurred with  
 17 respect to the contamination at the Waubesa  
 18 Street facility?  
 19 A Please repeat that.  
 20 COURT REPORTER: "What policies issued  
 21 to Madison-Kipp after January 1, 1987 does  
 22 Madison-Kipp claim provide coverage for any cost  
 23 or expense incurred with respect to the  
 24 contamination at the Waubesa Street facility?"  
 25 MR. SEESE: Object to the form of that.

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1 MR. SEESE: Object to the form, scope,  
 2 calls for a legal conclusion, implies a duty he  
 3 doesn't have. Subject to that, you can answer.  
 4 THE WITNESS: No, I have not.  
 5 BY MS. ROSS:  
 6 Q Did you review the terms and conditions of any of  
 7 the policies issued prior to January 1, 1987 to  
 8 determine whether they provide coverage for costs  
 9 or expenses incurred by Madison-Kipp relating to  
 10 the environmental contamination at the Waubesa  
 11 site?  
 12 MR. SEESE: Same objections. You can  
 13 answer.  
 14 THE WITNESS: No, I have not.  
 15 MS. ROSS: I don't have anything else at  
 16 this point in time. Obviously, there are a  
 17 number of places where the witness has been  
 18 instructed not to answer which we will take up  
 19 with the court. I believe Mr. Cohen has  
 20 questions.  
 21 EXAMINATION  
 22 BY MR. COHEN:  
 23 Q Mr. Daniel, how much time total did you spend  
 24 preparing to testify as a corporate designee  
 25 today?

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1 A Approximately six hours.  
 2 Q Did I understand in your preparation to testify  
 3 as a corporate designee for Madison-Kipp, you did  
 4 not have any discussions with any current  
 5 Madison-Kipp employees?  
 6 A That is correct.  
 7 Q And, similarly, in your preparation for  
 8 testifying as a corporate designee for  
 9 Madison-Kipp today, you did not have any  
 10 discussions with any former Madison-Kipp  
 11 employees?  
 12 A That is correct.  
 13 Q And when I asked you the question with respect to  
 14 current or former employees, were you including  
 15 Mr. Coleman? I didn't want to exclude him. Did  
 16 you have any discussions with Mr. Coleman to  
 17 prepare you for your testimony?  
 18 A No, I did not.  
 19 Q Would it be fair to say that other than the  
 20 documents that appear in Exhibit 3, the binder  
 21 before you, you didn't look at any other  
 22 documents to assist you in preparing to testify  
 23 as a corporate designee, correct?  
 24 A That is correct.  
 25 Q And the only other persons in the world that you

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1 notices and communications with the insurers  
 2 would have been given if there was no coverage  
 3 for such claims?  
 4 MR. SEESE: Object to the form of that,  
 5 assumes facts not in evidence, calls for a legal  
 6 conclusion. You can answer to the extent you are  
 7 able.  
 8 THE WITNESS: I'm not aware of why, no.  
 9 BY MR. COHEN:  
 10 Q Okay. All right. In this particular letter to  
 11 Ms. Beyrent did you understand her to be or do  
 12 you understand her to be the claims  
 13 representative for U. S. Fire at Riverstone  
 14 Claims Management?  
 15 A Yes.  
 16 Q Okay. There's some handwritten notes on Page 3  
 17 next to the reference to the Johnson Controls  
 18 decision on the bottom. It says June 16, 1994.  
 19 Does that appear on your version?  
 20 A No.  
 21 Q Okay. Maybe I got the magical binder.  
 22 MR. SEESE: No, that's mine.  
 23 MR. COHEN: That's yours?  
 24 MR. SEESE: That's my handwritten note  
 25 on it.

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1 talked to to assist you in preparing as a  
 2 corporate designee were Madison-Kipp's lawyers  
 3 that you had referred to earlier?  
 4 A Correct.  
 5 Q If you could turn, please, to the August 1, 2003  
 6 notice letter to U. S. Fire, and I think you can  
 7 find it at Tab 14 and 15.  
 8 A August 1? Was that the date?  
 9 Q Yes, correct. Is it your understanding that that  
 10 was the first notice letter regarding the  
 11 environmental contamination at the Waubesa Street  
 12 site that was sent to U. S. Fire?  
 13 A To my knowledge, yes.  
 14 Q All right. And Ms. Ross asked you a question  
 15 about why notice had not been provided earlier to  
 16 her clients, Continental and Columbia. Would  
 17 your answer be the same with respect to U. S.  
 18 Fire?  
 19 A Yes.  
 20 Q And that is because the law changed?  
 21 A That is correct.  
 22 Q And we saw some other documents in these  
 23 materials regarding environmental claims and  
 24 coverage for environmental claims that predated  
 25 2003 for other sites. Do you know why those

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1 BY MR. COHEN:  
 2 Q Sir, do you know what that date refers to,  
 3 June 16, 1994?  
 4 A No, I do not.  
 5 Q If you could turn to Page 4 of that letter, the  
 6 second to the last paragraph identical to the  
 7 letter that you looked at earlier for Continental  
 8 and Columbia states, "We request that your  
 9 company analyze this matter and accept duties of  
 10 defense and indemnity owed under the CGL and/or  
 11 umbrella policies."  
 12 My first question is do you know whether  
 13 the U. S. Fire policies were primary policies or  
 14 umbrella policies?  
 15 MR. SEESE: Object to the form and  
 16 scope. You can answer.  
 17 THE WITNESS: I'm not aware.  
 18 BY MR. COHEN:  
 19 Q Okay. All right. Do you know whether at the  
 20 time of this letter the U. S. Fire policies had  
 21 any duty to defend?  
 22 MR. SEESE: Same objections.  
 23 THE WITNESS: I'm not aware.  
 24 BY MR. COHEN:  
 25 Q Okay. The next sentence says, "We will provide



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1 you with further information as it is developed  
 2 in this matter." Do you see that?  
 3 A Yes.  
 4 Q And Ms. Ross asked you with respect to her  
 5 clients, and I will ask you the same, are you  
 6 aware of any information that was provided by  
 7 Madison-Kipp or through its lawyers to U. S. Fire  
 8 at any time between August 1, 2003 and July 25,  
 9 2011?  
 10 MR. SEESE: Object to the form of that.  
 11 Go ahead. You can answer.  
 12 THE WITNESS: Not to my knowledge.  
 13 BY MR. COHEN:  
 14 Q And, similarly, you are unaware of any  
 15 communications that occurred that were not in  
 16 writing between Madison-Kipp or its lawyers and  
 17 U. S. Fire or its claims representative between  
 18 that time frame?  
 19 MR. SEESE: Regarding this Waubesa  
 20 Street claim?  
 21 MR. COHEN: Correct.  
 22 THE WITNESS: I'm not aware of that.  
 23 BY MR. COHEN:  
 24 Q And would it be fair to state that you're also  
 25 unaware of any notice to U. S. Fire of an

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1 representatives seeking approval of any -- the  
 2 incurrence of any expenses or any strategies  
 3 regarding the site between August 1, 2003 and  
 4 July 25, 2011?  
 5 MR. SEESE: Object to form. Subject to  
 6 that, you can answer.  
 7 THE WITNESS: Not to my knowledge.  
 8 BY MR. COHEN:  
 9 Q Are you aware, sir, of why Madison-Kipp did not  
 10 provide any further information after the  
 11 August 1, 2003 letter to U. S. Fire until  
 12 July 25, 2011?  
 13 MR. SEESE: Object to form and  
 14 foundation, object to the extent it calls for  
 15 attorney-client privileged information. To the  
 16 extent you can answer without disclosing  
 17 privileged information, you can do so.  
 18 THE WITNESS: My understanding is the  
 19 insurance company did not respond and, therefore,  
 20 we did not forward.  
 21 BY MR. COHEN:  
 22 Q And there was no effort, to the best of your  
 23 knowledge, on the part of Madison-Kipp to follow  
 24 up with the insurance company until July 25,  
 25 2011, correct?

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1 occurrence involving the Madison Waubesa Street  
 2 facility before August 1, 2003?  
 3 MR. SEESE: Object to form and  
 4 foundation, calls for a legal conclusion, beyond  
 5 the scope of what this witness has been  
 6 designated to testify about. Subject to that,  
 7 you can answer.  
 8 THE WITNESS: I'm not aware of any other  
 9 notices.  
 10 BY MR. COHEN:  
 11 Q Are you aware, sir, of whether Madison-Kipp ever  
 12 forwarded any invoices for any remediation costs  
 13 or defense costs to U. S. Fire at any time for  
 14 payment?  
 15 A Would you reread the question, please.  
 16 COURT REPORTER: "Are you aware, sir, of  
 17 whether Madison-Kipp ever forwarded any invoices  
 18 for any remediation costs or defense costs to U.  
 19 S. Fire at any time for payment?"  
 20 MR. SEESE: Object to that as beyond the  
 21 scope. Subject to that, you can answer.  
 22 THE WITNESS: Not to my knowledge.  
 23 BY MR. COHEN:  
 24 Q Are you aware of any communications between  
 25 Madison-Kipp and U. S. Fire or its

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1 MR. SEESE: Same objections.  
 2 THE WITNESS: Correct.  
 3 BY MR. COHEN:  
 4 Q Could you turn to the prepared response. What  
 5 exhibit is that, 7?  
 6 A Seven.  
 7 Q Exhibit 7. If you look at Topic 10, the topic is  
 8 the factual basis for Madison-Kipp's claim, if  
 9 any, that United States Fire Insurance Company  
 10 did not suffer any prejudice due to  
 11 Madison-Kipp's alleged failure to give timely  
 12 notice of a claim relating to environmental  
 13 contamination at or arising out of the  
 14 Madison-Kipp facility. Did I read that  
 15 correctly?  
 16 A Yes.  
 17 Q Okay. And it states that at this time the  
 18 factual basis for Madison-Kipp's claim that U. S.  
 19 Fire did not suffer prejudice is that  
 20 Madison-Kipp provided notice to U. S. Fire on  
 21 August 1, 2003 and U. S. Fire never responded to  
 22 that notice. You have told me everything that  
 23 you know about that so far?  
 24 A Yes.  
 25 Q Okay. And then it says, "As a result, U. S. Fire

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1 cannot claim prejudice as a result of what  
 2 happened at the site from August 1, 2003 through  
 3 July 25, 2011." You told me everything you know  
 4 about that, correct?  
 5 MR. SEESE: Object to the form. Go  
 6 ahead and answer.  
 7 THE WITNESS: Yes.  
 8 BY MR. COHEN:  
 9 Q Then it says, "In addition, when Madison-Kipp  
 10 first received notice of the DNR's claim in 1994,  
 11 there was no insurance coverage for such claims."  
 12 I'm just going to stop there. I realize the  
 13 sentence continues. You have told me everything  
 14 that you know about that, correct?  
 15 MR. SEESE: Object to form. You can  
 16 answer.  
 17 THE WITNESS: Yes.  
 18 BY MR. COHEN:  
 19 Q And then it goes on to say, "And the \$500,000  
 20 primary policies underlying the U. S. Fire  
 21 policies were not exhausted." Do you see that?  
 22 A Yes.  
 23 Q Do you know what that means?  
 24 A I don't --  
 25 MR. SEESE: Same objection.

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1 Madison-Kipp given notice to U. S. Fire in 1994."  
 2 Did I read that right?  
 3 A Yes.  
 4 Q And have you told me everything you know about  
 5 that?  
 6 MR. SEESE: Object to form. You can  
 7 answer.  
 8 THE WITNESS: Yes.  
 9 BY MR. COHEN:  
 10 Q And I think you answered this, but just so I'm  
 11 clear, as you sit here today as the corporate  
 12 designee for Madison-Kipp, you are unaware of  
 13 whether the U. S. Fire policies are primary or  
 14 excess policies, is that fair?  
 15 MR. SEESE: Objection, beyond the scope.  
 16 You can answer.  
 17 THE WITNESS: That is correct, I'm not  
 18 aware of what they are.  
 19 BY MR. COHEN:  
 20 Q And is it your understanding that any  
 21 communications involving notice or tender or  
 22 updates regarding the site from Madison-Kipp to  
 23 U. S. Fire, and the site is the Waubesa site,  
 24 would be contained in the binder, correct?  
 25 A To the best of my knowledge, yes.

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1 MR. COHEN: Go ahead.  
 2 THE WITNESS: Yes.  
 3 BY MR. COHEN:  
 4 Q What does that mean?  
 5 A It means the 500,000 had not been used in claims  
 6 under that policy year.  
 7 Q Okay. And as of August 1, 2003, was there any  
 8 indication that -- Strike that.  
 9 Had the \$500,000 primary policies  
 10 underlying the U. S. Fire policies been exhausted  
 11 at that time?  
 12 MR. SEESE: Objection, beyond the scope.  
 13 You can answer.  
 14 THE WITNESS: Not to my knowledge.  
 15 BY MR. COHEN:  
 16 Q As we sit here today, do you know whether the  
 17 \$500,000 primary policies underlying the U. S.  
 18 Fire policies were exhausted?  
 19 MR. SEESE: Objection, beyond the scope.  
 20 You can answer.  
 21 THE WITNESS: I don't know.  
 22 BY MR. COHEN:  
 23 Q All right. Then it says, "Thus, there's no  
 24 indication that U. S. Fire would have done  
 25 anything other than deny Madison-Kipp's claim had

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1 Q And did you notice in the binder that there were  
 2 some acknowledgments and responses by U. S. Fire  
 3 to the notices later in time after the July 25th,  
 4 2011 letter?  
 5 MR. SEESE: Object to form. You can  
 6 answer.  
 7 THE WITNESS: If we refer to Tab No. 9  
 8 --  
 9 MR. SEESE: He's talking about responses  
 10 to Exhibit 11.  
 11 THE WITNESS: I will check No. 11.  
 12 MR. COHEN: You mean Tab 11?  
 13 MR. SEESE: Yes.  
 14 MR. COHEN: I think you were right the  
 15 first time. It should be 9.  
 16 MR. SEESE: Blame that one on counsel.  
 17 THE WITNESS: I believe the first  
 18 response is July 19, 2011 in response to our  
 19 August 1, 2003.  
 20 BY MR. COHEN:  
 21 Q And is there anything about U.S. Fire's position  
 22 in response to the tender that you can tell me  
 23 that I can't read in the letter itself?  
 24 A Not to my knowledge.  
 25 Q In other words, you don't possess any additional

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1 information about U.S. Fire's response to the  
 2 notice letter or updates other than what the  
 3 documents tell me?  
 4 A That's correct.  
 5 Q All right. If you could, just to make sure I'm  
 6 clear, if you look at Exhibit 1, please, the  
 7 notice or Exhibit 2, if that's more helpful to  
 8 you. 2 has your notes, so it may be more helpful  
 9 to you.  
 10 MR. SEESE: I think 7 has his notes.  
 11 MR. COHEN: I'm sorry. You can refer to  
 12 that.  
 13 BY MR. COHEN:  
 14 Q Starting with Topic 9, all notices or tenders to  
 15 United States Fire Insurance Company of any  
 16 environmental contamination claims relating to or  
 17 arising out of the Madison-Kipp facility, all  
 18 information that you are aware of is contained  
 19 within the binder within tabs what?  
 20 A Tab No. 9.  
 21 Q Topic 10. The factual basis for Madison-Kipp's  
 22 claim, if any, that United States Fire Insurance  
 23 Company did not suffer any prejudice due to  
 24 Madison-Kipp's alleged failure to give timely  
 25 notice of a claim relating to environmental

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1 answer.  
 2 THE WITNESS: Tabs 9 and 11.  
 3 MR. COHEN: That's all I have. Thank  
 4 you.  
 5 MR. WEISS: No questions at this time.  
 6 MR. HAYES: No questions here, either.  
 7 (A discussion was had off the record.)  
 8 MR. SEESE: No questions from us,  
 9 either.  
 10 (At 12:53 p.m. the deposition  
 11 concluded.)  
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1 contamination at or arising out of the  
 2 Madison-Kipp facility. Everything you know about  
 3 that topic is contained in Exhibit 7 that we went  
 4 through, correct?  
 5 MR. SEESE: Object to the form. You can  
 6 answer.  
 7 THE WITNESS: Exhibit 7, Topic 10.  
 8 BY MR. COHEN:  
 9 Q Topic 11. All communications Madison-Kipp had  
 10 with United States Fire Insurance Company  
 11 relating to environmental contamination at or  
 12 arising out of the Madison-Kipp facility prior to  
 13 July 25, 2011. Everything you know about that is  
 14 contained within the binder, correct?  
 15 MR. SEESE: Object to form. You can  
 16 answer.  
 17 THE WITNESS: Tab No. 11.  
 18 BY MR. COHEN:  
 19 Q And then Topic No. 26, all claims for general  
 20 liability coverage Madison-Kipp made or had  
 21 pending against United States Fire Insurance  
 22 Company between 2002 and 2004. Everything you  
 23 know about that topic is contained within the  
 24 binder?  
 25 MR. SEESE: Object to form. You can

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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 MARK D. DANIEL, was taken before me at  
 7 the law offices of Michael, Best & Friedrich, LLP, 100  
 8 East Wisconsin Avenue, Milwaukee, Wisconsin, on the 8th  
 9 day of April, 2013, commencing at 9:10 in the forenoon.  
 10 That it was taken at the instance of the  
 11 Cross-Claim Defendants upon verbal interrogatories.  
 12 That said statement was taken to be used  
 13 in an action now pending in the UNITED STATES DISTRICT  
 14 COURT FOR THE WESTERN DISTRICT OF WISCONSIN, in which  
 15 KATHLEEN MC HUGH, et al., are the Plaintiffs and  
 16 MADISON-KIPP CORPORATION is the Cross-Claimant and  
 17 CONTINENTAL CASUALTY COMPANY, et al., are the  
 18 Cross-Complainants and LUMBERMENS MUTUAL CASUALTY  
 19 COMPANY are the Third-Party Defendants.  
 20 A P P E A R A N C E S  
 21 VARGA, BERGER, LEDSKY, HAYES & CASEY,  
 22 125 South Wacker Drive, Suite 1250, Chicago, Illinois,  
 23 60606-4473, by MR. MICHAEL HAYES, appeared on behalf of  
 24 the Plaintiffs.  
 25 MICHAEL, BEST & FRIEDRICH, LLP, Two  
 Riverwood Place, Suite 200, N19 W24133 Riverwood Drive,

1 Waukesha, Wisconsin, 53188-1174, by MR. LEE M. SEESE  
2 and MR. NATHAN L. MOENCK, appeared on behalf of  
3 Madison-Kipp Corporation.

4 TROUTMAN SANDERS, LLP, 55 West Monroe  
5 Street, Suite 3000, Chicago, Illinois, 60603-5758, by  
6 MS. REBECCA L. ROSS, appeared on behalf of the  
7 Defendant Continental Casualty Company.

8 MEISSNER, TIERNEY, FISHER & NICHOLS,  
9 S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee,  
10 Wisconsin, 53202-6622, by MR. MICHAEL J. COHEN,  
11 appeared on behalf of United States Fire Insurance  
12 Company.

13 WEISS LAW OFFICE, S.C., 1017 West Glen  
14 Oaks Lane, Suite 207, Mequon, Wisconsin, 53092, by MR.  
15 MONTE E. WEISS, appeared on behalf of the Defendants  
16 Lumbermens and American Motorists.

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

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

25 Notary Public in and  
for the State of Wisconsin

Dated this 9th day of April, 2013,  
Milwaukee, Wisconsin.

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