

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE

THE REYNOLDS GROUP, a	)	
California corporation,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. 30-2012-0054932
	)	
UNIVERSAL MOLDING COMPANY,	)	
a California corporation;	)	
and DOES 1 through 10,	)	
inclusive,	)	
	)	
Defendants.	)	
_____	)	
AND RELATED CROSS-ACTION.	)	
_____	)	

DEPOSITION OF:  
JOSEPH ERIC ODENCRANTZ, PH.D.  
TUESDAY, DECEMBER 24, 2013

REPORTED BY: TONI M. BERTINI  
CSR No. 8380

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COUNTY OF ORANGE

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Defendants. )  
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AND RELATED CROSS-ACTION. )  
\_\_\_\_\_)

The deposition of JOSEPH ERIC ODENCRANTZ, taken on  
behalf of the Plaintiff, before Toni M. Bertini, a  
Certified Shorthand Reporter, No. 8380, for the State of  
California, commencing at 9:30 a.m., Tuesday, December 24,  
2013, at the Offices of Jilio-Ryan, Hunter & Olsen, 14661  
Franklin Avenue, Suite 150, Tustin, California.  
-oOo-

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10 Attorney at Law

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11 Suite 1020

Santa Ana, California 92705

12 (714) 972-2333

13 ALSO PRESENT: F. EDWARD REYNOLDS, JR.

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I-N-D-E-X

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EXHIBITS

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1 JOSEPH ERIC ODENCRANTZ,  
2 called as a Witness by and on behalf of the Plaintiff, and  
3 having first been duly sworn by the Court Reporter, was  
4 examined and testified as follows:

6 EXAMINATION

8 BY MR. BROWN:

9 Q Can I get your full name?

10 A Joseph E. Odencrantz.

11 Q Are you employed, sir?

12 A Yes.

13 Q By whom?

14 A My company, Tri-S Environmental, T-r-i, hyphen,  
15 S, Environmental.

16 Q Are you a principal in that company?

17 A I'm the owner.

18 Q How long has Tri-S been in existence?

19 A December 1994.

20 Q What business are you in?

21 A Civil engineering, water environmental  
22 consultant.

23 Q Have you been retained in this case?

24 A Yes.

25 Q By who?

1           A     Let's see. Universal Molding Company.

2           Q     You've produced some documents to me in response  
3 to a request for production. I think I got a CD from -- I  
4 think it was from you yesterday.

5           A     Yes.

6           Q     I could bring it out on my computer, but I don't  
7 need to do that. But you provided it to Mr. Jackson to  
8 provide to me?

9           A     That's correct.

10          Q     Okay. I think, if I can remember correctly, on  
11 the CD, among other things, are all the documents you  
12 reviewed in this case?

13          A     Yes.

14          Q     Okay. Without looking at it, as far as you know  
15 is everything you reviewed on that CD?

16          A     Yes.

17          Q     Okay. Is there anything that was requested in  
18 the document request that you can think of that was not  
19 produced because of some privilege or for some other  
20 reason, if you know?

21          A     Yes.

22          Q     What was not produced? I put in front of you the  
23 notice of continuance of your depo which has a document  
24 list on it. If you want to go through the list, if that  
25 jogs your memory about something that wasn't produced.

1 MR. JACKSON: Do you want to go item by item?

2 MR. BROWN: I just want to know what was not produced.  
3 I'm just saying if that helps him. That's Plaintiff's 1.  
4 I think we've already premarked it.

5 THE WITNESS: I didn't produce documents in response  
6 to Item No. 21 that reads, "Any and all documents that  
7 refer or relate to the contents of any speeches or  
8 presentations given by the Deponent on the topics of  
9 economics, back injuries in the workplace, vocational  
10 rehabilitation for employees with back injuries, litigation  
11 strategies or techniques, and use of words or word choice  
12 at trial."

13 BY MR. BROWN:

14 Q Anything else?

15 A I didn't produce transcripts for prior testimony,  
16 No. 11.

17 Q Anything else jump out?

18 A Not as I sit here.

19 MR. JACKSON: If it helps at all, I can recall there  
20 were some questions regarding compensation and prior  
21 income. I don't know if you produced --

22 MR. BROWN: I think you produced some documents about  
23 your income on this case.

24 MR. JACKSON: Right.

25 MR. BROWN: So that's really all I'm interested in,

1 although I think these blanket depo notices are probably  
2 broader than that. And sometimes in federal court I think  
3 some of these categories are required.

4 THE WITNESS: Item No. 23.

5 BY MR. BROWN:

6 Q Okay. Let me just ask you: Have you been  
7 employed as an expert or retained as an expert by Mr.  
8 Jackson prior to this case?

9 A No.

10 Q How many times have you been designated as an  
11 expert throughout your career, do you have an estimate?  
12 Whether you testified at trial or not.

13 A "Designated" meaning?

14 Q One party or another designated you as an expert  
15 witness in some pending litigation, whether it's formally  
16 designated you as opposed to you consulting without you  
17 being formally designated.

18 A Half a dozen times.

19 Q How many times have you testified as an expert at  
20 trial?

21 A In trial?

22 Q In trial.

23 A Two days in trial, several days in deposition.

24 Q When you say two days in trial, was that in a  
25 single case?



1           A     Yes.

2           Q     So you've testified as an expert one time in  
3 court throughout your career, actually appeared in court  
4 and gave expert witness testimony?

5           A     Yes.

6           Q     What type of case was it?

7           A     It was an environmental contamination case.

8           Q     Who were you representing?

9           A     I was an expert for the City of Dallas.

10          Q     Were they the plaintiff or defendant or some  
11 other party?

12          A     They were a plaintiff in the case.

13          Q     Would you tell me briefly what the claims were  
14 there?

15          A     The claim was for a pipeline rebuilt to a lake,  
16 two-mile pipeline in response to environmental  
17 contamination.

18          Q     Have you ever been retained as an expert in a  
19 case similar to this case, where there was some issue about  
20 environmental remediation of a building or site similar to  
21 this?

22          A     Yes.

23          Q     How many times?

24          A     Many times.

25          Q     What type of claims were involved in those cases,

1 if you can recall?

2 A Remediation expense claims.

3 Q Were you retained by the defendant in all of  
4 those cases?

5 A I believe so, yes.

6 Q Were you retained to provide opinions about the  
7 value or amount of the work that was performed?

8 A Yes.

9 Q It sounds like none of those cases went to trial,  
10 is that right?

11 A Mediation/arbitration.

12 Q Were those cases in California?

13 A Yes.

14 Q Do you recall the names of the cases or the  
15 parties?

16 A Not off the top of my head, no.

17 Q Do you remember the last time was that you were  
18 designated in any of those types of cases?

19 A Two or three years ago.

20 Q Do you remember the names of any of the law firms  
21 that retained you?

22 A Not off the top of my head, no.

23 Q Do you have some documentation in your office  
24 that would give you that information?

25 A I might. There wasn't a transcript, so I didn't

1 keep track of the file.

2 Q How would you go get that information if you had  
3 to?

4 A I'd look for the records, if I had them,  
5 somewhere in my office. I don't know that I have them  
6 though.

7 Q Where would you look if you -- regardless of  
8 whether you have it or not?

9 A I've got boxes of files in my office.

10 Q Okay. Do you have some kind of electronic data  
11 or files that you could search to try and locate  
12 information about any of those cases?

13 A Not if it's over two years old, no.

14 Q We're talking about two or three roughly?

15 A Yes.

16 Q Okay. In all those situations you were retained  
17 to take a look at the value of the work that was done?

18 A Yes.

19 Q More or less?

20 In all those cases did you determine that the  
21 value of the work was less than the value that was being  
22 requested?

23 A No.

24 Q In how many of them -- well, so some of them you  
25 determined that the value of the work was adequate and the

1     **amount that was billed was proper?**

2           A     The subject matter of the case was not only what  
3     was billed, but it was the level of practice and the  
4     requirements by which work was conducted.

5           Q     **Okay. So in some of them you didn't have an**  
6     **opinion one way or the other about whether the amount that**  
7     **was billed was reasonable or not, there may have been other**  
8     **opinions?**

9           A     Not necessarily, no. It was a long mediation.  
10    And one of them I remember the central issues were remedial  
11    costs and investigation costs.

12          Q     **Does one of the opinions that you're preparing to**  
13    **render in this case deal with the reasonable value of the**  
14    **work and the services that were performed by The Reynolds**  
15    **Group?**

16          A     Yes.

17          Q     **Can you tell me what that opinion is?**

18          A     Will you restate the question?

19          MR. BROWN: Can you read it back?

20  
21                               (Record read.)

22  
23          THE WITNESS: Yes.

24    BY MR. BROWN:

25          Q     **Can you tell me what your opinion is?**

1           A     My opinion is that the work that was conducted  
2 was unnecessary based upon the December 1995 closure letter  
3 by the Orange County Health Care Agency.

4           Q     Okay. So would I be correct in stating that your  
5 opinion is that all of the work that was done was  
6 unnecessary?

7           A     That's not what I said. Most of the work that  
8 was done was unnecessary because there was a closure letter  
9 in 1995.

10          Q     Is it your opinion that some of the work was  
11 necessary?

12          A     There was an initial evaluation in January 2007,  
13 about \$1,500 or \$2,500 to look at the case files.

14          Q     By who?

15          A     Mr. Reynolds.

16          Q     So you're not saying that was unnecessary?

17          A     No.

18          Q     Okay. Was any work that was performed after that  
19 in your opinion unnecessary?

20          A     Yes.

21          Q     Do you recall that there was an initial soil and  
22 gas investigation that was done by The Reynolds Group?

23          A     Yes, I do.

24          Q     Okay. Is it your opinion that that work was  
25 unnecessary?

1           A     Just a minute, please.

2           Q     **Sure. If you can tell me what you're looking at,**  
3 **it might help us to focus in on what questions.**

4           A     I'm looking at a letter dated February 23rd, 2007  
5 to Mr. Dominick Baione from Mr. Ed Reynolds, GE 44 through  
6 46.

7           Q     **I'll pull that up here in a second. What's the**  
8 **significance of that letter in forming your opinion?**

9           A     The first sentence reads, "We suggest that a  
10 baseline subsurface investigation be done to the site to  
11 establish conditions prior to your acquisition and  
12 occupation of the property. The subsurface investigation  
13 should be focused in the area of purported remediation in  
14 1994 and 1995 to establish soil conditions at this time.  
15 The exact locations of the primary investigation will be  
16 determined once we see a plot plan or confirm where the  
17 exact area of chemical concern was located."

18          Q     **What is the significance of that letter in**  
19 **forming your opinion; in other words, was there something**  
20 **in that letter that was not done that should have been**  
21 **done?**

22          A     The significance of what I just read was that  
23 based upon that description of the services, I don't  
24 believe that work was necessary to be completed, based upon  
25 that description. Knowing that the contamination was left

1 in the soil in December 2007 -- I'm sorry -- December 1995,  
2 we know that there's going to be trace amounts of VOC's,  
3 PCE's and TCE's in the subsurface in and around that  
4 area.

5 Q When you say 1995, you're referring to a prior  
6 closure of the site or a prior investigation and closure  
7 that had occurred before?

8 A Yes, I am.

9 Q And those are some documents you reviewed as  
10 well, I take it?

11 A Yes. The other observation about this letter, it  
12 proposes that a single soil boring in the area of concern  
13 50 feet below the surface be installed in the area  
14 described in the language I just read prior. That work was  
15 not completed.

16 The significance of that is if a soil boring had  
17 been put in at 50 feet and samples taken every five feet,  
18 as is typical, one would be able to compare apples to  
19 apples of soil concentrations of PCE in milligram and  
20 kilogram, which was the closure criteria in December 1995,  
21 as opposed to microgram per liter, which is a very small  
22 unit of concentration in the vapor phase. Because that  
23 work was not completed, there's no way to assess directly  
24 from the data what the contamination levels were in 2007 to  
25 1995.

1           Q     Why was it important, in your opinion, to know  
2     how the two levels compared between 1995 and 2007?

3           A     Post facto, after the work had been done and I  
4     reviewed the records, it would be necessary to know what  
5     that concentration was in 2007 to see if it was from that  
6     original contamination left in place in 1995 or if it was  
7     from other sources.

8           Q     How would one tell that, if you were in a perfect  
9     world, I guess?

10          A     Tell what, sir?

11          Q     How would you compare the two levels from 1995 to  
12     2007 to see how they were similar or different, whether  
13     they migrated from other locations, that sort of thing?

14          A     The first thing I would have done is looked at  
15     the Johnson Controls property to the north to see how big  
16     their cloud is that emanates from their property that may  
17     or may not have entered Baione's property. It's my  
18     understanding it did based upon the data I reviewed and the  
19     language that I reviewed.

20                 Secondly, it would be necessary to examine what  
21     data would be available at the time in comparison at the  
22     site.

23          Q     Comparing the different locations where samples  
24     were taken?

25          A     To compare the dataset, when the contemplated



1 investigation took place in March 2007, what the situation  
2 was contamination-wise on the property to the north.

3 Q How would you determine that?

4 A For example, if you go down to a depth of five to  
5 25 to 30 feet where contamination was left in place in  
6 1995, we know that we're going to find trace levels of  
7 VOC's, based upon the source that was allowed to be left  
8 there in 1995. So I don't think it's the best practice  
9 based upon the regulatory criteria at the time, to go  
10 poking around in there voluntarily unless it's absolutely  
11 necessary. Most of the hits were near those former  
12 clarifiers in 1994 and 1995.

13 Q So in your opinion it wasn't necessary to do any  
14 of this work, it should have been left as it was?

15 A Can you be specific as to "this work"?

16 Q Well, you know that The Reynolds Group did some  
17 sampling in February and March 2007, correct?

18 A Yes.

19 Q Is it your opinion that that work was  
20 unnecessary?

21 MR. JACKSON: Objection. Vague and ambiguous.  
22 Necessary for what?

23 BY MR. BROWN:

24 Q There was a soil and gas survey, are you aware of  
25 that, in February and March 2007 that The Reynolds Group

1 did? I think the results were in the March 19th letter, if  
2 that helps you. I have a copy of it here. I'm just asking  
3 if you recall that.

4 A Based upon what was written in the February 23rd,  
5 2007 objectives, and not being able to outline a basis by  
6 which to compare existing contamination at the site to  
7 offsite contamination or other sources of contamination, I  
8 think it's very subject to concern as to why this work was  
9 done without other criteria for evaluation, blindly going  
10 in and collecting data at a site where known contamination  
11 exists.

12 For example, the letter states, "In the scope of  
13 the work, we suggest that the work include a full day of  
14 soil gas sampling and single 50-foot boring in the area of  
15 the former clarifiers." That was the hot spot of  
16 contamination.

17 Q Okay. I'm sorry. I should have done this  
18 earlier. I'm going to pull up the letter so we're looking  
19 at the same thing. Go ahead. Are you done?

20 A The 50-foot soil boring was never conducted.  
21 Back to what I mentioned earlier, to compare -- to  
22 accomplish the work, to compare the concentrations of what  
23 was left in place in 1995 to what might have been there in  
24 2007, one would need to install that 50-foot boring and  
25 take samples at 25 and 50 feet in the former clarifier that

1 the site was initially closed on in December 1995. That  
2 work was not done.

3 Q How do you know that?

4 A I didn't see the data in any of the reports that  
5 I reviewed. Specifically one of my tasks was to compare  
6 the soil concentration in 2007 to currently at the site. I  
7 did not see that data anywhere in what I reviewed in 2007.

8 Q Do you recall seeing the test results that were  
9 contained in the March 19th, 2007 letter which talked about  
10 soil and gas test results?

11 A Yes.

12 Q Was there anything significant about that  
13 document in terms of determining whether or not there were  
14 high levels of contaminants?

15 MR. JACKSON: I'm going to object. You're asking  
16 specifically about a certain document and what's contained  
17 in that document, but you haven't shown him the document.

18 MR. BROWN: I think I'm entitled to ask him his best  
19 recollection. I'm certainly going to show him the  
20 document. I'm trying to pull up the one he's talking  
21 about.

22 THE WITNESS: The characterization of high  
23 concentrations I disagree with. They are trace  
24 concentrations. They would be the type of concentrations  
25 one would see if they sampled in the area of the soil

1 horizon of 25 milligrams per kilogram PCE and three  
2 milligrams per kilogram TCE at 30 and 25 feet below grade  
3 respectively in 1995. If you were to sample in that area,  
4 based upon the concentration and mass left in place in '95,  
5 you'd find those concentrations in 2007.

6 BY MR. BROWN:

7 **Q What are the Bates stamp numbers, just so I am on**  
8 **the same page literally as you are?**

9 A Once again, GE 44 through GE 46.

10 **Q Let me see if I understand.**

11 A There was -- you asked me to examine the results  
12 of the soil vapor investigation and I have that in front of  
13 me.

14 **Q Is that the March 19th letter?**

15 A March 19th report, and it includes The Reynolds  
16 Group summary and results of soil investigation conducted  
17 on March 9th, 2007. It includes an Optimal Technology  
18 Report, and that's Bates stamped OCHCA 0687 through 0699.

19 **Q Did you render any opinion about the significance**  
20 **of any of these test results?**

21 A I believe I just answered that question, that the  
22 concentrations found -- the highest concentration found at  
23 SV 10 in the former clarifier area of 222.2 micrograms per  
24 liter of PCE would be the result of trace contamination  
25 left over from that left in place in 1995.

1           Q     That amount that you just told me about, is that  
2     higher than acceptable, either residential or commercial  
3     standards at the time?

4           A     Could you please be specific as to what standards  
5     you're referring to?

6           Q     Is it higher than any standard that a reasonable  
7     company like The Reynolds Group would feel needs to be  
8     remediated based on that number?

9           MR. JACKSON:  Objection.  Vague and ambiguous, calls  
10    for speculation.

11          MR. BROWN:  Go ahead.

12          MR. JACKSON:  If you know what standard he's talking  
13    about.

14          THE WITNESS:  What standard are you referring to?  I  
15    have some of that information in the documents that I  
16    produced.  I don't have that information in front of me.

17    BY MR. BROWN:

18          Q     Well, is it higher than the California Human  
19    Health Screening Levels for commercial standards in  
20    existence at the time?

21          A     The regulatory situation at the site is  
22    summarized succinctly by a letter dated March 22nd, 2007,  
23    Bates stamps GE 99 through 102.

24          Q     Is that one to Mr. Lauzer (phonetic)?

25          A     Yes, it is.  And I'll read from the letter, the

1 first paragraph. "I spoke with Luis Lodrigueza of the  
2 OCHCA about what to do generically in a case closed a  
3 decade ago that might be reopened for exceeding prevailing  
4 levels. Informally he told me don't ask/don't tell, in  
5 other words, unless the matter is brought to OCHCA's  
6 attention, the case would not be reopened."

7 **Q Okay.**

8 A Further, in that letter dated March 22nd, 2007,  
9 GE 99 through 102, the second paragraph reads, "Chlorinated  
10 compounds at the site were removed from the subsurface  
11 soils in the mid 1990's using soil vapor extraction. That  
12 remedial action was substantially significant in the eyes  
13 of OCHCA and the Santa Ana Regional Water Quality Control  
14 Board, so that no ground water investigation was required  
15 and the threat to ground water from soil contamination was  
16 reduced." I'm finding those notes distracting. "No ground  
17 water investigation was required and the threat to ground  
18 water from soil contamination was reduced to 1995  
19 regulatory acceptable levels."

20 Upon my review of this letter, I found that that  
21 description of what took place in 1995 is inaccurate in  
22 that the contamination left in place, the PRG level by  
23 Superfund, which includes inhalation and soil vapor as well  
24 at that point in time, 1995.

25 So without having your levels in front of me,

1    which I'd be happy to look up in the documents that I  
2    provided, the standard practice would be to consult with a  
3    regulator and do what the regulator suggests.

4           **Q     Which was what, don't do anything?**

5           A     The regulator said don't ask/don't tell, in other  
6    words, unless the matter is brought to the attention, the  
7    case would not be reopened.

8                   Upon other documents that I reviewed in this  
9    case, it appears that after the July 2007 letter went out  
10   about opening a voluntary cleanup site, that Mr. Lodrigueza  
11   didn't know the process by which necessarily to reopen the  
12   site in the said circumstances.

13          **Q     What is that opinion based upon?**

14          A     Just a minute, please.

15                   It's based upon a July 25th, 2000 E-mail from  
16   Luis Lodrigueza of the Orange County Health Care Agency to  
17   Cameron Cerini at the Water Board.

18                   He writes, "The Reynolds Group requested that  
19   OCHCA reopen the site to evaluate whether the soil gas  
20   contamination, mass contamination of 222 micrograms per  
21   liter of PCE and 150 micrograms per liter TCE at five feet  
22   below grade recently detected on site, which has PCE/TCE  
23   concentrations above the EPA CHHSL, poses any significant  
24   health threat. Reynolds said that no ground water issues  
25   need to be reignited since the Regional Board already

1 concurred that an earlier case closure or ground water  
2 investigation was not required."

3 This letter went out two days after the request  
4 for voluntary cleanup went out, July 23rd from Mr.  
5 Lodrigueza to Dominick Baione.

6 **Q In your mind what's the significance of that**  
7 **letter?**

8 A Just a minute, please.

9 The significance of that E-mail in full context  
10 would be there was a letter -- a meeting that took place at  
11 the Orange County Health Care Agency on July 24th, 2007  
12 with Mr. Lodrigueza, John Cleary, Krista and Mr. Reynolds  
13 at the agency for this site, a 30-minute meeting, and the  
14 draft of a remedial action voluntary letter was discussed  
15 July 24th, 2007. So in other documents that I reviewed, it  
16 appears that The Reynolds Group helped draft that letter  
17 that went out based upon the site data found at the time.

18 **Q What is the significance of that in forming your**  
19 **opinions?**

20 A It's an evaluation of what took place with the  
21 agency, how the site was reopened and the facts associated  
22 with that process.

23 **Q We're going to go back through some of these in a**  
24 **second. But so if I can understand correctly, one of the**  
25 **opinions you've reached is that the work that The Reynolds**



1 Group did from some point forward was unnecessary, is that  
2 correct?

3 A Yes.

4 Q Are you going to present any other opinions at  
5 trial other than that general opinion that we just talked  
6 about some of the aspects of?

7 A After I have a chance to review Mr. Reynolds'  
8 transcript from yesterday, I reserve the right to form  
9 additional opinions. I have not had a chance, nor have I  
10 seen the testimony from yesterday.

11 Q Right now do you intend to do any additional work  
12 between now and trial other than review Mr. Reynolds'  
13 transcript?

14 A I'll look at the file again.

15 MR. JACKSON: Calls for speculation.

16 THE WITNESS: I'll look at the file again. But my  
17 opinion also includes an E-mail from Mr. Reynolds to Jack  
18 Glaser dated March 6, 2007 in which he states, "My  
19 first-cut analysis is that these residual concentrations of  
20 PCE would not be granted closure in today's environment. I  
21 anticipate we may find the same thing or worse when we  
22 drill this Friday."

23 My opinion is that it's extremely difficult to  
24 evaluate whether you've found the same thing or worse if  
25 you don't take soil borings that have a soil dataset, as

1 they took in December 1995, to compare soil concentrations  
2 to soil concentrations as opposed to soil concentrations to  
3 soil vapor concentrations, which are much lower.

4 BY MR. BROWN:

5 Q Your understanding is that that wasn't done just  
6 based upon your review of the documents that you  
7 received?

8 THE WITNESS: Would you reread the question, please?

9  
10 (Record read.)

11  
12 THE WITNESS: I don't understand the question.

13 BY MR. BROWN:

14 Q You mentioned that some of the work that you said  
15 should have been done to be able to compare the two test  
16 results weren't done. Is that accurate?

17 A Yes.

18 Q And that opinion is based upon your review of  
19 these documents, correct, or the documents you were  
20 provided?

21 A And my own experiences, yes.

22 Q Have you ever talked to Mr. Baione directly in  
23 this case?

24 A No, sir, I have not.

25 Q You've never talked to him, met him up to

1 today?

2 A No.

3 Q You reviewed Mr. McFadden's deposition, I take  
4 it, as part of your work?

5 A Yes, I did.

6 Q In reviewing the materials, do you know why, for  
7 example, a 50-foot boring was not done in the area of the  
8 former clarifier? Were you able to tell that?

9 A No.

10 Q Let me ask you this: Comparing the proposal in  
11 the February 23rd letter that you have in front of you, I  
12 guess, to what you understand was done in the soil and gas  
13 vapor tests that are in the March 19th letter, was there  
14 any of the work done in the February 23rd letter at all, or  
15 was some of it done but not other work?

16 MR. JACKSON: Can I have that question back, please?

17  
18 (Record read.)

19  
20 THE WITNESS: Some of the work was done.

21 BY MR. BROWN:

22 Q Okay. Can you tell me what was done based on  
23 your review of the documents?

24 A A total of 19 vapor samples were collected from  
25 17 locations, SV 1 through SV 17. It appears that the soil

1 samples were not completed -- samples were not collected at  
2 five-foot intervals at 12 different locations with the  
3 depth. I also did not see any metals data as well as VOC  
4 data because the soil boring was not installed.

5 Q I want to make sure I understand this. In the  
6 March 19th letter that indicates the results of the soil  
7 vapor investigation, among other things it indicates that  
8 certain VOC's were detected. I'm just looking at the first  
9 page. And that the concentrations in almost all soil vapor  
10 samples were above EPA California Human Health Screening  
11 Levels for commercial use properties and it refers to the  
12 table. Do you see where I'm reading from on the first  
13 page?

14 A Yes, I do.

15 Q Do you have any reason to believe that's not  
16 true? Do you disagree with that statement?

17 A I agree that 16 -- 19 samples were above the  
18 screening levels, yes, the CHHSL, California Human Health  
19 Screening Levels.

20 Q Do you agree that if a regulatory agency such as  
21 the Orange County Health Care Agency was overseeing  
22 remediation, given those levels, that the site probably  
23 would not have obtained a no further action or closure  
24 letter based on those levels?

25 THE WITNESS: Could I have the question again, please?

1 (Record read.)

2  
3 THE WITNESS: Could you be specific as to time?

4 BY MR. BROWN:

5 Q As of March 19th, 2007.

6 A First, the site was not under any order at this  
7 period of time, March 2007. And the CHHSL levels were, are  
8 and still remain screening levels. They're not enforcement  
9 criteria, nor were they ever on the site in March 2007.

10 Q That wasn't my question though. I'm asking a  
11 hypothetical now.

12 If the Orange County Health Care Agency, for  
13 example, were overseeing the work at this project, in  
14 seeking a no further action letter, as they were later on,  
15 and these levels were detected, in your opinion, if you  
16 know, would the site have been able to obtain a no further  
17 action or closure letter with these findings in place, or  
18 would they have been requested to remediate to a lower  
19 level?

20 MR. JACKSON: Objection. Incomplete hypothetical,  
21 calls for speculation as to what the OCHCA would do.

22 BY MR. BROWN:

23 Q Go ahead.

24 A I can't speak for the Orange County Health Care  
25 Agency in 2007. You'd probably better ask them.

1           Q     Well, it is correct that once the Orange County  
2     Health Care Agency became involved, they requested various  
3     testing and remediation work be performed by The Reynolds  
4     Group in order to obtain closure, correct?

5           THE WITNESS:   Can I have the question again?

6  
7                                 (Record read.)  
8

9           THE WITNESS:   It's incorrect.   Based upon the  
10    documents that I've reviewed, the Orange County Health Care  
11    Agency did not instruct The Reynolds Group to remediate the  
12    site.   It was a voluntary cleanup program that the site was  
13    part of.

14   BY MR. BROWN:

15           Q     Understood.   But once the Orange County Health  
16    Care Agency became involved, they were directing that  
17    certain things be done in order to obtain closure for the  
18    site, correct, whether or not it was originally voluntary  
19    or not?

20           A     The Orange County Health Care Agency was not  
21    directing anything at that site.   They were reviewing work  
22    plans and evaluating site data.

23           Q     So is it your testimony that Mr. Baione or  
24    Universal Molding couldn't have just stopped doing  
25    remediation work at any point in time after the Orange

1 County Health Care Agency opened up the file and just  
2 stopped doing work, not had any other ramifications from  
3 that?

4 MR. JACKSON: Objection. Misstates the testimony,  
5 compound.

6 THE WITNESS: Can I hear the question again, please?

7  
8 (Record read.)  
9

10 THE WITNESS: That's a completely different question.  
11 I don't know the answer to that specifically, other than  
12 the site was open and under their guidance and now is being  
13 evaluated for closure based upon soil vapor data and/or air  
14 sampling data, subsurface soil data.

15 When you say stop doing remediation, I'm not sure  
16 what you mean. Are you talking about the process in which  
17 a closure letter is obtained?

18 BY MR. BROWN:

19 Q Sure. There were certain work proposals that  
20 were performed at various times to perform certain work to  
21 move to a closure, different over time. Are you aware of  
22 that?

23 A I saw talk of a closure letter in late 2007,  
24 probably through September 2008. I saw various references  
25 to the pursuit of a closure letter, yes.

1           Q     Do you recall seeing a letter from the Orange  
2     County Health Care Agency in roughly early 2012 sent to Mr.  
3     Baione asking or following up on whether the proposed scope  
4     of work that had been proposed earlier was being completed,  
5     words to that effect?

6           A     I saw that in the earlier time frame, that a  
7     year, year and a half went by. I couldn't tell you exactly  
8     what year that was without examining my records. I don't  
9     have the whole file in front of me.

10          Q     I want to make sure I understand.

11          A     Do you have a copy of that document so I could  
12     review it?

13          Q     I sure do somewhere. We have so many documents  
14     flying around here. I'll pull it up. I'm just trying to  
15     get some baseline information here from you.

16                 Let me ask you this: The February 23rd scope of  
17     work in that letter, I think you've told me some of what  
18     was done, there were certain things that were not done. Do  
19     you have any quarrel with the scope of work that was  
20     proposed in order to investigate the site, whether or not  
21     some was or was not done?

22           MR. JACKSON: Objection. Vague and ambiguous, calls  
23     for speculation, overbroad.

24           THE WITNESS: Can I get the question again, please?

25                         (Record read.)



1 THE WITNESS: What do you mean by "quarrel"?

2 BY MR. BROWN:

3 Q Well, in the February 23rd letter there's a  
4 proposed scope of work, which according to the letter was  
5 being done to establish a baseline for Mr. Baione to  
6 acquire and occupy the property. That's what it says.  
7 Establish site conditions, essentially.

8 So I guess my question is: Do you have an  
9 opinion as to whether or not the scope of the work that was  
10 being proposed in order to conduct that investigation was  
11 adequate as proposed, or whether something else should have  
12 been done to evaluate this baseline status of this site, at  
13 least from an environmental standpoint?

14 A I believe I've answered a large part of that  
15 question prior in that the proposed scope of work,  
16 including the soil boring, yes; however, the evaluation  
17 criteria of that was not proposed in the scope of work. In  
18 other words, what impacts from offsite may have been  
19 present and what the target levels were in the soil column  
20 and the PRG's. The letter reads, "to establish soil  
21 conditions at this time," 1994 and 1995.

22 When you say "quarrel," that's what I'm having  
23 trouble understanding. There's a specific scope of work.  
24 A significant portion of it was not done. It's difficult  
25 to answer your question in a hypothetical of what do you

1 think about this proposal if the work had all been done.

2 Q Well, I'm trying to go through this list now and  
3 make sure I have on here what is your understanding as to  
4 what was not done.

5 One that was not done was the single boring in  
6 the area of concern of 50 feet, that that wasn't done as  
7 best you can tell?

8 A Yes.

9 Q What's the significance of that; in other words,  
10 why was it significant to go to that depth and to perform  
11 that particular test, in your opinion?

12 MR. JACKSON: Objection. Calls for speculation.

13 THE WITNESS: The December 15th, 1995 closure letter  
14 reads, and I quote, "is based on an evaluation of the  
15 health threat presented by the inhalation, ingestion or  
16 dermal absorption of the residual contaminants. The site  
17 was closed with 25.3 micrograms per kilogram of PCE at 25  
18 feet and 3.4 micrograms per kilogram of TCE at 20 feet  
19 below the surface."

20 In order to evaluate the -- focused in the area  
21 of purported remediation in the February 23rd letter, one  
22 would need to compare soil concentrations to soil  
23 concentrations, not go directly into the soil vapor  
24 concentrations.

25 ///

///

1 BY MR. BROWN:

2 Q But you would agree that as a result of the  
3 testing that was done, we just discussed that, certain  
4 levels of PCE's were above the CHHSL recommended levels,  
5 regardless of whether you compare them backwards or not,  
6 correct?

7 MR. JACKSON: Objection. Misstates the evidence,  
8 misstates the impact of CHHSL, implications of CHHSL.

9 THE WITNESS: After the soil vapor survey was done, as  
10 described in the February 23rd letter, Mr. Lodrigueza  
11 writes -- stated to Mr. Reynolds, as written in Mr.  
12 Reynolds' letter of March 22nd, 2007, "When these vapor  
13 concentrations were presented to Mr. Lodrigueza, the  
14 regulatory authority at the site, don't ask/don't tell. In  
15 other words, unless the matter is brought to the attention,  
16 the case would not be reopened."

17 So Mr. Reynolds in doing the vapor survey with  
18 respect to a property transfer is one thing, which is what  
19 he was doing in March 2007; but to take a great leap of  
20 faith to do a property transfer evaluation to open a site  
21 with a regulatory agency, two entirely different things.

22 BY MR. BROWN:

23 Q What do you mean by that?

24 A The initial survey was done as part of a property  
25 transfer evaluation, to see if there were remnants of

1 contamination, as Mr. Reynolds described, from the trace  
2 amount of PCE/TCE left in soil in 1995.

3 A professional interested in the vapor phase  
4 concentration of the residual PCE/TCE concentrations left  
5 in the soil in 1995 would have compared what those  
6 concentrations in the soil in 1995 would have resulted in  
7 in the vapor phase by use of a model or an examination of  
8 the literature.

9 There is an abundance of literature that compares  
10 soil concentrations to vapor concentrations. If Mr.  
11 Reynolds had consulted that literature and done his own  
12 calculations, he would have known that that vapor  
13 concentration that he found in 2007 was the result of  
14 residual contamination left in the ground in 1995.

15 **Q Did you do those calculations?**

16 A I reviewed a significant amount of literature  
17 involving those calculations, yes.

18 **Q Have you actually made the calculations?**

19 A Yes, I have.

20 **Q How do they compare -- did you actually provide**  
21 **us with any documentation?**

22 A I haven't provided -- I provided you with a  
23 paper, evaluation of that paper that I did in my head.  
24 It's clear that -- I have a copy of that in front of me, an  
25 article by Allen Hewitt in 1995, I believe.

1 MR. JACKSON: Is that it right there?

2 THE WITNESS: There it is. 1998, June.

3 On Page 7 of his paper, a report by the Army,  
4 conducted by the Army -- for the Army was, "Soil Vapor  
5 Versus Discreet Soil Sample Measurements," or VOC's, "in  
6 the Near Surface Vadose Zone." On Figure 2 on Page 7 he  
7 has a correlation between TCE and soil vapor versus soil  
8 matrix TCE concentrations.

9 So to do a quick review of that, the  
10 concentration left in place of TCE in 1995 of 3.4, if you  
11 look at the graph, would result in approximately 2.5  
12 micrograms per liter of TCE in the soil vapor -- milligrams  
13 per liter of TCE in the soil vapor, which would translate  
14 to 2,500 micrograms per liter of TCE in the soil vapor. In  
15 other words, a relationship can be established between  
16 approximately 3.4 milligrams per kilogram of TCE in the  
17 soil and 2,500 micrograms per liter of TCE in the soil  
18 vapor based upon this graph.

19 BY MR. BROWN:

20 Q So what is the significance of -- once you have  
21 those two numbers compared between '95 and 2007, what does  
22 that tell you, if anything, or how is that relevant to  
23 moving forward at that point or evaluating the site?

24 A When a soil vapor survey is done as part of a  
25 property transfer, the purpose is to compare the

1 performance of the remediation done in 1995. One would  
2 want to know what the performance criteria would have been.  
3 And in order to evaluate that for TCE, you'd have to  
4 establish the relationship between soil concentrations and  
5 soil vapor concentrations.

6 In March 2007 the soil vapor concentration  
7 reported by Mr. Reynolds for TCE, the maximum was all on  
8 the order of 100 micrograms per liter; however, two and a  
9 half micrograms per kilogram of TCE left in the soil would  
10 result in 2,500 micrograms per liter in the soil vapor. So  
11 one would conclude that whatever trace vapors you'd find on  
12 the site in that vicinity of the old clarifiers was indeed  
13 a result of the TCE left at the site in 1995. Without  
14 doing such calculations you cannot make that  
15 determination.

16 Q Were you able to tell in your review whether  
17 there was any additional contamination from any additional  
18 sources between 1995 and 2007?

19 THE WITNESS: Can I have the question again?

20  
21 (Record read.)

22  
23 THE WITNESS: No.

24 BY MR. BROWN:

25 Q So as best you could tell, this was all the same

1 residual contaminants that had been there in 1995 for the  
2 most part?

3 MR. JACKSON: Objection. Calls for speculation.

4 THE WITNESS: There were 17 locations taken across the  
5 site, largely concentrated in the northern portion of the  
6 site above the center line of the parcel.

7 Samples taken in the southern portion of the site  
8 were clean, with the exception of a very small 1.4 PCE.  
9 The vapor cloud is generally in the northern part of the  
10 property centered at the clarifiers and toward the northern  
11 property line. So there's a spacial distribution of PCE  
12 and TCE depicted in that report, centered largely in the  
13 northern portion of the property.

14 MR. BROWN: Do you want to take a break?

15 MR. JACKSON: If you don't mind.

16 MR. BROWN: Sure.

17  
18 (Off the record.)  
19

20 BY MR. BROWN:

21 Q Dr. Odencrantz, you just did a calculation for me  
22 of one of the test results from Mr. -- I guess you were  
23 looking at Mr. Reynolds' March 19th report. I think the  
24 calculation you made was of the 115.2 TCE number. Is that  
25 the one you were trying to generally calculate?

1           A     No.

2           Q     Which one were you using?

3           A     I was using the soil concentration left in place  
4     in 1995 of 3.4 at 20-foot below grade, 3.4 micrograms per  
5     kilogram, and what soil vapor concentration that would emit  
6     being left in place in the soil.

7           Q     That's where you came up with the number you just  
8     gave me?

9           A     Approximately 2,500 micrograms per liter TCE soil  
10    vapor versus the level found in March 2007 maximum, which  
11    was 115 micrograms per liter TCE.

12          Q     The three that you just referenced from the '95  
13    report, it's milligrams per kilogram?

14          A     Yes.

15          Q     By the way, I think one of the documents you  
16    reviewed also, tell me if I'm wrong, there was a March 22nd  
17    letter to Mr. Glaser which contained an order of magnitude  
18    of the cost of work. Do you recall seeing that?

19          A     Yes.

20          Q     If you need to look at it let me know. Are you  
21    prepared to provide an opinion as to the reasonableness of  
22    that particular estimate, regardless of whether it was  
23    necessary or not?

24          A     Yes, I am.

25          MR. JACKSON: Objection. He has to give his opinion



1 on the whole picture, not as you've defined it.

2 THE WITNESS: Yes.

3 BY MR. BROWN:

4 Q What is your opinion?

5 A The March 22nd order of magnitude costs for soil  
6 remediation includes in the first paragraph don't ask/don't  
7 tell in the conversation Mr. Reynolds had with Luis  
8 Lodrigueza generically about with a closed case for a  
9 decade, what one might do for reopening the site.

10 My opinion on this cost estimate is that without  
11 an examination of offsite sources and the remediation or  
12 the extent of offsite sources, why would one provide a cost  
13 estimate to: A, remediate contamination that was left in  
14 place in 1995; and contamination emanating from offsite  
15 from Johnson Controls.

16 Q Have you told me everything that your opinion is  
17 based on and that we discussed earlier about what tests one  
18 could perform to come up with that information in order to  
19 form a baseline for an estimate? Have you told me  
20 everything that forms the basis for your opinion, as well  
21 as your opinion in that regard?

22 A It's my understanding that Mr. Reynolds was an  
23 expert with the Orange County Water District on the  
24 chlorinated solvent case, and was aware of or should have  
25 been aware of Johnson Controls' chlorinated solvent vapor

1 cloud on their property that extended to the south onto Mr.  
2 Baione's property.

3 Q Where did you obtain the information that he was  
4 an expert on that case?

5 A Some of the preliminary documents prior to  
6 06-07.

7 Q Which were what?

8 A Afford me a moment to look at my file, please.

9 Q Sure.

10 A There's a lot of documents here. I need to  
11 refresh my own memory.

12 I believe it was in an early 2007 E-mail from Mr.  
13 McFadden to Mr. Baione that described Mr. Reynolds' as an  
14 expert on that case.

15 Q But you don't know if that's actually true or  
16 not?

17 A It's what I read.

18 Q Do you know if it's true?

19 A It's what I read. I saw a complaint and an  
20 agreement with the Orange County Water District.

21 Q From who, signed by who? You just saw the  
22 complaint in the Orange County Water District litigation  
23 involving the Johnson Control property, is that what you're  
24 saying?

25 A Yes.

1           Q     Does Mr. Reynolds' name appear somewhere on it?

2           A     That's not what I said.

3           Q     I'm asking if you have independently investigated  
4     to determine whether or not it's true that Mr. Reynolds  
5     represented a party or was retained as an expert in the  
6     Orange County Water District case that you just referred  
7     to.

8           A     The Orange County Water District case was  
9     attached to a Phase 1 in '06 that appeared in Mr. Reynolds'  
10    records that included the Orange County Water District  
11    lawsuit. Whether or not Mr. Reynolds was testifying or a  
12    consulting expert on that case I have no specific knowledge  
13    other than what I read in Mr. McFadden's E-mail selling Mr.  
14    Reynolds' as such to Mr. Baione.

15          Q     If it turned out that was not true, that Mr.  
16    Reynolds was not retained as an expert in that case, would  
17    that change your opinion?

18          A     No.

19          Q     In reaching your opinion, did you presume some  
20    level of knowledge that Mr. Reynolds would have gained as  
21    an expert in the Orange County Water District case versus  
22    what he may have known separate and apart from it?

23          A     No.

24          Q     As you sit here today, what information have you  
25    seen that indicates what Mr. Reynolds knew or didn't know

1    about that litigation at the time that he was performing  
2    work in 2007?

3           A     There's no mention of a property -- plume to the  
4    north of the property in any of the early 2007 documents.  
5    I do know that later there was reference to the Johnson  
6    Controls plume entering the property, the site property  
7    here that Mr. Baione owns.

8           Q     Was --

9           A     Irrespective of that, Mr. Reynolds after  
10   reviewing the Phase 1 knew that there was a PCE/TCE vapor  
11   cloud on the Johnson Controls property to the north.  
12   That's included in that Phase 1 report.

13          Q     Which one, the March 19th report or --

14          A     Phase 1 report conducted in '06.

15          Q     The one conducted by another group?

16          A     Yes.

17          Q     Just so we're on the same page here, when you say  
18   toxic plume on the Johnson Control site, can you tell me  
19   what you mean by that so we're using the same definition,  
20   so I understand what you mean by that, toxic cloud, however  
21   you describe it?

22          A     There's a PCE/TCE plume that extends either to  
23   the north or to the south emanating from the property to  
24   the north, as evidenced by what I've reviewed in the  
25   dataset, from plume maps and descriptions by The Reynolds

1 Group of that said plume.

2 Q When you say plume, is it a soils plume or  
3 groundwater plume, all of the above?

4 A The language I used previously to describe it was  
5 a vapor cloud.

6 Q I'm not an engineer so I don't know. Is that in  
7 the soils or is that in --

8 A It's a soil vapor.

9 Q Was the existence of that soil vapor cloud common  
10 knowledge in the environmental industry in 2007?

11 A Would you be more specific to your question,  
12 please?

13 MR. BROWN: Would you read it back?

14  
15 (Record read.)

16  
17 MR. JACKSON: Objection. Calls for speculation,  
18 overbroad.

19 BY MR. BROWN:

20 Q If you can't answer it, just --

21 A I can't speak for everything in the entire field.  
22 What I do know is somebody performing a due diligence type  
23 of investigation on a previous remediation of a site would  
24 be interested in the sources near the site and what  
25 contributions, if any, they had on the property itself

1     that's in escrow or being examined as part of a purchase  
2     process.

3           Q     You mentioned an earlier Phase 1 report from I  
4     think 2006 that was done by another group, correct?

5           A     Yes.

6           Q     And you mentioned that there's some reference to  
7     the plume in those documents?

8           A     There's a reference to the OCWD case and the  
9     Johnson Control site, yes.

10          Q     Do you know if that's a matter of public record,  
11     or was that done for a specific individual, if you know?

12          A     Can you be specific as to "that"?

13          Q     The Phase 1 report you're referring to, is that  
14     something that was requested by a particular individual, if  
15     you know or based on your review of it?

16          A     I'd need to review the document.

17          Q     Are they generally something that is requested by  
18     a party who's either involved in a transaction or thinking  
19     about buying a piece of property, is that what they're  
20     generally used for?

21          A     Banks commission them, property owners commission  
22     them, buyers and sellers commission them. It really  
23     depends on the circumstances and one's relationship with  
24     the transaction who may or may not be interested in doing  
25     certain investigations at certain times in the process.

1           Q     And in that group of Phase 1 documents, you said  
2     you saw some reference to the ongoing Orange County Water  
3     District case?

4           A     I believe there's an exhibit on the Orange County  
5     Water District's case attached to that Phase 1, if my  
6     recollection serves me well.

7           Q     Do you know if that's the kind of information  
8     that would have appeared in a preliminary title report that  
9     would be done by a buyer?

10          A     I don't know.

11          MR. JACKSON:  Objection.  Outside the scope of his  
12     expert testimony.

13     BY MR. BROWN:

14          Q     In the course of your investigation, do you know  
15     or have you talked to anyone about what independent  
16     investigation Mr. Baione or his representatives did prior  
17     to purchasing the property in terms of determining any  
18     clouds on title, pending litigation, those kinds of  
19     things?

20          A     The only thing I recollect in that regard is a  
21     mechanic's lien placed on the property by Mr. Reynolds as  
22     part of his payment quest.

23          Q     In your review or investigation of the materials,  
24     did it appear that Mr. McFadden was aware of the pending  
25     litigation involving the Orange County Water District when

1 he retained -- contacted Mr. Reynolds to do some work?

2 A That's my understanding, yes.

3 Q Is that based on the E-mail that we were just  
4 discussing where he was telling Mr. Baione about Mr.  
5 Reynolds' background and being an expert and those kinds of  
6 things?

7 A Yes.

8 Q But other than what you've seen in the documents,  
9 you don't know what information Mr. McFadden had  
10 specifically about the pending litigation, just that he  
11 apparently was aware of this issue?

12 A I can't speak to what Mr. McFadden knew at the  
13 time. I don't know the man.

14 Q Okay. Going back to the scope of work that Mr.  
15 Reynolds was proposing, the amount, I understand one of  
16 your opinions is that --

17 MR. JACKSON: Just for clarification, you're referring  
18 to the order of magnitude?

19 MR. BROWN: Correct.

20 BY MR. BROWN:

21 Q One of your opinions is that other work should  
22 have been done before proposing an order of scope of  
23 magnitude. I guess my question is in terms of the work Mr.  
24 Reynolds actually did, however, are you going to be  
25 providing an expert opinion about the reasonable value of



1 the actual work that was done, whether it was necessary or  
2 not?

3 MR. JACKSON: Objection. Vague and ambiguous.

4 THE WITNESS: There was a lot in that question. Could  
5 I hear it again, please?

6  
7 (Record read.)  
8

9 MR. JACKSON: Vague and ambiguous, "reasonable value."

10 BY MR. BROWN:

11 Q If you don't understand the question -- of course  
12 you've done this enough times. You can let me know and  
13 I'll try and rephrase it.

14 I guess what I'm saying, I don't know if you're  
15 going to testify -- you can tell me that some particular  
16 charge or some scope of work was overcharged based on  
17 reasonable standards in the industry or if your opinion is  
18 that none of this should have been done, doesn't matter  
19 what was actually billed, it shouldn't have been done in  
20 the first place, if you understand the distinction I'm  
21 making.

22 MR. JACKSON: Objection. Calls for speculation.

23 THE WITNESS: The question is limited to the bottom  
24 line on whether this work would be done or needed to be  
25 done and the value of it.

1           Prior to the scope of work or the magnitude cost  
2 estimate being prepared, there's a lot of background with  
3 the real estate agent and events leading up to the  
4 preparation of this order of magnitude cost estimate that  
5 involves potentially monies being set aside at the property  
6 transfer for this remediation work to have been completed  
7 or contemplated. And this order of magnitude cost estimate  
8 was commissioned I believe by Mr. McFadden.

9           And there's an E-mail, which I'll dig it out here  
10 in a minute, but I believe it's -- I'll need to find that  
11 in a minute. But this cost estimate was seemingly  
12 commissioned by Mr. McFadden as part of the real estate  
13 transaction.

14           So when you ask me these things, it's very  
15 difficult to answer them with respect to the merits without  
16 considering the other factors in this situation involving  
17 what transpired with the real estate transaction and what  
18 may or may not have been necessary at what point in time.

19           Typically what's done with a project such as this  
20 when it's being contemplated, besides monies being tied to  
21 a real estate transaction, that a proper due diligence is  
22 done to discern whether this contamination was from either  
23 an offsite source or emanating from sources that were left  
24 in place in 1995.

25           It's difficult also to come back in retrospect

1 and review these costs and order of magnitude cost estimate  
2 for a lot of these costs that were incurred by Mr. Baione.  
3 I did not see a complete scope of work or a contract with  
4 the source of work before it was completed; in other words,  
5 what was agreed upon and what could be managed on behalf of  
6 the client in terms of what was taking place at the time.

7 BY MR. BROWN:

8 Q Does one of your opinions deal with whether or  
9 not the contract documentation was adequate or not?

10 A Yes.

11 Q And what is your opinion in that regard?

12 A I did not see a contract that applied for work,  
13 blanket work or individual pieces of work or work orders  
14 from late 2007 to the current time, in terms of this is  
15 what's going to be done and this is how much it's going to  
16 cost.

17 Q Okay. And the order of magnitude document is not  
18 sufficient in that regard in your mind?

19 A No.

20 Q So have you told me -- strike that.

21 What other information should have been or is  
22 typically contained in an agreement for environmental  
23 remediation like this that you don't see in any of the  
24 documents, either the order of magnitude or any of the  
25 subsequent documents?

1           A     Detailed scope of work, deliverables, insurance,  
2     general elements of a contract. I have not seen any of  
3     that in any of the documents I've reviewed.

4           Q     Did you see a detailed scope of work in any of  
5     the subsequent documents or reports that were sent out?

6           A     I saw some general descriptions of scopes of  
7     work, yes.

8           Q     And did you see some fee schedules in some of the  
9     documents you reviewed that outlined what the fees would be  
10    that would be charged?

11          A     Yes, I did.

12          Q     And did you review particular invoices that  
13    outlined what specific work was done during particular time  
14    frames?

15          A     Some.

16          Q     Did you find any of the invoices to be inadequate  
17    in the way they presented the information?

18          MR. JACKSON: Objection. Vague and ambiguous.

19          THE WITNESS: I need to look at this invoice to  
20    address specific entries on the invoice. It's been a  
21    couple of months since I've done that.

22          BY MR. BROWN:

23          Q     Well, if you're not going to be rendering an  
24    opinion about the adequacy of the invoices, then I don't  
25    need to spend time on it.

1           A     My opinion is on the adequacy of the work and the  
2     necessity of the work, not specific to individual invoices  
3     per se.

4           Q     And that is that it wasn't necessary at all?

5           A     Yes.

6           Q     Before we go forward or backwards, I know we've  
7     gone for a while here. Are there any other opinions that  
8     you are prepared or are going to render at trial that we  
9     haven't already touched on or discussed in some fashion  
10    already?

11          A     Other than -- just a minute, please.

12          Q     Sure.

13          A     The deposition transcript of Mr. Reynolds we've  
14    already talked about. I will review that in the next  
15    couple of weeks, as time allows. I don't believe this  
16    work, as I mentioned earlier, is necessary to be  
17    accomplished.

18          MR. JACKSON: I'll object. Vague and ambiguous as to  
19    "opinions." Do you mean other than what's stated in his  
20    designation, something beyond what's in his designation?  
21    Because I don't know if -- as I sit here and think back,  
22    I'm not sure we've covered everything that's in the  
23    designation, but his designation is what it is.

24          MR. BROWN: That's why I'm asking for his testimony,  
25    if he needs to review something. Your designation is a

1 general outline of what you believe the expert is going to  
2 testify to. That doesn't always mean they're going to  
3 testify as to every one of them. You have seven  
4 different --

5 MR. JACKSON: I would instruct the Witness then to  
6 review his designation and ask as best as he can recall,  
7 have all those topics been covered in today's deposition.

8 MR. BROWN: Okay. That's Exhibit 2.

9 MR. JACKSON: Do you want to go straight through or  
10 take a break?

11 MR. BROWN: I was planning to go straight through,  
12 unless you want to take a short break. I wasn't planning  
13 on taking a lot of extra time.

14 MR. JACKSON: I always leave that to the court  
15 reporter. I'm willing to push through.

16 MR. BROWN: I wasn't planning on coming back another  
17 day, so if you want to take a short break. It doesn't look  
18 like we're doing the lunch thing so it's going to be --

19 MR. JACKSON: I'd rather go on through, but I'll leave  
20 it to the court reporter and the Witness. Is there a  
21 question pending?

22 MR. BROWN: You objected. I was asking if we've  
23 covered all of the opinions that he intends to render at  
24 trial and you objected that you've got certain outlines of  
25 areas that he's intending on covering, and there's seven of

1     them.  So I handed him your expert witness designation.

2     BY MR. BROWN:

3             Q     Do you want to go through these or do you just  
4     want to tell me if we've covered everything, now that  
5     you've reviewed it?  I don't really care.  There's seven  
6     categories here.

7             A     We can go through them.

8             Q     Okay.  Category 1 is Plaintiff's -- strike that.

9                     Before I go down this list here I want to touch  
10    on one other thing.  In reviewing your documentation, I  
11    believe you've received a copy of the recent test results  
12    that were done by The Reynolds Group back in September,  
13    some air sampling test results.  Does that sound familiar  
14    to you?

15            A     Yes.

16            Q     Did you actually review those test results?

17            A     Briefly, yes.

18            Q     Are you intending on providing some expert  
19    opinion as to those results?

20            A     If called upon I will.

21            Q     Are you intending to do that now?

22            MR. JACKSON:  Objection.  That would totally depend on  
23    whether you ask him the question.

24            MR. BROWN:  No, it depends on whether he's intending  
25    right now on rendering an expert opinion on the subject.

1           MR. JACKSON: His intention without a question doesn't  
2 mean anything. It's just his intention.

3           MR. BROWN: Okay.

4 BY MR. BROWN:

5           **Q     Will you be rendering an expert opinion at trial**  
6 **on the contents of the test results from the air sample**  
7 **testing that was done by The Reynolds Group back in**  
8 **September of 2013?**

9           MR. JACKSON: You don't have to review the document in  
10 detail now. That information was just recently received.  
11 If you haven't formed an opinion at this point in time, you  
12 don't have to try to do some kind of detailed analysis at  
13 this point.

14          THE WITNESS: I need to look at what other data was  
15 done in the facility prior to this to form an opinion and I  
16 don't have that in front of me at this time.

17 BY MR. BROWN:

18          **Q     Okay. Let me ask a different question.**

19                 **Have you communicated to Mr. Jackson any opinions**  
20 **you have about the test results we were just discussing**  
21 **prior to today?**

22          A     I believe we talked about them briefly with  
23 respect to the closure letter language generically.

24          **Q     What did you discuss?**

25          A     Like I say, generically what these levels mean,



1 the concentration and the PCE/TCE concentration found in  
2 the indoor air on or about September 12, 2013.

3 Q I'm trying to determine what you discussed, not  
4 generally what you discussed, unless that's as best you  
5 can --

6 MR. JACKSON: Objection. Asked and answered. I  
7 believe he said in relation to the proposed closure  
8 letter.

9 BY MR. BROWN:

10 Q I'm trying to determine what you and Mr. Jackson  
11 discussed with respect to those test results. Tell me what  
12 you said to him, what he said to you, what you discussed  
13 about this potential closure letter, how those test results  
14 might impact the language in that letter. That's what I'm  
15 trying to find out. If you've told me everything, then  
16 great.

17 A I recall we discussed that there was no TCE/PCE  
18 found above the detection limit in the indoor air. That's  
19 all I can recall at this point in time. Other than the one  
20 concentration of -- a couple concentrations of naphthalene  
21 and benzene.

22 Q Did you and Mr. Jackson discuss at any time  
23 before today what the possible source of the naphthalene  
24 and the benzene might be that were detected in those test  
25 results?

1           A     No.

2           Q     Is it possible that those two particular  
3 chemicals were the result of the operations of Universal  
4 Molding that are going on in the building?

5           A     Benzene is fairly ubiquitous in the basin here.  
6 With respect to benzene, I'd have to perform an additional  
7 analysis. With respect to naphthalene, I'd have to perform  
8 an additional analysis. There's a couple traces of  
9 naphthalene.

10          MR. JACKSON: Objection. Nonresponsive. I believe  
11 his question was did we discuss --

12          THE WITNESS: No.

13          BY MR. BROWN:

14          Q     Did you and Mr. Jackson discuss whether or not  
15 Universal Molding would be able to obtain a no further  
16 action or closure letter from the Orange County Health Care  
17 Agency if subsequent test results of air sampling were  
18 similar to the ones you have in front of you?

19          A     Yes.

20          Q     What did you discuss in that regard?

21          A     Just what you just said. And it's coming up in  
22 February or March, something like that.

23          Q     Okay. Before I get to that, have you and Mr.  
24 Jackson discussed whether or not there's going to be any  
25 independent testing done between now and the future to

1 obtain a no further action letter, using someone other than  
2 Reynolds Group?

3 THE WITNESS: Can I hear that again, please?

4  
5 (Record read.)  
6

7 THE WITNESS: No.

8 BY MR. BROWN:

9 Q Back to Mr. Jackson's designation. No. 1 says  
10 that you are or may be providing expert opinion testimony  
11 on, "Plaintiff's alleged work on the subject property."  
12 Have you told me everything that you intend to provide an  
13 expert opinion on in that category?

14 A Yes.

15 Q No. 2, "The actual need for any work by Plaintiff  
16 on the subject property." Have we covered all of your  
17 opinions on that subject?

18 A Yes.

19 Q No. 3, "Scope and degree of work alleged  
20 performed by Plaintiff." Have we covered that?

21 A Yes.

22 Q No. 4, "The cost of all work performed by  
23 Plaintiff." How about that one?

24 A Yes.

25 Q No. 5, "Cost of work contracted to third parties

1 by Plaintiff"?

2 A Not specifically with the third parties; however,  
3 that would be included in my previous opinion, the  
4 necessity of third parties not being necessary to confirm  
5 initially the contamination at the site in March '07  
6 without the implementation of a soil boring as proposed.

7 Q The soil boring we talked about was at a 50-foot  
8 level, if I remember correctly, is that right? The  
9 proposal at least?

10 A It does say 50-foot level, but it also says up to  
11 12 locations at approximately five feet below surface for  
12 the soil vapor. Yes, 50 foot.

13 Q Is that something that's typically done by a  
14 third party or is that generally done by a company like The  
15 Reynolds Group themselves?

16 MR. JACKSON: Objection. Calls for speculation.

17 BY MR. BROWN:

18 Q If you know.

19 A I don't believe there was third-party work done  
20 with respect to that.

21 Q I think what I'm asking, is that type of work  
22 generally done by a third party as opposed to someone like  
23 The Reynolds Group? If you don't know, that's fine. I  
24 don't know how big a scope of work that is, what type of  
25 equipment is needed. That's why I'm asking.

1           A     It's not technically a third party, but a  
2 subcontractor would generally install the soil boring and  
3 samples would be sent to a laboratory, as is typically done  
4 with an environmental consultant on a project.

5           Q     By the way, has your firm ever done this type of  
6 environmental remediation work of the type The Reynolds  
7 Group did on the subject property through closure?

8           A     Yes.

9           Q     How many times?

10          A     10 to 50.

11          Q     Over the last 20 years or so?

12          A     19 years, yes.

13          Q     And that's through getting a no further action  
14 letter in some cases?

15          A     Yes.

16          Q     And does that include from the County of Orange  
17 in some cases?

18          A     Yes.

19          Q     Do you remember when the last no further action  
20 letter was that you obtained on one of those projects from  
21 the Orange County Health Care Agency?

22          A     Not off the top of my head, no.

23          Q     Do you remember how long ago it was?

24          A     Not precisely.

25          Q     In the last five years?

1           A     No.

2           Q     Last ten years?

3           A     Yes. I believe it's Orange County. It might be  
4     Riverside County.

5           Q     In terms of -- because we've touched on this  
6     before, in terms of the language of a no further action  
7     letter that you might expect to get today from the Orange  
8     County Health Care Agency, have those changed from the type  
9     of letter one would have received back in 2011, for  
10    example?

11          A     Specific to an agency?

12          Q     Orange County Health Care Agency.

13          A     They have changed, yes.

14          Q     As you sit here do you recall what the  
15    differences are?

16          A     No, not specifically, but I review them  
17    routinely. I have in front of me a 1995 closure letter.

18          Q     They've changed over time, correct?

19          A     Yes.

20          Q     As you sit here, do you know whether or not the  
21    language would have been different had Mr. Reynolds'  
22    company gotten closure in 2011 versus the language you  
23    would get today on the same project? Have you had the two  
24    letters next to each other?

25          MR. JACKSON: Objection. Calls for speculation.

1           MR. BROWN: That's exactly what I'm trying to find  
2 out.

3           THE WITNESS: To the best of my knowledge, recent  
4 closure letters are of generic language that the work was  
5 done and in accordance with standard practice, standard of  
6 care, the data the decision was based upon was legitimate  
7 and representative of the site, that the overseeing  
8 professional was properly licensed by the state, and that  
9 the site could be, for whatever reason, depending upon the  
10 site data not being reflective of site conditions could be  
11 examined again.

12 BY MR. BROWN:

13           Q     By the way, are you aware of the fact that the  
14 September air sample testing that was done by The Reynolds  
15 Group was paid for by them?

16           A     Paid for by who?

17           Q     By The Reynolds Group.

18           A     No, I'm unaware of that.

19           Q     Have you and Mr. Jackson discussed any complaints  
20 that Mr. Baione has with the current or proposed language  
21 that might be expected to come from the Orange County  
22 Health Care Agency if there is a no further action letter  
23 issued on this property?

24           THE WITNESS: Can I have the question read back,  
25 please?

1 (Record read.)

2  
3 THE WITNESS: No.

4 BY MR. BROWN:

5 Q Before I get to the next one, you know Mr.  
6 Reynolds personally, don't you?

7 A Yes.

8 Q You've worked with him on other projects?

9 A Yes, sir.

10 Q How many?

11 A Could you describe what you mean by "worked  
12 together on"?

13 Q A project where the two of you performed any work  
14 on the same project at any time.

15 A Two or three, three or four. Wait a second.  
16 Yeah, three or four.

17 Q What type of work were you doing just generally  
18 on those projects?

19 A Investigation/remediation.

20 Q Did you have an opinion about the quality of Mr.  
21 Reynolds' work on those projects?

22 A Yes.

23 Q What's your opinion?

24 A He wouldn't have been hired to do the work if he  
25 didn't do the work he was contracted to do.



1           Q     That wasn't my question. Did you form an opinion  
2 about your personal belief as to the quality of his work  
3 that you observed on any of these projects?

4           A     He performed the work in accordance to our  
5 agreement.

6           Q     Did you hire him yourself in some of those  
7 cases?

8           A     Yes.

9           Q     And that was to perform an evaluation of the  
10 site?

11          A     Yes.

12          Q     And the agreement was between Tri-S and Mr.  
13 Reynolds?

14          A     I can't remember. It was a long time ago.

15          THE REPORTER: Counsel, I need to take a break.

16  
17                               (Off the record.)  
18

19 BY MR. BROWN:

20          Q     Dr. Odencrantz, I think we got a little off  
21 track. I was asking about your work with Mr. Reynolds.  
22 Over what period of time have you worked with Mr. Reynolds  
23 directly, in other words, whenever you first retained him  
24 or worked with him on a project? For example, when was the  
25 first time you worked with him, how many years ago, either

1     you hired him or you guys worked jointly on a project?

2             A     Late 90's.

3             Q     Are you aware of the reputation of his firm in  
4     the Orange County area?

5             A     Yes.

6             MR. JACKSON:   Calls for speculation.

7     BY MR. BROWN:

8             Q     What is it?

9             A     What's what?

10            Q     What's the reputation?   What's your belief or  
11     your understanding of his firm's reputation?

12            A     Environmental consulting firm with field  
13     capabilities.

14            Q     Are you able to give me an opinion about in the  
15     industry whether he has a good reputation, bad reputation,  
16     great, superior, anything else?

17            MR. JACKSON:   Vague and ambiguous, calls for  
18     speculation.

19            THE WITNESS:   Mr. Reynolds has a good reputation,  
20     teaches at USC, construction management, I believe.

21     BY MR. BROWN:

22            Q     Back to the declaration.   I think we're on -- I  
23     think we covered No. 5, I believe.

24            A     We covered the second No. 5.

25            Q     How about No. 6, "Industry standards regarding

1 the type of work allegedly performed by Plaintiff"?

2 A No further opinion in that regard.

3 Q No. 7, "The required documentation, licensing and  
4 permitting of such work as allegedly performed by Plaintiff  
5 prior to the start of said work, as well as any testing,  
6 evaluations or reports prepared by Plaintiff and related to  
7 the work Plaintiff allegedly performed on the subject  
8 property"?

9 A No additional opinions.

10 Q The 1995 standards that you're looking at there  
11 from those letters, I want to make sure that I know what  
12 the Bates stamp numbers are so we're clear about -- I think  
13 it's --

14 A I'll give them to you. TRG 71 through TRG 75.

15 Q What was your understanding of the duties and  
16 responsibilities Mr. McFadden had over the course of this  
17 work?

18 MR. JACKSON: Objection. Vague and ambiguous, calls  
19 for speculation.

20 THE WITNESS: He was the real estate broker trying to  
21 get this property sold, purchased. He was the buyer's  
22 representative in the transaction, to the best of my  
23 knowledge.

24 BY MR. BROWN:

25 Q I assume you saw that there was some

1 documentation showing that he continued to be involved in  
2 the property after it was sold?

3 A Yes.

4 MR. JACKSON: Objection. Vague and ambiguous,  
5 "involved in the property."

6 THE WITNESS: Right up until almost now, on most  
7 letters that I saw.

8 BY MR. BROWN:

9 Q Did you gain some understanding as to why Mr.  
10 McFadden continued to be involved in the property after it  
11 was sold?

12 A I was a little perplexed by that. I don't know  
13 if I have an understanding, other than he felt obligated to  
14 keep abreast of the situation, apprised of the situation as  
15 things progressed.

16 Q Let me go back to -- I think you're looking at  
17 the December 15th letter, 1995. That's where you got some  
18 of the numbers we were talking about?

19 A Yes.

20 Q I think it's on TRG 73. Is that where you were  
21 looking at those numbers?

22 A Yes.

23 Q Then you were comparing them to I think a table  
24 from Mr. Reynolds from March that had his soil vapor  
25 results?

1           A     Generally speaking I was, yes, but not on a  
2 one-to-one basis.

3           Q     Do you have those two in front of you?

4           A     I do. I have those three, the correlation we  
5 talked about, yes.

6           Q     So the correlation that you did earlier for me,  
7 you were using a number from the 1995 report and you  
8 calculated that into micrograms per liter, is that what you  
9 were doing?

10          A     I was using the graph on Figure 2, Page 7 of the  
11 report, yes.

12          Q     In using that report, you were calculating -- I  
13 want to make sure I understand. You were calculating which  
14 number into another number?

15          A     I was calculating the 3.4 milligrams of TCE per  
16 kilogram.

17          Q     You're on TRG 73?

18          A     Yes.

19          Q     I'm trying to see where --

20          A     Final 20 foot below grade left in place, 3.4.

21          Q     Got it.

22          A     Milligrams per kilogram of TCE.

23          Q     Okay. And you were making a calculation into  
24 micrograms per liter?

25          A     Yes.

1 Q And that's where you got the 2,200 number?

2 A Yes.

3 Q Roughly?

4 A 25, 22.

5 Q Micrograms per liter?

6 A Yes.

7 Q Okay. And then what we were discussing was that  
8 in Mr. Reynolds' March 9th report, I think you were  
9 pointing out the concentrations -- I guess it was SV 6 or  
10 7, one of those at 115.2?

11 A All of them really, yes.

12 Q I guess what you're saying is that the numbers  
13 back in '95 were, if you calculate them to this standard,  
14 were much higher than what Mr. Reynolds found, is that the  
15 gist of it?

16 A Yes. I wouldn't use the word "standard," but I  
17 calculated what the vapor phase concentration might be from  
18 the '95 TCE concentration left in the soil.

19 Q Would you use the same method to calculate the  
20 PCE's from '95 to the 2007 numbers, are the calculations  
21 similar?

22 A If I had a correlation, yes.

23 Q But is the table you gave me just unique to TCE's  
24 or is it --

25 A Yes.

1 Q -- across the board?

2 A It's unique to TCE's. It's an example.

3 Q So you'd need some other calculation to figure  
4 out the correlation of the PCE's?

5 A Right.

6 Q Whatever the standards were back in 1995, they  
7 were apparently met when they got their closure letter or  
8 their closure back in '95, if I read this correctly. Is  
9 that your understanding?

10 A Yes. In fact, speaking specifically of that, I  
11 noted on the table the PCE at 25 foot below grade was  
12 slightly above the PRG standard of 25 at 25.3.

13 Q But close enough for them to get closure at the  
14 time?

15 A That's right.

16 Q By the way, do you know Mr. Lodrigueza personally  
17 or have you dealt with him personally?

18 A Yes.

19 Q When was the last time?

20 A I dealt with him earlier this year on a site in  
21 Orange County.

22 Q Have you talked to him directly about this  
23 case?

24 A No, sir.

25 Q We were talking earlier about this 50-foot boring

1 that was recommended by Mr. Reynolds. Do you know how  
2 long -- do you have an opinion about how long it would take  
3 to perform a single boring of 50 feet, do whatever testing  
4 is necessary and get those test results back?

5 MR. JACKSON: Vague and ambiguous, "testing  
6 necessary."

7 MR. BROWN: Go ahead.

8 THE WITNESS: Yes, I do. Depending on the lithology,  
9 the subsurface, soil composition, sandy clay, with the  
10 exception of dense gravel or difficulty getting through the  
11 concrete or running into pipes and whatnot, I think  
12 anywhere between four and six hours on a 50-foot boring, in  
13 my view.

14 BY MR. BROWN:

15 Q Then how long to get the results back?

16 A You could have them back the next day if you  
17 wanted to pay a surcharge. The samples are sent to an  
18 offsite certified laboratory and analyzed there, a  
19 certified lab with QA/QC appropriate for regulatory  
20 evaluation purposes, as opposed to screening levels of soil  
21 and the soil vapor.

22 Q We were talking about the Johnson Control site  
23 before. Are you aware that as of 2007 there was a soil  
24 vapor extraction system operating on the Johnson Control  
25 property?



1           A     Yes.

2           Q     Where did you get that information?

3           A     I read it in one of the pages I reviewed in this  
4 case.

5           Q     Do you know what the target compounds were that  
6 they were trying to clean up on the Johnson Control  
7 property?

8           A     Not specifically, no, other than PCE/TCE  
9 chlorinated solvents in general. I didn't analyze that. I  
10 did look at the maps, however, the spacial distribution of  
11 TCE and PCE near that property line.

12          Q     What did those show you?

13          A     At various times it looked as though the  
14 contamination was coming from the north.

15          Q     You don't know whether they were primarily trying  
16 to remediate TCE's as opposed to PCE's or some  
17 combination?

18          A     I didn't look at it that closely, no. But I  
19 interpreted the maps, as I mentioned.

20          Q     I don't know if I asked this question but I want  
21 to make sure. Mr. Reynolds' March 19th letter -- I know  
22 there's a lot.

23          A     Go ahead.

24          Q     The very first page -- I want to make sure that  
25 we discuss both of these things. According to his report

1 of March 19th, the soil vapor investigation, his conclusion  
2 on the first page was that VOC's were detected in 16 of the  
3 19 samples?

4 MR. JACKSON: If I may, are you going to offer that as  
5 an exhibit?

6 MR. BROWN: I can.

7 MR. JACKSON: Why don't you just give him a copy.

8 MR. BROWN: Sure.

9 BY MR. BROWN:

10 Q Exhibit 3 is Bates stamped TRG 5322 through 5333.  
11 The first three pages are the results of the soil vapor  
12 investigation, and attached to it are some tables, site  
13 maps, an optimal technology letter. Do you see that?

14 A Yes.

15 Q I'm just reading from the first paragraph on Page  
16 1 where it says, "Various volatile organic compounds  
17 (VOC's) were detected in 16 of the 19 samples collected,  
18 tetrachloroethene (PCE) and trichloroethene (TCE)  
19 concentrations in almost all soil vapor samples were above  
20 EPA California Human Health Screening Levels (CHHSLs) for  
21 commercial use properties," then it references a table. I  
22 want to make sure if you agree with the statement I just  
23 read.

24 A I agree that it's written on this page, yes.

25 Q Do you have any reason to believe that those

1 results are inaccurate?

2 A Which results, sir?

3 Q The ones I just read to you.

4 A Did you read me results?

5 Q I read you a statement that 16 of the 19 samples  
6 detected VOC's above the EPA CHHSL levels and it references  
7 a table. So if you need to look at the table to determine  
8 whether the statement I read you is correct let me know,  
9 and feel free to do that.

10 MR. JACKSON: Objection. The document speaks for  
11 itself.

12 THE WITNESS: The statement appears to reflect the  
13 table on Table 1 attached to the letter.

14 BY MR. BROWN:

15 Q As best you can tell, if you don't know let me  
16 know, are the CHHSL standards that appear in Table 1 on  
17 Page 5325 for both residential and commercial, are those  
18 accurate as of March 9th, 2007?

19 A They're not standards. You used the word  
20 standard. They're not standards.

21 Q What are they?

22 A They're screening levels. There's a huge  
23 difference. You used the word standard, and it's not  
24 standard.

25 Q Why is it not standard?

1           A     Because they're not standards, they're screening  
2 levels. They're not enforceable.

3           Q     Does it accurately reflect the screening levels  
4 that were in existence at the time?

5           MR. JACKSON: Do you have an extra one?

6           MR. BROWN: I don't know if I made three or not.

7           MR. JACKSON: Those are copies?

8           MR. BROWN: You only had two of a couple of them.  
9 I'll see if I can find one.

10          MR. JACKSON: I'll remember that.

11          MR. BROWN: No, I think there was a couple of times.

12                Go ahead.

13          MR. JACKSON: Is there a question pending?

14          MR. BROWN: Yes.

15          MR. JACKSON: Read it back, please.

16

17                       (Record read.)

18

19          MR. JACKSON: Vague and ambiguous. You mean does the  
20 document reflect what it reflects?

21          MR. BROWN: No. It has certain commercial screening  
22 levels at the bottom. I'm asking him if he knows whether  
23 those are the accurate screening levels for commercial and  
24 residential that existed at the time. I don't know if he  
25 knows or doesn't, so I asked.

1           MR. JACKSON: Well, I'm still going to object. Here's  
2 why. The table is a table of results of testing. The  
3 footnotes don't say anything about what the CHHSL levels  
4 are, the screening levels are. They just say -- they just  
5 give a definition of what CHHSL commercial is. They don't  
6 say what the CHHSL screening levels are. And the table --

7           MR. BROWN: I believe they do.

8           MR. JACKSON: -- are the test results.

9           MR. BROWN: If he doesn't understand the question he  
10 can tell me. If you have an objection you can tell me.

11          THE WITNESS: I'd need to consult the CHHSL document  
12 to verify that. I have no reason as I sit here to believe  
13 these listed values don't reflect what's in the manual  
14 itself. I can look at it after the deposition, and if  
15 there are any differences I'll be sure to let you know.

16 BY MR. BROWN:

17           **Q     Okay. Is it your understanding from the**  
18 **document, that at least it purports to reflect at the**  
19 **bottom of Table 1 what the CHHSL standard screening levels**  
20 **were? For example --**

21           A     I've got to say, sir. You keep interjecting the  
22 word standard. They're not standards.

23           **Q     Okay. I was going to change it.**

24                   **If we look at the TCE column on Table 1 at the**  
25 **bottom, it's got a number of 4.4 across from the CHHSL tag.**

1 Do you see that?

2 A I do.

3 Q Do you believe that to be -- at least is supposed  
4 to be whatever the screening level was at the time? Does  
5 that number seem right to you?

6 A It does.

7 Q Okay. And there's a 1.3, looks like it would be  
8 the residential screening level.

9 A It does.

10 Q Okay. I realize you don't have the CHHSL  
11 standards in front of you but --

12 A They're on the DVD I gave you of documents  
13 yesterday. I'd be more than happy to call them up.

14 Q That's okay. We can look at those later. I'm  
15 just -- all right.

16 A There is language in there as to the purpose of  
17 CHHSL in the first paragraph or two of the document, which  
18 might be helpful in putting this document in context.

19 Q Okay. Well, what is your understanding of the  
20 purpose of these CHHSL screening levels, if you have an  
21 understanding?

22 A They're screening levels for vapor intrusion  
23 assessments.

24 Q To determine what?

25 A If a vapor intrusion issue may or may not exist

1 at a site.

2 Q For what purpose? Is it to make sure that human  
3 health is protected or is it something else, or do you  
4 know?

5 A You could read the document. It incorporates a  
6 lot of cap rates for human health, but yes.

7 Q That's one of the ideas behind the screening  
8 levels?

9 A That's right.

10 Q So you don't get concentrations of certain  
11 substances above whatever they consider to be potentially  
12 hazardous?

13 A They're screening levels.

14 Q Hypothetically, if the Orange County Health Care  
15 Agency for whatever reason was called to a site and  
16 performed this kind of soil vapor testing and came up with  
17 the results you see in Table 1, do you know if they would  
18 order some type of remediation of the site at locations  
19 where they found these levels to exist?

20 MR. JACKSON: Objection. Calls for speculation,  
21 incomplete hypothetical.

22 THE WITNESS: I don't know if they wouldn't ask or  
23 wouldn't tell. I don't know what they'd do. I don't know  
24 how they incorporate this data into the Johnson Edinger  
25 Model and calculate a site specific risk based on that,

1 which is what they did for the concentrations later in the  
2 year. In '07 they didn't use those screening levels per  
3 se.

4 BY MR. BROWN:

5 Q Do you know if in 2007 the Orange County Health  
6 Care Agency had the authority to order a landowner to  
7 perform remediation work if they detected TCE's or PCE's  
8 above the existing screening levels at the time?

9 MR. JACKSON: Objection. Vague and ambiguous as to  
10 "they."

11 MR. BROWN: The Orange County Health Care Agency.

12 THE WITNESS: Screening levels where?

13 BY MR. BROWN:

14 Q At Mr. Baione's property in March 2007.

15 MR. JACKSON: Vague and ambiguous in scope and time.  
16 Before or after the site was open?

17 MR. BROWN: The question stands. If he can't answer  
18 it, then he can tell me.

19 THE WITNESS: I believe the Department of Toxic  
20 Substances and Control could. I'm not certain about Orange  
21 County Health Care, their jurisdictional limits or  
22 authority with respect to enforcement of CHHSL as listed in  
23 this table.

24 BY MR. BROWN:

25 Q Were you aware that the DTSC had closed the



1 Johnson Control site or issued a closure letter as a result  
2 of the 1994-1995 investigation where the case had been  
3 opened?

4 A You're not giving me a time on when the closure  
5 letter was issued so I can't answer that.

6 Q 1995.

7 MR. JACKSON: You're asking about the closure letter  
8 on the Johnson Control property?

9 MR. BROWN: Right.

10 BY MR. BROWN:

11 Q Strike that.

12 Were you aware that at any time -- were you aware  
13 that at some point prior to 2011 the DTSC had issued a  
14 closure letter for the Johnson Controls property, at any  
15 time?

16 A I saw mention of it, yes. I can't remember the  
17 date. But I know it wasn't in '07 to '09 roughly, as I  
18 recollect.

19 Q In the case that you have here where Mr. Reynolds  
20 and The Reynolds Group performed certain soil vapor  
21 testing, it's your opinion that the landowner, Mr. Baione,  
22 or potential landowner had the option to go forward with  
23 some type of remediation or had an option to not do  
24 anything, is that right?

25 MR. JACKSON: Objection. Vague and ambiguous as to

1 scope and time.

2 MR. BROWN: In 2007.

3 MR. JACKSON: Before or after the site was opened?

4 MR. BROWN: The question stands.

5 If you don't understand the question you can let  
6 me know.

7 You're injecting improper objections.

8 THE WITNESS: Can I hear the question again, please?

9  
10 (Record read.)

11  
12 THE WITNESS: Yes.

13 BY MR. BROWN:

14 Q Do you know why Mr. Baione decided to go forward  
15 in having The Reynolds Group perform the remediation work  
16 at the site?

17 A I can't speculate as to Mr. Baione's state of  
18 mind and what he was told at the time. I've never spoken  
19 to the man. I've never met the man.

20 Q Well, but you would agree that Mr. Baione had the  
21 ability to do the remediation work whether it was necessary  
22 or not, correct, that was his choice?

23 MR. JACKSON: Same objection.

24 THE WITNESS: I reviewed the documents in this case.  
25 I don't know what Mr. Baione and Mr. Reynolds'

1 understanding was with respect to the implementation of  
2 said scope of work or invoices that reflected work done. I  
3 don't know.

4 BY MR. BROWN:

5 Q Did you see any documentation that indicated that  
6 Mr. Reynolds informed Mr. Baione or his representatives  
7 that they had to remediate the site?

8 A This seems like wordsmanship to me in terms of  
9 the use of the word "had." Can you explain what you mean  
10 by "had"?

11 Q That it was mandatory in some form or fashion.

12 A Represented as mandatory?

13 Q Right, as opposed to voluntary.

14 A And the question is?

15 Q Did you see any evidence that Mr. Reynolds or The  
16 Reynolds Group represented that the remediation work they  
17 were proposing was mandatory as opposed to voluntary?

18 A Not specifically, but I do remember seeing one of  
19 the project managers at The Reynolds Group refer to vapor  
20 testing being "sold" to the client, which set off some  
21 alarm bells to me, in terms of selling services to a  
22 client.

23 Q Do you remember the date of that document or  
24 where you saw it?

25 A I can find it.

1           **Q     Okay.**

2           A     It was Mr. Cleary at The Reynolds Group. I can't  
3 find the document. I'm not sure I have it in front of me.  
4 But it was on or about August 2007. It was in documents  
5 produced by Grubb & Ellis.

6           **Q     And that was after The Reynolds Group was told**  
7 **that they could proceed with the work, correct?**

8           A     After the site was reopened and put into a  
9 voluntary cleanup?

10          **Q     Sure.**

11          A     Request for remedial action letter?

12          **Q     Right.**

13          A     Signed by Luis Lodrigueza on July 23rd, '07?

14          **Q     Right. Is that the letter you're thinking of? I**  
15 **don't know if you found it yet.**

16          A     It's an E-mail, it's not a letter. I didn't  
17 bring the entire file with me, although it is in the  
18 discovery.

19          **Q     I understand.**

20          A     "Sold" the client on a vapor survey, the second  
21 vapor survey he was referring to.

22          **Q     Referring to some work that was being performed**  
23 **after the site was opened?**

24          A     Yes.

25          **Q     Okay. What you just told me was something that**

1 occurred afterwards, it didn't indicate that there was some  
2 selling of some remediation work by someone at The Reynolds  
3 Group before this, right?

4 MR. JACKSON: Misstates his testimony.

5 If you don't remember the exact dates, don't  
6 guess.

7 THE WITNESS: I don't remember the exact dates, but I  
8 do know that that second vapor survey showed substantially  
9 higher concentrations than the first vapor survey.

10 BY MR. BROWN:

11 Q Is that significant to you?

12 A I know that there was quite some talk about it  
13 internally, about those higher concentrations found in the  
14 second round. I don't know what "sold" means with respect  
15 to what was found in the second vapor survey.

16 MR. JACKSON: I'll remind you, Dr. Odencrantz, you  
17 don't have to guess or estimate. If you don't recall, he  
18 can show you a document to refresh your memory.

19 BY MR. BROWN:

20 Q Do you recall in any of the documents why, if you  
21 recall, Universal Molding Company decided to move forward  
22 and have remediation work done in about July 2007?

23 MR. JACKSON: Read the question back, please.

24  
25 (Record read.)

1           THE WITNESS:   Yes.

2       BY MR. BROWN:

3           **Q       What?**

4           A       A letter dated July 23rd, 2007, a request for  
5       remedial action supervision, signed by Luis Lodrigueza and  
6       copied to John Cleary and Ann Sturdevant, John Cleary with  
7       The Reynolds Group and Ann Sturdevant with the California  
8       Regional Water Quality Control Board.  I do know that The  
9       Reynolds Group reviewed this letter a few days before it  
10      went out and participated in the letter's contents.  I also  
11      know that there was a letter the day -- meeting the day  
12      after with the agency to discuss reopening of the closed  
13      site on July 24th, 2007.

14          **Q       Is it your understanding from review of the**  
15      **documents, that it was Mr. McFadden that told or**  
16      **communicated to The Reynolds Group that they were to**  
17      **proceed with some form of remediation work?**

18          MR. JACKSON:  Objection.  Vague and ambiguous.

19          THE WITNESS:  I don't have the entire file with me.  I  
20      do remember Mr. McFadden talking about the remediation  
21      costs, and whether he represented to implement the  
22      remediation itself I don't recall.  I do remember him on or  
23      about the time this letter was issued talking about the  
24      remedial go-ahead.

25      ///

///

1 BY MR. BROWN:

2 Q Do you recall seeing that subsequent  
3 communications, or at least some of them, from July 2007  
4 forward were sent directly to Mr. McFadden as opposed to  
5 being sent directly to Mr. Baione, for example?

6 A I don't recall that. Do you have an example of  
7 that?

8 Q Yeah, but we'll move on. I'll try to get you out  
9 of here as soon as I can.

10 Exhibit 4 is some of the E-mails that were in  
11 your documents that you produced, Mr. Odencrantz. They go  
12 from Page 7 to 18. I think there's two Page 10's.

13 It's my understanding your office keeps your  
14 E-mails in an Outlook format, is that --

15 A Yes.

16 Q And you produced or attempted to produce all the  
17 E-mail communications between you and Mr. Jackson's office,  
18 among other things?

19 A Yes.

20 Q Or things you received from him?

21 A What do you mean by other things?

22 Q He also would send you copies of communications  
23 to Mr. Lodrigueza as part of this as well?

24 MR. JACKSON: What was that? What did I do with  
25 the --

1           MR. BROWN: Included in here were I think some E-mails  
2 between Mr. Jackson and Mr. Lodrigueza as well as between  
3 Mr. Odencrantz and your office. Page 17 has one or two of  
4 them.

5           THE WITNESS: I don't know where these page numbers  
6 are from. They do look like E-mails from my Outlook.

7 BY MR. BROWN:

8           Q       That's my understanding. Other than there appear  
9 to be copies of other E-mails perhaps Mr. Jackson sent you  
10 copies of, which is what I'm --

11          A       The way you worded it, I thought you were  
12 referring to another project mixed in.

13          Q       I don't think so. I guess my first question is  
14 how many times have you met directly with Mr. Jackson in  
15 person?

16          A       Three or four times.

17          Q       Has anyone else been present other than you and  
18 Mr. Jackson?

19          A       No.

20          Q       If you could flip to Page 8, that appears to  
21 be -- this is just sort of the order they came in. I think  
22 they're going earlier to later.

23                 In any event, the top one look likes an E-mail to  
24 you from Mr. Jackson, Monday, December 16th. It appears  
25 that Mr. Jackson is referring to one of the documents we



1 talked about earlier, the 1995 closure letter, and he's  
2 requesting whether you could determine whether safe or  
3 acceptable levels are the same in 2013 as they were in  
4 1995. Do you see that?

5 A I do.

6 Q Did you perform those calculations, did you  
7 perform that task?

8 A I never got to that, no.

9 Q Next page, it appears to be an E-mail from you to  
10 Mr. Jackson, December 13th, talking about you helping with  
11 a list of questions. What I want you to direct your  
12 attention to is the next paragraph on Page 9 that starts  
13 with the words, "In short." Do you see that?

14 A Right.

15 Q It says, "In short, I do believe James McFadden  
16 was influenced by both Mr. Reynolds and his attorney, Mr.  
17 Jack Glaser, and as a result became a champion for the soil  
18 vapor remediation project."

19 Do you see that?

20 A Yes.

21 Q Is that your opinion?

22 A It's one of my opinions.

23 Q Then you reference some documents there. Do you  
24 see that?

25 A I do.

1           Q     It's your opinion that Mr. McFadden was -- when  
2     you say the soil vapor remediation project, do you mean the  
3     work that The Reynolds Group did starting in the summer of  
4     2007 and going forward as opposed to the work they did  
5     earlier in 2007, the initial assessment, or both?

6           A     I believe here I'm speaking of the remediation  
7     itself after the site was reopened.

8           Q     Mr. Glaser is referenced here. It looks as  
9     though -- that's what I'm going to ask you. It was your  
10    understanding Mr. Glaser was representing Mr. Reynolds  
11    during this project?

12          A     No.

13          Q     To your understanding, who he was representing?

14          A     I don't know who he was representing. It  
15    appeared that he was included in the process from the very  
16    beginning. I assume Mr. Reynolds paid him or Mr. Baione,  
17    but I don't know who he was representing, per se.

18          Q     Do you have an understanding of what duties and  
19    things he did and performed during the project?

20          A     Other than him being part of the process, a party  
21    to the process, no. I know that he was involved from the  
22    early time prior to the reopening of the project, and later  
23    as part of the decision-making, especially with respect to  
24    the initial soil vapor testing that was conducted.

25          Q     Do you know Mr. Glaser?

1           A     I don't think so. I know his name. I could have  
2 met him. I may have met him once at a conference or  
3 something, or a meeting. I just don't know.

4           Q     Do you recall seeing or learning that Mr. Glaser,  
5 among other things, negotiated a release for Universal  
6 Molding from the Orange County Water District litigation  
7 involving, among other locations, the Johnson Controls  
8 site?

9           A     Not specifically, no.

10          Q     At the bottom of Page 9 there's an E-mail to you  
11 from Mr. Jackson dated December 13th. I just want to  
12 direct your attention to the middle paragraph there. I  
13 want to read the part I'm referring you to her.

14                "As I recall, you had considerable concerns about  
15 his failure to follow the professional standards for  
16 contracting this type of remediation," and then it goes on  
17 I think to talk about you preparing some questions for  
18 Mr. Reynolds' deposition.

19                Directing your attention to what I just read to  
20 you, do you have an opinion about whether or not Mr.  
21 Reynolds or his company failed to follow professional  
22 standards for contracting, and if so, is it what you've  
23 already told me about that issue?

24           A     It is. I know that I was thinking that  
25 remediation was supposed to take a year. It took much

1 longer than a year. And in 1995 the remediation that took  
2 place was two months and at a substantially lower cost. I  
3 did not see a contract for the remediation work itself in  
4 terms of what was going to be done at different periods of  
5 time.

6 Q I gather you've drafted these kind of remediation  
7 contracts yourself or for your firm?

8 A To some extent, yes.

9 Q Is there some standards in the industry for  
10 what's supposed to exist in these types of contracts?

11 A As in any contract, there's elements of a  
12 contract: No surprises to the client, they know what it's  
13 going to cost, an agreement as to what services are going  
14 to be performed, what the cost is going to be and over the  
15 time it's reasonably expected to finish.

16 Q Let's talk about the cost first. In your  
17 experience, when you draft agreements to do remediation  
18 work, how do you deal with the issue of how long it's going  
19 to take; in other words, I assume that you don't know  
20 specifically how long it's going to take. Do you try to  
21 put in some additional time in case there's something that  
22 comes up that was unexpected, or do you just leave it  
23 open-ended or both?

24 MR. JACKSON: Objection. Incomplete hypothetical,  
25 calls for speculation.

1           THE WITNESS: I have never embarked upon voluntary  
2 cleanup work such as this. All of my remediation work has  
3 been under directive from the agency, not a reopening of a  
4 site.

5 BY MR. BROWN:

6           Q       When you've done remediation work in the past,  
7 how do you go about determining what length of time to put  
8 in the agreement that you think the work will take when you  
9 come up with that number?

10          MR. JACKSON: Objection. Incomplete hypothetical.

11          THE WITNESS: It really depends on what you're doing.  
12 For quarterly monitoring you monitor every quarter. For a  
13 remediation project you might have a scope of work for  
14 remediation, go check the performance of the remediation  
15 system. If the levels aren't met, then you've got to go  
16 back and write a new proposal, new scope of work, et  
17 cetera, et cetera. It's a process. And sometimes the  
18 regulatory agency will work with you on obtaining closure.  
19 So it's not always what the data shows, and it's not always  
20 what you expect either.

21 BY MR. BROWN:

22          Q       What I wanted to know is though in your E-mail  
23 here you use the words, "professional standards for  
24 contracting." I'm trying to -- what do you mean by that  
25 phrase?

1 MR. JACKSON: I'll object. That's my wording.

2 BY MR. BROWN:

3 Q Did you know what Mr. Jackson meant by  
4 "professional standards"? Because it looks like he's  
5 referring to a conversation you guys had. That's what I'm  
6 trying to find out. Are there some professional standards  
7 for contracting in your industry that you're aware of?

8 A Other than the contract itself, not particularly,  
9 no. There's standards of performing the work and informing  
10 your client and looking after your client's best  
11 interests.

12 Q When you've drafted these kinds of agreements, do  
13 you typically put a dollar figure in that it's going to  
14 cost as opposed to giving a range or an outside -- it can't  
15 go above a certain number?

16 A The cost estimate you're referring to is very  
17 limited in data and scope and detail. I've never put a  
18 cost estimate together for a client that didn't have more  
19 detail than that. It's very broad and not based on a lot  
20 of detail and factual assumptions.

21 Q When you prepare cost estimates, do you attach a  
22 fee schedule for what the hourly fees will be for different  
23 people doing different types of work?

24 A Yes.

25 Q Have you seen one of those in the documentation

1 that you reviewed?

2 A Yes.

3 Q Next page of the E-mail is -- it's the first  
4 page. In the middle it's a letter to -- E-mail to you from  
5 Mr. Jackson that purports to discuss a conversation. It's  
6 dated December 11th.

7 First of all, do you recall the conversation that  
8 he's talking about here?

9 A To some extent. It was a couple months prior to  
10 this E-mail.

11 Q Do you remember what you said to him and he said  
12 to you?

13 A Not specifically, no.

14 Q Do you remember telling him words to the effect  
15 that Mr. McFadden was in part responsible for UMC's current  
16 position?

17 A He was part of the process. I don't believe I  
18 allocated any responsibility necessarily to him other than  
19 what he communicated with the various parties during  
20 January to August or so 2007.

21 Q Do you remember ever holding the opinion at any  
22 point that Mr. McFadden was in fact responsible for UMC's  
23 situation or current position?

24 MR. JACKSON: Objection. Those are my words, not his.

25 THE WITNESS: I read his deposition and I read the

1 E-mails between him and Mr. Reynolds. It's self evident  
2 when you read them.

3 BY MR. BROWN:

4 Q What's self evident?

5 A That they were working together as a team in the  
6 remediation project and the costs associated with them and  
7 the implementation of them.

8 Q Are you prepared at trial to render an opinion  
9 about whether or not there was any material information  
10 that Reynolds Group had that was withheld from Universal  
11 Molding prior to the opening of the case by the Orange  
12 County Health Care Agency in July 2007?

13 MR. JACKSON: Objection. Vague and ambiguous.

14 THE WITNESS: If the information was withheld, how  
15 would I know it?

16 BY MR. BROWN:

17 Q Because sometimes information comes to light  
18 after the fact, theoretically, that somebody should have  
19 disclosed at the time. For example, you might sell a house  
20 with a roof problem and not disclose it to the buyer and  
21 they might find invoices for roof repair that was not  
22 disclosed to them at the time of the sale, as an example.  
23 Does that help you?

24 MR. JACKSON: Objection. Incomplete hypothetical.

25 THE WITNESS: I don't need help. I asked for



1 clarification. Can I get a bathroom break?

2 MR. BROWN: You sure can.

3  
4 (Off the record.)

5  
6 BY MR. BROWN:

7 Q I believe there was a question pending before Dr.  
8 Odencrantz went off the record.

9 A Yes, I believe there was.

10 Q What do you believe that was?

11 A I believe Mr. Baione was not informed that Mr.  
12 Luis Lodrigueza stated don't ask/don't tell about reopening  
13 the site. And I also believe that he wasn't instructed  
14 that he didn't have to sign a request for remedial action  
15 supervision in order to get a no further action letter as  
16 represented by John Cleary in his letter to Mr. Baione  
17 dated July 23rd, 2007.

18 Q Let's start with the don't ask/don't tell letter.  
19 That was the one to Mr. Glaser, I believe, correct, March  
20 22nd?

21 A Yes, it was. It stated attorney-client  
22 privileged communication and/or work product dated March  
23 22nd is the header on the attorney-client privilege.

24 Q And the letter you're referring to, I've got GE  
25 documents. That was 135?

1           A     Mr. Cleary's letter dated July 23rd, 2007 is  
2     Bates stamped GE 00135.

3           Q     Have you finished giving me your answer to the  
4     question about anything that was withheld?

5           A     Yes.

6           Q     On the March 22nd letter, is the basis of your  
7     opinion that Mr. Baione was not informed of that just based  
8     on the fact that you haven't seen in any of the documents  
9     reviewed any indication that he got it or saw it?

10          A     That he got the letter or he got the information?

11          Q     Let's talk about the letter first.

12          A     Okay.

13          Q     You told me that you believed that Mr. Baione  
14     wasn't informed of this don't ask/don't tell policy, that  
15     they didn't have to open up the site, right?

16          A     Yes.

17          Q     And the reason you believe that he wasn't  
18     informed of it is you've seen no evidence that he was sent  
19     a copy of that letter, it wasn't addressed to him, wasn't  
20     copied to him, there was no other written documentation  
21     that shows that he saw it?

22          A     Right.

23          Q     In your review of the materials, do you know or  
24     have you seen any testimony that indicates that Mr.  
25     McFadden received a copy of the March 22nd letter?

1           A     I believe I did. He spoke of it and commissioned  
2     it.

3           Q     Do you recall seeing anything in his testimony  
4     where he indicated whether or not he sent a copy of that to  
5     Mr. Baione? And if you don't remember, that's fine. It's  
6     not a memory test.

7           A     I don't recall.

8           Q     Would I be correct in assuming that you haven't  
9     seen any evidence that Mr. Glaser sent a copy of that March  
10    22nd letter to Mr. Baione himself?

11          A     I have not.

12          Q     I'm sorry if I asked you this already, but to  
13    your understanding Mr. Glaser was -- do you have an  
14    understanding of whether Mr. Glaser was formally retained  
15    by someone? By that I mean a formal retainer agreement was  
16    signed by someone outlining what his services would be,  
17    what he'd be paid, that kind of thing.

18          A     No.

19          MR. JACKSON: Objection, the reference to  
20    attorney-client privilege between him and The Reynolds  
21    Group.

22          MR. BROWN: I am not sure that is definitive, but  
23    anyway.

24          THE WITNESS: You told me earlier that he was under  
25    contract by both the previous landowner and -- Mr. Baione's

1 property and Johnson Controls for an OCWD case.

2 BY MR. BROWN:

3 Q I think I mentioned he was retained -- I'll just  
4 represent to you that I think part of his work was to  
5 negotiate a release of Universal Molding from that  
6 litigation. I think that's accurate.

7 MR. JACKSON: Objection. Misstates the facts as to  
8 Universal Molding was not a party to that litigation.

9 MR. BROWN: That the release included them because  
10 they were going to be a potential buyer of the property.

11 MR. JACKSON: I still object. And I object to the  
12 fact you're misrepresenting my client's position in a prior  
13 litigation to the Witness.

14 MR. BROWN: That's okay. Let me ask a different  
15 question.

16 BY MR. BROWN:

17 Q Do you have an understanding as you sit here as  
18 to who Mr. Glaser's client was as of March 22nd, 2007? And  
19 if you don't know you can tell me. I realize the document  
20 says attorney-client privilege.

21 A Throughout this whole course of my document  
22 review I thought Mr. Glaser's client was Mr. Reynolds.

23 Q Okay. Then you mentioned the July 23rd letter to  
24 Mr. Baione from Mr. Cleary and that Mr. Baione wasn't told  
25 that he didn't have to use OCHCA in a supervisory fashion.

1     **Did I state that accurately?**

2           A     I think you're missing the part about sign this  
3     to get a no further action letter, which is stated in the  
4     letter.

5           Q     Okay. So correct me if I'm wrong. So it would  
6     have been possible for The Reynolds Group to have done this  
7     work through to whatever conclusion and then brought in  
8     OCHCA to issue a no further action letter afterwards?

9           MR. JACKSON: Objection. Misstates the testimony,  
10    misstates the evidence, misstates the facts.

11          THE WITNESS: To me you're beating a dead horse  
12    because it stops after don't ask/don't tell. There was no  
13    regulatory directive of any kind to do remediation at the  
14    site.

15    BY MR. BROWN:

16          Q     Okay. But if a client like Mr. Baione wanted to  
17    get a no further action letter from the Orange County  
18    Health Care Agency, was it required that they be involved  
19    in supervising the work as it progressed?

20          MR. JACKSON: Objection. Misstates the facts. A no  
21    further action letter wouldn't have been required if they  
22    hadn't opened the site. You're misstating the facts.

23          MR. BROWN: I'll withdraw it.

24    BY MR. BROWN:

25          Q     If Mr. Baione had wanted to get a subsequent no

1 further action letter from the Orange County Health Care  
2 Agency for whatever reason, following remediation work of  
3 the type that was performed, would it have been -- is it  
4 required to get the Orange County Health Care Agency  
5 involved to supervise that work before the letter is  
6 subsequently issued?

7 MR. JACKSON: Objection. Calls for facts not in  
8 evidence, incomplete hypothetical, calls for speculation.

9 THE WITNESS: The Industrial Site Cleanup Program  
10 oversees the voluntary cleanup of contaminated properties.  
11 Sections 101480 through 101490 of the Health and Safety  
12 Code provide that, "A responsible party for release may  
13 request oversight of a site investigation and any  
14 remediation necessary to mitigate the site."

15 I'm reading from the Orange County Health Care  
16 website, the Industrial Cleanup Voluntary Program  
17 description. And I also have the Health and Safety Code as  
18 part of these documents that it refers to. I could read  
19 from them or you could attach them, if you'd like.

20 BY MR. BROWN:

21 Q That's okay. You've obviously reviewed them.

22 I guess my question is -- it's a hypothetical.  
23 You've done these before. If you can't answer, if it's  
24 improper you let me know.

25 Is it possible for someone like Mr. Baione to

1 embark on the process of remediation of the type that The  
2 Reynolds Group did with the intent of getting a subsequent  
3 no further action letter without having that work  
4 supervised by the Orange County Health Care Agency?

5 MR. JACKSON: Same objection. Incomplete  
6 hypothetical, assumes facts not in evidence.

7 BY MR. BROWN:

8 Q And then that presumes that after the work is  
9 done, that there's some type of contact with the agency  
10 requesting a no further action letter at that point,  
11 because that's when it was being sought. If you can't  
12 answer the question let me know.

13 MR. JACKSON: Calls for speculation, possibility.  
14 Usually anything is possible.

15 THE WITNESS: You don't need to have their oversight  
16 to do this. If you hire a competent professional to  
17 oversee the work, they could do it voluntarily without  
18 entering this program, as long as they did it in accordance  
19 with the rules and provided the data appropriately. The  
20 Orange County Health Care Agency pretty much approves any  
21 scope of work or work plan as long as you're out there  
22 doing something. They don't scrutinize it that  
23 carefully.

24 BY MR. BROWN:

25 Q So in your review of the documents, were you able

1 to discern why there was a decision to involve the Orange  
2 County Health Care Agency in the first place, other than  
3 Mr. Cleary's letter here that we've been talking about?

4 MR. JACKSON: Other than the bidding opportunity for  
5 your client?

6 MR. BROWN: That's not necessary, Mr. Jackson. I  
7 don't think it's appropriate and it's not going to get us  
8 any closer to getting this done, but if you want to keep it  
9 up it's fine.

10 THE WITNESS: Like I said earlier, I don't think it  
11 was necessary to get the agency involved and reopen the  
12 site based upon the data that was collected at the site and  
13 subsequent analysis of that data that compared previous  
14 soils concentrations left there in 1995. I think I've made  
15 that clear.

16 BY MR. BROWN:

17 Q Well, have you seen in your review of the  
18 documents any indication that there was some discussion  
19 between The Reynolds Group and Universal Molding or Mr.  
20 McFadden about the pros and cons of involving the Orange  
21 County Health Care Agency in this remediation work?

22 A I did not see that in the records.

23 Q Do you still have the E-mails in front of you?

24 A Yes, I do.

25 Q You might need to -- it's actually Page 12, but



1 you tell me if you need to look at something else. I'm  
2 looking at the middle E-mail of August 26 to Ms. King, who  
3 I think is in Mr. Jackson's office, from you.

4 My question basically is: It looks like you  
5 wanted to -- it may refer to the E-mail above -- that you  
6 wanted to speak with I guess Mr. Jackson -- it's not clear  
7 to me -- about information you gleaned from a document that  
8 might have bearing on settlement. Do you see where I'm  
9 reading? You could be referring to Mr. Baione. I'm just  
10 not sure. Then it goes on, "I think it's best to speak  
11 with him this week as opposed to late in the fall."

12 Do you see where I'm reading?

13 A I wrote it. Yes, I see what you're reading from.  
14 I produced this document.

15 Q Can you tell from this what document you're  
16 talking about here? And if you need to refer to the one up  
17 above let me know.

18 A I do need to refer to the one up above. This was  
19 in August. There's a lot of documents here, 7,500 pages it  
20 says produced by Reynolds Group and we obtained 1,283 pages  
21 from Orange County Health Care.

22 I can't recall specifically, but I believe I was  
23 referring to the March 2007 privileged and confidential  
24 site investigation data submitted to the agency, but I  
25 can't recall specifically. There are a lot of documents.

1           Q     I understand.

2           A     I'm looking at -- it says, "Attorney-client  
3 Privileged Confidential Information, March 19th, Results of  
4 Soil Vapor Investigation, Orange County Health Care, 687  
5 through 699." I referenced this document earlier.

6           Q     Do you recall what it was about that document  
7 that you thought might have a bearing on settlement?

8           A     I don't recall.

9           Q     Next page, Page 14, there's a fairly long E-mail  
10 here from you to Mr. Jackson on August 21st. Do you see  
11 that, takes up most of the page?

12          A     I do.

13          Q     I think the first couple sentences talk about  
14 this E-mail from Mr. Lodrigueza to his supervisor, and I  
15 think we touched on that before. I just want to make sure  
16 I attach it as an exhibit so we have it in the record,  
17 Exhibit 5. I think it's also part of the next page as  
18 well, but I wanted to attach it to the record separately as  
19 an exhibit.

20                 Your E-mail says, the first sentence, "Of  
21 particular importance, and I wanted to get this to you ASAP  
22 in real time." Have you told me everything about this  
23 first sentence that is of importance to you or is  
24 significant to reaching your opinions?

25          A     I've lost track where you're reading from, where

1 you're at.

2 Q I was reading from your E-mail to Mr. Jackson  
3 where you said that this document, OCHCA 681 -- you have to  
4 go back and forth.

5 In your E-mail you say that, "The first sentence  
6 of the July 25th E-mail is of particular importance and I  
7 wanted to get this to you ASAP in real time." I want to  
8 make sure that you explain to me what's of particular  
9 importance in this first sentence here.

10 A I must say it again, I don't know where you're  
11 reading from. Where?

12 Q I'm reading from Exhibit 4, your E-mail of August  
13 21st.

14 A Okay.

15 Q The first couple of sentences, and then in the  
16 third sentence you're talking about this document that's  
17 Exhibit 5. And your E-mail to Mr. Jackson says, "The first  
18 sentence of the E-mail is of particular importance."

19 I want to make sure what was of particular  
20 importance or if you've already told me what's of  
21 particular importance. The first sentence talks about that  
22 the site had been previously closed. It's actually all one  
23 sentence it looks like.

24 A I'm reading it. Okay. I'm with you now. Is  
25 there a question?

1           Q     Yes. You told me already something about this  
2 document. I want to make sure. Is there anything else  
3 that we haven't discussed in terms of why you felt this  
4 first sentence was of particular importance as you  
5 referenced in your E-mail to Mr. Jackson?

6           A     You know, I think I was referring to the fact  
7 that there was a remediation done before to a successful --  
8 to acceptable levels. That was important. The site was  
9 closed based on those levels. Now he's, after a letter  
10 after reopening the site, wondering about how to reopen it  
11 based on those levels and what to do, essentially. I felt  
12 that was important.

13                     I hadn't seen this before, I believe. It wasn't  
14 produced prior to me in reviewing the Orange County Health  
15 Care suite of documents. I think it's an internal document  
16 to the agency, Orange County Health Care to the Santa Ana  
17 Regional Water Quality Control Board in Riverside.

18           Q     In your E-mail to Mr. Jackson it goes on to say,  
19 "Keep in mind, he reported those concentrations to the  
20 agency that are from a screening (non-defensible on a  
21 concentration basis) vapor (soil gas) method."

22                     Do you see what I was reading from?

23           A     What paragraph?

24           Q     First paragraph of the E-mail, like the third  
25 sentence, starts with "Keep in mind."

1           A     I jumped down.  Okay.

2           Q     Can you tell me what that sentence means?

3           A     The sentence to the attorney means screening  
4 based on the mobile lab.  And the level of QA/QC is not as  
5 high as an offsite lab, which was used in the indoor air  
6 sampling recently.

7           Q     What does it mean where it says, "Non-defensible  
8 on a concentration basis," what does that mean?

9           A     It means that if the concentrations were for  
10 closure, let's say, they would ask for another method to be  
11 used with a higher level of QA/QC.

12          Q     In the next paragraph you're talking about the  
13 March 19th, 2007 report.  I think we've already talked  
14 about that.  That's the soil gas vapor report.

15                What I wanted to ask you about is the second  
16 sentence where it talks about, "This confirms the initial  
17 screening survey for the real estate transaction was  
18 submitted to the OCHCA and the seller was most probably not  
19 made aware," and then there's something in parenthesis  
20 there.  Do you see where I'm reading?

21          A     I do.

22          Q     First of all, what do you mean by, "the initial  
23 screening survey for the real estate transaction"?  What  
24 are you talking about there?

25          A     I think it speaks for itself.  I'm talking about

1 the initial screening survey that was done as part of the  
2 real estate transaction that was marked privileged and  
3 confidential dated March 19th, 2007, then submitted to the  
4 agency.

5 Q Because it wasn't clear to me if you were talking  
6 about the earlier Phase 1 real estate.

7 A No. I'm talking about this survey that was sold  
8 to whoever on verifying the existence of previous  
9 contamination, and then later submitted to the agency,  
10 originally marked attorney-client privileged and  
11 confidential, and then all of a sudden found its way to the  
12 agency.

13 Q So you saw it in the OCHCA documents, is that  
14 what you're saying?

15 A Yes.

16 Q Then it goes on to say, "and the seller was most  
17 probably not made aware." What are you talking about  
18 there, not made aware of what?

19 First of all, is the seller -- the seller was the  
20 seller in this transaction involving Universal Molding,  
21 that's the seller you're talking about?

22 A They were the buyer.

23 Q Universal Molding was, but the seller is whoever  
24 owned the property at the time.

25 A Right.

1           Q     Okay. What you're saying here is that the seller  
2 probably didn't know about the soil gas vapor results?

3           MR. JACKSON: Objection. Misstates his testimony.

4 BY MR. BROWN:

5           Q     Is that what you're saying?

6           A     I'm saying what the words -- the words speak for  
7 themselves.

8           MR. JACKSON: Did you mean seller there?

9           THE WITNESS: Yes.

10 BY MR. BROWN:

11          Q     Did you see in your review of the documents the  
12 fact that there was or may have been some reduction in the  
13 purchase price of the property based on the cost estimate  
14 that Mr. Reynolds gave in the March 22nd letter sent to Mr.  
15 Baione?

16          MR. JACKSON: Objection. Assumes facts not in  
17 evidence, misstates the testimony, misstates the  
18 evidence.

19          THE WITNESS: I saw that there was an estimate of  
20 remediation commissioned by Mr. McFadden that Mr. Reynolds  
21 produced which was tied to the sale price of the property.  
22 But in this instance, in this E-mail you've asked me about  
23 the seller. There's a separate agreement as part of the  
24 real estate transaction, "The seller shall be made aware of  
25 all investigations on the property" in a lot of documents.

1 That's what I was referring to here. So I read that  
2 agreement and it didn't appear to me that this survey had  
3 been given to the seller. That's all.

4 BY MR. BROWN:

5 Q In the third paragraph there's a reference to an  
6 August 9th, 2007 report. I just want to orient you to  
7 where I'm looking at here. Do you see where I'm referring  
8 to?

9 A Yes.

10 Q In the middle of the paragraph there's again talk  
11 about -- where it says, "Non-defensible on a concentration  
12 basis." Does that mean the same thing that you were  
13 referring to up above in the first paragraph about  
14 non-defensible on a concentration basis?

15 A Yes.

16 Q In the fourth paragraph you are referencing a  
17 screening survey from February 2008 and that there appears  
18 to be a map missing. Do you see where I'm referring to?

19 A I do.

20 Q Which map was missing or did you expect to see  
21 there when you looked at that report?

22 A You'd have to show me the document, sir. I don't  
23 know where it is. It must be a map of the sampling  
24 locations.

25 Q That's all right. It's not necessary for the



1 moment.

2 That paragraph goes on to talk about the fact  
3 that the screening concentrations were lower than the first  
4 two screening surveys. Do you see that?

5 A No.

6 Q I'm on the fourth paragraph, second sentence  
7 talking about the February 2008 report.

8 A Okay.

9 Q My question right now is: Without looking at the  
10 report, is there something significant to the fact that the  
11 screening concentration values were substantially lower  
12 than the first two?

13 A That's my opinion. It's my observation based  
14 upon the data I saw. I found the map later after I sent  
15 this E-mail. It was somewhere else.

16 Q The last paragraph on this page is talking about  
17 a January 2009 report and plan. Do you see that  
18 paragraph?

19 A I do.

20 Q The last sentence says, "Please pay particular  
21 attention to the last paragraph on Page 2," and then it  
22 references Page 723. Without looking at it, does that  
23 refresh your recollection about what that page said or why  
24 it was of some significance to you?

25 A I thought you told me earlier this wasn't a

1 memory test.

2 Q Well, I can try. If you want to grab it -- I  
3 believe I have it.

4 A I don't have it with me.

5 MR. BROWN: Off the record.

6  
7 (Off the record.)  
8

9 BY MR. BROWN:

10 Q Mr. Odencrantz, in reviewing the materials, it  
11 looks like you're billing the Jackson firm \$350 an hour for  
12 your work, is that correct?

13 A Yes.

14 Q I think you've been paid roughly \$15,000, at  
15 least up to the last billing that I saw?

16 A Sounds about right.

17 Q As far as you know, have we covered all of your  
18 opinions at this point?

19 A Yes, with the exception of what happened  
20 yesterday.

21 Q Okay. Your review of Mr. Reynolds' depo?

22 A Right.

23 MR. BROWN: Off the record.

24  
25 (Off the record.)

1           MR. BROWN: Off the record we agreed that I will have  
2 the transcript expedited so that it's prepared by Monday,  
3 the 30th and forwarded to Mr. Jackson for the Witness's  
4 review and signature under penalty of perjury. Mr.  
5 Odenchantz is going to have until January the 6th to review  
6 it and make any changes or corrections and sign it under  
7 penalty of perjury. Mr. Jackson will let me know prior to  
8 the 10th of January --

9           MR. JACKSON: Sure.

10          MR. BROWN: -- of any changes or corrections that are  
11 made, and he'll maintain the original for trial purposes.

12          MR. JACKSON: So stipulated.

13  
14 (Deposition concluded at 1:30 p.m. Declaration of Penalty  
15 of Perjury is attached hereto.)

16  
17 (Whereupon Plaintiff's Exhibits 1-5 were marked for  
18 identification by the Court Reporter and are attached  
19 hereto.)

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Attorney(s) for Plaintiff &  
Cross-Defendant,  
THE REYNOLDS GROUP

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE**

THE REYNOLDS GROUP, a  
California Corporation,

Plaintiff,

vs.

UNIVERSAL MOLDING COMPANY,  
a California corporation;  
and DOES 1 through 10,  
inclusive,

Defendant(s).

CASE NO: 30-2012 0054932-CU-BC-CJC

**NOTICE OF CONTINUANCE OF  
DEPOSITION OF JOSEPH ERIC  
ODENCRANTZ, PH.D.**

Date: December 24, 2013

Time: 9:30 a.m.

Place:

Jilio, Ryan, Hunter & Olsen  
14661 Franklin Ave.,  
Tustin, California 92780

AND RELATED CROSS-ACTION.

Assigned for all purposes to:  
Hon. Thierry Colaw

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the deposition of DR. JOSEPH ERIC  
ODENCRANTZ, PH.D, previously scheduled for December 19, 2013, will  
now take place on **December 24, 2013 at 9:30 a.m.** at Jilio, Ryan,  
Hunter & Olsen, located at 14661 Franklin Ave., Tustin, California  
92780 pursuant to Code of Civil Procedure §§2025.220 and 2025.230,  
et. seq.

1 PLEASE TAKE FURTHER NOTICE that under C.C.P. §§ 2025.340(m) and  
2 2025.620(d), Plaintiff reserves the right to use at trial (during  
3 opening, direct, cross examination, closing, rebuttal or any other  
4 time) the video recording of the deposition testimony of this  
5 witness even though the deponent is available to testify.

6 PLEASE TAKE FURTHER NOTICE that deponent is hereby requested  
7 to produce at the time of his deposition any and all documents  
8 responsive to each and every category set forth in Exhibit "A"  
9 attached hereto.

10 PLEASE TAKE FURTHER NOTICE that the deposition testimony may  
11 be recorded by videotape, as well as stenographically, pursuant to  
12 Code of Civil Procedure §§2025.330(c), and shall continue from day  
13 to day, Saturdays, Sundays and Holidays excepted, until completed,  
14 before a duly certified court reporter, Notary Public or other  
15 officer authorized to administer oaths, and that the videotape  
16 record of these depositions may be used at trial pursuant to Code  
17 of Civil Procedure §2025.620.

18 A list of all parties or attorneys for parties on whom this  
19 Notice of Deposition is being served is shown on the accompanying  
20 proof of service.

21  
22 Dated: December 10, 2013

LAW OFFICES OF BRIAN M. BROWN

23  
24  
25 By: 

BRIAN M. BROWN  
Attorney for Plaintiff &  
Cross-Defendant,  
THE REYNOLDS GROUP

**DEFINITIONS AND INSTRUCTIONS**

**A. Definitions.**

1. "PLAINTIFF," "CROSS-DEFENDANT" and/or "TRG" as used herein refers to Plaintiff and Cross-Defendant The Reynolds Group.

2. "DEFENDANT," "CROSS-COMPLAINANT," "UMC," as used herein refers to Defendant and Cross-Complainant Universal Molding Company, their agents and/or employees and/or attorneys and/or any operating entities, and/or to any person acting as their agent or otherwise on their behalf.

3. "COMPLAINT" refers to the Complaint filed by PLAINTIFF on or about February 9, 2012.

4. "REFER," "RELATE," "PERTAIN," "PERTAINING" and/or "PERTAIN TO" means bearing some connection to, consisting of, connected with the subject matter of, supporting, evidencing, containing, discussing, describing, embodying, reflecting, mentioning, stating, responding to, refuting, summarizing, describing and/or referring to, in whole or in part, the subject matter referred to in any way.

5. "DOCUMENT" means and includes, without limitation, all writings as defined in Evidence Code § 250, all items which embody handwritten, typed, printed, oral, visual or electronic communications or representations; and to include, without limitation, agreements, letters, duplicate copies of letters, telegrams, telexes, bulletins, circulars, notices, specifications, instructions, advertisements, brochures, articles, books, newspapers, booklets, work assignments, reports, memoranda, motion picture films, videotapes, sound recording, calendars, photographs,

1 studies, analyses, surveys, comparisons, appraisals, computer  
2 programs and data, memoranda, memoranda of conversations, notes,  
3 notebooks, data sheets, work sheets, calculations, files, deeds,  
4 pleadings, judgments, abstracts of judgments, correspondence, E-  
5 mail, drafts of each category, and all copies of each category upon  
6 which have been placed any additional marks or notations.

7 "DOCUMENT" also includes information store by computer or on a  
8 computer disk, diskette, tape or card, as well as any electronic  
9 recording, tape recording, photograph, e-mail, video, file,  
10 microfilm, microfiche, or similar recording of words, images,  
11 sounds, pictures, or information of any kind.

12 "DOCUMENT" also includes any and all drafts of, and amendments  
13 or supplements to, any of the foregoing, whether prepared by you or  
14 any other person, as well as copies of the document that differ  
15 from the copy being produced (e.g., a differing copy is one that  
16 contains handwritten notes, interlineation, underlining, and the  
17 like).

18 6. "CROSS-COMPLAINT" refers to the Cross-Complaint filed by  
19 Defendant on or about August 31, 2012.

20 7. "BAIONE" as used herein refers to Dominick Baione,  
21 President of UMC.

22 8. "SUBJECT PROPERTY" refers to the real property located at  
23 1551 E. Orangethorpe Ave., Fullerton, CA.

24 9. "YOU" and/or "YOUR" and/or "DEPONENT" and/or "**EXPERT**" as  
25 used herein refers to the deponent(s) referenced above.

26

27

28

EXHIBIT "A"

DOCUMENTS TO BE PRODUCED

1. The deponent's entire file(s) for this case.

2. All DOCUMENTS and/or evidence reviewed by the deponent in preparation for his deposition.

3. A copy of the deponent's curriculum vitae, or resume, and, if not included within said curriculum vitae, a list of each, and every article, books treatises, or other literature authorized by the deponent whether published or not published.

4. Any and all DOCUMENTS (including, but not limited to, depositions, statements, journals, articles, bills, reports, medical records, hospital records and charts and other documentation) given to and/or reviewed by the deponent in this case.

5. Any and all graphics, photographs, images, models, diagrams, renditions, sketches or drawings of any item or thing that have been used by or will be used by the deponent in connection with this case.

6. Any and all DOCUMENTS that establish the basis for the deponent's expert opinion(s) to be rendered in this case.

7. Any and all DOCUMENTS that reflect COMMUNICATIONS (including memoranda of oral communications) between the deponent and/or his/her office staff and any other PERSON wherein this case was



1 mentioned, discussed and/or referred to, including, but not limited  
2 to, COMMUNICATIONS with counsel for Defendant.

3

4 8. Any and all books, treatises, articles, publications, journals  
5 (or journal articles) and/or learned documents of any sort referred  
6 to or relied upon by the deponent in forming his/her expert  
7 opinions to be rendered in this case.

8

9 9. If any items listed in number 8 are unavailable, all DOCUMENTS  
10 that reflect the title, author, publisher, date, volume, chapter,  
11 and/or page information.

12

13 10. Copies of any notices, announcements advertising materials or  
14 any other form of printed materials whatsoever pertaining to the  
15 availability of the deponent's services as an expert consultant,  
16 including, but not limited to, any such documents the deponent has  
17 mailed or otherwise distributed to anyone within the last four years.

18

19 11. Any and all transcripts or other documents reflecting  
20 deposition or trial testimony given by deponent in any case where  
21 deponent has testified (whether in deposition or at trial) as an  
22 expert in any case involving environmental remediation services  
23 where the expert was retained by the Plaintiff.

24

25 12. Any and all documents that reflect the number of times the  
26 deponent has been retained and/or testified as an expert for the  
27 defendants, as an expert for Defendants' law firm or any member  
28 thereof, as an expert for the insurance carrier for any of the

1 Defendants and/or as an expert for any plaintiff.

2

3 13. Any and all lists or compilations that reflect each case  
4 wherein the deponent was retained as an expert (including the name  
5 of the case; the name of the parties; the name and address of the  
6 court wherein the case was filed; and the name, telephone number and  
7 address of the attorneys for all parties.)

8

9 14. Any and all DOCUMENTS that reflect the amount of compensation  
10 paid or to be paid to the deponent for his/her services in this  
11 case, including but not limited to, a record of all charges billed,  
12 and the total number of hours spent in this matter.

13

14 15. Any and all reports (including drafts thereof) that reflect the  
15 deponent's expert opinions and/or review of records in this case.

16

17 16. All items supplied to the expert or anyone on the expert's  
18 behalf for examination, consideration and review in this case.

19

20 17. Any billing records for services rendered by the deponent or  
21 anyone acting at his/her direction or behalf in connection with  
22 this case, and the work and consultation thereof, including all  
23 time records showing time spent and the expenses incurred.

24

25 18. Any and all DOCUMENTS that reflect any experiments and/or re-  
26 creations considered or performed by the deponent in this case,  
27 including but not limited to photographs and videotape of said  
28

1 experiments and/or re-creations.

2

3 19 Copies of all articles and/or publications referenced in the  
4 deponent's CV or authored by the deponent.

5

6 20. Copies of any and all DOCUMENTS given by the deponent or on the  
7 deponent's behalf to participants or attendees at any of the  
8 deponent's presentations referenced in the deponent's CV.

9

10 21. Any and all DOCUMENTS (including powerpoints, scripts,  
11 memorandums, outlines) that refer or relate to the content of any  
12 speeches or presentations given by the deponent on the topics of  
13 economics, back injuries in the workplace, vocational  
14 rehabilitation for employees with back injuries, litigation  
15 strategies or techniques, and use of words or word choice at trial.

16

17 22. Copies of all depositions containing deposition testimony of  
18 the deponent and at deponent's office, including those currently  
19 being reviewed in other cases.

20

21 23. Any and all DOCUMENTS which reflect the amount of money earned  
22 by the deponent (or his/her firm) acting as a consultant or expert  
23 witness in any type of environmental remediation claim or action  
24 for the period from 2007 through 2013.

25

26 24. Any and all DOCUMENTS that evidence or reflect contracts,  
27 agreements or arrangements between the deponent and any law firms  
28 or insurance companies with regard to compensation to be paid to

1 the deponent (or his/her firm) for work done on multiple matters,  
2 claims or files.

3

4 25. A copy of all Federal Court listings of other cases in which  
5 the deponent has testified as an expert (at trial or deposition).

6

7 26. Any and all DOCUMENTS that establish or from which it can be  
8 established the percentage of matters where the deponent has been  
9 retained by the defendant versus the plaintiff for the last 10  
10 years.

11

12 27. Any and all DOCUMENTS that evidence or reflect court orders  
13 where the deponent's testimony has been limited or excluded.

14

15 28. Any and all DOCUMENTS which REFER, RELATE OR PERTAIN to  
16 any communications between deponent, his representatives and/or  
17 staff, and counsel for Defendant and Cross-Complainant,  
18 its staff, representative and agents, concerning this case.

19

20 29. Any DOCUMENTS not otherwise described above which REFER,  
21 RELATE OR PERTAIN to YOUR opinions, conclusions and/or anticipated  
22 testimony, which relate in any way to this action.

23

24 30. Any DOCUMENTS not otherwise described above which REFER,  
25 RELATE OR PERTAIN to YOUR opinions, conclusions and/or anticipated  
26 testimony, which relate in any way to any damages claimed by the  
27 Plaintiff in this action.

28

1 31. Any DOCUMENTS not otherwise described above which REFER,  
2 RELATE OR PERTAIN to YOUR opinions, conclusions and/or anticipated  
3 testimony, which relate in any way to the reasonable value of the  
4 services rendered by Plaintiff which are the subject matter of this  
5 action.

6  
7 32. Any DOCUMENTS which REFER, RELATE OR PERTAIN to any  
8 COMMUNICATIONS between deponent and counsel for Defendant  
9 which relate in any way to the SUBJECT PROPERTY.

10  
11 33. Any DOCUMENTS which REFER, RELATE OR PERTAIN to any  
12 COMMUNICATIONS between deponent and counsel for Defendant  
13 which relate in any way to the PLAINTIFF.

[illegible]

I am employed in the county of Orange, State of California. I am over the age of 18 and not a party to the within action my business address is 23161 Mill Creek Drive, Suite 340, Laguna Hills, California 92653.

On December 10, 2013, I served the foregoing documents described as: **NOTICE OF CONTINUANCE OF DEPOSITION OF DR. JOSEPH ERIC ODENCRANTZ, PH.D**; by placing \_\_\_ the original **X** a true copy thereof enclosed in a sealed envelope addressed as follows:

James T. Jackson, Esq.  
MERHAB ROBINSON & JACKSON  
1551 N. Tustin Ave.,  
Suite 1020,  
Santa Ana, CA 92705

**X BY MAIL:**

I deposited such envelope in the U.S. mail at Irvine, California with postage thereon fully prepaid.

**PERSONAL SERVICE:**

I served such envelope by hand to the offices of the addressee(s).

**BY FEDERAL EXPRESS:**

I caused such envelope to be delivered via Federal Express to be deposited in a box or other facility regularly maintained by the express carrier service, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents for overnight delivery, at Irvine, California.

  X   **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 10, 2013, at Irvine, California.

Brian M. Brown