

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Susan S. Barden, Aisha Taylor and T. Scott Beck, Commissioners

Case No. 2014-000225 (WCC FILE NO. 1023410)

Michael W. Dority, Claimant, Appellant,

v.

CTR of the Carolinas, Inc., et al., Employer, and Twin City Fire
Insurance Company, Carrier, Respondents.

RECORD ON APPEAL
Volume II of III

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SC Court of Appeals

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1 SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

2 W.C.C. FILE NO: 1023410

3 MICHAEL W. DORITY,

4 Claimant,

5 vs.

6 CTR OF THE CAROLINAS, INC.,

7 Employer,

8 and

9 TWIN CITY FIRE INSURANCE COMPANY,

10 Carrier,

11 Defendants.

COPY

12
13 DEPOSITION OF: JOHN D. DOTY, II, M.D.

14 DATE: OCTOBER 3, 2012

15 TIME: 3:45 P.M.

16 LOCATION: CHARLOTTE MEDICAL CLINIC
17 1001 BLYTHE BOULEVARD
CHARLOTTE, NC

18 TAKEN BY: COUNSEL FOR CLAIMANT

19 REPORTED BY: SHERRI L. PULEO, COURT REPORTER
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17 (INDEX AT REAR OF TRANSCRIPT)

(Commencing at 3:45 p.m.)

STIPULATION

It is stipulated by and between Counsel that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, Rule 30; that all objections as to Notice of this deposition are hereby waived; that all objections except as to form are reserved until the time of trial; and that the deponent waives reading and signing of this deposition.

* * * * *

JOHN D. DOTY, II, M.D.

being first duly sworn, testified as follows:

Direct EXAMINATION

BY. MR. EDDY:

Q. Dr. Doty, as you know, I am Jeff Eddy and I represent Michael Dority in a workers' compensation claim that's been filed with the South Carolina worker's comp commission. I'm going to ask you a number of questions, and then when I'm done Mr. Griggs will likely ask you some questions too.

If you'll let me know if you don't hear or understand my question, I'd appreciate it; and if you would make sure your responses are in words

4

1 as opposed to non-verbal gestures, helps the Court
2 Reporter.

3 Would you please state your full name for
4 the record.

5 A. John Douglas Doty, II.

6 Q. And what is your professional address?

7 A. 1001 Blythe Boulevard, Suite 403,
8 Charlotte, North Carolina 28203.

9 Q. And what is your medical specialty?

10 A. Pulmonary and critical care.

11 Q. What is the name of your medical practice
12 here?

13 A. Charlotte Medical Clinic.

14 Q. Okay. Are you board certified in any
15 areas of medicine?

16 A. Yes.

17 Q. And what are those?

18 A. Internal medicine, Pulmonary Disease and
19 Critical Care Medicine.

20 Q. Where did you go to med school?

21 A. University of Tennessee.

22 Q. And where did you do your residency and
23 internship?

24 A. Also at University of Tennessee in
25 Memphis.

1 Q. Did you do a fellowship in Pulmonary
2 Medicine?

3 A. Yes.

4 Q. Where was that?

5 A. Medical University of South Carolina.

6 Q. And that was in Charleston?

7 A. Yes.

8 Q. What states are you licensed to practice
9 medicine in?

10 A. North Carolina, and then I have inactive
11 licenses in South Carolina and Tennessee.

12 Q. When did you do your fellowship at MUSC?

13 A. 2001 to 2004.

14 Q. How long have you been practicing
15 Pulmonary Medicine?

16 A. Eight years.

17 Q. And over the course of your education,
18 training and your practice in the area of Pulmonary
19 Medicine, have you had occasion to see and treat
20 individuals with occupational lung disease?

21 A. Not real commonly, you know, we see
22 Interstitial Lung Disease a fair amount.

23 Q. Okay. What is Interstitial Lung Disease?

24 A. Those are diseases dealing with the
25 pulmonary interstitium; I guess a simple way to

6

1 think about that would be just the supporting
2 structure of the lung. The interstitium is
3 technically the space between the alveolus, you
4 know, gas exchanging part of the lung, and the
5 capillary connecting lung to the bloodstream, so
6 that small interface where oxygen comes in, carbon
7 dioxide goes out, that's -- pulmonary interstitium
8 is that, and then some of the other supporting
9 structures of the lung.

10 Q. Okay. And the alveolus, those are the
11 air sacks?

12 A. Right.

13 Q. That are wrapped with blood vessels --

14 A. Correct.

15 Q. That exchange the oxygen?

16 A. Right.

17 Q. So that's the area of the interstitium?

18 A. The interstitium -- yeah, that's I guess
19 where it would begin, another supporting structure
20 of the lung; not functional parts of the lung
21 necessarily, but --

22 Q. So how would you define Interstitial Lung
23 Disease?

24 A. Just a lung disease dealing with the
25 interstitium, the supporting structure of the lung,

1 anything other than just the alveolar filling
2 processes.

3 Q. Okay. What is known as Usual
4 Interstitial Pneumonitis?

5 A. Usual Interstitial Pneumonitis is
6 actually a pathologic description seen on lung
7 biopsies, what is described or I guess the buzz
8 words associated with UIP: One is temporal
9 heterogeneity, meaning there will be areas of
10 completely normal lung next to lung that's very
11 diseased, lots of fibrosis. The other buzz word
12 there is fibroblastic foci. In a patient with UIP
13 you see collections of fibroblasts within the
14 interstitium that are secreting collagen, creating
15 fibrosis; and again, this process is happening
16 right next to normal lung tissue in a classic
17 specimen.

18 Q. Okay. What is the typical clinical
19 course with UIP?

20 A. I guess what makes this confusing, and
21 this is confusing for doctors too, is that some of
22 these little three letter abbreviations are
23 pathologic descriptions, some of them are actual
24 diagnoses. UIP is actually a pathologic
25 description, it's not a specific diagnosis. In the

8

1 medical literature in layman's terms UIP is often
2 used synonymously with another three letter
3 abbreviation IPF, which stands for Idiopathic
4 Pulmonary Fibrosis.

5 A patient with IPF usually presents with
6 non-specific breathlessness, there's some physical
7 exam findings that can be specific there that you
8 describe dry or Velcro crackles in the lung bases,
9 sometimes you'll see finger clubbing, most of the
10 time these folks do have an oxygen requirement,
11 meaning their oxygen level is either low at rest or
12 will become low with exercise.

13 And classically speaking, again, IPF is a
14 very progressive disease. When I was learning --
15 when I was at training the textbooks, and you know
16 textbooks are usually a few years behind what the
17 more modern literature is, but the textbooks would

18 tell you that the 50 percent -- or the survival
19 rate at three years from the time of diagnosis with
20 IPF is about 50 percent. We know now that that's
21 probably -- the literature now I guess probably
22 wouldn't support that exactly for a couple of
23 reasons: There are a lot of things that will cause
24 IPF -- or cause -- a lot of things that will give
25 you fibrous change or UIP type change in the lung;

1 and also our CT scanners are getting better, so
2 we're finding these features earlier and earlier.
3 So not uncommon to have patients, you know, patient
4 live with this for a while, usually they do show
5 some progression.

6 Q. What causes UIP?

7 A. UIP, well again, if we're using it
8 synonymously with IPF, no one knows. The "I"
9 stands for idiopathic, meaning unclear cause. But
10 UIP can be the final common pathway of several
11 conditions, IPF being one.

12 You know, in end-stage hypersensitivity
13 pneumonitis can look like UIP under the microscope,
14 connective tissue diseases can look like UIP under
15 the microscope. So I mean, there are several
16 things that will give you a UIP type of pattern.
17 But IPF itself is the unknown cause.

18 Q. What is pneumoconiosis?

19 A. Pneumoconiosis is a lung disease caused
20 by something inhaled that is a -- usually not
21 something organic like -- or I guess could be
22 organic, but an inhalational lung disease I guess
23 would be a good way to think of it.

24 Q. Are pneumoconioses often times
25 occupationally related?

10

1 A. Often times, yes. Hypersensitivity
2 pneumonitis is usually -- you know, that's usually
3 from something organic. The classic example there
4 be bird fancier's lung, folks who keep particular
5 kinds of birds, clean the cages get exposed to
6 proteins in the bird excrement and maybe the bird
7 feathers, can develop a lung disease from that. I
8 think a pneumoconiosis, actually if I got out the
9 textbook and would read the definition, is usually
10 not organic, it's exposure to metal or a fume or
11 something like that.

12 Q. Dust?

13 A. Yeah, dust, something like that. Some
14 sort of non-organic thing that's inhaled.

15 Q. All right. The inhalation of asbestos
16 causes the pneumoconiosis --

17 A. Right.

18 Q. Asbestos?

19 A. Correct.

20 Q. Okay. Is pneumoconiosis one of those
21 end-stage -- or one of those diseases that
22 end-stage can look like UIP?

23 A. Yes.

24 Q. Similar to the hypersensitivity --

25 A. Right.

1 Q. Condition you talked about?

2 A. There are a lot of -- you know, a lot of
3 conditions that will -- at end-stage will give you
4 a UIP appearance. The analogy I'll sometimes use
5 with patients is: If you have kidney disease and
6 the kidney disease is bad enough the biopsy's going
7 to look the same no matter what caused it, I guess
8 there are a lot of conditions towards their
9 end-stage or in advanced cases will look like UIP.

10 Q. If someone has UIP as a result of
11 end-stage pneumoconiosis, what would the clinical
12 course be expected?

13 A. Clinical course, I guess would be hard to
14 predict. If, you know, the person were -- you
15 know, you would treat the pneumoconiosis by getting
16 them out of the environment, but they might not
17 progress the same way that someone with a UIP from
18 IPF would be expected to progress.

19 I guess would depend -- their clinical
20 course would kind of depend on whether you get them
21 out of the environment or not. Sometimes it can be
22 hard to figure out exactly where the pneumoconiosis
23 is coming from, but if you can get them away from
24 that, you know, they should stabilize, I would
25 think, in a lot of cases.

12

1 Q. And someone with pneumoconiosis, if you
2 get them out of the environment that's resulting in
3 the inhalation exposure, would you expect their
4 clinical course to stabilize?

5 A. Most likely. I think so. It's probably
6 never going to get better, 'cause when, you know,
7 fibrosis is -- when I hear fibrosis I think
8 end-stage, irreversible, terms like that, so I
9 don't think things would get better, but not
10 unreasonable to think it would stabilize.

11 Q. Once removed from the environment --

12 A. Right.

13 Q. Resulting in the exposure, you wouldn't
14 necessarily expect a rapid progression like you
15 would in IPF?

16 A. No.

17 Q. Okay. Have you had occasion to see and
18 treat Michael W. Dority?

19 A. Yes.

20 Q. How did that come about and when?

21 A. I saw him initially in July of 2010, he
22 was referred by his primary physician Dr. Sharp
23 here. According to my notes he had been in the
24 hospital for some abdominal pain, I think
25 eventually diagnosed as Diverticulosis. On

1 abnormal CT you usually catch the bottom third or
2 so of the lungs, and he had some abnormalities seen
3 there, some fibrosis seen, and his primary
4 physician referred him to me.

5 Q. Okay. So you saw him as a result of an
6 abnormal CT scan?

7 A. Yes, sir.

8 Q. And what were the abnormalities on that
9 CT scan in his lungs?

10 A. Let's see. He had some emphysematous
11 change, and I'm just reading from the report here,
12 with interstitial fibrosis and wide spread
13 honeycombing. He had looks like more than one
14 small pulmonary nodule, and then some lymph nodes
15 in the chest that were a bit larger than you would
16 expect; one centimeter is standard, you know, less
17 than one centimeter is normal, it says he had a few
18 that were greater than one centimeter.

19 Q. In layman's terms, what is interstitial
20 fibrosis and honeycombing?

21 A. Layman's terms? All right. When you
22 look at a CAT scan you see lots and lots of lines
23 and lots and lots of little dots, those are blood
24 vessels; and the blood vessels tend to sort of run
25 along bronchovascular bundles, and usually you

14

1 cannot see those lines or the blood vessels going
2 all the way out to the edge. If you would look at
3 it with a microscope, the very edges of the lungs
4 don't -- there's usually a centimeter or so where
5 you don't see anything going to it. If you do see
6 lines that will touch the chest wall, those
7 probably aren't blood vessels, that's thickening of
8 the interstitium, that's fibrosis.

9 Honeycombing is the fibrosis distorts the
10 architecture of the lung, so these tiny little
11 airways -- the biggest airway in your body is the
12 trachea, as the trachea divides to go right and
13 left the airway's smaller, right main bronchi goes
14 upper, lower, middle lobes, that's smaller. They
15 always get smaller, smaller, smaller as you go out.

16 Fibrosis will pull those airways apart
17 making some of those look larger as they get more
18 peripheral, and it just basically -- what you see
19 is it looks like you're looking at a honeycomb
20 where the bees are there making the honey, and you
21 can see that; most of the time it's around the
22 edges.

23 Q. Okay. When you saw him on July 22, 2010.

24 A. Yes.

25 Q. What did your examination or evaluation

1 consist of?

2 A. Let's see. We did pulmonary function
3 testing, and I don't think I have the images for my
4 review, so Mr. Dority mailed those to me. We
5 ordered, I guess, serologic studies to rule out
6 connective tissue disease, sent off a
7 hypersensitivity pneumonitis panel, and decided
8 once we had all this stuff back I felt
9 Mr. Dority probably would need a bronchoscopy,
10 potentially maybe even an open lung biopsy. Looks
11 like we made plans to draw the blood and let me
12 call him back when we reviewed the films.

13 Q. Okay. And on that day did your
14 assessment -- what was your assessment essentially?

15 A. Let's see. Well, I said here that he had
16 an abnormal CT scan of the chest. Of course when
17 you hear the word honeycombing you're concerned
18 that that represents IPF. I made mention that with
19 his occupational history we would be concerned with
20 possible asbestosis or hypersensitivity reaction to
21 occupational or environmental, something that he
22 had breathed in. And then when you see lymph nodes
23 in the chest, they're enlarged that are fairly
24 symmetric, as his were described, you worry about a
25 condition called sarcoidosis.

16

1 Q. So you had taken some information from
2 him regarding his occupation at the time?

3 A. Usually, you know, standard consult you
4 do some social history and that involves do you
5 smoke, drink alcohol, where do you live, what do
6 you do for a living; and just -- this is by his
7 report only, he said he done maintenance at
8 Springs, manufacturing, says exposed to different
9 dyes, cotton dust and he thinks asbestos.

10 Q. Okay. And then what did he tell you
11 insofar as his employment at the time?

12 A. At the time he just told me he was still
13 working. Let's see. Still doing maintenance
14 and -- let's see maintenance on electronic
15 instruments at another local company. I don't
16 think he was with Springs at that point or maybe he
17 was, I'm not sure.

18 Q. Okay. And then the smoking history was
19 what?

20 A. Sixty pack year smoking history, and
21 that's -- the way you get pack years is you take
22 the number of packs of cigarettes times the number
23 of years you smoked, so two packs a day for 30
24 years would equal 60 pack years. But he had
25 stopped about a week prior to seeing me, looks

1 like.

2 Q. All right. Were biopsies taken in an
3 effort to determine his problem?

4 A. I know we biopsied the lymph nodes.
5 Let's see. Doesn't look like I did any
6 transbrachial lung biopsies, it looks like we did
7 biopsy lymph nodes --

8 Q. By bronchoscopy?

9 A. By bronchoscopy, yes, sir.

10 Q. Okay. That was in August of 2010?

11 A. In August of 2010, yes.

12 Q. That didn't tell you anything?

13 A. No. Just says we were in a lymph node,
14 but didn't tell us why they were there.

15 Q. All right. So he was then admitted to
16 the hospital in September and underwent a biopsy --

17 A. Yes.

18 Q. At that time by Dr. Reams?

19 A. Dr. Mark Reams, yes.

20 Q. Okay. And that was on what,
21 September 23rd, I think, of 2010?

22 A. Yes.

23 Q. What were the results of that biopsy?

24 A. Pathology report -- let me find this.
25 When you do a lung biopsy you try and get a little

18

1 bit from all three lobes or both lobes on the left,
2 there's only two. It looks like some findings
3 really from all three lobes: Emphysematous change,
4 chronic fibrosing, interstitial pneumonia with a
5 UIP pattern.

6 Pathologist comments are sections from
7 all lobes show emphysema with diffused septal
8 thickening by old collagen type tissue, and
9 scattered foci of young fibroblastic proliferation,
10 patchy aggregates of pigmented anthracotic
11 macrophages are also seen, which on polarization
12 show rare silica particles.

13 Q. Okay. So did he have a differential
14 diagnosis; in other words, was he leaning towards
15 various different things in his diagnosis?

16 A. Well, with -- let's see. You know, this
17 appears -- you know, we're seeing fibroblastic

18 proliferation, this would appear to be Usual
19 Interstitial Pneumonitis, UIP. I think at this
20 point because our collagen vascular work-up had
21 already -- you know, the serology's come back
22 negative, our hypersensitivity panel come back
23 negative, I think number one in my mind is he has
24 IPF at that point.

25 Q. All right. Did the pathologist make

1 reference to whether or not this could have been a
2 pneumoconiosis?

3 A. Yes.

4 Q. He says: The similar features can be
5 seen in collagen vascular disease and
6 pneumoconiosis?

7 A. Collagen vascular disease, pneumoconiosis
8 or drug effect, yes.

9 Q. And did the blood work that you had done
10 prior to the biopsy rule out the collagen vascular
11 disease as a possibility?

12 A. I think it did. Let me double check.
13 And after all that, yes.

14 Q. Okay.

15 A. All of his connective tissue serology is
16 negative.

17 Q. In his report, the pathologist suggests:
18 Correlation with clinical parameters; can you tell
19 me what he meant by that?

20 A. Pathologists and radiologists get smarter
21 with as much clinical information as you can give
22 them, so what Dr. Adlakah is saying there is that
23 you could see a pattern like this in, you know, in
24 these conditions, and is recommending that we
25 just -- that correlate this with does he have

20

1 collagen vascular disease, what's he been exposed
2 to, does he just have finger clubbing, does he look
3 more like a IPF patient; just saying, you know,
4 what's the -- correlate with how he's doing, what
5 his x-rays look like, that sort of things.

6 Q. What she had said earlier on in the
7 report that: The chronic fibrosing interstitial
8 pneumonia was likely going to behave as UIP; is
9 that kind of what she meant by correlation with
10 clinical parameters; in other words, how it was
11 going to behave in the future?

12 A. I think she's probably just speculating
13 as to, you know, how the -- what the course -- or
14 what the patient's clinical course would be moving
15 forward, yes.

16 Q. So earlier in your testimony when you
17 talked about a UIP as a pathological description as
18 opposed to a diagnosis, is that essentially what
19 she's saying, that this looks like --

20 A. I think, and I may be assuming a little
21 too much here, I think she is synonymously using
22 UIP with IPF, saying he's going to -- she thinks
23 this is probably IPF and that's how he'll behavior,
24 or that's how he will progress clinically moving
25 forward.

1 Q. And had it been an IPF, how would you
2 have expected him to behave?

3 A. Well, IPF patients typically do show some
4 progression over time, you know, their lung
5 function tests will worsen, their oxygen
6 requirements will get worse, they'll become more
7 breathless, those sorts of things.

8 Q. Okay. Did you continue to see Mr. Dority
9 after this biopsy?

10 A. I did.

11 Q. You saw him subsequently on November the
12 2nd of 2010?

13 A. Yes.

14 Q. December the 10th of 2010?

15 A. Yes, sir.

16 Q. February the 2nd of 2011?

17 A. Yes.

18 Q. May 23rd of 2011?

19 A. Yes.

20 Q. August 31st of 2011?

21 A. Yes.

22 Q. March 1st of this year?

23 A. Yes.

24 Q. And August 1st of this year?

25 A. Yes.

22

1 Q. How did he behave?

2 A. Well, interestingly he really, you know,
3 both subjectively, the way he tells me he feels,
4 and then objectively, I think a few of those visits
5 we obtained CT scans, a few we obtained point of
6 function tests, really didn't progress. He was --
7 you know, when I first saw him in July he was I
8 think a little bit better than he was in November.
9 Then from November to the most recent visit I don't
10 think he's progressed that much; I mean, he does
11 have an oxygen requirement, sitting there sometimes
12 his oxygen level's okay, other times it's not.
13 Pretty consistently when he gets up and moves
14 around he does need oxygen.

15 Q. When did the oxygen requirement begin?

16 A. Looks like after his surgical biopsy,
17 looks like at some point November of 2010.

18 Q. Actually --

19 A. I'm sorry, looks it's September of 2010.
20 He's on oxygen -- I think he's on oxygen when I saw
21 him in -- yeah, I have documented he's on two
22 liters continuously in November of 2010.

23 Q. So when you saw him in July of 2010, his
24 subjective report from a pulmonary standpoint was
25 what?

1 A. He really had no symptoms, he did not
2 note any shortness of breath with usual activities,
3 he was still working then so he didn't get short of
4 breath working, occasionally coughing, but no
5 wheezing, no chest pain, anything like that.

6 Q. He was not on oxygen at that time?

7 A. No.

8 Q. So the oxygen requirement began September
9 of 2010 during the hospitalization for the biopsy?

10 A. Looks like he left with the oxygen from
11 the hospital, yes.

12 Q. And has his oxygen requirement from
13 September of 2010 through today, how has that
14 fared?

15 A. In November 2010 looks like he was on two
16 liters, and when I saw him on August 1st of this
17 year he was also on two liters of oxygen.

18 Q. So has it remained pretty much stable?

19 A. Yes.

20 Q. The pulmonary function test, breathing
21 test that you've administered, how have those fared
22 over the time that you've seen him, the
23 two-and-a-half years that you've seen him?

24 A. In my August note I say that there been
25 times, you know, that he's been better than he was

24

1 August 1st, there were times he was worse than
2 August 1st, and I made the statement here that I
3 believe his spirometry and lung volumes are fairly
4 stable when compared to prior values.

5 Q. How about the CT scans that he's received
6 over the two-and-a-half years that you've seen him,
7 have they gotten worse or stayed about the same?

8 A. Looks like we have three CTs in our
9 system: The most recent one being August 1st of
10 this year, this was compared to August 31st of
11 2011, and the radiologist remarks that the changes
12 look stable, stable changes of centrilobular
13 emphysema.

14 Q. Just to kind of recap then: Have his CT
15 scans remained about the same since you've started
16 seeing him?

17 A. Yes.

18 Q. So from a clinical standpoint, has he
19 behaved as you would expect in a case of IPF?

20 A. No.

21 Q. And how is that?

22 A. With a case of IPF, and Mr. Dority and I
23 have looks like at least two years and change of
24 history together, I would expect him to become more
25 debilitated, higher oxygen requirement, probably

1 should see some progression on CAT scan, probably
2 should see some worsening of the PFTs, and we
3 really haven't.

4 Q. So as a result of his clinical course,
5 have you begun to suspect that he may have
6 something going on other than a IPF?

7 A. Yes.

8 Q. And what is that?

9 A. Well, I think his occupational history is
10 concerning, especially welding. Of course, he
11 worked at another place for a really long time too
12 getting exposed to various things, but the
13 pneumoconiosis --

14 Q. Springs?

15 A. Springs. The pneumoconiosis, as
16 mentioned initially in the pathology report, from
17 exposure to something would be there. You know, I
18 guess at the end of the day it's very hard to
19 predict exactly what causes UIP, but it doesn't
20 appear that his is being caused by the IPF, he's
21 just not behaving that way really.

22 Q. Is that -- in your note of March 1, 2012,
23 you say under the assessment: Mr. Dority is a
24 55-year-old male with Interstitial Lung Disease,
25 his pathology is most consistent with Usual

26

1 Interstitial Pneumonitis; although, his clinical
2 course seems to be a bit more benign than would be
3 expected with UIP secondary to Idiopathic Pulmonary
4 Fibrosis. This would raise the question as to
5 whether this may been secondary to some sort of
6 occupational exposure; is that what you were
7 referring to?

8 A. Yes.

9 Q. I sent you some materials relating to
10 this case, including the Material Safety Data Sheet
11 for the silver solder that Mr. Dority worked with;
12 was there anything in the Material Safety Data
13 Sheet that you think that's of relevance to his
14 case?

15 MR. GRIGGS: Can you identify what he's
16 looking at?

17 MR. EDDY: Sure.

18 MR. GRIGGS: And can we identify what
19 he's looking at?

20 MR. EDDY: I can make it an exhibit if
21 you like. Here it is. It's the Wolverine
22 Silvaloy.

23 MR. GRIGGS: I don't have that.

24 This is the one you sent me. (Tendered)

25 MR. EDDY: This is the one you sent me.

1 MR. GRIGGS: Okay. Can I look at the
2 Wolverine one?

3 MR. EDDY: Sure. They're all the same,
4 just to let you know.

5 (Off-the-record conference.)

6 BY MR. EDDY:

7 Q. Does the Material Safety Data Sheet for
8 Silvaloy brazing alloy have a section regarding
9 chronic health hazards?

10 A. Yes.

11 Q. And among those listed, do they include
12 prolonged repeated inhalation may cause a benign
13 pneumoconiosis?

14 A. Yes.

15 Q. Would Mr. Dority's clinical course be
16 more consistent with a benign pneumoconiosis as
17 opposed to an IPF?

18 A. Yes.

19 Q. Are you familiar with medical literature
20 regarding an association between exposure to metal
21 dust and pneumoconiosis or UIP; have you had
22 occasion to review medical literature on that
23 subject?

24 A. The article from the American Journal of
25 Epidemiology, yeah, I did review that. I don't

28

1 have a lot of expertise in occupational lung
2 disease, but I did review this article when I
3 received it, yes.

4 (DOTY EXH. 1, PHOTOCOPY OF AN ARTICLE
5 TITLED OCCUPATIONAL ENVIRONMENTAL RISK FACTORS FOR
6 IDIOPATHIC PULMONARY FIBROSIS MULTI-CENTERED CASE
7 CONTROL STUDY, was marked for identification.)

8 Q. Okay. And I've handed you what's been
9 marked as Exhibit One to your deposition, and ask
10 you just to identify that article, if you would.

11 A. It's titled Occupational Environmental
12 Risk Factors for Idiopathic Pulmonary Fibrosis
13 Multi-Centered Case Control Study.

14 Q. Okay. And would you consider that to be
15 an authoritative medical article?

16 A. Again, I don't often review
17 Interstitial Lung Disease articles, but the

18 American Journal of Epidemiology is a reputable
19 journal, I think it's published by Johns Hopkins,
20 and they're a reputable institution.

21 Q. All right And I am correct that this
22 article states several occupational factors
23 associated with IPF, including metal dust?

24 A. Yes.

25 MR. GRIGGS: Where are you reading from?

1 MR. EDDY: It's in the abstract at the
2 beginning. I can read the whole thing, I was just
3 trying to shorten this.

4 MR. GRIGGS: Okay.

5 MR. EDDY: Want me to read the whole
6 thing?

7 MR. GRIGGS: No, I don't expect you to
8 read the whole thing, but I haven't seen this
9 before today, so I want to make sure I'm on the
10 same page with you.

11 BY MR. EDDY:

12 Q. Without regard to this these medical
13 articles, Dr. Doty, based upon, you know, your
14 education and training and experience in the field
15 of pulmonary medicine, and the two-and-a-half years
16 that you've come to know Mr. Dority, do you have an
17 opinion to a reasonable degree of medical certainty
18 as to whether or not his lung condition was likely
19 related to his employment?

20 A. I think it is more than likely that his
21 lung condition is from something other than
22 Idiopathic Pulmonary Fibrosis, and I would be most
23 suspicious of an occupational exposure of some
24 sort.

25 Q. Do you think that more likely than not

30

1 his work with the silver solder at CTR would have
2 contributed to his lung condition?

3 A. Yes.

4 Q. One thing that I haven't been able to get
5 sorted out in my mind from a conceptual standpoint
6 is: Does he have an occupationally related UIP or
7 does he have a pneumoconiosis, which as you've
8 described earlier, is just end-stage manifesting as
9 a UIP; do you understand the question?

10 A. I do. I'm not sure we can really know
11 that; I mean, I think those two are the same. I
12 think an occupationally related UIP or an end-stage
13 pneumoconiosis are probably going to be very
14 similar. If we're drawing a Ven diagram it's going
15 to almost be two completely intersecting circles
16 there, so I don't know an easy way to tell those
17 apart.

18 Q. All right. What would you say the
19 percentage likelihood is that his occupational
20 exposures contributed to or caused his lung
21 condition?

22 A. Percentages, I'd go 65 occupational --
23 65/35.

24 Q. Okay. So in your opinion, there's a 65
25 percent chance that his occupation is the

1 explanation for his problems?

2 A. Right. I say -- and you know, I base
3 that on following him for two years, not seeing a
4 lot of progression. The reason I think there's
5 still 35 could be IPF, you know, next time I see
6 him he may be on six liters of oxygen, it's just
7 hard to predict.

8 But to this point he really hasn't
9 behaved as a typical IPF patient would, so that's
10 why I put the -- you know, every time I see him I
11 think my -- I started out probably 60/40 the other
12 way, and then every time I see him my number goes
13 up a little bit.

14 Q. Okay. And that's why it was in March of
15 this year that you started looking or thinking
16 about the occupation or at least made reference to
17 it in your note; is that right?

18 A. Well, I probably even made reference to
19 it back the very first time I saw him.

20 Q. Okay.

21 A. But, yeah, it started becoming more
22 likely as time went on that the occupational things
23 may be contributing.

24 Q. All right. Does cigarette smoking cause
25 pulmonary fibrosis?

32

1 A. To the best of my knowledge, no.
2 Cigarette smoking will cause emphysematous change,
3 which is basically just a hole, just destroyed lung
4 tissue; but I am not aware of cigarette smoke
5 causing fibrosis.

6 Q. And what's the major problem with his
7 lungs, the fibrosis or the emphysema or can you
8 tell me?

9 A. It be hard to say; I mean, he has some of
10 both on the report. It's hard to say.

11 Q. Okay. The pulmonary function tests, you
12 had indicated -- strike that.

13 Let me refer to your records. How would
14 you characterize the pulmonary function test, the
15 result of the pulmonary function test that you've
16 given him over the time that you've seen him, what
17 do they tell us?

18 A. Looking at the very, very first set,
19 which is July of 2010, he actually has what we call
20 an obstructive ventilatory abnormality.
21 Classically speaking, UIP, IPF you see restrictive
22 abnormality, but he's got some limitation of
23 airflow; when he takes a deep breath in, blows out
24 as hard as he can blow out, the air doesn't come
25 out quite as quickly as you would think, it's of a

1 mild degree; and then in subsequent studies the
2 obstructive component becomes less prominent.

3 Q. At some point you refer to his pulmonary
4 function tests as normal, I believe --

5 A. Yes.

6 Q. I thought I saw that somewhere, but can
7 you tell me if that's true or not?

8 A. That is in -- yeah, the August 31, 2011
9 he has -- yeah, those are normal.

10 Q. Okay. What about the ones in August of
11 this year?

12 A. The ones in August of this year also are
13 normal. Well --

14 MR. GRIGGS: Where is that?

15 THE WITNESS: Spirometry diffusion are
16 normal -- I mean, spirometry and lung volume is
17 normal, diffusion is low, which you'd expect in
18 somebody with fibrosis and an oxygen requirement.

19 BY MR. EDDY:

20 Q. So his diffusion capacity is reduced?

21 A. It's reduced.

22 Q. And how severe is that reduction?

23 A. That's pretty severe. You know, the way
24 we grade that is you see what someone's diffusing
25 capacity is compared to a predicted value that

34

1 would be based on a normal person his age, his
2 height, it looks like all of his -- the best one is
3 33 percent of predicted. Yeah, the best is -- most
4 of the time we're in the upper 20s, he has one
5 value of 33 percent, so that's pretty severe.

6 Q. So the best diffusion capacity that you
7 measured was roughly one third of what you would
8 expect --

9 A. Yes.

10 Q. In someone his age and sex?

11 A. The lower limit of normal there is
12 probably 80 to 85 percent, and the best one that I
13 have here is 33 percent.

14 Q. And did I understand you in your previous
15 testimony that the diffusion -- the reduction
16 diffusing capacity is due to the pulmonary
17 fibrosis?

18 A. Yes.

19 Q. Do you believe his cigarette smoking
20 history explains -- or strike that.

21 How does the cigarette smoking history
22 factor into this whole picture, if at all?

23 A. Well, he has some emphysematous change on
24 the pathology report, which you'd expect to see
25 from cigarette smoke; there's some anthracotic

1 pigment there, you can see that with lots of
2 inhalations, including cigarette smoke; his
3 original pulmonary function tests he does show mild
4 airflow obstruction, which would be what's expected
5 in someone with smoking related lung damage.

6 The subsequent values that are normal,
7 you know, these are on a long acting
8 bronchodilator, an inhaled medicine that you give
9 to someone who has smoking related lung disease.
10 The abnormality is actually -- it's fairly mild,
11 and so you normally wouldn't expect the medicine
12 itself to bring that up, it probably just brought
13 it up a little bit and that was enough to get him
14 from mild up to normal.

15 Q. Okay.

16 A. So I mean, there's evidence that he does
17 have some smoking related lung disease here.

18 Q. The relative contribution, interstitial
19 fibrosis you told us is causing --

20 A. I think the fibrosis would be the much
21 bigger player here. If someone's diffusing
22 capacity were 30 percent you'd expect their airflow
23 obstruction to be, you know, at least moderately
24 severe to severe, and his was actually very mild on
25 the original lung function tests.

1 Q. Do you have an opinion to a reasonable
2 degree of medical certainty as to the extent of
3 Mr. Dority's impairment?

4 A. I think he's pretty severely impaired.
5 He has an oxygen requirement are rest, requires
6 oxygen 24 hours; when he ambulates I think that
7 oxygen requirement probably goes up somewhat, so I
8 would consider him disabled.

9 Q. All right. Totally disabled?

10 A. Yes.

11 Q. Do you know whether he's -- strike that.
12 Has he ever expressed to you a desire to
13 go back to work?

14 A. Yes.

15 Q. How many times?

16 A. A lot.

17 Q. What's that discussion been?

18 A. Well, early on, you know, I think when I
19 saw him in November after he had his lung biopsy he
20 said, you know, I want to get rid of this oxygen so
21 I can go back to work, I got bills to pay, that
22 sort of thing. And then as time's going on he has
23 been -- you know, I think my August note I say that
24 he's still optimistic that one day he's going to
25 prove the point he can take off his oxygen and go

1 back to work. I've told him, my partner's that saw
2 him in the hospital did lung the biopsy, I think
3 Dr. Reams also told him didn't think that was very
4 realistic. I think he does want to go back to
5 work.

6 Q. As recently as March of this year he
7 expressed that to you?

8 A. I think it was August, actually.

9 Q. How recently was it?

10 A. Nope, sorry, that was March; March of
11 this year.

12 Q. Okay. Have you had occasion to review
13 the report of Dr. Richard Kradin?

14 A. Yes.

15 Q. Was there anything in that report that
16 you've found of importance in this case?

17 A. It was educational to me because, again,
18 I do not have expertise in occupational lung
19 disease, so hearing his description of some of the
20 pathologic changes that he saw being consistent
21 with inhalational injury it was educational to me;
22 I mean, that's the first time I heard that.

23 Q. Does his report support your opinions?

24 A. Yes. I think they're consistent.

25 (DOTY EXH. 2, PHOTOCOPY OF AN ARTICLE FROM

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1 THE AMERICAN JOURNAL OF RESPIRATORY CRITICAL CARE
2 MEDICINE TITLED IDIOPATHIC PULMONARY FIBROSIS
3 EPIDEMIOLOGIC APPROACHES TO OCCUPATIONAL EXPOSURE,
4 was marked for identification.)

5 Q. All right. Let me just go through these
6 real quick for the record. And you've already
7 identified Exhibit One for the deposition, the
8 article from the American Journal of Epidemiology.

9 Let me hand you Exhibit Two, and ask you
10 if you can identify that document for me.

11 A. Let's see. This is an article from the
12 American Journal of Respiratory Critical Care
13 Medicine titled Idiopathic Pulmonary Fibrosis
14 Epidemiologic Approaches to Occupational Exposure.

15 Q. Is that a peer-reviewed medical journal?

16 A. Yes.

17 Q. And would you consider that to be an
18 authoritative medical journal?

19 A. Yes.

20 Q. All right. Is that -- let me just ask
21 you: Does this article discuss a relationship
22 between IPF and exposure to hazardous dust,
23 including metallic dust?

24 A. Yes.

25 (DOTY EXH. 3, PHOTOCOPY OF AN ARTICLE

1 TITLED IDIOPATHIC PULMONARY FIBROSIS AND
2 ENVIRONMENTAL DISEASE FROM PROCEEDINGS IN THE
3 AMERICAN THORACIC SOCIETY, was marked for
4 identification.)

5 Q. All right. Then Number Three, let me
6 hand you that and ask you if you can identify that;
7 can you identify Exhibit Three, Doctor?

8 A. This is an article titled Idiopathic
9 Pulmonary Fibrosis and Environmental Disease from
10 proceedings in the American Thoracic Society.

11 Q. All right. Would you consider that to be
12 an authoritative article?

13 A. Yes.

14 (DOTY EXH. 4, PHOTOCOPY OF AN ARTICLE
15 TITLED PULMONARY FIBROSIS IN RESPONSE TO
16 ENVIRONMENTAL CUES AND MOLECULAR TARGETS INVOLVED IN
17 ITS PATHOGENESIS, was marked for identification.)

18 Q. All right. And then last one is an
19 article, I'll hand you Exhibit Four and ask you if
20 you can identify that document.

21 A. Pulmonary Fibrosis In Response to
22 Environmental Cues and Molecular Targets Involved
23 In Its Pathogenesis.

24 Q. Okay. I believe that's the article
25 Dr. Kradin discussed in his report, do you know?

40

1 A. I'd have to look, I'm not sure.

2 Q. Okay. Would you consider that article to
3 be authoritative?

4 A. Yes.

5 (DOTY EXH. 5, PHOTOCOPY OF DR. DOTY'S NOTE
6 FROM THE NOVEMBER 2010 VISIT, was marked for
7 identification.)

8 Q. And then the last one I hand you is
9 Exhibit Five; is that your note from the November
10 2010 visit?

11 A. Yes, it is.

12 MR. EDDY: Okay. I think those are all
13 the questions I have for you to answer. If you
14 would answer Mr. Griggs' questions, I would
15 appreciate it.

16 THE WITNESS: Sure.

17 Cross EXAMINATION

18 BY MR. GRIGGS:

19 Q. Doctor, have you reviewed these articles
20 before today; did you read the articles or did you
21 just go over them with Mr. Eddy?

22 A. Reviewed them. I guess I received them
23 two days ago.

24 Q. Did you read them?

25 A. Cover to cover, no; read the abstracts.

1 Q. Did you pay any particular attention to
2 levels or anything such as that?

3 A. To levels?

4 Q. Levels of the exposure of the particular
5 medical particulate that's alleged to cause
6 problems?

7 A. No.

8 Q. Okay. Now, you testified you don't have
9 any specific -- and I'm not -- you're a board
10 certified pulmonologist and you know more about
11 this than I do, you testified you don't have any
12 particular expertise in occupational lung
13 disorders; is that correct?

14 A. Right.

15 Q. Okay.

16 A. That's sort of a subspecialty, yes, sir.

17 Q. Right. And that's what we're dealing
18 with today --

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 Q. Now, you met with Mr. Eddy before the
23 deposition today, have you ever met with him in the
24 past?

25 A. No.

42

1 Q. What did you all talk about before the
2 depo today?

3 A. Just what to expect, questions I might
4 hear.

5 Q. Questions from him?

6 A. Nothing specific.

7 Yeah, questions from him.

8 Q. The questions that he's read to you, did
9 he go over them with you?

10 A. Did he go over the question?

11 Q. Did he prep you by telling you what he
12 was looking for?

13 A. Not specifically; I mean, there are a
14 couple questions that I did hear before we started
15 and when we did start, yes.

16 Q. Let me ask you this.

17 A. Sure.

18 Q. What is his exact diagnosis, 'cause
19 there's been a lot of talk about, you know, UIP is
20 a description that can mean several things, a
21 pneumoconiosis or it can be an IPF or several other
22 things; what is his exact diagnosis, taking out the
23 pathologic description of UIP?

24 A. I'm not sure we know. You know,
25 pathologic description of UIP is -- I think that's

1 the best thing we have, and with a lot of -- you
2 know, a lot of Interstitial Lung Disease you end up
3 trying to figure out what it is for a long time
4 after you get the piece of tissue in the lab and
5 the pathology report. So I think we're probably
6 still trying to figure that out.

7 Q. Let me ask you this, am I correct in
8 making an analogy such as this: Saying he has UIP
9 is kind of like saying he has cancer; not -- he
10 doesn't have cancer, but you can say he has cancer,
11 but I don't know if it's liver cancer, lung cancer;
12 is that kind of similar where you say he has UIP,
13 but we don't know what specific is driving the UIP;
14 is that -- am I close?

15 A. That's true. That's a fair statement.

16 Q. Would that be analogous?

17 A. I think that's a fair statement.

18 Q. So you can say he has UIP, which you
19 think he does by pathologic conversation and review
20 of slides and scans?

21 A. Yeah, I think we know he has UIP.

22 Q. Okay. So he has UIP, but the UIP could
23 be a circle and there could be 100 things in
24 there -- or not a 100, there could be several
25 things in there that fit that description?

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1 A. Yes.

2 Q. And we don't know what he has?

3 A. Fair statement, yes.

4 Q. Okay. So we don't know his actual
5 diagnosis, do we; 'cause UIP is not a diagnosis?

6 A. UIP is its pathological description and
7 is it's used synonymously with IPF. But we don't
8 know what's causing his UIP, no.

9 Q. We don't have a diagnosis, do we?

10 A. I would -- if I were going to see him and
11 code him, I would code him Interstitial Lung
12 Disease, put 151 for Interstitial Lung Disease.

13 Q. Is that a specific diagnosis or is that
14 kind of like UIP, is that kind of waffling?

15 A. Interstitial Lung Disease is an actual
16 diagnosis. There's different kinds of Interstitial
17 Lung Disease beyond that. That's an actual

18 diagnosis.

19 Q. What are the different kinds of
20 Interstitial Lung Disease?

21 A. IPF; UIP; non-specific interstitial
22 pneumonitis, NSIP, that can be caused probably most
23 common by connective tissue processes or sometimes
24 it can occur by itself; sarcoidosis is an
25 idiopathic Interstitial Lung Disease;

1 hypersensitivity; pneumonitis. So there's six or
2 eight of them.

3 Q. Okay. Is a pneumoconiosis -- say it for
4 me, 'cause I'm not as smart as you guys.

5 A. Pneumoconiosis.

6 Q. Pneumoconiosis, is that an Interstitial
7 Lung Disease?

8 A. Technically a pneumoconiosis is a, no.
9 As a pneumoconiosis progresses it will give you
10 Interstitial Lung Disease towards its end-stage.

11 Q. Is that what he had, is that what you
12 think he had; did he have a pneumoconiosis that's
13 developed into ILD or Interstitial Lung Disease?

14 A. I think that seems to be the most likely
15 thing, yes.

16 Q. Okay. Now, let me ask you this: So he
17 has Interstitial Lung Disease, but we don't -- we
18 can't go further than that at this point?

19 A. Right; I mean, we know he's got -- we
20 know it's Interstitial Lung Disease and we know
21 it's in a unique pattern, that's probably as far as
22 we can do definitively.

23 Q. Now IPF, we talked a lot about that.

24 A. Yes.

25 Q. Idiopathic means of unknown origin,

46

1 correct?

2 A. Right.

3 Q. And that's what everybody thought he had;
4 is that correct?

5 A. Yes.

6 Q. Okay. Who did the biopsy, Mark Reams,
7 what is he?

8 A. He's a thoracic surgeon.

9 Q. He said that it would be behavior as --
10 he essentially said this looks like IPF, didn't he?

11 A. The pathologist said that, yes.

12 Q. Who read --

13 A. Right.

14 Q. Interpreted the biopsy, the specimen?

15 A. Right.

16 Q. Now, IPF, you said that usually it goes
17 downhill pretty quick.

18 A. Uh-huh.

19 Q. And you said that originally in your
20 textbooks they would have said that a three year
21 survival rate was 50 percent?

22 A. Right.

23 Q. What do they say the three year survival
24 rate is now, 'cause you said the textbooks lag
25 behind the studies, the journal studies; what would

1 it be now?

2 A. I couldn't tell you a specific number.

3 Q. Would it be better than 50 percent?

4 A. The 50 percent part would probably -- the
5 50 percent part be the same, it probably wouldn't
6 be three years, might be a little longer than that.

7 Q. Do you have any --

8 A. I don't know. I think the reason -- I
9 think we're finding it earlier 'cause our CAT scans
10 are better, our CAT scanners can find pretty subtle
11 disease.

12 Q. Now, you stated that in August I think of
13 last year, last time you saw him, you stated that
14 on your assessment his clinical course is not
15 entirely consistent with what would be expected
16 with UIP; can I put IPF there, is that the same
17 thing?

18 A. Yes, you could use those.

19 Q. So his clinical course is not entirely
20 consistent with what would be expected with IPF?

21 A. Right.

22 Q. Idiopathic Pulmonary Fibrosis?

23 A. Yes.

24 Q. When you say not entirely consistent, are
25 there some consistencies?

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1 A. I mean, you listen to him, he's got dry
2 crackles on exam. I think what I mean when I say
3 not entirely consistent is he hasn't progressed,
4 he's been -- from November of 2010 to August 2011
5 he's looked pretty much the same every time.

6 Q. Are there any cases that you're aware of,
7 have you ever treated somebody with IPF that has
8 behaved in this fashion?

9 A. It's not the norm, most people with IPF
10 do tend to progress fairly quickly, but it happens.

11 Q. Have you seen it?

12 A. Yeah.

13 Q. Okay. So other than Mr. Dority, you've
14 seen people that retain an IPF diagnosis that seem
15 to stabilize?

16 A. I can think of one person, and you
17 know -- think of one person who's smoldered along
18 with that diagnosis without a lot of progression,
19 and you think, is it really IPF. You know, because
20 Mr. Dority we biopsied because he was, I think, 52
21 at the time or maybe 53 at the time, so wanted to
22 make sure we knew what it was, make sure it was not
23 something potentially that we could treat.

24 A lot of these folks get the diagnosis or
25 get the label without any pathologic confirmation,

1 and so you know, when you see somebody with a lung
2 like that you still -- my bias, going back to
3 training you still say, all right, is that really
4 the diagnosis or not; you know, 'cause these -- as
5 Mr. Dority did, a lot of these folks decline after
6 you do a lung biopsy, and looks like he from the
7 initial time I saw him till when I saw him back
8 July to November, he did get worse, and that's
9 described.

10 I think all the pulmonologists sitting
11 over in my office can tell you of a patient who was
12 doing okay, and then they get a biopsy and they
13 don't. I think it's also described in the
14 literature too that you see a little drop in
15 function after biopsy. So in reality, we end up
16 not biopsing a lot of these folks. Some people
17 have the clinical diagnosis of IPF with no tissue.

18 Q. Just to cut to it, you said that it's not
19 the usual course?

20 A. Right.

21 Q. But have you seen people with IPF stay
22 stable?

23 A. I've seen people with that label stay
24 stable, yeah.

25 Q. Okay. So this is not as if Mr. Dority is

50

1 the only person that you've ever seen in this
2 office behaving in this manner?

3 A. No.

4 Q. Maybe not the norm, but certainly has
5 happened.

6 A. That's a fair statement, yes.

7 Q. Okay. Now, you stated that he had a
8 pneumoconiosis -- you think, and I don't know if
9 you stated to a reasonable degree of medical
10 certainty, but you stated that you felt that he had
11 a pneumoconiosis of some description.

12 A. Uh-huh.

13 Q. That has developed into an ILD; is that a
14 proper acronym?

15 A. Yes.

16 Q. An Interstitial Lung Disease?

17 A. Yes.

18 Q. Now, a pneumoconiosis, you described it
19 or you defined it, I believe, as a lung -- I think
20 you just used it this simply, lung disease caused
21 by something inhaled?

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. And usually it is an non-organic type of

1 inhalation?

2 A. Right.

3 Q. Can that be cigarette smoking?

4 A. Cigarette smoking, I'm not aware of
5 cigarette smoking causing any pneumoconiosis. The
6 lung disease that would be most common with
7 cigarette smoking is COPD, chronic bronchitis,
8 emphysema, something like that.

9 Q. Okay. Have you done any -- is that your
10 area of specialty, a pneumoconiosis, or is that
11 another subspecialty?

12 A. Well, pneumoconiosis is going -- that's
13 going to be kind of occupational, environmental
14 type lung disease, so that's kind of another sub
15 subspecialty.

16 Q. Is that your --

17 A. No.

18 Q. Is that what you do?

19 A. No.

20 Q. Okay.

21 A. All pulmonologists do a little, but I'm
22 not the doctor that wrote the report there for --

23 Q. The doctor that wrote the report's a
24 pathologist?

25 A. Okay.

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1 Q. Is that right, Doctor?

2 MR. EDDY: You talking about Dr. Kradin?

3 MR. GRIGGS: Yes.

4 MR. EDDY: And a pulmonologist. His CVs
5 in the APA.

6 BY MR. GRIGGS:

7 Q. Let me ask you this: You said that a
8 pneumoconiosis, the clinical course can improve if
9 they're removed from a particular irritant; is
10 that what --

11 A. I don't think I said would improve, I
12 think I said it wouldn't be unreasonable to expect
13 it to stabilize.

14 Q. Stabilize.

15 A. I mean, Mr. Dority's lung disease if
16 caused by pneumoconiosis is pretty advanced.
17 Fibrosis doesn't go away; I mean, that's going to
18 be there for the rest of his life.

19 Q. Okay. Does something like this, does it
20 build up over years or is it something that can --
21 you know, I know they have these phenomena called
22 metal fever, you know what I'm talking about?

23 A. Uh-huh.

24 Q. Do these diagnoses or these problems
25 build up over years or is it something that can

1 happen very quickly?

2 A. There's some that can happen pretty
3 quickly. What you mentioned there, the metal fume
4 fever, and I'd have to go look that up before I can
5 really talk intelligently about that, but then
6 there's some where it's a prolonged exposure is
7 what you're looking for.

8 This fibrosis like this, fibrosis usually
9 takes awhile to develop, so it's not -- you know, I
10 would think this is more prolonged exposure than
11 short-term exposure.

12 Q. Do you know how long -- I represent a
13 company called CTR, okay, and they're in the
14 Rock Hill area, I think it might be Fort Mill or
15 Fort Long.

16 MR. EDDY: It's Rock Hill.

17 MR. GRIGGS: It's Rock Hill? Okay.

18 BY MR. GRIGGS:

19 Q. And they're in Rock Hill. He worked for
20 CTR for approximately three years, from sometime in
21 middle of '07, April of '07 until September,
22 October of '10, so about three years and five
23 months. Okay. And for a year and a half of that
24 time, I'm going to represent to you --

25 And if you have an objection let me know;

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1 is that fair?

2 MR. EDDY: Sure.

3 BY MR. GRIGGS:

4 Q. Okay. For a year and a half of that time
5 he spent some of his time doing a process called
6 metal brazing, which we would probably refer to as
7 soldering.

8 A. Okay.

9 Q. Do you know what I'm talking about when I
10 say soldering?

11 A. Like heating up a metal next to another
12 metal so it sticks together kind of?

13 MR. EDDY: My only objection would be you
14 said some of his time; I think his testimony,
15 anyway in his deposition, was that for the first
16 year and a half that's all he did.

17 BY MR. GRIGGS:

18 Q. And I'll represent that may not be
19 totally accurate.

20 A. Okay.

21 Q. But irregardless, his testimony is that
22 he essentially stood there eight hours a day doing
23 nothing but soldering five days a week for a year
24 and a half. I'll represent to you that I don't
25 know if that's entirely accurate.

1 Taking that all out of the equation. He
2 did this brazing or soldering, I think technically
3 it's brazing, for a year and a half; are you aware
4 of any of the ventilation or the levels or -- I
5 mean, do you have any expert -- do you know about
6 this type of process?

7 A. No.

8 Q. When you think about this process,
9 just -- you've obviously thought something about it
10 to give an opinion.

11 A. Uh-huh.

12 Q. When you envisioned this process, are you
13 thinking of -- I mean, what are you thinking --
14 tell me what you would describe; how do you
15 describe this, what he was doing?

16 A. How do I describe what he was doing?

17 Q. How do you describe the soldering or
18 brazing, because you have testified that you feel
19 that his occupational exposure to metal dust or
20 fumes has led to, in part, his problem; is that
21 fair?

22 A. Yes, fair.

23 Q. Is this his occupational exposure at CTR
24 for a year and a half doing the direct
25 soldering/brazing or is this occupational

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1 exposure -- your note talks a lot about Springs for
2 35 years, and Dr. Kradin's note talks about Springs
3 as well, and at Springs you talk about what he did;
4 are you saying that this year and a half of brazing
5 is 65 percent of the cause or is it his lifetime of
6 work?

7 A. I guess would be really hard to say, it
8 would seem more likely to me that it would take
9 longer than a year and a half; again, I'm not an
10 expert in occupational lung disease by any means,
11 but it would seem like this could be his lifetime
12 of work.

13 Q. He worked at Springs for some 35 years, I
14 believe; is that what you recall?

15 A. That's what's in my note, that's
16 probably -- you know, most of what's in my note
17 will just be a quote from him.

18 Q. And I think that's accurate with his
19 deposition testimony.

20 MR. EDDY: I think he started in '75. It
21 was at least 30 years.

22 MR. GRIGGS: Let me see.

23 MR. EDDY: I know he worked for them for
24 a while, then he didn't, then he did again or
25 something.

1 MR. GRIGGS: Let's just see. He worked
2 at Springs from '75 to '96, then '99 to '06; so 28
3 years, give or take a year or two.

4 MR. EDDY: A long time.

5 BY MR. GRIGGS:

6 Q. So he worked at Springs, and he was out
7 there doing all kinds of things. And Springs
8 obviously --

9 Are you from this area?

10 A. No.

11 Q. Where are you from?

12 A. East Tennessee.

13 Q. Okay. Springs was a -- do you know what
14 that is when I say Springs, it's a large textile
15 concern?

16 A. Yeah, people bring it up when they come
17 in short of breath, they say I worked for Springs
18 forever.

19 Q. It was a massive textile concern, and
20 they probably had plants all over the place; I
21 mean, I know they did.

22 He worked there for 28, 27, 29, 30 years,
23 something like that, and then he worked at CTR for
24 a year and a half.

25 MR. EDDY: Wait.

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1 BY MR. GRIGGS:

2 Q. He worked at CTR for three years and five
3 months, but he did the direct brazing, soldering
4 for a year and a half; is that fair?

5 He was also in the electrical room, he
6 says some of the fumes might have drifted from
7 there.

8 MR. EDDY: No, I think his testimony,
9 just to put the whole picture for the, Doctor.

10 MR. GRIGGS: Yeah.

11 MR. EDDY: After the first year and a
12 half on the final line side where the brazing was,
13 he then transferred into the electrical department,
14 and that on a daily basis he had to go back to the
15 final line side for a number of hours or some
16 period of time on a daily basis once he went into
17 the electrical department.

18 MR. GRIGGS: I understand. I think his
19 testimony is that he would still walk out and be
20 out in the area from time to time, but the majority
21 of his time -- more than half of his time after a
22 year and a half was in this other self-contained
23 room within the plant.

24 THE WITNESS: Okay.

25 BY MR. GRIGGS:

1 Q. If that was the case, would you say that
2 his -- any occupationally related problem, would it
3 tend to trend towards being more related to years
4 and years at Springs or three years at CTR?

5 A. It would be hard to answer that; I mean,
6 I don't know what he did at Springs. But fibrosis
7 doesn't happen overnight; I mean, that's something
8 that's going to take some time, and I guess it would
9 just depend on how his body reacted as to what he
10 was inhaling as to where the biggest contributor
11 might be.

12 Q. Are you aware of any ventilation -- or
13 would ventilation, things of that nature make a
14 difference in this case?

15 A. All I know about the ventilation is just
16 what's on the MSDS sheet, that they represent
17 ventilation.

18 Q. Do you know about the ventilation at the
19 facilities?

20 A. I do not.

21 Q. Do you know what he did at Springs?

22 A. Other than just what he told me --

23 Q. What did he tell you?

24 A. In the initial consult. Hang on. He
25 said there he had exposures to dye or he told me

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1 dye, cotton dust and asbestos.

2 Q. And bleach and other things that are used
3 inside of textile mills or facilities that generate
4 that kind of materials; is that correct?

5 A. He didn't mention that, but I'm sure
6 that's --

7 Q. If it's in his deposition?

8 A. Yeah.

9 Q. Do those materials, can they be irritants
10 that can cause some of these problems?

11 A. Cotton dust, asbestos definitely.
12 Asbestos is usually pretty easy to figure out.

13 Q. Because of the stain?

14 A. Yeah, but they can.

15 Q. And he doesn't have asbestos?

16 A. No.

17 Q. Asbestosis or --

18 A. Nothing, there's no sign of that on his
19 biopsy, no.

20 Q. But certainly the things he has can be
21 consistent with that type of work as well?

22 A. Sure.

23 Q. Okay. Other than looking at the MDSD
24 that we've reviewed and reading the abstracts of
25 these articles, are you inherently familiar with

1 the types of metals and the types of elements that
2 cause these problems?

3 A. You know, I know some of the more common
4 ones.

5 Q. What are we looking for though?

6 A. What is that?

7 Q. What are we looking for, what metals or
8 what materials are we looking for?

9 A. The more common -- most common
10 pneumoconiosis that you hear about is probably
11 asbestosis; so I know asbestos, beryllium --

12 Q. What about metal, what about -- this case
13 is about metal exposure, as far as what
14 Mr. Dority's alleged?

15 A. I guess the main metal that I would know
16 about is zinc, that's a pretty common one.

17 Q. Do you know what levels you would be
18 looking for?

19 A. No.

20 Q. And I'm going to use this (Indicating).

21 I know we may have some dispute; is that
22 right, Mr. Eddy?

23 MR. EDDY: Yes.

24 MR. GRIGGS: Any dispute that we have --
25 let's go off the record.

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1 (Off-the-record conference.)

2 BY MR. GRIGGS:

3 Q. I'm going to introduce a report that I
4 had prepared by an industrial hygienist by the name
5 of Betty Harris, and she works for a company called
6 Bureau Veritas North America. Bureau Veritas is a
7 worldwide concern that they titled themselves the
8 industry leader in industrial hygiene and safety
9 performance in OSHA and this type of thing.

10 I had Ms. Harris go out to the facility
11 and test the air by placing something either on the
12 person or right by the person that was doing the
13 brazing, okay, what Mr. Dority was doing.

14 Now, I will go ahead and say, and then
15 Jeff can make his objection: My hygienist tested a
16 full day when there was one person doing the
17 brazing for an eight-hour period -- the majority of

18 an eight-hour period. Mr. Eddy's client has
19 maintained that the entire time he worked there,
20 there are three stations, that there was one, two,
21 three people doing the brazing the entire time.
22 That's a factual dispute that will be addressed at
23 the hearing, but that's what he says. But this is
24 the report irregardless.

25 A. Okay.

1 MR. GRIGGS: And I'll let the doctor read
2 it, and then Jeff you can add whatever comment you
3 feel's appropriate.

4 MR. EDDY: I just want to object to the
5 form. I just got that report today, there are a
6 number of problems with it. I object to the
7 authenticity and the relevance of the report. I
8 don't know what alloy was actually tested; I don't
9 know the conditions under which it was conducted,
10 except for the fact that they admit it was only one
11 brazer working during the testing.

12 So go ahead. I'll just leave it at that.

13 MR. GRIGGS: And while the doctor's
14 reviewing the report, my understanding is --
15 anyway, that's fine.

16 I didn't give this to you till today
17 'cause I didn't get it.

18 MR. EDDY: Oh, I know. I'm not
19 complaining.

20 MR. GRIGGS: Likewise, for purposes of
21 the deposition, I didn't see any of these articles
22 until today.

23 MR. EDDY: I know.

24 MR. GRIGGS: If you guys want me to read
25 80 pages of pulmonary stuff I'll go ahead and read

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1 it and we can --

2 MR. EDDY: I wasn't being critical of
3 you, I promise.

4 THE WITNESS: Okay.

5 MR. EDDY: Let me just say that my
6 biggest objection at this point to the report is
7 the fact that it was conducted, you know, years
8 after the alleged incident, and that the only
9 relevant air sampling -- the only air sampling that
10 would be relevant to this case is any sampling that
11 was done at the time my client was employed. Okay.
12 Thank you.

13 MR. GRIGGS: Do you have one of those?

14 MR. EDDY: What, air sampling?

15 MR. GRIGGS: Yes.

16 MR. EDDY: No. Unfortunately your client
17 didn't air sample per OSHA regulations, at least
18 when my client was there. I wish I did.

19 BY MR. GRIGGS:

20 Q. Okay. Did you review the report?

21 A. Yes.

22 Q. And does it appear that the brazing alloy
23 or the brazing mechanism or the brazing material
24 that was used is a silver alloy material and it
25 contains cadmium, copper, silver, tin and zinc

1 oxide; correct?

2 A. Yes.

3 Q. Okay. And this report, and I'll
4 represent that what it says as far as the levels
5 are accurate, states that the OSHA permissible --
6 the OSHA permissible exposure limits, it gives
7 those in one of these tables; is that correct?

8 A. Yes, sir.

9 Q. Okay. And it gives the permissible
10 limits for cadmium, copper, silver, tin and zinc,
11 correct?

12 A. Yes.

13 Q. And you said the one you're most familiar
14 with is the zinc, correct?

15 A. Yes.

16 Q. What's the permissible level for zinc,
17 according to the United States government federal
18 body of OSHA?

19 A. I would not know that if I hadn't read
20 this report, but it looks like five milligrams per
21 meter squared.

22 Q. Okay. Five milligrams per cubic meter?

23 A. I'm Sorry. Cubic meter, sorry; meter
24 cubed, yes.

25 Q. Okay. And what's the -- at least on this

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1 report, what did they find as far as zinc oxide,
2 can you --

3 A. Less than five.

4 Q. Do you know what that is?

5 A. Let's see.

6 Q. Is that three thousandths?

7 A. Yeah, three thousandths milligram per
8 meter cubed.

9 Q. Okay. Is that even close to what the
10 government would allow?

11 A. Looks to be several orders magnitude
12 less.

13 Q. Would that be a trace amount in just your
14 opinion or a de minimis amount?

15 A. I guess, yeah.

16 Q. It's several factors less, isn't it?

17 A. Right.

18 Q. Okay. And as we go up and look at all
19 the others, do they all appear to be several
20 factors less than the permissible standard?

21 MR. EDDY: Object to the form.

22 THE WITNESS: Yes.

23 BY MR. GRIGGS:

24 Q. Okay. At least according to the report?

25 A. Yes.

1 Q. Okay. Now, this report seems to state
2 what the government says a permissible exposure
3 level, according to OSHA guidelines; is that
4 correct?

5 A. Yes.

6 Q. That's what the report purports to say?

7 A. Right.

8 Q. And the testing that was done, subject to
9 Mr. Eddy's objection, was way -- it was much, much
10 less; wasn't it?

11 A. Yes.

12 Q. Okay. Does that have any -- what is your
13 impression of that, what are your thoughts on that;
14 does that give you any pause or any concern at all?

15 A. Well, I mean, it be interesting to see
16 what it was when Mr. Dority was actually working,
17 it would be impossible, I guess, to get that; so I
18 mean, I don't know much more than that.

19 Q. Okay. But it certainly is less -- the
20 levels as tested are much less than what federal
21 guidelines will allow?

22 A. Yes.

23 Q. Now, let me ask you this: You stated
24 that if somebody was -- I want to talk about this
25 removed from the area they would stabilize. He

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1 stopped brazing directly around October of 2008 and
2 he left there around September of 2010.

3 A. Okay.

4 Q. Okay. There may be a month or so off,
5 but I think Mr. Eddy would agree that's roughly
6 accurate; is that fair?

7 MR. EDDY: When he worked on the final
8 line?

9 MR. GRIGGS: Right. He stopped directly
10 brazing by October of '08, he left there September
11 of '10.

12 MR. EDDY: Right. According to his
13 testimony he continued to go back to that area
14 throughout his employment.

15 BY MR. GRIGGS:

16 Q. If somebody was removed from the
17 direct -- can we agree that the direct brazing
18 would cause more exposure than walking in the area?

19 A. Yeah. Sounds reasonable, yes.

20 Q. That's fair?

21 A. Uh-huh.

22 Q. Okay. If they were removed from the
23 direct brazing, I mean, does that have any impact
24 on what's going on if he's removed two years before
25 any of this happens?

1 A. A guess would be, you know, without
2 having a CAT scan to look at to see what his lungs
3 looked like back then; I mean, being removed from
4 the direct brazing, if the brazing is what's
5 causing the problem, you know, maybe his lungs
6 looked this bad in 2008 and we just didn't know
7 about it, and then once he's removed from that then
8 he does get worse, so I don't know.

9 Q. Okay.

10 A. I don't know if the time that he quit is
11 necessarily going to change my opinion about
12 anything here.

13 Q. Now, on July 22, 2010 when you first saw
14 him, you said a hypersensitivity reaction relayed
15 to occupational environmental exposure could be
16 similar findings; what were you talking about
17 there, his work with CTR or his work with Springs
18 or his work; I mean, what's going on there?

19 A. I probably just meant work in general,
20 yeah.

21 Q. You state that you would say right now
22 you're saying 65 occupational, 35 what, idiopathic?

23 A. Idiopathic.

24 Q. And the 65 percent occupational, let's
25 delve into that: Is that the three years at CTR or

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1 is that -- I mean, you put percentages on
2 everything else, let's break that down.

3 A. It be -- I don't know if I can put a
4 percentage on that; I mean, he's been -- you know,
5 he's done a lot of things and you know, fibrosis
6 usually doesn't -- it's not something that occurs
7 in an overnight period; I mean, it takes some
8 exposure --

9 Q. There's --

10 A. How long, we don't know.

11 Q. There's studies, aren't there?

12 A. I don't know of any.

13 Q. I should have brought some articles with
14 me.

15 A. I don't know.

16 Q. Is it three years?

17 A. I don't know. Have no idea. I would

18 think it would be maybe a little longer than that,
19 but I don't know.

20 Q. How much longer?

21 A. Fibrosis would -- you know, fibrosis
22 would seem to take a good amount of time, that
23 doesn't occur quickly, that's a long process.

24 Q. Do you see individuals -- do you see
25 30-year-old individuals coming in here with

1 fibrosis?

2 A. No.

3 Q. Do you see 35-year-old individuals?

4 A. No.

5 Q. When does fibrosis manifest itself in
6 your typical patient?

7 A. If I use asbestos, you know --

8 Q. Let's take asbestos out.

9 A. Take asbestos out?

10 Q. Because he doesn't have that.

11 A. No. That's just an easy pneumoconiosis,
12 but --

13 Q. Okay. Well, if you say asbestos, is that
14 transferable to what he has, can you use that
15 example?

16 A. Well, we're pretty sure he's not exposed
17 to asbestos, that's not why he has his fibrosis,
18 but asbestos can take -- several manifestations of
19 asbestos exposure in the lungs and the fibrosis
20 usually occurs much later; I mean, that's on the
21 order of decadence.

22 Q. Would it be fair to say that you don't
23 see people walking in here much younger than 45 or
24 50 at the youngest with a fibrosis?

25 A. It be real unusual someone in their 40s;

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1 not super unusual someone in their 50s to have it

2 Q. And when they come in in their 50s and
3 have it, is this after a lifetime of work or is
4 this after sitting at home for 40 years as a house
5 father and then working for three years; on a
6 demographic, what are we talking about?

7 A. Well, I'm not sure. Let's see. I guess
8 it would depend on the underlying cause; I mean,
9 somebody with IPF you wouldn't expect them to come
10 in in their 50s; I mean, it can happen in the 50s,
11 it's a little more common as you get older --

12 Q. Are you documenting --

13 MR. EDDY: Let him finish.

14 MR. GRIGGS: Okay. That's fine.

15 THE WITNESS: But you know, the age of --
16 somebody coming in, you know, I alluded to earlier
17 a lot of people we don't biopsy. We wanted to

18 biopsy Mr. Dority because of his age, he's a little
19 young to have IPF; not out of the realm of
20 possibility certainly to have IPF at 53, but it
21 would be unusual for him to have fibrosis because
22 of IPF at age 55; I mean, he could maybe have some
23 subtle changes on a CAT scan, but I wouldn't expect
24 this to come from IPF. So that's why I wanted to
25 biopsy him just because it's unusual that he would

1 have that degree of fibrosis at his age.

2 BY MR. GRIGGS:

3 Q. Okay. Of the occupational disease people
4 that you treat, do they, way more often than not,
5 report to you with identifiable CAT scan problems
6 or CT scan problems identifiable, other scan
7 problems after many decades of work or after two or
8 three or four or five years of work?

9 A. It's usually a prolonged work.

10 Q. Could you say many decades, Doctor, or
11 would you say it could be two or three or four or
12 five years?

13 A. I don't know; I mean, I don't know
14 exposure that we'd be actually talking to.
15 Asbestos, no, asbestos always takes decades. I
16 mean, I don't know everything that he was exposed
17 to at Springs.

18 Q. His exposure, what about his exposure, do
19 we know?

20 A. Don't know; I mean, I don't know what
21 he's exposed to, I don't know. I mean, your
22 typical patient that you think has occupational
23 lung disease, it's usually more than two or three
24 years; I mean, it's usually a prolonged period.

25 Q. And again, I'm not trying to be

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1 difficult, but you've stated -- you've given
2 Mr. Eddy enough to have a fighting chance to have
3 the people over at CTR and their insurance carrier
4 on the hook for a -- for Mr. Dority being
5 permanently totally disabled, a fighting chance;
6 I'm not -- you know, you've given him what he
7 needs, so you've given him something to go in there
8 with a good chance at it.

9 So what I'm trying to ask you is that:
10 He worked there for three years, he worked
11 somewhere else for 30 something years -- or 28
12 years, does it seem more likely that the most
13 significant factor would be three years by this
14 report, and this report will be fixed, three years
15 by this hygienist report of trace amounts or 28
16 years as a mechanic at a textile plant?

17 MR. EDDY: Object to the form of the
18 question.

19 THE WITNESS: It would seem more likely
20 that, you know, it happened over a longer period of
21 time, 28 years.

22 BY MR. GRIGGS:

23 Q. Okay. Now, let's talk about his -- and
24 that's to a reasonable degree of medical certainty,
25 greater --

1 A. Yes, reasonable degree of medical
2 certainty.

3 Q. Now, let's talk about his smoking, if I
4 could.

5 A. Sure.

6 Q. Smoking does not -- you said smoking
7 generally does not -- smoking causes COPD,
8 emphysema and pneumonia?

9 A. Bronchitis, yeah.

10 Q. Okay. And you stated that smoking
11 generally does not cause Interstitial Lung Disease;
12 is that --

13 A. Yes.

14 Q. And that's ironclad?

15 A. You never say never in this business; but
16 yeah, pretty close.

17 Q. Okay. Now, his need for oxygen and his
18 need for -- and his disability, does the COPD,
19 emphysema, bronchitis -- or what is it, COPD,
20 emphysema, what's the other one?

21 A. Chronic bronchitis, those are the --
22 well, the most common obstructive lung disease in
23 the United States is chronic bronchitis.

24 Q. Okay.

25 A. And if we go back to high school outline

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1 form, COPD's a Roman numeral and emphysema, chronic
2 bronchitis, asthma are all kind of letters
3 underneath that big Roman numeral.

4 But people, again, tend to synonymously
5 use emphysema and COPD together.

6 Q. But he has emphysema, no doubt?

7 A. Yes. Pathologically we see that.

8 Q. His reason for being disabled, is it
9 related to the emphysema in part?

10 A. In my opinion, the -- I see people who
11 have his -- emphysema is not necessarily a CAT scan
12 diagnosis or a pathologic diagnosis, it's more of
13 an airflow diagnosis, so on the spirometry portion
14 of the PFTs. And you would grade his degree of
15 COPD, his degree of airflow obstruction as being
16 mild.

17 His FEV1, the forced expiratory volume in
18 the first second, so when he takes a deep breath,
19 blows out really hard, you know, FEV1 is 2.7
20 liters, which is 73 percent of the predicted value
21 for age and height, anything above 70 for the FEV1
22 you say is mild.

23 Q. Is it just age and height, it's not
24 weight?

25 A. Age and height, not weight.

1 Q. Okay.

2 A. Not weight. So in my experience, I have
3 seen nobody with an FEV1 less than -- or greater
4 than say 1.2, 1.4 liters needing oxygen as a result
5 of their obstructive lung disease. So I don't
6 think his oxygen requirement is related to his
7 emphysema.

8 Q. Okay. Could it be a combination of the
9 two?

10 A. I'm sure it could be a combination, but
11 you know, I think the fibrosis would be doing the
12 great majority here; I mean, his FEV1 here is still
13 pretty good, I mean, he's still 2.8 liters, which
14 is -- you know, the classic teaching is when you
15 get around a liter that's when you need oxygen
16 because of your emphysema.

17 Q. So he has an Interstitial Lung Disease
18 with fibrosis?

19 A. Yes.

20 Q. And can you, to a reasonable degree of
21 medical certainty, rule out IPF or can you say it's
22 just not consistent?

23 A. It's not consistent.

24 Q. Can you rule it out to a reasonable
25 degree of medical certainty?

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1 A. No.

2 Q. And IPF, again, means idiopathic --

3 A. Pulmonary fibrosis.

4 Q. Pulmonary fibrosis. And so you cannot
5 rule out IPF?

6 A. No.

7 Q. And idiopathic, again, means unknown
8 cause?

9 A. Right.

10 Q. So that cannot be ruled out to a
11 reasonable degree of medical certainty?

12 MR. EDDY: Object to the form.

13 BY MR. GRIGGS:

14 Q. Yes or no?

15 A. No.

16 Q. Okay. Now, it cannot be ruled out to
17 reasonable degree of medical certainty, but you've

18 testified to Mr. Eddy that you suspect that
19 something else is at play here?

20 A. Right.

21 Q. And he walked you through and you
22 testified that you think that this something else
23 is the occupational?

24 MR. EDDY: Object to the form.

25 THE WITNESS: Right.

1 BY MR. GRIGGS:

2 Q. Is that what you said?

3 A. Yes.

4 Q. Okay. Do you feel that something else is
5 at play here, other than an IPF?

6 A. Yes.

7 Q. Okay. And what would that be?

8 A. The fast horse, if you will, here would
9 seem to be occupational exposure to something.

10 Q. Okay. Now, at the end of the day here
11 though we're left with a gentleman who has an
12 Interstitial Lung Disease with fibrosis; can't rule
13 out IPF, correct?

14 A. Correct.

15 Q. Okay. And your thought that it could be
16 occupationally based is that it would be a
17 combination of some factors between his 28-year
18 employment and his three-year employment; is that
19 fair or is that wrong?

20 A. I think that's a possibility; I mean, if
21 we knew what the one thing was that he got exposed
22 to, knew where it was, maybe it's a different
23 thing, some people are susceptible to a lot of
24 stuff; but you know, I would think it's probably --
25 you know, it's probably a combination. I mean,

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1 three years seems a little quick for this degree of
2 fibrosis to have happened.

3 Q. And you tell me if I'm wrong: My
4 understanding is that, to a reasonable degree of
5 medical certainty as we sit here today, you cannot
6 state that he has an Interstitial Lung Disease
7 caused directly by exposures from CTR during the
8 three-year-five-month employment; is that
9 correct --

10 MR. EDDY: Object to the form.

11 BY MR. GRIGGS:

12 Q. Or wrong?

13 A. Can't definitively say that.

14 Q. Can't say to a reasonable degree of
15 medical certainty?

16 A. No.

17 MR. GRIGGS: No further questions.

18 THE WITNESS: Okay.

19 MR. EDDY: Let me just follow up on that.
20 I'm sorry for the length here.

21 (Off-the-record conference.)

22 (A recess transpired.)

23 Redirect EXAMINATION

24 BY MR. EDDY:

25 Q. Dr. Doty.

1 A. Yes.

2 Q. During cross-examination you were asked
3 about the exposures at Springs versus the exposures
4 at CTR.

5 A. Yes.

6 Q. And I believe, if I understood your
7 testimony, you told us that the cumulative
8 exposures would be important in causing the
9 disease; would that be fair to say?

10 A. Yes.

11 Q. Is that is what's known in medicine as a
12 dose response relationship?

13 A. Dose response relationship. Statistical
14 term that I'm not super familiar with; but yes, I
15 think so.

16 Q. The greater the dose the more likely to
17 elicit some sort of a response.

18 A. Yes.

19 Q. So would you agree then that Mr. Dority's
20 occupational lung disease was most likely caused by
21 the combined exposures at both Springs and CTR?

22 A. It would seem that fibrosis would take
23 awhile to develop; so yes, I think so.

24 Q. Okay. And would you agree that the three
25 years of exposure to the fumes and dust from the

82

1 silver sauder, the first year and a half actually
2 doing it himself, and the second year and a half as
3 a bystander exposure coming into that part of the
4 plant, would have contributed to his total
5 particulate burden in his lungs?

6 A. Most likely, yes.

7 Q. Would you agree that a pneumoconiosis is
8 basically a disease of the lungs due to the
9 inhalation of in-organic dust?

10 A. Yes.

11 Q. Okay. You were asked about the emphysema
12 versus the pulmonary fibrosis.

13 A. Yes.

14 Q. Just to try to recap, 'cause I know it's
15 getting late, see if I understand your testimony:
16 Emphysema would cause an obstructive defect of

17 pulmonary function?

18 A. Yes.

19 Q. Interstitial fibrosis would cause that
20 defect in the diffusion capacity?

21 A. You can see -- diffusing capacity can
22 actually go down with either an obstructive lung
23 disease or a restrictive lung disease; it's
24 basically a measure of the integrity of that one
25 cell, thick membrane between the alveolus, the air

1 sack and the capillary, anything that is going to
2 make less gas exchange is going to reduce your
3 diffusing capacity; so whether it's fibrosis there
4 in the interstitium that makes greater distance for
5 the oxygen to travel so it doesn't do it or whether
6 it's a simple decrease in the number of alveolar
7 air sacks that you might see in emphysema, that
8 result may be the same.

9 Q. Is the interstitial fibrosis the main
10 cause of his pulmonary malfunction?

11 A. I think it is the main cause, yes. I
12 think his degree of obstruction is fairly minimal.

13 Q. Did you know that cadmium causes
14 emphysema?

15 A. Not sure I knew it. Doesn't surprise me.

16 Q. Let me read to you real quick, Doctor, a
17 part from the Claimant's APA, it's Cadmium and
18 Silver Soldering or Brazing by the Health and
19 Safety Executive Counsel, and it just said chronic
20 effects -- and it's discussing the health effects
21 of cadmium in silver soldering, at first it talks
22 about acute effects.

23 MR. GRIGGS: What page are you on? Is
24 that from March of 1999?

25 I got.

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1 MR. EDDY: You got it?

2 MR. GRIGGS: Page 64

3 MR. EDDY: Yeah, that's it, first page.

4 BY MR. EDDY:

5 Q. It talks about acute effects, and those
6 would include cough, headache, dizziness, weakness,
7 chills, fever, chest pains and breathlessness.

8 But most importantly what I wanted to
9 refer to is chronic effects where it says: Adverse
10 effects on the lungs include loss of lung function
11 and abnormalities characteristic of emphysema;
12 would you agree with that?

13 A. I'm not sure I'm specifically aware of
14 cadmium causing emphysematous change, but there's a
15 lot of things that would do that, so it doesn't
16 surprise me.

17 (DOTY EXH. 6, PHOTOCOPY OF ABSTRACT TITLED
18 METAL TOXICITY AND THE RESPIRATORY TRACK, was marked
19 for identification.)

20 Q. As the next numbered exhibit I'll have
21 this abstract, Metal Toxicity and the Respiratory
22 Track, and just ask you if -- in fact, that says
23 exposure to cadmium may lead to emphysema?

24 A. It does say that, yes.

25 Q. All right. While we're on the subject of

1 cadmium, let me read to you from an OSHA safety and
2 health topic dated -- this is not a part of my
3 APA -- March 22, 2012, and ask you if you were
4 aware of the fact that cadmium is an extremely
5 toxic metal commonly found in industrial work
6 places, and due to its low permissible exposure
7 limit over exposures may occur even in situations
8 where trace quantities of cadmium are found; does
9 that surprise you?

10 A. Doesn't surprise me.

11 Q. I guess the last question I have for you:
12 I know you told us earlier that in your opinion the
13 likelihood that this is due to his occupational
14 exposure's 65 percent, 35 percent of unknown cause.

15 A. Uh-huh.

16 Q. If you were to assume that it was, in
17 fact, of unknown cause or an actual IPF, would you
18 nonetheless agree that the pre-existing condition
19 of IPF would have been aggravated by his exposure
20 to these fumes and dust from brazing with silver
21 sauder?

22 A. I think if he had lung disease
23 pre-existing, it's possible that it could have been
24 aggravated it, yes.

25 Q. Do you think it would be likely that that

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1 would aggravate an IPF, a severe pulmonary
2 fibrosis?

3 A. I don't know about likely. I think it
4 could. I don't know, can't really estimate
5 likelihood there.

6 MR. EDDY: All right. That's all I have.
7 Thank you.

8 Recross EXAMINATION

9 BY MR. GRIGGS:

10 Q. Briefly, and I promise briefly. Talking
11 about aggravation of pre-existing lung disease, do
12 we have any evidence of pre-existing lung disease?

13 A. I'm not aware of it.

14 Q. Would any comment on any aggravation of
15 any pre-existing lung disease be speculative?

16 A. Yes.

17 Q. ~~Because we just don't have it; we don't~~
18 have the studies, we don't have any evidence of
19 that, do we?

20 A. I never -- I'm unaware of any other films
21 that we have before --

22 Q. Before July '10?

23 A. Yeah.

24 Q. Okay. So any pre-existing lung disease
25 would be speculative?

1 A. Yeah.

2 Q. Any opinion you just say on that is just
3 speculative?

4 A. Yes.

5 Q. Now, again, he has Interstitial Lung
6 Disease?

7 A. Uh-huh.

8 Q. Correct?

9 A. Yes.

10 Q. To a reasonable degree of medical
11 certainty, we cannot rule out IPF, Idiopathic
12 Pulmonary Fibrosis, correct?

13 A. It's still on the list, yes.

14 Q. Okay. And to a reasonable degree of
15 medical certainty, you cannot testify that his lung
16 disease is the cause -- was caused by the work at
17 CTR; is that correct?

18 MR. EDDY: Object to the form.

19 THE WITNESS: Correct.

20 MR. GRIGGS: Okay. No further questions.

21 MR. EDDY: I just need to make sure I
22 understand what you mean by that. Would you agree
23 that the work at CTR contributed to his lung
24 disease?

25 THE WITNESS: Could have contributed,

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1 yes.

Redirect

2 MR. EDDY: Assuming that he worked with
3 the silver sauder and was exposed to the dust and
4 fumes for a year and a half directly using the
5 silver sauder, and then for a year and a half just
6 coming into that site, would you, to a reasonable
7 degree of medical certainty, believe that that
8 would have contributed to his lung disease?

9 THE WITNESS: Yes.

10 MR. EDDY: Okay. Thank you.

11 MR. GRIGGS: Could have contributed or
12 did?

13 MR. EDDY: Object to the form.

14 MR. GRIGGS: Answer the question.

15 THE WITNESS: I'll go with could have
16 contributed.

17 MR. GRIGGS: No further questions.

18 Thank you, Doctor, I appreciate it.

19 MR. EDDY: And you know, I hate to keep
20 going back and forth, but we --

21 THE WITNESS: Guys, I don't know. I
22 don't know. I mean, can we --

23 MR. EDDY: Okay. I'm sorry.

24 THE WITNESS: These things always go two
25 hours and we ask the same questions over and over

1 again.

2 MR. EDDY: All right. I apologize.

3 THE WITNESS: I mean, I don't know -- I
4 mean, it's not up to me who gets sued here, all I
5 can tell you is I don't think that his clinical
6 course goes with IPF, there are other things that
7 are happening.

8 MR. EDDY: All right.

9 THE WITNESS: Door's that way.

10 MR. GRIGGS: Thank you, Doctor.

11 THE WITNESS: I apologize, that was
12 uncalled for.

13 MR. EDDY: That's okay, Doctor.

14 (The witness, after having been advised of
15 his right to read and sign this transcript, waives
16 that right.)

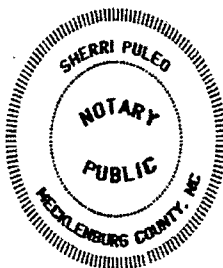
17 (The deposition concluded at 6:00 p.m.)
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER
2

3 I, Sherri L. Puleo, Shorthand Reporter and
4 Notary Public for the State of North Carolina at
5 Large, do hereby certify that the foregoing
6 transcript is a true, accurate, and complete record.

7 I further certify that I am neither
8 related to nor counsel for any party to the cause
9 pending or interested in the events thereof.

10 Witness my hand, I have hereunto affixed
11 my official seal this 16th day of October, 2012, at
12 Mecklenburg County, North Carolina.
13
14
15
16
17



Sherri Puleo

23 Sherri L. Puleo, Shorthand Reporter
24 My Commission expires
25 February 26, 2017

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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

MICHAEL W. DORITY,

Employee,

WCC NO. 1023410

vs.

CTR OF THE CAROLINAS, INC.,

Employer,

and

TWIN CITY FIRE INSURANCE COMPANY,

Insurer.

DEPOSITION OF: GREGORY FELDMAN, M.D.

DATE: October 4, 2012

TIME: 12:55 p.m.

LOCATION: UPSTATE LUNG & CRITICAL CARE
SPECIALISTS

1091 Boiling Springs Road
Spartanburg, SC

TAKEN BY: Counsel for Employee

REPORTED BY: KATHY ZEBERT,
Registered Professional Reporter

A. WILLIAM ROBERTS, JR. & ASSOCIATES

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22

23 (Index at rear of transcript)

24

25

1 GREGORY FELDMAN, M.D.,
2 being first duly sworn, testified as follows:

3 Direct EXAMINATION

4 BY MR. EDDY:

5 Q. Good afternoon, Dr. Feldman. I'm Jeff
6 Eddy, as I introduced myself earlier. I represent
7 Michael Dority, who's a gentleman who lives in Rock
8 Hill and -- in a workers' comp claim that's been
9 filed against his most recent employer, CTR.

10 I'm going to ask you a number of questions.
11 And if at any time, you don't understand my question
12 or you can't hear me, if you'll let me know, I'll
13 repeat it or rephrase it for you. Okay?

14 A. Sure.

15 Q. You've given depositions before?

16 A. Yes.

17 Q. As you know, then, the court reporter would
18 appreciate all of your responses be in words, as
19 opposed to a nonverbal gesture?

20 A. Yes.

21 Q. Once I'm done, Mr. Griggs may have some
22 questions for you and then we'll go home.

23 A. You go home.

24 Q. You've got to keep working, huh?

25 A. Yeah.

1 Q. Sorry. I've got to drive.

2 I've given you a copy of the report that
3 you prepared in this case. And on Page 1, it
4 reflects the material that you've reviewed; is that
5 correct?

6 A. Yes.

7 Q. Have you been given any information
8 regarding the work that Mr. Dority did at CTR; what
9 his job was and what his exposures may have been?

10 A. Yeah. I took a history from him.

11 Q. Okay. And...

12 A. And I also reviewed the -- some other
13 reports, specifically Dr. Kradin, who mentioned of
14 his exposure.

15 Q. So but insofar as what the conditions in
16 the workplace were, do you have any information about
17 that?

18 A. Yes. From the patient. He said that he
19 never had any mask most recently, and he never told
20 that he needs to have a mask and things like that --
21 of that nature, from the patient.

22 Q. Okay. Now, the defendant, CTR, has hired
23 an industrial hygiene firm to go in and do air
24 sampling. Have you seen a copy of that report?

25 A. No. I did not.

1 Q. Okay. That report indicates that they went
2 in and did some air sampling on September 13, I think
3 it was, just last month, and found that the air
4 levels or the air concentrations were within the
5 legal limits.

6 A. Okay.

7 Q. Is that important to you in this case --

8 A. Well --

9 Q. -- in reaching your opinions?

10 A. -- no.

11 Q. Why is that?

12 A. Well, I have been asked to opine on what
13 condition this man has.

14 Q. Yes.

15 A. I was not asked to speculate what might
16 have caused it.

17 Q. Okay.

18 A. The most important for me in my role as an
19 expert is to determine, first of all, what does he
20 have, not to speculate what he might have had. In
21 this particular regard, there are only three areas
22 which is important. Those are CAT scan of the chest,
23 pathology report and the history.

24 Q. What -- what history do you mean?

25 A. History of being short of breath, being on

1 oxygen, how long it has been going on, breathing
2 capacity, pulmonary function test and so forth, that
3 in this...

4 Q. The clinical course?

5 A. Right. Clinical course. This man has
6 exposure for 30 years; considerable exposure. If
7 you've going to give me all the tests that was done
8 at his previous work, which was 30 years ago, 25
9 years ago, it would be more important. Because the
10 pulmonary fibrosis does not develop over one year,
11 over five years, or over six years without
12 catastrophic event being described; somebody who is
13 extremely sick, going to the ICU, discharged with the
14 fibrosis. Okay?

15 That is rare and -- and historically
16 specific. It would be far more important for me to
17 know when you go to his job 20 years ago and find out
18 what that was 20 years ago. Because fibrosis takes
19 decades to develop. It doesn't develop over five,
20 six years. It just doesn't happen. Okay? So the
21 history of recent exposure pretty much ruled out most
22 of the disease.

23 Q. What? I'm sorry?

24 A. Recent exposure, recent exposure.

25 Q. Not important?

1 A. It's not important. What's important is
2 the distant exposure. That's what you really want to
3 know; what has happened to this man 20 years ago, 25
4 years ago, 30 years ago, perhaps as recent as 15
5 years ago. Three, four, five years ago, that's
6 irrelevant for this particular disease.

7 Q. Are you saying that his condition is -- may
8 well be related to his employment, but it wouldn't be
9 the most recent employment that did it?

10 A. Well, what I'm saying, we'll never know.
11 What we do know, it's not recent exposure. This is
12 not how pulmonary fibrosis. Pulmonary fibrosis
13 develop over decades of exposure.

14 It's a repeated insult of nanoparticles --
15 "nano" meaning very small, okay -- that produce
16 cycle, okay, of deterioration. It is not developed
17 until they have a massive, acute exposure over the --
18 you know, if somebody got sick, ambulance got called,
19 somebody got in the hospital. Okay?

20 Q. You mentioned the pathology was one of the
21 three things that's important to you in reaching your
22 decision --

23 A. Yes.

24 Q. -- is that correct? You understand that
25 there was a biopsy taken in September of 2010 that

1 was, of course, reviewed by the pathologist at the
2 hospital?

3 A. Yes.

4 Q. And that there was also a pathologist up at
5 Harvard, Dr. Kradin, who reviewed the pathology
6 materials?

7 A. Yes.

8 Q. Okay. Are you aware of the fact that the
9 doctor in Charlotte at the hospital, when he looked
10 at the pathology, that he said the appearance was --
11 can also be seen in cases of pneumoconiosis? Were
12 you aware of that?

13 A. I was aware of his report. I was not aware
14 that anybody said it could be related to the
15 pneumoconiosis. And my answer to the question, yes,
16 it could.

17 Q. Okay. All right.

18 ~~A. And if you ask me specifically to --- which~~
19 type pneumoconiosis, I will tell you.

20 Q. All right. Hang on. I appreciate that.
21 Let me just show you, so that you won't have to take
22 my word for it, the path report from the Carolinas
23 Medical Center in Charlotte, which has been made a
24 part of the record in this case.

25 MR. GRIGGS: What page are you on, Jeff?

1 Do you happen to know where that is?

2 MR. EDDY: It's in the Carolinas Medical
3 Center. I don't.

4 MR. GRIGGS: What's the date of it?

5 MR. EDDY: It's dated September 23, 2010.
6 Ready?

7 MR. GRIGGS: Hold on one second.

8 A. Dr. James E. McDermott, 9/23/10? Is that
9 what you're talking about?

10 BY MR. EDDY:

11 Q. Well, I was going to ask you about that,
12 because actually it was read by a Dr. Adlakha.

13 A. Okay.

14 Q. Okay. But that name that you just referred
15 to may well appear on the report.

16 A. That's the report that I reviewed, yes.

17 Q. Okay. And let me show you that she...

18 A. Let me see it.

19 Q. Sure. She discusses the findings...

20 A. Yes. I have reviewed exactly this report.
21 I've seen this report.

22 Q. Okay. And it does say -- after she goes
23 through what she sees under the microscope and says
24 the features are those of chronic interstitial
25 pneumonia, then she goes on to say: Similar features

1 can also be seen with collagen vascular disease,
2 pneumoconiosis or drug effect?

3 A. Yes. She said that.

4 Q. Do you disagree with that?

5 A. No.

6 Q. And Dr. Kradin, the pathologist up at
7 Harvard, also looked at the pathology and reached the
8 opinion that the changes were due to the occupation,
9 or that at least was a cause, correct?

10 A. Well, that would be speculation on his
11 part.

12 Q. But my question is Dr. Kradin looked at the
13 pathology, and he's a board-certified pathologist --

14 A. Right.

15 Q. -- and pulmonologist?

16 A. Correct.

17 Q. And he looked at it, and in his opinion --
18 ~~you did review his report --~~

19 A. Yes.

20 Q. -- and see where he reached the conclusion
21 that the pathological changes were due, at least in
22 part, to the occupational exposures. Did you see
23 that?

24 A. No. I disagree completely with that. He
25 has not identified any features of pneumoconiosis

1 whatsoever. He has reached a conclusion, but, as a
2 pathologist, he did not identify anything that would
3 suggest pneumoconiosis.

4 Q. My question is: Did not Dr. Kradin look at
5 the pathology --

6 A. Right.

7 Q. -- and reach the conclusion...

8 (Cell phone interruption.)

9 A. Okay. Let me answer the question as best
10 as I could. I understand what you're saying that
11 Dr. Kradin has reached a conclusion. Okay? That
12 would be equivalent to the radiologist reaches a
13 conclusion which is not on X-ray.

14 Dr. Kradin, who looked at the pathology
15 report, did not describe any pneumoconiosis and
16 reached a conclusion. Let me -- let me finish my
17 point. What -- pneumoconiosis can be consistent with
18 UIP, which was determined this patient has, which is
19 usual interstitial pneumonia.

20 What pneumoconioses are described, which is
21 asbestosis, it's identical to UIP, with the exception
22 of asbestos bodies which are not seen. What drug
23 reaction is identical to the UIP? Bleomycin. That's
24 a cancer drug that Mr. Dority never had.

25 If he did have a bleomycin, there could

1 have been a discussion. Dr. -- so he didn't have
2 that. What collagen vascular disease can cause UIP
3 which Dr. Kradin has described? Rheumatoid
4 arthritis.

5 If you do not have a history of rheumatoid
6 arthritis from the patient, which Dr. Kradin did not
7 have, and you look at this slide and you see, you can
8 write it down, like the pathologist does, could be
9 consistent with collagen vascular disease, meaning
10 rheumatoid arthritis.

11 If pathologist note he have a history of
12 rheumatoid arthritis being present, yes, it's
13 consistent with that. But if pathologist been told,
14 Doctor, this patient never had rheumatoid arthritis,
15 a pathologist would write it down: This patient
16 never had a history of collagen vascular disease;
17 therefore, UIP is consistent. Okay? That's what it
18 is.

19 So Dr. Kradin is a pathologist, not a
20 clinician. He can only say what he has described.
21 What -- I have relied not on his opinion, but what he
22 has described. As a clinician it's key -- as I told
23 you before, it's key for me to have a accurate
24 pathology report; not a pathologist's opinion, but
25 accurate pathology report. Okay?

1 Because as a clinician, I'll know whether
2 the patient had rheumatoid arthritis, whether the
3 patient had bleomycin, what kind of drugs he had.
4 And I can say that it's not possible because he did
5 not have that. Okay?

6 If you look at the pulmonologist's report,
7 he wrote down clearly that all causes of UIP,
8 collagen vascular disease and everything else, has
9 been excluded. And I don't know whether Dr. Kradin
10 had that information that it has been excluded.

11 Is it consistent with pneumoconiosis? Yes.
12 But the only one pneumoconiosis that been looked at,
13 asbestos, was excluded, because there was no presence
14 of asbestos bodies. That's how pathologists diagnose
15 pneumoconiosis. UIP is identical to asbestosis.

16 BY MR. EDDY:

17 Q. Do you know whether Mr. Dority had any
18 exposures to materials or dust besides asbestos that
19 could have caused pneumoconiosis?

20 A. Well, let me rephrase my -- my answer,
21 because I don't think that I made myself clear.
22 We're talking about a pathological finding of UIP,
23 usual interstitial pneumonia. It's consistent, not
24 with a broad-spectrum pneumoconiosis, but with only
25 few. Okay? So others do not cause UIP.

1 Q. What doesn't cause it?

2 A. The other pneumoconioses do not, like
3 silicosis, like anthracosis, like Coal Miners' and so
4 forth. They have a different, distinct feature.
5 Okay? That's what made them different. Okay? UIP,
6 usual interstitial pneumonia, okay, have only few
7 causes. Now, the different question...

8 Q. What are those causes?

9 A. Well, I just told you: Asbestosis,
10 bleomycin toxicity, nitrofurantoin toxicity, some
11 drug toxicity, that can produce identical feature for
12 pathologists, without knowing what this patient was
13 on. Okay?

14 You can look and can say. What this
15 pathologist says is quite accurate. They -- she or
16 he was not a clinician. She said collagen vascular
17 disease, drug-toxicity pneumoconiosis cannot be ruled
18 out, okay, because she didn't have that information.

19 She can't say this patient have pneumoconiosis drug
20 toxicity or collagen vascular disease because she
21 didn't have that information. Okay?

22 Q. Did you see Dr. Kradin's opinion that this
23 was an occupationally related disease, regardless of
24 what it is?

25 A. I did.

1 Q. So he thinks it's -- he's a pathologist who
2 thinks it's occupationally related, correct?

3 A. Yes. That's what he said.

4 Q. And the pathologist at the hospital said
5 what she saw under the microscope could be
6 pneumoconiosis, did she not? We just went through
7 that.

8 A. My friend...

9 Q. I'm just asking you the question, yes or
10 no.

11 A. Let me answer the question the best that I
12 can, because...

13 Q. It's a yes-or-no question.

14 A. No. It's not yes or no. You saw somebody,
15 a pathologist, describing what it could possibly be.
16 Okay? Dr. Kradin is a pathologist; he's not a
17 clinician. Pneumoconiosis is not a pathological
18 diagnosis, unless you see it on pathology slide.
19 Okay? And some of them you do, which would be
20 silicosis.

21 Q. Are you a pathologist?

22 A. I am a clinician. I'm a pulmonologist. I
23 rely on the pathology report.

24 Q. Is that a "no"?

25 A. I don't rely on their opinion. I rely on

1 their report, what they see.

2 Q. So you're relying on the pathologist's
3 report as to what this man has? Would that be true
4 to say; that you -- your opinion that he has UIP
5 comes from the path report, does it not?

6 A. Exactly.

7 Q. Okay. At the same time...

8 A. I rely on one thing from the pathologist's
9 report. This man has UIP, usual interstitial
10 pneumonia. That's what he has.

11 Q. Is that a diagnosis in the path...

12 A. That's a pathological description of what
13 they see under microscope.

14 Q. So it's not a diagnosis --

15 A. It is not.

16 Q. -- it's a description?

17 A. Yes. It could be related to several
18 things.

19 Q. Okay. And in your report -- well...

20 A. I give you another...

21 Q. I don't know -- there's no question.

22 A. Cancer -- cancer...

23 Q. There's no question.

24 A. Yes. Cancer is a diagnosis; however,
25 there's four different types. Same with fibrosis.

1 Fibrosis is a diagnosis, but there's a [sic] four
2 different pathological types. One is consistent with
3 one disease, and the -- or inconsistent with one
4 disease. Okay? You cannot say pneumoconiosis
5 without seeing the evidence of it.

6 Q. Have you seen the material safety data
7 sheet for the silver solder that Mr. Dority used at
8 CTR?

9 A. No.

10 Q. All right.

11 A. That would not be important data.

12 Q. So that's not important to you. Would it
13 be important to you as the levels of concentration
14 that he was exposed to; the silver, the tin, the
15 zinc, the cadmium?

16 A. Yes. If it would be a pathologist's report
17 of particulate matter in his lung, it would be
18 extremely important. But the pathologist doesn't
19 describe any of that.

20 So if you have a high concentration in the
21 air and no particulate matter in the lung, you can't
22 connect that. The only way to connect that is if
23 pathologist describe particulate matter seen in the
24 biopsy. That becomes extremely important.

25 Q. Okay. All right. So you think it's a UIP,

1 and you can't say that it's a pneumoconiosis?

2 A. No. I cannot.

3 Q. Okay. Because you need to see something
4 more in the tissue --

5 A. Yes.

6 Q. -- besides the finding reported by the
7 pathologist?

8 A. Yes.

9 Q. Like asbestos bodies?

10 A. Like asbestos bodies.

11 Q. Or silica particle?

12 A. No. Silicosis has -- is not a type by
13 UIP -- is not a diagnosis.

14 Q. But do you disagree that UIP can be caused
15 by occupational exposure?

16 A. I just told you, silica, no.

17 Q. I'm talking about UIP now.

18 A. Yeah. I'm just telling you, UIP can be
19 caused by asbestos, but it cannot be caused by silica
20 or -- because silica -- UIP is not a characteristic
21 of silicoses. You have to correlate pathological
22 report with the disease. Okay? UIP is not a
23 diagnosis. It's what pathologist see on the slide.

24 Q. Can exposures to fumes and gases cause UIP?

25 A. It's a very good question, and it is a very

1 good question is because of science, have list of
2 several, several, several, several things, including
3 fumes and so forth, that could be -- could be related
4 to the pulmonary fibrosis in some people or
5 interstitial pulmonary fibrosis or IPF.

6 Q. Does your report say: Occupational
7 exposures to dust containing silica, bacteria, animal
8 proteins or to gases and fumes are risk factors for
9 IPF?

10 A. Risk factors, exactly. For example, some
11 people have lung cancer without smoking. Smoking is
12 a known risk factor, but it's not the only one. IPF
13 become extremely difficult because -- well, let me
14 tell you why IPF is so difficult.

15 Very few people have lung biopsy. Very few
16 people have -- basically, a exposure to only one
17 agent. They have numerous agents. Okay? Mainly
18 agents, at least in my report, has been found to be
19 partially associated. There's no definitive link.
20 There's no -- nobody's saying that IPF is
21 occupational lung disorder.

22 People think that it may be environmental
23 rather than occupational. Smoking plays huge role.
24 Some smokers develop IPF with exposure, without
25 exposure. Some smokers had biopsy, others did not.

1 The science does not have answers to your question.

2 The science says that all those things, all
3 those things could be, combined with or in isolation,
4 possibly related to the pulmonary fibrosis. In this
5 particular case with Mr. Dority, it's a horrifying
6 exposure.

7 Q. It's a what?

8 A. Horrifying, terrible exposure to many, many
9 things in his life. If you really want to know, you
10 go back 20, 30 years ago. You go back five, six
11 years ago, that's irrelevant data. That just doesn't
12 happen.

13 It's a decade that you need to look at it.
14 What you need to know, what did he do as a bleacher,
15 what did he do as a welder, what did he do as a
16 firefighter, 20, 30 years ago. That's what you need
17 to know. But in general, it's impossible.

18 Q. ~~Do you know what he did?~~

19 A. Yes. He was exposed to massive stuff of --
20 bad stuff, but I cannot tell what caused it, okay,
21 because it's impossible, unless you see in the lung
22 particulate matter, like welders.

23 Welders have a -- fumes, highly toxic
24 fumes, okay, over the years; many years. Okay?
25 Those you describe -- pathologists described them as

1 a particulate matter in the lung or interstitial or
2 alveoli spaces. They describe them.

3 Then I go to you and say, listen, the
4 levels where he been exposed to that, okay, is
5 that -- that is pneumoconiosis; that is not
6 consistent with IPF. IPF, by definition, answer is
7 we don't know.

8 That's what this man has. We don't know
9 what caused his IPF. What we do know, we don't
10 describe it as IPF. We describe it as what
11 pathologist tells us on his report, inclusion bodies,
12 okay, of particulate matter consistent with what you
13 just said multiple, multiple welding -- welding lung
14 disease is not a disease.

15 There's so many different metals that can
16 cause it. Some can, some cannot. Some highly toxic,
17 some not. But UIP is synonymous with pulmonary
18 fibrosis, idiopathic nature. That's what -- the
19 first thing that every clinician will tell you: UIP
20 equals idiopathic pulmonary fibrosis, unless
21 pathologist will tell you that he sees something
22 else.

23 Q. You mentioned the three things that are
24 important to your opinion, including the history?

25 A. Yes.

1 Q. Can you elaborate on that for me?

2 A. Yes. Because it's progressive lung
3 disease, consistent with IPF.

4 Q. Why is that important?

5 A. Because interstitial pulmonary fibrosis is
6 a progressive lung disease. It is consistent with
7 UIP. There's four or five different pathology
8 reports that you can find. UIP is the worst one. It
9 has a poor prognosis, it relentlessly progresses, and
10 it shortens people's life tremendously. It's a
11 dangerous condition to have.

12 Q. It is relentlessly progressive?

13 A. Yes.

14 Q. In fact, to use your words, "inexorable"?

15 A. Yes.

16 Q. That's the same thing, right?

17 A. Yes.

18 Q. ~~It just gets worse and worse?~~

19 A. Yes.

20 Q. Until it basically kills the patient?

21 A. Yes.

22 Q. It doesn't like flatline and you just kind
23 of stabilize for years and...

24 A. Let me tell you what IPF is. Some people
25 propose the theory of feature -- it's not flatline.

1 It has a stable, falling off the cliff. Okay? The
2 more you fall off the cliff, your lungs never
3 recover. So that's what most current data suggests,
4 but it's not what you just said. Okay? People were
5 thinking they just -- burning, burning. No. It's a
6 acute exacerbation. You fall off the cliff. Okay?
7 You never recover lung function.

8 Q. When did Mr. Dority fall off the cliff?

9 A. According to him, he fall off the cliff on
10 the day of his lung biopsy. He never was the same.

11 Q. And he's been going downhill ever since?

12 A. Ever since. He told me that once his lung
13 biopsy was taken, he was never the same anymore.
14 Okay? That particular biopsy did him in, according
15 to him. That was his moment where his disease start
16 progressing relentlessly. Before that -- before
17 that, he was in the stable phase of it, but he
18 clearly associate it with that, with the day of his
19 biopsy.

20 Q. He what? I'm sorry?

21 A. He associates his decline with the day of
22 biopsy in 2010.

23 Q. Okay. And he's just been getting worse and
24 worse ever since?

25 A. Correct.

1 Q. Over the last two and a half years, I
2 guess?

3 A. Correct.

4 Q. And so the amount of oxygen he needs today
5 is more than it was last year and the year before
6 that; is that right?

7 A. The oxygen is not really a criteria.
8 Oxygen is just a reflection of how bad his disease
9 is.

10 Q. What about pulmonary function tests?

11 A. Terrible.

12 Q. I mean, they get worse and worse, as the
13 disease progresses?

14 A. He's -- well, lung function often
15 correlates with progression of the disease, but not
16 always. The reason that is the case, because when
17 people get really, really sick, they cannot produce
18 meaningful breathing test. For you to meaningful
19 breathing test, you have to have a good lung
20 capacity.

21 Q. All right.

22 A. At some point, those tests become more
23 meaningful.

24 Q. So when you told me what your third
25 criteria is -- history, you mentioned. You mentioned

1 oxygen. You mentioned pulmonary function tests,
2 shortness of breath, subjective complaints, right?

3 A. Correct.

4 Q. And had his subjective complaints gotten
5 worse over the last two and a half years?

6 A. Yes. His subjective complaints was worse.
7 His pulmonologist noted in 2010 that he wasn't
8 complaining of shortness of breath. And now not only
9 he complain of shortness of breath, you don't have to
10 be a doctor to know that.

11 Q. All right. So you would not expect him,
12 from the point he fell off the cliff and starts to
13 progress worse and worse, to stabilize? You think
14 he's going to keep getting worse until he dies?

15 A. Yes.

16 Q. Would it be of importance to your opinion
17 if, in fact, over the last two and a half years, he's
18 been stable?

19 A. Yeah. It's very consistent. Because as I
20 said, it's not what you just said, flatline. It's
21 what cause IPF to progress is you're going to
22 flatline, you fall off the cliff, but you never get
23 back.

24 Q. And so you never flatline again?

25 A. Well, you can flatline, but on different

1 level, until you fall again. And this disease has
2 stable phases and exacerbation, stable, exacerbation,
3 when it doesn't happen that you reach level higher,
4 better. Because there's very few people that
5 responds to treatment, and there's really no good
6 treatment for this disease. So we can't really offer
7 them much of a hope.

8 Q. If he had a benign pneumoconiosis -- which
9 you've admitted is a possibility?

10 A. I did not admit that, no. I said that I'm
11 not going to speculate.

12 Q. You told -- so you disagree, it cannot --
13 this gentleman cannot -- his condition cannot be a
14 pneumoconiosis?

15 A. Not asbestosis, no.

16 Q. I'm not asking you asbestosis.

17 A. There is...

18 Q. What is pneumoconiosis?

19 A. Would you mind if I just show you a
20 diagram?

21 Q. Sure. You know, that won't work because
22 we're on the record.

23 A. Can I...

24 Q. I just need a short definition; what you
25 think is pneumoconiosis.

1 A. Pneumoconiosis is occupational lung
2 disease, okay, that is caused by known...

3 Q. Dust?

4 A. Not just dust, but known entity.

5 Q. Okay.

6 A. IPF could very well be caused by dust.
7 Okay? Nobody knows it.

8 Q. Okay.

9 A. That's the problem. I cannot tell you that
10 IPF is not caused by dust, or I can't tell you that
11 pneumoconiosis -- IPF is not caused by smoking.
12 Okay? People suggest it's caused by smoking, but we
13 don't know. I cannot tell you that IPF is not caused
14 by dust/smoking combined because...

15 Q. I'm asking you about pneumoconiosis now.

16 A. Well, one more time, one more time, UIP is
17 not caused by pneumoconiosis.

18 Q. Would you agree that pneumoconiosis is a
19 fibrotic lung condition caused by the inhalation of
20 inorganic material?

21 A. And what material are you talking about?

22 Q. I'm not -- I'm just asking you, sir, yes or
23 no...

24 A. It is not yes or no, because UIP is not
25 caused by pneumoconiosis.

1 Q. I'm not asking you about -- I'm asking you
2 about pneumoconiosis. Forget UIP.

3 A. Okay, yes. But if you exclude, if you
4 have...

5 Q. Does the "pneumo" part of the word mean
6 lung?

7 A. Lung.

8 Q. And the "coniosis" part mean dust?

9 A. Yes.

10 Q. So it means a dust disease of the lungs,
11 correct?

12 A. Correct.

13 Q. Okay. If someone had a benign
14 pneumoconiosis --

15 A. Right.

16 Q. -- a disease of the lung --

17 A. Right.

18 Q. -- caused by the inhalation of dust, their
19 clinical course would likely be different from a UIP
20 or...

21 A. Like asbestosis would not; it would be the
22 same. But IPF has for more aggressive causes, even
23 asbestosis [sic].

24 Q. Right. So if Mr. Dority was just rocking
25 along, stable for the last two and a half years --

1 A. Right.

2 Q. -- that wouldn't be what you would expect
3 from IPF, right?

4 A. I would. Most of the patients with IPF are
5 described...

6 Q. Or UIP, I should say.

7 A. UIP and -- UIP is not a disease, it's a
8 pathological description. Disease has its own name
9 that is -- UIP is a characteristic of that disease,
10 but not exclusive for that disease.

11 Q. Okay.

12 A. So we say UIP is not a disease. It's what
13 pathologists see, and that's what pathologists should
14 stick to, like the other one: I see UIP, it could be
15 related to this, this and that.

16 It's -- never I've seen a pathologist who
17 would describe silicosis without seeing evidence of
18 silicosis. Never I see a pathologist who would
19 describe asbestosis without seeing evidence for
20 asbestosis. They describe what they say. This man,
21 Dr. Kradin, describe UIP.

22 Q. Is UIP and IPF the same thing?

23 A. No. It's not. But UIP is a cardinal
24 feature of IPF. You cannot make that diagnosis of
25 IPF without seeing UIP.

1 Q. Which one is it that you just introduced --

2 A. IPF.

3 Q. -- the progression --

4 A. IPF.

5 Q. -- where you're just -- you're going
6 downhill --

7 A. That's IPF.

8 Q. -- until you die?

9 A. IPF.

10 Q. So you don't think he has IPF?

11 A. Yes. I do.

12 Q. Why?

13 A. Because he -- he has been excluded from
14 bleomycin, asbestosis and collagen vascular disease.
15 He has been excluded -- three conditions that cause
16 UIP.

17 Q. Has pneumoconiosis been excluded?

18 A. Yes. The one that caused UIP, it was. The
19 only pneumoconiosis that cause UIP is asbestosis.
20 It's no other.

21 Q. The pathologist at the hospital said this
22 could be pneumoconiosis, correct?

23 A. Yes.

24 Q. So this could be related to his employment,
25 correct?

1 A. A pathologist does not describe any
2 features of pneumoconiosis; none. He does not
3 describe...

4 Q. You said that it could be pneumoconiosis?

5 A. I didn't say that it could be.

6 Q. It could be?

7 A. No. I said...

8 Q. It could not be?

9 A. No. I said I refuse to speculate. I have
10 told you that many scientists have raised a concern
11 that over 20, 30 years of exposure to different dusts
12 contribute to the disease. And I have told you that
13 those -- what -- we don't know. I already told you
14 we don't know what cause his disease.

15 Q. Is it important to you...

16 A. But he doesn't have pneumoconiosis.

17 Q. He does not?

18 A. Does not.

19 Q. Definitely does not have pneumoconiosis?

20 A. Definitely does not have pathological
21 findings of pneumoconiosis, whether dust...

22 Q. So you differ from Dr. Adlakha who said
23 these features can be seen in pneumoconiosis?

24 A. But he doesn't tell me what pneumoconiosis.
25 It could be.

1 Q. I'm not asking you what kind. I'm...

2 A. You should ask me that, because that's the
3 most important answer. UIP can be caused by only
4 four conditions. That's it.

5 Q. What are those conditions? Collagen?

6 A. Asbestosis.

7 Q. Uh-huh.

8 A. IPF.

9 Q. Uh-huh.

10 A. And drugs, such as bleomycin and
11 nitrofurantoin.

12 Q. What's the fourth one?

13 A. Nitrofurantoin, N-I-T-R- --

14 Q. No, no, no, not the drug. You said IPF --

15 A. IPF, asbestosis.

16 Q. No, no, no. UIP can be caused by
17 asbestosis, IPF, drugs. And what's the forth?

18 A. I just said two drugs.

19 Q. Two different drugs?

20 A. Two different drugs; bleomycin and
21 nitrofurantoin.

22 Q. So there's only one type of pneumoconiosis
23 that can cause UIP, and that's asbestoses?

24 A. In general, yes.

25 Q. So a pneumoconiosis caused by the

1 inhalation of metals, like the silver solder,
2 couldn't cause UIP?

3 A. We have no scientific evidence that it does
4 or it doesn't. There is no scientific evidence.
5 Please understand what IPF means. IPF means
6 idiopathic. That means nobody knows. Okay?

7 There's intensive, intensive research into
8 what cause IPF, and metal dust -- metal dust is one
9 of those. That's what scientists don't have. Okay?
10 Scientists do not have...

11 Q. Well, let me just tell you that Mr. Dority
12 worked with silver solder. The evidence in this case
13 is already and will be that he worked with the silver
14 solder every day, 40 hours a week, for a year and a
15 half, without any respiratory protection...

16 MR. GRIGGS: I'm going to...

17 MR. EDDY: Are you going to make a -- note
18 your objection and let me ask the question.

19 MR. GRIGGS: I never said I wasn't going to
20 let you ask the question, Jeff.

21 MR. EDDY: Make a short objection. If you
22 make a speaking objection, we're going to have a
23 problem. Please don't.

24 MR. GRIGGS: What about during yesterday
25 with Dr. Doty? I let you say anything you wanted to

1 say.

2 MR. EDDY: Right. Object to the form and
3 let me ask the question.

4 MR. GRIGGS: Extend the same courtesy.

5 MR. EDDY: Let me -- if you make a speaking
6 objection, I will take it up.

7 MR. GRIGGS: I'm objecting to the form of
8 the question.

9 MR. EDDY: Thank you very much.

10 BY MR. EDDY:

11 Q. So is it --

12 MR. GRIGGS: Continuing.

13 BY MR. EDDY:

14 Q. -- important to you that the material
15 safety data sheet for the silver solder that he used
16 says prolonged or repeated exposure may cause damage
17 to the lungs, liver, kidneys and blood disorders?

18 A. No.

19 Q. Okay. Is it important to you that it says
20 inhalation of fumes -- excuse me -- it says
21 inhalation may cause respiratory tract irritation and
22 coughing. Mr. Dority, when using this material, was
23 exposed such that it would cause him coughing spells
24 and he would have to go out of the building to get
25 fresh air. Is that important to you?

1 MR. GRIGGS: Object to the form.

2 A. Let me answer the question.

3 BY MR. EDDY:

4 Q. Of course.

5 A. What is your name?

6 Q. Jeff?

7 A. Jeff, this man has UIP. If you ask me is
8 it --

9 Q. I'm not asking you what he has. I'm asking
10 you if it's important to you.

11 A. Well, you did. You asked me is it
12 important to me as a cause of his irritation of his
13 cough. If you ask me whether it's maybe his asthma,
14 if you're asking me whether has upper respiratory
15 infection, I'll say yes. But you're asking me
16 whether he had pneumoconiosis and what caused it.
17 No. Silvaloy has never been described to cause UIP.
18 That has never been a report like that.

19 Q. Were you familiar with the fact that it
20 causes pneumoconiosis?

21 A. Not UIP.

22 Q. I'm asking you: Do you know whether or not
23 Silvaloy causes pneumoconiosis?

24 A. I'm going to make a point and...

25 Q. I'm...

1 A. As of today, I don't have the answer. I'm
2 not aware -- I'm not...

3 Q. Answer the question.

4 A. I'm not aware of Silvaloy causing
5 pneumoconiosis.

6 Q. Well, have you seen the material safety
7 guide sheet for Silvaloy?

8 A. No.

9 Q. Well, look right here and tell me if it
10 does not say under Chronic Health Hazards, prolonged
11 or repeated inhalation may cause a benign
12 pneumoconiosis?

13 A. Yes. It says that.

14 Q. But you didn't know now that it causes
15 pneumoconiosis?

16 A. No.

17 Q. Okay. All right. Did you know that this
18 same material safety data sheet says, if exposed to
19 excessive levels of dust or fumes, remove to fresh
20 air and seek medical attention?

21 A. I'm sorry. Repeat your question.

22 Q. That if someone who's working with this
23 material that Mr. Dority worked with is exposed to
24 excessive levels of dust or fumes, that they should
25 be removed to fresh air and seek medical attention?

1 A. Yes.

2 Q. Okay.

3 A. And I reviewed all the pulmonologist's
4 records and stuff like -- he never complained to
5 anybody. He was fine...

6 Q. Okay. Were you aware that the material
7 safety data sheet also says, avoid breathing in any
8 dust or fumes resulting from the use of this product?

9 A. That is critical, to avoid that.

10 Q. And did you know that the same material
11 data sheet says, use only with adequate ventilation?

12 A. I think that it's critical that somebody
13 use adequate ventilation. Just doesn't cause UIP.

14 Q. Did you know that this material safety data
15 sheet for the solder that Mr. Dority used sets forth
16 levels, OSHA-permissible exposure limits, above which
17 you should not be exposed?

18 A. For sure, you shouldn't be exposed to that.

19 Q. Okay. And did you know that it required
20 the use of air monitoring or personnel sampling to
21 determine whether or not those levels are being
22 exceeded?

23 A. You don't need to be a doctor to know that.

24 Q. Okay.

25 A. I think that's self-evident.

1 Q. Would it be important to you if the
2 director of safety for CTR where Mr. Dority worked,
3 the guy who was in charge of safety, told me this
4 morning...

5 MR. GRIGGS: Who are you talking about?

6 MR. EDDY: Eddie Glenn.

7 A. I don't know this man.

8 BY MR. EDDY:

9 Q. We'll be taking his deposition. So whether
10 or not his testimony is consistent with what I'm
11 about to represent will be determined. Okay?

12 MR. GRIGGS: Let me make an objection to
13 the form.

14 MR. EDDY: I gotcha.

15 BY MR. EDDY:

16 Q. Mr. Glenn is going to testify that where
17 Mr. Dority worked, on the final-line side, there were
18 three stations where the soldering work would be
19 done; that Mr. Dority did nothing but solder all day
20 long, eight hours a day, five days a week, for a year
21 and a half; and that the ventilation on the
22 final-line side was inadequate. It was too small.

23 He told the CTR people that the ventilation
24 was inadequate. They would not give him the money
25 sufficient to -- or to spend on adequate ventilation.

1 He said there was constantly a cloud floating on the
2 final-line side in the winter, when there was
3 absolutely no ventilation. He said there was very
4 little time when there was no smoke on the final-line
5 side?

6 A. So in other words, it was a pathetic
7 working condition?

8 Q. It was.

9 A. Okay.

10 Q. Okay. According to the safety director.

11 A. Now, I have not been asked to testify
12 whether the place needs to be shut down and so forth.
13 To me, it's self-evident. I've been asked to opine
14 whether all this stuff can cause UIP. Okay? And
15 it's more than --

16 Q. No, no. I need to know...

17 A. -- Dr. Feldman's opinion; it's opinion of
18 science. We don't know what cause IPF.

19 Q. You don't know he had UIP. That's just a
20 description by the pathologist who says he may have
21 pneumoconiosis?

22 A. I did not say he has pneumoconiosis. I
23 said he has no pathological evidence of
24 pneumoconiosis. All I said, that UIP...

25 Q. This is...

1 A. What you...

2 Q. Did the pathologist say that?

3 A. I'm sorry? What the pathologist said?

4 Q. The pathologist at the hospital in
5 Charlotte said these findings can be seen in
6 pneumoconiosis. This guy's in a cloud of dust that
7 causes pneumoconiosis for a year and a half.

8 The pathologist takes his lung biopsy and
9 says, this might be pneumoconiosis. His treating
10 doctor, who testified yesterday, said, I don't think
11 this is UIP or IPF; I think this is related to his
12 occupation, because he's been stable for the last two
13 and a half years, and you wouldn't expect that if it
14 was...

15 A. You...

16 MR. GRIGGS: I'm going to object to the
17 form.

18 ~~A. You raised---wait a second. You raised~~
19 three important points. You said that some doctor,
20 doesn't have UIP. I don't read pathology report.
21 Okay? Two pathologists said he has UIP, okay,
22 period.

23 So if some pathologist would come to me and
24 say, Dr. Feldman, this is not UIP, I'll change my
25 opinion. Okay? So you've got to tell me if there's

1 a pathologist who told me -- who told you it was UIP.

2 BY MR. EDDY:

3 Q. Is the clinical information not important?

4 A. It is not. Because the pathological
5 diagnosis of UIP signifies only few conditions.
6 Pneumoconiosis is not a disease. Pneumoconiosis is
7 broad umbrella of many diseases. Pneumoconiosis can
8 be black lung, can be asbestosis, can be silicosis,
9 can be...

10 Q. Other specified causes, correct? It's
11 basically caused by the inhalation of inorganic dust?

12 A. Not UIP.

13 Q. I'm talking about -- you said
14 pneumoconiosis?

15 A. I -- let me make myself one more time
16 clear, because I think that maybe it's my fault and I
17 have failed to make the point. And I'm going to make
18 myself one more time clear, because after that, I
19 don't know what I can do.

20 Q. Okay.

21 A. I have seen no evidence on pathology of
22 pneumoconiosis. Okay? If you ask me could this
23 patient have a pneumoconiosis, it would be pure
24 speculation. Number two, UIP means IPF, idiopathic
25 pulmonary fibrosis. Idiopathic means of unknown

1 etiology.

2 IPF -- three factors for IPF -- include
3 everything you just said, okay, including smoking,
4 but over 20 to 30 years. Exposure to all of that in
5 massive amounts would be evident on lung biopsy. You
6 would find an inclusions bodies, you will find
7 particulate matter on the lung biopsy, if it was
8 acute exposure. It's no doubt about that. Okay?

9 Q. And isn't that what Dr. Kradin saw?

10 A. That is not what Dr. Kradin saw. He saw no
11 particulate matter, okay, other than descriptive of
12 silica dust, but it's not silicosis.

13 Q. Didn't Dr. Kradin say -- and you can look
14 at it with me, if you'd like.

15 A. I do. I'd like very much to see what
16 Dr. Kradin said.

17 Q. Okay. All right. We'll start at the very
18 beginning, where he -- now, you know, he saw the

19 slides himself. He's both a board-certified
20 pathologist, and he is a clinician. He's a
21 pulmonologist, board-certified. He teaches at Mass
22 General, and he's an expert from Harvard. Okay?

23 A. He's a pulmonologist?

24 Q. Yes. He's a board-certified pulmonologist
25 and pathologist.

1 A. All right. Well, tell me, as a
2 pathologist, what did he say?

3 Q. He -- he looked at the slides. He told me
4 to go get unstained slides, re-cut slides. Okay --

5 A. Okay.

6 Q. -- and send them. And I sent those to him.

7 A. Okay.

8 Q. All right. He looks at them under the
9 microscope, and he says although the architectural
10 pattern is consistent with UIP, the biopsies exhibit
11 several, somewhat unusual pathological features. The
12 fibrotic changes are more homogenous than in most
13 cases of UIP, and the quality of the fibrosis is more
14 eosinophilic and ropey-appearing, a change that has
15 been recognized by Yosen in relation to the
16 inhalation of smoke and other fumes.

17 There is also an extensive amount of
18 anthracitic, granular pigment deposited throughout
19 the scarred alveolar septum, consistent with dust or
20 inhalation of fume inhalation.

21 My first question is: Did I read that
22 correctly?

23 A. You read it verbatim, word for word.

24 Q. Okay. You're in no position to dispute
25 that, are you, because of two reasons? One, you

1 haven't seen the slides; and two, you're not a
2 pathologist? That's a yes-or-no question. Would you
3 agree, you're not in a position to dispute that?

4 A. I'm in an excellent position to dispute
5 that. The man has described IPF. Okay? He
6 described all features associated with UIP; every
7 single one of them. He did not describe any evidence
8 of pneumoconiosis.

9 Of course, I'm in a fantastic position to
10 dispute that, because this man describes UIP and
11 describes -- UIP is not homogenous disease. It's --
12 it has many, many, many different appearance. Once
13 you describe UIP, though, okay, you're done. You
14 have only few conditions.

15 And pneumoconiosis, he don't describe any
16 acute pneumoconiosis. Because after this much of
17 exposure, this man would have a particulate matter,
18 okay, in his lung. Where is it? Where is [sic]

19 Dr. Kradin describe the particulate matter?

20 Q. So your -- your -- all your opinions in
21 this case hinge on your opinion that this guy's got
22 UIP, correct?

23 A. No. He has a CAT scan that suggests
24 pulmonary fibrosis honeycombing, classic for IPF. He
25 has a clinical course, classic for IPF. He has

1 exposure, not over past five, six years, but he's a
2 heavy smoker. He's been exposed to ungodly amount of
3 fume and dust over 30 years. He's a classic patient
4 with IPF.

5 What you're trying to tell me, Dr. Feldman,
6 could it be something else? And I say I can see no
7 evidence, no evidence whatsoever of that rheumatoid
8 arthritis, silicosis or asbestosis.

9 Q. You know they tested for all that? They
10 did the ANA...

11 A. They have tested it.

12 Q. Yeah. And they ruled out...

13 A. That's right.

14 Q. And you'd agree that they ruled out...

15 A. Therefore -- therefore, he wasn't exposed
16 to bleomycin. He didn't take drugs. He has IPF. If
17 somebody would see on the pathology report something
18 that is not consistent with IPF...

19 Q. Let me see if I can go at it this way,
20 because it's easy for me, as a layperson, to get hung
21 up on labels of IPF, UIP and all this stuff and it
22 gets confusing.

23 A. Not confusing. It's crystal clear. It's
24 not confusing at all.

25 Q. Let's talk in the most simple terms

1 possible, at least for me. Okay? I want -- you've
2 already talked about it a little bit, about how he
3 was exposed, when he worked many, many years ago --
4 in 1975, he went to work for Springs Industries.

5 A. Right.

6 Q. Okay. That's a -- he worked in a bleachery
7 for Springs?

8 A. Right.

9 Q. He was exposed to all kinds of bad stuff.
10 He was exposed...

11 A. Horrific stuff.

12 Q. Sir?

13 A. Horrific stuff.

14 Q. That's right. Okay. Like -- things like
15 bleaching materials, caustic soda, sulfuric acid,
16 acetic acid, sodium hypochlorite, hydrogen peroxide,
17 sodium sulfide, sodium dichromate. He also had

18 exposure to various dust. He had exposure to welding
19 fumes. I mean, he worked in --

20 A. Right.

21 Q. -- maintenance --

22 A. Right.

23 Q. -- in a nasty plant --

24 A. Right.

25 Q. -- for many, many years. Okay?

1 A. Right, right.

2 Q. Then he goes to work -- oh, and he -- and
3 while at Springs, he was fighting fires; these
4 chemical fires?

5 A. Horrible.

6 Q. This chemical stuff would build up in the
7 ventilation systems --

8 A. Right.

9 Q. -- and catch fire? And as a firefighter,
10 he would have to go -- and in the early years, didn't
11 have respiratory protection when he was doing that
12 work?

13 A. No doubt.

14 Q. And then in 19- -- or in 2007, he goes to
15 work for CTR and works for them for about three
16 years. We talked about the conditions that the
17 safety director described. He...

18 A. As pathetic.

19 Q. As pathetic. Okay.

20 A. Yes.

21 Q. All right. And then this guy winds up with
22 severe lung disease. Okay? You've already told --
23 and I -- let's forget about what it is; UIP, APF,
24 PFT, whatever. Okay? He's got serious lung disease,
25 right?

1 A. Correct.

2 Q. And he breathes in all this horrible, bad
3 stuff from 1975 to 2010. That's 35 years --

4 A. Right.

5 Q. -- okay?

6 A. Right.

7 Q. You've told me about how there are risk
8 factors for IPF. You know, we've talked about the
9 material safety data sheet that says that this stuff
10 causes lung damage.

11 Would you agree that, more likely than
12 not, all of those occupational exposures have
13 contributed to his lung condition?

14 A. Well, you're asking me to speculate and --

15 Q. No. If you can't --

16 A. -- and I...

17 Q. -- and if you can't answer that question,
18 just don't answer it.

19 A. Yes. I can, because -- because this is
20 where the dilemma is. All the stuff, okay -- and
21 most important of all of that is the smoking, okay,
22 because most people with IPF are smokers. Okay? So
23 we know that smoking cause IPF. Okay? Whether I can
24 separate smoking from the rest, I cannot. Is it
25 possible that it contributed to his IPF? It is,

1 but...

2 Q. Is it likely?

3 A. We don't know. You're asking the
4 impossible question. Okay? Because that's where we
5 in the medical field stuck. We suspect it could be,
6 but we don't know. Okay? Because IPF idiopathic,
7 for that reason, that we don't know. Okay?

8 But we suspect that it could be. We don't
9 know what cause IPF, but we do know -- we do know a
10 few things; that that bad stuff is not good for your
11 lungs. We do know that smoking is the most important
12 factor in IPF, because nearly 70 percent -- 65, 75
13 percent of them are smokers. Okay?

14 So smoking just doesn't cause cancer; it
15 also cause IPF, likely. But even that we cannot say
16 for certain, okay. We -- because science did not
17 advance to let us know. It is likely that IPF is a
18 heterogenous disease, meaning many things combined
19 that cause it; smoking being the most important.

20 Q. Occupational exposures?

21 A. Probably halfway, some role, but none
22 higher than smoking. Okay? You asked the
23 question...

24 Q. In an individual who's got it both,
25 wouldn't you think, just common sense, that the two

1 of them would put you at an even --

2 A. I am glad --

3 Q. -- greater risk?

4 A. -- you asked me a -- finally, a question I
5 can answer. Common sense is yes --

6 Q. Okay.

7 A. -- okay, but science doesn't know.

8 Q. Let's -- in July of 2010, he's got some
9 serious lung disease --

10 A. Yes.

11 Q. -- correct?

12 A. Yes.

13 Q. To the point where it's showing up on his
14 CT scan?

15 A. Yes.

16 Q. Serious fibrosis which is causing
17 honeycombing, which is an architectural distortion or
18 a distortion of architectural structure of the lung
19 tissue?

20 A. Correct.

21 Q. All right. So that we can agree on. Let's
22 forget about the cause. He's got some serious lung
23 disease that they found in July of 2010?

24 A. Well, I'm not here to agree or disagree.
25 I'm here to give you an unbiased opinion, not just of

1 Dr. Feldman --

2 Q. I know, but stick with me.

3 A. -- but of what science knows.

4 Q. Stick with me here.

5 A. Yes.

6 Q. In July of 2010, he's got a severe lung
7 disease?

8 A. Correct.

9 Q. He goes back to work in the plant where
10 there's welding fumes, there's soldering fumes and
11 dust. There's this workplace, which according to the
12 safety director is --

13 A. Pathetic.

14 Q. -- pathetic? Wouldn't you...

15 MR. GRIGGS: Object to the form again.

16 BY MR. EDDY:

17 Q. Wouldn't you agree that, at a very minimum,
18 that that inhalation in that pathetic environment
19 would have at least aggravated his lung disease?

20 A. But he never complain on anything. What
21 aggravated his lung disease is the lung biopsy. He
22 never been the same. That's been described. Okay?
23 You get the surgery. You get lung biopsy. That's
24 what caused it, his aggravation.

25 It wasn't fumes, it wasn't welding, had no

1 complaints. What caused his aggravation is the lung
2 biopsy. That's what caused it. They biopsied his
3 lung, he never was the same.

4 Q. All right. You mentioned a minute ago that
5 smoking causes IPF?

6 A. I didn't say that. IPF means idiopathic.
7 Nobody knows.

8 Q. All right. I've...

9 A. What we do know, that majority of people
10 are smokers; therefore, there's got to be, in the
11 mind of the science, causative relationship, okay,
12 because many of them are smokers. But we don't know
13 that.

14 Q. Does his CT scan show emphysema,
15 emphysematous change?

16 A. Yes. And pathology report too.

17 Q. And the pathology too?

18 A. Yes.

19 Q. Did you know that the silver solder he was
20 using contained cadmium?

21 A. No. But cadmium is not a cause of UIP.

22 Q. Did you -- I'm asking you about emphysema
23 now. Okay? He's got...

24 A. Cadmium is not a cause of emphysema;
25 cigarettes are.

1 Q. Do you disagree that cadmium is a cause of
2 emphysema?

3 A. In the presence of cigarette smoking, the
4 root cause of emphysema/COPD are cigarettes. That is
5 a undisputed fact. That is...

6 Q. I'm not asking you whether...

7 A. It's indisputed [sic] fact that COPD is
8 caused by smoking in a great majority of the
9 patients. Okay? How great? 99.9 percent. That's
10 indisputed fact. That is not something that we
11 should argue.

12 Q. Did you know that the silver solder that he
13 worked with contained cadmium? Yes or no.

14 A. No.

15 Q. You didn't know that?

16 A. No.

17 Q. All right. Well, it did. Okay? I'm going
18 to hand you a series of medical articles or abstracts
19 and ask you if I'm reading this correctly. This will
20 be marked as Exhibit 1.

21 (EXH. 1, Abstract No. 1, was marked for
22 identification.)

23 MR. GRIGGS: Which one is that?

24 MR. EDDY: Metal Toxicity and the
25 Respiratory Tract. Did you get all those articles

1 from yesterday?

2 MR. GRIGGS: All the ones from yesterday?

3 MR. EDDY: Yeah. You've got those
4 articles.

5 MR. GRIGGS: Well, I've got four.

6 MR. EDDY: I was wondering what happened to
7 them.

8 MR. GRIGGS: Well, you gave them to me.

9 MR. EDDY: I didn't mean for you to keep
10 them. Now, I see.

11 MR. GRIGGS: You gave them to me yesterday.
12 You said, here, and you handed them to me.

13 MR. EDDY: Well, I -- if you don't mind, I
14 need to get them back.

15 MR. GRIGGS: We will get Dr. Feldman...

16 MR. EDDY: And I'll make sure that you get
17 a copy too.

18 ~~THE WITNESS: I'll be glad to look at~~
19 anything you want me to look at.

20 BY MR. EDDY:

21 Q. All right. But this is a abstract of a
22 medical article entitled -- you can come around here,
23 if you'd like to read it with me -- Metal Toxicity
24 and the Respiratory Tract. Okay?

25 It talks about -- first, let me just -- the

1 type of lung disease caused by metal compounds
2 depends on the nature of the offending agent, its
3 physiochemical form, the dose, exposure conditions
4 and the host factors. The fumes or gaseous forms of
5 several metals, example cadmium, manganese, mercury,
6 nickel carbonyl, zinc chloride, vanadium pentoxide,
7 may lead to acute chemical pneumonitis, pulmonary
8 edema or acute tracheobronchitis.

9 Then it goes on down here to say -- and I'm
10 just going to ask you, first of all, if I read it
11 right. Then I'll follow up with another question.

12 It says, exposure to cadmium may lead to
13 emphysema. First of all, did I read that correctly?

14 A. Yes. I watched over your shoulder, and I
15 believe you read it verbatim.

16 Q. Okay. Do you disagree with that?

17 A. With what?

18 Q. The fact or the statement here that cadmium
19 may lead to emphysema?

20 A. I do not dispute anything that's written in
21 this article. I have not researched this article.
22 I'm just agreeing with what you read. It's stating
23 that.

24 Q. But you don't agree with that statement, do
25 you?

1 A. A smoking man for over 60 [sic] packs a
2 day, for over 40 years, and cadmium was the cause of
3 his emphysema, not even...

4 Q. So it's your opinion cadmium does not cause
5 emphysema? Is that what you're telling me?

6 A. In Mr. Dority's, no, of course not. His
7 emphysema was caused by cigarette smoking. Of
8 course, it has nothing to do with the cadmium.
9 Emphysema -- emphysema takes 20, 30, 40, 50 years to
10 develop.

11 Q. Do you know whether or not he was exposed
12 to silver solders when he was at Springs Industries?

13 A. I do not dispute that at all. I think he
14 was.

15 Q. Okay. So wouldn't you...

16 MR. GRIGGS: I'm going to object to the
17 form of the question.

18 ~~BY MR. EDDY:~~

19 Q. Wouldn't you agree that exposures to silver
20 solders or cadmium-containing silver solders
21 beginning at Springs and on into CTR would have at
22 least contributed to a cadmium exposure?

23 MR. GRIGGS: Object to the form.

24 A. I don't know whether he was exposed to
25 cadmium or not. I'm just telling you that it was not

1 cause of his emphysema. That's for sure. His cause
2 of his emphysema, his COPD, is cigarette smoking.

3 BY MR. EDDY:

4 Q. All right.

5 A. That is -- that is indisputable.

6 Q. Exhibit 2 is entitled Health Effects of --
7 Human Health Effects of Exposure to Cadmium. Am I
8 correct that it says, cadmium exposure -- strike
9 that.

10 It says, autopsy and cross-sectional
11 studies of workers not complete -- strike that. I
12 apologize.

13 A. No problem.

14 Q. The health effects of exposure -- human
15 exposure to cadmium are discussed, with the emphasis
16 on intake, et cetera.

17 A. Do not even try. It's not cadmium. It's
18 his smoking for that many years causing emphysema.
19 Okay? So if I were you, I would throw out the
20 cadmium. It's COPD caused by cigarette smoking.
21 That's a common knowledge.

22 Q. Would you agree that these -- well, first
23 of all...

24 A. I mean, in 2012, you don't need to be a
25 doctor to know that --

1 Q. All right.

2 A. -- emphysema caused by cigarettes.

3 Q. I've withdrawn Exhibit 2 [sic]. And let me
4 just -- I just want you to tell me whether or not
5 there are medical articles that indicate that cadmium
6 causes emphysema. Does this one not?

7 A. Yeah. You produced just one to me.

8 Q. Okay. Well, this first one, I believe,
9 said that, correct?

10 A. Right. But you never -- but I haven't seen
11 any report they found cadmium in the lung.

12 Q. I'm just asking what these articles say --

13 A. Oh, okay.

14 Q. -- okay?

15 A. Okay.

16 Q. These articles -- this article,
17 Occupational and Community Exposures to Toxic Metals:
18 Lead, Cadmium, Mercury and Arsenic...

19 (EXH. 2, Abstract No. 2, was marked for
20 identification.)

21 A. Can I comment on what I know?

22 BY MR. EDDY:

23 Q. I'm just asking you if this article says
24 cadmium causes emphysema.

25 A. But as a witness, medically, can I explain

1 to you what -- what metal...

2 Q. No, sir. I just need a question -- we
3 could be here until this time next week, if you don't
4 just answer the question. Okay?

5 A. You produced an article that says cadmium
6 causes emphysema.

7 Q. Okay.

8 MR. GRIGGS: Is that the abstract, or is
9 the entire article?

10 MR. EDDY: That was the abstract. I'll be
11 glad to get the article and attach it to it as an
12 exhibit.

13 A. It has no scientific relevance to me. So
14 you can give it to the lawyer. I don't need it, this
15 article. Okay? His COPD is related to 60 packs of
16 cigarette smoking for years. That's what his COPD is
17 related to. It's not cadmium. And if I can
18 elaborate, toxic metal disease is acute exposure,
19 unmistakable; high fever. Okay?

20 BY MR. EDDY:

21 Q. You're talking about Metal Fume Fever?

22 A. Yes.

23 Q. Yeah. That's...

24 A. Okay. That's what it is.

25 Q. Are there no...

1 A. He didn't have that.

2 Q. Are there no chronic effects of exposure to
3 metal fumes?

4 A. We don't know whether metal fumes cause
5 IPF. They might well be in 10, 15 years proven that
6 they do. We don't have that evidence.

7 Q. Are you not familiar with the medical
8 literature associated metal dust and fumes with IPF?

9 A. Sure. Of course I do.

10 Q. With IPF?

11 A. You know what IPF is?

12 Q. I'm asking you, sir: Are you familiar with
13 medical literature associating exposure to metal
14 fumes or metal dust with IPF?

15 A. Of course.

16 Q. Okay.

17 A. There's intense research into this. And
18 yes, cigarette smoking, metal dust, wood dust, okay,

19 is all list as possible, possible cause of IPF. But
20 IPF is idiopathic. Nobody knows. Okay? There's an
21 area of intense research. Okay? IPF, meaning nobody
22 knows and it could be. Okay?

23 But of course, I'm very well familiar that
24 all of those things could possibly cause IPF. We
25 just don't know whether they do or don't.

1 MR. GRIGGS: Jeff, could we go off the
2 record for a second?

3 MR. EDDY: Yeah.

4 (A recess transpired.)

5 (EXH. 3, Report, Dr. Feldman, was marked
6 for identification.)

7 BY MR. EDDY:

8 Q. If I'm understanding what you've told me,
9 you would not be able to say that Mr. Dority's lung
10 condition is related to his use and inhalation from
11 the dust and fumes of silver solder, unless there was
12 something found in the lung tissue. What would need
13 to be found in the lung tissue?

14 A. Particulate matter. Particulate matter,
15 meaning...

16 Q. Like silver?

17 A. Metal, iron. Because a lot of it is iron,
18 not just necessarily inhaled iron. But those
19 particulate matter get coated in iron. Okay? You
20 can detect those. You...

21 Q. Are you talking about a ferruginous body?

22 A. Ferruginous body is asbestoses, but there's
23 a lot of different -- siderosis. Siderosis is a
24 condition of the lung that's found in a welder, okay,
25 where you find particulate matter, okay, that

1 contains some iron, whether it come from -- you know
2 that blood has iron, hemoglobin and so forth as
3 component. So they can get coated in it, but you
4 have to have a particulate matter in the lung. Not
5 necessarily silver, but some particulate matter,
6 okay, to suggest that...

7 (Cell phone interruption.)

8 A. So you have to have a particulate matter to
9 suggest that metal/welding plays some role. It's not
10 definitive, but it's hell of a lot better than
11 speculation. So any time when somebody's health says
12 welder's lung, pulmonary fibrosis, they found
13 particulate matter in the lung.

14 That's a different group of patients. Then
15 we would not be sitting here and arguing what he has.
16 Because if he doesn't have that, he has IPF. Nobody
17 knows. And what causes it is pure speculation.

18 And you're asking me to opine with medical
19 certainty what would be pure speculation. Even
20 cigarette smoking which most of the people think
21 cause IPF, nobody even knows, because maybe some
22 other factors in addition to smoking are involved.

23 Q. What does "etiology" mean?

24 A. Etiology?

25 Q. Yeah.

1 A. Etiology means what is the causation of a
2 particular disease.

3 Q. Like...

4 A. Like if you have an infection, it could be
5 viral; it could be bacteria. Etiology meaning -- you
6 have a flu, that means it was a viral.

7 Q. So cigarette smoking causes lung cancer,
8 right?

9 A. Nobody knows what causes lung cancer.
10 Okay? What we do know, that some people smoke...

11 Q. So you don't disagree that cigarette
12 smoking causes lung cancer?

13 A. It lead to the lung cancer. Okay? It's
14 one of the things that cause lung cancer, but some
15 people smoke all their life and don't get lung
16 cancer. Other smoke ten years and get lung cancer.
17 So other factors are involved. It's not just one
18 thing. Okay?

19 Q. Does -- yes or no. Does cigarette smoking
20 cause lung cancer?

21 A. One of the -- yes, cigarette smoking is one
22 of the different parameters that lead to the lung
23 cancer, yes.

24 Q. So if etiology means cause --

25 A. Right.

1 Q. -- then cigarette smoking --

2 A. Is one of the most common causes of lung
3 cancer.

4 Q. -- plays an etiologic role --

5 A. No doubt.

6 Q. -- in the development of lung cancer?

7 A. Yes. And so -- and so it seems as IPF as
8 well --

9 Q. What's that?

10 A. -- but we don't know.

11 Q. Okay.

12 A. But so it seems with IPF --

13 Q. So is what? I'm sorry.

14 A. It seems to be with IPF as well.

15 Q. Okay.

16 A. Smoking --

17 Q. Smoking causes --

18 A. -- cause IPF?

19 Q. -- also causes IPF?

20 A. Possibly.

21 Q. It plays a role?

22 A. Yes. It's one of the -- it's one of the
23 biggest.

24 Q. Okay. And occupational exposures is --
25 also plays an etiologic role in the development of

1 IPF?

2 A. Possibly, possibly, yes, possibly.

3 Q. Likely?

4 A. No, no, no. Science doesn't know. Okay?
5 And besides, what you just said, it's true. Over 20,
6 30 years, it's likely cause it. Over five and six
7 years, it's unlikely to cause it. That would be the
8 correct answer.

9 Q. So in Mr. Dority's case, all those bad,
10 pathetic, occupational exposures he had over the 35
11 years probably caused -- contributed to cause his
12 IPF?

13 A. You could say...

14 MR. GRIGGS: Object to the form.

15 A. You could say that you don't know for sure,
16 but that could have been.

17 BY MR. EDDY:

18 Q. I don't need you to tell me with 100
19 percent certainty, but --

20 A. I can't...

21 Q. -- more likely than not, 35 years of
22 that...

23 A. I cannot tell you with that degree of
24 certainty. I can tell you what science says; that it
25 could be. It doesn't say with a -- highly likely and

1 so forth. They say it could be. That's what science
2 says. I can send you multiple articles -- that's
3 exactly what it says -- if you prefer to take not my
4 word for it. Nobody says, highly likely. There's no
5 such thing in IPF. COPD, for sure. We know that
6 cigarette smoking cause IP -- COPD.

7 Q. So you do not agree that occupational
8 exposures likely play a causative role in IPF -- or
9 UIP?

10 A. I would say that science is not at the
11 stage where we know for sure. It is extensive
12 research, and it possibly does.

13 Q. You can't tell me, then, on the record here
14 that occupational exposures likely play a causative
15 role in the development of UIP?

16 A. Over many years, it's possible. Over five,
17 six years, it is not.

18 Q. I'm asking you "likely." There's a big
19 difference between likely and -- under the law,
20 anyway. Maybe you doctors don't realize it. But in
21 the law, there's a very important distinction between
22 "possible" and "likely." And I need to know
23 whether --

24 A. Likely, I cannot say that.

25 Q. -- it is your opinion that...

1 A. Possible, I can.

2 Q. You can possible, but you can't say likely?

3 A. I cannot.

4 Q. If you could say likely, then you would
5 probably say it's likely that occupational exposures
6 contributed to Mr. Dority's case, right?

7 A. It would be unscientific, because it's not
8 what IPF is.

9 Q. Well, why did you say in your report that
10 it's likely?

11 A. Where did I say "likely"?

12 Q. I'm reading from Page 3 of your report.
13 The cause of UIP is unknown to science, but
14 environmental and occupational exposures likely play
15 an etiologic role.

16 A. Yeah. But I didn't say, "likely causes."
17 Okay? I said, "likely play." That's not the same as
18 likely causes. Okay? All...

19 Q. You told me etiologic role means causation.

20 A. I'm -- I'm giving you the best possible
21 scientific explanation in year 2012.

22 Q. Did you speak with Mr. Griggs today before
23 this deposition --

24 A. I did not.

25 Q. -- about what your -- you expected your

1 testimony to be?

2 A. I did not talk to him today.

3 Q. Okay.

4 A. I did not talk him -- I did not talk to him
5 at all. I...

6 Q. You didn't discuss the -- the importance of
7 the early exposures versus the more recent exposures
8 prior to today's deposition?

9 A. I did not discuss with Mr. Griggs at all,
10 this deposition. This deposition came all of a
11 sudden. My nurse called me and told I have a
12 deposition. Okay? I said, okay.

13 Q. How much is he paying you to...

14 MR. GRIGGS: Object to the form.

15 BY MR. EDDY:

16 Q. How much have you been paid or will you be
17 paid to evaluate and conduct your IME of Mr. Dority?

18 A. I can tell you up front. My charges are
19 \$300. Okay? It's come up to four hours. And in the
20 future if I need to do something else, it'll be by an
21 hour. Okay? Whatever -- whatever you...

22 Q. 300 an hour?

23 A. Yes.

24 Q. Okay. And it took you about four hours?

25 A. Four hours, yes.

1 Q. And didn't you tell Mr. Dority, when he
2 came here, before you had even seen him, that -- or
3 evaluated him, taken any information from him, that,
4 quote, "this isn't going to fly"?

5 A. No. Absolutely not. That's ridiculous.

6 Q. You reached an opinion in this case before
7 you even started reviewing it, didn't you?

8 A. I reviewed this information about
9 Mr. Dority with a stack being that big for four
10 hours.

11 Q. Did you do pulmonary function tests when he
12 was here?

13 A. Yes.

14 Q. Were they valid?

15 A. No. He couldn't do it. As I recollect, it
16 was garbage. He didn't have enough lung capacity to
17 do it.

18 Q. Was there not something wrong with your
19 machine?

20 A. No. My machine was fine. But he couldn't
21 do it. So it wasn't a scientific evidence test, and
22 I didn't even charge him for that because it was
23 garbage.

24 Q. But even though...

25 A. My machine is brand-new.

1 Q. Even though in your report, you say
2 occupational exposures likely play an etiologic
3 causative role in UIP, today you're not going to back
4 that up?

5 A. My friend, you're asking me a question,
6 whether likely play role. That is meaning that
7 there's intense research whether it does or doesn't.
8 If you ask me what is likely caused it, okay, I don't
9 have -- absolutely no pathology report of finding
10 anything, okay; that -- that would substantiate that.
11 IPF mean idiopathic. If it would be known to man, it
12 wouldn't be called unknown to science. It would be
13 called -- even smoking is not listed as a definitive
14 cause.

15 Q. Here's what I need your help with.

16 A. Yes, sir.

17 Q. We're almost done.

18 A. Yes, sir.

19 Q. We've got a gentleman who's in his early to
20 mid 50s who can't work anymore, right?

21 A. Right.

22 Q. He's lost his health insurance. He needs
23 oxygen --

24 A. Right.

25 Q. -- okay?

1 A. Right.

2 Q. He's got a -- and the reason is because
3 he's got a severe, debilitating, lung disease?

4 A. Right.

5 Q. He's worked in occupations for 35 years
6 where he's breathed in all this horrible stuff. The
7 pathologist who -- at the hospital says this could be
8 the pneumoconiosis. The...

9 A. But he didn't...

10 Q. Let me just finish my question. The
11 material safety data sheet says that this stuff
12 causes pneumoconiosis. The treating lung doctor
13 thinks that it's a occupationally related
14 pneumoconiosis. The expert --

15 MR. GRIGGS: Object to the form.

16 BY MR. EDDY:

17 Q. -- at Harvard says that it's related to the
18 occupation. You admit in your report that
19 occupational exposures likely play a causative role
20 in UIP. And yet today, you're going to deny this man
21 compensation, given all of that -- all of those
22 factors that add up in this case? How -- help me
23 with that.

24 MR. GRIGGS: I object to the form of the
25 question.

1 A. I think that's an excellent question.

2 Okay? How can I help him? I will get him help with
3 free oxygen. I will see him for free, without ever
4 charging, if he needs my help.

5 I'm very sympathetic to this man. If he
6 comes tomorrow and says, Dr. Feldman, would you help
7 me to get oxygen, I will go myself to the company and
8 says, you know what? This man needs to be helped.
9 Let's do that. We are a community. Okay?

10 As a physician, we should not let the good
11 man to fall through the cracks. We should help him.
12 Okay? But you're asking me a question, what caused
13 IPF? It's called idiopathic. Nobody knows. Okay?

14 I'm putting in my report that science does
15 not know, okay, because it's a subject of intense
16 research, what cause it. Okay? Even smoking -- even
17 smoking, for most of the people like myself, my
18 individual opinion, smoking for sure play a role in

19 IPF. But I cannot say that, because it is not a
20 level that science has reached. Okay?

21 BY MR. EDDY:

22 Q. But in your heart, you also know that 35
23 years of that horrible stuff he breathed in also can
24 cause it, right? And science -- science doesn't
25 support it, but you know those clouds of dust that he

1 worked in for 35 years had to contribute to his lung
2 disease?

3 A. I can tell you this: It wasn't good for
4 him, okay, obviously. But he have never complained
5 on anything, and he's -- and he has the classic
6 features of UIP. Okay?

7 It would be dishonest and dishonorable for
8 me to sit here -- okay. I don't seek Mr. Griggs to
9 come here and seek my opinion. He found me. Okay?
10 I testify many, many times for the patient when I
11 know that that's what caused it. Okay? Many times.

12 If you would -- I would testify for the
13 patient ten times more than against the patient,
14 because they my patient. Okay? That's what I do.
15 Okay? I never testified in court. Okay?

16 I never been in court and testify for
17 anybody. Okay? This is not how I make a living at
18 all. Okay? This is nothing. I mean, this \$1,200 is
19 nothing, okay, in what I do. It's not like I'm a
20 professional witness that I testify today, I collect
21 money. Not at all. I maybe testify five times a
22 year, okay, for my patients primarily. Okay?

23 Q. That's what I was led to understand before
24 I got here, in talking to some of the attorneys that
25 I know.

1 A. Right. I never...

2 Q. And that's why...

3 A. I never been to court and try to profess
4 some opinion to collect money, ever, not a single
5 time. Okay? But this is a case where you have UIP
6 that's caused by only four known things to man, okay,
7 which is IPF, nobody knows; asbestosis, which he
8 doesn't have, okay; drugs, which he doesn't have.
9 And all this metal and stuff not in his lung. What
10 you expect somebody with a scientific opinion to say?
11 Okay?

12 Q. But you know one of three things that you
13 hang your hat on is the inexorable progression of the
14 disease?

15 A. Not at all.

16 Q. And he -- that's what you told me.

17 A. Not at all. I told -- I told you --

18 Q. You said pathology...

19 A. -- pathology is most important. CAT scan
20 is very, very, very important.

21 Q. You're not a pathologist, right?

22 A. I'm not a pathologist.

23 Q. You're not a radiologist, right?

24 A. I am pulmonologist.

25 Q. Okay.

1 A. I'm extremely sophisticated in reading
2 X-rays. Okay?

3 Q. Okay. But in terms of the history, in
4 terms of his clinical course, it's very -- you told
5 me right at the very beginning that it's extremely
6 important to your opinion that his clinical course
7 has shown a steady and exorable progression?

8 A. Yeah. That's a feature of IPF, yes.

9 Q. But yet it doesn't matter to you, in
10 denying this man compensation --

11 MR. GRIGGS: Object to the form.

12 BY MR. EDDY:

13 Q. -- that his lung doctor told us
14 yesterday -- and this is the man who's been treating
15 him who's been with him from day one, who's seen him
16 multiple times, testified I think this is UIP. I
17 think this is related to his occupation. Why?
18 Because he's --

19 MR. GRIGGS: Object to the form.

20 BY MR. EDDY:

21 Q. -- stable. He hasn't had that progression
22 that's so important to you.

23 MR. GRIGGS: Object to the form.

24 BY MR. EDDY:

25 Q. How does that affect your opinion?

1 A. All right. My opinion -- and I think that
2 you probably appreciate the honesty of it. It's a
3 classic for UIP -- IPF; classic. You cannot -- I
4 mean, if I have a medical student...

5 Q. It's not classic.

6 A. It is.

7 Q. It's not progressive.

8 A. It is completely classic. If I will have a
9 man -- student, medical student, to describe, I would
10 present Mr. Dority as a classic example. And I would
11 tell him, you know what? He's a smoker. For 20, 30
12 years, he was a bleacher. He was a firefighter. All
13 these factors possibly played a role.

14 Q. And how -- and the solder? You're not
15 going to leave that out, right?

16 A. And the solder, right, right; all that.
17 Yes, we don't know. There's many articles today that
18 question is IPF an environmental disease. And the

19 answer to this question, it's hard to do the study.
20 It's hard to prove. But what we do know, the
21 smoking -- smoking/environmental. Why is it that
22 smokers get it a lot more than nonsmokers? Why?
23 That's the question.

24 Q. Smoke irritates the respiratory tract,
25 right?

1 A. Well, but nonsmokers get it too. It's not
2 just...

3 Q. You don't just get smoke from cigarettes.

4 A. Majority are cigarette smokers; majority.
5 Some of them, although -- small percentage, okay --
6 it's four to one. Okay? Some of them are not.
7 Okay? So it's not just cigarettes.

8 Something else can do it too; genetics,
9 something. Okay? The science is not advanced that
10 far. Why Mr. Dority has a lung biopsy -- a majority
11 of those people never have it. So we don't really
12 have data to recover from the lung, okay, what it is.

13 Because 90 percent of the people with IPF
14 never had any lung biopsy. They diagnosed by CAT
15 scan and by history. But it's not that I resent
16 that, but it's so unfair to say that my opinions
17 somehow are money related. That's absurd.

18 Q. I just -- excuse me a minute.

19 A. You just tell this man if he ever need my
20 help, he can step in here. And I really -- and I
21 really will help him.

22 Q. And I appreciate that, and I will.

23 Let me -- let me read this to you and ask
24 you if you would agree with the way I interpret this.
25 I'm reading from the path report, and she says --

1 Dr. Adlakha, I believe --

2 A. Okay.

3 Q. -- overall features are those of a chronic,
4 fibrosing, interstitial pneumonia in the background
5 of emphysema, and is likely going to behave as UIP.
6 NSIP was in the differential diagnosis, but the areas
7 [sic] the temporal and regional variegation and young
8 fibroblastic proliferation, in addition to old
9 collagen-type fibrosis is in excess of NSIP and
10 favors UIP.

11 Similar features can also be seen with
12 collagen vascular disease, pneumoconiosis or drug
13 effect. Suggest correlation with clinical and
14 radiologic parameters. There are no features
15 suggestive of eosinophilic granuloma or
16 hypersensitivity pneumonia in the submitted tissue.

17 Doesn't sound like she's really sure what
18 ---I mean, she's not absolutely sure what it is.

19 A. She describe classic picture for IPF,
20 because UIP...

21 Q. What does a differential diagnosis mean?

22 A. Differential of IPF?

23 Q. No, no. What does "differential diagnosis"
24 mean?

25 A. What it could be.

1 Q. Okay. So she's talking about what it could
2 be, right?

3 A. Yes.

4 Q. That's why she says -- she suggests
5 clinical correlation, right?

6 A. Yes. That's all been included, pneumo...

7 Q. I'm not -- let's just look at this one
8 point in time. Okay?

9 A. Okay.

10 Q. Forget everything else you know about this
11 case.

12 A. Right.

13 Q. Okay. We're standing there at the
14 microscope with the pathologist, and she's telling
15 you this is what she says. Okay? What she says with
16 definiteness is, features are those of chronic
17 fibrosing interstitial pneumonia, correct?

18 A. Correct.

19 Q. In the background of emphysema?

20 A. Right.

21 Q. And is likely going to behave as UIP. She
22 doesn't say it's UIP. She says it's probably going
23 to behave as UIP, right?

24 A. Right.

25 Q. Okay. She -- she considers the possibility

1 of NSIP, but because of her findings, she favors UIP,
2 correct?

3 A. Right.

4 Q. Says it could also could be collagen
5 vascular disease or pneumoconiosis, correct?

6 A. Correct.

7 Q. Or drug effect?

8 A. Correct.

9 Q. And she suggests correlation with clinical
10 and parameters [sic]. What does that mean? Suggests
11 correlation with clinical parameters?

12 A. Well, if somebody has rheumatoid arthritis,
13 it could be rheumatoid arthritis.

14 Q. Okay.

15 A. If somebody received bleomycin...

16 Q. That's why Dr. Doty did all the ANA, the
17 rheumatoid, all that stuff, the serologic testing --

18 A. Right.

19 Q. -- and ruled out...

20 A. Right.

21 Q. Okay. So the pathologist and the clinician
22 are working together to try to figure out what this
23 really is, correct?

24 A. Well, rather, what it is not.

25 Q. Okay.

1 A. Because...

2 Q. Okay. That's what "rule out" means?

3 A. Right. Getting -- excluding everything
4 else. You cannot make diagnosis of IPF without
5 excluding everything else.

6 Q. And they didn't find asbestos bodies. So
7 they ruled out asbestosis?

8 A. Yes.

9 Q. One form of pneumoconiosis --

10 A. Right.

11 Q. -- correct?

12 A. Right.

13 Q. But as we know from the definition of
14 pneumoconiosis, there are other unspecified
15 pneumoconioses, right? There's the dust diseases of
16 the lungs caused by dust besides asbestosis?

17 A. Yeah. They don't cause UIP.

18 Q. Well, nonetheless, if it's a
19 pneumoconiosis, it's not a UIP, right?

20 A. It is not this, it is not this, and it is
21 not this.

22 Q. Doesn't the pathologist say, best I can
23 determine, I think this is a UIP, but it could also
24 be either collagen vascular disease or a
25 pneumoconiosis?

1 A. I think I started [sic] that from the very
2 beginning. If you bring me report from pathologist
3 who tells me that is not UIP, I may change my
4 opinion.

5 Q. Well, show me the report from a pathologist
6 who says it is UIP.

7 A. This is a classic description of UIP. What
8 she describes to me is a classic description.

9 Q. You're not a pathologist.

10 A. Yeah. But what...

11 Q. She's a pathologist.

12 A. Yeah. But what...

13 Q. She's...

14 A. She describes classic UIP. Okay? That's
15 how he do it, pathologists. That's what she
16 describes.

17 Q. But -- but her report -- I'm not asking you
18 for your interpretation at this point. I'm just
19 asking you to agree with me, the report doesn't say
20 UIP; it says chronic fibrosing interstitial pneumonia
21 with UIP pattern, correct?

22 A. (Witness reviews document.)

23 Q. Take as much time as you need.

24 A. Yes. She said UIP. Yeah, she said that.

25 Q. She said what? Read it for me.

1 A. She said UIP.

2 Q. Okay.

3 A. That's your diagnosis.

4 Q. What's that?

5 A. That's your diagnosis, UIP. Okay? See
6 where she says...

7 Q. Where?

8 A. Here.

9 Q. Okay.

10 A. Follow me. Right lung, lower lobe,
11 emphysema and chronic fibrosing interstitial
12 pneumonia with UIP pattern. That's it. That's your
13 diagnosis. UIP pattern. That's all I need from
14 pathologist.

15 I need nothing more. Okay? Once she wrote
16 that -- why is that important? Because it's not just
17 UIP pattern. There's a UIP -- other things. Okay?
18 She wrote UIP. That's it. That's your diagnosis.

19 Everything else is seen in conjunction with
20 UIP, because it's a very heterogenous disease. It's
21 not just one. There's eosinophilic areas, there's
22 some other areas superimposed with UIP. You put down
23 UIP, as she did. That's it. That's your diagnosis.
24 Okay? Comments follows the diagnosis. That's what
25 she says. That's her diagnosis. She has emphysema

1 and UIP.

2 Q. She says, please see comment, right? And
3 that's the part we read earlier, where she was saying
4 that it's likely going to behave as...

5 A. I'm not going to argue with you. You asked
6 me a question, okay, whether this diagnosis from
7 pathologist says UIP. In my opinion, it absolutely
8 does. Okay? You can ask her whether she meant it,
9 but in my opinion, as a clinician, she gave me all I
10 need. I would not even call her on the phone. Okay?
11 This is it. She made diagnosis of UIP.

12 Q. Okay.

13 A. If she change her mind, come back.

14 Q. We'll find out.

15 A. Okay. The pathology is key, in my opinion.

16 Q. The pathologist --

17 A. Pathology report.

18 Q. -- at the hospital who said it could be
19 pneumoconiosis?

20 A. That has no bearing because she can say...

21 Q. And the pathologist at Harvard who says
22 this is related to the occupation --

23 A. He...

24 Q. Despite we have two pathologists who say
25 pneumoconiosis, which, by definition, is a disease

1 that's due to dust exposure -- and the other
2 pathologist says occupationally related, and you're
3 just going to insist on disagreeing?

4 A. These were unscientific statements. You
5 have to tell me, to what? I would probably...

6 Q. How about to the solder dust that says
7 causes pneumoconiosis that we've...

8 A. It does not -- it is not a known entity in
9 UIP. Those are not. Okay? There is not associated
10 with UIP.

11 Q. What if it's not UIP?

12 A. Come back and tell me that. This is your
13 job, not mine. Your job is to bring me and tell me
14 that some pathologist says it's not UIP. I haven't
15 seen that.

16 Q. Okay.

17 A. Once it say UIP, it cannot be what they
18 said it is. It's just not clinically possible.

19 Q. Okay.

20 A. That is not possible.

21 Q. Well, we've got other discovery we need to
22 do. I think we're going to have to postpone the
23 hearing and come back.

24 A. Well, now we narrow it down to the issue.

25 MR. EDDY: Okay. All right. Very good.

1 That's all I've got. Thank you.

2 THE WITNESS: All I want from somebody to
3 drop this pneumoconiosis nonsense. Tell me what
4 exactly -- what pneumoconiosis? What? 30 years ago?
5 20 years ago? Because that cannot be Silvaloy, with
6 UIP.

7 MR. EDDY: By the way, if I seem to be
8 little agitated, I'm not. Thank you.

9 THE WITNESS: And one more time, if this
10 guy needs my help, absolutely. Okay? But I cannot
11 lie on the stand just because he is suffering.

12 MR. EDDY: I gotcha.

13 Do you have any questions?

14 MR. GRIGGS: I don't have any questions.

15 (The witness, after having been advised of
16 his right to read and sign this transcript, waives
17 that right.)

18 (The deposition concluded at 2:30 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, Kathy Zebert, Registered
3 Professional Reporter and Notary Public for the State
4 of South Carolina at large, do hereby certify that
5 the foregoing transcript is a true, accurate and
6 complete record.

7 I further certify that I am neither
8 related to nor counsel for any party to the cause
9 pending or interested in the events thereof.

10 WITNESS MY HAND, I have hereunto
11 affixed my official seal this 19th day of
12 October, 2012, at Greenville County, South Carolina.

13

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18

KATHY ZEBERT

19 REGISTERED PROFESSIONAL REPORTER

MY COMMISSION EXPIRES:

20 JANUARY 9, 2022

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25

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10 (No information was requested.)

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South Carolina Workers' Compensation Commission
W.C.C. File No.: 1023410

Michael W. Dority, *
Claimant, *
-vs- *
CTR of the Carolinas, Inc., *
Employer, *
and *
Twin City Fire Insurance *
Company, *
Carrier, *
Defendants. *

De Bene Esse Deposition of

Charlie Edward Glenn

(Taken October 29, 2012)

Appearances:

Attorney for the Claimant:

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Attorney for the Defendant
and Employer:

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Attorney at Law
872 South Pleasantburg Dr.
Greenville, SC 29607

Caption

This deposition of **Charlie Edward Glenn** was taken in the offices of Deborah Todd Court Reporting, 317 Shelby Street, Suite 6, Kingsport, Tennessee on October 29, 2012 commencing at 3:33 P.M. pursuant to Notice. The witness was duly sworn by Deborah Todd, Licensed Court Reporter and Notary Public for the State of Tennessee. Present for the taking of the deposition via speaker phone **in Charleston, South Carolina** was Jeffrey T. Eddy, Esq., Counsel for Claimant; present **in Greenville, South Carolina** was Jason Griggs, Esq., Counsel for Defendant/Employer; present **in Kingsport, Tennessee** was the witness, Mr. Glenn; and Ms. Todd, Licensed Court Reporter.

It is agreed that said deposition may be recorded electronically and transcribed to typewriting by Deborah Todd Court Reporting and the name of the witness shall be signed hereto.

It is further agreed that this deposition was taken for use at trial and for all other allowable purposes in accordance with the South Carolina Administrative Procedures Act, the South Carolina Rules of Civil Procedure and the Regulations of the South Carolina Workers' Compensation Commission.

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1 Charlie Edward Glenn, the witness, having first been
2 duly sworn, deposed as follows:

3 Direct Examination

4 By Jeffrey T. Eddy, Esq.:

5 Q. This is Jeff Eddy and, Mr. Glenn, I'm going to
6 start with the questions and then when I'm done Mr. Griggs will
7 have questions for you as well, okay?

8 A. Okay.

9 Q. Would you please state your full name for the
10 record?

11 A. Charlie Edward Glenn.

12 Q. What is your address?

13 A. 792 Vale Road, Gate City, Virginia 24251.

14 Q. All right. And what is your date of birth?

15 A. My date of birth is 10-4-55.

16 Q. Where are you presently located?

17 A. In Gate City, Virginia.

18 Q. Okay. But at the moment as you're giving this

19 testimony are you in, what is it, Kingsport, Tennessee with a court
20 reporter?

21 A. That is correct, Kingsport, Tennessee.

22 Q. Okay. So you are presently at the court reporting
23 firm of Deborah Todd in Kingsport?

24 A. That's correct.

25 Q. All right. I'm going to ask you, like I say, a

1 number of questions. If at anytime you cannot hear me or if you
2 do not understand a question would you stop me to let me know?

3 A. Correct, I will.

4 Q. All right. Thank you. And if you could please
5 make sure your responses are in words as opposed to a nod of the
6 head or -- or other nonverbal gesture the court reporter would
7 appreciate it.

8 A. Okay.

9 Q. What is your educational background?

10 A. I -- well, I've got some college. I never did
11 finish a degree, but I finished in Spartan School of Aeronautics.
12 I got a Commercial Instrument Airplane license and I done a year
13 of Environmental Science at Mountain Empire State -- or Mountain
14 Empire Community College but I didn't finish that degree. And
15 also I have a high school education.

16 Q. And where did you go to high school?

17 A. Gate City High School in Gate City, Virginia.

18 Q. And the course in Environmental Science -- is that
19 what you said, Environmental Science?

20 A. That is correct.

21 Q. And that was where?

22 A. At Mountain Empire in Big Stone Gap, Virginia.

23 Q. Okay. And what college did you attend -- was that
24 the college you attended, the Mountain Empire?

25 A. That was one of the college I -- I attended. The
26 second college was Spartan College of Aeronautics and that's...

1 Q. ...what year was it that you took the course in
2 Environmental Science?

3 A. That was I want to say '81, 1981.

4 Q. All right. Could you briefly go through your
5 employment history for us?

6 A. Well, my background is a project manager in
7 telecommunications and I've spent 15 years there. And then
8 November -- no, I take that back, February of '07 is when I went
9 to work for CTR and I worked there until November of 2011. And
10 currently I'm working at Holston Defense Army Ammunition Plant
11 as a armed security officer.

12 Q. Okay. What was the name of the company you worked
13 for before you went to work for CTR?

14 A. That company was Network Equipment Technologies,
15 NET for short, out of Redwood City, California.

16 Q. What was your job there?

17 A. My job there was a project/program manager.

18 Q. Did you work there in the area of information
19 technology?

20 A. That is correct.

21 Q. And that was for 15 years?

22 A. Yes, on and off. I worked for some other
23 companies as well like Concert which is -- I think currently now
24 it's British Telecom, and also I worked for SITA which is a
25 French-based company that done the communications for all the
26 airlines.

1 Q. Prior to going to work for CTR had you ever had
2 any jobs in the area of environmental safety?

3 A. No, sir.

4 Q. All right. I think you said that you -- the date
5 that you first went to work for CTR was in -- could you say that
6 again?

7 A. February, '07 till November, 2011, a little over
8 four years.

9 Q. All right. What job did you have when you first
10 started at CTR?

11 A. When I first started there I was hired on as a
12 technician to assist in maintaining and doing software upgrades
13 on the computer fill plants which were -- they were just automated
14 fill systems that they sold to various people throughout the
15 country and we maintained those and made sure they worked
16 properly. And I also downloaded the recipes for the industrial
17 gases.

18 Q. What's an automated fill system?

19 A. An automated fill system is where they take
20 different types of gases like nitrogen, oxygen, and different size
21 cylinders and they fill them by the pallet and you could have
22 several sides filling at one time as long as you're filling the
23 same gas. And you just operate...

24 Q. ...involved with software related design work?

25 A. Software and hardware, yes, sir.

26 Q. Was your job in the area of, what, computer...

1 A. Probably, yes, IT because they were -- they were
2 computer-based, you know, just PC's that actually automated the
3 fill system. It made it easier on the operator to just hit a touch
4 screen button to actually initiate the filling of the -- the
5 industrial gases.

6 Q. So on a daily basis what would you be doing?

7 A. Well, on a daily basis I'd usually be tweaking
8 recipes because if they weren't right -- especially if they had
9 a mix of gases and they weren't right on we would have to tweak
10 the recipes to try to make the recipe match. 'Match' being, you
11 know, 75/25, 75 percent CO2 to 25 percent argon, we had to make
12 sure the percentages matched out.

13 Q. What was your actual job title?

14 A. My actual job title was project manager.

15 Q. How long did you -- until -- I take it then that
16 your duties as project manager was in the area of information
17 technology relating to the automated fill system?

18 A. That is correct. And also I maintained the CTR
19 IT network there as well which was approximately maybe 12 to 15
20 users.

21 Q. Okay. So basically you -- you were in charge of
22 or dealing with the computer system -- IT system or department
23 there at CTR?

24 A. That is correct.

25 Q. And is that the -- your experience with network
26 equipment does that qualify or give you the qualifications that

1 were used at CTR in that -- in that position?

2 A. That's correct.

3 Q. And how long were you project manager, from

4 February, '07 until?

5 A. I was probably project manager for three years and

6 then I got promoted to IT director and then I got promoted to

7 director of Quality Control and Safety my last year there.

8 Q. So in February of 2010 you went from project

9 manager to IT director?

10 A. Give -- give or take a few months, yes, sir. I

11 don't know the exact dates because...

12 Q. And so then sometime in, what, mid 2000... -- well,

13 and then when did you go to -- into Safety?

14 A. Like I say, the last six months I was there, six

15 to eight months. Probably in the Spring of 2011.

16 Q. Okay. You last worked for CTR in November of

17 2011?

18 A. That is correct. That was when I was terminated

19 -- or actually they just did away with my position.

20 Q. Okay. So in -- in early or -- or in the Spring

21 of 2011 you go into Safety and then you leave in November of 2011?

22 A. That is correct.

23 Q. IT director, was that similar work as to the

24 project manager job?

25 A. Absolutely. It was just a change of title and

26 promotion.

1 Q. And what were your -- what was your precise title
2 up in Safety?

3 A. It was director of Quality Control and Safety/I
4 still had the IT side too.

5 Q. What were your job duties as director of Quality
6 Control and Safety?

7 A. Well, my job duties there was to make sure that
8 the final lines were inspected, pressure tested, and were safe
9 to ship out to the customers.

10 Q. What were inspected and tested?

11 A. They were pressure tested. That's where we
12 applied pressure to the finalized to make sure there was no leaks.
13 We put a solution of soapy water on all the fittings where they
14 were silver soldered to make sure they didn't, you know, bubble
15 and that would indicate a leak and then we'd have to send them
16 back to production to repair that. So we just pressured them up
17 to maybe 10 to 15 psi to make sure that the -- the silver soldered
18 welds were good and there was no leaks.

19 Q. I -- I gather that was Quality Control work?

20 A. That is correct. And in just for general
21 appearance too, you know. We would look over and make sure all
22 the copper was not tarnished and stained because they were going
23 to hospitals so they had to look, you know, sort of aesthetic
24 pleasing as well as functional.

25 Q. How did your -- your job relate to Safety?

26 A. Well, they sort of give me a quick crash course

1 into the safety portion. It just fell under the Quality
2 Control/Safety.

3 Q. What -- when you're -- you're talking about
4 workplace safety?

5 A. Yes, sir, workplace safety.

6 Q. Okay. So were you -- as -- as director of Safety
7 were you dealing with things like, oh, I don't know, hard hat,
8 safety shoes, that -- that sort of stuff?

9 A. Absolutely. Hard hat, safety shoes, safety
10 harnesses, stepladders, anything and everything that pertained
11 to safety and the safety of the employees.

12 Q. Okay. That -- that's what I was getting at. When
13 you say 'safety' then you're talking about employee safety?

14 A. Correct.

15 Q. And why was it you left in November of 2011?

16 A. I was told that my position had been terminated,
17 they done away with the position.

18 Q. So that's when you went back up to Virginia and
19 started work with your present employer?

20 A. That is correct.

21 Q. Now, I -- what is the business that CTR is engaged
22 in?

23 A. Well, they actually manufacture equipment that's
24 used in hospital final lines, they also do bulk tanks which are
25 large vessels that house the various industrial gases at different
26 types of businesses, and also they do tanker repair which is the

1 large vessels that travel on wheels where they deliver the
2 product, being oxygen, nitrogen, CO2.

3 (Off the record conversation)

4 By Mr. Eddy:

5 Q. So going back to your testimony, Mr. Glenn, it
6 sounds to me as though what you're saying is that CTR makes tank
7 or vessels of some sort that hold gases?

8 A. No, they -- they don't actually make them now.
9 They actually buy vessels that are used and old and just repair
10 the existing. And a lot of times the customer will send them in
11 for a refurb or rehab so they don't actually manufacture the
12 vessels, the large vessels. Now, they do manufacture other
13 products like the final lines. They do manufacture those from
14 scratch.

15 Q. Okay. All right. The -- but the vessels that
16 they're working on and the final lines that they're manufacturing
17 are various types of equipment used to hold gases like oxygen for
18 use in a hospital?

19 A. Correct. And final lines basically what it does
20 it regulates the oxygen from like a bulk tank and it reduces the
21 pressure going into the hospital itself for use.

22 Q. So is it like a -- a rack that would hold the oxygen
23 bottles?

24 A. No, sir, it's -- it's more like tubing and
25 regulators that stands on a stand where an operator or a technician
26 can actually install it and connect it in between the -- the large

1 vessel and/or several tanks and it regulates the oxygen that goes
2 into the patient room.

3 Q. Okay. And is that what you mean by 'final line'?

4 A. Yes, sir. They're called -- usually they're
5 called 'hospital final lines', is the term that I've always heard
6 them called.

7 Q. So a final line is not the actual tank or bottle
8 or vessel, it's the tubing and the regulators that the vessels
9 attach to?

10 A. Correct, it's in between those.

11 Q. Okay. And then going back to your previous answer
12 you mentioned that their -- they -- they manufacture or work on
13 equipment used in hospital final lines, bulk tanks, and tanker
14 repair. What -- what do you mean by 'bulk tank'?

15 A. Well now, a bulk tank is a vessel that's -- it's
16 either vertical or horizontal and it can store anywhere between
17 500 to several thousand pounds of this industrial liquid.

18 Q. And when you say 'industrial liquid' you mean gas?

19 A. Right. Some of them are gas, some of them are
20 liquid and it converts them to gases.

21 Q. And then what -- and tanker repair. What do you
22 mean by 'tanker'?

23 A. Well, like it's a tractor and trailer and it's just
24 a vertical tank on wheels. And if there's an accident or they
25 have a leak they'll bring them in for repair because they are a
26 pressure vessel as well.

1 Q. So you're referring to then a type of vessel that
2 is actually like a truck that goes down the road?

3 A. That is correct.

4 Q. Would that be a rough description of all of the
5 basic type of work that was done there at CTR when you were there?

6 A. Yes, sir.

7 Q. We leave anything out?

8 A. The only thing is now they do quite a bit of
9 manufacturing steel fabrication for, you know, to house this type
10 of -- it's mostly copper and stainless steel, the metals that are
11 used, and they do a lot of fab there to, like I say, house or hold
12 this final line assembly. And other than that that's about the
13 extent of it. Now, they do have an area where they actually paint
14 the bulk tanks and also paint the tankers for the -- the rehab
15 portion of it. It's similar to a body shop but, you know, just
16 the tankers.

17 Q. What type of facility -- and CTR is located in Rock
18 Hill?

19 A. That's correct.

20 Q. And on how big a piece of property is it located?

21 A. It's on several acres and I'm not sure the square
22 feet of the facility, maybe 30,000, just a rough guess, but it
23 can hold several tractor and trailers. And all the doors that
24 open will house -- you know, you can drive a tractor and trailer
25 through any of the -- the doors that raise. So it's rather large.

26 Q. Is it all one facility under one roof or are there

1 separate buildings?

2 A. It's all one facility under one roof.

3 Q. Are there different departments within the
4 building?

5 A. Yes, there is but the -- the building itself is
6 pretty much open space. There's not any walls with the exception
7 of maybe the paint booth. There's a wall and door, of course,
8 to keep the paint contained and then there's another small area
9 that they put tankers in occasionally that -- there's -- it's sort
10 of separated. But everything else is all open where they do the
11 bulk tank work, the manufacturing work, and then the -- the tanker
12 work and also the final lines. It's all open area.

13 Q. All right. I was trying to write all that down
14 but if you'll help me, you know, make a list again. We got bulk
15 tank?

16 A. Yeah, bulk tank. Now a lot of that work is done
17 outside. Some of the smaller tanks are moved indoors especially
18 during the winter and that's -- that's an area they -- they --
19 they weld and grind on the bulk tanks. Now, also the tankers are
20 moved in just adjacent to the bulk tanks.

21 Q. All right. Let me -- let me just first get a good
22 idea about all the various different sections underneath that one
23 roof. I'm not really concerned about the outside work.

24 A. Okay.

25 Q. We got a section where their bulk tank work is
26 done?

1 A. Correct. Manufacturing work is done.
2 Q. And then you mentioned final line?
3 A. The final lines, correct, and then you have the
4 -- the tanker work is done.
5 Q. Okay.
6 A. And also the -- you know, the storeroom or
7 stockroom where they keep all the bits and pieces to assemble this
8 is under the same -- it's very close to actually where they
9 assemble the final lines.
10 Q. Okay. And then there -- is there an office
11 section?
12 A. There is an office section and there's one door
13 that leads into that from outside in the plant.
14 Q. So is the -- is the office area separated by walls
15 from the rest of the facility?
16 A. It is.
17 Q. And I think you mentioned the paint section is also
18 walled off?

19 A. That is correct, it is separated.
20 Q. Besides the office and the paint section are there
21 any other sections that are walled off?
22 A. No, sir, except there's -- there's a small wall
23 where they do the final lines but it -- it -- it -- it's irrelevant
24 because the main section of the building is all open and nothing
25 else is really isolated or segregated.
26 Q. Is there an Electrical Department?

1 A. There is an Electrical Department which is very
2 small but now it is -- it's in the plant but it has a door that,
3 you know, they're -- it sort of -- used to be part of the old
4 offices. It -- what it looks like to me.

5 Q. Okay. And -- and so is it separated off from the
6 rest of the open area?

7 A. Yes, sir. And then there's a O2 cleaning room
8 that is -- is in the middle of the plant by itself and it has two
9 doors. It's also closed off because it has to be clean in that
10 area.

11 Q. Okay.

12 A. But they're very small rooms. They're not large
13 at all. Maybe two or 300 square feet, if that.

14 Q. You're talking about the Electrical Department
15 and the O2 cleaning room?

16 A. Yeah, and that's just a wild guess. It's not very
17 large at all. You could probably get -- in the Electrical
18 Department they have two workbenches and a -- a small other
19 workbench. You could get four people in there easy and that --
20 after that it was crowded. And the O2 room, it was a long, narrow
21 place with a Oakite solution bath. That's where they actually
22 put the copper tubing, stainless steel to O2 clean it.

23 Q. You said Oakite?

24 A. Yeah, it's called Oakite is the solution they
25 used.

26 Q. Okay. Let's talk about the final line side.

1 Where inside this large facility is the final line side situated?

2 A. Okay. If you're coming out of the main offices
3 out of the back door you'll take a left and probably take maybe
4 six steps and then take a right and it's probably 20 foot back
5 in the far left-hand and right-hand corner of the plant. And
6 that's where the final line assembly is and there's three tables
7 on one side and two on the other, so there's five tables total.
8 That was when I was there when -- you know, when I left in November.

9 Q. Okay. And so it's in a -- it's like the end of
10 the plant somewhere?

11 A. Yeah, it's off to a corner of the plant.

12 Q. Okay. And so you say there are three tables on
13 -- and then -- and then an additional two tables?

14 A. Yeah, there's like a walkway or an area where you
15 can drive a fork truck down through the middle, there's three
16 tables off to the right and then two tables off to the left.

17 Q. What are done at those tables?

18 A. ~~That's actually where they assemble the copper~~
19 using silver solder. That's the brazing area.

20 Q. Okay. So when you say 'solder,' s-o-l-d-e-r, you
21 can also use the word brazing?

22 A. Correct. That's just -- that's just the term that
23 they use when they -- they melt the two metals together, brazing.
24 But you can use, you know, various types of -- I guess for lack
25 of a better term, you can use silver solder or you can just use
26 solder which is I guess more of a lead base.

1 Q. Okay. Before we get into the -- the -- the type
2 of solder used let me make sure I understand. You mentioned five
3 tables, three and two?

4 A. Uh-huh (affirmative).

5 Q. Was brazing work done at each of the five tables?

6 A. Yes, sir. Well, one table they assembled a lot.
7 Occasionally they would braze but most -- the -- the four tables
8 definitely brazed all the time, the three on the right and then
9 there's one sort of in the back corner. And then the -- the guys
10 in the middle with that one additional table they mostly assembled
11 after the brazing was complete.

12 Q. All right. I got the impression from your prior
13 testimony that there were three tables together and then two
14 tables set apart from the other three?

15 A. That's correct.

16 **Mr. Griggs:** What other testimony?

17 **Mr. Eddy:** Was...

18 **Court Reporter:** I'm sorry, the objection?

19 **Mr. Eddy:** What's that?

20 **Mr. Griggs:** I -- I need a clarification. He said
21 'prior testimony.' I'm not aware of any prior
22 testimony.

23 **Mr. Eddy:** Prior testimony here today.

24 **Mr. Griggs:** Okay.

25 **By Mr. Eddy:**

26 Q. Mr. Glenn?

1 A. Yes, sir.

2 Q. The three tables that were together, was any of
3 the assembly work done on those tables or was that all brazing?

4 A. That's all brazing.

5 Q. And brazing -- or so -- so no assembly work done
6 on those three tables?

7 A. Well, you can say, yes, they do assemble because
8 they're assembling the copper pieces using the silver solder
9 brazing and then they would attach the final lines there and then
10 start assembling them. But now the other table they mostly done
11 -- I can't -- I think they're called 'easy fills'. That may not
12 be the proper term but that come from the manufacturing side. And
13 what they would do they would actually screw on some of the stuff
14 that had been brazed prior and they would assemble that -- that
15 piece of equipment there. But on the three tables, primarily their
16 jobs were to braze for most of the day.

17 Q. Using silver solder?

18 A. Yes, sir, brazing...

19 Q. They were soldering together tubing?

20 A. Yes, sir, copper tubing.

21 Q. And this was all in the process of manufacturing
22 the final line equipment that you say was used in -- in like
23 hospitals and facilities like that?

24 A. That is correct.

25 Q. So they were basically soldering or brazing
26 together copper tubing -- was it all copper or was there also some

1 stainless steel or other types of metal?

2 A. Yeah, 90 percent of it was copper. Occasionally

3 there'd be some stainless that would call for a special order but

4 mostly copper.

5 Q. Any other forms of metal?

6 A. Not to my knowledge.

7 Q. With respect to the solder material though was it

8 always a silver solder?

9 A. Yes, sir, always.

10 Q. Do you know what type of silver solder was used?

11 A. No, I don't know the exact name but I know that

12 it was very expensive and there was a percentage of silver in this

13 type solder.

14 Q. I'm going to mention a few brand names and see if

15 any of these ring a bell with you.

16 A. Okay.

17 Q. Have you ever heard of Silvaloy?

18 A. No, sir.

19 Q. Stay Sealed?

20 A. No, sir.

21 Q. Braze It?

22 A. No, sir.

23 Q. Safety Sealed?

24 A. No, sir.

25 Q. Silver Braze?

26 A. Now, I have heard of the Silver Braze.

1 Q. Are you familiar with what is known AWS
2 Classification BAg-7?

3 A. No, sir.

4 Q. Okay. Now, with respect to the brazing work they
5 would be doing at these tables from the final line side with silver
6 solder how did they melt the material?

7 A. Well, they actually had a torch and if I'm not
8 mistaken they used primarily oxygen and acetylene mixture and they
9 would heat the torch up to -- I'm not for sure of the degrees but
10 then they would slowly warm the copper metal up till the solder
11 ran into it -- similar to plumbing but on a higher degree and I
12 guess a lot more work, more craftsmanship.

13 Q. All right. When work would be done on the final
14 line side at these three tables generally speaking were there
15 employees at each of the three tables working simultaneously or
16 how did that work?

17 A. Yes, sir, they was all three -- they would have
18 different jobs they were working on but all three of them would
19 be working together for the most part.

20 Q. And each would be...

21 A. Soldering.

22 Q. ...soldering in their own separate brazing?

23 A. Yes, sir. They all had -- there were three
24 different work stations.

25 Q. So each -- each individual would have his own
26 torch?

1 A. That is correct.

2 Q. And his own solder?

3 A. That is correct.

4 Q. Would there be any effect in the working
5 environment when the soldering or brazing work was done?

6 A. Could you repeat that?

7 Q. Would there be any effect to the air or the work
8 environment when the brazing work was done?

9 A. Absolutely. In -- in my opinion, you know, in the
10 springtime it's not bad because they could raise those large
11 overhead doors and then they had personal fans and it kept the
12 air circulating. But now in the wintertime there was quite a bit
13 of smoke in that area.

14 Q. Well, I'm going to ask you about ventilation in
15 just a minute but what I'd like to do is focus in on the brazing
16 work and your observation, not so much your opinion but what you
17 observed. Did you -- did -- did you have occasion to -- first
18 of all, when you were working in your IT position I guess I should
19 have asked you were you in this part of the plant or various parts
20 of the plant in doing your IT work?

21 A. Daily, absolutely.

22 Q. Where would your IT work take you?

23 A. Well, it would take me all over the plant because
24 I had various routers and wireless switches in various parts of
25 the plant and I would be out there daily because the -- the area
26 is pretty dusty so a lot of times I -- the -- the electronic

1 equipment wouldn't withstand the -- I guess the harsh environment,
2 so I was out there on a regular basis either cleaning or replacing.
3 And...

4 Q. All right. And so you -- did you have occasion
5 to observe the brazing work on the final line side?

6 A. Absolutely.

7 Q. When you saw that work going on did you ever see
8 any smoke or fumes generated?

9 A. Oh, constantly. Anytime that torch is burning
10 there was -- there was probably -- I can't say if it was fumes
11 but there was definitely smoke.

12 Q. Okay. Could you see it in the air?

13 A. Oh, absolutely.

14 Q. Would it be worse if all three gentleman or
15 stations were being used simultaneously than if say one station
16 were being used?

17 A. Absolutely.

18 Q. Where would the smoke go?

19 A. It would rise up to the top of the ceiling and
20 probably hoover(sic) there maybe 15 feet above your head but there
21 was a visible cloud.

22 Q. When you say 'hoover' do you mean hover?

23 A. Yeah, exactly. Hoover, hover.

24 Q. Some of it would hang in the air in other words?

25 A. Correct.

26 Q. And you could...

1 A. I mean, it was a visible smoke cloud of some type.
2 It was there on a daily basis.

3 Q. All right. I'm going to ask you some specifics
4 about that in -- in just a moment but I'd like to refer again to
5 the work at the tables on the final line side. You talked about
6 their doing brazing work with silver solder. What other types
7 of work did they do there?

8 A. Well, once they soldered the pieces together they
9 would start assembling them and...

10 Q. Did you ever see any grinding work done there on
11 the final line side?

12 A. Occasionally, yes, they would. When they
13 actually got a little excess of the silver solder on the copper
14 they try to, you know, clean it up and make it look neat. And
15 that's where -- that's where we would actually do the testing as
16 well once the final assembly -- once they soldered it all up and
17 got the final line ready to ship we would actually do the test
18 right there at the bench.

19 Q. That was the Quality Control working we were
20 talking about in there?

21 A. That -- that is correct, yes.

22 Q. Okay. And what kind of a grinder would they use
23 in order to get off the excess solder?

24 A. Was just a -- a small pneumatic grinder. It was
25 either a -- a side grinder being the hard -- you know, hard type
26 of grinder blade or it was a small, thin type of grinder is what

1 I remember.

2 Q. Okay. And how was that powered?

3 A. It was powered by pneumatics.

4 Q. And is that air?

5 A. Correct, air.

6 Q. Okay. All right. And when the grinding of the

7 excess solder from the copper tubing would take place would that

8 create any effect to the -- the working environment?

9 A. Well, there would be definitely, you know, some

10 sparks. So anywhere there's sparks there's probably going to be

11 some smoke so I'm sure it added to the -- the cloud.

12 Q. Did it create any dust or fumes?

13 A. Oh, absolutely a lot of dust.

14 Q. Okay. A little while ago you said something about

15 your electrical equipment in the harsh environment. What -- I

16 didn't follow that. Could you tell me what you meant by that?

17 A. Well, it's just, you know, the electronics are

18 pretty sensitive to dust and moisture. And it seemed to be the

19 dust being the primary that really affected the most and it would

20 get so bad sometimes it would just short it out because I would

21 imagine some of the metal grinding, shaving -- this is just my

22 personal assumption, that that's what caused the electronic

23 components to short out or have such a short life...

24 Q. But you never -- when you were doing your IT work

25 I assume that's when you would be using this electrical equipment?

26 A. That is correct.

1 Q. Did you ever leave that equipment out in say the
2 area of the final line side?

3 A. Yes. Shortly before I left we were installing
4 some work clocks and they were very close to some of the areas
5 where the final lines work was done. And also I had a router that
6 was above the O2 room which was very close and it -- it was even
7 in an enclosure and it was very close to the final line work area
8 and it -- it was, you know, covered in dust constantly. And I'm...

9 Q. Did you ever take -- take steps to try to protect
10 that equipment from the dust?

11 A. I did and it is pretty tough because, you know,
12 some of the equipment would heat up so if you sealed it or contained
13 it it would shorten the life even more. So it was easier just
14 to blow it out with some nitrogen and clean it on a regular basis.

15 Q. Did you ever cover it with -- the electrical
16 equipment with anything to try to keep the dust out?

17 A. Yeah, we -- some of the electrical equipment we'd
18 try to wrap in plastic and keep it covered and, you know, out of
19 the elements but the dust was...

20 Q. I'm going to come back to the final line side in
21 just a moment but I'd like to move on to some of these other areas
22 in the -- in the building that you talked about. You say that
23 there was a bulk tank area. What was done there?

24 A. Well, it's similar to a repair shop if you've ever
25 been in one of those. They actually do a lot of grinding and
26 sanding to get the -- I guess to get the tank down to where they

1 could actually repaint it. And if there was...

2 Q. Where was the bulk tank work done in proximity or
3 in relationship to the final line side?

4 A. Right beside -- well, it was probably maybe 80 to
5 90 feet on the other end of the building or adjacent to the final
6 line, so all this was pretty close in -- in proximity to each other.
7 Now, the bulk tanks and the final line were done more or less side
8 by side. There was no wall between them and there was a lot of
9 sanding and grinding and cutting on -- on both sometimes.

10 Q. Was welding work done in the bulk tank side?

11 A. That is correct.

12 Q. Okay. And so earlier you -- when I said
13 'manufacturing bulk tanks' you corrected me and -- and said that
14 they actually worked on bulk tanks that were sent in by some vendor
15 of some sort?

16 A. Correct. And what they do is they repair them.
17 It would usually either be our products or -- their tanks would
18 need to be repaired because it's cheaper to repair them than it
19 is to buy a new tank. And typically what a repair -- on a repair
20 what they will do is they will strip all the plumbing on the outside
21 which primarily on all your bulk tanks -- now this is stainless
22 steel so that's a different type of metal and a different type
23 of weld. But there's welding done right next door to that in the
24 fab shop.

25 Q. Okay. We'll talk about that in a minute but let's
26 stick with the bulk tank area. The -- why was welding work being

1 -- needed to be done?

2 A. Well, that's -- the tubing on the outside of a tank
3 where some of the regulators and gauges are would be damaged or
4 old and they would replace all the plumbing on that and they would
5 have to, of course, grind it and, you know, do the -- the welding
6 and/or brazing there, whichever the case may be on the type of
7 tank.

8 Q. All right. What kind of grinders were used?

9 A. The same except a little larger. Side grinders
10 with, you know, the pneumatic air with the thin sanding weld.

11 Q. Well, you mentioning sanding earlier. Is that
12 different from grinding?

13 A. No, sir, it's basically the same. A grinder is
14 just a more thick or -- a bigger grain of abrasive.

15 Q. What would they be grinding? I'm sorry.

16 A. Well, usually they'd have to grind maybe some
17 steel of the tubing. These grinders are -- you know, they're very
18 -- they're an industrial grinder and they will cut metal.

19 Q. All right. When the welding, grinding, sanding,
20 cutting was done in the bulk tank area did that cause any effect
21 in the working environment?

22 A. Oh, absolutely.

23 Q. What was that effect?

24 A. The same effect as over in the final line area.
25 You know, there'd be lots of smoke, it'd just be a different color.
26 It may be black some days and white other days but there was still

1 smoke over there.

2 Q. What about dust?

3 A. Same from the sanding and the grinding.

4 Q. And -- okay.

5 A. Yeah, the -- the dust and the smoke was more or
6 less plant-wide depending on how much or how many people you had
7 working on that given day.

8 Q. And depending upon the time of the year?

9 A. Absolutely. The time of year was the main factor.

10 Q. And why is that?

11 A. Well, because of the ventilation and in the
12 summertime they could open all the doors. And these doors are
13 very large like I stated earlier that you could drive a tractor
14 and trailer in through these doors. And at that point, you know,
15 it'd cause a good cross breeze and blow most of the smoke out.
16 It was still dusty but not as bad.

17 Q. In the winter were the doors closed?

18 A. Yes, sir.

19 Q. All right. Before I get too much into the
20 ventilation aspect of things let me finish with the various
21 sections of -- of the building. You mentioned this fab shop. Is
22 that different from the bulk tank shop?

23 A. Yes, it is because now in the fab shop they -- they
24 actually do stick welding. 'Stick welding' would be, they -- they
25 weld carbon steel. So the heat has to be higher and there's a
26 molt rod that actually gets the -- burns the steel together and

1 it -- it generates quite a bit of smoke, the welding. And they
2 also use a plasma torch to cut some of the materials which
3 generates a tremendous amount of smoke.

4 Q. And was any grinding work done in the fab shop?

5 A. Lots of grinding. Probably more so than anywhere
6 else in the shop to, you know...

7 Q. What -- why was grinding work necessary in the fab
8 shop?

9 A. Well, to dress up their welds. A lot of times our
10 welds would be too high in the corners and they would grind it
11 down. Then, of course, you know, once you painted it it'd be a
12 smoother finished product.

13 Q. You mentioned smoke in the fab shop. Was there
14 dust generated in the fab shop?

15 A. Absolutely from the grinding.

16 Q. Where was the fab shop in relationship to the final
17 line shop?

18 A. There was a small wall in between the fab shop and
19 the final line shop but it was -- the wall is irrelevant because
20 if you walk just around the wall it's all open space again so it
21 couldn't have been more than 100 feet, maybe 80 feet.

22 Q. So did -- did the wall between the fab shop and
23 the final line side prevent airborne dust or fumes from going from
24 one part of the plant to the other?

25 A. No, sir, it was just a half wall and you could walk
26 around it. So the fumes and the dust and the smoke would travel

1 throughout the entire facility.

2 Q. All right. You mentioned a manufacturing...

3 A. Yeah, that's what they call it, actually fab or
4 manufacturing. That's where they actually make like the frames
5 for the computer field. They would actually hang the regulators
6 on it and also the final line there would be some steel in that
7 and/or aluminum and that's where the fab shop they actually make
8 the various bits and pieces to put all this stuff together so...

9 Q. Okay. So when you said 'manufacturing work
10 section' that's the same thing as the fab shop?

11 A. Correct.

12 Q. All right. And then you mentioned the tanker work
13 was done in a separate section?

14 A. Well, it's not really a separate section, it's a
15 separate area I should say. It's still open and it's right beside
16 the fab shop and the bulk tank shop.

17 Q. Okay. And what was done there, work on these
18 tankers that would be off-the-road -- on-the-road tankers?

19 A. Exactly, and if there was problems with it, they
20 had a leak or they were damaged in an accident, whatever needed
21 to be done, it was more or less like a body shop for those type
22 of vessels but they were part of a -- you know, the I guess
23 mobile-type industrial gases, they were the ones that delivered.
24 They were just tankers on wheels.

25 Q. Was welding done in this tank -- tank section?

26 A. Yes.

1 Q. Okay. What about grinding?

2 A. Yes.

3 Q. And were the same effects created there as -- as

4 in other parts of the company you've told us about where that work

5 was done?

6 A. Absolutely. That'd be smoke and dust because

7 they basically done the same thing, you know, with the welding

8 and grinding depending on what type of welding they were doing

9 that particular day. Most of these tankers they -- you have to

10 do the -- the stainless steel welding and I think it's TIG welding,

11 if I'm not mistaken. There's a TIG and a MIG. One is for aluminum

12 and one is for stainless steel and they done both, stainless and

13 aluminum.

14 Q. All right. So would it be fair to say that

15 depending upon one -- what part of the plant you might be in there

16 was brazing, welding, grinding, sanding, cutting type of work done

17 throughout this facility?

18 A. Absolutely.

19 Q. And would it be accurate to say that as a result

20 of that type of work that fumes with smoke and dust was created

21 throughout the facility?

22 A. Absolutely.

23 Q. What kind of ventilation did they have?

24 A. Well, the best type of ventilation they have was

25 the summertime with the main doors open. But now they did have,

26 for lack of a better term -- I don't think they're called 'ceiling

1 fans' but they were positioned at the end of the building. Now,
2 it wasn't at all ends of the building. There was one fan over
3 in the final line shop, there was one over in the bulk tank, and
4 then one over in the tanker. And then they had two fans that
5 exhausted out the roof.

6 Q. All right. Let me -- let me make sure I got a
7 comprehensive list here of what you talked about. You told me
8 about the -- the like garage-type doors that you could drive a
9 truck through?

10 A. Uh-huh (affirmative).

11 Q. How many doors were there like that?

12 A. Six.

13 Q. Were any of them in the final line side?

14 A. There was one real close to the final line side
15 and the rest of them were a pretty good distance away.

16 Q. Okay. So we got garage doors, then we have what
17 kind of -- you -- you mentioned exhaust fans?

18 ~~A. Yeah, there were large -- large exhaust fans that~~
19 were mounted up close to the ceiling but they were not exhaust
20 fans that actually exhaust smoke and fumes out the roof, they took
21 them out the side. They were large, large fans.

22 Q. But did -- did -- when you say 'out the side' you
23 mean they -- they...

24 A. It -- it was open and they just had louvers on them.
25 And once they turn them on those louvers would open and help pull
26 out some of the smoke and fumes.

1 Q. So they were in the exterior wall of the plant?

2 A. Exterior and interior. They were sort of in

3 between, you know, the in and the out, if that makes any sense.

4 Q. I'm not really following you.

5 A. Okay. They were flush on the outside of the plant

6 but when you turned the fans on it would have some automatic

7 louvers that would open up. Are you familiar with an attic fan?

8 Q. Yes.

9 A. Okay. It's the same principle just on a larger

10 scale.

11 Q. But they were not in the roof?

12 A. No, sir, they were not in the roof. They were

13 mounted horizontal, not vertical, and there was -- there was...

14 Q. Okay. And where were they mounted horizontally?

15 A. One of them was -- well, most of them was right

16 above the -- the main doors, the garage doors.

17 Q. Okay. And how many of these exhaust fans were

18 there?

19 A. There was one over on the final line side and then

20 there was one over on the bulk tank side and then one over on the

21 tanker side. And there -- there was only -- the -- only two of

22 them that worked.

23 Q. Okay. I gather then there were three, two of them

24 that worked?

25 A. Correct.

26 Q. Which two worked?

1 A. There was one above the final line side worked and
2 then one back over where the bulk tank worked and that was the
3 only two that worked. And then there was two ceiling fans that
4 should have exhausted smoke out the top of the roof and one of
5 those the motor was about burnt out and the other one didn't work.

6 Q. I -- I'm sorry, you broke up there. One of them
7 didn't work and what was the -- what did you say about the other
8 one?

9 A. Yeah. The electricians checked it and the motor
10 was burnt out.

11 Q. Did either of the ceiling fans work?

12 A. Just -- well, the -- the two ceiling fans worked
13 but I don't think efficiently. The electricians were telling me
14 that they needed a bigger motor to -- to -- to turn the fans faster.
15 They -- they were very old. It was just like a large electrical
16 motor with a fan belt and the fan blades were I guess from the
17 end of the motor to the tip of the blade probably maybe three foot,
18 give or take, and then I think it had four or five blades.

19 Q. All right. Do you know Michael Dority?

20 A. Yes, I do.

21 Q. How do you know Michael Dority?

22 A. Through work. He was in...

23 Q. CTR?

24 A. Yes, he was an employee at CTR when I was there.

25 Q. Okay. According to the personnel records Mr.

26 Dority went to work for CTR on July the 9th, 2007. Were you working

1 there at that time?

2 A. Yes.

3 Q. Yeah, I think according...

4 A. Yes, I was because I went to work in February, '07.

5 He came to work after me.

6 Q. Is that when you first met Mr. Dority?

7 A. Shortly after, July, August, yeah. It wasn't

8 long because it was a small company, you know, maybe 60 employees

9 I want to say, give or take.

10 Q. Okay. So but you met him through work at CTR?

11 A. That is correct.

12 Q. And where do you recall him working first -- first

13 off?

14 A. Well, when he first started he was working over

15 in the final line area as a brazer or solderer.

16 Q. He was working on -- on the final line side?

17 A. That is correct.

18 Q. And he was a brazer?

19 A. That's correct.

20 Q. And (inaudible).

21 **Court Reporter:** Excuse me?

22 **Mr. Eddy:** Yes?

23 **Court Reporter:** Would you start that question again?

24 There was some dialing sound on the phone.

25 **Mr. Griggs:** Yeah, that's what I...

26 **Mr. Eddy:** Jason, are you still with us?

1 **Mr. Griggs:** Yeah, I'm here but that's what I keep
2 hearing also.

3 **By Mr. Eddy:**

4 Q. Okay. All right. Mr. Glenn, we were talking
5 about Michael Dority and his work at CTR when he first went to
6 work there and you told me you recall -- first recall him working
7 on the final line side as a brazer. And my question to you is,
8 do you know whether they referred to those people as fabricators?

9 A. You know, I can't answer that. I'm not for sure
10 what their job description was but it --...

11 Q. Okay.

12 A. ...it could be.

13 Q. All right. I'm was just looking -- I just got that
14 off of personnel records. In any event, you remember him coming
15 to work there on the final line side sometime in the Summer of
16 2007?

17 A. That is correct.

18 Q. What do you remember as far as what he did, what
19 his job duties required of him?

20 A. Well, he was over in the hospital final lines and
21 all he done was brazed and soldered all day long...

22 Q. He...

23 A. ...and assembled.

24 Q. I -- I'm sorry, say that again.

25 A. And assembled the -- the final line product once
26 the brazing was completed.

1 Q. All right.

2 A. And also he would, you know, of course, if there
3 was any grinding he had to clean up, that was -- that was part
4 of it as well.

5 Q. Okay. You -- I -- I -- you mentioned brazing,
6 assembling, grinding, and I thought you said sort?

7 A. Soldering.

8 Q. Oh, soldering.

9 A. Yeah, soldering, soldering(pronounces).
10 That...

11 Q. I'm sorry, this -- doing this over the telephone
12 is not optimal. Okay. So he did -- when we say -- when you say
13 'soldering' is that any different than brazing?

14 A. No, sir, you still use the same elements. You
15 have the torch and then you have the oxygen and acetylene. It's
16 just a different type of metal they're using but 90 -- like I stated
17 earlier, 90 percent of the time or 95 percent of the time they
18 used the silver solder.

19 Q. Do you know what that silver solder consisted of?

20 A. No, sir, I -- I do not. I know it's similar, you
21 know, to the -- the solder that you buy in the hardware store here
22 but it -- it has silver as opposed to a cheaper base of metal or
23 soft metal.

24 Q. Did Mr. Dority when he worked on the final line
25 side do anything other than braze and solder?

26 A. No, sir.

1 Q. Other than the assembling and the grinding that
2 you talked about there at his station?

3 A. That is correct. That's all he done.

4 Q. Do you recall which one of those tables he worked
5 at?

6 A. He was in the middle table the best of my
7 recollection. He was in between the two -- three -- of the three
8 tables he was in the middle.

9 Q. Okay. And so when he was -- when his job was on
10 the final line side he worked at the middle table doing the
11 brazing, assembling, grinding work and that was -- that was all
12 he did?

13 A. Yes. That was all he did while I was there and
14 he -- I'm not for sure how long he done it but it was quite awhile
15 until they moved him into the electrical shop when it slowed down
16 a bit. And I -- I don't know the exact dates there. I just
17 remember...

18 Q. Okay. That's all right but let's stick with final
19 line for the moment if we might.

20 A. Certainly.

21 Q. Okay. So he -- he goes to work for CTR on the final
22 line side in the Summer of 2007 and at least according to the
23 information that we have in this case he would have been working
24 there into the Winter of 2007 and 2008. What was -- if you would,
25 describe for us what the atmospheric conditions on the final line
26 side would have been in the Winter of 2007, 2008.

1 A. Well, it would have been cool and smoky and dusty.

2 Q. Well, you talked about these garage doors and fans

3 and ceiling fans...

4 A. But they...

5 Q. What would have been going on with that -- with

6 the fans and the doors in the Winter of 2007 and 2008?

7 A. Well see, in the wintertime they keep the doors

8 closed to retain what little heat they have. They have some gas

9 heaters that are probably maybe 12 foot -- 12 to 15 foot high on

10 posts that's out in the plant and they don't burn them all the

11 time so it stays a bit cool in there. And definitely they do not

12 turn on the -- the fans to draw the -- the smoke out because it

13 pulls the -- the warm air out as well.

14 Q. When -- when you say that you're referring to which

15 fans that you told us about already?

16 A. The -- the large fans that's in the building over

17 the garage door that -- normally exhaust fans is all they're good

18 for.

19 Q. Yeah, you -- you mentioned there were three of them

20 and -- and only two of them worked?

21 A. Correct.

22 Q. Are those the fans you're talking about they would

23 not turn on during the winter?

24 A. Exactly.

25 Q. What about the ceiling fans you referred to

26 earlier? Did they use or turn those fans on during the winter?

1 A. There was one that ran all the time but it ran very,
2 very slow and it wasn't large enough to handle the capacity of
3 smoke in my opinion.

4 Q. Well, those were the fans and you told us about
5 you said one didn't work...

6 A. It...

7 Q. ...and another the -- the motor had a problem...

8 A. Exactly, and that's the one -- and they're much
9 smaller than the -- the fans that are on the end of the buildings.
10 They're much smaller.

11 Q. So if you would, please, describe for us what you
12 observed with respect to the air in the plant during the Winter
13 of 2007 and 2008 particularly as it relates to the final line side.

14 A. Well, again, it depends on how many people were
15 working. Say if you had a full workload say three to four people
16 working over there there would be a visible cloud most of the day
17 unless they opened a door and then that cloud would come back very
18 quickly once the door was shut and they started resuming work.

19 It was pretty much constant in the wintertime. It was a given
20 that there was lots of dust and smoke out in the plant just about
21 all the time.

22 Q. Would it -- would it -- how would that -- how would
23 the look of the air in the winter compare with the look of the
24 air in the summer?

25 A. It'd be pretty hazy most of the time in the winter
26 and in the summertime, you know, it wasn't -- it wasn't too bad.

1 It was pretty clear with the exception of, you know, occasional
2 dust or wind come up would blow, you know, some of the dust around
3 in the plant off the shop floor, you know, from the grinding and,
4 you know, they tried to keep it swept up. It's almost impossible
5 to, you know, sweep up, you know, metal shavings and grindings
6 especially when you're working all day. Usually they didn't
7 clean up till the evening.

8 Q. Were there floor fans?

9 A. There were a few personal floor fans but they
10 couldn't turn them directly on them because I was told that it
11 would affect the temperature and the brazing, the silver solder
12 how it adheres to the copper itself.

13 Q. All right. But with -- with -- without regard to
14 why they wouldn't turn those fans directly onto them did you
15 observe the floor fans?

16 A. I did.

17 Q. Did you observe how the floor fans would be used
18 when they would be doing the brazing work. In other words, the
19 direction they would have them pointed?

20 A. Yeah, it was typically away from them. I never
21 -- I never seen it, you know, placed on them when they were brazing
22 because it -- it...

23 Q. Did the floor fans alleviate the -- the cloud in
24 the air?

25 A. Well, in the summertime it -- it would help but
26 it would not alleviate because a majority of the brazers that I

1 observed, you know, they had to be pretty close to their work and
2 you really -- you couldn't do that type of work if it was in a
3 windy or an extremely windy condition. It just -- it would cool
4 the metal to an extreme where you wouldn't be able to get the silver
5 solder to adhere to the copper without having leaks. I'm not an
6 expert but that's what I've been told.

7 Q. Okay. Now, was respiratory protection, dust
8 masks, respirators, anything of that nature used by people like
9 Mr. Dority working on the final line side?

10 A. No. Now, they did have dust masks available and
11 the only person that I observed ever wearing a mask was the
12 painter, a respirator.

13 Q. Okay. What about Mr. Dority? Did you ever see
14 him wear a mask or a respirator?

15 A. No, sir.

16 Q. When Mr. Dority worked on the final line side doing
17 brazing did you ever have occasion to see him suffer any coughing
18 spell?

19 A. I'm sure I have. As much as I'm out in the plant
20 occasionally I would even cough and I'm sure that I have, I just
21 -- I just don't remember him having a -- a bad spell. But now,
22 just about everybody out there every now and then you would cough.

23 Q. Did you ever have occasion where you would cough
24 when you were in the -- the dust and fumes from the -- the brazing
25 work and have to go out and get fresh air?

26 A. Absolutely and my eyes would burn on occasions as

1 well even though I did have safety glasses on. It would -- the
2 -- the smoke would still irritate them.

3 Q. Do you recall people who would be doing the brazing
4 work on those stations on the final line side ever having to go
5 get fresh air as a result of coughing from the fumes and dust with
6 the soldering work?

7 A. No, sir, because they -- they were pretty strict
8 there. They would only give them, you know, the break in the
9 morning and the break in the afternoon.

10 Mr. Griggs: I have an objection to the form of that
11 question.

12 The Witness: Okay.

13 By the Witness:

14 A. Now, if they were sick I'm sure they could, you
15 know, go. That wouldn't be a problem but I never did observe them
16 leaving their work area.

17 Q. Okay. Were there vacuum pumps on the tanker
18 trucks?

19 A. There were vacuum pumps on the tanker trucks on
20 occasions and also the bulk tank as well.

21 Q. What is that?

22 A. Well, what it does is they have to have a certain
23 level of vacuum pull on these vessels to make sure they're -- most
24 of them are double lined and to ensure that there's a total vacuum
25 on the inside of those sealers they will suck what gases or air
26 that's in there out and it just -- it -- it pulls a complete vacuum.

1 And they're just small pumps that are portable and they connect
2 to one of the tubes that go into that inner vessel and pull the
3 vacuum. And once the vacuum is pulled they monitor it I think
4 for 24 hours to make sure it doesn't leak.

5 Q. Do you recall Mr. Dority at some point going to
6 work in the Electrical Department?

7 A. Yes, sir, I do.

8 Q. Do you remember when that was?

9 A. No, I don't have a recollection of that. I -- I
10 do know -- I want to say it was close to the -- it was close to
11 the end of my tenure there. I -- I don't know exactly what dates
12 or how long he worked in Electrical Department but I think it was
13 short.

14 Q. Okay. He -- he last worked at CTR in September
15 of 2010. Is it your recollection that when he last worked for
16 CTR he was working out of the Electrical Department?

17 A. I -- I think he was. I'm pretty sure he was.

18 Q. Okay. Can you give me a year as to when you
19 believe he went from final line to electrical?

20 A. No, sir, I -- I cannot.

21 Q. Is it your recollection that most of his time was
22 spent on the final line side?

23 A. In my opinion, yes, it would have been.

24 Q. Now, what do you recall him doing as an employee
25 out of the Electrical Department?

26 A. Well, they have control panels that they have

1 various relays and switches and timers. And what he would do,
2 he would assemble these control panels. And there was some other
3 ones that I weren't too familiar with. They were explosion-proof
4 boxes. They were extremely heavy and they had to do some
5 electrical work on those as well.

6 Q. And where would he assemble the control panel?

7 A. He would assemble -- they would do the control
8 panel inside the electrical shop but they would move it outside
9 the electrical shop to mount it on the stand and actually test
10 it.

11 Q. And where would the mounting and testing be done?

12 A. Out in the main plant area.

13 Q. What part of the main plant area?

14 A. Well, it was in close proximity -- maybe 80, 90
15 feet from the final line area. You could see it from the
16 electrical shop easily and you could make out who was standing
17 over there, so it wasn't -- wasn't very far.

18 Q. Do -- do you recall whether Mr. Dority ever had
19 to go to the final line side to do work when he was...

20 A. Oh, absolutely. Occasionally they had to because
21 there was a piece of equipment that they would have to go over
22 there and make adjustments to, that was part of their job. I'm
23 not sure what that piece of equipment was but they would, you know,
24 have to -- it was electrical and they would have to make an
25 adjustment where it turned on and off.

26 Q. This is when he was...

1 A. The electrician.

2 Q. ...assigned to the Electrical Department?

3 A. That is correct.

4 Q. Do you recall approximately how often he would
5 have to be over on the final line side?

6 A. I -- I couldn't say because, you know, like I say,
7 I was in and out. I had an office up front so I would see him
8 over there on -- on maybe once, twice, maybe more a week depending
9 on if I was there or not.

10 Q. Do you recall approximately how often he would
11 have to leave the actual electrical shop to -- to do work in the
12 main plant area?

13 A. I'm -- I'm sure several times a day.

14 Q. Can you give me an approximate percentage
15 breakdown between how much of his time would be spent actually
16 in the shop itself as opposed to out in the main plant area?

17 A. Percentage-wise he probably spent maybe 60
18 percent in the electrical shop and the other 40 percent out in
19 the plant.

20 Q. Can you put a percentage on the amount of time
21 spent over on the final line side?

22 A. Oh, the final line side I -- no, again, I cannot
23 because there was probably times I'm sure he went over there to
24 do electrical work that I -- I didn't see or I wasn't available.
25 I -- I wouldn't feel comfortable doing that.

26 Q. Okay. But with respect to respiratory

1 protection, masks or respirators or any sort of respiratory
2 protection, whether he was working on the final line side or out
3 of the Electrical Department do you recall Mr. Dority ever wearing
4 respiratory protection?

5 A. No, sir.

6 Q. Do you recall there being any safety rule
7 requiring the use of respiratory protection?

8 A. No, sir.

9 Q. So then the only use of respiratory protection
10 that you recall when you were at CTR was when someone would be
11 working in the painter's booth?

12 A. That's correct.

13 Q. Did CTR have exhaust hoods anywhere in the plant?

14 A. No, sir.

15 Q. Do you know what I'm -- I -- what I mean when I
16 refer to 'exhaust hoods'?

17 A. I do because I -- in vocational school -- many
18 years ago I took two years of welding and that was the first time
19 that I was introduced to a -- a hood and it's -- it's an exhaust
20 fan. It's specifically made for welding and removing the fumes.

21 Q. And have you seen that -- have you ever seen the
22 use of hoods in the context of brazing work?

23 A. No, sir, I have not.

24 Q. Have you ever seen brazing work done other than
25 at CTR?

26 A. Well, I actually done some in welding school and

1 -- but we -- of course, we had the hoods and we used them there
2 but I haven't seen brazing outside of that on the industrial side.

3 Q. Besides CTR?

4 A. Correct.

5 Q. And the brazing work that you did at vocational
6 school you had hoods there?

7 A. That is correct.

8 Q. Now, when you became the safety director did your
9 job ever deal with the ventilation in the plant?

10 A. Yes, it did.

11 Q. What did -- how did that happen? I mean, what was
12 that? What involvement did you have with the subject of
13 ventilation as safety director?

14 A. Well, there was -- of course, when I got complaints
15 about the air quality I approached management, you know, and they
16 said, "Well, get the electricians to look at the fans," which we
17 did on numerous occasions and nothing ever became of it. I was
18 always told, "Well, we'll try to work it in the budget..."

19 ~~Mr. Griggs: I'm going to object---object to form.~~

20 He's speculating with hearsay here.

21 **Mr. Eddy:** Your objection is noted. Please continue,
22 sir.

23 **By the Witness:**

24 A. And what they said was, you know, "It's not in the
25 budget this year. We'll worry about the motors next year." But
26 now, there was some other complaints that I got from numerous

1 people was from the vacuum pumps and I was able to -- to -- to
2 fix that problem but that was the only problem I got done with
3 air quality.

4 Q. What sort of complaints did you receive about air
5 quality when you were safety director?

6 A. The -- the smoke. The smoke and the fumes were
7 awful.

8 Q. And how many would you say you fielded as safety
9 director while you were there?

10 A. I probably got a total of three or four but, you
11 know, when I went out and done a visual in the plant it -- it was
12 -- it was bad, bad enough to where I would have to open the door
13 in the wintertime to get fresh air in.

14 Q. Were the conditions ever like that when Mr. Dority
15 worked there?

16 A. Oh, absolutely I'm sure.

17 Q. Did Mr. Dority ever complain about the air quality
18 to your knowledge?

19 A. Not to me he didn't, no, sir.

20 Q. Prior to becoming safety director do you recall
21 anyone lodging complaints about air quality?

22 A. Not to my knowledge.

23 Q. Of course, at that -- prior to coming -- becoming
24 safety director that wasn't really your job to -- to deal with
25 complaints, was it?

26 A. No, sir.

1 Q. Were you -- as safety director were you given a
2 budget to use toward the maintenance or improvement of the
3 ventilation systems in the plant?

4 A. No, sir.

5 Q. Do you know whether any money was budgeted for --
6 for ventilation when -- when you were at the plant whether it was
7 in IT or Safety?

8 A. No, sir, not to my knowledge.

9 Q. And I'd like to understand a little bit better when
10 you told me about the ceiling fans. I think you told me there
11 were two of them?

12 A. Correct.

13 Q. And where were they located?

14 A. They were located pretty much in the center of all
15 the -- the works. And to me they were -- they looked like exhaust
16 fans because they were straight to the outside, then they had a
17 little canopy on them from the outside and -- but they were very
18 small in nature. They were not really much bigger than, you know,
19 a personal fan. It may have been maybe six inches larger than
20 those from my recollection. But one of them didn't work and the
21 other one was very slow.

22 Q. When you say 'one of them didn't work' and then
23 one of them 'was very slow' can you elaborate on that because my
24 confusion is when you say 'one of them didn't work' do you mean
25 it just didn't work at all or...

26 A. It didn't. It...

1 Q. ...it was slow and inadequate?

2 A. It did not work at all. And I was told it was the
3 electrical motor needs to be replaced. And that was the case with
4 most of the -- the fans, exhaust fans, and I guess they're called
5 ceiling fans or vent fans.

6 Q. Right. You mean the other three that you told us
7 about?

8 A. Correct. They were all motor-related.

9 Q. And all of them had problems?

10 A. With the exception of the two. They worked fine.

11 Q. Which -- which two?

12 A. That's the one that was in the final line area and
13 then the one down in the bulk tank area.

14 Q. Okay. But I think you told us in the
15 wintertime...

16 A. They did not turn them on, correct, unless the
17 smoke become unbearable and they were turned on just briefly to
18 pull it out and then turn it off.

19 Q. Well, who would determine whether or not the smoke
20 was unbearable?

21 A. Well, usually the individuals that were out in the
22 plant. A lot of times they wouldn't come and get me, they would
23 just turn it on briefly and then turn it off because most of the
24 people complained when they turned it on, it got too cold.

25 Q. And how was the plant heated?

26 A. By natural gas.

1 Q. Why wouldn't they just turn up the heat and turn
2 on the fans to keep the air clean?

3 A. Well, they were concerned a bit about the natural
4 gas bill from time to time.

5 Q. So in order to save money on heat they allowed a
6 -- a cloud to float in the air?

7 A. Yes.

8 Q. When you were safety director were you trained in
9 the area of employee safety?

10 A. No, sir.

11 Q. When I say 'trained' I guess trained in that area
12 before you were appointed safety director?

13 A. No, sir, I was not.

14 Q. And then once you were appointed safety director
15 you were given no training by CTR?

16 A. No, sir, not in safety.

17 Q. Did they go over anything with you like say, for
18 instance, the safety manual, the CTR safety manual?

19 A. No, they just sort of handed it to me and said,
20 "Have at it." So yeah, there was no formal training at all.

21 Q. What about the other employees? Do you know if
22 the other employees like Mr. Dority were given the safety manual?

23 A. You know, I -- I don't know. I'm sure that was
24 part of the employee handbook. I know there were some areas in
25 there safety and it -- you know, it talked about personal safety,
26 of course, safety glasses and personal protection equipment, that

1 being, you know, safety shoes and your safety harnesses above a
2 certain height which is six feet. I mean, it was gone over but
3 some of the other things in my opinion weren't. It should have
4 been more formal and I would try to have at least a safety meeting,
5 you know, monthly.

6 Q. Did you?

7 A. Yes, I did. And it was, you know, pertaining to
8 man-lifts, fires, you know, PPE which is personal safety
9 equipment.

10 Q. Did you ever discuss air quality as safety
11 director at a safety meeting?

12 A. Not with the employees but I did discuss it with,
13 you know, management.

14 Q. Okay. And what was discussed?

15 A. Well, just getting the -- the electrical motors
16 fixed to where they'd have, you know, proper ventilation in the
17 wintertime.

18 Q. Oh, okay. And what was the result of that
19 discussion?

20 A. Well, the result of that discussion "It's not in
21 the budget this year."

22 Q. So did they...

23 A. They don't have the money.

24 Q. Were the fans repaired?

25 A. Not to my knowledge. When I departed the fans
26 were still not working.

1 Q. Now, I want to be clear about the -- the state of
2 these fans and them not working. Was that -- was that -- when
3 was that?

4 A. Oh, ever since I've been there they've never
5 worked.

6 Q. Okay. So when Mr. Dority went to work at the plant
7 the fans were not working?

8 A. Exactly. That's correct.

9 Q. And during Mr. Dority's employment at CTR was
10 there ever any efforts made to improve the air quality?

11 A. Well, like I say, the only efforts were made on
12 my behalf is when I actually was able to get a -- a limited amount
13 of money to attach exhausts to the vacuum pumps to exit the gas
14 from the building and/or smoke. I don't know which it was. It
15 was probably a combination of both and...

16 Q. And that was -- that was the vacuum pumps on the
17 tanker trucks?

18 A. That's correct.

19 Q. What -- what happened to -- to create that need
20 for the vacuum pumps on the tanker trucks?

21 A. Well, what they would do the -- there was an
22 adjustment on these pumps that would pull a vacuum quicker but
23 it also made the pumps smoke a lot more when you increased that.
24 So they would try to pull a vacuum quicker by increasing the pump
25 motor and in turn it would put off a lot of smoke until it started
26 put in a vacuum. So in order to keep that smoke out which was

1 -- it was awful, we had to exhaust it out of the building by similar
2 to a -- I guess a hose on your drying machine. It was a flexible
3 hose and I just duct taped it but it worked pretty good.

4 Q. Okay, great. When did that happen?

5 A. That was probably maybe two months after I assumed
6 the position, so that was definitely in the wintertime.

7 Q. Okay.

8 A. Maybe...

9 Q. How do -- how do you recall it being in the winter?

10 A. Because it was cold and we had the doors shut so
11 what -- there -- there small holes in the door where they are --
12 beside the doors where they had something exhausted out prior and
13 we just run the hoses out there and the smoke went outside and
14 it worked out pretty good.

15 Q. Okay. So that would have occurred sometime in the
16 year 2011?

17 A. That's correct.

18 Q. Prior to that point...

19 A. I'm -- yeah, I'm sure the smoke just filled the
20 room.

21 Q. And this is the tanker truck room? Was that --
22 is that closed off from the rest of the plant?

23 A. No, sir, it's -- it's all open. The tanker, bulk
24 tank, the fab shop, the final line assembly is all sort of an open
25 area.

26 Q. So was this another source of -- of smoke that

1 contributed to the cloud that formed in the air?

2 A. Oh, absolutely.

3 Q. Now, going back to the safety manual is it your
4 belief that the safety manual was -- was a part of the employee
5 handbook?

6 A. Well, you know, I'm sure the safety was in part
7 of the employee handbook but not the safety manual because that
8 would have been a different part. There's safety manuals for each
9 department and also you have the -- the data sheets -- the
10 material data sheets that each department -- that was available
11 to everyone. That's an OSHA requirement.

12 Q. What, the material safety data sheet?

13 A. That is correct. And it was always available and
14 I -- I tried to go through it on a regular basis, you know, at
15 least every three months to make sure that it had the correct data
16 sheets in it and make sure that all the chemicals and everything
17 that were -- they were using, it was available to the employees.

18 Q. All right. But with respect to the safety
19 manual...

20 A. Right. Now, there wasn't one particular safety
21 manual that I recollect. There was -- there was safety manuals
22 for each department because the Paint Department's a little bit
23 different than the other departments so they -- they broke it out
24 in various departments.

25 Q. Okay. Do you recall ever having seen a document
26 entitled CTR of the Carolinas, Inc. Site Operation Safety Manual,

1 October 5, 2005 that's two -- I'm sorry, there's 80...

2 **Court Reporter:** You're fading on us.

3 **By Mr. Eddy:**

4 Q. 84 pages in length, Mr. Glenn?

5 A. Yes, I have seen that document.

6 Q. Do you know if that was given to all of the
7 employees?

8 A. I can't answer that. I know that I didn't give
9 it to the employees. Now, it should have been available to them.

10 Q. Do you know if it was available to them?

11 A. Oh, absolutely. Yeah, I'm sure it was.

12 Q. Do you know if Mr. Dority was ever given a copy
13 of the safety manual?

14 A. I can't elaborate on that because I -- I'm not for
15 sure. I -- I don't know.

16 Q. Are you familiar with their procedure in requiring
17 employees to sign statements that they received a particular
18 document? For instance, in Mr. Dority's file I have here "This
19 is to confirm that I have received the Employment Policy Manual
20 with a revised date of July, 2008," signed Michael Dority, July
21 22nd, 2008?

22 A. I am familiar with those documents, yes.

23 Q. And he was required to sign a statement that he
24 received the Employee Policy Manual but there is no such document
25 with respect to the safety manual and so that's why I was asking.
26 Do you know whether that was a routine procedure at CTR?

1 A. On, you know, important documents, yes, it was and
2 then definitely the monthly safety, you know, for my records and
3 the HR director, she kept most of my records. And I know that
4 that's where they went when I departed.

5 Q. Okay. And for instance, there's another one
6 here, "Receipt and Acknowledgment of CTR Employee Manual," signed
7 Michael Dority 7-12-2007. Again, another statement he was
8 required to sign when he first went to work there. Do you know
9 -- do you recall having been required to sign acknowledging
10 receipt of an employee manual?

11 A. Oh, absolutely. Yeah, there were several
12 documents that I had to sign stating that I'd either received the
13 document or read the document.

14 Q. With respect to the safety manual you don't recall
15 having seen that until you were appointed the safety director?

16 A. Exactly, and I -- and I can't recollect if we had
17 to sign for those or not. I don't think so.

18 Q. Okay. Let me ask you a little bit about the
19 company safety policies. As safety director were you aware of
20 the policy set forth in the safety manual that -- and I'm reading
21 from Page 4 of the -- of the manual at the very beginning in the
22 section entitled 'Safety Policy', that "It is the policy of CTR
23 of the Carolinas, to protect the health, safety, and quality of
24 life of its employees"?

25 A. Correct, I am familiar with that.

26 Q. Okay. And I guess you became familiar with that

1 as safety director, correct?

2 A. Correct.

3 Q. Okay. On that same page, Paragraph Number 4, it
4 states, "Management is responsible for providing the safest
5 possible workplace for Employees. Consequently, management of
6 CTR of the Carolinas is committed to allocating and providing all
7 of the resources needed to promote and effectively implement this
8 safety policy." First off, my question is do you recall having
9 seen that in the manual?

10 A. I -- I do vaguely remember that section, yes.

11 Q. As safety director at CTR was it your experience
12 that, in fact, the management of CTR allocated the necessary
13 resources for the promotion of safety?

14 A. Not -- no, not in my opinion they did not.

15 Q. Now, later in that document, Page 23, under the
16 section entitled 'Respiratory Protection' it says, and I quote,
17 "In occupational settings, the most common route of entry of
18 chemicals into the body is by inhalation. In some cases, the
19 chemical, like many mineral dusts, may directly damage the lungs."
20 Did you see that in the -- in the manual?

21 A. Not that particular line but now on some of the
22 material data sheets I've seen a lot of it where it was damaging
23 to the lungs but not -- I don't recollect that particular paragraph
24 in the safety manual.

25 Q. Do you recall any of the employees being educated
26 or informed of the possibility that these airborne contaminants

1 could possibly damage their lungs?

2 A. Not from the employees' perspective but I think
3 from, you know, a few people talking in the office maybe that,
4 "Hey, this -- some of this stuff can't be good," and just chitchat.
5 As far as a formal meeting, no.

6 Q. Okay. The -- the same page of the safety manual,
7 same paragraph -- first paragraph, Page 23, it goes on to say that
8 "This is why most occupational exposure limits, like the OSHA
9 Permissible Exposure Limits or the recommended Threshold Limit
10 Values of the American Conference of Governmental Industrial
11 Hygienists list work place exposures in terms of airborne
12 concentrations." Were you aware of that?

13 A. No, I was not.

14 Q. Did you -- did you not see any of these exposure
15 limits set forth on the material safety data sheets?

16 A. On some of them I did and that's -- well, the
17 painter is a prime example. He had a I -- I guess a sub-level
18 ~~type mask for the type of paint he was using so I did make sure~~
19 that he got the appropriate, you know, equipment, respirator that
20 he needed. But now, as far as the -- the gases and the other
21 equipment what I suggested was the -- the welding hoods similar
22 to a -- for lack of a better term, if you're cooking in your house,
23 you turn on the little fan above your oven, that type of hood to
24 remove the exhaust fumes. And everybody just sort of give me that
25 deer in the headlight look like, 'Well, it's not going to happen
26 anytime soon'.

1 Q. You proposed that as safety director of CTR?
2 A. Yes, but just to management.
3 Q. And they -- they didn't take you up on that
4 suggestion?
5 A. Well, I was told by one of the I guess executive
6 managers that we can't use that type of hood on silver solder
7 because it affects the way that -- it affects the heat and the
8 temperature. So they never installed any of the -- the hoods or
9 they never repaired any of the -- the ventilation systems, being
10 the -- you know, the ceiling fans -- or not the ceiling fans but
11 the fans that -- that I mentioned earlier.
12 Q. I see. So part of the reason was because the --
13 the efficacy or the effectiveness of the soldering would be
14 affected by certain forms of ventilation?
15 A. Well, that's what I was told but I find it hard
16 to believe. I'm not an expert in that area but I don't see how
17 it could especially if it's just a mild movement of air to -- to
18 remove the -- the smoke from, you know, several feet above the
19 -- the operator and/or the person that's actually doing the silver
20 solder or brazing. I don't think it would have affected it.
21 Q. But that was the response you got when you proposed
22 or recommended exhaust hoods for silver soldering?
23 A. And the welders as well. I recommended them all,
24 you know, plant-wide and, yes, that is the response I got.
25 Q. Now, referring again to the CTR safety manual,
26 Page 30, towards the bottom it defines 'Hazardous atmosphere'.

1 I'm going to read it for you and then I'm going to ask you if you
2 were made aware of this. In the manual hazardous atmosphere --
3 and I quote, "'Hazardous atmosphere' means an atmosphere that may
4 expose employees to the risk of death, incapacitation, impairment
5 of ability to self-rescue, injury, or acute illness from one or
6 more of the following causes." (1) is flammable gas; (2) is
7 airborne combustible dust; (3) is atmospheric oxygen
8 concentration below a certain level; and then (4) "Atmospheric
9 concentration of any substance for which a dose or a permissible
10 exposure limit is published in Subpart G, Occupational Health and
11 Environmental Control, or Subpart Z, Toxic and Hazardous
12 Substances, of this Part - which could result in employee exposure
13 in excess of its dose or permissible exposure limit." Were you
14 aware of that?

15 A. I was aware of it but we never done any type of
16 air quality sampling.

17 Q. While you were at CTR from, when did you say,
18 sometime in early 2007 until you left in November of 2011 do you
19 know of any air sampling or air monitoring that was done?

20 A. No, sir, I do not.

21 Q. Now I'm going to refer to a Material Safety Data
22 Sheet from Wolverine. This is for Silvaloy products including
23 SilvaLoy A-56T. It's a part of the Claimant's APA in this case
24 starting at Page 254 for Mr. Griggs' convenience and I just want
25 to ask you a few questions. First of all, Mr. Glenn, do you know
26 whether this particular Material Safety Data Sheet was at CTR when

1 you were there?

2 A. I'm sure it was because we used several types of,
3 you know, silver solder there. And if I found from the purchasing
4 agent that I didn't have that MDA sheet I would request it and
5 he would make sure that I got it. And we had it available but
6 I never saw any -- anyone read them with the exception of myself.
7 You know, when there was a concern I would go through them or make
8 sure they were constantly updated.

9 Q. Do you -- you -- can you tell me with absolute
10 certainty that they did have a Material Safety Data Sheet there
11 for at least some type or brand of silver solder?

12 A. Absolutely, yeah.

13 Q. Okay.

14 A. They did have. And it was a large book right
15 outside my office and, like I say, I tried to keep it up to date
16 all the time.

17 Q. All right. I'm going to refer to a few parts of
18 this Material Safety Data Sheet and then ask you if you recall
19 this being a part of the Material Safety Data Sheets that were
20 at CTR. This is at Page 2 of the MSDS I previously referred to.
21 Potential Health Effects says, "Inhalation may cause respiratory
22 tract irritation and coughing." Did you see that?

23 A. I -- I do remember seeing that in some of the --
24 the silver solder MDA sheets.

25 Q. Did you observe individuals working at the brazing
26 stations experience coughing?

1 A. On occasion when I was over there.

2 Q. It goes on to say on the same page, "Note: The
3 potential health effects described above only apply if dust or
4 fume is formed." Were you aware of that?

5 A. No, I don't remember that portion of it.

6 Q. All right. But was dust or fumes formed --
7 created as a result of the use of the silver solder?

8 A. Yes.

9 Q. All right. On the next page, Page 3 under
10 "Chronic Health Hazards" it says, "Prolonged or repeated
11 inhalation may cause a benign pneumoconiosis." Do you recall
12 seeing that?

13 A. No, I do not.

14 Q. It goes on to say, "Prolonged or repeated
15 overexposure may cause kidney damage." Did you know that?

16 A. No, sir, I did not.

17 Q. Do you remember a gentleman by the name of Mr.
18 Dance who worked in the shop?

19 A. Yes, I do.

20 Q. What was his first name, Dan?

21 A. Dan Dance, yes.

22 Q. Was he working there when you left in -- about a
23 year ago?

24 A. No, sir, he was not because due to his health. I
25 can't remember exactly when Dan had to depart the company but he
26 left in bad health.

1 (Off the record conversation)

2 By Mr. Eddy:

3 Q. All right. But Mr. Glenn...

4 A. Yes.

5 Q. ...do you know what the nature of his health
6 problem was?

7 A. Kidney problems. I do know that.

8 Q. What was his job there?

9 A. He was a silver solder also or -- and/or brazer,
10 whatever term you all decide to use.

11 Q. Now, this Material Safety Data Sheet I've been
12 referring to at Page 5, Section 8: Exposure Controls/Personal
13 Protection sets forth the permissible exposure limits established
14 both by OSHA and the Threshold Limit Values by the ACGIH for
15 copper, silver, zinc, tin, potassium, and acrylic resin. Again,
16 were you aware of the fact when you were at CTR -- whether you
17 were safety director or not, were you aware of the fact that there
18 was these OSHA permissible exposure limits for this various
19 materials or for metals contained in the silver solder?

20 A. On some of them, yes, I was.

21 Q. Okay. And as safety director you -- you're aware
22 or you were aware that the only way one could determine whether
23 or not the fumes and dust were above or below the OSHA permissible
24 exposure limit was by doing what?

25 A. An air sample.

26 Q. On Page 6 of this MSDS under Respiratory

1 Protection it says, "If dust or fume is generated, a NIOSH (or)
2 MSHA approved respirator may be necessary. Follow all
3 requirements for respiratory programs and selection set forth in
4 the OSHA (requirements) (29 CFR 1910)." As safety director were
5 you aware of the fact that the use of this silver solder if dust
6 or fumes were generated may require the use of a respirator?

7 A. No, sir, I was not.

8 Q. Then on the next paragraph under "Ventilation" it
9 says, "General; local exhaust ventilation as necessary to control
10 any air contaminants to within their PELs or TLVs during the use
11 of this product." Again, were there times, particularly in the
12 winter, when the exhaust ventilation was lacking?

13 A. Absolutely. There was a visible, you know, haze
14 or a cloud in the area at times.

15 Q. Were you aware of the fact that there were amounts
16 of cadmium in the silver solder that was being used by Mr. Dority
17 and the other brazers there at CTR?

18 A. No, sir, I was not.

19 Q. I'm now referring to an engineering sheet
20 regarding cadmium and silver soldering or brazing that was a part
21 of the Claimant's APA beginning at Page 264 and I just wanted to
22 ask you about some statements made here and whether or not as
23 safety director you were aware of -- of these facts. The "Health
24 effects of cadmium in silver solder," that's the title of the
25 section in which it says, "Serious health effects on the lungs
26 and kidneys are the principal concerns." Were you aware of that?

1 A. No, sir, I was not.

2 Q. Under "Acute effects" it says, "Initial symptoms
3 of inhalation of cadmium oxide fume include: Irritation of the
4 eyes, nose and throat, followed by: cough, headache, dizziness,
5 weakness, chills, fever, chest pains and breathlessness." Were
6 you aware of that?

7 A. No, sir.

8 ~~Q. Didn't you tell me there were times when you were~~
9 in the final line side when you would experience irritation of
10 the nose and the throat?

11 A. Yes, sir.

12 Q. Followed by coughing?

13 A. Yes, and watery eyes.

14 Q. Okay. In the Chronic effects section it says, "On
15 repeated and cumulative exposure to cadmium oxide fume,
16 irreversible kidney damage may result." Were you aware of that?

17 A. No, sir, I was not.

18 Q. Do you know if that's the nature of the illness
19 that Mr. Dance experienced?

20 A. I do not.

21 Q. Okay. It goes on to say, "Adverse effects on the
22 lungs include loss of lung function and abnormalities and
23 characteristic of emphysema." Did you know that a constituent
24 of the silver solder user at CTR could possibly cause emphysema?

25 A. Well, I -- I had a good idea that it may. I knew
26 any type of soldering and/or welding is hazardous if you breathe

1 the fumes.

2 Q. On the third page of this document it talks about
3 "Control of exposure" and I just want to refer you to one statement
4 here because I believe you touched on this earlier. I -- I just
5 want to know -- find out from you. It says, "Because of the
6 directional nature of brazing torch flames and strong convection
7 currents induced, appreciably higher ventilation capture
8 velocities may be required than for most other fume control
9 situations. Flame torches can scatter a plume of fume from the
10 joint causing it to contaminate adjacent areas. As a
11 consequence, containment in an open-fronted booth fitted with
12 extract ventilation may prove far more effective than captor
13 hoods." Is that the -- the type of phenomenon you were referring
14 to when you were told by the CTR management that they didn't want
15 to use hoods in the brazing section?

16 A. That is correct.

17 Q. Mr. Glenn, I just want to refer back to some notes
18 I took in my conversations with you over the past several weeks
19 and -- and ask you if you still agree that the conditions -- the
20 atmospheric conditions, smoke and the fumes, that you could see
21 in the air in the plant were "deplorable"?

22 Mr. Griggs: I'm going to object to the form here on
23 this line of questioning.

24 By Mr. Eddy:

25 Q. Go ahead, Mr. Glenn, you can answer.

26 A. I -- I did make that statement.

1 Q. Why -- why do you say they were deplorable?

2 A. Well, I used to store a lot of equipment outside
3 the offices, printers, copiers, various other types of electronic
4 apparatuses up on the top of the offices. There was a space up
5 there that I could use. And if they were just up there for a few
6 days the -- the amount of dust that would collect or gather on
7 them was, I mean, terrible. It was visibly noticeable and if you
8 didn't wrap it good it would ruin everything.

9 Q. 'Unbelievable' and 'unbearable,' why did you say
10 that?

11 A. Well, because it accumulated so quickly. It just
12 -- it was amazing where it came from.

13 Q. Mr. Glenn, I believe those are all the questions
14 I have at this time. Thank you.

15 A. Certainly.

16 (Off the record conversation)

17 Cross Examination Charlie E. Glenn

18 By Jason Griggs, Esq.:

19 Q. Mr. Glenn, my name is Jason Griggs and I represent
20 CTR and their insurance carrier, okay?

21 A. Yes, sir.

22 Q. Can you hear me?

23 A. I can hear you.

24 Q. Okay. If you can't hear me at any point in time
25 or need me to rephrase a question be sure to ask me, okay?

26 A. Okay.

1 Q. Had you had any -- had you ever been employed as
2 an environmental or safety director or in any environmental safety
3 capacity before going to CTR?

4 A. No, sir, I have not. Just the small amount of
5 college I had at Mountain Empire Community College as
6 Environmental Science.

7 Q. Now, let's talk about that. That was in 1981?

8 A. Give or take, yes, sir.

9 Q. And that was a year of training?

10 A. Probably less than a year, probably eight months.

11 Q. Was that exclusively Environmental Science or
12 were you taking other things also?

13 A. I was taking other things also, sir.

14 Q. What else did you take?

15 A. I took the basic, you know, Algebra, Geometry, and
16 I think Game Management...

17 Q. How...

18 A. ...so it wasn't exclusively Environmental
19 Science.

20 Q. How much -- what -- what environmental courses did
21 you have?

22 A. Not enough to be an expert on, you know, the
23 metallurgy side, the smokes, the gases. It was mostly pertaining
24 to the effects of fuels and fossil fuels -- outside environment,
25 not inside environment.

26 Q. Well, you -- you said that you took eight -- you

1 were at Mountain...

2 A. Empire -- yeah, Mountain Empire Community
3 College.

4 Q. You were there for eight months?

5 A. Yes, sir.

6 Q. And you took courses in Algebra, what else?

7 A. Well, just the basic -- the basic maths and then
8 Environmental Science was the major that I took. And then, of
9 course, I dropped out. That's when I went to Oklahoma.

10 Q. How many Environmental Science classes did you
11 take?

12 A. Well, I guess one and that was the -- the Game
13 Management and the effect of fossil fuels on the environment.

14 Q. Okay. So you had one environmental science class
15 during your eight month educational stint at community college,
16 is that correct?

17 A. Yes, sir.

18 Q. Okay. Are you -- are you putting forth your
19 testimony today as expert testimony or is this just fact lay
20 testimony from your recollection?

21 A. It's a lay testimony. I'm definitely not an
22 expert by no means.

23 Q. Do you have any certifications or any training in
24 occupational safety issues?

25 A. No, sir, I do not.

26 Q. You said that in addition to brazing that Mr.

1 Dority when he was on the final line side would do grinding
2 occasionally. How often would he do grinding on the final line
3 side?

4 A. I -- I really couldn't say. Maybe several times
5 a week. It just -- Michael was a very good brazer so his grinding
6 would probably be limited maybe two or three times a week. That's
7 a...

8 Q. How often did you see him -- observe him doing
9 grinding?

10 A. Probably three times in my entirety that he was
11 out on the floor in my tenure there.

12 Q. So the only -- so you only saw three instances of
13 him grinding?

14 A. That's correct.

15 Q. That's all you directly saw?

16 A. Exactly. But, now, you -- you must understand
17 that I traveled quite a bit with the company too. Sometimes I'd
18 be gone a month at a time.

19 Q. Okay. Now, this bulk tank area that you described
20 is that a separate area?

21 A. No, sir, there -- it is not a separate area.
22 There's a -- there's a small wall that probably covers half of
23 the plant and it's -- it's all open, so there's really not a
24 separate area there in the plant.

25 Q. Now, when you were working there did you ever
26 witness a time when there was less than three people soldering?

1 A. Sometimes, yes, depending on the workload but it
2 -- it wasn't very often because we were -- the time that I was
3 there we were very busy and final lines is one of their big sellers.

4 Q. But -- but you would witness there would be less
5 than three people soldering at times?

6 A. Yes, sir, at times.

7 Q. Now, let me ask you this. When -- when you're
8 talking about the -- you said that there's three people at this
9 station at these tables doing soldering, correct?

10 A. That's correct.

11 Q. Now, are they all soldering, actually using the
12 torch at the same time or will one person be soldering, one person
13 be putting on the -- the valves and things, one person be putting
14 on arrows and decals or are they all just soldering full blast
15 eight hours a day?

16 A. No, sir, they're doing what you stated. They're
17 soldering, but normally in the morning they're all three soldering
18 for a few hours. I don't know exactly how many. Then they start
19 assembling the -- and some may be faster or slower than others.
20 And then, of course, they start assembling and then, you know,
21 putting the decals on.

22 Q. Okay. Now, let me -- you said that if there was
23 three people you said during the morning they might be soldering
24 for a few hours?

25 A. Correct.

26 Q. Okay. What do you mean when you say 'a few hours'?

1 A. I'd say at least until lunchtime.
2 Q. Okay. 10:00 o'clock till lunchtime?
3 A. No, I'd say from 7:00 A.M. till lunchtime, four
4 to five hours.
5 Q. Okay. So -- so they'd be soldering for four to
6 five hours?
7 A. Yes, sir.
8 Q. Okay. And then the rest of the shift they would
9 be -- let me ask you if they would do these other things. Are
10 you familiar with the terms 'chasing' or 'going to get parts'?
11 Does that mean anything to you?
12 A. Absolutely, yeah.
13 Q. Okay. What does that mean, chasing or going to
14 get parts?
15 A. Well, that means they have to leave their work
16 station and go up to the cage, is what we referred to it as, but
17 that is where they actually store various bits and pieces to
18 assemble the final lines. But it's -- it's in the same area as
19 the other plants, open as well.
20 Q. Okay. So they would chase and go get parts,
21 correct?
22 A. That's correct, they would.
23 Q. And that would take -- that would take them away
24 from their final line area?
25 A. That is correct, it would.
26 Q. To various other parts of the plant?

1 A. Yes.

2 Q. And that would -- that would certainly take up some
3 time, correct?

4 A. That is correct.

5 Q. Okay. And then they would also have to take parts
6 to the O2 cleaning room or cleaning area, is that correct?

7 A. That is correct.

8 Q. Okay. And that would take them away from the
9 final line direct area, correct?

10 A. Yes, sir.

11 Q. Now, when they were at the final line area there
12 would be times when the torch was not actively brazing, correct?

13 A. That is correct.

14 Q. And they would be assembling these parts by hand,
15 correct?

16 A. Yes, sir.

17 Q. Screwing fittings together?

18 A. Yes.

19 Q. And assembling other gauges and valves onto the
20 actual components, correct?

21 A. That's correct.

22 Q. Okay. Now, they would have to read the drawings
23 and plan their day out at the beginning of the day or at the
24 beginning of the -- of the assignment, is that correct?

25 A. Yes and no. Usually they have what is the
26 production manager, he will actually gather most of the materials

1 and then usually they will go over the drawings briefly. Now,
2 when I was there pretty much each individual had a particular final
3 line that they were familiar with so they really didn't have to
4 go over the blueprints unless that's changed recently.

5 Q. But they would have to -- they would have to read
6 their drawings to know what they were doing?

7 A. Yes, they would.

8 Q. Okay. And that would take time, correct?

9 A. Correct.

10 Q. Now, they would have to take these parts when they
11 were done brazing and soldering and cool them off by submerging
12 them in water, correct?

13 A. Yes, sir.

14 Q. Now, they would also have to take these parts to
15 get B blasted, correct?

16 A. Yes, sir, or they would...

17 Q. That would...

18 A. Or they would do that themselves.

19 Q. Okay. But that would take them to another part
20 of the area, correct, another area?

21 A. Yes, sir.

22 Q. And the B blasting they would -- that's a type of
23 sandblasting, correct?

24 A. That's correct.

25 Q. And they would actually do that also, correct?

26 A. Yes, sir.

1 Q. Now, you have to test these components, isn't that
2 right?

3 A. That is correct.

4 Q. And they would hook up nitrogen gas to these
5 components, correct?

6 A. Yes, sir.

7 Q. And then it would be tested, correct?

8 A. That is correct.

9 Q. And there's no actual brazing being done by the
10 individual if he's hooking it up to nitrogen, correct?

11 A. That is correct.

12 Q. And there's no actual brazing being done if
13 they're B blasting, correct?

14 A. That's correct.

15 Q. There's no actual brazing being done if they're
16 taking the parts to the O2 clean room, correct?

17 A. Correct.

18 Q. There's no actual brazing being done by the
19 particular individual if they're cooling off the parts by
20 submerging them in water, is that correct?

21 A. That's correct.

22 Q. And if the individual is assembly parts by
23 screwing together fittings and valves there's no actual brazing
24 being done either, is that correct?

25 A. That's correct.

26 Q. Now, wouldn't the individual such as Michael

1 Dority, and that's who we're talking about when I say 'the
2 individual' this entire line of questioning, they would have to
3 put labels on these components such as arrows and some
4 directional-type labels, is that correct?

5 A. That's correct.

6 Q. And by putting these labels on they weren't doing
7 any active sandblasting at that point in time, were they?

8 A. No, sir, they were not.

9 Q. Any -- I'm sorry, any active brazing at that point
10 in time, were they?

11 A. Well now, the individual wouldn't but there may
12 be some going on nearby.

13 Q. I understand.

14 A. But...

15 Q. But -- but I'm just talking about when Mr. Dority
16 was doing this brazing, right?

17 A. Yes, sir.

18 Q. He would be -- there would be times during the day
19 where he would be putting labels, arrows, directions, other labels
20 on. He wouldn't be actively brazing then, would he?

21 A. No, he would not.

22 Q. Okay. And they also have to blow the part down,
23 don't they?

24 A. Yes, they do.

25 Q. And when they're blowing the part down -- if Mr.
26 Dority was blowing a part down he's not actively brazing, is he?

1 A. No, he is not.

2 Q. Okay. Now, they also have to secure these parts
3 to what's known as a 'unistrut' or a 'unistrut' (pronounces),
4 don't they?

5 A. Yes, they do.

6 Q. That's part of the testing, correct?

7 A. Well, it's not part of the testing, it's part of
8 the assembly.

9 Q. Okay, part of the assembly.

10 A. Yes, sir.

11 Q. And if they're -- if Mr. Dority, he's securing this
12 to the unistrut he's not doing active brazing, is he?

13 A. He is not.

14 Q. Okay. Now, when they set this up for the test they
15 have to set it up for the press test or the pressure test, correct?

16 A. That is correct.

17 Q. And that's not -- and they're not doing active
18 brazing if they're setting it up for the test, are they?

19 A. No, they are not.

20 Q. Okay. Now, there may be three different people
21 that are termed final line workers working on these particular
22 tables, correct?

23 A. Correct.

24 Q. But they're not -- the -- the point is they're not
25 all actively brazing at the same time for eight hours every single
26 day, were they?

1 A. No, sir.

2 Q. Okay. Now, they would braze some in the morning
3 like you said, correct?

4 A. Yes.

5 Q. And then in the afternoon or -- or other times
6 during the day they would have to do these other various things,
7 correct?

8 A. Correct.

9 Q. And all those things took -- took time, didn't
10 they?

11 A. Yes, they did.

12 Q. Okay. Now, Mr. Dority when he was there working
13 you said he was in the middle table. Was he always in the middle
14 table?

15 A. No, sir, they -- they moved from time to time and
16 I'm not for sure for what reason.

17 Q. But they would move -- they would not -- he wasn't
18 always in the middle, was he?

19 A. I think he was on the end toward the end of his,
20 I guess, job as a brazer and/or silver solder before he moved over
21 to the electrical shop because I think they brought another guy
22 in to train is why they moved him at that point.

23 **(Off the record)**

24 **By Mr. Griggs:**

25 Q. Now, would there be times, Mr. Glenn, that Mr.
26 Dority would have done -- and -- and the other employees also would

1 have done the soldering during the morning and then have to spend
2 a bulk of the afternoon doing these other tasks that don't involve
3 actual torch to material soldering?

4 A. On occasions, yes.

5 Q. Well, 'on occasion' or would that be common?

6 A. Well, I -- it's hard to say because, you know, in
7 my time there when I was in and out of the plant they'd be, you
8 know, ~~basically doing the same things over and over like they'd~~
9 still be soldering in the afternoon but occasionally they would,
10 you know, reverse it up. I can't say if it was morning they done
11 all the brazing and then in the afternoon they done the assembly.

12 Q. Right, but let me ask you this. During a -- during
13 a normal week...

14 A. Uh-huh (affirmative).

15 Q. ...if they -- if they soldered -- they soldered
16 some every day would they also do these other things every day?

17 A. Absolutely, yeah. That's part of their job
18 description, yes, sir.

19 Q. Okay. So they did numerous tasks other than just
20 brazing or soldering, is that correct?

21 A. That's correct.

22 Q. And those numerous tasks comprised a significant
23 amount of the work week in addition to the brazing, correct?

24 A. That's correct.

25 Q. Okay. The -- the point is Mr. Dority did not
26 solder continuously eight hours or nine hours a day for the entire

1 work week, is that correct or is that a wrong statement?

2 A. Well, like I say, during my tenure there I was
3 briefly director of Quality Control/Safety and I wasn't out there
4 all the time. That would be a hard one to -- to answer. I --
5 I really don't know how many hours per day that he did silver solder
6 but I know it was a lot.

7 Q. Okay. But -- but would he also do these other
8 things...

9 A. Yes, he would.

10 Q. ...to quote your terms 'a lot'?

11 A. Yes, sir.

12 Q. Okay. So the question is did he spend an entire
13 eight-hour working day with torch to material doing the brazing
14 or did he do these other things in conjunction with the brazing?

15 A. He done the other tasks in conjunction with the
16 brazing.

17 Q. Okay. Now, when you were there you would -- when
18 you were the safety director or in -- in your time as -- as the
19 safety director and the quality control, did you have an office
20 that was not on the floor?

21 A. No, sir, I did not. My office was up front.

22 Q. Was it on the floor?

23 A. Well, it was on the floor but separated. There
24 -- now, there's a center office on the floor that there's four
25 people that shared. I wasn't...

26 Q. But...

1 A. I wasn't in that office, no, sir.

2 Q. Were you in the -- were you in a suite of
3 administrative-type offices?

4 A. I was in a suite of the administrative-type
5 offices.

6 Q. Okay. So you would spend a lot of your time in
7 the office and not actually on the floor, correct?

8 A. Yes.

9 Q. Okay. Now, you would -- what would you spend,
10 half of your day in the office and half on the floor of the plant
11 or -- or what's the breakdown there?

12 A. Probably 50/50, yes, sir. 50 percent in the
13 office, 50 percent in the plant and out in the yard.

14 Q. Now, have you ever done silver soldering other
15 than when you were in vocational school?

16 A. No, sir, I have not.

17 Q. When were you in vocational school?

18 A. 1972 to '74.

19 Q. Okay. And how often during that time did you do
20 soldering?

21 A. Maybe 30 hours total.

22 Q. Okay. Now, you talk about these -- these
23 complaints. You said when you were safety director there was
24 probably three different times you would have complaints made to
25 you?

26 A. Yes, sir.

1 Q. Are these written or verbal complaints?
2 A. These were just verbal.
3 Q. Is there a report form that was given to employees
4 or available to employees to fill out?
5 A. Not to my knowledge.
6 Q. You don't have any knowledge of a complaint form?
7 A. Well, they used to have a -- a comment box but not
8 really a complaint form to my knowledge, no, sir, there was not.
9 Q. How did your job end with CTR?
10 A. My position was terminated.
11 Q. Let me ask you this. You talked a lot about the
12 ventilation, correct?
13 A. Correct.
14 Q. Now, you say -- you said that during the summer
15 -- let me get this right. Hold on. Your quote was "It" -- and
16 -- and this is a quote from your -- from your testimony to Mr.
17 Eddy, that during the summer it was "Pretty clear in the
18 summertime," end of quote. Do you remember saying that today?
19 A. I do.
20 Q. Okay. So that -- the -- the air quality in the
21 building was "Pretty clear in summertime," end of quote, is that
22 correct?
23 A. Correct.
24 Q. Okay. Now, you talked about summer and the
25 winter, you talked about spring.
26 A. Okay.

1 Q. When were the garage -- when were these doors down?
2 Are they down is it November to February? When were they down?

3 A. In the wintertime during the cold days.

4 Q. Okay. Well, tell me -- I mean, is that -- were
5 there times during the winter that the doors would be open?

6 A. Well, there's times during the winter that they
7 had to open the doors to move either tankers or bulk tanks out
8 and various other pieces of equipment but very briefly.

9 Q. Now, would there be times in the winter that if
10 you had a -- a warmer than average day that the door -- that they
11 would open the doors? Did that ever happen?

12 A. Oh, absolutely in the afternoons, yes, but not in
13 the mornings.

14 Q. Okay. So in the afternoons during the winter from
15 time to -- at certain times the -- the big doors and everything
16 would be open as if it was the spring or summer, is that accurate?

17 A. That is accurate.

18 Q. Okay. So this was not a situation where from
19 November to February those doors were closed all the time and only
20 open in the most dire circumstances. It's actually true that
21 during what you termed the wintertime those doors would be opened
22 in the afternoon quite often, is that right?

23 A. Well, I wouldn't say 'quite often', it just
24 depends on the -- the climate.

25 Q. If there was a warm -- if it was a warmer than --
26 than average normal winter day it would be open, correct?

1 A. Yes, that is correct.

2 Q. Do you know how often that would occur?

3 A. No, sir, I -- I can't -- I can't comment on that.

4 Q. Okay. Is it -- is it fair to say though that from

5 about March -- because you've established 'winter' I believe as

6 November to February thereabout, from March until October, so is

7 it fair to say that those doors are pretty much open?

8 A. Yeah. On warm afternoons, yes.

9 Q. And -- and open in the mornings, correct?

10 A. Yes.

11 Q. I mean, during the...

12 A. During the warm...

13 Q. During the...

14 A. Yes.

15 Q. During the -- let me finish my question, please.

16 During the spring, summer, and fall days the doors are open in

17 the morning just as often as they're open during the afternoon,

18 is that correct?

19 A. That's correct.

20 Q. So it's only the winter that the doors are shut,

21 correct?

22 A. Correct.

23 Q. And then only in the coolest times and then only

24 in the mornings and they'd be open some afternoons, correct?

25 A. Correct.

26 Q. Okay. So in the wintertime during some

1 afternoons it was operations as normal, correct?

2 A. Correct.

3 Q. Okay. Now, you talked about these fans. Well,

4 let me talk about these doors actually first, these garage doors.

5 How -- how many were there, there's six of them?

6 A. Let -- let me -- let me count. I think so.

7 There's two on the bulk tank or it may be one large, I -- I can't

8 remember now. There's one in the bulk tank, one on the tanker

9 side, one that just goes out beside the electrical shop, one in

10 the shipping and receiving area, and then one down by the area

11 where they do the final lines.

12 Q. Okay. Well, under your testimony to Mr. Eddy

13 today you said that there were six garage-type doors and all of

14 those doors are large enough to drive a tractor-trailer through.

15 Are you changing your testimony or are there still six?

16 A. There's still six.

17 Q. Okay. And they're all large enough to drive a

18 tractor-trailer through, correct?

19 A. Yes, they are.

20 Q. How -- how large is that? Did you measure them?

21 A. No, I did not.

22 Q. Well, give me an estimate.

23 A. They'd have to be -- well, a tractor and trailer's

24 53 foot long and, what, maybe 15 foot high minimum so -- and the

25 width is at -- well, the DOT's probably eight foot, 8 by 15.

26 Q. Okay. So 8 by 15, is that at a minimum?

1 A. That would be a minimum width-wise anyway.

2 Q. Okay. And there's six of those, correct?

3 A. Correct.

4 Q. And they're located throughout the plant but one

5 is located very close to final line, is that right?

6 A. That's correct.

7 Q. Okay. And those doors were open the majority of

8 the time during the spring, summer, and fall months, correct?

9 A. Correct.

10 Q. And they're open during -- during warmer or -- or

11 above normal afternoons during the wintertime as well, correct?

12 A. Correct.

13 Q. So let me ask you about a statement. If the

14 statement was made that said, "Mr. Dority soldered 48 hours a week

15 with no ventilation," is that -- is that an accurate statement

16 or is that a misrepresentation?

17 A. 48 hours a week?

18 Q. Did he solder 48 hours a week with no ventilation?

19 A. I would say that's not an accurate statement.

20 Q. Okay. Now, let me ask you this. You talked about

21 these fans and you state that there are -- let me get my notes

22 because Mr. Eddy asked you a lot of questions. Hold on. Okay.

23 There's three fans that are up near the ceiling and two fans that

24 are on the roof, correct?

25 A. That is correct.

26 Q. That's five fans?

1 A. Correct.

2 Q. And the ones -- the three that are near the ceiling

3 there's -- there's two that worked fine and one you said was

4 inoperable?

5 A. That's correct.

6 Q. And the one of the ones that worked was in the final

7 line area, correct?

8 A. ~~That is correct.~~

9 Q. And these fans are similar to attic fans, correct?

10 A. Correct.

11 Q. And they would -- when they're -- and they're

12 activated and they suck the air out to the outside, correct?

13 A. Correct.

14 Q. And those fans are running during the spring,

15 summer, and fall months, correct?

16 A. Correct.

17 Q. And during the winter months they're -- you said

18 they're turned off during most mornings, is that accurate?

19 A. That is accurate and correct.

20 Q. And -- but they would turn them on during the

21 afternoons, is that right?

22 A. Well, just on -- on occasions, you know, if the

23 --...

24 Q. Okay. Now...

25 A. ...if the smoke...

26 Q. In -- during the winter if they had a warmer --

1 a warm day such as they opened all those six doors would they also
2 turn on those fans?

3 A. Probably not. I can't say for sure whether they
4 did or did not. It just depends on how hot they got. Welding
5 and, you know, brazing, of course, you're going to get a little
6 warmer than normal because you've got protective gear on. They
7 may or may not. I never did observe that they were on.

8 Q. Did you ever make note to observe specifically
9 whether they were on during the winter or not?

10 A. No, I did not.

11 Q. Okay. Now, which fan was inoperable of those
12 three attic-type fans on the sides near the ceiling?

13 A. The one over in the tanker division.

14 Q. Okay. Now, the two fans that were on the roof --
15 do you hear me?

16 A. Yes, I do.

17 Q. Were both of those inoperable or just one?

18 A. Just one.

19 Q. Okay. And did you do the testing on that fan
20 yourself?

21 A. I did not.

22 Q. Okay. What electrician did you talk to about that
23 fan?

24 A. That electrician, his name was Johnny Shoemake.

25 Q. Johnny Shoemake?

26 A. Yes. He was the supervisor over the Electrical

1 Department.

2 Q. Now, the exhaust -- those fans at the top of the
3 roof they're in the center of the building. Is that what you said?

4 A. Approximately, yes.

5 Q. Okay. Now, let me ask you this. You said that
6 during the -- during the warmer months when the doors were open
7 meaning -- I -- I assume you mean, tell me if I'm wrong, the spring,
8 summer, and fall, that they did some work outside, correct?

9 A. That is correct.

10 Q. So during the spring, summer, and fall they did
11 work outside on these tanker trucks and on these other larger
12 vessels, is that accurate?

13 A. That is accurate.

14 Q. They'd take them outside and do work, correct?

15 A. Correct.

16 Q. So they didn't always do work on the tanker trucks
17 of the larger vessels inside, correct?

18 A. Well, there's -- they do and they don't. A
19 majority of the work is taken out during the summer, spring, and
20 fall but they still continue to do work inside.

21 Q. Okay. During the spring, summer, and fall which
22 would be the majority of the year they do the majority of that
23 large vessel and tanker work outside, is that accurate?

24 A. Yes.

25 Q. Okay. Now, also during the -- the warmer months
26 which would be the spring, summer, and fall which is the majority

1 of it the -- the doors and all the fans and everything is going
2 and would you agree that it's 'pretty clear' end of -- quote,
3 unquote, would you agree with that?

4 A. Yes.

5 Q. Okay. So the majority of the year it's pretty
6 clear, is that accurate?

7 A. Well, yes.

8 Q. Okay. Mr. Dority, did he do -- he worked there
9 from July of 2007 until October -- until September or October of
10 2010, is that correct?

11 A. Best of my knowledge. I didn't have the HR
12 records. That sounds correct.

13 Q. If the -- if the records indicated July of '07 to
14 October -- September or October of '10 would you disagree with
15 that?

16 A. No, I would not disagree.

17 Q. Okay. Now, during that time which is a little bit
18 over three years, three years and four or five months, did he do
19 brazing the majority of that time or Electrical Department work
20 the majority of that time?

21 A. He definitely done brazing the majority of that
22 time that I was there.

23 Q. You're sure about that?

24 A. Yes, sir.

25 Q. Okay. Now, let me ask you -- let's see. Did you
26 have daily contact with Mr. Dority during your time working there?

1 A. I wouldn't say 'daily' because, as I stated
2 earlier, I traveled quite a bit.

3 Q. When were you the safety director? What years
4 again?

5 A. Well, it was just one year. It was the last year
6 of my tenure there at CTR.

7 Q. Okay. And you stopped working there in November
8 of '11?

9 A. That is correct.

10 Q. And when did you assume safety director? Did you
11 say February of '11?

12 A. I -- you know, to be honest with you I can't
13 remember because it was sent to me via e-mail and the HR director
14 had all that information. And when they terminated my employment
15 they terminated immediately and they ceased my computer so I can't
16 say exactly. It -- maybe eight months.

17 Q. Now, you -- okay. So eight months you were safety
18 director. During that eight months was Mr. Dority doing the
19 brazing or was he already in the Electrical Department?

20 A. You know, I think -- I think he was still in
21 Electrical Department but the majority of the time I was the IT
22 guy when he was brazing.

23 Q. So the majority of the time he was brazing --
24 excuse me. The -- all of the time you were safety director he
25 was in the Electrical Department, is that accurate?

26 A. Well, to the best of my knowledge. I can't say

1 for sure because I don't remember the exact dates. I don't have
2 any of the information, you know, unfortunately with me.

3 Q. How many times have you talked to Mr. Eddy to
4 prepare for this deposition?

5 A. Probably a couple times.

6 Q. Well, was that two or how many?

7 A. Two times.

8 Q. You've only spoken to him twice?

9 A. No, we probably spoke four times total.

10 Q. Four times total?

11 A. Yeah.

12 Q. How many times specifically to prepare for what
13 we're doing today?

14 A. One time.

15 Q. When was that?

16 A. And he just called me and told me the date of the
17 deposition and that was it. We didn't discuss any of the details.

18 ~~Q. Did he go over any questions with you?~~

19 A. No, sir, he did not.

20 Q. During any of your four conversations did he go
21 over any questions with you?

22 A. No, sir, he did not.

23 Q. Did he go over the handbook with you?

24 A. No, sir, he did not.

25 Q. How many times have you spoken to Mr. Dority in
26 relation to this case?

1 A. I've spoken to Mr. Dority one time in relation to
2 this case and that was...

3 Q. When was that?

4 A. And he just asked me if his attorney had contacted
5 me and I said, "Yes, he has."

6 Q. How long did you -- during the four times you spoke
7 to Mr. Eddy how long did you speak to him?

8 A. I -- not long. Maybe five, 10 minutes at the most
9 each time. It was very short, very brief.

10 Q. What did you all talk about?

11 A. Just about Mike's condition and some of the jobs
12 that I held at CTR. Nothing major. Nothing to the extent of the
13 questioning that I got from him today.

14 Q. Did he talk -- did you talk to him about the fans
15 and the garage doors?

16 A. We -- it was mentioned but not as in detail as it
17 was today. Like I say, we didn't discuss any of this.

18 Q. Did you talk to him about how many fans and how
19 many doors there were and which were operable and which were
20 inoperable?

21 A. Not to my knowledge. I can't remember. We
22 mentioned the fans, we mentioned the doors but not in great detail.

23 Q. Now, this cloud that you're talking about that's
24 hanging in the air, since you testified that during the warmer
25 springtime or fall months that it was pretty clear in there, is
26 that cloud you're talking about when the -- when it's closed up

1 during the winter?

2 A. Yes.

3 Q. Okay. And that would be during the days that it's
4 colder and during the mornings of the winter, correct?

5 A. That is correct.

6 Q. When the -- when the doors are open -- six doors
7 opened with the crosswinds it -- it alleviates that, isn't that
8 right?

9 A. Yeah, until you get in the heat of the summertime,
10 in the middle of July when there's not much breeze, but yes.

11 Q. Okay. But during that time those exhaust fans are
12 still open, correct?

13 A. That's correct.

14 Q. Now, Mr. Dority -- do you -- do you have any
15 breathing problems?

16 A. No, I did not.

17 Q. Do you have any now?

18 A. No, sir, I do not.

19 Q. Is Mr. Dority a smoker?

20 A. Not to my knowledge he is not.

21 Q. Did you ever see him smoking at CTR?

22 A. Not to my knowledge, no, sir, I did not. I really
23 didn't pay attention to who did what there. Like I say, I traveled
24 and I wasn't that close to Mr. Dority. I knew of him and I spoke
25 with him from time to time but as far as friends and -- no, just...

26 Q. You never saw him smoking at CTR?

1 A. I -- I may have but I -- you know, like I say, I
2 -- I didn't observe who did and who did not. There was lots of
3 smokers at CTR and lots of tobacco users, so I -- I couldn't say,
4 'Yes, I saw Mr. Dority smoking,' and be confident, I -- I don't
5 know.

6 Q. If Mr. Dority had a 60 pack year of smoking were
7 you aware of that?

8 A. No, sir, I was not.

9 Q. So you never -- you never observed him on the floor
10 or outside smoking? That's your testimony today?

11 A. I may have seen him smoking. Like I say, I mean,
12 I didn't pay any attention. A lot of smokers were down there.
13 It's...

14 Q. Were you -- are you a smoker?

15 A. I am.

16 Q. Did you go outside and smoke?

17 A. I would go -- well, when I was there I would go
18 either outside or away from the plant area because there was oxygen
19 and acetylene there.

20 Q. Can you guys hold on one second for me?

21 **(Off the record)**

22 By Mr. Griggs:

23 Q. Are you aware if CTR has been cited for any OSHA
24 violations, Mr. Glenn?

25 A. No, I am not.

26 Q. What's the shape of this building? Is this a

1 square building or -- or what's the shape of the building? You
2 said everything's pretty much under one roof.

3 A. I would say -- I would category it as square.

4 Q. Okay. With -- with the six large doors?

5 A. Yes.

6 Q. Okay. Now, if you had to give a breakdown as far
7 as let's say an eight-hour day how many hours would be doing actual
8 torch to material brazing and how many hours would be doing the
9 pressurizing test, the chasing parts, the assembly, the oxygen
10 cleaning stuff, the sandblasting, all the other stuff we talked
11 about? How many hours would be doing actual torch to brazing
12 versus these other things?

13 A. Well now, see, I'm not the production manager so
14 I can't comment on any of that. All I can tell you is what I've
15 seen and percentage-wise I don't have a clue. I...

16 Q. You don't have a clue?

17 A. No, sir, I do not.

18 Q. But you would...

19 A. Not when it comes to the breakdown.

20 Q. Okay. But you would -- but you would admit --
21 well, let me ask you this. How did you come up with your breakdown
22 of 60 percent in the shop versus 40 percent on the floor when he
23 was in the electrical shop? How'd you come up with that?

24 A. That -- I mean, that sounded like a good number
25 to me and that's what I observed most of the time when I was there.

26 Q. Well, tell me what you observed as far as the

1 brazing versus all the other things we talked about?

2 A. That I -- I -- I don't know. I can't put a --
3 because it depends on what's going on in the O2 room. It may take
4 longer because there's only one person does the O2 cleaning. It
5 may be backed up that day. So one day it may take four hours and
6 the next day it may take one. So as far as a percentage on that
7 type of work you can't do it. It's the same way with sandblasting.

8 If the sandblast is in use he may have to wait; if not, he gets
9 right to it so...

10 Q. Now...

11 A. ...as far as breaking it down from his individual
12 daily activities I -- I can't do it. I'm not his production
13 manager.

14 Q. Now...

15 A. They have a...

16 Q. Go ahead.

17 A. They do have a time clock. It's called a work
18 clock that would break it down for you and how accurate it is I
19 don't know but they do have that information. They have to
20 actually clock in on a job. That was my job, installing these
21 clocks and putting them out to the station, and that's where that
22 the percentages would come in.

23 Q. Okay. Now, let me ask you this. Were there days
24 as a -- as a final line person were there -- were there days where
25 you wouldn't touch a torch, where you would just be doing assembly
26 and sandblasting and labeling and valves and gauges and chasing

1 parts and testing and blowing parts and securing parts, were there
2 days where you would do that the entire day and maybe not touch
3 a torch? Is that possible?

4 A. I've never seen it. There -- it's possible but
5 like I say, there was times that I -- I took road trips and I was
6 gone sometimes for at least three weeks at a time on some of these
7 computer fill plants.

8 Q. So there was days where you weren't there at all,
9 correct, for weeks at a time?

10 A. Oh, absolutely.

11 Q. And -- and when you were there would there ever
12 be a day where you wouldn't step foot in the plant?

13 A. No, I was always out in the plant several times
14 a day.

15 Q. Okay. So if you were there even as safety or as
16 IT you would -- you would go in the plant at least once a day?

17 A. Yes, sir.

18 (Off the record)

19 By Mr. Griggs:

20 Q. How many times have you spoken to Mr. Dority since
21 November of 2011?

22 A. I called him one time after he called me about Mr.
23 Eddy contacting me to just check on his health and see how he was
24 doing and that was it. I haven't talked...

25 Q. So you...

26 A. I haven't talked to him since.

1 Q. So you've only spoken to him once since -- since
2 November of '11?

3 A. That is correct.

4 Q. Once since he left -- once since he left also?

5 A. No, no, no. Now, only -- now, I've only spoke to
6 him once since I've been in Virginia. Now, I did see him on
7 occasion when I still lived in South Carolina because I was laid
8 off in November and I did not move to Virginia until December.

9 Q. How often did you see him and talk to him then?

10 A. Oh, I only saw him maybe a couple times in passing
11 at the grocery store and that was it.

12 Q. Are you being compensated for your testimony today
13 at all?

14 A. No, sir, I am not.

15 Q. No witness fee, no mileage or nothing?

16 A. No, sir, I'm relatively close to Kingsport, no.
17 No, sir, I am not being compensated in any way.

18 Q. One second, please.

19 **(Off the record)**

20 **By Mr. Griggs:**

21 **Mr. Griggs:** I don't have any further questions.

22 **Mr. Eddy:** I have no questions. Thank you, Mr. Glenn.

23 **The Witness:** Yes, sir.

24 **(Off the record conversation)**

25 **Court Reporter:** You have the right to review this
26 testimony to make sure that I accurately transcribe it

1 or you can waive that right. That's totally up to you.

2 **The Witness:** I'll waive that right.

3 **And further, the deponent saith not.**

4 **Charlie Edward Glenn**

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Deborah Todd (TBCR #173)

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Reporter's Certification

State of Tennessee
County of Sullivan

I, Deborah Todd, LCR #173, Licensed Court Reporter and Notary Public in and for the State of Tennessee, do hereby certify that the above deposition was reported by me and that the foregoing ____ pages of the transcript is a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of Counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporter as a Licensed Court Reporter as evidenced by the LCR number and expiration date following my name below.

In witness whereof, I have hereunto set my hand and affixed my notarial seal this the ____ day of November, 2012.

Deborah Todd (TBCR #173)
Expiration Date 6/30/2014
Notary Public Commission Expires: 7/26/15
Deborah Todd Court Reporting
P. O. Box 1296
Kingsport, TN 37662

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC NO. 1023410

MICHAEL W. DORITY,
Employee,

vs.

CTR OF CHARLOTTE,
INCORPORATED,
Employer,
and

TWIN CITY FIRE INSURANCE
COMPANY,
CARRIER.

COPY

D E P O S I T I O N

WITNESS: MICHAEL W. DORITY
DATE: Wednesday, August 22, 2012
TIME: 11:02 a.m.
LOCATION: WILLSON JONES CARTER & BAXLEY, P.A.
4500 Fort Jackson Boulevard
Columbia, South Carolina

TAKEN BY: Counsel for the Employer/Carrier

REPORTED BY: Janni Jardine
Court Reporter

ABC REPORTING SERVICE
257 Summerland Avenue
Batesburg, South Carolina 29006
(803) 532-5255

1

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2

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ATTORNEY FOR THE EMPLOYER/CARRIER:

10

WILLSON JONES CARTER & BAXLEY, P.A.

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BY: SARAH S. ALPHIN, ESQUIRE

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Columbia, South Carolina 29209

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(Index at rear of transcript.)

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1 STIPULATIONS: It is stipulated by and
2 between Counsel that this deposition is being taken in
3 accordance with the South Carolina Rules of Civil
4 Procedure, and that the deponent waives the right to read
5 and sign the deposition transcript.

6 * * * * *

7 MICHAEL W. DORITY, being first duly
8 sworn, testified as follows:

9 Direct EXAMINATION

10 BY MS. ALPHIN:

11 Q. Good morning, Mr. DORITY. We met just a
12 moment ago, but, for the record, again, my name is Sarah
13 Alphin, and I am here today on behalf of CTR of Charlotte
14 and the insurance company in your workers' compensation
15 claim.

16 Have you ever had your deposition taken
17 before for anything?

18 ~~A. No, ma'am.~~

19 Q. Okay. Just so you know, what it is that
20 we're going to be doing today, this is what is commonly
21 called a discovery deposition. Because you are
22 represented by an attorney, I can't just call you up and
23 ask you questions, so this is just a formal conversation
24 for me to get some information about you.

25 I'm going to start by asking some questions

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1 about your personal background, your education history,
2 and your employment history as well, and then I'm going
3 to ask some questions about your -- your injury, the
4 treatment you've received, how you're doing today, that
5 kind of thing.

6 A. Uh-huh.

7 Q. If at any time I ask you a question that
8 you don't understand or you're not sure what I'm talking
9 about, stop me and let me know that, and I will rephrase
10 it for you. Okay?

11 A. Okay.

12 Q. A couple ground rules for a deposition --
13 this woman here is our court reporter. She is going to
14 take everything we say down into a written format.
15 Because of that, it's important to give verbal answers.
16 Uh-huh's and huh-uh's don't show up real -- very well in
17 writing, so yeses and noes.

18 If I stop you and say was that a yes or a
19 no, just know that I'm not being rude. I'm just trying
20 to create a good record. Okay?

21 A. I understand.

22 Q. Okay. Great.

23 If at any time you need to take a break for
24 any reason, we can take a break, just let me know.

25 A. Okay.

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1 Q. I don't think we'll take real long, but --
2 but feel free to take one if you need it.

3 Do you understand that you have been sworn
4 in to tell truthful testimony today as if you were
5 testifying in court?

6 A. Yes, ma'am.

7 Q. Okay. Great.

8 And before we get started, are you under
9 the influence of any medications or other substances
10 today that may influence your ability to answer
11 questions?

12 A. No, ma'am.

13 Q. Great.

14 Will you state your full name for me,
15 please.

16 A. Michael W. DORITY.

17 Q. And how old are you, Mr. DORITY?

18 A. I am 55 now.

19 Q. What is your date of birth?

20 A. 10/10/1956.

21 Q. And what is your current address?

22 A. 1108 DORITY Farm Road, Fort Lawn, South
23 Carolina. The ZIP is 29714.

24 Q. Okay. Is that a house, a mobile home, an
25 apartment?

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- 1 A. It's a mobile home and a -- and a house
2 combined, built on to the front of a mobile home.
- 3 Q. Okay. And do you own or rent your home?
- 4 A. I own my home.
- 5 Q. Okay. How long have you lived there?
- 6 A. Since 1985.
- 7 Q. Okay. What's your current telephone
8 number?
- 9 A. My home phone number is 803-872-4583.
- 10 Q. And what is your Social Security number?
- 11 A. XXX-XX-7660.
- 12 Q. Okay. Do you have a valid driver's
13 license?
- 14 A. Yes, ma'am.
- 15 Q. Is it from South Carolina?
- 16 A. Yes, ma'am.
- 17 Q. What is that number?
- 18 A. I don't know. I'll have to look it up.
- 19 Q. Okay. You can just read it out to me when
20 you get it out.
- 21 A. And that's on the top, where it says DL?
- 22 Q. Yes.
- 23 A. Okay. It's 004759705.
- 24 Q. Thank you.
- 25 A. Yes, ma'am.

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- 1 Q. And what kind of vehicle do you drive,
2 Mr. Dority?
- 3 A. I drive a Toyota Camry.
- 4 Q. Are you currently married?
- 5 A. No, ma'am, I'm not.
- 6 Q. Okay. Have you ever been married?
- 7 A. Yes, ma'am.
- 8 Q. Okay.
- 9 A. I've been divorced since -- do you need to
10 know that?
- 11 Q. Well, I was going to ask, have you been
12 divorced?
- 13 A. Yeah.
- 14 Q. Okay. Do you pay any alimony to your
15 ex-spouse?
- 16 A. No, ma'am.
- 17 Q. Okay. Do you have any children?
- ~~18 A. No, ma'am.~~
- 19 Q. Is there anybody that's financially
20 dependent upon you for support?
- 21 A. No, ma'am.
- 22 Q. Okay. Do you have health insurance?
- 23 A. COBRA.
- 24 Q. Okay. Have you applied for Social Security
25 disability?

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1 A. Yes, ma'am, I have.

2 Q. Okay. And are you currently receiving that
3 now?

4 A. Yes, ma'am, I am.

5 Q. When did you apply for that?

6 A. It was in December or -- November or

7 December of 2010 is when I applied for it.

8 Q. Okay. And how long have you been receiving
9 it, or approximately when did your benefits start?

10 A. I was thinking they started in -- last
11 year, in March or May '1.

12 Q. Okay. Sometime around then, in 2011, you
13 mean?

14 A. Yes, ma'am.

15 Q. Okay. And how much do you receive?

16 A. \$1925 -- 24 a month.

17 Q. Okay. And what health conditions did you
18 list when you applied for Social Security disability?

19 A. Because I have a lung disease, and the
20 doctor in Charlotte that did the lung biopsy stated that
21 I wasn't able to work anymore, and he said I need to put
22 in for my disability because I was -- bills were adding
23 up so much.

24 Q. Okay. And who was that doctor?

25 A. Dr. John Doty.

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1 Q. Okay. Were there any other health
2 conditions other than lung disease that you used on your
3 Social Security disability application?

4 A. He said I had COPD and what they call
5 fibrosis.

6 Q. Okay. And is it your understanding those
7 are all related to lungs and breathing?

8 A. Yes, ma'am, a lung problem.

9 Q. Okay. Any other health problems that you
10 listed other than related to lungs or breathing?

11 A. No, ma'am.

12 Q. Okay. Okay. Are you a Medicare
13 beneficiary because of your Social Security disability
14 status?

15 A. No, ma'am, not yet. I won't be eligible
16 for -- sometime next year.

17 Q. Okay. Okay. Well, I'm going to ask some
18 questions now about your education background.

19 Did you graduate from high school?

20 A. Yes, ma'am, I did.

21 Q. Okay. Where did you attend high school?

22 A. I attended Lewisville High School, and then
23 I quit in the -- I think it was the ninth grade. And
24 then I went back and finished at -- it's up in Stratford,
25 and I finished my high school degree there through

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1 correspondence.

2 And I also went -- I took some courses at
3 York Technical College in Rock Hill. They were related
4 to the job, and it was electrical and electronics, and
5 I've had some hydraulic training in hydraulics and
6 industrial maintenance.

7 Q. Let me just make sure I understood you.
8 You returned to high school and got a high school degree,
9 or did you go get a GED?

10 A. I got a diploma.

11 Q. Okay.

12 A. I have it if -- they -- they send you a
13 diploma, and you get a ring and all. You could get the
14 GED, but I wanted the diploma. It was recognized more,
15 the way I understood it --

16 Q. Okay --

17 A. -- than a GED.

18 Q. Okay. I'm just making sure I understood
19 which -- which one you had.

20 A. Yes, ma'am.

21 Q. Okay. And then you also, it sounds like,
22 have had some classes at York Technical College; is that
23 right?

24 A. Yes, ma'am.

25 Q. Okay. Do you have degrees, or were they

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1 just training type classes?

2 A. I didn't have any degrees. It was just
3 classes that I took related to my job.

4 Q. Okay. And some of the classes you -- you
5 took some electrical classes?

6 A. Yes, ma'am.

7 Q. What kind of electrical?

8 A. Electronics and industrial electricity.

9 Q. Okay. And you also did hydraulics?

10 A. Yes, ma'am.

11 Q. Okay. And then also industrial
12 maintenance?

13 A. Yes.

14 Q. What kind of things are involved in
15 industrial maintenance?

16 A. Industrial maintenance is more like the

17 ~~mechanical side of it, you know, as far as working on~~
18 equipment, the -- you know, the bands and rolls and chain
19 drives and stuff like that, you know.

20 Q. Okay. Other than the training classes
21 you've taken at York Tech that you just told me about, do
22 you have any other post-high school education?

23 A. No, ma'am.

24 Q. Okay. Ever -- other than York Tech that
25 you just told me about, any college or other technical

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1 school education?

2 A. Nothing other than seminars that we went
3 to. I went to a hydraulic seminar in -- for oil gear in
4 Milwaukee, Wisconsin.

5 Q. Okay. Was that through a job that you
6 held?

7 -- A. -- Yeah, it was related to the job.

8 Q. Okay. Do you have any specialized job
9 training, certifications, or licenses other than what
10 you've already told me?

11 A. No, ma'am.

12 Q. Okay. Have you ever served in the
13 military?

14 A. No, ma'am.

15 Q. Do you have any trouble reading or writing?

16 A. No, ma'am.

17 Q. Okay. Do you know how to use a computer?

18 A. Yes, some.

19 Q. Okay. Do you have one at home?

20 A. I used to have. I don't anymore.

21 Q. Okay.

22 A. I used to have.

23 Q. Do you know how to use like word processing
24 programs on a computer?

25 A. I'm not that familiar with it. We -- I had

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1 one at home, but it was the old dial-up, to where -- I
2 stay out in the country, and it was so slow. I just -- I
3 finally said the heck with it, you know, but I could do a
4 little bit on it.

5 Q. Okay. Fair enough.

6 Have you ever had a workers' compensation
7 claim before this one?

8 A. No, ma'am.

9 Q. Okay. Have you ever been a part of another
10 type of lawsuit because you were injured somehow?

11 A. No, ma'am.

12 Q. Have you ever been in a motor vehicle
13 accident in which you were injured?

14 A. No, ma'am.

15 Q. Okay. And my next two questions I ask
16 everyone whose deposition I take.

17 In the last ten years, have you been
18 convicted of or pled guilty of any crime?

19 A. No, ma'am.

20 Q. Okay. And have you ever had any
21 psychological or psychiatric treatment before?

22 A. No, ma'am.

23 Q. Okay. The next kind of thing I wanted to
24 get into, Mr. DORITY, was your employment history. I
25 find it easiest to start with your most recent employer

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1 and work backwards from there. It doesn't have to be
2 exact chronological order, but I am just trying to build
3 a history of the jobs you have held since you got out of
4 high school.

5 So, tell me, when did you start working for
6 CTR?

7 A. I started working for CTR -- it was in the
8 first of July of 2006.

9 Q. 2006.

10 Okay. And before you came to work at CTR,
11 where did you work?

12 A. I worked at Springs Grace Finishing Plant
13 in Lancaster in '75, and I left there in '96 and returned
14 back in '99, and they shut down in 2006.

15 Q. Okay. You started working there in 1975?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes, ma'am.

19 Q. Okay. And then you worked there -- I
20 didn't catch all your years -- until 1990 something?

21 A. 1996. I left for two years --

22 Q. Okay.

23 A. -- and went to another company, and I
24 returned back at Springs in 1999, until they shut the
25 plant down in 2006.

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1 Q. Okay. So that doesn't exist anymore; is
2 that right?

3 A. No, ma'am. They moved to Brazil.

4 Q. Okay. What did you do for Springs Grace
5 Finishing?

6 A. I started and I worked on -- in the
7 bleaching department as an open-width operator, and I
8 must have worked there -- I think it was a couple of
9 years in that department. And then I transferred into
10 maintenance, industrial instrumentation maintenance, and
11 I worked in that until I left as an instrumentation
12 mechanic in 1996.

13 And when I returned -- I went to
14 Georgia-Pacific for two years, well, from '96 to '99,
15 almost three years.

16 I returned in 1999, and they had combined
17 the electrical field and the instrumentation as one
~~18 craft, where it was two different crafts, and I had to~~
19 learn the electrical trade, which the electrical trade
20 works in with the instrumentation, too. I was a
21 troubleshooter on the machinery.

22 Q. Okay. What -- what kind of work did
23 Springs Grace Finishing do?

24 A. They -- cloth was made in the mills, and
25 then the cloth comes from the mills as grey goods. And

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1 it comes to the bleachery, and then the bleachery took it
2 in, and then it went through the process of bleaching and
3 dyeing, finishing.

4 And upstairs they made -- some of the
5 material went upstairs. It was dyed. And upstairs done
6 made sheets, pillowcases, and comforters, and -- and then
7 they also sold rolls of cloth to different companies for
8 various -- you know, to make clothes and stuff like that
9 out of it.

10 Q. Okay. When you first started at Springs
11 Grace Finishing, you told me you worked in the bleaching
12 department; is that correct?

13 A. Bleaching department.

14 Q. And what -- and you said you were some sort
15 of operator, but I didn't catch the first part.

16 A. Open -- what they call an open-width
17 operator.

18 Q. Open-width. Okay.

19 A. Yeah.

20 Q. What did you actually do? What did that
21 job entail?

22 A. I was actually running the machine, sewing
23 the grey good cloths in, and it went through the machine,
24 and it was bleached. And what bleach means is they put
25 peroxide and basically bleach in a cloth out from the

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1 grey goods, getting it ready to go, where it went to
2 dyeing or finishing or screen printing, depending on what
3 the order was.

4 Q. Okay. Were you ever exposed to bleach or
5 the machine did it? How did that work?

6 A. No. It was -- the cloth goes into the
7 machines, and it went through the saturators and the
8 steamers, just like, you know, you would -- it would
9 thread up like that, you know.

10 Q. Okay. Were there fumes in the area where
11 you worked when you worked in bleaching?

12 A. There was fumes there, but they had what
13 they call drop-down hood exhausts that -- that pulled the
14 fumes out over the top, over them.

15 Q. And about how many years did you work in
16 bleaching?

17 A. I think I was there two years.

18 Q. Did you ever have any health problems
19 because of bleaching fumes while you worked at Springs?

20 A. No, ma'am.

21 Q. Okay. And then when you went to work in
22 maintenance and industrial instrumentation, what did that
23 job entail?

24 A. We traveled the whole plant, bleaching and
25 dyeing and finishing. We went over the whole, complete

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1 plant then doing troubleshooting on the machines. And
2 instrumentation consists of flows, temperatures, ratio
3 controllers, controllers that controlled heat,
4 temperature.

5 Q. Okay. Did you also do some work in the
6 bleaching department when you worked doing
7 instrumentation -- I'm sorry -- industrial
8 instrumentation?

9 A. Yes, ma'am.

10 Q. How much of your work was done in the
11 bleaching department?

12 A. It's hard to say. We -- we covered
13 bleaching, dyeing, finishing, screen print, and we went
14 all over the whole plant. Just wherever we were
15 dispatched on the radio to go, that's where we went, you
16 know, wherever they had trouble.

17 Q. Okay.

18 A. You might go out there once a night. You
19 might go out there once every two weeks, you know. I
20 mean, it's hard to say.

21 Q. Okay. What about the other areas? Other
22 than the bleaching department, were there other areas
23 that had fumes as well? Like what about dyeing?

24 A. Dyeing did, but they were the same thing.
25 They had what they call these hood exhausts over them,

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1 and they were pulling the fumes and stuff out of them.

2 Q. Okay. Okay. What about finishing?

3 A. Finishing had some, but they also had fans
4 that pull it to the roof, they exhaust it out the roof.

5 Q. How about any -- any fumes in the screen
6 print department?

7 A. Some. But they -- it's the same. They had
8 fans in there pulling the exhaust out. Plus they also
9 had what they call ceiling exhaust, you know, and that
10 was extra fans.

11 Q. Okay. Then when you came back to Springs
12 Grace Finishing in 1999 and they had combined electrical
13 and instrumentation, how was your job different at that
14 time?

15 A. We -- before I was just troubleshoot
16 instrumentation. Then I had to start troubleshooting
17 electrical, which electrical consists of the drives, the
18 ~~AC and DC drives, on the machines, and that pretty much~~
19 covers that.

20 The AC and DC drives -- I don't know if you
21 know what I'm talking about -- that's what tells the
22 motors to speed up, slow down, or whatever. It controls
23 the speed of the motors.

24 Q. Okay. And let me ask you this, because
25 you're going to know more about this than I do. What's

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1 the difference between instrumentation and electrical?

2 A. Instrumentation mechanic took care --
3 troubleshooted gas equipment, troubleshooted the flow
4 controls. If they had trouble with a flow on -- it could
5 have been water. It could have been peroxide.

6 And then it also had -- ratio controllers
7 is -- is like in the dye dispense area and finishing.

8 You had ratio controllers that mixed the dye, and it put
9 so much of this color and so much of that color to come
10 up with whatever you wanted, red, black, blue, whatever,
11 you know. And that's -- that's what the instrumentation
12 side of it was.

13 And the electrical part, you know, like I
14 said, was different. It was consisting of the drives on
15 the machine that actually told the motors -- you know,
16 these machines are pretty long, so there is a lot of
17 motors on them.

18 Q. Did you ever supervise any employees at
19 Springs Grace Finishing?

20 A. No, ma'am.

21 Q. At the time you left there, how much money
22 were you making?

23 A. \$19.50 an hour.

24 Q. Did you ever get hurt when you worked for
25 Springs Grace Finishing?

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1 A. One time I burned my arm, and that was it.

2 Q. Did you have to get medical treatment for
3 that?

4 A. I went to the medical department. They had
5 their own medical department.

6 Q. Okay. During the time that you worked at
7 Springs Grace Finishing, did you ever have any problems
8 with breathing or with your lungs or anything like that?

9 A. No, ma'am.

10 Q. Okay. Were there any areas you worked in
11 at Springs Grace Finishing that did not have fumes in
12 them?

13 A. No, ma'am.

14 Q. And, you know, you worked at Springs Grace
15 for quite a long time, so let me ask you this. Are you
16 aware of anybody that worked there that began having lung
17 problems or breathing problems because of the fumes?

18 ~~A. No, ma'am.~~

19 Q. Okay. Okay. And then let me go to
20 Georgia-Pacific. And you said that's where you worked
21 when you left Springs Grace for two years; is that right?

22 A. Yes, ma'am.

23 Q. Okay. And what did you do for
24 Georgia-Pacific?

25 A. Well, I was an instrumentation mechanic

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1 there, and we did -- basically did the same thing,
2 instrumentation, done at the Grace plant.

3 Q. Okay. What does Georgia-Pacific make?

4 A. They made hardboard siding.

5 Q. And where was the Georgia-Pacific you
6 worked at?

7 A. It was in Catawba, what they call a little
8 town called Catawba. It's off of Number 5 and up next to
9 Rock Hill.

10 Q. Okay. And in that plant, did you move
11 around to different areas, or what?

12 A. Yes, ma'am.

13 Q. Okay. Were there any areas at
14 Georgia-Pacific that had fumes?

15 A. Just one area, but they had exhaust fans
16 over where they coated the boards. The boards run
17 through paint, and they had exhaust fans over them to
18 pour the fumes out.

19 Q. Okay. And that was paint in that plant?

20 A. Yes, ma'am.

21 Q. Okay. Were you ever exposed to any sort of
22 dust or particles at Georgia-Pacific?

23 A. No, ma'am.

24 Q. And I don't think I asked that about
25 Springs Grace. We talked about fumes in the different

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1 areas.

2 Was there anywhere in Springs Grace that
3 had dust or any sort of particles in the air?

4 A. Yes, there was.

5 Q. Okay. Where -- where -- what areas?

6 A. It was in the grey room, what they call the
7 grey room, where the cloth first -- the first stages, it
8 come in to be treated.

9 Q. Okay. And what -- what was there? What
10 kind of exposure was there?

11 A. It was just dust off the cloth, where it
12 come in, that they had the cloth run down by what they
13 call vacuum slots, and it sucked the -- the lint and
14 stuff off and collected it and put it into a closed
15 container, and they would have to, you know, clean it
16 periodically.

17 Q. And did you also do repair work in the dust
18 room when you worked at Springs Grace Finishing?

19 A. Some, yes, ma'am.

20 Q. Was there one area at Springs Grace
21 Finishing that you did most of your work, or did it just
22 depend and change all the time?

23 A. They was like -- three of us might be
24 troubleshooters, and -- and that -- you went wherever you
25 were dispatched, depending on where the calls come in,

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1 from what department.

2 Q. Okay. Let's go back to Georgia-Pacific,
3 then. Make sure -- I don't want to confuse you jumping
4 through to different jobs.

5 So at Georgia-Pacific, the only kind of
6 fumes or dust or particles there was in the one area with
7 paint; is that right?

8 A. Yes, ma'am.

9 Q. Okay. And is the -- is the paint area an
10 area you worked in sometimes?

11 A. Sometimes.

12 Q. Okay. Did you ever have any trouble
13 breathing or have any symptoms with trouble breathing or
14 with your lungs while you worked at Georgia-Pacific?

15 A. No, ma'am.

16 Q. Are you aware of any Georgia-Pacific
17 employees, that -- that you know of, that had any trouble
18 breathing or had trouble with their lungs because of
19 paint fumes?

20 A. No, ma'am, not anyone that I know of.

21 Q. Did you ever supervise any employees at
22 Georgia-Pacific?

23 A. No, ma'am.

24 Q. And at the time you left Georgia-Pacific,
25 how much money were you making?

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1 A. \$20.50 an hour.

2 Q. Okay. Why did you leave your job at
3 Georgia-Pacific?

4 A. Because it was -- pretty much the
5 handwriting was on the wall. It shut down just a matter
6 of two years. Vinyl siding come out, and when vinyl
7 siding come out, that pretty much did the hardboard
8 siding out, and the sales was just going down to nothing
9 in a short time. And that was the reason I left. It
10 wasn't --

11 Q. Okay. Are they shut down now, as far as
12 you know?

13 A. Yes, ma'am.

14 Q. Okay. Did you ever get hurt while you
15 worked for Georgia-Pacific?

16 A. No, ma'am.

17 Q. Okay. Was Springs Grace the first job you
18 had after high school, or did you work somewhere before
19 that?

20 A. It was the first job I had after high
21 school.

22 Q. Okay. So you've worked at Springs Grace,
23 Georgia-Pacific, and CTR?

24 A. Yes, ma'am.

25 Q. Okay. Are there any other jobs that you

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1 have held?

2 A. No, ma'am.

3 Q. Okay. Let's talk about CTR, then. And you
4 told me a minute ago that you started that job in July of
5 2006, correct?

6 A. Yes, ma'am.

7 Q. Okay. What job were you hired to do?

8 A. I was hired on in the final line section,
9 silver soldering and building oxygen equipment for
10 regulator stations for the hospitals and different
11 various oxygen uses, and not only just oxygen. They had
12 other gases and cryogenics that -- there's other gases
13 besides it that you built stuff for, besides just oxygen.

14 Q. Okay. And what department did you say that
15 was? I didn't catch it.

16 A. Final line.

17 Q. Final, with an -- with an "F"?

18 A. Uh-huh.

19 Q. Okay. Is that a yes?

20 A. We call it final line.

21 Q. Okay. And your actual job was in silver
22 solder?

23 A. Yes, ma'am.

24 Q. Okay. And in that position, it was oxygen
25 tanks and other kind of tanks for various gases?

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1 A. That's what the equipment was being built
2 for, yes.

3 Q. Okay. Well, describe your job for me in
4 the final line. What is it that you actually did?

5 A. We cut pieces of copper tubing and fitted
6 them into fittings, and we had to put flux around the
7 fittings and put the fittings together.

8 And then you took a rosebud, which is a
9 soldering outfit, and you had to go around and around and
10 heat the fitting and feed the silver in to make the
11 silver joint on the -- it could be copper to copper. It
12 could be copper to brass. It could be stainless steel to
13 brass, or it could be different, various -- depending on,
14 you know, the application for what it was being used for.

15 Q. Okay. So you would use fittings, and then
16 what was the final product you would make?

17 A. It would -- the final product would be like
18 a regulator station. You had two regulators here. The
19 hospital would run in from the evaporator, where the
20 liquid vac -- the liquid oxygen tank is.

21 It feeds through an evaporator and then
22 comes into this regulator station, and it regulates the
23 pressure there that they got going into whatever the
24 application might be in the hospital, or they have oxygen
25 in different applications that they use.

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1 And some of the stuff was -- they actually
2 built the racks that these tanks are filled on, and
3 they -- they -- I had to help, you know, assemble some of
4 them if they got behind in that -- in that, too. And I
5 also brazed -- I soldered some of the brass what I call
6 headers that fit the -- the racks for the -- what they
7 call E-racks.

8 Q. Okay. Let me -- let me go back and ask you
9 about some of this job description that you gave me.

10 You told me the first thing you would do is
11 cut copper tubing, and then you would put fittings
12 together.

13 A. Yes, ma'am. What they would call -- they
14 sweat -- what they call sweat together. You have to --
15 those fittings is -- if you cut the copper pipe, and then
16 your order -- say, a "T" or a 9 "L", whatever, and you
17 fluxed it with the brown flux -- black looking flux and
18 then you slid it together, and then you had to stand it
19 in a vise, on a piece.

20 And then you had to take the rosebud and
21 heat it up to the temperature, and then you held a wire
22 in this hand, and then you fed it into it, and -- until
23 it made that joint.

24 Q. Okay. So in your job doing silver solder,
25 you were making joints?

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1 A. You were silver soldering joints of a pipe
2 together, yeah.

3 Q. Okay. And then what -- what do you mean
4 when you told me sometimes you would do -- you would
5 solder brace headers -- brass headers? What is that?

6 A. It's like "T"s, and it would be pieces of
7 brass that -- and they might be 12 foot long. You might
8 have 15 "T"s in there, and they use them to sit in those
9 racks that they -- they sit these tanks in, and then they
10 had quick-cut napkins that they put on these tanks to
11 fill them for, I think it was, Live Gas and National
12 Welders, and there were several different companies that
13 they built the equipment for.

14 Q. Okay. What is a "T"?

15 A. A "T" is a fitting that -- it's -- those
16 were a lot -- the brass ones, they are rated in pressure,
17 so they were a lot thicker. And it was, you know, rated
18 for higher pressure because they built the machine that
19 actually pulled the vacuum on the tanks and then refilled
20 them with oxygen.

21 Q. Okay. How did you actually do -- you told
22 me sometimes you would solder brass headers. How did you
23 actually do that job?

24 A. The same way, with the rosebud. You heat
25 the brass up, and then you take the silver and hold it in

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1 your hand and feed it into it to silver that -- until
2 that joint was silvered.

3 Q. Okay. What does heating it up do, just
4 make it so it will -- it will move around so you can
5 shape it?

6 A. Heating it up -- you have to heat it up to
7 bring up the temperature to get the silver to start
8 melting, because it's like a wire in a roll.

9 Q. Okay. So what piece are you trying to
10 melt?

11 A. Well, you got to get it hot to make the
12 bond between the brass and the joint, the actual silver
13 joint that you make. So you have to -- if you got two
14 pieces sitting here together and a coupling in between
15 it, you have to heat it and get it hot, and once it gets
16 hot, that joint that you want to make, you have to feed
17 that silver in.

18 You hold it in your hand and feed that
19 silver into it, and it will go around it. The flux makes
20 it pull down in it -- into the joint.

21 Q. Okay. So is the silver used to keep the
22 two fittings together, when you say it goes around?

23 A. Yeah. Yes, ma'am.

24 Q. Okay. Okay. And I'm not trying to ask
25 silly questions, but I just don't know. That's why I'm

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- 1 asking.
- 2 A. I understand.
- 3 Q. Okay.
- 4 A. I understand.
- 5 Q. And it's probably hard to explain.
- 6 Were you exposed to any sort of chemicals
- 7 or dust or fumes in your job doing silver solder?
- 8 A. Yes, ma'am.
- 9 Q. Okay. What? What was it that you were
- 10 exposed to?
- 11 A. Exposed to the silver and the flux that you
- 12 put on there. You could see the smoke, you know. When
- 13 you're heating that stuff, you can see the smoke heat --
- 14 the smoke coming off on it, and you're exposed to the
- 15 fumes that comes off the silver.
- 16 Q. Okay. What is the smoke coming off of, the
- 17 silver or the flux?
-
- 18 A. Both.
- 19 Q. Okay. They both get heated?
- 20 A. Uh-huh.
- 21 Q. Is that a yes?
- 22 A. Yes, ma'am.
- 23 Q. Okay.
- 24 A. I'm sorry.
- 25 Q. That's okay.

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1 What is flux?

2 A. Flux is a paste that you use to put on
3 the -- the joint and then put your fitting down on there
4 where you're going to make the joint. The flux makes the
5 solder that draws it into the joint, you know. You --
6 just to make a good joint, it has to be -- has to be
7 pressure tested and all of that.

8 Q. Okay. When you say joint, is that -- do
9 you mean the area where the two fittings come together?

10 A. That's what I'm calling a joint, yes,
11 ma'am.

12 Q. Okay. I just wanted to make sure we're on
13 the same page.

14 Okay. So when you heat the silver and you
15 heat the flux, it would make a smoke?

16 A. Yes, ma'am.

17 Q. Okay. Would it do that every time you heat
18 it up?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes, ma'am. I'm sorry.

22 Q. That's okay.

23 Okay. And were there -- other than the
24 smoke, was there also some sort of fume?

25 A. There was fumes that were coming off of it.

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1 You could -- I've actually got choked and had to turn the
2 torch off and go get water and stand in front of a fan.

3 And there was three tables here and three
4 tables over here across the alley probably 10 feet from
5 me. And the guys would come over -- one of them would
6 come over and ask me are you all right, and I said, yeah,
7 I just got to get some water, and then I get in front of
8 a fan, and I finally quit coughing, but --

9 Q. Okay. And was that from the smoke?

10 A. I'm thinking it was from the smoke or the
11 fumes, one.

12 Q. Okay. So this --

13 A. Whatever chemical it was coming off of it,
14 I don't know.

15 Q. Okay. Well, let me ask you this. You told
16 me that when the silver and the flux were heated up,
17 smoke would come off of them.

18 Was that -- when you say smoke and fumes,
19 do you mean the smoke and fumes from heating it up, or
20 were there fumes from something else?

21 A. The fumes and the smoke from heating it up.

22 Q. Okay. So all kind of together?

23 A. Yes, ma'am.

24 Q. Okay. What kind -- what did it smell like?

25 A. It would choke you. I don't know.

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1 Q. Did it have a smell?

2 A. Yeah, it had a smell, but I don't know how
3 to describe the smell, but I would -- I've -- I don't
4 know. I don't know how to tell you that.

5 Q. Okay. How -- how much smoke would come off
6 of it, if you can answer that?

7 A. A good bit, enough you could see it, you
8 know. And we wore -- glasses and gloves is all we had.
9 We didn't have any type -- anything else.

10 Q. Okay. In the area that you worked, was it
11 smoky in general? When you would just walk through, was
12 there smoke hanging around?

13 A. It was, yes, ma'am. In times, yes.

14 Q. Okay. You said at times?

15 A. Pretty much all the time unless somebody
16 opened the door in the plant, and sometimes it would draw
17 out the door, you know. If they had a door open that
18 reached in, it could be drawn on through.

19 Q. Okay. In a typical workday, how many times
20 are you heating up silver and flux?

21 A. You're constantly doing it. You got 30
22 minutes to eat dinner and two 15-minute breaks out of --
23 I went to work at 7 and got off at 3:30, and you're
24 constantly doing it, you know.

25 Once you build these and -- then they had

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1 to -- you go to sandblasting and be sandblasted, and then
2 they had to come back through and go through a quality
3 process, which was called cleaning in alkaline, I believe
4 was the chemical they cleaned it in.

5 And then they bagged it and brought it to
6 you, and then you would install the regulators and -- and
7 then install it on a rack they could fasten down to the
8 floor.

9 Q. Okay. So you got the product after it had
10 been cleaned and everything?

11 A. You get it back.

12 Q. So you get it twice?

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes, ma'am.

16 Q. Okay. Well, let me ask you this. The part
17 where you -- you cut your copper tubing and you fit your

18 pieces and use the rosebud, how long would it take you to
19 go through that process?

20 A. It would take a while. It's -- you know,
21 it takes time to heat them, you know. You might have
22 one, two, three, four, five, six, seven, eight, nine --
23 you might have ten or twelve joints on one side.

24 Q. Okay.

25 A. And you've got this side and then you've

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1 got this side.

2 Q. And each joint you would have to heat --
3 heat up the silver --

4 A. Yes.

5 Q. -- and the flux?

6 A. Yes, ma'am.

7 Q. Okay. And in one shift that you would
8 work, for your entire day, how many times are you heating
9 up a joint with the silver and the flux?

10 A. Constantly doing it. I mean, we -- we got
11 them, and they would most of the time send orders out
12 there to build 25 at a time.

13 So you built half of them, ten of them, and
14 then you would take them to -- push the buggy over there
15 to another guy, you know, after you get the -- after it
16 was hot, you had to drop it in water and cool it down
17 because the plastic boogies -- you can't lay something
18 hot on plastic. It would just melt, so you had to cool
19 it down.

20 And after it sat there, you -- you know,
21 you get about ten built up, and then you would take them
22 around there, and the guy would sandblast them, and then
23 they would come back.

24 And then it would go to the quality and
25 inspection and the cleaning in the alkaline, which is a

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1 chemical that cleans the inside and outside of the pipes,
2 and you put it in bags because it has to be cleaned if
3 it's for oxygen of any type.

4 And then you would have to assemble the
5 regulators on it, and then you pressure tested it, and
6 then you had to seal everything up to where it would stay
7 clean during shipment.

8 Q. Okay. Let me ask you this, because you
9 gave me an example you might have ten joints that you do.
10 How long would it take you to do ten?

11 A. I think I could build what they call
12 FEC7000, and that's what I'm talking about. I could
13 probably do three a day, four, complete, you know, but, I
14 mean, that's ten joints on each side. That's 20 joints.
15 You're figuring, what, 80 joints or more a day.

16 Q. Okay. And so was it -- was that about
17 normal for you, to do about 80 joints in a day?

18 A. Yes, ma'am.

19 Q. Okay.

20 A. When you got to, with one 25 order and they
21 bring you 25 more, I start on an order. You had other
22 stuff that you would do, too.

23 Q. Okay. And then for each joint, you would
24 be required to heat the silver and the flux with the
25 rosebud; is that correct?

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1 A. Yes.

2 Q. Okay. Now, let me ask you what happened
3 when those would come back to you after they were
4 sandblasted. You didn't do the sandblasting, did you?

5 A. Sometimes I did, but most of the time -- if
6 they had one guy to do it and he was busy, and, you know,
7 we didn't have anything else to do or it was a rush job,
8 had to go out, we would take it around there and
9 sandblast it ourselves, bring it back, and take it to the
10 lady in the quality room that cleaned them. And then she
11 would clean it and put it in the bag and bring it back to
12 us, and then we had to assemble the regulators on it.

13 Q. Okay. How often did you do sandblasting?

14 A. At least, you know, probably -- I don't
15 know -- twenty times a week.

16 Q. And how do you do that job?

17 A. You have a cabinet -- the best way I know
18 how -- you have a cabinet and a door on the end, and you
19 open the door up on the end, and you put your -- whatever
20 you're sandblasting up in there.

21 And then you had a lid on the top with a
22 glass you could see through, and then you cut it on, and
23 you run your hand up in rubber gloves, and you held the
24 pieces, and you had the nozzle and you had to turn them
25 different ways to clean the pipe and the silver solder

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1 joints that you had.

2 And then after you took it out of there,
3 you had to take it back around to your workstation and
4 blow air through it. Nitrogen is what we used. It
5 wasn't compressed air. It was nitrogen.

6 And then you would take it to the lady to
7 have it cleaned, and she would bring it back to you.

8 Q. Okay. Operating the sandblast machine,
9 does that expose you to any fumes, dust, or other
10 particles?

11 A. Yes, it did. When you would open the door
12 to take it out -- and I would have some type of -- it
13 must be exhaust taking it out, but, you know, when you
14 would open the door, you could see some would come out on
15 you.

16 Q. Did you ever do any of the cleaning -- the
17 ~~cleaning of the product once it came out of the~~
18 sandblaster?

19 A. No, ma'am. They had a lady that done that.

20 Q. Okay. And then when you got it back and it
21 was your responsibility to assemble the regulator, how do
22 you do that?

23 A. You have fittings that you had soldered to
24 the ends of the pipe, and you had to take regulators and
25 a Teflon table and screw fittings into the regulator, and

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1 then you would install it together.

2 And then you had to mount it on legs with
3 clamps to hold it upright, and the legs were aluminum
4 frame, and they would fasten to the cement floor or
5 wherever the application they used them for.

6 Q. Okay. And these were -- this was a product
7 that would hold tanks, multiple tanks?

8 A. No. These were what they call regulator
9 stations.

10 Q. Okay.

11 A. It's a FEC7000, is what they call them.
12 But depending on what the orders was, that's what you had
13 to do, you know, whatever would come in.

14 Q. Okay. Assembling regulators, did that
15 expose you to any dust, any fumes, any particles,
16 anything like that?

17 A. I would say yes. Yes, because you got
18 people on this side of you. I worked in the middle
19 table. There were three tables here together, and you
20 might be assembling here, and these two guys over here,
21 they could very well be silver soldering.

22 Q. Okay.

23 A. So you're in the middle, and I would say
24 yes.

25 Q. Okay. The job itself of assembling

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1 regulators, that particular task, does it produce any
2 fumes or any dust or any particles?

3 A. Not doing that, no, ma'am.

4 Q. Okay. But what you're telling me is you
5 might have been placed close to people who are doing
6 silver solder, which is where you heat the silver and the
7 flux with the rosebud?

8 A. Yes, ma'am.

9 Q. Okay. Okay. A few minutes ago you told me
10 there was a time you were kind of choking on the dust,
11 and you had to get away and get water and stand in front
12 of a fan. When did that happen approximately?

13 A. It would just depend. I mean, if it -- if
14 somebody opened a little door or something or wind blew
15 it, it just like -- it would just blow it back in your
16 face, you know. And, you know, it could happen two or
17 ~~three times a week, or it might happen five times a week,~~
18 you know, I mean, I just --

19 Q. Okay. So that wasn't something that just
20 happened to you one time?

21 A. No, ma'am.

22 Q. Okay. It happened to you more -- more than
23 once a week?

24 A. I would say yes.

25 Q. And what were your symptoms that you had to

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1 kind of get away and go get water and a fan? What would
2 happen to you?

3 A. It would take your breath, and you start
4 coughing so bad that -- you know, and you couldn't
5 breathe, and then you got to go get a cup of water and
6 drink water and stand there in front of a fan or -- to
7 try to get, you know, fresh air blowing in my face.

8 And, like I said, the guys across the
9 table, if something -- you know, they would come over and
10 ask are you all right, I said, yeah, I hope so. I
11 just -- I got to, you know, catch my breath, in which
12 I've seen them do the same thing. I've walked across the
13 alley and asked them if they were okay, you know.

14 Q. Okay. So you saw other people -- that
15 would happen to other people, too?

16 A. Yes.

17 Q. And what do you think caused you to kind of
18 start coughing and lose your breath?

19 A. I think it was the exposure to the fumes
20 and the -- I don't know what kind of gases -- the fumes
21 and the dust.

22 Q. And when you say fumes, you're kind of
23 talking about that smoke that would come off?

24 A. The fumes that would come off when you were
25 heating it. And, you know, I don't know if it was

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1 probably -- I don't know if it was a combination from the
2 silver or either the flux or the material -- I don't
3 know -- that was in it.

4 Q. Okay. I just want to make sure. When you
5 say fumes, that's kind of the same thing you were talking
6 about when you said smoke earlier, when you heat it up
7 with the rosebud?

8 A. Right. Yes.

9 Q. Okay. Because you -- we're using two
10 different words, but do we mean the same thing?

11 A. Yes.

12 Q. Okay. Who was your -- when you worked in
13 the final line and silver solder, who was your direct
14 supervisor?

15 A. Mike Hornback and, also, Frank Simileski, I
16 think is the way you say his last name.

17 Q. Okay. Frank Simileski, is that with an
18 "S", do you think?

19 A. Yes.

20 Q. Okay. Okay. When you worked in final line
21 and silver solder, I know you told me you had glasses and
22 gloves. Were you offered any other type of safety or
23 protective equipment?

24 A. No, ma'am.

25 Q. And how -- what kind of glasses were they?

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1 A. They were safety glasses, but they would be
2 dark safety glasses that you put on because you wouldn't
3 want to use clear ones because, you know -- you know,
4 your eyes from that torch would -- it would irritate your
5 eyes.

6 Q. Okay. Were they just like the normal size
7 of like a pair of seeing glasses, or did they cover other
8 parts of your face, such as your nose or your mouth?

9 A. No, they just covered your -- your eyes.

10 Q. Okay. Were there any other employees in
11 that area that used any other types of safety equipment
12 other than glasses and gloves?

13 A. No, ma'am.

14 Q. Okay. Now, these are gloves on your hands;
15 is that right? The gloves, those were worn on your
16 hands?

17 A. Right.

18 Q. Okay. How high up did they go?

19 A. They were about right here.

20 Q. Okay. About mid forearm?

21 A. Yeah.

22 Q. Okay.

23 A. And they were leather gloves.

24 Q. Okay. Did you ever talk to either Mike
25 Hornback or Frank Simileski about when you would start

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1 coughing and wouldn't be able to breathe from the smoke
2 and the -- and the fumes?

3 A. No, ma'am.

4 Q. Okay. Why not?

5 A. Because I didn't -- I didn't know what it
6 was. I mean, I didn't -- I mean, I still don't know what
7 it was. All I know, I would get choked and go to
8 coughing, and I seen the other guys that work there with
9 me do the same thing.

10 Q. Who were some of the other people that
11 worked with you?

12 A. James Burch, Dan. I think it's Dan -- I
13 can't remember his last name. And Gary Devane --
14 Devane -- Devane -- Jason Threet and Ted. I don't know
15 Ted's -- I can't remember Ted's last name.

16 Q. Did you say Ted or Chad?

17 A. Ted.

18 Q. Ted.

19 A. Yeah. I think his last name was Brooks.

20 Q. Okay. And those -- any of those people
21 that you just listed, did you ever see them having
22 trouble with the smoke, either coughing or having trouble
23 breathing?

24 A. Yes.

25 Q. Okay. Which ones?

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1 A. I've seen James, which was the table on the
2 right-hand side of me, and Dan was on the table to the
3 left-hand side of me, and I had seen Gary at times
4 coughing.

5 Q. Okay. Did you always work -- or while you
6 worked at CTR, did you always work on the final line and
7 silver solder, or did you start working somewhere else?

8 A. I approximately worked in the final line
9 and silver solder -- and I'm saying roughly, -- I'm
10 thinking around a year and a half. And then I
11 transferred over to the electrical department, building
12 electric panels. And once I built the panels, I would go
13 back out to the final line section and install them on
14 the equipment that they were building out there, and
15 for -- and then they had to test them, you know, to check
16 them.

17 Q. Okay. So you told me you started at CTR in
18 July of 2006, and you worked in silver solder for about a
19 year and a half.

20 A. Yes.

21 Q. Okay. So we're talking sometime at the end
22 of 2007, beginning of 2008? Is that when you started
23 working in the electrical department?

24 A. That's pretty close, yes.

25 Q. Okay. And I'm not trying to pin you down

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1 on a specific date. I'm just trying to --

2 A. Well, it's hard to remember exact dates.

3 Q. Okay. That's fair enough. Me, too.

4 Okay. Is the electrical department where
5 you built electrical panels in a different area than
6 silver solder?

7 A. It's about, I would say, 300 feet from one
8 area to the other one. But the electrical shop was
9 closed in -- in a closed-in room, but we had to build the
10 panels and come back out there and install them in the
11 final line section, where the silver soldering was going
12 on.

13 Q. Okay. Was the electrical shop -- it was
14 closed in, but it was within the same building as silver
15 solder?

16 A. Yes.

17 Q. Okay. And when you say closed in, I mean,
18 do you mean all the way around?

19 A. It was four walls and one door.

20 Q. Okay.

21 A. And a couple windows.

22 Q. Now, tell me about building electrical
23 panels. What -- how do you do that?

24 A. You start out with just a box, and they --
25 depending on the application and the order that they give

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1 you, you would build -- put starters in the panels, which
2 the starters is -- they're used to pull in the motors.

3 And you would have relays, and you also had
4 timers, and you had to actually what they call hardwire
5 it all in. And when the customer received it, all he had
6 to do was put his power to -- to the supply, which would
7 be the main incoming power to the panel.

8 Q. Okay. In -- let me ask you this. When you
9 were building an electrical panel itself, was that all
10 done in the electrical shop?

11 A. Yes.

12 Q. Okay. In the electrical shop, were there
13 any fumes or chemicals or dust or smoke of any sort?

14 A. You could smell fumes, but, you know,
15 that's just somebody opening the door coming in and out,
16 but --

17 Q. And when you say you could smell fumes,
18 could you smell the fumes and the smoke like you
19 described to me when you're doing silver solder, or was
20 it something different?

21 A. It was -- it was that, and plus they
22 also -- they weld and fabricate just right outside the
23 door, so, you know, I could -- it could have been the
24 fumes off the welders. I don't know.

25 Q. Okay. Is there any work done in the

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1 electrical shop itself that produces fumes or dust or
2 particles or smoke?

3 A. No.

4 Q. Okay. So if you could smell something,
5 like you said, it's just from somebody opening the door
6 and coming in and out?

7 A. They're opening the door, yeah.

8 Q. Okay. Okay. And then after you build your
9 electrical panel, you told me you have to go to final
10 line and install that on the equipment; is that right?

11 A. Yes, ma'am.

12 Q. How do you do your install?

13 A. You would have to take it back out there,
14 and they would have frames, and you would have to drill
15 holes and bolt your panel up there. And some situations
16 you had to run flex -- flexible conduit down to tie into
17 your -- to your equipment.

18 They built some vaporizer switcher
19 assemblies, and we had to run what they call this flex
20 type conduit. You could run it down and wire it in and
21 then test it to make sure that it operated the valve
22 correctly.

23 Q. Okay. The process of installing the
24 electrical panel on the equipment, anything about that
25 produce any smoke or fumes or dust or other particles?

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1 A. No, just that you were doing it in that
2 area -- in the final line area back there.

3 Q. Okay. And were you close to people doing
4 silver solder or something else?

5 A. Yeah, we were right there with them doing
6 silver solder.

7 Q. Okay. Okay. When you started working in
8 the electrical shop, how often did you leave that shop to
9 go to final lines?

10 A. Pretty much every day I would have to go
11 out there and, you know --

12 Q. Okay. One time a day or more than one time
13 a day?

14 A. I would say two, three times a day.

15 Q. And how -- how close would you be to the
16 smoke and the fumes that you could see for silver solder?

17 A. Roughly 8 feet from where they -- 8 feet
18 from where they were at, and maybe 15 feet, 20 feet from
19 the end guy, depending on what table I was building and
20 putting the panel on. They had three panels, three
21 stations that they worked at.

22 Q. Who was your supervisor in the electrical
23 department?

24 A. Johnny Shoemake, and there is another guy
25 come -- I can't remember his name. Chu -- I don't know

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1 his last name. He was a foreigner from Vietnamese --
2 Vietnam, Chu.

3 Q. Okay. Okay. While you worked in the
4 electrical department, were there any times that you
5 would have the choking and the coughing and the trouble
6 breathing?

7 A. Sometimes. Not near as often as I would
8 out there --- when I worked out there in final line.

9 Q. Okay. When it would happen to you, where
10 would you be?

11 A. I would be in there building panels. I
12 would get up and go to a water fountain to get me some
13 water, because you would start coughing, you know.

14 Q. Okay. Would it happen to you in the
15 electrical shop or in the fine line -- final line?

16 A. In both areas.

17 Q. Okay.

18 A. But not near as often in the electrical
19 shop because you wasn't directly around the fumes and the
20 dust.

21 Q. Okay. So did it happen less once you were
22 in the electrical shop?

23 A. Yes.

24 Q. Okay. And when you were in the electrical
25 shop and that would happen, do you think it was still

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1 because of the fumes and the smoke from silver solder?

2 A. I don't know what it was. I would say the
3 fumes. I don't know.

4 Q. Okay. Once you were working in the
5 electrical shop, is it something that would -- you know,
6 the choking and the coughing, is that something that
7 would happen every week or not that often?

8 A. Maybe once a week.

9 Q. Okay. Did you ever tell your supervisor in
10 the electrical shop about any of those episodes?

11 A. No.

12 Q. And why didn't you tell anyone at that
13 time?

14 A. Because I didn't -- I didn't know what was
15 going on.

16 Q. Okay. When is the last time that you
17 worked for CTR?

18 A. September 17th. It was a Friday.

19 Q. Okay. What year was that?

20 A. 2010.

21 Q. Okay. Why did you stop working at that
22 time?

23 A. Because I had to go to Charlotte, CMC,
24 Carolina Medical Center, to have a biopsy done. And I
25 went up there and had a biopsy done. They went through

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1 my side into my lungs.

2 Q. Okay. So you had a lung biopsy done at
3 that time?

4 A. Yes, the next week after that.

5 Q. Okay. Did you ever -- other than working
6 final lines and then the electrical department, did you
7 work any other jobs at CTR, or were those your only two?

8 A. The only two.

9 Q. Okay. Let me ask you this. You know,
10 you've told me that there were times you would start
11 choking and coughing, have trouble breathing, and you
12 would get some water or stand in front of a fan.

13 How long would it take for you to feel like
14 your symptoms got better after that?

15 A. I would say an average of five minutes. I
16 mean, you would stand there in front of a fresh air fan
17 blowing fan -- air in your face and drinking water. I

18 mean, I don't -- I don't know. I can't -- I would say
19 somewhere around four or five minutes, you know.

20 Q. Okay. Did you ever have to leave work
21 because of one of those episodes or go home early?

22 A. No.

23 Q. Did you ever have any trouble outside of
24 work with your breathing?

25 A. I noticed after I would get home and at

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1 night I would wake up coughing, and I would have to get
2 up and then go to the restroom, and I would be coughing
3 up some kind of stuff. I don't know what it was.

4 Q. Okay. And I don't mean to be gross, but
5 you say you were coughing something up. Was it like
6 mucus?

7 A. Yeah.

8 Q. Okay. What color was it?

9 A. It was brown looking.

10 Q. How many nights a week did that happen to
11 you?

12 A. It wasn't near as much when I went to the
13 electrical, but it was pretty often when I was in the
14 silver solder, in the final line section.

15 Q. Okay. More than one time a week?

16 A. Yes.

17 Q. Okay. And do you think that was because of
18 the dust and the -- or -- I'm sorry -- the fumes and the
19 smoke from silver solder?

20 A. Yes.

21 Q. Okay. Okay. Had you ever had that happen
22 to you before, you know, kind of the waking up at night
23 and the coughing and coughing up brown mucus? Had that
24 ever happened to you before you worked at CTR?

25 A. No, ma'am.

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1 Q. Okay. Did you ever have to call into work
2 because of your breathing problems when you worked at
3 CTR?

4 A. No, ma'am.

5 Q. When is the first time you went to the
6 doctor because of the breathing problems and the
7 coughing?

8 A. It was in June of 2010.

9 Q. And why did you decide to go to a doctor at
10 that time?

11 A. I was having some problems, and I thought
12 that -- I was at work, and I had to leave because I
13 thought I hurt my back, but it ended up -- the family
14 doctor -- it was diverticulitis. But he had sent me to
15 the imaging center, and they took two CT scans, and
16 that's when they found -- the doctor -- family doctor got
17 the CT scans back.

18 He found something in my lungs, and just
19 all he told me was there are spots, and I needed to go to
20 Charlotte to this John Doty -- Doty -- Doty, the lung
21 specialist. And he made the appointment, and I went to
22 the lung specialist.

23 Q. Did you think -- you thought you hurt your
24 back, and that's why you went to your family doctor?

25 A. Yes, that's what I thought it was, but it

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1 ended up it was diverticulitis.

2 Q. Okay. I don't even know what that is.

3 What is diverticulitis?

4 A. Diverticulitis is -- is from eating seeds,
5 like sunflower seeds, and they get stuck, and it causes
6 an infection. And he treated me for three weeks thinking
7 it was back trouble, and then he said that he didn't know
8 what was wrong with me.

9 And I told him, I said, well -- he was
10 going to send me to a back specialist in Rock Hill, and I
11 told him that I had had a colonoscopy the year before,
12 and I remembered that the colonoscopy -- all that showed
13 up is that I did have a touch of diverticulitis, so I
14 told him -- if he would -- I asked him to send me to a
15 gastroenterologist up there on 521.

16 And I went and seen that guy, and he said,
17 yeah, it's diverticulitis. He gave me some type of
18 antibiotic, and it cleared it up, and then I went back to
19 work the next week.

20 Q. Okay. And you said it's eating something
21 like sunflower seeds and they get stuck and cause an
22 infection. Is that in your lungs or more like your
23 intestines, your gastro --

24 A. It's in your intestines.

25 Q. Okay. Okay.

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1 A. It has nothing to do with your lungs.

2 Q. I just kind of saw you touch kind of in

3 your chest, so that's why I wanted to ask.

4 A. No, you hurt. In your left side --

5 Q. Okay. Okay.

6 A. -- is where you hurt.

7 Q. Okay. And when you were seeing your family

8 doctor, were you complaining to him of any coughing

9 symptoms or trouble breathing?

10 A. I told him that, but -- and then he done

11 the two CT scans. He sent me for one. I don't remember.

12 It was upper, lower, something, and I had to go back for

13 the second one, and that's when it showed up, something

14 in my lungs.

15 And that's when he said you need to go to

16 the lung specialist up there in Charlotte, and he said

17 ~~I'll make the appointment and call you. And that's when~~

18 he made the appointment, and I think I seen Dr. Doty in

19 July. I'm thinking around the 22nd.

20 Q. Okay. And did you tell your family doctor

21 about the smoke and the fumes at work?

22 A. No, he never really asked, and I didn't --

23 I didn't say anything to him.

24 Q. Okay. Who is your family doctor?

25 A. Frank Sharp at Mackey Family Practice in

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1 Lancaster.

2 Q. Okay. Did you ever see him prior to June
3 of 2010 for coughing, trouble breathing, any symptoms
4 like that?

5 A. I was sick with a cold earlier that winter,
6 and I had a real bad flu, he said, and I seen him
7 earlier, and he gave me something for cold and flu.

8 Q. Okay. Okay. Did Dr. Sharp -- did he
9 diagnose you -- did he make any diagnosis or just refer
10 you to Dr. Doty, talking about to your lungs or anything?

11 A. No, he did not. He referred me to him,
12 the -- to go see the lung doctor.

13 Q. Okay. And you think you went to see him
14 sometime in July of 2010, talking about the lung doctor,
15 Dr. Doty?

16 A. Yeah. Yes.

17 Q. Okay. And what did Dr. Doty do for you?

18 A. He checked my -- checked me when I went up
19 there and did a breathing test, and a breathing test
20 didn't -- he wanted the -- I had -- he wanted to see the
21 CT scan results from the imaging center in Lancaster, and
22 he tried to get them but theirs was still on the old
23 film, so it wasn't on the disk. So I had to call them
24 and go back and get them, and he made another appointment
25 for me to come back up there.

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1 And he did what they call a saline flush in
2 your lungs. And after that, that's when he told me that
3 he didn't know -- he knows a lot about what it wasn't,
4 but he didn't know what my problem was, and he wanted to
5 do a lung biopsy.

6 And I told him, well, let's -- you know, he
7 scheduled it, and then I went up there the week of --
8 after the 17th, that next week, and they did the lung
9 biopsy on me, and I stayed in the hospital approximately
10 11 days -- 11, 12 days.

11 Q. When you started seeing Dr. Doty, did you
12 tell him about the smoke and the fumes at work?

13 A. Yes, after the biopsy, because we were
14 talking after the biopsy.

15 Q. Okay. After -- after that biopsy?

16 A. Yes.

17 Q. Okay. And when you started treating with
18 Dr. Doty, what symptoms were you having?

19 A. I didn't understand. Would you repeat the
20 question?

21 Q. Yes.

22 When you started treating with Dr. Doty,
23 what symptoms were you having?

24 A. I was having shortness of breath, and I
25 would get real tired. I would feel fatigued real easy,

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1 you know, after I would be building panels in the
2 electrical shop, and I noticed I would just get real
3 tired.

4 Q. Okay. What did you think was causing your
5 shortness of breath?

6 A. I don't know. I didn't have no idea.

7 Q. Okay. What was the result of your lung
8 biopsy?

9 A. COPD and fibrosis, and they --

10 Q. Okay. Has Dr. Doty told you what he thinks
11 the cause of your COPD and fibrosis is?

12 A. Yes.

13 Q. And what is that?

14 A. He thinks that it's work related, from the
15 silver and the flux and the work environment.

16 Q. Okay. When did he tell you that he thinks
17 it was related to the silver and the flux dust or fumes?

18 A. It was in May of this year, the -- around
19 the 12th, I think it was, or the 10th, somewhere along in
20 there. May 10th or 12th.

21 Q. Okay. What kind of treatment have you
22 received from Dr. Doty?

23 A. After the biopsy and all, then I had to go
24 back every three months, and he was running chest x-rays
25 and CT scans and doing breathing tests to monitor my

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1 breathing to see if it was improving. And at that
2 time -- after I come home from the hospital from the lung
3 biopsy, I have been on oxygen ever since.

4 Q. You said he was monitoring you to see if
5 you were improving. Were you improving?

6 A. He was. He would watch me and take me off
7 oxygen and see what my oxygen level went to.

8 Q. Okay. But were you improving?

9 A. No.

10 Q. Okay. And you have been on -- I see you're
11 on oxygen right now, and you say you've been on that
12 since your lung biopsy?

13 A. Yes, ma'am.

14 Q. Okay. Are you on oxygen 24 hours a day?

15 A. Yes, ma'am.

16 Q. Okay. What other treatment have you had
17 other than being placed on oxygen?

18 A. I have to take Spiriva for the COPD, and
19 there is no treatment for the fibrosis.

20 Q. Okay. How often do you take Spiriva?

21 A. Once in the mornings, once a day.

22 Q. Okay. Are you taking any other medications
23 from Dr. Doty?

24 A. What do they call the little spray things?
25 A nebulizer, is that what they call it? You put it in

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1 your mouth and spray it.

2 Q. Like an inhaler?

3 A. Yeah, an inhaler. Yeah.

4 Q. Okay. Do you know what kind of medication
5 your inhaler is or what the name of it is?

6 A. Not right offhand. It's the red one, if
7 that tells you anything. The different colors probably
8 don't tell you anything, but I don't --

9 Q. Okay.

10 A. I mean, I can -- I don't -- I don't know
11 the name of it. I could find it out.

12 Q. Okay. Is that an as needed medication or
13 something you take regularly?

14 A. You take it when you're short of breath.

15 Q. Okay. It sounds like what they call a
16 rescue inhaler.

17 Okay. Any other medications from
18 Dr. Doty?

19 A. That's all from him.

20 Q. Okay. Are you seeing any other doctors
21 because of your COPD or fibrosis?

22 A. Not -- no, ma'am.

23 Q. Okay. Have you seen any other doctors for
24 your breathing other than Dr. Doty and your family
25 doctor?

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1 A. I switched my family doctor and went to
2 Julie Bowers. She's at Richburg, South Carolina. I
3 think the name of it is Catawba.

4 Q. Okay. And is that your family doctor right
5 now?

6 A. Yes. I switched to her.

7 Q. Okay. And do you see her for some of your
8 breathing problems?

9 A. I go to her. The doctor told me in
10 Charlotte, at CMC, that I have to be monitored. The
11 medicine that I take -- I'm not diabetes -- I don't have
12 diabetes, but he says you've got to be monitored every
13 year because it can cause diabetes.

14 Q. Okay. What can cause diabetes?

15 A. The way I understood it, the Spiriva.

16 Q. Okay.

17 A. And the -- they gave me some type of
18 steroid when I was in the hospital.

19 Q. Okay. Have you been diagnosed with
20 diabetes?

21 A. No, ma'am.

22 Q. Okay. Okay. So since you started having
23 breathing problems, you saw your family doctor, the
24 original one, Dr. Sharp, I believe.

25 A. Yes, ma'am. That's correct.

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1 Q. Okay. And you saw Dr. Doty. You spent a
2 little bit of time at CMC, and now your family doctor is
3 Dr. Julie Bowers?

4 A. Yes, ma'am. That's correct.

5 Q. Okay. Are there any other doctors that
6 you've seen for these problems?

7 A. Dr. Doty scheduled the biopsy, and it was a
8 Dr. Reames that actually did the surgery.

9 Q. Okay. And that was at CMC?

10 A. That was at CMC.

11 Q. Which location of CMC were you at?

12 A. In Charlotte, downtown.

13 Q. Okay. Other than associated with the
14 biopsy, your two family doctors, and Dr. Doty, anybody
15 else that you've seen for these problems?

16 A. No, ma'am, other than I went to Julie
17 Bowers and -- back in last winter, and we had talked
18 about going to -- I sit around all the time, and I was
19 gaining weight, and I told her, I said, I got to do
20 something, you know.

21 So she said, well, they got a program over
22 at USC in Lancaster that -- they have a respiratory
23 therapist over there, and I went over there and got
24 signed up.

25 And while I was over there, everybody was

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1 sick and coughing going on, and they told me once I left
2 the hospital to try to avoid people that's sick, and try
3 to stay away from the hospitals because I was so prone to
4 catching anything.

5 And after I left from over there talking to
6 that woman, filling out that paperwork, three days later,
7 I was so sick, I couldn't hold my head up. I had to go
8 back to Dr. Julie Bowers, and she gave me some
9 antibiotics and said I had a real bad head cold and
10 sinuses, and if it didn't clear up, I had to come back.

11 That was on a Monday. They said if it
12 doesn't clear up, you got to be back in here Wednesday,
13 and go ahead and bring your clothes because you're going
14 in the hospital, and luckily I didn't have to. And
15 that's it.

16 Q. Okay. So you just kind of went one time?

17 A. I went one time to sign up, but after that,

18 there was so many people that were sick, I said I
19 can't -- I can't do this, so.

20 Q. Okay.

21 A. There was just no way I could be around
22 that.

23 Q. Okay. When is the last time that you saw a
24 doctor for your breathing problems?

25 A. I seen Dr. Doty August 1st of this year.

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1 That time was when -- was the last time I seen him.

2 Q. Okay. And is there any treatment that he
3 recommended at that time that you're planning to undergo?

4 A. Nothing other than what he had said. The
5 COPD is treatable, but fibrosis, from what I understand,
6 that's not. There is no way of treating it.

7 Q. Okay. And is it your understanding from
8 Dr. Doty that he believes both the COPD and the fibrosis
9 were caused by the smoke and the fumes at work?

10 A. Rephrase that again, now.

11 Q. Yeah. Let me -- let me -- I can probably
12 ask it -- break it up into more than one question.

13 Does Dr. Doty -- did he tell you he thinks
14 the COPD is because of the dust and fumes at work?

15 A. Yes, he did tell me that. But this was in
16 May of this year, because he said he thought it was work
17 related because anyone with fibrosis -- from my
18 understanding, I was supposed to have been dropped off
19 the deep end.

20 And he said me not being in the work
21 environment is the only reason he can figure out that
22 everything has stabilized, and it hadn't gotten any
23 worse. He says most of the time fibrosis progresses very
24 rapidly.

25 Q. Okay. And you did answer a question of

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1 mine. I mean, have you -- have you stabilized since
2 you've been out of work?

3 A. That's what, yes, ma'am, he tells me. I've
4 stabilized.

5 Q. Okay.

6 A. My breathing has -- hasn't gotten any
7 better, and the fibrosis hasn't gotten any worse.

8 Q. Okay. And so Dr. Doty told you, in May of
9 this year, that your COPD is work related. Did he say
10 that your fibrosis was also work related?

11 A. Yes --

12 Q. Okay.

13 A. -- the fibrosis.

14 Q. Okay. Have you been to work anywhere since
15 your last day at CTR?

16 A. No, ma'am.

17 Q. Did you fill out any paperwork at CTR when
18 you stopped working?

19 A. No. I notified them, you know, after I
20 found out that I was going to get my disability. And
21 then I let Annette Green know when I got my disability --
22 first disability check, and she terminated me after that,
23 and she gave me the paperwork to mail off for my COBRA
24 insurance.

25 Q. Okay. Did you ever contact anyone at CTR

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1 to tell them about your diagnosis and that you think it
2 was work related?

3 A. I didn't know until May of this year. I
4 mean, you know, I kept -- I kept asking the doctor
5 what is -- what caused the fibrosis, and he -- he told me
6 in May what his definition of it was, the fumes and
7 the -- off the silver and the flux.

8 Q. Okay.

9 A. And he said there was a metal in my lungs
10 that -- and there is no -- the doctor that worked with
11 him after the lung biopsy just told me there wasn't
12 any -- the only thing that would help me is a new set of
13 lungs.

14 Q. Okay. And once Dr. Doty told you that, did
15 you contact anyone at CTR to report a claim?

16 A. Not after he told me that.

17 Q. Okay. I know earlier we were talking about
18 some of your co-workers, and you listed some names for
19 me. And some of those people you said you had saw --
20 they would have problems breathing, and they would cough
21 and have those kind of episodes you described.

22 Do you know anybody at work from CTR that
23 has had to go out of work because of the breathing
24 problems or been diagnosed with any specific condition?

25 A. The guy that I couldn't remember his name

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1 that was on the left-hand table of me was Dan Dance. I
2 believe his last name was Dance. And he went out after I
3 went out. I don't know the dates, but I talked to him on
4 the phone.

5 He called me and said that he was having
6 kidney failure, and they made -- he told me something
7 happened, they had words, and he quit, and that's all I
8 know. But he's having kidney failure.

9 Q. Okay.

10 A. I don't know any more.

11 Q. Okay. Did he tell you about any breathing
12 problems?

13 A. I didn't go in no details. He was mad
14 about something they had done, and he had quit, and I
15 just figured it wasn't none of my business.

16 Q. Okay. When did you first think that the
17 fumes and the smoke at work were causing your breathing
18 problems?

19 A. After Dr. Doty had told me, in May of this
20 year, because I didn't know what it was. I mean, I don't
21 know. That's what -- I kept asking him, you know,
22 what -- what did he think done it. And he said -- well,
23 he finally said, in May, the only thing I can figure is
24 it's got to be the silver or the flux or the fumes that's
25 coming off of it. And that's all I know, is what he told

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1 me.

2 Q. Okay. Before you worked at CTR, had you
3 ever had any problems breathing or any problems with your
4 lungs?

5 A. No, ma'am. We took a physical and a
6 breathing test at Springs, a full physical every year,
7 and they never told me to -- that I had any breathing
8 problems or anything.

9 Q. Where did you take those tests?

10 A. The medical department at Grace Finishing
11 Plant in Lancaster.

12 Q. Okay. They had their own medical
13 department?

14 A. Yes, ma'am.

15 Q. Do you have copies of any of those records
16 from your physicals?

17 A. I don't.

18 Q. What kind of breathing tests was it, like a
19 pulmonary function?

20 A. You had the machine and you had to breathe
21 into the tube and all and --

22 Q. And you blow out as hard as you can?

23 A. Yeah. Yes, ma'am.

24 Q. Okay. Had you ever been diagnosed with
25 asthma before you worked at CTR?

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- 1 A. No, ma'am.
- 2 Q. Okay. Did you ever have any allergies or
- 3 suffer from any allergies before you worked at CTR?
- 4 A. No, ma'am.
- 5 Q. Have you ever had pneumonia before?
- 6 A. No, ma'am.
- 7 Q. Are you a smoker or have you ever been a
- 8 smoker?
- 9 A. I was a smoker.
- 10 Q. Okay. When did you quit smoking?
- 11 A. July the 16th of 2010.
- 12 Q. Okay. So were you a smoker at the time you
- 13 worked at CTR?
- 14 A. Yes, ma'am.
- 15 Q. Okay. What kind of cigarettes did you
- 16 smoke?
- 17 A. Marlboro.
-
- 18 Q. Regular Marlboro, lights?
- 19 A. Regular.
- 20 Q. Okay. How many -- how much would you smoke
- 21 a day?
- 22 A. A pack and a half a day.
- 23 Q. How -- when did you start smoking?
- 24 A. I was 17 years old.
- 25 Q. Okay. Did you smoke a pack and a half a

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1 day from the time you were 17 until you quit on
2 July 16th?

3 A. No, ma'am.

4 Q. Okay.

5 A. It just increased over the years. I
6 mean --

7 Q. Okay. Were you a regular smoker from the
8 age of 17 until you quit in 2010?

9 A. I had quit a couple of times, but I had
10 went back.

11 Q. Okay. Did you ever have any trouble
12 breathing or coughing because of your smoking before you
13 worked at CTR?

14 A. No, ma'am.

15 Q. Have you ever been diagnosed with emphysema
16 or any smoke-related illness or condition?

17 A. No, ma'am.

18 Q. Does Dr. Doty -- is he aware of your
19 history of being a smoker?

20 A. Yes, ma'am.

21 Q. Okay. Does anyone in your home smoke?
22 Let me ask this. Do you live alone?

23 A. When I was married, my wife smoked, too.

24 Q. Okay. Did she smoke in the house?

25 A. Occasionally, yes.

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1 Q. Okay. Has anybody smoked in your home
2 since the time you stopped smoking?

3 A. No, ma'am.

4 Q. Okay. Are you taking any medications from
5 your -- from any other doctor than Dr. Doty right now?

6 A. I'm taking -- from Julie Bowers, I take an
7 anti-depressant and -- a low dosage Xanax for my nerves
8 and an anti-depressant.

9 Q. Okay. And how long have you been taking
10 those?

11 A. Since the first -- back last winter when I
12 went to her. It would have been 2011, somewhere
13 around -- I would say around October or November,
14 somewhere along in there.

15 Q. Okay. Of 2011?

16 A. Yes.

17 Q. Have you ever taken anti-depressants or
18 anti-anxiety medicine before you got it from Dr. Bowers?

19 A. I did take it for about eight months, when
20 I was going through a divorce.

21 Q. And who was your doctor that prescribed you
22 that at that time?

23 A. Dr. Morris at Barnett Family Practice in
24 Lancaster.

25 Q. And why did you start taking

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1 anti-depressants and Xanax in October or November of
2 2011?

3 A. Because I was having -- being shut in so
4 much and everything. I was -- went to her, and I just
5 told her, I said, I was just -- I mean, you sit there and
6 watch TV and read books, and that's about all you can do.
7 And I said it just -- I told her, you know, what was
8 going on with me and everything.

9 And she said that she thought that I had
10 depression, and she gave me an anti-depressant, and she
11 gave me a low dose Xanax for my nerves.

12 Q. Okay. Do you think that the
13 anti-depressant and the Xanax are helping your symptoms?

14 A. Yes, ma'am.

15 Q. Okay. Do you feel like it's well
16 controlled now that you're on medication?

17 A. I feel like it is, as far as the
18 depression.

19 Q. Okay. And how have you paid for the
20 medical treatment you've received?

21 A. Out of my pocket, and what the insurance
22 don't cover and the co-payments had shot up so high this
23 year, I won't -- everything will have to come out of my
24 pocket.

25 Q. Okay. Your COBRA policy that you got

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- 1 through CTR, is that still valid?
- 2 A. Yes.
- 3 Q. Is there an expiration on your COBRA?
- 4 A. It runs out the end of October of this
- 5 year.
- 6 Q. And do you know when you're going to become
- 7 Medicare eligible?
- 8 A. Sometime next year. It will be, I'm
- 9 thinking, in May.
- 10 Q. And do you have any appointments already
- 11 scheduled coming up with any doctors?
- 12 A. Yes, I do. I have one September the 17th.
- 13 I have to go back to Julie Bowers. I actually have to go
- 14 the Monday before -- I think it's on the 10th -- and they
- 15 have to draw blood because I haven't been checked for
- 16 diabetes this year, and she's going to draw blood and
- 17 check my -- to see if I -- you know, diabetes.
-
- 18 Q. Okay. Do you have any appointments coming
- 19 up with Dr. Doty that are already scheduled?
- 20 A. No. He -- I had him in August of this
- 21 year, so he had moved me to six months, so it will fall
- 22 over into next year, so he'll call me next year.
- 23 Q. Okay. Well, let me ask you, Mr. DORITY, to
- 24 describe for me what symptoms and problems you have now
- 25 that you think are work related.

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1 A. Repeat the question one more time.

2 Q. Yes. What symptoms do you have? What
3 problems are you having right now that you think are work
4 related?

5 A. Shortness of breath. I have -- I have to
6 be on the oxygen. I bought an oxygen meter to -- to keep
7 track of my own -- to check my oxygen level and stuff
8 because they said it drops.

9 And I am walking, and I also ride an
10 exercise bicycle on the back porch, because I've seen so
11 many people that's on oxygen that just -- they just get
12 bigger and bigger. And I've actually lost some weight
13 doing that.

14 And that's what me and Julie Bowers
15 discussed, is I really have to watch my weight close,
16 because I've seen people that just get huge, and I
17 really -- I got enough problems. I don't want to gain a
18 bunch of weight and create more problems, and she agreed
19 that walking was a good thing.

20 But I have to wear the oxygen, and I also
21 wear the oxygen when I ride the exercise bicycle, and I
22 have the finger monitor that I can monitor my oxygen
23 level. If I get tired and exhausted, then I just have to
24 quit and rest.

25 Q. Okay. You have a pulse ox? Is that what

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1 it -- like a little clip on your finger --

2 A. A clip on my finger.

3 Q. -- that can tell you the level?

4 A. Yes, ma'am.

5 Q. Okay. How often do you walk and ride your
6 exercise bike?

7 A. Every day.

8 Q. Okay. For about how long?

9 A. I would say I ride the bicycle maybe three
10 times a day, twenty minutes at a time, and I walk up and
11 down that dirt road I live on once a day, and -- but, you
12 know, I walk. It's along a dirt road, and I have to stop
13 three times. It's a pretty good ways to the end of it,
14 and I try to walk to the end of it, to the pavement and
15 back.

16 And then I also do -- Dr. Doty gave me one
17 of these machines that you breathe in that's supposed to
18 exercise your lungs to see if they will, you know, get
19 them to expand more and work better.

20 Q. Okay.

21 A. I do that, too.

22 Q. Is that a machine that administers
23 medication?

24 A. No.

25 Q. Okay.

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- 1 A. It's just a little handheld thing that you
2 breathe into --
- 3 Q. Okay.
- 4 A. -- that they give you at the hospital to
5 tell you to do the exercise to exercise your lungs.
- 6 Q. Okay. Are you having -- are you coughing a
7 lot?
- 8 A. I still cough some, yes, and I still have
9 some mucus coming up in the mornings.
- 10 Q. Okay. Is it still brown?
- 11 A. Yes, ma'am.
- 12 Q. Okay. Is that something that happens every
13 day?
- 14 A. Yes, ma'am.
- 15 Q. Have any of your doctors told you that
16 you're unable to work?
- 17 A. Yes, ma'am.
- 18 Q. Okay. And who told you that?
- 19 A. John Doty -- Doty -- Doty is what he -- you
20 pronounce it.
- 21 Q. Okay. Were you having trouble doing your
22 job at the time you stopped working?
- 23 A. I was noticing when I got in the electrical
24 shop that I was getting tired, and I felt fatigued,
25 and -- you know, after dinnertime. You know, around 1:00

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1 or so I was noticing it was just like I was just -- I was
2 getting tired, you know, and I didn't know why, but
3 that's when I noticed it.

4 Q. Okay. Did you ever have to miss any work
5 or call in or leave early because of that?

6 A. No, ma'am.

7 Q. Okay. Did you stop working at CTR because
8 you felt like you could not do your job, or did you stop
9 working because you needed to go get your medical
10 treatment?

11 MR. EDDY: Let me object to the form.

12 Go ahead. Go ahead. Go ahead and answer
13 her question, if you can.

14 THE WITNESS: I went to the biopsy, and
15 once I come out of the biopsy, they told me that I could
16 not work anymore.

17 BY MS. ALPHIN:

18 Q. Okay. Okay.

19 A. The doctor, John Doty, and the surgeon,
20 Mark Reames, and there was another doctor with them --
21 that's in with them, and I do not remember his name, but
22 he is in with John Doty -- Doty.

23 Q. Okay. Do you think you could do your job
24 right now, your job at CTR?

25 A. No, ma'am.

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1 Q. Okay. Why do you think you would have
2 trouble with that job?

3 A. Because I don't have the energy. I run out
4 of air. When I walk, I have to walk so far and stop.

5 Q. Okay. What do you spend your time doing
6 now that you're not working anywhere?

7 A. I read books and watch TV.

8 Q. Do you spend most of your time at home?

9 A. All my time. I'll go to town and get
10 medicine or something like that, and once in a while, you
11 just have to get out because you just sit there for so
12 many days. The walls feel like they're growing in on
13 you. So I might go out and go get a salad or something,
14 or a sub sandwich in Lancaster.

15 Q. Okay. Do you do your own grocery shopping?

16 A. No, ma'am.

17 Q. Who does that?

18 A. My girlfriend.

19 Q. What about around your house? Do you do
20 the chores around your house, any cooking, cleaning,
21 laundry, that kind of thing?

22 A. No, ma'am, she does it all.

23 Q. Okay. Does your girlfriend live with you?

24 A. Yes, ma'am.

25 Q. What is her name?

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- 1 A. Glenda Hand.
- 2 Q. Glenda Hand?
- 3 A. Yes, ma'am, like a hand, H-A-N-D.
- 4 Q. Okay. Does Ms. Hand work?
- 5 A. Yes, she does.
- 6 Q. Okay. Okay. Do you have any trouble
- 7 driving?
- 8 A. No, ma'am.
- 9 Q. Did you drive here today?
- 10 A. Yes, ma'am.
- 11 Q. Okay. Has your condition impacted your
- 12 ability to participate in hobbies or things you like to
- 13 do in your spare time?
- 14 A. Yes, ma'am.
- 15 Q. Okay. In what ways?
- 16 A. The difference is night and day. I mean,
- 17 before, I could do anything I wanted to. Now, you know,
-
- 18 I mean, you're dragging an oxygen bottle around, as far
- 19 as one on your side. I mean, you're limited to what you
- 20 can do.
- 21 Q. Okay. What kind of things did you use to
- 22 do that you're not able to do anymore?
- 23 A. I used to enjoy restoring old tractors, and
- 24 I don't do that anymore.
- 25 Q. Have you applied for any unemployment

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1 benefits?

2 A. I did in 2006, when I got laid off in June,
3 and I applied for them, and it seems like I got two or
4 three checks. And then I had the opportunity to go to
5 work at CTR in July, and I went to work there.

6 Q. Okay. How about since you stopped working
7 at CTR? Have you applied for any unemployment?

8 A. No, ma'am.

9 Q. Okay. Have you applied for any long- or
10 short-term disability benefits?

11 A. No, ma'am.

12 Q. Okay. Do you have any other income right
13 now other than your Social Security disability?

14 A. That's it.

15 Q. Have you applied for any jobs since you
16 stopped working at CTR?

17 A. No, ma'am.

18 Q. Have you ever had to see a doctor before
19 you worked at CTR for trouble breathing or coughing, you
20 know, other than a cold or something like that?

21 A. No, ma'am, just for a cold and an
22 occasional flu or something like that.

23 Q. Okay. And the times you would have a cold
24 or a flu, I mean, would you get -- would you get well,
25 and would your breathing go back to normal?

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1 A. Yes.

2 Q. Okay. Have you had any new accidents or
3 new injuries since the time you stopped working at CTR?

4 A. No, ma'am.

5 Q. We're nearing the end of my questions. I
6 know it's been a long time, but let me flip through and
7 see if I have anything else. Okay?

8 Did you work any other jobs at the time you
9 worked at CTR?

10 A. When I worked at CTR, I did -- raised beef
11 cattle.

12 Q. Okay. Where did you do that?

13 A. At my home.

14 Q. Okay. Do you live on a farm?

15 A. Yes, ma'am.

16 Q. Is it a family-owned farm?

17 A. Yes, ma'am.

18 Q. Okay. Did you operate that as a formal
19 business, raising beef cows?

20 A. Yes, ma'am.

21 Q. Okay. What was the name of your business?

22 A. DORITY Farm.

23 Q. Okay. What was your role in that
24 operation?

25 A. I fed the cows, checked on them every day,

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1 and bailed hay in the summertime. And during the winter,
2 I just checked them and -- check them for, you know,
3 calves being born and stuff like that and regular
4 vaccination programs and worming processes and stuff, and
5 see that their health was kept up on them.

6 Q. Okay. Are you the owner of Dority Farm?

7 A. I was. I'm not anymore.

8 Q. Okay. Who owns it now?

9 A. Ben Hatley. He's my sister's son. I gave
10 it to him.

11 Q. Ben, what's his last name?

12 A. Hatley, H-A-T-L-E-Y.

13 Q. Okay. When did you give the business to
14 him?

15 A. In September of 2010.

16 Q. Okay. Before -- when you were the owner,
17 were you the sole owner, or did you own it with anybody
18 else?

19 A. Sole owner.

20 Q. Did you have any employees?

21 A. No, ma'am. It was nobody but me.

22 Q. Okay. And then what did you do, raise beef
23 cows and then sell them?

24 A. Yes, ma'am.

25 Q. Who did you sell them to?

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1 A. Chester Livestock in Chester County.

2 Q. Okay. In the calendar year of 2009, how
3 much money did you make for your farm?

4 A. I can't tell you that without pulling tax
5 records. I don't know.

6 Q. Okay. Did you keep a separate bank account
7 for your farm?

8 A. No, ma'am, but I did have an accountant who
9 took care of it for me.

10 Q. Who is your accountant?

11 A. McGuire.

12 Q. McGuire?

13 A. McGuire.

14 Q. Okay. Is that in Fort Lawn or --

15 A. Lancaster. I also used Doug Barnett --
16 Barnett.

17 Q. How do you -- how do you get paid in the
18 beef cattle -- beef cow business? Is it by the cow or by
19 the weight?

20 A. You take the cow to the sale, and they run
21 it through an auction, and they bid on it, and whatever
22 it brings a pound is multiplied by the weight.

23 Q. Okay. When you're taking cows to auctions,
24 is that something that happens all year round or a
25 certain season of the year? How does that work?

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1 A. It works in all -- all -- completely the
2 year around, depending on when the calves are big enough
3 to be weaned and big enough to go to the sale.

4 Q. Okay. Would you have income every month
5 from raising beef cows?

6 A. No, ma'am --

7 Q. Okay.

8 A. -- it wasn't every month.

9 Q. Okay.

10 A. I would say an average of six to eight
11 times a year. It just depends on --

12 Q. Can you give me any estimate of how much
13 you would get when you would sell your beef cows?

14 A. It depends on the stock market.

15 Q. Okay.

16 A. Whatever the stock market does, that's --
17 you can look in the newspaper, and it's in the stock
18 market. It fluctuates.

19 Q. Okay. When is the last time you remember
20 selling beef cow?

21 A. It was before I got sick, and I think it
22 was in June or July.

23 Q. Do you remember how much you made or how
24 many cows you sold?

25 A. I don't remember. I got records of it in

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1 the tax books, but I don't remember.

2 Q. Okay. And did you keep records of -- of
3 your sales?

4 A. Yes, ma'am.

5 Q. Okay. Okay. Before you got sick, did you
6 suffer from any chronic medical conditions or illnesses?

7 A. No, ma'am.

8 Q. Okay. Before you got sick, had you ever
9 been hospitalized for anything?

10 A. Back when I was 18 years old, I wrecked a
11 motorcycle and hit a dog, and that was it.

12 Q. Okay. Anything else?

13 A. I stayed in the hospital overnight. That's
14 it. Other than that, it was just routine checkups and
15 occasionally a cold or flu.

16 Q. Have you ever been hospitalized for the
17 cold or the flu?

18 A. No, ma'am.

19 Q. Have you ever had any surgeries?

20 A. I dislocated my shoulder when I hit that
21 dog in the motorcycle wreck. I think I was 18 years old.

22 Q. Okay. Anything else?

23 A. That's it.

24 Q. Okay. When you went to see Dr. Sharp in
25 June of 2010, was that the first time you saw a doctor

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1 for your breathing problems?

2 A. Yes.

3 Q. Okay. Did you always work for CTR as a
4 full-time employee?

5 A. Yes.

6 Q. Did you have a regular schedule?

7 A. Yes, ma'am.

8 Q. What was that?

9 A. 7 to 3:30, 7 in the morning to 3:30 in the
10 evening.

11 Q. Okay. What days of the week?

12 A. We worked Monday through Friday and some
13 Saturdays.

14 Q. How much money were you making at CTR when
15 you stopped working?

16 A. \$18.50 an hour.

17 Q. That may be all my questions. Let me flip
18 through these notes real quick and see.

19 Let me ask you about this smoke and fumes
20 from the silver and the flux. When it would create this
21 smoke, would it be like a smoke cloud that you could
22 actually see?

23 A. You could see it coming off of it, yes.

24 Q. Okay. Is it something that would kind of
25 hang around, and you could see it like the way you could

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- 1 see cigarette smoke or something?
- 2 A. Yes.
- 3 Q. Okay. How much smoke would it create?
- 4 A. I don't know how to describe that. I mean,
- 5 I don't know how to answer that question.
- 6 Q. Okay. Is it something you could hold your
- 7 arms and show me?
- 8 A. I mean, you could see it coming off --
- 9 stuff is in the vise, and you got the rosebud in your
- 10 hand, and you're heating it, and you could see it coming
- 11 off. That's all I know to tell you.
- 12 Q. Okay. When you started having trouble
- 13 choking and coughing and you would go get some water and
- 14 stand in front of a fan, did you ever ask anybody for any
- 15 equipment you could put over your face?
- 16 A. I didn't know and wasn't ever told that --
- 17 that you needed to wear anything, you know. I didn't
- 18 know. I never did that before. I was in electrical and
- 19 instrumentation. This was new to me.
- 20 Q. Okay.
- 21 A. I wasn't informed. I don't know. I mean,
- 22 you know --
- 23 Q. Okay. And do you think it was the smoke
- 24 and the fumes that was causing you to get choked up and
- 25 cough at work?

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1 A. Yes, ma'am.

2 Q. When you quit smoking, did you quit cold
3 turkey?

4 A. Yeah. Dr. Sharp told me that he was making
5 an appointment, that there was spots on my lungs, and he
6 didn't know what it was, and he said, You need to quit
7 smoking.

8 I said, Well, is there anything you can
9 give me to help me?

10 And he said, Yes, I'll give you Chantix.

11 And he gave me Chantix, and I started on it
12 on a Sunday. That Friday afternoon, the cigarettes -- I
13 smoked the third cigarette that Friday at 6:30 that
14 evening, sitting in my chair. And it tasted so nasty, I
15 couldn't stand it. I put it out, and I threw the
16 ashtrays in the trash can, through the cigarettes away,
17 and I haven't picked up one since.

18 Q. Okay. And that was the last time you
19 smoked a cigarette?

20 A. Yeah, July the 16th, 2010.

21 Q. Okay. Has anybody lived in your home since
22 that time that smoked inside the house?

23 A. No, ma'am.

24 Q. Have you ever had any hobbies or
25 participated in activities outside of work that produced

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1 fumes or dust or particles that you would be exposed to?

2 A. I ride a motorcycle, or I did, but I don't
3 see how that would, but --

4 Q. Well, I think you told me you would work on
5 old tractors.

6 A. Yes, ma'am, I did.

7 Q. Okay. What kind of tractor work would you
8 do?

9 A. I would buy an old one at -- just for
10 example, a couple friends of mine I had -- there was an
11 old John Deere, and I would buy it. It wouldn't be
12 running, and I might have to tear it down and put rings
13 in it, sleeves, and rebuild the engine in it, or I may
14 have to work on the transmission. And I would restore it
15 and get it back to running. It was just a hobby that I
16 enjoy doing.

17 Q. Okay. And in the process of building and
18 restoring tractors, was there any -- any steps that you
19 go through to do that that produces fumes or smoke or,
20 you know, dust particles?

21 A. No, ma'am. You just disassemble it and put
22 the new parts back in the engine and check it, and if it
23 still had to have machine work, you would have to bring
24 it to the machine -- machine shop.

25 MS. ALPHIN: Okay. I don't have any other

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1 questions for you. Your attorney may have some.

2 MR. EDDY: I have no questions. Thank you.

3 (The deposition concluded at 1:06 p.m.)

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1 CERTIFICATE OF REPORTER

2
3 I, Janni Jardine, Court Reporter, and
4 Notary Public for the State of South Carolina at Large,
do hereby certify:

5 That the foregoing deposition was taken
6 before me on the date and at the time and location stated
7 on Page 1 of this transcript; that the deponent was duly
8 sworn to testify to the truth, the whole truth and
9 nothing but the truth; that the testimony of the deponent
10 and all objections made at the time of the examination
were recorded stenographically by me and were thereafter
transcribed; that the foregoing transcript as typed is a
true, accurate and complete record of the testimony of
the deponent and of all objections made at the time of
the examination to the best of my ability.

11 I further certify that I am neither related
12 to nor counsel for any party to the cause pending or
interested in the events thereof.

13 Witness my hand, I have hereunto affixed my
14 official seal September 6, 2012, at Columbia, Richland
County, South Carolina.

15
16
17
18 
19 Janni Jardine
Court Reporter
My Commission expires
20 September 1, 2019
21
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