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3 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
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6 JACK KANANIAN, Executor of the :
Estate of Harry Kananian, :
7 Plaintiffs, :
8 vs. : Case No.
: 1:07-CV-03188-DCN
9 BRAYTON PURCELL, LLP, et al., :
10 Defendants. :
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13 DEPOSITION OF
14 SARA BETH BROWN
15 Monday, March 22, 2010
16 Reno, Nevada
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22
23 Reported by: DIANNE M. BRUMLEY, NV CCR #205
California CSR #6796
24
25 BONANZA REPORTING: 1111 FOREST, RENO, NEVADA
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1 ***
2 RENO, NEVADA, MONDAY, MARCH 22, 2010, 12:40 P.M.
3 ***
4 SARA BETH BROWN
5 having been duly sworn,
6 was examined and testified as follows:
7 EXAMINATION
8 BY MR. ANDREAS:
9 Q Good afternoon. I introduced myself before we
10 got on the record here today, and I'm sorry, I'm not
11 sure if you stated your name for the record. Would you
12 please do that to begin with?
13 **A My name is legally Sara Beth, no H on the Sara,**
14 **Morgan Brown.**
15 Q Is that hyphenated or anything?
16 MR. ROSS: This is Dave Ross. I don't know if
17 it's just me, but I think you need to be a little
18 closer.
19 THE WITNESS: Sara Beth Morgan Brown. I go by
20 Sara Beth Brown.
21 MR. ANDREAS: Just for the record, because I
22 have a feeling there's going to be an objection by
23 plaintiff's counsel for whatever reason, because I'm in
24 Reno with a number of documents, this is more of a
25 document intensive deposition in this case and it was

1 MR. ANDREAS: Okay. Well, Jarrett, just so we
2 get this clear on the record for the Judge in case you
3 decide to push this any further after today, first of
4 all, can you cite me any authority in the federal rules
5 that prohibits me from representing myself pro se or in
6 pro per for purposes of this deposition when I'm a named
7 defendant in this case?
8 MR. NORTHUP: Well, let's see, you're not pro
9 se, your attorney is on the phone. I'm just going by
10 practical sense. You can ask the questions, Chris. We
11 got it on the record.
12 MR. ANDREAS: I just want you to explain on the
13 record so that we have this clear on the record,
14 Jarrett, what your position is and I want you to cite me
15 any authority whatsoever for the proposition or
16 supporting your objection.
17 MR. NORTHUP: Sure. Did your attorney file an
18 answer on your behalf?
19 MR. ANDREAS: Yes.
20 MR. NORTHUP: Is your attorney Andrew Holford?
21 MR. ANDREAS: Correct. Well, excuse me, for
22 the record, and we're talking over each other at this
23 point. I'm represented by two attorneys, Diana
24 Anelli --
25 MR. NORTHUP: Is one of your attorneys on the

1 just more efficient for everybody involved for me, at
2 least from our side since we noticed this deposition, to
3 drive the three hours from San Francisco up to Reno
4 which I did yesterday with the documents.
5 Miss Brown has some additional documents she's
6 producing here, and my attorneys and I decided that it
7 would be more efficient for me to appear in a limited
8 capacity pro per representing myself for purposes of
9 this deposition alone. I don't intend to continue to
10 represent myself pro per in any further proceedings in
11 this case, and that's my statement for the record. Go
12 ahead.
13 MR. NORTHUP: For the record, plaintiff's
14 counsel would like to object to your handling of the
15 deposition as you are represented by your counsel and
16 your counsel is also present at this deposition
17 telephonically. It is plaintiff's position that you're
18 not pro se and that this should be handled by your
19 attorney of record.
20 Secondly, I don't know what additional
21 documents have been produced. Certainly we've gotten
22 the production prior, but I don't know what you're
23 looking at there. I have an objection to the deposition
24 going forward without knowing what it is that you're
25 looking at.

1 line for this deposition?
2 MR. ANDREAS: Jarrett, please let me finish
3 issue my statement so that we're not talking over each
4 other. The court reporter is getting a bit frustrated
5 here.
6 MR. NORTHUP: I thought you were done. My
7 apologizes.
8 MR. ANDREAS: I am represented, that is
9 correct. As far as everything that's going on out in
10 Ohio in this case, that is correct. I certainly did not
11 waive and there is no waiver of my right to appear pro
12 se or pro per, however you want to put it, for certain
13 proceedings or depositions in this case. I've never
14 waived that and I don't believe there's any authority
15 that says that you do simply by having an attorney file
16 an answer for you and appear out in Ohio in court
17 proceedings, so --
18 MR. NORTHUP: Out of courtesy, can you please
19 explain what it is, what documents are there that we
20 don't have in the prior production?
21 MR. ANDREAS: Jarrett, I'll get to that in one
22 second. If you'll let me finish, and I'll let you know
23 when I'm finished speaking for the record and you can
24 say whatever you want.
25 I've explained I think fairly comprehensively

1 why I'm here today and what the purpose of my appearance
 2 here today is in a limited capacity pro per, pro se,
 3 however you want to put it.
 4 As far as the documents that I just referenced,
 5 there are a number of documents that the trust did
 6 produce prior to the deposition and Miss Brown has
 7 originals of those with her here today and we'll be
 8 marking those for the record and discussing those
 9 briefly.
 10 The other documents are documents that are
 11 equally available to everybody here. They are documents
 12 that I pulled off of a website which the Western
 13 Asbestos Trust maintains, and you're certainly welcome
 14 to go there yourself if you wanted to look that up
 15 before the deposition.
 16 MR. ROSS: Chris, let me interject for a
 17 second. I have now produced supplementally documents
 18 from the Superior Court in California the brief in
 19 support of default judgement, the Notice of Default and
 20 the default in this case.
 21 MR. ANDREAS: Great, okay. Those are some of
 22 the additional documents from the San Francisco Superior
 23 Court that will be discussed today, as well as I just
 24 indicated, some documents I pulled off the website which
 25 will be dealt with very quickly and marked for the

1 record.
 2 Other than that, I think there are some
 3 documents that I have here that I may end up introducing
 4 and marking for the record that were obtained from the
 5 production by -- they're on one or more of the CDs that
 6 have been floating around in this case, either the
 7 plaintiff's production of documents, Brayton Purcell's
 8 production of documents or my production of documents,
 9 so everybody has whatever it is I'm going to be using
 10 here today.
 11 MR. NORTHUP: Okay, Chris. I thought you had
 12 documents that the trust had produced which we didn't
 13 have here.
 14 MR. ANDREAS: No.
 15 MR. NORTHUP: I understand. With plaintiff's
 16 objection to your questioning and our disagreement on
 17 that, I have nothing else.
 18 MR. ANDREAS: Okay, great.
 19 BY MR. ANDREAS:
 20 Q Let's resume where we left off. I believe we
 21 had Miss -- can I refer to you as Miss Brown, do you --
 22 A That's fine.
 23 Q Miss Brown, have you had your deposition taken
 24 before?
 25 A Yes.

1 Q So are you -- do you feel comfortable with the
 2 process of a deposition such that I don't have to run
 3 through the normal admonitions that are usually given by
 4 attorneys?
 5 A Yes. I'm an attorney.
 6 Q Oh. Well, excuse me.
 7 A I've taken them and I've had mine taken.
 8 Q I didn't know that. I do apologize. Obviously
 9 I just will say this. You've seen some of the
 10 interaction here. If there's something that's not clear
 11 to you either in a question or a discussion here, please
 12 feel free to bring that to our attention and I'll try to
 13 clarify whatever it is that you have some confusion
 14 about.
 15 Miss Brown, there was a subpoena served, a
 16 subpoena duces tecum I believe it was, a federal
 17 subpoena duces tecum for this deposition today. In
 18 fact, I think there were two deposition subpoenas
 19 served, one originally several months back that
 20 requested documents and I think the dates were 2005
 21 forward, and then there was a second subpoena that had
 22 been served, and I don't have them in front of me here.
 23 Perhaps we can have the two of those marked as one --
 24 A I only have one.
 25 Q We'll take care of this later with the court

1 reporter and get her copies. We'll mark the original
 2 deposition subpoena as Exhibit 1, and then Exhibit 2
 3 will be the second deposition subpoena that was recently
 4 served at the request, I believe, of the trust. The
 5 trust requested that a second subpoena be served, I
 6 think. That's my understanding. Is that your
 7 understanding?
 8 A I don't know. I think it just was so that the
 9 date and time would be correct.
 10 MR. NORTHUP: The second subpoena, so to speak,
 11 is just a duplicate of the first one with a different
 12 date on it.
 13 THE WITNESS: Yeah, I believe that's the case.
 14 MR. ANDREAS: Okay. Just for record-keeping
 15 purposes, we'll have them both marked one and two.
 16 (Exhibit 2 was marked at this time.
 17 Exhibit 1 will be provided to the court
 18 reporter at a later time.)
 19 BY MR. ANDREAS:
 20 Q Now, Miss Brown, I guess the purview of the
 21 subpoenas, the scope I should say, is related to both
 22 documents and seeking some information as well. There's
 23 been a discussion of that as well outside of the
 24 subpoenas.
 25 First of all, you've been produced here today

1 by the trust. Would you tell us, for the record, what
 2 your official position is with the trust?
 3 **A I'm the executive director of two trusts. This**
 4 **is one of them, Western Asbestos Settlement Trust. I**
 5 **was hired in May of 2004 to administer the trust,**
 6 **actually get an office, hire some employees, hire some**
 7 **money managers, get claimants paid, and that's what I've**
 8 **done since that time.**
 9 Q So your official capacity with the trust is
 10 executive director did you say?
 11 **A That's correct.**
 12 Q And as such, you would be, what, the chief
 13 officer for the trust?
 14 **A I'm the executive director. I answer to three**
 15 **trustees who are in charge of the trust and I run the**
 16 **day-to-day operations.**
 17 Q All right. This will be marked, it's a single
 18 page document I've pulled off of the Western Asbestos
 19 Settlement Trust website and it's a single page which
 20 I'll mark and have the witness identify. We'll make
 21 this Exhibit 3.
 22 (Exhibit 3 was marked.)
 23 BY MR. ANDREAS:
 24 Q I've handed you that single page document,
 25 Exhibit 3, and take your time reviewing it.

1 **A Yeah, many, many years ago, whenever it broke**
 2 **up.**
 3 Q Thank you very much. Just for the purposes of
 4 the record, you used the acronym TAC.
 5 **A Trust advisory committee.**
 6 Q And that's the committee that's made up of
 7 David McClain of Kazan, McClain, Edises & Abrams down in
 8 Oakland; Al Brayton of Brayton Purcell; Mr. Sieben of
 9 the Sieben Polk Law I guess is the name of his office,
 10 and then Mr. Jack Clapper of the law offices of Clapper
 11 & Patti, LLP in Sausalito, California; is that correct?
 12 **A That's correct.**
 13 Q And those are the four individuals on the TAC
 14 as we're calling it, and then there's also the counsel
 15 to the TAC, Mr. Ahrens, who is I guess part of the TAC
 16 as well.
 17 **A No, he's not. He's just counsel to the TAC.**
 18 Q He's just listed here for the purposes of
 19 identifying --
 20 **A If somebody wants to find out, yeah. We**
 21 **believe in transparency, so --**
 22 Q Of course. Could you explain to us what --
 23 well, before I get to that, let's do a little history
 24 here first.
 25 You mentioned that the trust that we're talking

1 **A I recognize it.**
 2 Q Would you please identify it for the record?
 3 **A It's the website page entitled About the Trust.**
 4 **The sub-heading is Trust Representatives and it lists**
 5 **the trustees, the trust advisory committee, the futures**
 6 **representative, and me.**
 7 Q All right. Now, the three -- could you just
 8 run through the names and explain to us how that's
 9 broken up and what those various titles mean?
 10 **A There's three trustees. Steve Snyder is the**
 11 **managing trustee, Sandra Hernandez who is a doctor in**
 12 **San Francisco is a trustee, and Jack Luikart who used to**
 13 **be in the investment business is a trustee in San**
 14 **Francisco as well.**
 15 **David McClain, Al Brayton, Mike Sieben and Jack**
 16 **Clapper are the trust advisory counsel. The only one I**
 17 **deal with on a regular basis is the head of the trust**
 18 **advisory committee. His name is Al Brayton. The**
 19 **counsel to the TAC is Sheppard, Mullin, Richter &**
 20 **Hampton. The futures representative is Judge Charles**
 21 **Renfrew.**
 22 Q Is he a retired federal Judge?
 23 **A Yes, he is, and his counsel is Gary Fergus,**
 24 **F-e-r-g-u-s.**
 25 Q Formerly of Brobeck, Phleger & Harrison?

1 about -- and before I get to that, you said you were an
 2 executive director, an officer on two trusts; is that
 3 right?
 4 **A Correct. The other one is a trust called J.T.**
 5 **Thorpe Settlement Trust.**
 6 Q Is that another bankrupt asbestos company?
 7 **A Yes, it is.**
 8 Q And I'm sorry, is it J.T. Thorpe Company?
 9 **A Settlement. I don't know what the company is.**
 10 **There's lots of Thorpes out there, so you've got to**
 11 **be -- J.T. Thorpe, Inc. I think it was.**
 12 Q And J.T. Thorpe, just for the record, is
 13 spelled J period, T period, and then T-h-o-r-p-e; is
 14 that right?
 15 **A Uh-huh.**
 16 Q Is that a yes?
 17 **A Yes. Sorry.**
 18 Q Let me just very briefly, is that trust up and
 19 running at this point?
 20 **A Yes. It was started in 2006. Everyone except**
 21 **I am employed by the trust. Actually, everyone is**
 22 **employed by Western Asbestos. They share -- we have**
 23 **loaned facilities and employees, so we process their**
 24 **claims and run their trust, Western does.**
 25 Q Okay. So then both the J.T. Thorpe Trust as

1 well as the Western Asbestos Trust are all administered
 2 here out of Reno?
 3 **A Correct.**
 4 Q Now, we're here today to talk about Western
 5 Asbestos. You started in May of 2004. You were hired
 6 you said in May of 2004 to serve as the executive
 7 director of the Western Asbestos Settlement Trust. Was
 8 that the name of it, by the way, at the beginning?
 9 **A It was.**
 10 Q Has it always been situated here in Reno?
 11 **A Yes.**
 12 Q And I have to apologize, I'm not a bankruptcy
 13 expert or trust expert, but is there some sort of
 14 incorporation for the trust or legal papers that have to
 15 be filed in the state in which they operate?
 16 **A We have a business license, but no, we're**
 17 **formed out of the federal bankruptcy court. We are**
 18 **answerable to the bankruptcy Judge in Oakland, Leslie**
 19 **Tchaikovsky, and otherwise all of our operations are**
 20 **conducted here. Everything is conducted outside of**
 21 **California because the reason the trust is in Nevada is**
 22 **to prevent the tax ramifications of being in California.**
 23 Q Right, and I'm familiar with that being from
 24 California and I know a number of people who bought
 25 second homes in Incline Village, for instance, and claim

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1 that as a primary residence I guess for tax purposes,
 2 but I don't know that --
 3 **A Everything is done here.**
 4 Q But I don't think the people in Ohio understand
 5 the tax advantages of being in Nevada. Maybe you could
 6 explain that.
 7 **A The trust is subject to -- we pay 35 percent on**
 8 **our net income. We're treated for tax purposes like a**
 9 **corporation in most regards. Nevada has no state income**
 10 **tax. If we were in California, we would pay state**
 11 **income tax as well.**
 12 Q So --
 13 **A So that's why the trust was formed here.**
 14 Q I understand. Thank you very much. That was a
 15 better explanation than I probably could have given.
 16 Miss Brown, when was -- let's just start this way. Was
 17 the trust formed at the time that you were first hired
 18 in May of 2004?
 19 **A It was formed April the 22nd, 2004.**
 20 Q April 22nd you said?
 21 **A Uh-huh.**
 22 Q Is that a yes?
 23 **A Yes.**
 24 MR. NORTHUP: Was that 2004? I'm having a hard
 25 time hearing you.

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1 THE WITNESS: Yes, it was. It was 2004.
 2 BY MR. ANDREAS:
 3 Q So this trust, the Western Asbestos Settlement
 4 Trust opened its doors, so to speak, on April 22nd,
 5 2004, correct?
 6 **A Correct.**
 7 Q And you said May of 2004. Do you have a more
 8 precise date on your start time?
 9 **A I can't remember. Maybe the 10th of May.**
 10 Q And do you recall who it was that hired you?
 11 **A I interviewed with all of the trustees, several**
 12 **members of the TAC, although I can't tell you now who**
 13 **was in the room. Judge Renfrew was in the room, Gary**
 14 **Fergus was in the room, the guy from Sheppard, Mullin**
 15 **was in the room, although he doesn't come to many of our**
 16 **meetings, Mike Ahrens, and the trustees were who hired**
 17 **me, but I was interviewed by all of them.**
 18 Q And where did that meeting take place?
 19 **A In Reno, Nevada.**
 20 Q Is Reno, Nevada where you live?
 21 **A Yes, it is.**
 22 Q Now, we have an attorney here today
 23 representing you --
 24 **A I don't go to depositions without counsel.**
 25 Q I understand that. I understand you are an

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1 attorney, but for purposes of this type of proceeding,
 2 you are represented by counsel here today?
 3 **A My job is executive director. I don't practice**
 4 **law. I'm admitted in several states, but I don't**
 5 **practice.**
 6 Q Has the Western Asbestos Settlement Trust been
 7 represented by counsel or had counsel on retainer since
 8 it began operations in late April of 2004?
 9 **A We have numerous law firms that represent us,**
 10 **depending on the matter.**
 11 Q You've got a lot of lawyers involved with it?
 12 **A Only about four or five, but it just depends.**
 13 Q Now, when you mentioned Judge Renfrew, he's
 14 what's called the futures representative?
 15 **A Correct.**
 16 Q What is that in relation to the Western
 17 Asbestos Settlement Trust?
 18 **A It's kind of like having a guardian ad litem.**
 19 **I don't know how else to explain it, except that his job**
 20 **is to make sure that the people that have not yet filed**
 21 **claims get paid the equivalent of the people that have**
 22 **claims filed now, so his job is to protect the future**
 23 **claimants that have been filed. The trust advisory**
 24 **committee's job is to protect the current claimants.**
 25 Q Okay, very good. That's a very good

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1 explanation. Just one follow-up on that. So Judge
 2 Renfrew, his role is basically to make sure that anybody
 3 that claims in the future or the future claimants, that
 4 they are going to receive equal treatment, if you will,
 5 and equal compensation as the present claimants?
 6 **A That's correct.**
 7 Q Is that something that's required under the
 8 federal bankruptcy statutes or proceedings?
 9 **A I don't know. I don't know much about**
 10 **bankruptcy law.**
 11 Q You and me both. When we talked about the TAC,
 12 we talked about the futures representative, Judge
 13 Renfrew, and at the beginning you identified off of
 14 Exhibit 3 the trustees, Mr. Snyder of the law firm of
 15 Snyder, Miller & Orton in San Francisco. He's
 16 identified as the managing trustee?
 17 **A Correct.**
 18 Q And then Miss Hernandez is the doctor out of
 19 San Francisco. What's her specialty?
 20 **A She runs the San Francisco foundation. She's**
 21 **also an internist. I think she does some work with AIDS**
 22 **patients.**
 23 Q And then it's Mr. Jack --
 24 **A Luikart.**
 25 Q And that's L-u-i-k-a-r-t?

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1 **A Correct.**
 2 Q And it just identifies him as San Francisco.
 3 **A Right. He owned at one point an investment**
 4 **firm, sold it many years ago, but has investment**
 5 **expertise.**
 6 Q So he's neither a doctor or lawyer?
 7 **A Correct.**
 8 Q Now, can you explain just for the record what
 9 the purpose as you understood it when you were hired on,
 10 what's the purpose of the Western Asbestos Settlement
 11 Trust? What's its goal?
 12 **A Our goal is to process and pay claims for those**
 13 **who were injured by or related to, I'll just say related**
 14 **to both Western, Western MacArthur and MacArthur**
 15 **Company.**
 16 Q All right. Now, this is going to require a
 17 little bit of explanation here and I do apologize for
 18 this and if you don't feel comfortable describing
 19 something that I'm asking you about, just let me know.
 20 You mentioned several entities there that are
 21 under the umbrella, if you will, of the Western Asbestos
 22 Settlement Trust. The first one was Western Asbestos?
 23 **A Correct.**
 24 Q And taking it on a chronologic basis as far as
 25 when these companies existed, and are they all bankrupt,

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1 by the way?
 2 **A I think they all went through bankruptcy.**
 3 **There's some companies that still exist. I don't have**
 4 **contact with them, so I don't know.**
 5 Q All right. Maybe I can just ask this. Was it
 6 three companies that you mentioned?
 7 **A Sort of.**
 8 Q Maybe you could explain this, and what I'm
 9 trying to get at is chronologically which existed first
 10 and second and third and so forth.
 11 **A I can't tell you when they were formed. All I**
 12 **can tell you is that there was a company called**
 13 **MacArthur, and I don't know if that's the full legal**
 14 **name. It operated mostly back in the North Dakota,**
 15 **Minnesota area. There was a company called Western**
 16 **Asbestos that operated in California, and then there was**
 17 **some type of a hybrid, which I do not know its legal**
 18 **status, called Western MacArthur and there were many**
 19 **entities that were in bankruptcy. I can't tell you who**
 20 **they were because I was not involved at that time, but**
 21 **those were three among the entities that filed for**
 22 **reorganization.**
 23 Q All right. And I don't mean to -- I'm not
 24 trying to put you on the spot here, but I do have some
 25 knowledge based on my prior employment with Brayton

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1 Purcell about the history here and I'm just going to ask
 2 it this way.
 3 First of all, you mentioned -- I'm going to
 4 take Western Asbestos first. Western Asbestos, is this
 5 consistent with your understanding that Western Asbestos
 6 was an insulation distributor, thermal insulation
 7 distributor and seller located in San Francisco, I
 8 believe it was off Third Street in San Francisco, you
 9 don't need to agree with me on the address, but their
 10 business was directed towards the supply and sale of
 11 thermal insulation materials as well as they had a
 12 contract unit that would go out and perform insulation
 13 contracting work out of their offices in San Francisco.
 14 **A I don't have actual knowledge of that, but**
 15 **that's my understanding.**
 16 Q And all I'm asking for is your understanding.
 17 I don't want you to guess at anything here today.
 18 And being that it's now 2010 and you've been in
 19 your position now for, I guess it's coming up on
 20 six years?
 21 **A Uh-huh.**
 22 Q You've gained some familiarity with the
 23 entities involved with the trust? I'm not saying you
 24 have exhaustive knowledge of it, but you have over that
 25 time period gained some familiarity and understanding of

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<p>1 the various entities involved under the umbrella, as I 2 say, of the trust? 3 A Correct. 4 Q Now, Western Asbestos, is it your understanding 5 that Western Asbestos during the years it was a going 6 concern and not a bankrupt company -- first of all, do 7 you know what years it was in operation? 8 A I do not know. 9 Q Do you know when it declared bankruptcy for the 10 first time? 11 A The only bankruptcy I'm aware of I think was 12 filed in 2002, I think February of 2002. That's from 13 memory. 14 Q That's your best recollection? 15 A Yes. Maybe it was November. 16 Q Again, I said I don't want you to guess, but if 17 you have a recall of some sort or a best recollection -- 18 A I think it was 2002. 19 Q Now, Western Asbestos during the years it was 20 in operation, is it your understanding that they were 21 involved in the sale and supply of thermal insulation 22 products and in years past do you understand that those 23 products were -- some percentage of them, and perhaps 24 most of the products they sold as far as thermal 25 insulation products, were asbestos containing?</p> <p style="text-align: right;">Page 25</p>	<p>1 that. 2 Do you have a general understanding -- first of 3 all, are you familiar with Johns Manville Company? 4 A I only know that Johns Manville manufactured 5 asbestos containing materials. I'm not familiar with 6 the company itself. 7 Q Do you know that they're a bankrupt entity? 8 A I do know now. 9 Q You do know that they have a trust similar to 10 the sort of trust that you work on? 11 A I know that. 12 Q And that they process claims from claimants who 13 are alleging that they are suffering from asbestos 14 related diseases of whatever sort and are claiming 15 exposure, past exposure to a Johns Manville product? 16 A I do know that. 17 Q Now, as far as Western Asbestos goes, you 18 mentioned that you know that they had involvement as a 19 distributor for Johns Manville at some point in time; is 20 that right? 21 A Correct. 22 Q Do you know if it was an exclusive 23 distributorship? 24 A I don't know that. 25 Q Do you know where their sales region was for</p> <p style="text-align: right;">Page 27</p>
<p>1 A I don't know. I mean, I don't have an 2 understanding. All I know is -- I don't know. 3 Q That's fine. Do you know just basically that 4 Western Asbestos Company was involved in some way with 5 asbestos? 6 A Yes, I do know that. 7 Q Maybe this will help. Do you know, and -- 8 strike that, let me start over again. 9 Would this be consistent with your information 10 and understanding of Western Asbestos, that they were -- 11 as far as sales and supply of thermal insulation 12 materials, they were at some period of time during their 13 operation the exclusive -- one of a number of exclusive 14 distributors for a company called Johns Manville? 15 MR. KLOMP: Let me just pose an objection to 16 this line of questioning, that Miss Brown is here as the 17 person most knowledgeable for the trust and not 18 necessarily for these entities that predate the trust. 19 MR. ANDREAS: Sure, I understand that. 20 THE WITNESS: I know that -- I have been told 21 and have read documents that indicate to me that they 22 were a distributor or seller or installer of Johns 23 Manville products. 24 BY MR. ANDREAS: 25 Q Do you know what their -- first of all, strike</p> <p style="text-align: right;">Page 26</p>	<p>1 Johns Manville insulation products? 2 MR. NORTHUP: Pardon me, Chris. Excuse the 3 interruption. I just want to note a line of objection. 4 This questioning is outside the scope of the subpoena, 5 so -- 6 MR. ANDREAS: Okay, fine. 7 BY MR. ANDREAS: 8 Q Go ahead, Miss Brown. 9 A What did you ask me? 10 Q I'm sorry, I'll rephrase it. 11 With your understanding that Western Asbestos 12 at some point during their years of operation was a 13 distributor of Johns Manville insulation products, do 14 you have any understanding as to where their 15 distributorship of those products as far as a regional 16 restriction was? 17 A I don't know. I don't know about the region. 18 Q Have ever heard that Western Asbestos was the 19 exclusive distributor of Johns Manville insulation 20 products in Northern California, I believe it was 21 Northern Nevada, and perhaps part of Southern Oregon? 22 A I don't know that, that they were exclusive. I 23 don't know that. 24 Q Well, you do know that to the extent they sold 25 products, it was in the Northern California, Nevada and</p> <p style="text-align: right;">Page 28</p>

1 Southern Oregon region?
 2 **A Among the claims that we receive, many are from**
 3 **those regions.**
 4 Q And we'll get to maybe some documents here off
 5 the website that may clarify some of this in a minute.
 6 The MacArthur Company, let me just turn to them
 7 for a minute. Were they also involved with insulation
 8 to your knowledge?
 9 MR. KLUMP: I'm going to just lodge an ongoing
 10 objection to this line of questioning, that it is
 11 outside the scope of the purposes for which Miss Brown
 12 has been produced, and outside the scope of the
 13 subpoena.
 14 MR. ANDREAS: Sure, and counsel, I'll just give
 15 you a running objection on the record. You don't have
 16 to repeat it.
 17 MR. KLUMP: At some point it's going to
 18 become --
 19 MR. NORTHUP: Plaintiff joins the objection.
 20 MR. KLUMP: At some point it's going to become
 21 burdensome which Nevada law allows us to recover fees,
 22 costs and all that stuff if it becomes too burdensome.
 23 MR. ANDREAS: I'm trying to move through this
 24 efficiently. I just want to get a little history on the
 25 three entities that make up the trust and --

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1 MR. KLUMP: And I can appreciate that. I just
 2 want to lodge that objection so if we have to go back to
 3 the Court to get our costs and fees, we can do that.
 4 MR. ANDREAS: Sure, and what I'm saying is I
 5 don't want you to have to state these for the record, so
 6 I'll just giving you a running objection based on what
 7 you've already stated, counsel.
 8 BY MR. ANDREAS:
 9 Q Very briefly, and I'm not going to spend much
 10 time on this. MacArthur Company, do you have any
 11 knowledge that they were involved back in Minnesota,
 12 North Dakota area with insulation products similar to
 13 Western Asbestos?
 14 **A My knowledge is that, yes, they are involved in**
 15 **the same type of business.**
 16 Q And then lastly, Western MacArthur was the last
 17 entity you mentioned. I think we can agree, maybe we
 18 can't, that that is a company that was a combination of
 19 the two, Western and MacArthur, when they perhaps merged
 20 at some point?
 21 **A I have some dim recollection that it wasn't an**
 22 **actual merger, that it was some kind of a hybrid, and I**
 23 **don't know what the legal entity was, but that they**
 24 **worked together. I don't know that they were ever a**
 25 **legal entity. I can't tell you that. I know they**

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1 **worked together. What their legal status was, I don't**
 2 **know.**
 3 Q All right. So now let's just talk about how
 4 the trust functions as far as handling claims. You
 5 mentioned -- you already told us what the goal and
 6 purpose of the trust is. That is to compensate victims,
 7 I'll call them victims or claimants who are alleging
 8 that they have contracted an asbestos related disease
 9 and that in some manner, perhaps one of these three
 10 companies had some involvement in exposing them in prior
 11 years to asbestos and therefore were one of a number of
 12 perhaps causes of the disease at issue, is that fair?
 13 **A That's correct.**
 14 Q So is there a process -- can you explain the
 15 process, if somebody develops -- let's say in this case
 16 we're dealing with a mesothelioma that later turned into
 17 a wrongful death mesothelioma situation since the
 18 gentlemen died, Mr. Kananian, Harry Kananian. Let's
 19 just take that as an example.
 20 What's the process by which Mr. Kananian, when
 21 he was alive or his family after he died, what did they
 22 go through to submit a claim? What do they have to do I
 23 guess to get compensated by the Western Asbestos
 24 Settlement Trust?
 25 MR. KLUMP: I'll object that it's an incomplete

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1 hypothetical.
 2 BY MR. ANDREAS:
 3 Q If I'm missing anything, please let me know.
 4 **A A person who has been injured and can show that**
 5 **it was at one of the land or ship sites on our website**
 6 **and a variety of other things, our claim form is pretty**
 7 **comprehensive, fills out the claim form, pays \$250 as a**
 8 **filing fee, and submits the claim, and then we process**
 9 **the claim and make a determination as to whether or not**
 10 **it's a valid claim, and if it is, at the current time --**
 11 **we just increased the payment percentage to 44 percent.**
 12 Q What do you mean by that?
 13 **A If their claim is worth \$100, they would get**
 14 **\$44.**
 15 Q All right. That's a wonderful explanation.
 16 Now, the question I asked is if somebody were to file a
 17 formal claim and go through the claims process that you
 18 have set up, and we'll talk about -- I may mark some
 19 documents, but it's all described on your website, isn't
 20 it?
 21 **A Correct.**
 22 Q And there's something that -- I think it's
 23 referred to as a trust distribution procedure. In other
 24 trusts I'm familiar with, maybe it's called something
 25 different with the Western Asbestos Trust, but there's a

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1 series of rules and regulations and guidelines that the
 2 trust has to follow as far as processing these claims?
 3 **A That's correct.**
 4 Q When we say claims, that's people that are
 5 alive and either a family member in a wrongful death
 6 situation or a live person that's suffering from a
 7 disease filling out a Western Asbestos Settlement Trust
 8 claim form off the website and paying the \$250 fee and
 9 submitting it for determination?
 10 **A Correct.**
 11 Q Now, the determination process, could you
 12 explain what goes into that?
 13 **A We have three or four sets of documents. We**
 14 **have the trust documents, we have the bylaws which you**
 15 **just used for trust purposes, and then we have two**
 16 **documents. One is called the Trust Distribution**
 17 **Procedures, the TDP. That's kind of the general rules,**
 18 **and then there's the matrix which has got a formal name.**
 19 **It's got more words than that. The matrix is a document**
 20 **whereby the details of the claim are determined.**
 21 Q You know what, while we're on this discussion I
 22 think it's probably a good idea just to get a couple
 23 documents marked so that I can hand them to you and make
 24 things move a lot more quick.
 25 Let's make this first one Exhibit 4. It's

1 entitled Western Asbestos Settlement Trust Claim Filing
 2 Instructions, version 1.3, Copyright 2004 Western
 3 Asbestos Settlement Trust. That's on the cover page,
 4 and the document itself is a total of 23 pages and we're
 5 marking that as Exhibit 4 and I'll handled it to the
 6 hand it to the witness after we do this.
 7 MR. ROSS: Chris, what was the title of that
 8 document?
 9 MR. ANDREAS: Western Asbestos Settlement Trust
 10 Claim Filing Instructions, Version 1.3.
 11 (Exhibit 4 was marked.)
 12 BY MR. ANDREAS:
 13 Q I'm handing it to the witness and I'm going to
 14 ask the witness to identify this one on the record
 15 before I proceed to the next.
 16 **A Okay.**
 17 Q And other than the title of it, can you just --
 18 I've already read that into the record a couple times.
 19 Can you just describe generally what that document is?
 20 **A It's a document -- because our claim form is**
 21 **fairly complex, it's a document to try to help someone**
 22 **who is filing understand the claim form so that they can**
 23 **file it correctly.**
 24 Q So it's basically an instructional manual --
 25 **A Right.**

1 Q -- for filing a claim. Now, the next document
 2 I'll mark as Exhibit 5.
 3 (Exhibit 5 was marked.)
 4 BY MR. ANDREAS:
 5 Q Handing Exhibit 5 to counsel right now, and the
 6 title of the document is Western Asbestos Settlement
 7 Trust Claim Form and it has submit completed form to the
 8 trust with the address and e-mail address, I believe,
 9 and I didn't get the total page count, but it's --
 10 **A And this is the year.**
 11 Q It appears to have -- on the bottom right-hand
 12 corner of each page, there's an 09-06, and the deponent
 13 informs me that is the year that this document was
 14 generated, or the date that --
 15 **A The last changes were generated.**
 16 Q So this is the most recent claim form; is that
 17 correct?
 18 **A I don't know that. I'd have to look to make**
 19 **sure you got the most recent one.**
 20 Q I printed it off the website. Hopefully it is.
 21 MR. NORTHUP: Pardon me, Chris, I want to ask
 22 you a question before I make an objection so I don't
 23 seem stupid. Is there a claim form which has been
 24 submitted to this trust on behalf of the Kananian family
 25 that I don't have?

1 MR. ANDREAS: No. That's what I'm trying to
 2 find out, Jarrett, so this is all preliminary to that.
 3 MR. NORTHUP: Okay. To the extent there isn't
 4 a claims form, I'm going to object to questions about a
 5 claim form, but I understand where you're going.
 6 MR. ANDREAS: Thank you. It's just all
 7 background here.
 8 BY MR. ANDREAS:
 9 Q So Exhibit 5, the Western Asbestos Settlement
 10 Claim Form, it appears to have a total of 16 pages, at
 11 least the copy that I have here. Does that sound about
 12 right to you?
 13 **A Sounds about right.**
 14 Q And while I have it in front of me, we've
 15 already talked about Exhibit 4 being the instructional
 16 manual, so to speak, for a claimant or his
 17 representative or attorney perhaps in filling out or
 18 submitting a claim, and the claim form contains various
 19 sections; is that correct?
 20 **A Correct.**
 21 Q To be filled out by either the claimant
 22 themselves or their representative or attorney; is that
 23 right?
 24 **A That's correct.**
 25 Q Or somebody working for the attorney?

1 **A Correct.**
 2 Q You're familiar with the fact that a lot of --
 3 a number of firms in submitting bankruptcy claims have
 4 like a bankruptcy department or division within the firm
 5 that handles sort of the bankruptcy side of things?
 6 **A Many of the firms have attorneys and/or**
 7 **paralegals working on filing the claims.**
 8 Q Specific to bankruptcy claims?
 9 **A I don't know that.**
 10 Q For instance, we mentioned Mr. Alan Brayton and
 11 Brayton Purcell, LLP. Are you familiar with the fact
 12 that they have a specific bankruptcy division with some
 13 attorneys that oversee it and clerks that work there?
 14 **A I'm not -- I don't know how they're set up.**
 15 Q Okay. Well, in any case, the various sections
 16 here, I'll just read them into the record. Section one
 17 is representation. What does that have to do with?
 18 **A I assume it's -- I'm not looking at it, but I'm**
 19 **assuming if you have an attorney representing you,**
 20 **that's what it is.**
 21 Q So it's just information on who is representing
 22 you?
 23 **A Correct.**
 24 Q And then section two is injured party/decedent
 25 information; is that correct?

1 **A That's correct.**
 2 Q And I'm not going to explain all the questions
 3 in there, but it's just sort of personal information; is
 4 that correct?
 5 **A That's correct.**
 6 Q And then section three is entitled injuries; is
 7 that correct?
 8 **A That's right.**
 9 Q Is that the section that you have to
 10 demonstrate as a claimant that you have suffered from
 11 some sort of asbestos related disease, or if you're a
 12 family member claiming as in a wrongful death situation,
 13 you have to demonstrate that the death was caused by
 14 some disease?
 15 **A That's where you pick your disease.**
 16 Q You basically -- you have to show the medical
 17 side of the disease?
 18 **A Right.**
 19 Q And section four is entitled diagnosis?
 20 **A Correct.**
 21 Q And is that where you specifically identify
 22 medical records or something like that?
 23 **A That's correct.**
 24 Q And the following section, section five, is
 25 chest X-rays, so that would go along with that?

1 **A That's correct.**
 2 Q Section six is CT scans which is computed
 3 tomography scan. It's another imaging modality?
 4 **A I don't know that that's what it stands for,**
 5 **but yes.**
 6 Q And six and seven is pulmonary function test.
 7 That's another medical test to determine if somebody has
 8 a particular type of disease?
 9 **A That's correct.**
 10 Q And then section eight is entitled pathology
 11 report; is that right?
 12 **A That's correct.**
 13 Q And that deals with tissue being examined by a
 14 pathologist for the presence or absence of an asbestos
 15 related disease?
 16 **A Correct.**
 17 Q And section nine is dependent & beneficiary.
 18 What's that particular section for?
 19 **A There's multiple layers that we use to**
 20 **determine the value of the claim and one of them is if**
 21 **someone has children that are dependent.**
 22 Q As opposed to, say, adult children who aren't
 23 dependent?
 24 **A Correct.**
 25 Q Section ten is land exposure?

1 **A That's correct. There are two types of**
 2 **exposure. You can have a land site or a ship site, and**
 3 **this is just a place where you determine what your land**
 4 **site is if you have one.**
 5 Q And section 11 is entitled shipboard exposure;
 6 is that right?
 7 **A That's correct.**
 8 Q And that's I guess by definition if you can
 9 demonstrate you were exposed to some asbestos material
 10 attributable to the Western Asbestos Company, Western
 11 MacArthur or the MacArthur Company onboard a ship?
 12 **A Correct.**
 13 Q Would that also include shipyards?
 14 **A Depends on whether the ship was repaired or**
 15 **built. If it was -- if the shipyard -- many times if**
 16 **you're working on a ship that's being repaired in a**
 17 **shipyard, you get the shipyard as your location. You're**
 18 **coming back and forth to the shipyard and working on the**
 19 **ship. It just depends on the particular claim, whether**
 20 **you get ship exposure or shipyard exposure.**
 21 Q And we previously looked at section ten which
 22 is land exposure. Would it be fair to say that you
 23 don't want to hear about ships or shipyards in that
 24 section, right? That's more for like a commercial
 25 project or refinery --

1 **A Some shipyards would be in the land section,**
 2 **refineries, shipyards, yeah.**
 3 Q But shipboard exposure could cover both
 4 somebody being exposed onboard an actual ship --
 5 **A No, it would be just exposure on a ship.**
 6 Q And with the shipyard exposure, say somebody is
 7 working in a shipyard or stationed in a shipyard where
 8 there's work on ships obviously, that's what they do and
 9 there's exposure in that capacity versus, say, somebody
 10 that's in the Navy serving on the ship or a merchant
 11 marine or something like that, that's the difference,
 12 right?
 13 **A Whoever is processing the claim would determine**
 14 **whether they were a land site or a ship site.**
 15 Q I got you, all right. Now, section 12 is
 16 secondary exposure, and what would that refer to?
 17 **A That would be if you had a spouse that was**
 18 **washing the clothes of the exposed person, or children**
 19 **that were sitting on the lap of the exposed person who**
 20 **then themselves became exposed.**
 21 Q Frequently workers, either people on ships or
 22 they were working in sites where they were working
 23 around asbestos dust, they would bring it home on their
 24 clothes?
 25 **A That's correct.**

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1 Q Section 13 is smoking history; is that correct?
 2 **A Correct.**
 3 Q Why is that important?
 4 **A Just depends on the type of the illness**
 5 **claimed. Smoking can either increase or decrease the**
 6 **value of the claim.**
 7 Q And would that -- would the smoking history be
 8 more relevant in, for instance, maybe a lung cancer
 9 case?
 10 **A That's correct.**
 11 Q Or maybe another cancer type of claim that
 12 might be related to -- has also been related in the
 13 literature to smoking?
 14 **A Yeah. It's a factor that when they developed**
 15 **the claim form, they determined that if you smoked for a**
 16 **long time, it's going to decrease the value of your**
 17 **claim, and if you quit for a long time, it may increase**
 18 **the value of your claim.**
 19 Q Would that apply in a case of somebody that was
 20 suffering from or died from pleural mesothelioma?
 21 **A I don't think it --**
 22 MR. NORTHUP: Objection, plaintiff's counsel on
 23 relevancy. There's no claims form.
 24 THE WITNESS: And I don't know. You'd have to
 25 talk to one of our processors. I don't do the actual

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1 processing of the claims.
 2 BY MR. ANDREAS:
 3 Q Was it your understanding that cigarette smoke
 4 toxins from the tobacco itself, cigarette smoke toxins
 5 are carcinogens as we all know from the Surgeon
 6 General's report exist when you smoke, do you have any
 7 understanding or does the trust take the position that
 8 that plays any causal role whatsoever in a pleural
 9 mesothelioma?
 10 **A We don't take a position.**
 11 MR. NORTHUP: Objection, plaintiff's counsel.
 12 MR. KLOMP: And I'll object, also, that it
 13 calls for expert testimony.
 14 BY MR. ANDREAS:
 15 Q And I'm only asking for your understanding.
 16 **A I don't know that.**
 17 Q Section 14 is economic loss, medical expense,
 18 is that right?
 19 **A Correct.**
 20 Q That's pretty self-explanatory, and section 15
 21 is asbestos litigation; is that right?
 22 **A Correct.**
 23 Q Why is the trust interested in asbestos
 24 litigation? What's the purpose of this section?
 25 **A We ask that they produce documents. When the**

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1 **claim form was developed and the standards were set,**
 2 **that was one of the questionnaires that we were asked to**
 3 **incorporate.**
 4 Q And in some way it factors into the claims
 5 processing -- the process of determining if somebody is
 6 going to --
 7 **A If somebody has filed litigation, there's some**
 8 **statute of limitations issues and if they filed**
 9 **litigation, we like to know about it so that we can**
 10 **determine they get that date of the filing -- they get**
 11 **the earlier of the filing of the claim or the filing of**
 12 **the litigation.**
 13 Q Section 16, the last page of the document, is
 14 entitled signature; is that right?
 15 **A Correct.**
 16 Q And that's where obviously the injured party or
 17 claimant signs off, or their representative; is that
 18 right?
 19 **A Correct.**
 20 Q All right. Thank you very much and I
 21 appreciate that.
 22 The next document -- there's two documents, and
 23 you know what, I think for -- well, we'll mark them
 24 separately. The first one is entitled Western Ships
 25 Built List, and there's a little date again on the

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1 bottom, 3-6-2009, and I don't have an exact count on
 2 the -- excuse me, it's 22 pages. The last page has a
 3 number of tables on it, sort of like an Excel spread
 4 sheet of sorts, and that's going to be deposition
 5 Exhibit 6.
 6 (Exhibit 6 was marked.)
 7 MR. ANDREAS: Again, counsel in Ohio, these are
 8 documents that are equally available to everybody if
 9 they want to go to the Western Asbestos Settlement Trust
 10 website which is -- perhaps you can tell us.
 11 THE WITNESS: Wastrust.com.
 12 MR. NORTHUP: Could you please give me the name
 13 of that document again?
 14 MR. ANDREAS: Yeah, it's called Western Ships
 15 Built List, and then Exhibit 7, I'll just identify it.
 16 It's entitled Western Ships Repaired List. It has the
 17 same date on the bottom left-hand corner of each page,
 18 3-6-2009. This one, again, is in an Excel spread sheet
 19 type format and it is a total of 24 pages.
 20 (Exhibit 7 was marked.)
 21 BY MR. ANDREAS:
 22 Q I'm handing the witness Exhibit 6 and 7 to have
 23 her identify them for the record, and let's just start
 24 with number six.
 25 **A This looks like the latest -- these are**

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1 **robust -- these documents are altered probably quarterly**
 2 **as we find -- if we find a ship that does not belong on**
 3 **it, or we get more information about one that does**
 4 **belong, we make alterations to the lists probably four**
 5 **times a year.**
 6 Q So as information is provided to the trust that
 7 demonstrates that one of the three entities we discussed
 8 up front, Western, Western MacArthur, and the MacArthur
 9 Company, if they had any involvement with products or
 10 contract work involving asbestos materials on a
 11 particular ship and the trust is provided some proof
 12 that in past years one of those three entities did have
 13 that involvement, it goes onto this ship list?
 14 **A Yeah. I can't say that everything is on here**
 15 **because we find things out all the time. We get new**
 16 **information, so everything we know about is on here.**
 17 Q And just to be fair, we're going back -- in
 18 some instances on some of these ships, we're talking
 19 about -- this list, is this -- this is the ship built
 20 list, so you're just looking at those three entities'
 21 involvement with the original construction of the ship;
 22 is that right?
 23 **A Right, in some cases. There's some rare cases**
 24 **were ships were broken down and put back together and**
 25 **that would be a built ship. It's any where that one of**

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1 **the companies involved did the majority of the**
 2 **insulating on the ship. This is any entity where one of**
 3 **the companies involved was involved in the majority of**
 4 **the insulating, and the repaired list could be a ripout,**
 5 **it could be repair at some time.**
 6 Q Now, the first one, the ships built list, so I
 7 understand this, if a claimant can demonstrate that they
 8 were on one of these ships either at the time it was
 9 originally constructed or at some period of time
 10 afterwards where there could be some incidental exposure
 11 from pipes vibrating when the ships are underway, or --
 12 **A If they were on one of these ships, they have**
 13 **exposure to our product.**
 14 Q The trust acknowledges that all you have to do
 15 is be on one of these ships --
 16 **A For the given period of time.**
 17 Q And what do you mean by that?
 18 **A You have to have -- for a non-meso, you have to**
 19 **have been onboard. You have to have exposure for**
 20 **90 days for a meso and a year for a non-meso.**
 21 Q So my understanding is you have to be on one of
 22 those ships for 90 days?
 23 **A And it can be cumulative. It could be over a**
 24 **period of time.**
 25 Q And it could be several ships?

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1 **A That's exactly right. You have to have 90 days**
 2 **of exposure for a mesothelioma and you have to have a**
 3 **year's exposure for a non-meso.**
 4 Q When we were looking at the claim form earlier,
 5 as far as -- just in an overbroad sense, I know that
 6 there's more specific information that's required in
 7 there, but generally what you're looking for when a
 8 claim comes in is demonstrable asbestos caused disease.
 9 That's the medical side of it, so to speak; and then
 10 you're looking for what I would call an exposure nexus,
 11 something that demonstrates this person was exposed in
 12 some way that is acknowledged by the trust from one of
 13 those three entities; right?
 14 **A That's correct.**
 15 Q Now, in a mesothelioma case with the
 16 appropriate document, if I'm understanding this, as long
 17 as they can demonstrate 90 days or more of exposure
 18 onboard a single ship or multiple ships that aggregate
 19 over 90 days, then that claim from the exposure nexus
 20 side of the equation would be a qualified claim?
 21 **A There's many other factors, but yes, and they**
 22 **could also have some land, some ship, some repair.**
 23 **There's all kinds of combinations that can happen. They**
 24 **can have -- many times contractors are out for two days**
 25 **and then two more days and then five days. We add up**

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1 **and we are required to pay them on the highest sites**
 2 **because the sites have different qualifications,**
 3 **depending on how much of the product was at that site.**
 4 Q So --
 5 **A So a three would be a very high site, a**
 6 **multiplier of three. .5 would be a very low site. It**
 7 **could cut your claim in half.**
 8 Q So what you're saying is depending on how much
 9 product or work that these entities did under the trust
 10 umbrella, at those particular sites or on that
 11 particular ship, there's a multiplier, so if you're
 12 there for five days and you're at a site that's
 13 designated a three, then that would count as 15 days; is
 14 that right?
 15 **A It's awkwardly said, but essentially correct.**
 16 **It's not the way we'd do the math, but yeah, essentially**
 17 **you get three times what you would get for the same**
 18 **period of time in some other location.**
 19 Q You know lawyers aren't good at math, so I
 20 apologize for that, but that's the general notion is
 21 there's a way of demonstrating, depending on the amount
 22 of product there, or less, that determines whether or
 23 not there's a multiplier as you say; is that right?
 24 **A Correct.**
 25 Q And the aggregate of 90 days in a meso case can

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1 be spread across ships built off the ships built list,
 2 or now we're going to turn to the ships repaired list.
 3 I think you've adequately explained that, but it's the
 4 same concept if you're on a ship at the time it's being
 5 repaired by one of these entities, or afterwards?
 6 **A No. You have to be on it at the time it's**
 7 **repaired.**
 8 Q You actually have to be onboard when it's being
 9 repaired by one of the contract units for either Western
 10 Asbestos or MacArthur or something?
 11 **A That's correct.**
 12 Q And so that's a little bit more difficult I
 13 suppose than --
 14 **A It depends if you're on it or not.**
 15 Q It depends on the facts, it always does.
 16 Now, let's just talk about the land -- I don't
 17 have a list for land based. I don't think it's
 18 important here particularly, but is there a land based
 19 list?
 20 **A Yes, there's a land site list.**
 21 Q And I apologize, I don't think I printed that
 22 up. I'll tell you what, I'm going to make that
 23 Exhibit 8 and we'll get a copy to the court reporter.
 24 Is it similar in an Excel spread sheet format?
 25 **A It is.**

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1 Q Can you explain briefly for the record how
 2 that's evaluated? Do you have to be there at the time
 3 the work is being performed, or how did that work?
 4 **A It depends. The sites are rated and you have**
 5 **to show that you had exposure during the time that -- I**
 6 **mean, if you look on the lists, there's some start and**
 7 **end dates and if work was being done during that given**
 8 **period of time that you were there, then you would**
 9 **qualify.**
 10 Q What about if you're there within a week or two
 11 after the end date of the contract work performed by one
 12 of these entities?
 13 **A I can't tell you. I haven't processed one of**
 14 **these in so long. I do it periodically, but I have**
 15 **people who study this and know it every single day. I**
 16 **cannot tell you the answer to that.**
 17 Q All right. In any case, the trust does look at
 18 things and evaluate things with these multipliers and
 19 various factors and so forth that are spelled out in the
 20 trust paperwork?
 21 **A Correct.**
 22 Q Do you want to take a break?
 23 **A No, no, I'm good.**
 24 MR. HOLFORD: Chris, can I interject one
 25 moment?

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1 MR. ANDREAS: Sure.
 2 MR. HOLFORD: I've got some kids I got to pick
 3 up from daycare. Do you have any anticipation whether
 4 you're going to be blowing past, say, like 5:15 my time?
 5 MR. ANDREAS: We're going to take a quick five
 6 minute break and I'm hoping that we can finish this up
 7 in half an hour.
 8 (A recess was taken.)
 9 BY MR. ANDREAS:
 10 Q Miss Brown, we have now discussed -- I think we
 11 have a general idea now of how the trust operates as far
 12 as receiving claims by claimants and that includes
 13 people that are alive that are suffering allegedly from
 14 an asbestos related disease and family members that are
 15 claiming that their loved one died and it's sort of like
 16 a wrongful death situation; is that right?
 17 **A That's correct.**
 18 Q Now, let's talk about -- we'll turn now to the
 19 specific case that we're here on which is the Kananian
 20 matter, and you, you being the trust, produced a number
 21 of documents in response to the subpoenas and I'm just
 22 going to have you identify them.
 23 Some of them, I have to state for the record,
 24 there was a more recent production. I think what I have
 25 is the -- I'm not sure at this point what exactly I have

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1 with me that was produced previously, so maybe you could
 2 just identify from the stack of stuff that you have
 3 there, or how do you want to do this?
 4 **A You tell me.**
 5 Q Let me hand you what I have. What I have is --
 6 I'll mark these collectively as Exhibit 9-A, B and C,
 7 and 9-A is on Western Asbestos Settlement Trust
 8 letterhead. It's dated September 19, 2007, and it's
 9 addressed to somebody by the name of Gayle, G-a-y-l-e,
 10 C-a-n-g-i-a-n-o, from Wells Fargo Bank Private Client
 11 Services, and the subject is account number 16065600,
 12 Western Asbestos Settlement Fund, and it's an
 13 authorization apparently to the bank to transfer a
 14 redacted amount. I understand you've redacted some of
 15 these documents because you consider it confidential
 16 settlement information?
 17 **A Correct.**
 18 Q Let me just start with -- since we're on this
 19 document, first of all, do you have that in front of
 20 you, a copy?
 21 **A I do.**
 22 Q So this is 9A. There's the cover letter page I
 23 identified, and then there's a legal size paper or
 24 printout which is entitled 2008 Western Asbestos Trust
 25 information for 1099's and it reflects payee names in

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1 one column. Again, it's an Excel spread sheet type
 2 printout here and it has three payees, Jack Kananian,
 3 Mary Bruno and Karen Kananian; is that right?
 4 **A That's correct.**
 5 Q And they're identified as -- the payee city is
 6 Brecksville, Ohio, is that right, for all three?
 7 **A Yes.**
 8 Q And then it has some additional information
 9 like their social security numbers and so forth; is that
 10 right?
 11 **A That's correct.**
 12 Q Now, there is an amount received here on the
 13 far left column, 7662.78, and that's on the line that
 14 corresponds with Mary Bruno; is that right?
 15 **A That's where it is, yes.**
 16 Q What's that number for?
 17 **A I have no idea.**
 18 Q Should that have been blacked out? Let me just
 19 do this at this point. We have counsel representing the
 20 Kananians here on the telephone. In this case it would
 21 be my position, I think that of my attorney's and
 22 perhaps Brayton Purcell's attorneys, that any
 23 confidentiality that might have attached to the
 24 settlement amounts that were paid out by the trust to
 25 Jack Kananian, Mary Bruno or Karen Kananian were waived

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1 once this lawsuit got filed. Jarrett, isn't that true?
 2 MR. NORTHUP: We're stipulating to those
 3 amounts, Chris, and I don't know what the problem is.
 4 MR. ANDREAS: The problem is the documents I
 5 have here are blacked out in many places, so we don't
 6 know what the amounts were. Are you willing right now
 7 on the record to authorize the trust, being that you
 8 represent the Kananians, to produce new copies of these
 9 same documents with all of the redacted portions taken
 10 out as to the amounts?
 11 MR. NORTHUP: Sure.
 12 MR. ANDREAS: Okay, great.
 13 MR. KLOMP: I don't think that's something that
 14 they can stipulate to and we're going to do. I think if
 15 you want us to un-redact those things, you can send us a
 16 letter explaining why you think that's the case and
 17 we'll send you a response saying here's why they're
 18 redacted and yea or nay.
 19 MR. ANDREAS: But again, this is coming from
 20 the attorney representing the Kananians and this lawsuit
 21 is alleging -- it's primarily a damages lawsuit.
 22 They're claiming that they didn't receive enough money
 23 out of this case, and to the extent that other
 24 settlements other than the focus of this case, there's a
 25 particular defendant that's the focus of the case in a

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1 settlement with a particular defendant, but to the
 2 extent that there was money paid to this family, the
 3 three heirs, that is going to be a factor.
 4 It's something that is going to be -- it's very
 5 relevant evidence to the case, and to the extent that
 6 the case was filed in this fashion alleging basically a
 7 damages issue, and we have other counsel on the phone --
 8 MR. HOLFORD: This is Andrew Holford for just
 9 one second. Can I confirm whether or not the original
 10 un-redacted are inside the file that was brought with
 11 Western Asbestos' representative?
 12 THE WITNESS: The only original I have, these
 13 are worksheets that were done by a law firm, and I will
 14 tell you this: In the production of -- the answer is
 15 no. The only thing in my original file is the notice of
 16 entry of judgment and two releases, one signed by --
 17 they're signed by two different parties.
 18 MR. HOLFORD: One signed by Mr. Kananian with
 19 the Power of Attorney and one signed by Ann Kananian if
 20 my memory serves me.
 21 THE WITNESS: Correct. I believe what happened
 22 in this case is that we got one with the attorney
 23 signing as POA and we don't accept those, and so we got
 24 a new release with the actual signature of one of the
 25 parties.

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1 BY MR. ANDREAS:
 2 Q Actually, I have the document here. It may not
 3 even be from your file. It came from the various
 4 documents that have been floating around in this case
 5 and it is actually from my former office, Brayton
 6 Purcell, and it looked to be three separate, one for
 7 Mary Bruno, one for Karen Kananian, and one for Jack
 8 Kananian as well as the Ann Kananian POA as you call it,
 9 the Power of Attorney documentation. It's a little
 10 small packet, five or six pages, and I think it's the
 11 same thing we're talking about here. It's a release
 12 basically, right?
 13 A Correct, and as to amounts, the second
 14 production on December 4th has a worksheet that's called
 15 master default and what they've done is basically taken
 16 out every other person except for the one that the money
 17 was sent for on behalf of, and it actually has all of
 18 the amounts.
 19 Q We'll get to that in a minute then, because I'm
 20 not sure I have that document with me today and I'm not
 21 saying you didn't produce it already, but --
 22 A It was produced.
 23 Q I'm sure it was.
 24 MR. KLOMP: My point only is that this is not
 25 the forum to argue about redactions.

1 MR. NORTHUP: Pardon me, Chris. This is
 2 plaintiff's counsel, Jarrett Northup. There is
 3 discovery from your former employer and correspondence
 4 to our client and in the discovery as to those amounts.
 5 MR. ANDREAS: Well, I don't know that, Jarrett.
 6 That's between you and my former employer, but I'm here
 7 to take a deposition and I want to have this -- I don't
 8 know what was produced, whether it's accurate or not,
 9 and I'm sitting here with the people that do know what
 10 was paid out, so I'd prefer to go with that source
 11 frankly.
 12 MR. HOLFORD: This is Andrew Holford. I do
 13 have a copy of a master default in my file here dated
 14 11-24 of '09 that reflects the payment for Ann Kananian
 15 for meso, and it's in relatively small font. I don't
 16 know if that helps perhaps you identify --
 17 MR. ANDREAS: Andrew, that's exactly the
 18 document that Miss Brown was referring to, and we'll get
 19 to that. That's exactly the same document she was
 20 referring to.
 21 BY MR. ANDREAS:
 22 Q So let me just finish up with 9A, B and C. You
 23 mentioned that these three documents, they're all
 24 basically on a Western Asbestos Settlement Trust
 25 letterhead and they have attached documents which you

1 believe -- I thought you said they were generated by a
 2 law office?
 3 A I think both of these forms were initially
 4 generated by Jones Vargas at the formation date --
 5 around the formation date of the trust. They generated
 6 Excel spread sheets of the existing default and
 7 pre-trust claims we'll call them, matrix claims for the
 8 trust to make payments.
 9 Q So I had identified for the record 9A which is
 10 the September 19, 2007 letter addressed to Miss Cangiano
 11 of the Wells Fargo Bank, and it's signed off by Stephen
 12 Snyder, managing trustee for the trust. We've already
 13 identified Mr. Snyder, and it's also signed by Sara Beth
 14 Brown, executive director. This is on the first page,
 15 and there are Excel spread sheets and some 2007 1099's,
 16 I believe these are, for the various Kananian family
 17 members. So that's 9A.
 18 9B is identical in all respects as far as the
 19 type of documentation that's included. It's from -- I'm
 20 sorry, I might have screwed this up.
 21 MR. NORTHUP: Do you have one from 2006?
 22 MR. ANDREAS: Yeah, is that what I identified
 23 as 9A, David? I want to put them in chronological order
 24 since we haven't marked them yet. Actually, 9A will be
 25 the June 8th, 2006 cover letter again addressed to Miss

1 Cangiano and signed off by Mr. Snyder and Miss Brown
 2 with the documents we've -- type of documents I
 3 identified already.
 4 9B will be the September 19, 2007 packet of the
 5 same material, and 9C will be the same type of material
 6 packet dated October 6th, 2008 on the cover letter again
 7 signed by Mr. Snyder and Miss Brown.
 8 Those are the three documents that I believe
 9 were produced in the original production, is that
 10 correct, or do you know?
 11 MR. ROSS: For what it's worth, this is Dave
 12 Ross, that's consistent with what I have. When the
 13 first duces tecum went out in November, these were the
 14 only documents that the trust produced initially and
 15 then there was a so-called second production.
 16 MR. ANDREAS: That's great, David. I think
 17 we're all on the same page. I'm going to take a break
 18 here so the court reporter can actually put her stickers
 19 on these and I'll slide them over to the deponent and
 20 have her verify that they're the same as what she's got
 21 in front of her from her file.
 22 (Exhibits 9A, 9B and 9C were marked.)
 23 BY MR. ANDREAS:
 24 Q I'm handing the witness the three Exhibit 9
 25 documents that we just identified and I'm just going to

1 simply ask her if those represent the same sort of --
 2 copies of the same documents that they, they being the
 3 trust, had produced in the original production as we're
 4 calling it?
 5 **A That would be correct.**
 6 Q Thank you. Now, let's turn to the second
 7 production of documents because I think those are fairly
 8 self-explanatory, the 9A, B and C.
 9 What else did you produce? Again, I don't have
 10 those in front of me, if you could just identify them
 11 for the record.
 12 **A Unless something got screwed up when they were**
 13 **copied a little bit ago, which I can't verify.**
 14 Q Are these now copies that we can mark?
 15 **A They came back to me in a different format.**
 16 **One is a notice of entry of judgment by court after**
 17 **default of defendant Western MacArthur Company and it's**
 18 **February 11th, 2002. One is a release and discharge,**
 19 **the undersigned Ann Kananian, and the last page is Ann**
 20 **Kananian, and I don't know who the signature is, but as**
 21 **attorney in fact dated 4-17-04.**
 22 **One is another release and discharge dated**
 23 **4-19-04, Jack Kananian, Power of Attorney, it looks like**
 24 **Ann Kananian. I have a list of wiring amount**
 25 **instructions with everything except the Brayton Purcell**
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1 **wire related to this claim which is in lieu of a check.**
 2 **There is a master default worksheet.**
 3 Q Is that the sheet that we were referring to and
 4 Mr. Holford -- that you identified earlier and it's like
 5 an Excel spread sheet as well and it has a figure on
 6 there for --
 7 **A It says Ann Kananian, meso, and the last line**
 8 **is 31.5 percent less payment one and payment two; and**
 9 **then I have a W-9 for Mary Bruno, a W-9 for Jack**
 10 **Kananian, a W-9 for Karen Kananian; interest checks,**
 11 **2004. It's a spread sheet dated 11-24-2009. I have**
 12 **another one that's a spread sheet. It says Brayton 1099**
 13 **entry list.xls, Page 1. It's got Jack Kananian, Karen**
 14 **Kananian, Mary Bruno, each in the amount of \$10,404.21;**
 15 **I have a 2004 interest income 1099 to Jack Kananian; I**
 16 **have an interest income 1099 to Karen Kananian, and a**
 17 **2004 interest income 1099 to Mary Bruno.**
 18 Q Those would be the 1099's then basically.
 19 **A Yes.**
 20 Q Does your attorney now have in his hand that
 21 you've been handing to him as you identified those
 22 documents, and I'm going to go through them again very
 23 quickly just to get stickers on them, is what he's
 24 holding in his hand that you just handed over to him,
 25 does that comprise the entire second production
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1 basically?
 2 **A To the best of my knowledge.**
 3 Q Thank you very much and your attorney is
 4 handing those to me now. So Exhibit 10 will be the
 5 release and discharge signed by Jack Kananian within his
 6 capacity as Power of Attorney for Ann Kananian, and
 7 it's -- I'm not going to count the number of pages
 8 because they're not even paginated that well, but I will
 9 say that the general Power of Attorney was dated
 10 10-29-03 and it does contain both Jack Kananian's
 11 signature as well as I think his mother's signature.
 12 Maybe he signed it, I'm not sure. It has two signatures
 13 on it, and then the last page of that exhibit is signed
 14 off by Christina Skubic, S-k-u-b-i-c, and Alan R.
 15 Brayton on the signature line and it's dated 1-7-03 and
 16 that's Exhibit 10.
 17 Exhibit 11 is a very similar release and
 18 discharge document and it's dated 4-19-04 and it also
 19 contains the entire Power of Attorney it looks like with
 20 a notary public from Ohio, notary public certification
 21 sheet on the very last page. So it's similar, but it
 22 has a couple of additional documents, but generally 10
 23 and 11 are the documents that the trust required from
 24 the legal heirs of Harry Kananian, deceased, in order to
 25 pay out money to them; is that right?
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1 **A That's correct.**
 2 Q So let's just back up for a second. These
 3 documents demonstrate that the trust paid money to this
 4 family; is that right?
 5 **A That's correct.**
 6 **(Exhibits 10 and 11 were marked.)**
 7 **BY MR. ANDREAS:**
 8 Q The next document in order will be 12 and it is
 9 entitled Western Asbestos Settlement Trust wiring amount
 10 instructions. It's two pages and it's signed by Mr.
 11 Snyder dated the 29th day of April, 2004 and it's set up
 12 in columns on each page with bank routing information
 13 and the law firm and their tax I.D. number and the
 14 financial institution to which the money is being sent.
 15 This document is redacted because, as I
 16 understand it, it contains a number of names of other
 17 claimants and law firms to which obviously we're not
 18 entitled to that information.
 19 **A That's correct.**
 20 Q But on Page 2, we have Brayton Purcell, tax
 21 I.D. number is blacked out, and then it's WestAmerica
 22 Bank in Redwood Boulevard in Novato, California, and it
 23 says the Brayton Purcell Asbestos Trust Account III.
 24 The totals are blacked out here, but maybe we can get
 25 around that in a minute.
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1 (Exhibit 12 was marked.)
 2 BY MR. ANDREAS:
 3 Q Number 13 in the stack that was handed to me is
 4 the Excel spread sheet that has that date of
 5 November 24th, 2009 on the bottom right-hand corner in
 6 very small print. Can you read that? I know Mr.
 7 Holford has better eyes than both of us, but --
 8 **A 11-24-2009.**
 9 Q That's in the very far right-hand bottom corner
 10 and the print is very small on this, and even with my
 11 glasses I'm having a tough time, but it indicates Ann
 12 Kananian is the -- this is the master default printout,
 13 right?
 14 **A Right, and this would have been I believe her**
 15 **successor.**
 16 Q Right. You understand that Miss Kananian died,
 17 Ann Kananian?
 18 **A I realize that.**
 19 Q Because she has a Power of Attorney --
 20 **A That's the reason there was just one name on**
 21 **here at the time this was done.**
 22 Q If I represent to you that Jack Kananian is the
 23 executor of his father's estate and also had Power of
 24 Attorney apparently for his mother in the heir capacity,
 25 that's consistent with what we're looking at here as far

1 claim form and all the stuff that we talked about
 2 earlier, and the trust has an opportunity at that point
 3 to evaluate, number one, whether they meet the medical
 4 criteria, and number two, whether they meet the exposure
 5 criteria and whatever other minor criteria that are -- I
 6 don't know if it's minor, but other criteria that the
 7 trust employs to evaluate and make a determination on
 8 that claim, right?
 9 **A That's correct.**
 10 Q So in this instance, we are referring to a
 11 default, date of default, things like that. So in this
 12 case with the Kananians, this wasn't a claim, was it?
 13 **A No, it was not.**
 14 Q Could you tell us what this was, how this was
 15 handled?
 16 **A There were both claims and default judgments**
 17 **that were entered. The trust, under the bankruptcy**
 18 **settlement, had an obligation to pay those and all we**
 19 **needed to know was to whom, how much, if there had been**
 20 **previous payments made and how much interest was owed on**
 21 **the default judgments.**
 22 Q So in this case, and we'll get to the default
 23 judgment papers themselves, what the trust received was
 24 a copy of the default judgment itself?
 25 **A Notice of entry.**

1 as how this was paid out? It was paid out in Ann
 2 Kananian's name, but it's your understanding it went to
 3 the other heirs?
 4 **A I don't know that. I can't -- from this sheet,**
 5 **all I can tell is that she was the beneficiary.**
 6 Q Again, I'm having a tough time reading this
 7 thing, but can you just tell us the date and how much
 8 money was paid out, what's reflected on here?
 9 **A Okay. The disease is listed in the second**
 10 **column, mesothelioma; the case number we didn't have at**
 11 **the time this was done; the firm is Brayton; the default**
 12 **date was 3-31-02; the default amount was --**
 13 Q Excuse me, is that three or 1-31-02?
 14 **A Sorry, 1-31-02. The amount was --**
 15 Q That's the default amount is the next column?
 16 **A Correct, 1,738,050. The first payment that was**
 17 **made prior to the time of the trust being formed --**
 18 Q Before we get to the payment, can I ask you
 19 this? Now, we talked at the beginning of this
 20 deposition about the claim process. If somebody is
 21 filing it as a claim, once the trust is set up in April
 22 of 2004 and is a going concern and somebody wants to
 23 file a claim, whether it's a living person with a
 24 disease or a family member in a wrongful death context,
 25 they go through that claims process, they fill out the

1 Q Notice of entry of default judgment, and I have
 2 another copy of that, so that's fine. We'll get to that
 3 in a minute.
 4 **A The notice and the judgment, correct.**
 5 Q The actual judgment, all right, and that's
 6 where the trust got this date for the default date on
 7 this printout which is Exhibit 13 I think it is. This
 8 is Exhibit 13 we're referring to which is the spread
 9 sheet. Let me have the court reporter mark this.
 10 (Exhibit 13 was marked.)
 11 BY MR. ANDREAS:
 12 Q When we were going through those columns a
 13 minute ago on Exhibit 13, it says default date 1-31-02,
 14 right?
 15 **A It does.**
 16 Q That obviously pre-dates the formation of the
 17 trust itself, right?
 18 **A That's correct.**
 19 Q So do you have any understanding or have you
 20 obtained any information in your capacity with the trust
 21 as to how it was that people were obtaining defaults
 22 against this company or anything?
 23 **A I don't have knowledge of what happened.**
 24 Q But in any case, when the trust becomes a going
 25 concern, is up and running, this is, as we've

1 established, not a claim process, either the default
 2 judgment presented to the trust along with some other
 3 documentation showing who gets paid and so forth, and
 4 the trust has no right I guess is the best way to put
 5 it, no right to make a determination as to the validity
 6 of that default judgment and the basis of that default
 7 judgment against Western MacArthur; is that right?
 8 **A That's right. My understanding was they were**
 9 **approved by the bankruptcy court as part of the**
 10 **bankruptcy settlement.**
 11 Q Sure, but in the first instance, you know as a
 12 lawyer a default judgment is taken in --
 13 **A I'm not going to argue with you. My job was to**
 14 **pay these claims, not to make any determination as to**
 15 **the underlying facts.**
 16 Q And in that respect, the trust was simply given
 17 here's the notice of entry of default, here's the
 18 amount, and then process it, right?
 19 **A Correct.**
 20 Q So you didn't have any clue as to what Mr.
 21 Harry Kananian's connection was, if any, to either
 22 Western Asbestos, Western MacArthur or the MacArthur
 23 Company; is that right?
 24 **A That's right.**
 25 Q And I don't think there's any dispute in this

1 obviously the trust was up and operational?
 2 **A Up until the date that the bankruptcy was**
 3 **filed.**
 4 MR. HOLFORD: This is Andrew Holford. Just to
 5 clarify for the record, the master default documents,
 6 one of them refers to balance plus 10 percent on balance
 7 after payment one, 11-22-02, and the other one is
 8 default less payment one plus interest through 7-18-02.
 9 Are those the two master default documents we're talking
 10 about?
 11 THE WITNESS: Correct. One was to correct --
 12 there were approximately ten days of interest that had
 13 not been accounted for.
 14 BY MR. ANDREAS:
 15 Q So you were simply adding on another ten days
 16 of interest?
 17 **A Correct.**
 18 Q So can you just tell us -- strike that, let me
 19 reask this question.
 20 Because we've differentiated, this was a
 21 default judgment situation that was presented to the
 22 trust when it became operational versus a claim process.
 23 You told us earlier you get something like 40 cents --
 24 you gave the \$100 example. Is it paid differently on a
 25 default judgment?

1 case or any other case that Mr. Harry Kananian did in
 2 fact have a diagnosed mesothelioma, I'm just
 3 representing this for the record, that he died from in
 4 the summer of 2000, all right?
 5 So can you just tell me, we're going through
 6 these columns, what was paid out on this default
 7 judgment amount of over 1.7 million? How does that get
 8 paid out, or how did it get paid out?
 9 **A There had been -- my understanding is, and I'm**
 10 **just going to correct the record here. There are two of**
 11 **these master default pieces of paper and the reason**
 12 **there are two is because there was a discovery after the**
 13 **trust had paid that there were ten days of interest that**
 14 **had not been accounted for, one of my staff.**
 15 Q What is this interest? You keep referring to
 16 interest payment. What is that?
 17 **A When there's a judgment and it's not paid,**
 18 **under California law interest runs. It was set out for**
 19 **a particular time frame for these particular default**
 20 **judgments, but the interest I'm referring to is interest**
 21 **on the judgment.**
 22 Q On the default judgment?
 23 **A Correct.**
 24 Q So there was interest owed from the date the
 25 judgment was entered on 1-31-02 up until the date that

1 **A No. They receive -- whatever the amount of the**
 2 **percentage, we have a total liquidated value amount.**
 3 **That would be the total value of the claim, and then we**
 4 **have -- because we want to make sure that future**
 5 **claimants can be paid. They don't get 100 percent.**
 6 **They get right now 44 percent of the amount of the value**
 7 **of the claim. Default judgments get 44 percent as well.**
 8 Q Is that true back in the time period we're
 9 talking about?
 10 **A This would have been at 31.5 percent.**
 11 Q Can you explain that for the record, why it
 12 increases?
 13 **A There's a claw back provision and it's so that**
 14 **there's equity amongst the payments, so a person who**
 15 **gets paid 31.5 percent at the beginning of the trust,**
 16 **then there was an increase and I can't remember what we**
 17 **increased it to. It was like 34 percent, and then it**
 18 **went up to 40 percent and 44 percent. Each time**
 19 **everyone who has received a payment receives the**
 20 **additional amount.**
 21 Q So basically the trust keeps them current with
 22 everybody else that's in the system rate now?
 23 **A If you have a claim and we move to a new**
 24 **payment percentage, you get the difference between what**
 25 **you got and the new payment percentage.**

1 Q And that increased interest payment is
 2 dependent on how --
 3 **A It's not interest.**
 4 Q I'm sorry, what is it called?
 5 **A It's just an increase. The claim payment**
 6 **percentage goes up.**
 7 Q Why is it that the claim percentage goes up?
 8 **A We either have fewer claims than we expected to**
 9 **have arrived by the time -- we have an analyst that**
 10 **periodically we ask to look at our investment, how much**
 11 **we've earned, how much we've paid, how many claims have**
 12 **been filed, and there are forecasting documents and they**
 13 **make a comparison and if it looks like there are either**
 14 **fewer claims or the amount of the -- the dollar amount**
 15 **in each of those claims is different than what was**
 16 **forecast, we're trying to get claimants 100 percent**
 17 **eventually.**
 18 Q Let me stop you right there. When the trust
 19 was set up, the original -- in a legal term it's called
 20 a RES, R-E-S, I guess, but that's old Latin or
 21 something, they have a sum of money that's poured into
 22 the trust to begin with to pay claims, right?
 23 **A That's correct.**
 24 Q And in this case with the Western Asbestos
 25 Settlement Trust, and this is just based on my own

1 dollars goes in there and depending how many claims are
 2 filed, the amount of claims, how well that money is
 3 invested, whether more insurers end up kicking more
 4 money in, would it be fair to say all of those things
 5 potentially could add up to or end up with the trust
 6 paying out additional monies to either past claimants
 7 and present claimants?
 8 **A That would be correct.**
 9 Q And you said something about our goal is to get
 10 them paid 100 percent on whatever their claim is; is
 11 that right?
 12 **A That would be the ultimate goal of the trust,**
 13 **to try to pay 100 percent.**
 14 Q And you want to pay only those claims where
 15 there is a valid exposure nexus, is that fair? In other
 16 words, if somebody wasn't exposed to a product or a
 17 contracting activity by one of these three companies,
 18 Western Asbestos, Western MacArthur or the MacArthur
 19 Company, then they shouldn't be receiving money, right?
 20 **A Our goal is to -- when we analyze these claims,**
 21 **our goal is to only pay those claimants that are**
 22 **entitled under the documents that were provided.**
 23 Q And that's not just the trust situation, that's
 24 pretty much the way the Court system and how we kind of
 25 operate in this country; people shouldn't get money that

1 third-hand knowledge, it's my understanding that there
 2 was approximately two billion dollars poured into this
 3 trust to begin with, is that right?
 4 **A That's an approximate, yes.**
 5 Q And that's from at least some of the insurers
 6 that had some potential liability under their policies
 7 written for one or more of these companies; is that
 8 right?
 9 **A That's correct.**
 10 Q And there was some litigation, coverage
 11 litigation that went along with that in the early 2000s
 12 here before it was settled and the money was paid -- and
 13 the trust could be formed; is that correct?
 14 **A And we still have litigation ongoing.**
 15 Q Is there more money coming potentially?
 16 **A Don't know. There's ongoing litigation.**
 17 Q Is this coverage litigation?
 18 **A It is.**
 19 Q So there's at least one or more carriers out
 20 there that haven't forked over the money, so to speak,
 21 and they're defending themselves and saying they don't
 22 have to pay it?
 23 **A That's correct. There's an insurance company**
 24 **that went into receivership.**
 25 Q So taking that together with -- the two billion

1 they're not entitled to, right?
 2 MR. NORTHUP: Objection to the soliloquy of
 3 counsel and the relevancy of the question.
 4 MR. KLOMP: And join that it calls for
 5 speculation.
 6 BY MR. ANDREAS:
 7 Q I'm asking you as a lawyer, just out of common
 8 sense.
 9 **A Our goal is to pay claimants that have exposure**
 10 **to those products.**
 11 Q And in that sense, and the idea is to get as
 12 close to 100 percent and that may take a number of years
 13 until you get there, right?
 14 **A That's correct.**
 15 Q But the trust is continuing to try to do that
 16 through all of these various means, the interest,
 17 jiggling the numbers with the accountants and seeing if
 18 there's additional money available or additional money
 19 being poured in by another --
 20 **A Or if the claims end up being worth less than**
 21 **they were forecast to be worth.**
 22 Q So the trust is always looking in those ways,
 23 and will be doing that into the future for as long as
 24 the trust exists?
 25 **A That's correct.**

1 Q So for instance, in the Kananian claim, we have
 2 the date -- do we have the date that this was actually
 3 presented to the trust? This is Exhibit 13 again.
 4 **A I think it was originally done in May of 2004.**
 5 **That's just my recollection.**
 6 Q The Brayton Purcell office and Al Brayton
 7 obtained a number of default judgments, isn't that
 8 correct?
 9 **A I don't know that. I don't have that with me.**
 10 **I'd have to go and look.**
 11 Q But they certainly did in this case, they
 12 obtained a default judgment?
 13 **A They did, that's correct.**
 14 Q So in this case, the Kananian heirs had
 15 received not only the initial disbursement, but
 16 additional payments since May of 2004 to the present, to
 17 2010; is that right?
 18 **A That would be correct.**
 19 Q And that's some of the other documents we
 20 referred to, the W-9s and the other interest documents
 21 we have here, right?
 22 **A Correct.**
 23 Q The trust paid that out and you're required to
 24 issue 1099's?
 25 **A There's a big question now as to whether we're**

1 **A We have the notice and we have the judgment and**
 2 **the proof of service, so it was about four pages total.**
 3 Q Other than that, it doesn't have any
 4 information about Harry Kananian, the decedent's,
 5 potential or alleged exposure to any of the three
 6 entities' products or contracting work?
 7 **A That would be correct.**
 8 Q All right. Now, can you just tell us what the
 9 original -- how much was the original payment in May of
 10 '04 to the Kananians? And if there's some easier way to
 11 describe this, feel free to do that.
 12 **A 446,413.44.**
 13 Q 416,000?
 14 **A Whatever the last figure in the column that**
 15 **says 31.5 percent, less payment one and payment two.**
 16 Q So they received some payments before this big
 17 payment was made, is that fair?
 18 **A That's fair. I don't have actual knowledge,**
 19 **but we were told the payments had been made.**
 20 Q It says -- there's some other numbers before
 21 that in other columns, I think it's \$481,000, and I
 22 can't read the rest of it. So the very last column
 23 tells us what they were paid by the trust, less these
 24 payment one and two if they were paid, it comes out to
 25 \$446,413.44 is the best I can tell from this?

1 **required to issue them or not. It may be that we**
 2 **weren't required to, but at the time we believed we**
 3 **were.**
 4 Q And to be very clear, that money is being paid
 5 out because there's a default judgment that indicates
 6 that Harry Kananian was exposed in some fashion to
 7 something having to do with one of the three Western
 8 entities; is that right?
 9 **A The interest, the 1099 is specifically is just**
 10 **the interest.**
 11 Q Okay. But that all flows from the original
 12 default judgment?
 13 **A We are paying the amounts because we have a**
 14 **default judgment, correct.**
 15 Q That says that Mr. Kananian was entitled to
 16 collect from a Western Asbestos -- Western Asbestos
 17 Settlement Trust entity for whatever reason? I'm not
 18 sure that the judgment itself has any more information
 19 other than the amounts, but that's your understanding,
 20 isn't that right?
 21 **A He had a default judgment entered and I think**
 22 **the amount was a million seven -- you have to add it up.**
 23 Q We'll get to some more documents on this in a
 24 minute, but all the trust was provided was that two page
 25 default judgment, notice of entry of default judgment?

1 **A That's correct.**
 2 Q So that was the first payment made to the
 3 Kananians -- excuse me, the first payment by the trust
 4 once it was up and running; is that right?
 5 **A That's correct.**
 6 Q And that was in May of '04 approximately?
 7 **A I think it was in April. I believe it was in**
 8 **April.**
 9 Q Now, do you have any documents or do we have
 10 any documents here that reflect how much more they've
 11 been paid in settlement of this default judgment since
 12 that time?
 13 **A Those would be the documents that you have**
 14 **marked 9A, 9B and 9C, so those would have been payments**
 15 **made on June 8th, 2006, September 19th, 2007, and**
 16 **October, 2008 and there haven't been payments made on**
 17 **the recent four percent increase yet.**
 18 Q So is there -- there's been another
 19 four percent increase that's going to be paid out to all
 20 prior claimants?
 21 **A Correct.**
 22 Q And present claimants that are being accepted
 23 right now?
 24 **A Correct.**
 25 Q It will be included in their settlement?

1 **A That's right.**
 2 Q Now, the last set of these documents from the
 3 second production as we've been calling it are these
 4 W-9s for Mary Bruno, Jack Kananian and Karen Kananian,
 5 and then there's a printout for WMAC interest checks.
 6 I don't know, is there some way I can just --
 7 would it make sense to just collectively mark these as
 8 an exhibit because they're all sort of related to the
 9 payments that have been made to them?
 10 **A What is it you're looking at?**
 11 Q It's the last part of the documents of the
 12 second production.
 13 **A These would be -- these are W-9s.**
 14 Q Right, three W-9s, Mary Bruno is the first one,
 15 Jack Kananian, Karen Kananian, and those are all from --
 16 **A These are all related --**
 17 Q These were all in 2004?
 18 **A These were all related just to interest.**
 19 Q Okay. And then the next two pages I have are
 20 these interest checks from 2004 with the amounts.
 21 **A Right.**
 22 Q There's two pages; is that right?
 23 **A Correct.**
 24 Q And then there's a 2004 interest income 1099
 25 form for Jack Kananian, Karen Kananian and Mary Bruno;

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1 is that right?
 2 **A Correct.**
 3 Q So what I'm going to do is mark these because
 4 they all relate to interest payments in 2004, so
 5 collectively all those documents I just identified for
 6 the record and the witness identified will be marked as
 7 Exhibit 14.
 8 (Exhibit 14 was marked.)
 9 BY MR. ANDREAS:
 10 Q You had mentioned -- I'm sorry, this will be
 11 Exhibit 15. This is the notice of entry of judgment by
 12 court after adult of Defendant Western MacArthur
 13 Company, and it's the five page document that the
 14 witness -- or four pages I think it is, four page
 15 document. It has a proof of service from the Brayton
 16 Purcell firm dated 2-8-02, and the date of the judgment
 17 itself was stated on the notice as January 31st, 2002,
 18 and it's in the amounts that we earlier discussed.
 19 I don't know that it's aggregated here, but I
 20 think it's on that printout page that we marked earlier,
 21 the total amount of the default, so this will be
 22 Exhibit 15.
 23 (Exhibit 15 was marked.)
 24 BY MR. ANDREAS:
 25 Q So now that we've gone through all of these

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1 documents here, and understand that I've printed off a
 2 number of these documents off the website, other than
 3 Exhibits 1 and 2 which are the notices, is it fair to
 4 say and are you comfortable with saying that all of the
 5 documents, the website documents that have been printed
 6 up, all the documents that have been produced from the
 7 trust itself, that these are all authentic documents?
 8 **A Correct.**
 9 Q And you're an appropriate person to speak to on
 10 that issue as far as authenticating the documents as a
 11 custodian of records type person for the trust?
 12 **A I am.**
 13 Q And you're also here today as what we call,
 14 there's an acronym that has been used in the past, a
 15 PMK, a person most knowledgeable for the trust as well?
 16 **A Correct.**
 17 Q And in that capacity, you've been answering
 18 questions, very kindly answering questions that I've
 19 been posing to you about these documents; is that right?
 20 **A That's correct. I don't know if I've been**
 21 **doing it kindly, but I've been answering them.**
 22 Q How about competently, how about we go that
 23 way.
 24 Now, you mentioned at the beginning of the
 25 deposition or early on that you were familiar with Johns

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1 Manville Company and that they had some involvement with
 2 asbestos in the past and that they may have had some
 3 involvement as far as being the manufacturer of some
 4 products that one or more of these entities that the
 5 Western Asbestos Trust handles in this trust; is that
 6 right?
 7 **A That's correct.**
 8 Q Now, have you ever -- you're aware that they
 9 have a trust, a bankruptcy trust, you're aware of that?
 10 **A I'm aware of that.**
 11 Q Do you interact with them at all?
 12 **A On occasion.**
 13 Q Why would that be?
 14 **A I might call their executive director to find**
 15 **out -- I don't have a history of asbestos. I was**
 16 **general counsel of a company that makes slot machines**
 17 **and before that I was counsel to a bank, so I can tell**
 18 **you that I don't have -- if I need to ask a question**
 19 **about asbestos history, I might call up any of my**
 20 **counterparts around the country, but not on a frequent**
 21 **basis. Maybe once a year, maybe once every two years.**
 22 Q Is there a conference or a get-together at any
 23 point during the year of all of the various executive
 24 directors or chief officers of these asbestos bankruptcy
 25 trusts?

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1 **A If there is, I'm not invited.**
 2 MR. NORTHUP: Plaintiffs would like to put an
 3 objection as being outside the scope of the subpoena.
 4 THE WITNESS: No, there isn't that I know of.
 5 BY MR. ANDREAS:
 6 Q And you said you haven't been invited if there
 7 was?
 8 **A If there is, I don't know about it.**
 9 Q Now, have you ever seen a Johns Manville claim
 10 form before?
 11 MR. NORTHUP: Objection from plaintiff.
 12 THE WITNESS: I don't believe I have.
 13 MR. ANDREAS: Let me mark this as plaintiffs
 14 next in order. This is going to be -- I'll just
 15 identify it for the record. For counsel on the phone,
 16 this is what we've been referring to as the Johns
 17 Manville, original Johns Manville claim form for Harry
 18 Kananian.
 19 MR. NORTHUP: Chris, will you agree to a
 20 blanket objection to any use of the Johns Manville
 21 claims so I don't have to say objection after every
 22 question you ask?
 23 MR. ANDREAS: Sure. Just state the basis right
 24 now and I'll see if I'll stipulate to a running
 25 objection.

1 MR. NORTHUP: Sure. Let's go over the
 2 subpoena. Let's see here, those persons most knowledge
 3 about the matters set forth in Exhibit A. Exhibit A
 4 does not reference anything having to do with the Johns
 5 Manville claim form.
 6 MR. ANDREAS: Okay. Well, Jarrett --
 7 MR. HOLFORD: The new subpoena does increase
 8 the scope of the deposition slightly by referring to
 9 claims processes and all things referred to in Exhibit
 10 A.
 11 MR. NORTHUP: Sure. Referencing Exhibit A, and
 12 I don't see anything in Exhibit A which has --
 13 MR. HOLFORD: It says included, but not limited
 14 to.
 15 THE WITNESS: Could you gentlemen tell the
 16 court reporter who you are when you speak?
 17 MR. HOLFORD: Sure, that was Andrew Holford
 18 talking about the subpoena.
 19 MR. ANDREAS: The objecting party here is
 20 plaintiffs counsel, Jarrett Northup. Before you speak,
 21 that would be great.
 22 This is the position on this, Jarrett. I think
 23 I've established and I think it's acknowledged it's in
 24 all of the documents for everybody that a Johns Manville
 25 claim along with some other claims were filed on behalf

1 of Harry Kananian and/or his heirs at law, and amounts
 2 were paid and I've established with this witness, I
 3 believe sufficiently, and I don't -- there's plenty of
 4 evidence on this that I'm prepared to introduce at trial
 5 if necessary, that in fact the Western Asbestos Company
 6 in San Francisco was the exclusive distributor for Johns
 7 Manville products in Northern California, Northern
 8 Nevada I think it was, and Southern Oregon.
 9 In other words, Johns Manville awarded
 10 exclusive distributorships to contracting firms to
 11 supply their materials and hopefully use them on their
 12 contract jobs in various regions of the country, and
 13 Western Asbestos was the sole and exclusive distributor
 14 in Northern California, Northern Nevada and Southern
 15 Oregon, and I'm making an offer of proof on the record
 16 that I'll have more than adequate proof as well and in
 17 addition to what the witness has already acknowledged
 18 that she understands there is a connection between
 19 Western Asbestos and Johns Manville in that they dealt
 20 with some of their products or handled some of their
 21 products.
 22 She doesn't know anything about the exclusive
 23 distributorship side of it, but my offer of proof is
 24 that -- and let me just say, Jarrett, it's well known in
 25 the asbestos litigation world that that is in fact the

1 case, and I'll be happy to produce exclusive
 2 distributorship agreements from the Johns Manville Trust
 3 and so forth to demonstrate that at trial. It's not
 4 something you would know about, but it's well known
 5 amongst those involved in asbestos litigation
 6 nationwide.
 7 MR. NORTHUP: May I speak?
 8 MR. ANDREAS: Sure.
 9 MR. NORTHUP: Okay. For the record, of course
 10 you're going to ask any question you want. For the
 11 record, please let the record reflect that the default
 12 judgment entered in this matter is not from Western
 13 Asbestos. It's from the Western MacArthur Company.
 14 There isn't a claim being processed by this
 15 trust which involves the Western Asbestos Company or
 16 Johns Manville, and I also object as it being outside
 17 the scope of the subpoena based on the language
 18 referencing Exhibit A. With that, I'll shut up.
 19 MR. ANDREAS: Jarrett, maybe you're confused,
 20 but the name of the trust is the Western Asbestos
 21 Settlement Trust.
 22 MR. NORTHUP: Correct. What's the name on the
 23 default judgment that brings us here today?
 24 MR. ANDREAS: It's Western MacArthur which,
 25 again, as an offer of proof, that was the merged company

1 or however they came together in the '80s where the
 2 Minnesota outfit got together with Western Asbestos here
 3 and they formed up a company.
 4 I'm happy to make that offer of proof. It's in
 5 SEC filings, it's public knowledge, it is subject to
 6 judicial notice, so if you want to fight about that,
 7 that's fine, and Jarrett, I know that you're not an
 8 expert --
 9 MR. NORTHUP: That's fine, Chris. I got my
 10 objection on the record, so get on with it.
 11 MR. ANDREAS: I want to be clear on the record
 12 here because if you present this argument to the Judge
 13 in some fashion, I want it to be very clearly stated
 14 here and I'm going to give you an opportunity to
 15 withdraw your objection at this point.
 16 MR. NORTHUP: No, I will not withdraw by
 17 objection. Please continue.
 18 MR. KLOMP: For the record, we also join in
 19 that objection. This line of questioning is outside the
 20 scope of the subpoena as issued to the person most
 21 knowledgeable for the Western Asbestos Trust, not to the
 22 Western MacArthur Company.
 23 MR. ANDREAS: Well, I think it is related for
 24 the reasons --
 25 MR. KLOMP: We don't need to argue this. You

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1 just need to ask your questions. We're objecting that
 2 it's outside the scope of the subpoena.
 3 MR. ANDREAS: Sure, and I don't intend to spend
 4 a lot of time on this.
 5 BY MR. ANDREAS:
 6 Q I'm going to hand you Exhibit 16, we'll have
 7 the court reporter mark it, and for counsel on the
 8 phone, this is what we've been referring to as the
 9 original Johns Manville claim form filed on behalf of
 10 Harry Kananian and his family back in -- the date of it
 11 is found -- again, this document consists of a form, a
 12 trust claim form somewhat similar to the one we went
 13 through earlier for Western Asbestos Trust.
 14 It has various sections that deal with medical
 15 criteria and exposure criteria and all of the various
 16 pieces of information that a trust requires. It has a
 17 signature page signed by Alan Brayton, attorney for
 18 Harry Kananian, and my understanding that this was
 19 originally -- there's a date in here as to when it was
 20 submitted, but I'm going to tell you that -- here it
 21 says received April 20th, 2000 by the Johns Manville
 22 Trust which is actually called the Claims Resolution
 23 Management Corporation Claims Processing Department in
 24 Fairfax, Virginia, and it was provided by Clara L.
 25 Vipond, V-i-p-o-n-d, administrative assistant to

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1 Brayton, Purcell, Curtis & Geagan which is the previous
 2 iteration of the Brayton Purcell law firm, and it has
 3 the firm's phone number, (415) 898-1555 on the cover
 4 sheet, and there are attachments including a very
 5 lengthy exhibit, what's called an Exhibit A in my former
 6 firm and that is drawn from the San Francisco Superior
 7 Court general order interrogatory responses required by
 8 every plaintiff filing an asbestos case in San
 9 Francisco, and the Exhibit A is the section of those
 10 interrogatory responses that details the plaintiff, or
 11 in this case claimant's employment history and potential
 12 past exposure to asbestos. It's a narrative section of
 13 this, so this is being marked as Exhibit 16.
 14 (Exhibit 16 was marked.)
 15 BY MR. ANDREAS:
 16 Q I'm handing it to the witness and I'm going to
 17 ask the witness, first of all, have you ever seen that
 18 document before?
 19 A No.
 20 Q All right. I think that's fair enough. As far
 21 as the content of that, you've never -- neither you or
 22 the trust were ever provided with this document; is that
 23 right?
 24 A That's correct.
 25 Q Thank you. I'm not going to ask you any more

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1 questions on this.
 2 Again, we have now gone through the entire file
 3 of everything that the trust has received on the
 4 Kananian claim; is that right?
 5 A That's correct.
 6 Q This will be Exhibit 17. This is, again, from
 7 the production of documents and everyone has this. This
 8 is what's been referred to as the amended Johns Manville
 9 claim form. It's on a cover letter from Brayton
 10 Purcell, LLP dated March 22, 2006 addressed to the
 11 Claims Resolution Management Corporation, Manville Trust
 12 Claims Processing in Falls Church, Virginia, and it's
 13 referring to claim number 525520, Harry Kananian.
 14 It reads as follows on the cover letter:
 15 "Attention Claims Processing: Please find enclosed an
 16 amended claim form for the above-referenced claimant.
 17 Thank you for your attention to this matter," and it's
 18 signed Christina Skubic who is the head of the
 19 bankruptcy division at Brayton Purcell, and it contains
 20 a similar proof of claim form to number 16. It's the
 21 same exact form pretty much as far as just looking at
 22 it, except that it has over the top "amended" in capital
 23 letters that somebody affixed there. I don't know that
 24 the trust --
 25 MR. HOLFORD: This is Andrew Holford. I just

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1 want to interject for a second. I've got an Exhibit 14
 2 which is the corrected 2004 document, and then I have
 3 the original Johns Manville marked as Exhibit 15.
 4 MR. ANDREAS: Fourteen is the collective group
 5 of W-9s and so forth that we talked about earlier for
 6 the interest payments. Fifteen is the notice of entry
 7 of judgment. It's the four page document with simply
 8 has the default judgment.
 9 MR. HOLFORD: I'm on the right page now.
 10 MR. ANDREAS: Sixteen is the original Johns
 11 Manville claim form, and 17 is the cover letter Brayton
 12 Purcell attaching the amended Johns Manville claim form,
 13 and again, it contains -- it's the same form from
 14 everything I can see. I guess people can compare it
 15 later, but it has "amended" typed over the top of the
 16 first page of the claim form itself and it has somewhat
 17 different attachments. I'll represent that for the
 18 record, including a section of a deposition from a
 19 gentleman by the name of Peter Cerka, C-e-r-k-a, and it
 20 relates to Mr. Cerka's work in a shipyard back in World
 21 War II, but other than that, I think everything else is
 22 generally the same. We'll do a side-by-side at some
 23 point, not today.
 24 MR. NORTHUP: So are you going to ask her a
 25 question about this?

1 MR. ANDREAS: Yeah, I'm getting to it. I'm
 2 simply identifying it for the record.
 3 MR. NORTHUP: We've seen it a thousand times.
 4 MR. ANDREAS: I know, but everybody seems to
 5 want to know exactly what it is. I'm having the court
 6 reporter put a sticker on it before I hand it to the
 7 witness.
 8 (Exhibit 17 was marked.)
 9 BY MR. ANDREAS:
 10 Q I'll ask you the same questions I asked about
 11 16. First of all, were you ever copied with this
 12 document by Brayton Purcell?
 13 A No.
 14 Q Did Brayton -- is it fair to say that Brayton
 15 Purcell has never provided the trust to your knowledge
 16 in this case with any documents relating to a similar
 17 bankruptcy claim for an asbestos related death from
 18 mesothelioma?
 19 A That would be correct.
 20 Q And whether or not, and again, we'll deal with
 21 this outside of this, but to the extent to which Western
 22 Asbestos is responsible and the scope of their sales and
 23 so forth as far as distributorship, that's not something
 24 that you're really prepared to talk about other than
 25 what you've stated so far?

1 A I have very vague esoteric knowledge of what
 2 the companies did.
 3 Q Well, going back to -- strike that. Let me
 4 mark the next in order. It's going to be some e-mails,
 5 and this will be Exhibit 18.
 6 (Exhibit 18 was marked.)
 7 BY MR. ANDREAS:
 8 Q This is a single page e-mail string and it's
 9 from Zenna Burge, B-u-r-g-e, addressed to Ryan Poole of
 10 the Brayton Purcell bankruptcy department, that's
 11 P-o-o-l-e, dated the 22nd of March, 2006, 4:55 p.m. The
 12 subject is -- there's a client identifier, Kananian -
 13 ship exposure, and I'm just going to ask the witness to
 14 review it very quickly.
 15 A Okay.
 16 Q I'll direct your attention to the -- again,
 17 these are all e-mails that are in everybody's documents.
 18 The first e-mail in time is the one from Ryan Poole on
 19 the 22nd of March of 2006 at 3:43 p.m. Do you see that?
 20 A Yes.
 21 Q It says, "PID Solutions spits out a JM hit for
 22 HPNSY. His Exhibit A," which is the document I earlier
 23 referred to attached to those Johns Manville claim
 24 forms, "Shows that he was at HPNSY." Do you know what
 25 HPNSY is?

1 A I don't.
 2 Q Have you ever heard that as an acronym for
 3 Hunters Point Naval Shipyard?
 4 A I haven't, but --
 5 Q Are you familiar with Hunters Point Naval
 6 Shipyard?
 7 A I've heard of it.
 8 Q Would it be fair to characterize that as a
 9 major Western site?
 10 A It wouldn't be fair to --
 11 MR. KLUMP: Objection, it calls for information
 12 outside the scope of the subpoena and potentially
 13 outside the scope of the witness's knowledge.
 14 THE WITNESS: We have many, many, many sites as
 15 you can tell from our lists. I can't tell you which
 16 ones are major and which runs are not.
 17 BY MR. ANDREAS:
 18 Q Do you know this much, that Hunters Point Naval
 19 Ship was located down in San Francisco?
 20 A I do know that.
 21 Q And it says, "His Exhibit A shows he was at
 22 HPNSY from 3/45-4/45 aboard the General John Pope.
 23 Moreover, the ship list does not include HPNSY. I'm
 24 guessing that he just boarded the ship there. Can you
 25 please confirm that the ship was never repaired at HPNSY

1 during or before his time there? I need this info ASAP.
 2 Thanks." Did I read that correctly.
 3 **A Correct.**
 4 Q Then Miss Burge responds a short time later, "I
 5 cannot confirm nor deny," and then Mr. Poole responds,
 6 "That's not really helpful," and then Miss Burge at the
 7 very top thing says, "Sorry, I could not find anything
 8 regarding the General Pope and HPNSY."
 9 **A Correct.**
 10 MR. NORTHUP: Is there a question on the
 11 e-mail?
 12 BY MR. ANDREAS:
 13 Q I just asked her, did I read that correctly?
 14 **A Correct.**
 15 MR. KLOMP: I'm going to object to any more of
 16 these e-mails being shown or read into the record.
 17 MR. ANDREAS: I'm leading into it, counsel.
 18 MR. KLOMP: But you're not asking questions
 19 about the Western Asbestos Trust.
 20 MR. ANDREAS: This is the tie-in. I'm tying it
 21 all up. That's my offer of proof, and I'm not going to
 22 have more than one more e-mail. This will be
 23 Exhibit 19.
 24 (Exhibit 19 was marked.)
 25

1 Q So there's references to Manville, Johns
 2 Manville and the John Manville Trust as well as the
 3 Western MacArthur default in this case, this being the
 4 Kananian case. The subject matter of the e-mail string
 5 is, "Urgent matter, Kananian case," and I've highlighted
 6 the sections I wanted you to focus on. That's the only
 7 ones that are of any particular import, but you're free
 8 to review the whole thing if you'd like. I want to have
 9 counsel for the trust to have a copy of this as well.
 10 MR. KLOMP: Let me just quickly object to the
 11 fact that you identified this as something with which
 12 everybody is very familiar. I have not seen this before
 13 and I doubt my client has.
 14 MR. ANDREAS: I meant the people on the phone,
 15 people involved in this case. There's a number of
 16 e-mails relating to a lot of things, but these are one
 17 of the areas.
 18 BY MR. ANDREAS:
 19 Q Just tell me when you're ready to go and I'll
 20 just ask you a couple quick questions.
 21 **A Okay.**
 22 Q Actually, before I ask those questions, I want
 23 you to keep that exhibit in front of you and then I'm
 24 going to hand you this last exhibit. What this next
 25 exhibit is, this will be 20, and what it is is certified

1 BY MR. ANDREAS:
 2 Q Exhibit 19 is an e-mail string. It's multiple
 3 pages, but I'm not going to be focusing on anything but
 4 the first page. It's the e-mail string involving the
 5 amended Johns Manville claim process between various
 6 individuals including Al Brayton, Christina Skubic,
 7 myself, Ryan Poole, and others on the 22nd and 23rd of
 8 March, 2006 and it's one, two, three, four pages of
 9 e-mails back and forth in this string and I'm going to
 10 hand this a copy, it's highlighted, to the deponent and
 11 I'm just going to focus you because your counsel is
 12 concerned about taking too much time with this, so what
 13 I'd like you to do is -- we just looked at Exhibit 18.
 14 This, by the way, is going to be Exhibit 19, and some of
 15 the same people are here. Ryan Poole, not Miss Burge,
 16 but Ryan Poole's name appears in this string right near
 17 the top. Do you see that?
 18 **A Correct.**
 19 Q Now, I just want to focus you on really just
 20 this first page. If you want to just take a second to
 21 review it and there are references, I will state to
 22 counsel, I'll give my copy to counsel, to Western
 23 MacArthur. It's referred to as WMAC. Have you ever
 24 seen that acronym used?
 25 **A On occasion, yeah.**

1 pages certified by the Clerk of the Superior Court of
 2 San Francisco. These are the pertinent pages of the
 3 Brief in Support of Entry of Default Judgment as to
 4 Defendant Western MacArthur Company on behalf of Ann
 5 Kananian and successors in interest to Harry Kananian,
 6 including Jack Kananian, Mary Bruno, Karen Kananian, et
 7 cetera.
 8 This is Exhibit 20 we're talking about and I'm
 9 referencing the fact that -- I'll just represent for the
 10 record that I obtained these in advance of this
 11 deposition by going down to the clerk's office in the
 12 San Francisco Superior Court and this document had to
 13 be -- the file had to be removed from off-site storage
 14 because it is a relatively old file at this point.
 15 This is the brief that was filed by Brayton
 16 Purcell, Alan Brayton and others at my office, former
 17 office, Brayton Purcell, on behalf of the Kananians
 18 dated 1-29-02 signed by David R. Donadio on the initial
 19 portion of this, and it attaches work cite product
 20 identification exhibits and other exhibits to validate
 21 the Kananian family's right to -- it's effectively a
 22 prove-up, what we call a prove-up for a default
 23 judgment. The Court requires that a party that is
 24 seeking a default judgment provide some evidence or
 25 present witnesses or so forth in -- it's not a

1 full-blown trial, but it's a presentation of evidence to
 2 prove up the claim before they will enter a default
 3 judgment.
 4 MR. HOLFORD: Just to be clear, I did produce a
 5 copy of this to everybody.
 6 (Exhibit 20 was marked.)
 7 BY MR. ANDREAS:
 8 Q As I mentioned, every page is stamped and
 9 certified by the clerk as an authentic page of this
 10 brief that was in the file from the San Francisco
 11 Superior Court. I'm handing this to the witness and
 12 counsel for the trust.
 13 First of all, you've never seen this, have you?
 14 **A No.**
 15 Q Based on your understanding of the law, and I
 16 don't think this is a difficult question, we've
 17 established already is what the trust did receive was
 18 the notice of entry of default judgment; is that right?
 19 **A Correct.**
 20 Q And if you go through this thing, you'll see
 21 that -- just from looking at it, would this -- based on
 22 your knowledge as an attorney and your capacity with the
 23 trust, this is the brief that preceded the default
 24 judgment being entered, isn't that right?
 25 MR. KLOMP: Objection, calls for speculation.

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1 THE WITNESS: I don't know.
 2 BY MR. ANDREAS:
 3 Q Let me represent to you that it was. Assuming
 4 that it is, and we might have to get to hypotheticals at
 5 this point, but I want you to assume this: Before I get
 6 you into the hypothetical, let me just go back to one
 7 thing you said earlier.
 8 One of the primary goals of the trust is, first
 9 of all, to compensate were they victims, is that right,
 10 that can demonstrate that they were exposed to either
 11 products or activities of the three entities involved
 12 with the trust, right?
 13 **A That's the purpose of the trust.**
 14 Q And the other thing is to continue to get them
 15 up to 100 percent if possible over the years?
 16 **A That would be the ultimate goal.**
 17 Q Sure. And another thing in having Judge
 18 Renfrew involved is to protect the interest of future
 19 claimants, right?
 20 **A That's correct.**
 21 Q Because those people haven't yet presented
 22 themselves or they haven't been diagnosed with something
 23 or died of something related to asbestos, right?
 24 **A That's correct.**
 25 Q And therefore, it's very important to the trust

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1 to make sure that the assets it does have invested,
 2 however it's invested and disbursed and interest paid
 3 off of it, that that is preserved not only to pay the
 4 present claimants and past claimants that have valid
 5 claims that are based on demonstrable exposure to the
 6 activities or products of the three entities, but also
 7 the future --
 8 MR. KLOMP: Objection, asked and answered.
 9 THE WITNESS: Yes.
 10 MR. NORTHUP: Join by the plaintiffs.
 11 BY MR. ANDREAS:
 12 Q So with that in mind, I want you to assume that
 13 the Johns Manville claim was based on -- the original
 14 Johns Manville claim which was Exhibit 16 when it was
 15 filed in 2000, was based on the information at that time
 16 possessed by somebody in the bankruptcy department that
 17 Harry Kananian was actually at the Hunters point Navy
 18 Shipyard in San Francisco for a significant amount of
 19 time, several months at the shipyard, and that that site
 20 is one where a lot of Johns Manville insulation was used
 21 during World War II. This is during World War II, 1945.
 22 I want you to assume that that's the case and
 23 that's what's reflected in the documents, and that then
 24 about six years later in March of 2006, the e-mails that
 25 I had you review, the amended claim form that was

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1 submitted by Miss Skubic, and I should just give you one
 2 more document. I should mark it for the record.
 3 This will be 21. It's a one-page letter,
 4 Brayton Purcell letterhead and it's addressed to Debra
 5 Baker Jones, the customer administrator for the Johns
 6 Manville Trust and it's from Miss Skubic and it's
 7 regarding Harry Kananian, the amended Manville claim
 8 form. It's a one page document.
 9 (Exhibit 21 was marked.)
 10 BY MR. ANDREAS:
 11 Q I'll hand you this and I have a copy for
 12 counsel as well. Take a second to just review that.
 13 **A Okay.**
 14 Q The letter says, "Dear Miss Jones: We
 15 identified a clerical error in the claim form when
 16 reviewing the claim in response to a subpoena. The
 17 amended claim form submitted on March 22, 2006 was
 18 submitted so the trust has the correct data with regard
 19 to this claimant. Please advise if this in any way
 20 affects the prior disposition of this claim. Very truly
 21 yours, Christina Skubic." Did I read that correctly?
 22 **A You did.**
 23 MR. NORTHUP: Chris, you were asking a
 24 hypothetical before. Have you given up that question?
 25 MR. ANDREAS: No, I'm inserting this into the

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1 question.
 2 MR. NORTHUP: Then I object to the form of your
 3 question.
 4 MR. ANDREAS: Then I will reframe it. I'll
 5 strike the original question and I'll reframe it now
 6 that I have this in here, okay?
 7 MR. NORTHUP: I'm sorry, court reporter, that
 8 was Jarrett Northup for plaintiff.
 9 BY MR. ANDREAS:
 10 Q So let me ask you, with respect to 21, you've
 11 never seen this, have you?
 12 A I have not.
 13 Q But you do see that it refers to the amended
 14 claim form that we previously discussed from Miss Skubic
 15 being sent in on March 22nd of 2006?
 16 MR. KLOMP: Objection, calls for speculation.
 17 THE WITNESS: It appears to refer to
 18 Exhibit 17.
 19 BY MR. ANDREAS:
 20 Q Now, getting back to my hypothetical, okay?
 21 MR. KLOMP: Before you get into this long,
 22 already longer hypothetical, if you're going to ask her
 23 questions that would be best answered by an expert
 24 witness, we're going to object and not answer.
 25 MR. ANDREAS: I'm not.

1 BY MR. ANDREAS:
 2 Q And I want you to assume further that the very
 3 same information, faulty information was used with
 4 respect to the default judgment that was obtained, the
 5 brief and the default judgment that was obtained for the
 6 Kananian family with respect to the Western MacArthur
 7 Trust that was ultimately accepted and paid by the
 8 Western MacArthur Trust.
 9 In March of 2006, this error was uncovered,
 10 six years after it was first -- and we already
 11 established the Western default came out in 2002 I
 12 believe it was, so four years after the Western default
 13 was taken and six years after the original Johns
 14 Manville claim form was submitted, the Brayton Purcell
 15 office identified this error and the error was that Mr.
 16 Kananian was an infantryman, and again, you're more than
 17 welcome to look through all the supporting documentation
 18 all of the supporting documentation including the
 19 narrative --
 20 MR. NORTHUP: Chris, you're framing this as a
 21 hypothetical and now you're stating it as fact.
 22 MR. ANDREAS: Make an objection, Jarrett. What
 23 is your objection?
 24 MR. NORTHUP: I object to you framing a
 25 hypothetical as fact now.

1 MR. KLOMP: All right, go ahead.
 2 BY MR. ANDREAS:
 3 Q I want you to assume that the original Johns
 4 Manville claim form that was submitted on behalf of the
 5 Kananian family in 2000 was based on a clerical error in
 6 which the clerk in the department at Brayton Purcell
 7 mistakenly listed Mr. Kananian as being a laborer in a
 8 shipyard, namely the Hunters Point Naval Shipyard,
 9 during 1945 for several months, okay? That's the first
 10 part of that. I want you to assume that that's the
 11 case, and again, if you'd like to review the documents
 12 you're more than welcome to do that.
 13 MR. KLOMP: And let the record reflect you're
 14 apparently referring to documents 16 and 17 --
 15 MR. ANDREAS: I'm referring to Exhibit 16 which
 16 I presented to the witness, and if you'd like to just
 17 verify it, I'm just giving you a hypothetical.
 18 MR. KLOMP: -- which are lengthy documents in
 19 which no person would have sufficient time to review in
 20 detail under these time restraints.
 21 MR. ANDREAS: Counsel, if she'd like to see
 22 the --
 23 MR. KLOMP: Just go ahead and ask your
 24 question.
 25

1 MR. ANDREAS: I'm asking her to assume that all
 2 of this is correct. I said that at the beginning of the
 3 question.
 4 BY MR. ANDREAS:
 5 Q So I want you to assume that in March of 2006,
 6 it was identified that Mr. Kananian -- the errors in
 7 both the default judgment and papers that were taken,
 8 the default brief for Western MacArthur, as well as the
 9 original error in the Johns Manville claim form, again,
 10 they are related, I'll represent that to you in this
 11 hypothetical, that they were based on Mr. Kananian
 12 mistakenly being listed as a laborer in a shipyard for
 13 three months in 1945 when in fact he was an infantryman
 14 in the U.S. Army who went to Fort Ord. He lived in Ohio
 15 his whole life, he came to Fort Ord during World War II
 16 as an infantryman, did his basic training there, and
 17 then went on a bus with the rest of the troops up to San
 18 Francisco to catch a troop ship that happened to be at
 19 Hunters Point Naval Shipyard and they were shipped over
 20 to the Philippines, and you don't need to know the rest
 21 of his history, but that's the only time Mr. Kananian
 22 was ever in Northern California, Nevada, the region that
 23 I've represented to you that was represented by Western
 24 Asbestos as far as sales of Johns Manville products and
 25 being the exclusive distributor.

1 Now, bearing that in mind, that he was there
 2 for one day and boarded the ship and was not in this
 3 shipyard as perhaps we talked earlier would be a land
 4 based site. Hunters Point is a land based site for the
 5 trust, isn't it?
 6 **A Correct.**
 7 **Q** If he was never at that shipyard for more
 8 than -- he was there one day catching a ship, did no
 9 work, he was an infantryman getting on the troop
 10 transport ship, never in Minnesota or North Dakota,
 11 never at any of the sites that are on any of the exhibit
 12 lists that we've talked about already, all the trust
 13 lists for shipyards and land based places and ships and
 14 so forth, that the Pope, which was the troop transport
 15 ship he shipped over on, is not on the approved ship
 16 list for Western.
 17 I want you to assume all that is correct, and
 18 again, I have all this documentation, you're more than
 19 welcome to look at this. If this claim was -- if this
 20 was submitted as a claim today based on all of what I
 21 have told you, assuming that to be correct, it wouldn't
 22 meet the exposure criteria, would it?
 23 **MR. NORTHUP:** Objection, leading. She's not an
 24 adverse witness.
 25 **THE WITNESS:** I don't --

1 **there are so many variables that you've given me. I**
 2 **don't know. Maybe there's evidence somewhere that that**
 3 **was a ship that someone would give to me. Sometimes I**
 4 **get claims that are for ships that have been taken off**
 5 **the list.**
 6 **I can't tell you whether that claim would be**
 7 **approved by Western. I can tell you that we do not look**
 8 **into the background of default judgments because they're**
 9 **approved by the bankruptcy court.**
 10 **Q** And I'm not faulting the trust at all.
 11 **A No, I'm not feeling faulted. I'm telling you,**
 12 **I can't answer that hypothetical. It's too**
 13 **hypothetical.**
 14 **Q** Let me just do it this way: Would you agree if
 15 we all line up all the documentation that's presented
 16 here and it turns out that Mr. Kananian was never at a
 17 shipyard, land based site, or on any ship that's on any
 18 list that's existed since this trust was first started
 19 in 2004 to the present, would you agree that --
 20 **MR. NORTHUP:** Please note plaintiff's objection
 21 to the question.
 22 **MR. ANDREAS:** Excuse me, I haven't finished my
 23 question.
 24 **MR. NORTHUP:** Improper form, leading.
 25

1 **MR. KLOMP:** I'll also join. It calls for
 2 speculation, it's an incomplete hypothetical, it's based
 3 on representations from counsel which we have no idea of
 4 knowing whether they're fact based.
 5 **MR. ANDREAS:** Sure, it's a hypothetical, I
 6 understand.
 7 **MR. KLOMP:** Also may call for inappropriate
 8 expert testimony.
 9 **BY MR. ANDREAS:**
 10 **Q** If in fact he's not -- Mr. Kananian was never
 11 on a ship --
 12 **MR. KLOMP:** You don't have to repeat your
 13 question. I just objected to it.
 14 **MR. ANDREAS:** I understand, but I'm going to do
 15 it again.
 16 **BY MR. ANDREAS:**
 17 **Q** I want you to assume that Mr. Kananian -- the
 18 proof will be that Mr. Kananian was never at a site,
 19 ship or otherwise connected to any of the three entities
 20 for Western.
 21 If that's the case, putting aside the fact he
 22 had mesothelioma, there's no dispute he died of
 23 mesothelioma, that claim would not be accepted and paid,
 24 would it?
 25 **A I cannot tell you the answer to that because**

1 **BY MR. ANDREAS:**
 2 **Q** Would you agree with me, assuming that to be
 3 correct, never on any ship, land based site or otherwise
 4 that the claim would not be a valid claim?
 5 **MR. KLOMP:** Same objection.
 6 **MR. NORTHUP:** Plaintiffs objection, asked and
 7 answered.
 8 **BY MR. ANDREAS:**
 9 **Q** If it was submitted today, much less six years
 10 ago.
 11 **A I can't answer. I don't process the claims. I**
 12 **run the trust.**
 13 **Q** Does the trust pay if there's no evidence of
 14 exposure?
 15 **A No, it does not.**
 16 **Q** I'm asking you to assume there's no evidence of
 17 exposure attributable to any of the three entities.
 18 **A And I'm answering that the trust does not pay**
 19 **on claims where there's no evidence of exposure.**
 20 **Q** That's all I wanted to establish, thank you.
 21 Now, in this situation assuming that that is in fact the
 22 case, that after the error was identified with the
 23 Manville thing, same information, same basis factually
 24 with exposure to Manville as it was to Western, your
 25 file -- you produced a file here today, there was never

1 a letter of the sort on Exhibit 17 which was the letter
 2 advising the trust that there's an amended claim form,
 3 or Exhibit 21 which is the letter -- the two letters
 4 from Miss Skubic enclosing the amended claim form in
 5 number 17 and in 21 which is the letter further
 6 explaining what that is.
 7 MR. KLOMP: What was the question?
 8 BY MR. ANDREAS:
 9 Q The question is Western Asbestos Trust never
 10 received any such notification; is that right?
 11 MR. KLOMP: Objection, asked and answered.
 12 THE WITNESS: The answer is no, I've never seen
 13 them, we never received anything.
 14 BY MR. ANDREAS:
 15 Q Anything directed to the trust advising them of
 16 the same sort of error, right?
 17 **A That would be correct.**
 18 Q Now, because this was a default judgment, we
 19 talked about this at the front end, it's not a claim
 20 where the trust had an opportunity to evaluate, for
 21 instance, whether Mr. Kananian was indeed on a ship or
 22 at a shipyard or land based site, and it was obtained by
 23 default judgment, is the trust -- what does the trust do
 24 in that situation? What I'm telling you today is proven
 25 to be true, can the trust get that money back?

1 MR. KLOMP: Objection, incomplete hypothetical.
 2 THE WITNESS: I don't know. I'd have to look
 3 at the trust documents. I'd have to go through, I've
 4 never had this situation arise, so I can't tell you.
 5 BY MR. ANDREAS:
 6 Q Well, in keeping with the trust goal which is
 7 to compensate worthy claimants, people that deserve
 8 compensation because they were exposed to asbestos
 9 attributable to one of these three entities, and keeping
 10 with protecting the interest of future claimants and all
 11 the things we talked about, sitting here today as the
 12 executive director of the trust, would you want, first
 13 of all, for the claimant who incorrectly or the default
 14 judgment debtor who collected to offer to return that
 15 money?
 16 MR. NORTHUP: Objection, speculation.
 17 MR. KLOMP: Also join, incomplete hypothetical.
 18 THE WITNESS: If I were presented with evidence
 19 of fraud or mistake, I would take that to my trustees
 20 and we would look at the documents and determine whether
 21 or not -- determine what we would do about it. They
 22 would make the determination.
 23 BY MR. ANDREAS:
 24 Q As you sit here today, you don't know what the
 25 legal rights to recover any monies paid incorrectly, and

1 again, I'm not suggesting this was a fraud by anybody,
 2 that it was an inadvertent clerical error.
 3 **A I don't know. I don't know what the**
 4 **requirements are, the legal rights of the parties are.**
 5 Q All right. But assuming that you're now being
 6 so advised, and again, I'm prepared to talk to your
 7 attorney off the record about this further, this would
 8 be something that the board would have to decide, right?
 9 **A They're not a board, they're the trustees.**
 10 Q The trustees would have to go through things
 11 with you and decide whether there was anything --
 12 **A We'd probably seek counsel, yeah.**
 13 Q And given that this claim, the Kananian claim
 14 that we've already established continues to receive
 15 disbursements and interest payments, we talked about the
 16 three I think that have already occurred and there's a
 17 four percent interest payment or --
 18 **A The payment percentage has been increased by**
 19 **four percent.**
 20 Q And that hasn't yet been paid out to the
 21 Kananians or anybody else entitled to it, right?
 22 **A That's correct.**
 23 Q I take it if the same scenario was presented to
 24 the trustees, they would also look into what their legal
 25 rights were to discontinue payments?

1 **A I don't know what they would do.**
 2 MR. KLOMP: And objection, calls for
 3 speculation as to what a third party would do.
 4 THE WITNESS: I don't know what they would do.
 5 Default judgments are treated completely differently
 6 than what -- if you were sitting here asking me about a
 7 claim that had been filed with the trust, I could give
 8 you different answers, but I have no idea when a default
 9 judgment is entered what the rights of the parties are
 10 post default judgment.
 11 BY MR. ANDREAS:
 12 Q Sure, and the primary difference, just on the
 13 basis of what they are, the default judgment you didn't
 14 have an opportunity -- the trust did not have an
 15 opportunity to evaluate the criteria, right?
 16 **A That would be correct.**
 17 Q And in a claim situation, you are entitled to
 18 go through everything and ask questions and potentially
 19 if errors are made, you then have the right saying we
 20 evaluated this based on the error, and therefore
 21 something might be able to be worked out; we don't know
 22 what the trust documents say specifically on that?
 23 **A I don't know the answer to that question. Each**
 24 **situation presented would be handled as it came in the**
 25 **door. Even though I am a licensed attorney, I have no**

1 **idea what the rights of the parties are in these default**
 2 **situations.**
 3 Q And neither do I, frankly, but I just thought
 4 I'd pose it to you in presenting this to the trust today
 5 and I'm happy to provide any other additional
 6 documentation in regard to this issue.
 7 All right. I'm trying to think if there's any
 8 other questions I have at this point. I think we've
 9 gotten everything from the file and just so we're very
 10 clear, the Kananians are going to be receiving an
 11 additional four percent interest payment, whatever that
 12 come out to, and additional interest payments going into
 13 the future and we don't know how long that's going to
 14 be, right?
 15 **A I have no idea.**
 16 Q So right now they're at 44 percent or
 17 48 percent?
 18 **A Forty-four percent. All claims are going to be**
 19 **paid at 44 percent of their total liquidated value.**
 20 Q So when they get this additional four percent
 21 interest payment, they will be at the 44 percent mark on
 22 their default judgment claim?
 23 **A That's correct.**
 24 Q All right. And the trust was going to do
 25 everything it can with the litigation and all the things

1 we talked about to try to get them to 100 percent in the
 2 future. There's going to be additional payments, right?
 3 **A Yes, that's right. The likelihood that we'll**
 4 **ever get to 100 percent is slim and none in my**
 5 **estimation as the executive director of the trust.**
 6 Q We can only hope, right?
 7 **A But my goal is to pay the claimants what**
 8 **they're owed.**
 9 Q And one of the things that would help is that
 10 if people aren't collecting money off the trust that
 11 they don't deserve, right?
 12 MR. NORTHUP: Objection, Chris. Asked and
 13 answered.
 14 MR. KLOMP: Join.
 15 BY MR. ANDREAS:
 16 Q Go ahead.
 17 **A One of our goals is to make sure that the**
 18 **proper people get paid the proper amount of money.**
 19 Q Preserve the trust assets for those that
 20 deserve it, right?
 21 **A I don't know that I'd use the preserve. To pay**
 22 **the right people the right amount of money.**
 23 Q I don't think I have any further questions.
 24 Does anybody on the phone have any questions?
 25 MR. NORTHUP: Andrew, do you have anything?

1 MR. HOLFORD: Yeah, I have like two or three
 2 questions. Do you want me to go first?
 3 MR. NORTHUP: Yeah, go ahead.
 4 EXAMINATION
 5 BY MR. HOLFORD:
 6 Q Is there another percentage between 31.5, 33.3
 7 over that time period to pay out?
 8 MR. ANDREAS: I hate to do this to you, Andy,
 9 but you didn't identify yourself before you asked the
 10 question, so we're going to ask you to identify yourself
 11 formally and then ask the question.
 12 BY MR. HOLFORD:
 13 Q This is Andy Holford, attorney for Christopher
 14 Andreas, and the question, Miss Brown, is simply, can
 15 you confirm that there were three different percentages?
 16 **A There was 31 -- well, the original documents**
 17 **contained like 11 percent, I believe. I could be off by**
 18 **a half. The trust was formed at 31.5 percent, it was**
 19 **raised I believe to 34 percent, and then to 40 percent,**
 20 **and then in February of this year, it was raised to**
 21 **44 percent.**
 22 Q And I know that you have essentially said that
 23 you'd like to get the right people paid the right amount
 24 of money. Do you have an opinion as an executive
 25 director what you think the trust might get to over

1 time, whether it might be 70 percent or 80 percent?
 2 **A I have absolutely no idea. This is done by**
 3 **people much smarter than me, economists and --**
 4 MR. ANDREAS: Smarter in a certain area.
 5 THE WITNESS: What I do is every two years as
 6 required by the documents, or upon request of the TAC
 7 and the futures, the Trust Advisory Committee and the
 8 futures representative, I will have an economist and an
 9 analyst, we'll hire someone to look at the documents,
 10 look at the forecasts, look at the investments, look at
 11 the claims paid and tell us if the payment percentage is
 12 correct.
 13 BY MR. HOLFORD:
 14 Q Do you usually use the same economist or
 15 analyst?
 16 **A I do.**
 17 Q Could you give me that person's name?
 18 **A Dr. Thomas Vasquez.**
 19 Q Where is he located, is he a professor?
 20 **A No. He's with a company called ARPC. He's in**
 21 **New York.**
 22 Q Where is he based out of?
 23 **A They're in Washington, D.C. He's in New York.**
 24 **The TAC and the futures each have used other**
 25 **representatives on occasion. The Trust Advisory**

1 **Committee has used someone named Mark Peterson, Dr. Mark**
 2 **Peterson, and the futures representative has used**
 3 **someone named Dr. Francine Rabinowitz.**
 4 Q Francine Rabinowitz, and do you know where
 5 she's out of?
 6 **A I don't. I think California.**
 7 Q Do you know where Mr. Peterson is based out of?
 8 **A I think he's California, but I can't tell you**
 9 **for sure.**
 10 Q Okay. That's the only question I had.
 11 EXAMINATION
 12 BY MR. NORTHUP:
 13 Q Miss Brown, my name is Jarrett Northup. I
 14 represent the plaintiff in this matter. I have a few
 15 questions for you. I'll try to make them very brief.
 16 **A Okay.**
 17 Q First question I had for you goes back
 18 basically to the claims forms -- what was the matrix
 19 called again? I forget, there was a matrix that you
 20 used.
 21 **A We have -- it's got a longer name, but we have**
 22 **the trust distribution procedures which is the general**
 23 **procedures, and then we have the matrix which is how you**
 24 **do the multiplication on the various factors that are**
 25 **submitted to the trust.**

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1 Q I just was able to pull it up on my screen
 2 here. Is this a case valuation matrix?
 3 **A That would be correct.**
 4 Q Question for you. Offhand, I know you don't
 5 have it in front of you unless Chris has provided it as
 6 an exhibit, do you know whether -- if a claimant has
 7 pathology evidence of exposure to one of the trust
 8 company's products, does that increase the value of
 9 their claim?
 10 **A I'm sorry --**
 11 MR. ANDREAS: I'm going to object, that
 12 question is vague and unintelligible.
 13 BY MR. NORTHUP:
 14 Q I'll rephrase it then. If a claimant has
 15 evidence, medical evidence, pathology, basically lung
 16 tissue samples, does that increase the value of the
 17 claim?
 18 **A Depending on the disease, it can. Pathology**
 19 **can take you to a multiplier of two, but I can't**
 20 **remember which diseases it affects. I don't know that**
 21 **it increases a meso. I think we'd have to be looking at**
 22 **one of the asbestos claims, but I'm guessing here. I'd**
 23 **have to look at the multipliers themselves.**
 24 Q Without having that in front of you, let me
 25 just move on here. With the trust documents that you've

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1 been handed regarding payments in the Kananian's default
 2 judgment, have those payments been directed to the
 3 Kananian's attorneys at Brayton Purcell?
 4 **A Yes.**
 5 Q Have you ever issued a payment directly to any
 6 of the Kananians, I'll call them claimants for lack of a
 7 better word, the heirs to the Kananian estate?
 8 **A Not to my knowledge.**
 9 Q My question was, have any payments from the
 10 trust gone directly to the Kananians versus going to
 11 their attorneys at Brayton Purcell?
 12 **A Not to my knowledge.**
 13 Q Do you mean all the payments have gone to their
 14 attorneys at Brayton Purcell?
 15 **A Yes, I believe that's the case, but you know**
 16 **what, I actually have to go back through and look at the**
 17 **documents and see the bank wiring instructions. Did you**
 18 **get copies of our documents?**
 19 Q I did.
 20 **A And did it show any wires directly to your**
 21 **clients? I don't think so.**
 22 Q I don't want to put words in your mouth, so
 23 I'll give you a moment to look at the wiring. I believe
 24 they're in the earlier documents that Mr. Andreas handed
 25 to you.

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1 MR. HOLFORD: It's Exhibit 12. This is Andrew
 2 Holford.
 3 THE WITNESS: The wiring instructions in
 4 Exhibit 12 show a wire to the Brayton Purcell firm.
 5 BY MR. NORTHUP:
 6 Q Miss Brown, once the money reaches the Brayton
 7 Purcell firm, do you have any firsthand knowledge as to
 8 how the money is paid in regards to attorneys fees,
 9 expenses, and the injured party or heirs?
 10 **A Periodically, at least on one occasion we have**
 11 **sampled -- done an audit and sampled -- the answer to**
 12 **your question is no.**
 13 MR. ANDREAS: Specifically Brayton Purcell.
 14 THE WITNESS: Once the money goes to the firm,
 15 it's within the firm's purview to distribute -- to
 16 deduct their expenses and pay.
 17 The only thing we do periodically, we're not
 18 required to do it, is we check to make sure that they
 19 don't take more than 25 percent. We do a sampling of
 20 claims periodically to make sure that the 25 percent is
 21 the maximum the attorney is allowed to keep for fees.
 22 BY MR. NORTHUP:
 23 Q That's a cap on maximum attorneys fees?
 24 **A Correct.**
 25 MR. ANDREAS: And that's outside of expenses.

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1 BY MR. NORTHUP:
 2 Q Do you happen to know whether the Kananian
 3 default judgment was ever subject to any of these
 4 reviews, or shall I say, samplings?
 5 **A I don't know because they're fairly random, but**
 6 **I can find that out.**
 7 Q Prior to today, have you received any
 8 communication or correspondence from Christopher Andreas
 9 in connection with his representation of the Kananians
 10 that the default judgment against Western MacArthur was
 11 in any way deficient or defective?
 12 **A No, sir.**
 13 Q I'm sorry, did I cut out again?
 14 **A The answer was no.**
 15 Q The same question, at any time have you had any
 16 communication, conversation, correspondence with Al
 17 Brayton which was to the effect that the Western
 18 MacArthur default judgment was defective in any manner?
 19 **A No, sir.**
 20 Q And you see Mr. Brayton on a fairly regular
 21 basis; is that correct?
 22 **A Usually once a quarter when we have meetings.**
 23 Q And excuse me if you've answered this one
 24 before, it was at the beginning of the deposition. Was
 25 Mr. Brayton, did you say he was the head of the Trust

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1 Advisory Committee?
 2 **A He's the chair, that's correct.**
 3 Q Prior to today's deposition, did Mr. Brayton
 4 contact you to discuss this deposition?
 5 **A No.**
 6 Q I've got a couple of questions for you in
 7 regards to the exhibits that Mr. Andreas put forth, and
 8 I'm sorry if I'm off on my numbering. I believe they
 9 were e-mails and correspondence, approximately Exhibit
 10 17 through 19, in that range. Do you recall those
 11 e-mails and correspondence that I'm speaking of?
 12 **A Yes, I do.**
 13 MR. ANDREAS: For the record, they're 18 and
 14 19.
 15 BY MR. NORTHUP:
 16 Q Miss Brown, were you personally involved with
 17 any of those e-mails or letter communications?
 18 **A No.**
 19 Q Was anyone from the Western Asbestos Settlement
 20 Trust involved in any of the communications which you
 21 reviewed?
 22 **A I can't --**
 23 MR. KLOMP: Just objection, calls for
 24 speculation.
 25 THE WITNESS: I can't represent whether anyone

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1 was involved. I can tell you that to my knowledge, no
 2 one has had any of this information provided to them,
 3 but you'd have to ask them.
 4 BY MR. NORTHUP:
 5 Q What's the role of the Trust Advisory Committee
 6 in regard to your claims or payments made by the Western
 7 Asbestos Settlement Trust? What is their role in these
 8 payments?
 9 MR. KLOMP: Objection, asked and answered.
 10 THE WITNESS: Their only role is to show up at
 11 the meetings. They assist periodically if we're looking
 12 at different sites and helping us with asbestos history.
 13 They, combined with the futures representative, can ask
 14 us to analyze the claims payment percentage
 15 periodically.
 16 They have to -- in the trust documents, there's
 17 many areas where they, plus the futures, must consent to
 18 certain things before we do them. In terms of the
 19 payments of the claims themselves, they have no role.
 20 BY MR. NORTHUP:
 21 Q Do you know whether any members of the Trust
 22 Advisory Committee besides Mr. Brayton represent any
 23 claimants or plaintiffs who have a claim or default
 24 judgment against the Western Asbestos Settlement Trust?
 25 **A My understanding is that I'm going to say -- do**

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1 **you want to object that I'm about to speculate. I think**
 2 **all of them have filed claims. I don't know who has**
 3 **default judgments against us, but looking at that list**
 4 **of names, I would say that every one of them has filed a**
 5 **claim on behalf of someone with the trust.**
 6 MR. ANDREAS: Jarrett, so the record is clear,
 7 if you're referring to Jack Clapper's office and the
 8 McClain office, I think that's what you're referring to,
 9 and was there another one?
 10 MR. NORTHUP: Chris, thanks, but I don't want
 11 you to go on the record there. I'm just asking Miss
 12 Brown what her knowledge is.
 13 THE WITNESS: My knowledge is that all of the
 14 members of the TAC have some type of claim, whether it's
 15 a current claim or a default judgment or matrix,
 16 prebankruptcy claim filed with the trust.
 17 MR. NORTHUP: Thank you very much for your
 18 time. I don't have any further questions for you.
 19 MR. ANDREAS: Anyone else? David?
 20 MR. ROSS: No.
 21 MR. ANDREAS: I just have a couple quick
 22 follow-ups on Mr. Northup's questions.
 23 FURTHER EXAMINATION
 24 BY MR. ANDREAS:
 25 Q First of all, in any of the documentation that

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1 you've seen in the file maintained on the Kananian case
 2 by Western or any of the documents you've been presented
 3 today, other than the e-mails that were just referenced
 4 to you, have you ever seen or heard my name before?
 5 **A Never.**
 6 Q Anyone you've dealt with at Brayton Purcell on
 7 behalf of the Kananian family, and when I say you, I'm
 8 saying figuratively the trust, have been people like Al
 9 Brayton and Christina Skubic and other people within
 10 that law firm that deal with that; is that right?
 11 MR. KLOMP: Objection, vague.
 12 THE WITNESS: I can't tell you. It wouldn't
 13 have been me dealing with them on the claims.
 14 BY MR. ANDREAS:
 15 Q Sure, all right. I guess the documents will
 16 speak for themselves as to where my name appears, if at
 17 all.
 18 You were also asked whether or not as far as
 19 the payment of the monies, that goes through -- if a
 20 claimant is represented by counsel in a claim, by virtue
 21 of the representation, the payment must be made in that
 22 situation to the claimant's counsel, isn't that right?
 23 **A That's correct.**
 24 Q And that's exactly what you do for all of the
 25 claimants law firms?

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1 **A If they're represented, the money is paid to**
 2 **the firm.**
 3 Q And it's paid in trust basically for the
 4 claimant, right?
 5 **A Correct.**
 6 Q And then whatever happens with the money after
 7 that, you said you're aware obviously that there's a
 8 fee. It was up to 25 percent that the attorneys are
 9 permitted to take under the trust distribution
 10 procedure?
 11 **A Under the trust document itself.**
 12 Q And that was -- you also made a point of saying
 13 less whatever expenses they might have?
 14 MR. KLOMP: Objection, misstates prior
 15 testimony.
 16 THE WITNESS: The expenses have to be deducted
 17 prior to the time that the 25 percent is calculated
 18 under our documents.
 19 BY MR. ANDREAS:
 20 Q All right. As far as whatever --
 21 **A I don't know what the expenses are.**
 22 Q Are you talking about case cost expenses like
 23 in the representation or with respect to filing the
 24 claim itself?
 25 **A I'm talking -- filing the claim itself, the**

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1 **\$250 is paid. If the claim is approved, this is for a**
 2 **regular claim, the money goes back to the firm. As**
 3 **to -- once we pay the money, wire it, send the check to**
 4 **the firm, except for occasionally we do audits looking**
 5 **for that 25 percent cap, other than that, at the point**
 6 **that we send the money to the attorneys trust account,**
 7 **we are done.**
 8 Q So any arrangements they might have via a
 9 retainer agreement with their clients as to how expenses
 10 and other things, case costs in their asbestos related
 11 lawsuit or whatever, that's not something that you'd be
 12 privy to?
 13 **A That's exactly right.**
 14 Q And the Western Trust would have no right to
 15 interfere with that contract, would they?
 16 **A Unless it was more than 25 percent of fees.**
 17 Q And I want to be clear on this. Because this
 18 was a default judgment situation versus a claim, is it
 19 the same across the board, it's always 25 percent?
 20 **A Well, the documents state that the attorney**
 21 **cannot recover more than 25 percent.**
 22 Q And I'm just trying to be clear on this. Is
 23 that only as to claims that are filed formally as
 24 claims, or does it apply to these prebankruptcy default
 25 judgment situations?

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1 **A I believe it's across the board. I don't know.**
 2 Q Would that be on the website somewhere?
 3 **A It would probably be in the trust documents,**
 4 **yes.**
 5 Q Which are all posted?
 6 **A Correct.**
 7 Q Okay. I don't think I have any further
 8 questions.
 9 (The proceedings concluded at 3:35 p.m.)
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Sara Beth Brown

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1 STATE OF NEVADA)
2 COUNTY OF WASHOE) ss.
3

4 I, DIANNE M. BRUMLEY, a Certified Court Reporter
5 and Notary Public for the County of Washoe, State of
6 Nevada, do hereby certify that on _____, the
7 _____ day of _____, 2010, I reported the
8 deposition of _____ in the matter entitled
9 herein; that said witness was duly sworn by me; that
10 before the proceedings' completion, the reading and
11 signing of the deposition (has/has not) been requested
12 by the deponent or party;

13 That the foregoing transcript is a true and
14 correct transcript of the stenographic notes of
15 testimony taken by me in the above-captioned matter to
16 the best of my knowledge, skill and ability.

17 I further certify that I am not an attorney or
18 counsel for any of the parties, nor a relative or
19 employee of any attorney or counsel connected with the
20 action, nor financially interested in the action.

21

22

23 _____
24 DIANNE M. BRUMLEY, NEVADA CCR #205
25 CALIFORNIA CSR #6796
BONANZA REPORTING - RENO

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