

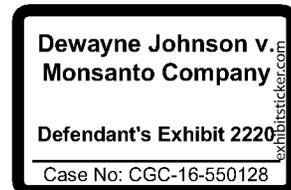
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

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| _____             |  | ) |               |
| DEWAYNE JOHNSON,  |  | ) |               |
|                   |  | ) |               |
| Plaintiff,        |  | ) |               |
|                   |  | ) |               |
| vs.               |  | ) | Case No.      |
|                   |  | ) | CGC-16-550128 |
| MONSANTO COMPANY, |  | ) |               |
|                   |  | ) |               |
| Defendant.        |  | ) |               |
| _____             |  | ) |               |

VIDEOTAPED DEPOSITION OF  
DEWAYNE ANTHONY LEE JOHNSON  
Vallejo, California  
Wednesday, December 6, 2017  
Volume I

Reported by: SUZANNE F. GUDELJ  
CSR No. 5111  
Job No. 2770165  
PAGES 1 - 458



1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF SAN FRANCISCO  
3  
4 \_\_\_\_\_ )  
5 DEWAYNE JOHNSON, )  
6 )  
7 Plaintiff, )  
8 )  
9 vs. ) Case No.  
10 ) CGC-16-550128  
11 MONSANTO COMPANY, )  
12 )  
13 Defendant. )  
14 \_\_\_\_\_ )  
15  
16 Videotaped Deposition of DEWAYNE ANTHONY  
17 LEE JOHNSON, Volume I, taken on behalf of  
18 Defendant Monsanto, at Courtyard by Marriott,  
19 1000 Fairgrounds Drive, Vallejo, California,  
20 beginning at 9:24 a.m. and ending at 6:48 p.m.,  
21 on Thursday, December 7, 2017, before SUZANNE  
22 F. GUDELJ, Certified Shorthand Reporter No.  
23 5111.  
24  
25

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1 APPEARANCES (Continued):  
2  
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4 KEVIN FOUR: Veritext Video Operator  
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1 there.

2 Q And you go by Lee Johnson?

3 A Yeah, mostly.

4 Q I'll be asking you questions for the rest  
5 of today while you're under oath, and we certainly 09:26:35  
6 appreciate you joining us here today to answer our  
7 questions under oath. You do understand, however,  
8 that you are under a legal obligation to be here --  
9 A Yes.

10 Q -- and give testimony, right? 09:26:54

11 A Yeah, I'm sorry about yesterday. I'm going  
12 through a lot right now.

13 Q Well, we -- we can talk about that, not  
14 about apologies. That's not what we're looking for.

15 A Yes, sir. 09:27:05

16 Q But we'll talk about some of the -- some of  
17 the facts about your treatment and so forth, but we  
18 won't get into that just yet.

19 A Okay.

20 Q I -- I usually say this to all witnesses, 09:27:14  
21 so this is not about you personally, but you just --  
22 you just took an oath to tell the truth, and it's an  
23 important reminder I find for everybody, including  
24 both counsel and the witness, that you understand  
25 that you are legally obligated to answer all my 09:27:28

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1 questions truthfully, correct?

2 A Correct.

3 Q All right. And if there's any reason that  
4 you think that you have to correct yourself or give  
5 a more complete answer or get me to clarify 09:27:42  
6 something I've asked you, you understand that you  
7 need to do that, correct?

8 A Yeah.

9 Q All right. Mr. Johnson, you were diagnosed  
10 with a form of non-Hodgkin's lymphoma called mycosis 09:27:56  
11 fungoides; is that correct?

12 A That's correct.

13 Q And you received that diagnosis of mycosis  
14 fungoides in August of 2014; am I right about that?

15 A I'm not really super clear about the dates 09:28:13  
16 because they're so far away, but that sounds about  
17 right.

18 Q That sounds about right. And we can look  
19 at some records a little later today --

20 A Yes, the hospital records. 09:28:22

21 Q -- to confirm that. You -- you previously  
22 were employed by the Benicia Unified School District  
23 in Vallejo, California; is that right?

24 A Benicia is actually in Benicia.

25 Q Benicia, California. 09:28:35

Page 11

1 A Yes.

2 Q And you were previously employed there?

3 A Yes.

4 Q Starting in June 2012?

5 A Late June. 09:28:42

6 Q Late June 2012?

7 A Yeah.

8 Q I won't hold you to a particular day,  
9 but -- but June or thereabouts of 2012 would be  
10 right? 09:28:50

11 A Yep.

12 Q And you remained employed by the Benicia  
13 School District until January of 2015; is that  
14 right, or am I incorrect about that?

15 A I think you're incorrect because when I -- 09:29:01  
16 that was when the date that the Workers' Comp was  
17 filed for the shoulder.

18 (Reporter clarification.)

19 That was the date for when the shoulder,  
20 Workers' Comp, around the 14th or 15th of January. 09:29:15

21 Q Okay. And how long did you continue to be  
22 employed at Benicia after that?

23 A Active for about another six months, seven  
24 months.

25 Q All right. And you -- that Workers' Comp 09:29:24

Page 12

1 claim that you're referring to, from January 2015,  
2 that was for a -- a rash or skin eruption involving  
3 your shoulder; is that correct?

4 A No, that was involving this pain in the  
5 shoulder and the pectoral muscles over here in the 09:29:39  
6 chest.

7 Q It has nothing to do with your mycosis  
8 fungoides?

9 A Nothing to do with mycosis fungoides --

10 Q You did file --

11 A -- as far as I know.

12 Q You did file a claim involved for Workers'  
13 Compensation involving mycosis fungoides?

14 A After the fact, yeah, after the January.

15 Q Is that case still pending? 09:29:58

16 A Yeah, it might even been before, but I know  
17 it was not at the same time. That is still pending,  
18 the shoulder, pectoral muscle.

19 Q I'm talking about the mycosis fungoides  
20 case. 09:30:09

21 A Yes, that's still pending.

22 Q You are actively pursuing it?

23 A I have a lawyer, yes, that's pursuing that,  
24 a Workers' Comp lawyer.

25 Q Yes.

Page 13

1 A Yes.  
2 Q You are going after that claim --  
3 A Yes.  
4 Q -- on a continuing basis; is that right?  
5 A That's correct. 09:30:21  
6 Q And you gave a deposition --  
7 A I did.  
8 Q -- in that case, right?  
9 A Mm-hmm.  
10 Q Also under oath? 09:30:25  
11 A Under oath.  
12 Q Also with the obligation that we just  
13 talked about, to tell the truth, correct?  
14 A Correct.  
15 Q All right. And so you had the opportunity 09:30:32  
16 at that time when you were deposed under oath in the  
17 Workers' Comp case to make clear or correct any  
18 answer that you had given on the record, right?  
19 A Yep.  
20 Q All right. Now, you claim that you were 09:30:46  
21 exposed to Ranger PRO manufactured by Monsanto as  
22 part of your job responsibilities working for the  
23 Benicia School District; is that right?  
24 A That's right.  
25 Q All right. And the exposures that -- that 09:31:07  
Page 14

1 you claim from being on the job were based on  
2 what -- what responsibilities the school district  
3 gave you as part of hiring you; is that right?  
4 A So my job was a pretty broad job. It  
5 started out as a integrated pest manager is what 09:31:24  
6 it's called, and then I have also some duties as far  
7 as groundsman or a regular landscaper.  
8 Q We'll talk in more detail about all those  
9 duties. Just trying to make sure I understand  
10 that -- that at least one part of your job was to 09:31:41  
11 apply Ranger PRO.  
12 A Exactly. That was the main part. It was  
13 to be a -- to start a program that was supposed to  
14 stop the use of Ranger PRO and use more natural and  
15 more controlling things where we're not putting down 09:31:58  
16 chemicals.  
17 Q That was your responsibility?  
18 A Yeah, as the integrated pest manager, I was  
19 supposed to keep up with that type of stuff.  
20 Q And you started applying Ranger PRO in 09:32:08  
21 June 2012?  
22 A Around that time.  
23 Q And the last time that you applied Ranger  
24 PRO as part of your job at the school district would  
25 have been in January 2015? 09:32:18  
Page 15

1 A Right before -- I would say like about six  
2 months before I was totally left the job after I was  
3 repositioned to the high school. I think that was  
4 in -- I don't know exactly, but late summer that  
5 was, but they moved me to the high school, getting 09:32:32  
6 ready for another spring --  
7 (Reporter clarification.)  
8 And that was about -- I guess that was  
9 about six months before -- before I start spraying,  
10 before I got transferred to the high school for some 09:32:46  
11 temporary work over there until I was done and went  
12 on full Workmen's Comp.  
13 Q So I want to be clear about your testimony  
14 and your recollection. Is it correct that the last  
15 time that you applied Ranger PRO as part of your job 09:33:01  
16 with Benicia was in January or early 2015?  
17 A No. It would be like late '15, maybe even  
18 '16.  
19 Q So you kept using or applying Ranger PRO as  
20 part of your job? 09:33:17  
21 A Yeah, my job didn't kind of accept that I  
22 had gotten cancer there, so they get me -- give me  
23 the same responsibilities, so -- so I told them  
24 that, you know, I'm kept on this treatment now, and  
25 I talked to the doctors, and they said you can't 09:33:28  
Page 16

1 keep doing that job. So I told them, I said I can't  
2 deep doing this spraying part.  
3 Q And when was this?  
4 A So it would have to be at least February,  
5 March. 09:33:38  
6 Q Of?  
7 A Of -- I don't know exactly, but it would be  
8 close to the summer months because we spray every  
9 summer.  
10 Q In 2015? 09:33:45  
11 A At least about 2014, at the end of 2014.  
12 Q No, I asked 2015.  
13 A 2015?  
14 Q Are you now saying it was -- it was --  
15 A No, I don't think it was in 2015, because I 09:33:54  
16 would have been -- that's when I was getting  
17 Workers' Comp and getting off work.  
18 Q So is your testimony that -- that after you  
19 were diagnosed, or once you were diagnosed with  
20 mycosis fungoides, that you stopped applying Ranger 09:34:06  
21 PRO?  
22 A I put in a request to stop spraying, yes.  
23 Q And was it granted?  
24 A Yes.  
25 Q So that would be when? 09:34:16  
Page 17

|   |  |
|---|--|
| <p>1 A I don't know exactly when.<br/> 2 Q All right. You don't recall?<br/> 3 A I don't recall.<br/> 4 Q All right. We can look at some documents<br/> 5 in a little while and talk about that. 09:34:24<br/> 6 Let's just speak of some basic issues<br/> 7 first. The exposures that you claim to your body,<br/> 8 to your skin from applying Ranger PRO on the job<br/> 9 with Benicia, the -- the first exposure that you<br/> 10 claim occurred in 2013; is that right? 09:34:47<br/> 11 MR. LITZENBURG: Object to form.<br/> 12 THE WITNESS: There's a lot of dates there,<br/> 13 and I don't really remember the year.<br/> 14 MR. LITZENBURG: If you know the dates, you<br/> 15 can tell him. 09:35:05<br/> 16 BY MR. COPLÉ:<br/> 17 Q You recall working at the Mary Farmar<br/> 18 school location?<br/> 19 A Around what -- what year was that?<br/> 20 Q Well, I'm asking you. 09:35:11<br/> 21 A I worked there several times.<br/> 22 Q All right. Was there an incident that you<br/> 23 claim that occurred involving your work at the Mary<br/> 24 Farmar school?<br/> 25 A Yes. I don't recall the year or the month, 09:35:21<br/> Page 18</p>   | <p>1 just juice everywhere, flying out the back of the<br/> 2 truck. So that's when I had to hop in because the<br/> 3 switches are in the back. There's no safety switch<br/> 4 there. There's no safety switch, so I had to reach<br/> 5 in the back there and turn it off, and that's when I 09:36:40<br/> 6 got it on the back of my neck and the back of my<br/> 7 head and everywhere. And on my face.<br/> 8 Q How long did this exposure last? Was it<br/> 9 instantaneous?<br/> 10 A I would say the rest of the day. 09:36:52<br/> 11 Q No, was it instantaneous when you were<br/> 12 exposed or --<br/> 13 A No, no, no, no. I'm saying when I got<br/> 14 ahold of that liquid on my skin that day, it got<br/> 15 red, it got irritated. I finished the day off. It 09:37:01<br/> 16 was seven hours, maybe six hours. We spray two<br/> 17 hours in the morning. So after that, I just waited<br/> 18 until after work and went home and showered and<br/> 19 changed clothes like nothing ever happened.<br/> 20 Q You understand that you're supposed to wash 09:37:17<br/> 21 immediately if you are exposed to --<br/> 22 A We did -- at that point --<br/> 23 MR. LITZENBURG: Object to form.<br/> 24 THE WITNESS: -- we didn't have -- we<br/> 25 didn't have an eye wash or shower station. That 09:37:24<br/> Page 20</p> |
| <p>1 but I do recall that incident happening.<br/> 2 Q What incident? Describe it.<br/> 3 A An incident happened where I was spraying a<br/> 4 hillside where you came up the parkway, where you<br/> 5 get into like a little driveway where you get into 09:35:33<br/> 6 Mary Farmar, there's one big long driveway. It goes<br/> 7 uphill. I went uphill, turned the truck around and<br/> 8 start to go downhill.<br/> 9 So I went enough to where I could spread my<br/> 10 hose out. It's like 250 feet. I went as long as I 09:35:45<br/> 11 could up, and my truck is down. You understand?<br/> 12 Can you see how this is happening now? I'm up here.<br/> 13 The truck is down here. And I'm spraying up here<br/> 14 now with the spray. My tank and my truck is down<br/> 15 here.<br/> 16 (Reporter clarification.)<br/> 17 Okay. So my tank and my truck is down<br/> 18 lower towards the bottom of the hill. I'm up here<br/> 19 at the top of the hill. So I'm spraying the hill.<br/> 20 Everything is fine. I'm spraying the hill, spraying 09:36:12<br/> 21 the cracks, everything is fine. And I get down to<br/> 22 another move. I'm going to move the truck down<br/> 23 another 250 feet. I'm coming down with my hose.<br/> 24 For some reason the hose came disattached<br/> 25 from the back of the truck, disattached, and it was 09:36:26<br/> Page 19</p> | <p>1 came a few months later after my exposure.<br/> 2 So the second time I was exposed --<br/> 3 (Reporter clarification.)<br/> 4 The second time I was exposed, I went home<br/> 5 at that time. You know, I got exposed from the 09:37:36<br/> 6 backpack. I said I'm leaving right now. I left,<br/> 7 went home and showered and even came back.<br/> 8 BY MR. COPLÉ:<br/> 9 Q I'll ask about the second time in a moment.<br/> 10 When you say "second time," you're talking about a 09:37:47<br/> 11 different incident; is that right?<br/> 12 A Totally different.<br/> 13 Q All right. Before we get to that, let's<br/> 14 just stay with the Mary Farmar location and the hose<br/> 15 that became unattached. 09:37:56<br/> 16 A Okay.<br/> 17 Q Whose responsibility was it to correctly<br/> 18 attach the hose?<br/> 19 A Oh, me, all day.<br/> 20 Q That was your responsibility? 09:38:05<br/> 21 A I had to make that stop.<br/> 22 Q You were required to wear personal<br/> 23 protective equipment, correct?<br/> 24 A Yes, PPE all the time.<br/> 25 (Reporter clarification.)<br/> Page 21</p>   |

1 PPE all the time.  
2 Q Tyvek suit.  
3 A Tyvek.  
4 Q Which is not permeable to liquid like  
5 Ranger PRO, correct? 09:38:21  
6 A It's supposed to be not permeable to drift,  
7 you know what I mean? Light drift. So if you were  
8 spraying out of that water bottle, and it was just  
9 dripping a little bit, it's okay, it will stop that.  
10 If I poured the water bottle on the Tyvek suit, it 09:38:35  
11 just went straight through to your skin. It's just  
12 the way that suit worked.  
13 Q You were wearing the Tyvek suit?  
14 A Yes.  
15 Q And the boots? 09:38:42  
16 A Oh, yeah.  
17 Q And the goggles?  
18 A Yes.  
19 Q All --  
20 THE WITNESS: Oh, is that what you're  
21 saying?  
22 VIDEO OPERATOR: Yeah.  
23 THE WITNESS: Okay.  
24 VIDEO OPERATOR: And your phone is a little  
25 bit -- it's okay. All right. Go ahead. 09:38:50  
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1 MR. LITZENBURG: Am I in the picture?  
2 VIDEO OPERATOR: No, no. The thing is your  
3 phone, when it's that close to the mic --  
4 MR. LITZENBURG: It messes with this. All  
5 right. 09:39:00  
6 VIDEO OPERATOR: Yeah. Okay, I'm sorry.  
7 Go ahead.  
8 BY MR. COPLÉ:  
9 Q There was a faucet available at Mary Farmar  
10 that you could have used to wash immediately, 09:39:07  
11 correct?  
12 A No.  
13 Q There was no faucet available?  
14 A You mean like a water faucet?  
15 Q Yes. 09:39:16  
16 A Oh, maybe, but not for what I had over me.  
17 Q Did you check?  
18 A No, no.  
19 Q Okay. Where was your facility where you  
20 would bring the truck back? 09:39:24  
21 A Two blocks from there.  
22 Q Two blocks away? There was a faucet --  
23 A It was one -- no more than four blocks.  
24 Q There was a faucet there, wasn't there?  
25 A There was definitely a faucet there. So 09:39:33  
Page 23

1 when I got back there, I did the whole paper towel,  
2 wipe down.  
3 (Reporter clarification.)  
4 When I got back here, I did the whole paper  
5 towel wipe down, what we used to do at the sink when 09:39:41  
6 we came in every morning. It's what we have at the  
7 sink at the district office, right, because that's  
8 our -- what do you call it, our hub or station or  
9 whatever, the warehouse yard where the maintenance  
10 men got together over there, we did all our stuff, 09:39:54  
11 got our tools and whatever.  
12 So all we had was that sink, so I know that  
13 sink was there. So I know when I'm getting there,  
14 I'm getting to that sink, you know what I mean? So  
15 I don't worry about Mary Farmar's sink. But when I 09:40:04  
16 got there, I get a little rinse off, a little wipe  
17 down, whatever I could, and I just get totally naked  
18 in the office, and then went on with the day.  
19 Q And you used soap as required?  
20 A Oh, yeah. 09:40:15  
21 Q So you did wipe it down and wash off?  
22 A Yeah, I went down to my shoulders, down to  
23 my neck, got down there as much as I could.  
24 Q And how -- how soon after your exposure to  
25 the disattached -- the unattached hose were you able 09:40:27  
Page 24

1 to wipe down with soap and water?  
2 A Again, can you repeat that?  
3 Q Yes. You claim that you were exposed to a  
4 hose that became unattached, and how soon after that  
5 exposure did you wash down at your facility? 09:40:44  
6 A I would say what I did is I wrapped the  
7 hose in, got that thing turned off and went straight  
8 there to the shop. So that took me less than  
9 15 minutes, 20 minutes.  
10 Q So 15 minutes after you were exposed from 09:40:59  
11 the unattached --  
12 A Wrapped that hose up, and I had it -- the  
13 spill was there. I had to clean up the spill.  
14 Q 15 minutes --  
15 A Yeah. 09:41:08  
16 Q -- afterwards --  
17 A 15.  
18 Q -- you used -- used a water faucet or  
19 sink --  
20 A Sink. 09:41:12  
21 Q -- with water and soap to wash down?  
22 A Kitchen sink style -- kitchen sink style in  
23 the office of the warehouse trailer.  
24 Q And that was the step that you're supposed  
25 to take to wash down as soon as you can, right? 09:41:21  
Page 25

1 A Yeah, supposed to be a different way to do  
2 that. There's supposed to be a shower that you  
3 have. It's green or yellow or some color that you  
4 can see anytime, and it's a steady stream of water.  
5 You remove the suit and everything else you had on, 09:41:32  
6 and you get it from the top. You're not supposed to  
7 be wiping the stuff in from the sink.  
8 But anyway, it's a swimming pool and water  
9 comes down. And for the eye station, it's a little  
10 green thing that you go up and you put your eyes on, 09:41:47  
11 turn on the thing, and it does what it does. And it  
12 has some saline in there to clean out the stuff.  
13 Regular water is not supposed to do that.  
14 Q At the time that all of this occurred, did  
15 you hold the qualified application certificate, QAC? 09:41:59  
16 A On my first exposure, no. No, I didn't. I  
17 had an exposure -- I hadn't got the license yet.  
18 Q So you were applying Ranger PRO at the time  
19 of your first exposure, and you did not yet have a  
20 QAC certificate? 09:42:15  
21 A No, sir.  
22 Q All of this occurred in 2013, is that  
23 right, this first exposure?  
24 A The first exposure --  
25 MR. LITZENBURG: Objection. Form. 09:42:28  
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1 THE WITNESS: I don't even know exactly.  
2 We could check the papers, just like you're saying,  
3 and go by the records. There were a lot of dates in  
4 there.  
5 BY MR. COPLE: 09:42:37  
6 Q It was before 2014; is that right?  
7 MR. LITZENBURG: Objection. Form. If you  
8 know, you can answer. You can't make a guess.  
9 THE WITNESS: I don't know exactly.  
10 VIDEO OPERATOR: Your -- 09:42:47  
11 THE WITNESS: I don't really know exactly.  
12 BY MR. COPLE:  
13 Q All right. Now, you're required, as an  
14 applicator of Ranger PRO, to report an exposure  
15 incident like this, correct? 09:42:57  
16 A Yep.  
17 Q And you reported this?  
18 A Yes.  
19 Q Who did you report this to?  
20 A To Mr. Roy Owens and to John -- John's last 09:43:02  
21 name -- I don't remember John's last name. He's the  
22 supervisor currently now.  
23 Q All right. So you reported to Roy Owens  
24 and to John?  
25 A Yeah, John's last name is coming to me, but 09:43:14  
Page 27

1 I can't -- it's coming.  
2 Q And when did you report this to them?  
3 A Immediately to John because John was the  
4 supervisor at the time. Roy was out.  
5 Q What did you report to them? 09:43:25  
6 A I reported to John, I said, "John I've been  
7 exposed this morning to chemicals." He said, "Well,  
8 did you wash it off?" I said, "I did the best I  
9 could with what we had."  
10 (Reporter clarification.)  
11 I said, "I did the best I could with what I  
12 have."  
13 Q And you know that Mr. Roy Owens has  
14 testified under oath that you did not tell him?  
15 MR. LITZENBURG: Object to form. 09:43:46  
16 Mischaracterization of the testimony. You can  
17 answer how you can.  
18 THE WITNESS: You want me to answer that?  
19 BY MR. COPLE:  
20 Q Yes. 09:43:54  
21 A It might make sense because he wasn't there  
22 when I got exposed.  
23 Q His testimony under oath has been that you  
24 did not tell him about your exposure.  
25 MR. LITZENBURG: Objection. 09:44:02  
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1 Mischaracterizing the testimony.  
2 BY MR. COPLE:  
3 Q Did you know that?  
4 MR. LITZENBURG: Whether or not you know  
5 that, you can answer. 09:44:06  
6 THE WITNESS: I don't know what he can  
7 answer. All I can tell you is what I told him, and  
8 I can tell you what he replied back to me he said --  
9 I mean, what he replied back to me and said. Sorry.  
10 BY MR. COPLE: 09:44:13  
11 Q All right. Can you -- your testimony is  
12 that you reported this to Roy Owens and to your  
13 coworker John because they were not there at the  
14 time?  
15 A No, John was there. Roy wasn't. 09:44:25  
16 Q John was --  
17 A I reported to John, the acting supervisor,  
18 and I don't know if he told Roy or what, but...  
19 Q John was with you when you were two blocks  
20 away and the hose became -- 09:44:37  
21 A Absolutely not. John hadn't even been into  
22 work yet. It was only an early spray day.  
23 Q All right. So when you say John was there,  
24 you mean John was in the workplace where you brought  
25 the truck back? 09:44:46  
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|   |   |
|---|---|
| <p>1 A John was the acting supervisor of the day.<br/> 2 Q So he was --<br/> 3 A He was there when I got back.<br/> 4 Q Right. He was not at the location where<br/> 5 the exposure occurred? 09:44:53<br/> 6 A Not at all, no.<br/> 7 Q Was anybody there?<br/> 8 A I don't know. I don't know. I didn't look<br/> 9 for anybody.<br/> 10 Q You didn't see anybody? 09:45:00<br/> 11 A I mean, I think about one car in the<br/> 12 parking lot. That's all. He's just milling around.<br/> 13 I didn't see anybody.<br/> 14 Q You didn't -- you didn't talk to anybody at<br/> 15 the scene? 09:45:10<br/> 16 A Right.<br/> 17 Q No one came up to you and said --<br/> 18 A No.<br/> 19 Q -- anything about -- about what had<br/> 20 occurred? 09:45:16<br/> 21 A No.<br/> 22 Q Okay. So you're the only one who saw the<br/> 23 hose come unattached, right?<br/> 24 A Yes.<br/> 25 Q And this attachment of the hose, this was 09:45:22<br/> Page 30</p>  | <p>1 truck each time that you needed to take it out and<br/> 2 spray?<br/> 3 A Correct, correct.<br/> 4 Q And who loaded it that day?<br/> 5 A I had loaded the day before. 09:46:33<br/> 6 Q So it was already loaded by you?<br/> 7 A Yeah.<br/> 8 Q And who did the mixing for the Ranger<br/> 9 PRO --<br/> 10 A Me. 09:46:41<br/> 11 Q -- and the water?<br/> 12 A Me.<br/> 13 Q And did anyone assist you in that mixing?<br/> 14 A No.<br/> 15 Q And other than what you're testifying now, 09:46:46<br/> 16 which is that you told John and you told Mr. Owens<br/> 17 about the exposure on the hillside, did you tell<br/> 18 anyone else?<br/> 19 A No, not right away.<br/> 20 Q Did you report it -- 09:47:08<br/> 21 A I talked to Edwin about it --<br/> 22 (Reporter clarification.)<br/> 23 I talked to Edwin about it, like about a<br/> 24 day after that. I told Edwin Martinez that I'd been<br/> 25 exposed. I got the stuff all over me. He's like, 09:47:19<br/> Page 32</p>  |
| <p>1 your job to make sure it was correctly attached?<br/> 2 A Oh, it was correctly attached. Yeah, I<br/> 3 make sure our hoses are -- I do a safety inspection<br/> 4 on everything I use every morning.<br/> 5 Q Now, did anyone inspect that attachment? 09:45:36<br/> 6 A No. Other people use the truck though, but<br/> 7 no one else inspected it that morning because I'm<br/> 8 the one that was using it that morning, so it's my<br/> 9 responsibility to check it out.<br/> 10 Q And let's be clear about what this truck is 09:45:50<br/> 11 that you're talking about. This is a vehicle that<br/> 12 has a tank mounted on it; is that correct?<br/> 13 A It's a pickup truck. It's one of the<br/> 14 regular pickup trucks that we had in the yard. And<br/> 15 we would pull the machine out with a forklift. Sit 09:46:02<br/> 16 it down. We weren't using the spray because you<br/> 17 only need to spray three days a week, four days a<br/> 18 week.<br/> 19 (Reporter clarification.)<br/> 20 We only use the spray two, three -- you 09:46:12<br/> 21 know, two days, three days a week. You only can<br/> 22 pick so many days a week. And then when we're done<br/> 23 spraying, we would remove the sprayer from the back<br/> 24 of the truck and sit it somewhere in the yard.<br/> 25 Q So you loaded this tank sprayer onto the 09:46:24<br/> Page 31</p> | <p>1 "Oh, no, that's not good," you know. But nobody was<br/> 2 really amazed or shocked about it because we had<br/> 3 been trained that the glyphosate glycine --<br/> 4 (Reporter clarification.)<br/> 5 We had been trained that glyphosate glycine 09:47:33<br/> 6 was okay enough for us to drink. So we didn't<br/> 7 really worry like oh, my God, you got it on your<br/> 8 skin, you're going to die tomorrow.<br/> 9 Q Who trained you?<br/> 10 A This lady -- this lady named Leanna -- 09:47:41<br/> 11 don't know her last name. Leanna from Horizon in<br/> 12 Concord.<br/> 13 Q How did you know Leanna?<br/> 14 A Roy set me down with Leanna and the other<br/> 15 two maintenance managers and said you guys are going 09:47:52<br/> 16 to get trained on how to spray Ranger PRO.<br/> 17 Q How -- how long did this training last?<br/> 18 A Two hours.<br/> 19 Q And how many times did you have the<br/> 20 training? 09:48:01<br/> 21 A Once.<br/> 22 Q And what did Leanna train you on? What did<br/> 23 she tell you?<br/> 24 A The glyphosate glycine is safe enough to<br/> 25 drink. 09:48:12<br/> Page 33</p> |

1 Q No, what did she tell you about the --  
2 A She told us basic things, you know, wear  
3 your PPE, don't spray around people, don't spray it  
4 when it's wet or if rain is coming. Even if you  
5 think rain is coming, don't spray. Try to spray 09:48:26  
6 within a 80 -- 70 to 85 degree temperature, the  
7 highest temperature being 85 and not more. Because  
8 if it's in the 90s or whatever, it burns the grass,  
9 not treat it like it should. So the hotter the  
10 better, but not too hot. 09:48:44  
11 Q And she told you what to do if you were  
12 exposed in your skin?  
13 A Yeah, she said go to the shower, shower  
14 off, or go to the sink and rinse out.  
15 Q And you followed all these instructions, 09:48:54  
16 including the sink washing and the wearing the PPE  
17 at all times, right?  
18 A Well, personally I didn't need the saline  
19 wash at that time. I didn't get it in my eyes. I  
20 had goggles on my eyes. 09:49:06  
21 Q Well, you followed all of the steps that  
22 you needed to follow?  
23 A To the best that I could of what I had.  
24 Q Okay. Now, did you create any record about  
25 this incident? 09:49:14

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1 A I think because my position was so new, we  
2 hadn't put that in place yet.  
3 Q So there was no record created by you?  
4 A You know how you would have the green  
5 incident report.  
6 (Reporter clarification.)  
7 You know, how you might have a green  
8 incident report or a pink incident report, you know,  
9 if somebody got injured? You have an injury report,  
10 right? We didn't have that. 09:49:29  
11 Q Did you ever create a record about that  
12 incident?  
13 A Record at all, no.  
14 (Reporter clarification.)  
15 No, not at all. 09:49:35  
16 Q Do you know of any record that's ever been  
17 created about that incident?  
18 A I don't know.  
19 Q You're not aware of any?  
20 A I'm not aware. 09:49:43  
21 Q Do you have any records yourself in your  
22 personal possession or that you've given to your  
23 lawyers --  
24 A Not in my personal --  
25 Q Let me finish the question, sir. 09:49:54

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1 A Okay.  
2 Q -- that relate in any way to your job at  
3 Benicia in applying Ranger PRO?  
4 A No, not in my personal position -- I mean,  
5 my personal possession. What I had is like a 09:50:06  
6 little, you know, a little -- a little cubbyhole  
7 like sort of thing up inside somebody else's desk  
8 where I keep my files for all the spraying --  
9 (Reporter clarification.)  
10 Files, paperwork, or whatever. 09:50:21  
11 Q And what type of paperwork was in your  
12 files?  
13 A There was reports of how much and where and  
14 the type of spraying we were doing.  
15 Q Did anyone else have access to that 09:50:34  
16 paperwork besides you?  
17 A Everybody. It's open office.  
18 Q Okay. What happened to that paperwork  
19 after you left employment with Benicia?  
20 A I don't know because I haven't been back 09:50:44  
21 there to look in drawers or to look in -- you know,  
22 my mailbox or anything, so I'm thinking that they  
23 probably threw them out.  
24 Q So Benicia Unified School District should  
25 have that paperwork? 09:50:55

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1 A They should.  
2 Q Okay. And you have no other records that  
3 you kept on your own that you still have?  
4 A That wouldn't be legal, no.  
5 Q Did you have any records at any point about 09:51:04  
6 your job responsibility with Ranger PRO that you  
7 used to have but you don't have anymore?  
8 A Well, plenty. Because I took more classes  
9 --  
10 (Reporter clarification.)  
11 The beginning word?  
12 Yes, plenty, because I had to go through  
13 all those trainings and all those classes. So  
14 plenty. Not up training but plenty. Yeah, so I had  
15 to take all those classes and all those courses so I 09:51:26  
16 learned a lot. I learned a whole heck of a lot.  
17 BY MR. COPLE:  
18 Q And this was not the training you received  
19 from Leanna, right?  
20 A Leanna was through the school district. 09:51:35  
21 Q All right. Who gave you the training that  
22 you learned a lot for the QAC?  
23 A This was through buying the pest control  
24 books individually and then going to the test at  
25 Sacramento. I guess it's called -- what do you call 09:51:50

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10 (Pages 34 - 37)

1 that? Essentially they give the license, right?  
2 You can go to their classes and you can learn more.  
3 So how I learned is by failing the test. I failed  
4 the test three times. Then the fourth time, I  
5 passed, but I just kept learning, I kept learning, I 09:52:06  
6 kept learning, I kept learning.  
7 Q All right. So you were improving each time  
8 that you failed the test?  
9 A Plus I was studying from cue cards and  
10 studying from the books. 09:52:17  
11 Q Is there a reason that you failed the test  
12 each time?  
13 A It's a pretty hard test.  
14 Q And when did you take these tests? When  
15 was the first time you took the test? 09:52:26  
16 A The test, I don't know exactly the first  
17 time I took that test, but the test comes around --  
18 like it might be in Sacramento today. It might be  
19 in Santa Rosa tomorrow. It might be in Santa Maria  
20 next week. You have to chase it down because it's 09:52:36  
21 going to go that way but --  
22 Q Yes, but when, when was the first that you  
23 took the test?  
24 A When I first started up there, it was a few  
25 months after Leanna came and all that. I don't want 09:52:44  
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1 to guess, but it was like a few months after I got  
2 hired as a pest control manager.  
3 Q So sometime after June 2012; have I got  
4 that right?  
5 A I don't know. But, you know, I did have a 09:52:57  
6 copy of something like that that I didn't really  
7 give to Tim that should have -- it could show my  
8 first time taking the test.  
9 Q And you still have that paperwork?  
10 A I do. 09:53:07  
11 Q And you have not turned that over to your  
12 attorney?  
13 A Nobody asked me for that.  
14 Q Okay. No one asked you for that. After  
15 you failed the test the first time and you were 09:53:13  
16 improving, when do you think the second time was  
17 that you failed?  
18 A I don't know.  
19 Q A month later? Six months later?  
20 A About six months later because they -- 09:53:26  
21 Q Six months later.  
22 A -- they put them about six months apart.  
23 Q And the third time -- I think you said  
24 three times before you passed. The third time, how  
25 much later was the third attempt that you made? 09:53:35  
Page 39

1 A Might have been a little bit longer because  
2 I studied more. Yeah, it might have been a little  
3 bit longer. It might have been almost a year.  
4 Q All right. So after the first time, maybe  
5 six months, and then after the second time that you 09:53:47  
6 didn't pass, maybe a year?  
7 A Mm-hmm.  
8 Q So basically we're talking 18 months or --  
9 give or take?  
10 A Less than that, actually. 09:53:57  
11 Q Less than that.  
12 A I was getting pressure by the job, you  
13 know, you got to get that license, you got to go get  
14 the license, so I was trying to make sure I passed  
15 this time. 09:54:04  
16 Q Now, when you say pressured by the job, you  
17 mean by Benicia Unified School District?  
18 A Yes.  
19 Q So Benicia wanted you to have this  
20 qualified applicator certificate -- 09:54:11  
21 A Right.  
22 Q -- because it was necessary to apply Ranger  
23 PRO?  
24 A I think it's because they -- I think we  
25 kind of -- I don't know why they did that, why they 09:54:18  
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1 were pressuring me, but I think it's kind of because  
2 we kind of jumped the gun and we got the spraying  
3 and the stuff going, the work going before we got  
4 the license and all that. And that wasn't looking  
5 good for them when they went to the district 09:54:29  
6 meetings and whatever. They needed me to have that  
7 license.  
8 Q Why did they need you to have it?  
9 A It's a legal requirement.  
10 Q Legal requirement to spray Ranger PRO? 09:54:36  
11 A Certain amount of gallons, if you are over  
12 the gallon mark.  
13 Q Okay. And you were able to spray Ranger  
14 PRO without having that license?  
15 A Yeah. That's what I did. 09:54:47  
16 Q How were you able to do that if it was a  
17 legal requirement?  
18 A What Roy said --  
19 MR. LITZENBURG: Objection. Form.  
20 THE WITNESS: What Roy said the reason why 09:54:55  
21 we could spray without me having a license is  
22 because he had a license, so I was basically  
23 spraying under him. So because he had a certified  
24 applicator certificate, I didn't need one.  
25 BY MR. COPLER: 09:55:06  
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|  |  |
|--|--|
| <p>1 Q Well, you passed the test after four tries,<br/>2 so --</p> <p>3 A Yeah.</p> <p>4 Q That's not the requirement, is it?</p> <p>5 A What? 09:55:12</p> <p>6 MR. LITZENBURG: Object to form.</p> <p>7 BY MR. COPLE:</p> <p>8 Q That somebody else can have the license and<br/>9 then you can spray?</p> <p>10 A I don't think that's required. I don't 09:55:17<br/>11 know -- I don't know that part of the rule, but I<br/>12 never questioned him on it. He's the boss.</p> <p>13 Q Okay. The training that you received to<br/>14 get your QAC, was this all self-study?</p> <p>15 A Self-study. 09:55:28</p> <p>16 Q Did you go to any classes?</p> <p>17 A I went to one class, and that was the first<br/>18 one through a company called Cresco (phonetic).</p> <p>19 Q And why did you just go to one class?</p> <p>20 A School district paid for that. Gave me the 09:55:36<br/>21 book and everything, and said: Here, study this,<br/>22 and go to this class. Get your license, you know,<br/>23 come on do this. So that's what I did. I tried my<br/>24 hardest to pass.</p> <p>25 Q Okay. Now there's something called the 09:55:46<br/>Page 42</p> | <p>1 self-training. Those cue cards might be important.<br/>2 They're well written, well spread out and easy to<br/>3 explain with the answers on the back.</p> <p>4 Q Who created the cue cards?</p> <p>5 A I did. 09:56:52</p> <p>6 Q Okay. So you prepared these, and you think<br/>7 you still have these cue cards?</p> <p>8 A I know I have. I have to just look.</p> <p>9 Q So you know you have these cue cards, but<br/>10 you haven't given those to your lawyer? 09:57:00</p> <p>11 A He actually asked me for them, but I've<br/>12 been looking for them.</p> <p>13 Q We're just trying to -- as I said, we're<br/>14 trying to get your testimony about, you know, what<br/>15 happened and -- 09:57:07</p> <p>16 A Right.</p> <p>17 Q -- what we know. That's all we're trying<br/>18 to do here.</p> <p>19 Now, what about medical records; do you<br/>20 have medical records about your own mycosis 09:57:13<br/>21 fungoides?</p> <p>22 A I do, I have plenty.</p> <p>23 Q You have plenty.</p> <p>24 A The bad thing is that one of them is on the<br/>25 disk, right? And that disk can't be opened just 09:57:21<br/>Page 44</p> |
| <p>1 QAL, the Qualified Applicator License as well,<br/>2 correct.</p> <p>3 A Yes.</p> <p>4 Q And you don't have that, right?</p> <p>5 A I didn't need that. 09:55:53</p> <p>6 Q Okay. So you only have the QAC?</p> <p>7 A Yes.</p> <p>8 Q And there's also something called the CPA,<br/>9 the Certified Pest Advisor, right?</p> <p>10 A Yeah, I didn't need that either. I do have 09:56:01<br/>11 QME, I have a QAC, and there's one other one I have.</p> <p>12 Q Okay. Now, these additional documents that<br/>13 you think you still have, you're willing to produce<br/>14 copies to us through your lawyer, right?</p> <p>15 A No problem. 09:56:18</p> <p>16 Q Are there any other records that you have<br/>17 that -- that have not been -- that have not been<br/>18 turned over to your lawyer?</p> <p>19 A I mean, since I've been sitting here<br/>20 talking to you, that Cresco receipt would be<br/>21 important.</p> <p>22 (Reporter clarification.)<br/>23 -- receipt would be important, I think, you<br/>24 know, to prove when I first got the first training.<br/>25 That's only time I got training. The rest was 09:56:37<br/>Page 43</p>   | <p>1 anywhere. It has to be opened on a certain<br/>2 computer. I don't know why --</p> <p>3 Q Okay.</p> <p>4 A -- but it comes out all crazy.</p> <p>5 Q All right. Meaning you can't open them? 09:57:30</p> <p>6 A It comes out encrypted for some reason.</p> <p>7 Q Well, what about -- what about -- and you<br/>8 haven't brought them to anyone to try to open them<br/>9 up?</p> <p>10 A No. I opened them up once on my computer. 09:57:37<br/>11 I guess once you open them up on that computer, you<br/>12 can't open them up anymore because I'd encrypt<br/>13 (unintelligible).</p> <p>14 Q But you -- you still have the disk?</p> <p>15 A I do. 09:57:43</p> <p>16 Q All right. What about hard copies; do you<br/>17 have medical records?</p> <p>18 A You have a lot of medical things --</p> <p>19 Q I imagine you do, but are these medical<br/>20 records -- 09:57:50</p> <p>21 A Yeah.</p> <p>22 Q -- documents that you turned over to your<br/>23 attorneys?</p> <p>24 A Only what they asked for.</p> <p>25 Q Okay. So as far as -- as far as you 09:57:57<br/>Page 45</p>   |

1 recall, if your lawyers didn't ask for it, and so  
2 you haven't turned them over to anybody?  
3 A No, if they already didn't ask for it, I  
4 didn't turn it.  
5 Q Okay.  
6 (Reporter clarification.)  
7 A If they already didn't ask for it, I didn't  
8 turn it in.  
9 Q Is there anything else by way of records,  
10 whether it's on a computer, on a disk drive of some 09:58:14  
11 sort, on some storage device, hard copy, that has  
12 anything to do with use of Ranger PRO that you  
13 personally have other than what you've just told us  
14 about?  
15 A No. 09:58:31  
16 Q No. You can't think of anything?  
17 A (Shakes head.)  
18 Q Okay. Now we're going -- we're going to  
19 talk about what you referred to as the second  
20 exposure incident that -- that you claim in just one 09:58:40  
21 moment, but I want to be clear on the record that we  
22 had -- and this does not specifically concern you,  
23 Mr. Johnson, personally, so please, please, it's not  
24 directed at you. I need to say this for the record.  
25 MR. COPLÉ: We had originally objected to 09:59:00  
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1 the timing of the preservation deposition that  
2 plaintiff's counsel had asked for and set originally  
3 for today and then continuing until concluded,  
4 primarily, although not exclusively, on the ground  
5 that we did not yet have all the records, and that 09:59:18  
6 we thought it was premature, and we thought that me  
7 might have to have another deposition.  
8 So we're going to renew that objection now;  
9 that we need to see whatever records that you might  
10 have that you turn over to counsel, which presumably 09:59:30  
11 will be turned over to us, and we may need to  
12 continue this discovery deposition.  
13 We also -- also for the record, we're  
14 continuing to receive records from both employers as  
15 well as from medical providers who have treated you, 09:59:46  
16 and so those records continue to come in, so that  
17 also is -- is a related reason for why we need to  
18 reserve the right to continue this deposition.  
19 MR. LITZENBURG: Don't worry about this.  
20 MR. COPLÉ: I also want to be sure that -- 10:00:02  
21 that we're on the record now that any of the  
22 questions and any of the answers that Mr. Johnson  
23 gives us, that we reserve the right to use for any  
24 and all purposes that are allowed under California  
25 law including the Code of Civil Procedure and other 10:00:14  
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1 applicable laws.  
2 BY MR. COPLÉ:  
3 Q Now, the second incident that you referred  
4 to, is this an incident that occurred in April of  
5 2014? 10:00:29  
6 A April 2014? I don't know exactly the date.  
7 Q Is this -- is the second incident an  
8 occasion when you have said that you were splashed  
9 on the face with Ranger PRO? Was that the second  
10 incident? 10:00:48  
11 A The splashing on the face didn't really  
12 have a specific date. That thing was coming with  
13 that spraying all the time. You feel a little bit  
14 of drift here and there because there was no way to  
15 control the drift. I didn't wear a face mask. I 10:00:59  
16 wore goggles, and I wore a helmet, like a sort of  
17 pullover type of thing, a hoodie, nothing to totally  
18 close my face.  
19 Q Do you recall that you went to see a  
20 doctor, Dr. Carrie Chanson, in July 2014 about an 10:01:10  
21 eruption on your skin?  
22 A Is that the dermatologist? She's from --  
23 from Solano Dermatology?  
24 (Reporter clarification.)  
25 The dermatologist from Solano Dermatology? 10:01:24  
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1 Q Yeah, do you remember -- do you remember  
2 seeing a dermatologist in July of 2014 about an  
3 eruption on your skin?  
4 A Yeah.  
5 Q And that was an eruption that involved both 10:01:30  
6 of your arms, bilateral arms, your trunk of your  
7 body, and your lower extremities?  
8 A The main thing is I had a mother lesion, a  
9 mother mark over here, that I call a mother mark,  
10 the first mark I ever seen like that in my life. 10:01:45  
11 And it was on my leg over here. It was on this leg  
12 right here (indicating).  
13 Q We can't see what you're doing, so you're  
14 pointing to your right leg?  
15 A I need to say that, huh? It was on the 10:01:54  
16 right leg, inside knee.  
17 Q Okay. And that's why you went to the  
18 dermatologist?  
19 A I didn't go to the dermatologist first. I  
20 didn't have any coverage. So I went to the clinic, 10:02:03  
21 downtown clinic.  
22 Q I'm asking you if in July 2014 --  
23 A I'm giving you the sequence.  
24 Q I understand that. But I'm trying to --  
25 to -- we'll obviously take your testimony. It's 10:02:13  
Page 49

1 your testimony. But I'm trying to get to the point  
2 where did you go to see --  
3 A Yes. 10:02:22  
4 Q -- Dr. Carrie Chanson --  
5 A Yes. 10:02:22  
6 Q -- and report to her that you had been  
7 splashed on the face with Ranger PRO?  
8 A You know, I did not tell her that I'd been  
9 splashed in the face because I had not been splashed  
10 in the face -- splashed in the face. I told her  
11 that I probably might have been exposed to the stuff  
12 at work that I sprayed. The only thing that could  
13 bring something like that on me would be the stuff I  
14 spray at work.  
15 Q And this exposure would have been in 2014? 10:02:43  
16 A It would have been over a course of time.  
17 Might have a report on this thing in '14, but yeah.  
18 Q Did you report those splashes to anyone?  
19 A No, it was a part of it. Actually went in,  
20 we washed up, and we washed up every day. We washed 10:03:00  
21 with soap and, you know, got ourself cleaned up, and  
22 just thought it to be a part of it.  
23 Q When you went to Dr. Chanson and she  
24 examined you, she found a skin rash or a skin --  
25 atopic dermatitis is what she wrote down. 10:03:14  
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1 A She found that mark, and she found --  
2 Q Yes.  
3 A -- it didn't look comfortable to her.  
4 (Reporter clarification.)  
5 -- comfortable to her. She found that mark  
6 that didn't look comfortable to her.  
7 Q But she found no skin irritation on your  
8 face, correct?  
9 A No.  
10 Q So the splashes that you are saying that 10:03:27  
11 had occurred over some period of time --  
12 A I wouldn't call it splashes.  
13 Q What would you call it?  
14 A Drift is what it's called exactly.  
15 Q So drift is something that occurs when the 10:03:38  
16 droplets of Ranger PRO might become airborne; is  
17 that right?  
18 A Yes.  
19 Q All right. And so you're not talking about  
20 a splash that might come from -- 10:03:49  
21 A A splash --  
22 Q -- a loose hose, for example?  
23 A You are correct that --  
24 Q You're not talking about a splash from a  
25 liquid that's been mixed, Ranger PRO and water, 10:03:58  
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1 that's sloshing around in a -- in a bucket or  
2 backpack, right?  
3 A Ooh, that sounds really bad. No.  
4 Q No. And then you were diagnosed in  
5 August 2014 with mycosis fungoides. And at that 10:04:12  
6 point in time, you had the claim that you are saying  
7 about the Mary Farmar application where the hose  
8 became unattached, right?  
9 A Right.  
10 Q And also what you're now calling drift, 10:04:30  
11 right?  
12 A Right.  
13 Q But you're saying there was no splashing of  
14 Ranger PRO on your face?  
15 A I'm not saying that. 10:04:38  
16 Q What are you saying?  
17 A You're talking about the Mary Farmar  
18 experience?  
19 Q No, I'm not talking about Mary Farmar; I'm  
20 talking about after Mary Farmar. 10:04:46  
21 A If you want to call it a splash -- I'm  
22 calling it a drift.  
23 Q Okay. So when you say splash, you mean  
24 drift; is that correct?  
25 A No. I mean, if you get splashed, you get 10:04:53  
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1 splashed. There's a difference if I splash you with  
2 this water --  
3 Q Yes.  
4 A -- or if you drift me with that, you drift  
5 me -- you put a little hole through the top -- 10:04:58  
6 Q Your -- your example is well-taken.  
7 A Right.  
8 Q My question is: Were you splashed by  
9 Ranger PRO?  
10 A I wouldn't say splashed. I would say 10:05:05  
11 drift. Now, one time I did get splashed on the side  
12 of my face, on my head and my neck, but I was  
13 constantly getting drifted on --  
14 Q Okay.  
15 A -- with the spray.  
16 Q And that one time that you got splashed on  
17 the side of your face or head, do you recall that  
18 you claim that that happened in April of 2014?  
19 A I don't recall.  
20 Q Okay. 10:05:27  
21 MR. LITZENBURG: Objection. Form.  
22 (Reporter clarification.)  
23 Well, I'll speak up and slower. See, she  
24 does it to me, too.  
25 THE WITNESS: Yeah, I have mouth sores, so 10:05:36  
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1 that's why mine is just like totally ruined. Too  
2 much information. Sorry. And then I usually sound  
3 like this. Mumbler.  
4 BY MR. COPLE:  
5 Q Do you recall -- I'll repeat my question. 10:05:46  
6 Do you recall that -- that that occasion  
7 when you said that you were splashed on your face or  
8 side of your face or the side of your head that you  
9 claim that happened in April of 2014?  
10 MR. LITZENBURG: Object to form. Asked and 10:06:02  
11 answered.  
12 THE WITNESS: I've already answered that  
13 question I think a couple of times, the same  
14 question.  
15 BY MR. COPLE: 10:06:13  
16 Q I need you to answer.  
17 A It's not -- there's a difference between  
18 being splashed; there's a difference between being  
19 drifted on.  
20 Q I'm not trying to argue with you, Mr. 10:06:20  
21 Johnson. It doesn't -- doesn't make any sense to do  
22 that. So I'm just trying -- you are talking about  
23 drift. I understand that. But you also said there  
24 was one occasion where you were splashed on the side  
25 of your head. 10:06:32

1 A Yeah.  
2 Q And that occurred in 2015, according to  
3 your claim, right?  
4 A Yep.  
5 Q And that occurred after you had already 10:07:29  
6 been diagnosed by your doctors with mycosis  
7 fungoides, correct?  
8 A It did.  
9 Q All right. That backpack incident, by the  
10 way, that you -- that you indicate happened to you, 10:07:41  
11 did the backpack itself leak?  
12 A You know, that day I did not inspect that  
13 backpack because they'd just been spraying with it  
14 this morning, my other two employees, so I figured  
15 it was good to go. 'Cause they sprayed with it this 10:07:58  
16 morning, I'm good to go. I took the two backpacks  
17 out, and I just started spraying with them.  
18 So they usually don't leak. They usually  
19 don't have problems. And you can adjust the nozzles  
20 a lot more than you can on the big sprayer because 10:08:11  
21 there's no motor. You can adjust that by the  
22 drift -- by the power that's just pumping it out of  
23 your machine.  
24 So yeah, I was just going along spraying.  
25 I thought it was okay that my back was getting wet. 10:08:20

1 A Yeah.  
2 Q Did that happen?  
3 A I was splashed. It was everywhere.  
4 Q Okay.  
5 A It was on the side of my neck, everywhere. 10:06:38  
6 Q Did that happen --  
7 A It happened.  
8 Q -- in April of 2014?  
9 A When you say April of '14, that's when the  
10 question gets changed. That's when you put me on a 10:06:43  
11 different position. I can't give you a specific  
12 date 'cause I didn't write that date down. I don't  
13 carry that report in my pocket.  
14 Q Okay. But you did not get -- based on your  
15 doctor's examination, you did not get skin 10:06:53  
16 irritation on your face from that, correct?  
17 A Well, based on my doctor, my doctor never  
18 looked at my face and said this is from skin  
19 irritation, this is from -- this is from the sun,  
20 this is from Ranger PRO, because my face has never 10:07:06  
21 been as bad as the rest of my body.  
22 Q Okay. Now, there was another time that you  
23 claimed -- that you are claiming exposure to Ranger  
24 PRO based upon a leaking backpack sprayer; is that  
25 correct? 10:07:23

1 I thought it was just sweat. Usually you get a  
2 little sweaty out there. You have the whole suit,  
3 you have on the other clothes, you have two layers  
4 of clothes, and you're walking at a good pace. So I  
5 figure I was just getting wet from that. And I kept 10:08:31  
6 on tripping like: Man, if this is Ranger Pro  
7 getting on your skin, you're already messed up.  
8 This is all bad.  
9 So then when I got back to the yard, I  
10 asked them, I said, "Is this actually getting 10:08:42  
11 through to my clothes? Is this Ranger PRO? Is the  
12 Tyvek suit wet and my clothes wet?" And after  
13 everybody looked, and they said, "Oh, yeah, you  
14 definitely got it."  
15 Q Where was -- where was the Ranger PRO 10:08:50  
16 coming from out of the backpack?  
17 A Down around the pump where there's a  
18 little -- when you're pumping it, there's a little  
19 holes down there at the bottom.  
20 Q So at the bottom of the backpack? 10:09:00  
21 A Yeah, right, the hole is back -- I think  
22 it's a hole that you can't really see from the front  
23 or the side.  
24 Q So the -- the wet -- the wet feeling that  
25 you were getting from what you think was Ranger PRO 10:09:10

1 was occurring at your lower back; is that right?  
2 A Lower back, and it was basically, you know,  
3 right where the -- right around my waist and a  
4 little bit up got really saturated. So it was right  
5 where the little hole is connects to the back of the 10:09:26  
6 backpack, just a little bit loose. I needed to just  
7 adjust that and put it back in and everything would  
8 have been fine.  
9 Q And you were wearing your Tyvek suit?  
10 A Definitely. 10:09:36  
11 Q And these Tyvek suits, they're disposable.  
12 You wear them once, and then you put another one on;  
13 is that right?  
14 A You should.  
15 Q Well, you say "you should." Did you? 10:09:43  
16 A I always.  
17 Q Okay. So you always followed that  
18 instruction?  
19 A Yeah, you should.  
20 Q In the case of the backpack sprayer, did -- 10:09:49  
21 other than -- the people that you said you had  
22 informed that you had -- you were feeling wet from  
23 the backpack, who was that?  
24 A Edwin Martinez and Ronald Sapp.  
25 Q Anyone else? 10:10:07

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1 A No, shouldn't be.  
2 Q Did you file a report with anybody?  
3 A We didn't have that in place again. Still  
4 we didn't have. Like before I just told Roy about  
5 it, and he was like: You should be okay, blah, 10:10:16  
6 blah, blah. Roy was in that day, you know.  
7 VIDEO OPERATOR: Can you not touch the mic,  
8 please.  
9 THE WITNESS: Oh, got it. Like a fidget  
10 toy or something. 10:10:27  
11 BY MR. COPLE:  
12 Q Going back to what you're calling the drift  
13 that you believe you were exposed to, did you  
14 discuss that -- that drift exposure with anybody at  
15 Benicia?  
16 A Yeah, with Ms. Crane. I talked to her  
17 about it. She was the secretary. I talked to Roy  
18 about it. I talked to anybody who would talk to me  
19 about it.  
20 Q When did you talk to these individuals 10:10:52  
21 about this?  
22 A Day to day, around that day when I got  
23 back, 'cause I left in a haste. Everybody was  
24 going, "Where did you go? Where did you go?" When  
25 I got back, I just let them know what happened. 10:11:02

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1 Q Why were you discussing this with Ms.  
2 Crane, the secretary?  
3 A She's an office manager. When there's no  
4 other managers around, you're supposed to talk to  
5 her about it. 10:11:10  
6 Q Is she -- is she trained in the application  
7 of pesticides?  
8 A Absolutely not.  
9 Q Okay. Is there -- and who was the other  
10 person that you said you spoke to about this? 10:11:17  
11 A Roy. Roy was there.  
12 Q Okay. There were no other exposures that  
13 occurred for you for Ranger PRO before the time you  
14 were diagnosed with mycosis fungoides other than the  
15 hose situation at Mary Farmer and other than the -- 10:11:41  
16 the drift you're talking about; is that right?  
17 A Yes, sir.  
18 Q All right. Now, before we continue, I want  
19 to be sure that if you need a break at any time,  
20 just ask us, and we'll be happy to accommodate that. 10:11:58  
21 There's -- there's no reason that you or any of us  
22 should have to struggle if we need a break, so just  
23 ask us and we'll take care of that, and we'll break  
24 for however long you need.  
25 The other thing I need to ask you about, 10:12:13

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1 because it can be important in a deposition, is  
2 sometimes when folks are taking medications,  
3 anybody, including me, it can cause some confusion  
4 or fuzziness, or the -- the inability or the reduced  
5 ability to -- to say what you want to say, so I need 10:12:30  
6 to ask you, have you taken any medications in the  
7 last 48 hours?  
8 A Oh, yeah.  
9 Q What did you take?  
10 A I took duloxetine. I took -- what else. I 10:12:42  
11 took -- acetaminophen and Cymbalta.  
12 Q What does duloxetine do?  
13 A That's generic for Naprosyn. That's a pain  
14 pill.  
15 Q Okay. So you've taken -- is it a narcotic? 10:13:05  
16 A No, the only one that's a narcotic is  
17 acetaminophen.  
18 Q Okay. So you took acetaminophen that has a  
19 narcotic in it?  
20 A Yeah. 10:13:17  
21 Q Codeine; is that right?  
22 A I don't know.  
23 Q You don't know, but you believe it has a  
24 narcotic?  
25 A It's definitely a narcotic. 10:13:21

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|  |  |
|--|--|
| <p>1 Q Were all three of these medications<br/>2 prescribed by a doctor?<br/>3 A Oh, yes, sir.<br/>4 Q The same doctor?<br/>5 A Yes. 10:13:28<br/>6 Q Which doctor?<br/>7 A Dr. Tran -- Truong, I mean.<br/>8 Q T-r-u-o-n-g?<br/>9 A Yeah.<br/>10 Q So you're still under her care and 10:13:34<br/>11 treatment?<br/>12 A She sent me to a pain management doctor<br/>13 named Dr. Chaol (phonetic). I guess you don't have<br/>14 that record yet, but it's coming down.<br/>15 Q Would you spell that doctor's name? 10:13:43<br/>16 A C-h-e-a -- I don't know.<br/>17 Q Okay. And you pronounced it "Chu" or<br/>18 "Chul"?<br/>19 A "Chu" or "Chul."<br/>20 Q "Chul." 10:13:54<br/>21 A "Chul."<br/>22 Q When did you start seeing the pain<br/>23 management doctor?<br/>24 A Last week. I think I see him again<br/>25 tomorrow. 10:14:00</p> <p style="text-align: right;">Page 62</p>   | <p>1 Q All right. Is it affecting your ability to<br/>2 concentrate?<br/>3 A Sitting down like this, I'm good.<br/>4 Q Okay.<br/>5 A When I start to move, that's when it's 10:14:52<br/>6 really bad.<br/>7 Q Okay. Well, again, reminder, if you need a<br/>8 break, let us know.<br/>9 A I'm good right now.<br/>10 Q Okay. Now, I asked about concentration. 10:14:59<br/>11 Is -- do these medications affect your ability to<br/>12 understand the questions I'm asking you?<br/>13 A Oh, no.<br/>14 Q Okay. What about the pain; is that<br/>15 interfering in any way? 10:15:12<br/>16 A No.<br/>17 Q Okay. Let me ask you about the complaint<br/>18 that you filed or your lawyers filed for you in this<br/>19 case.<br/>20 MR. COPLE: Can I have the complaint, 10:15:23<br/>21 please?<br/>22 I need to mark this as an exhibit for the<br/>23 deposition.<br/>24 (Deposition Exhibit 1 marked by the court<br/>25 reporter.) 10:16:01</p> <p style="text-align: right;">Page 64</p>  |
| <p>1 Q All right. And this was a referral from<br/>2 Dr. Truong?<br/>3 A Yes, sir.<br/>4 Q And what was the reason that she gave you<br/>5 that referral? 10:14:06<br/>6 A From the pain. I'm in serious, very<br/>7 chronic pain right now.<br/>8 Q Okay. But you do have pain medication?<br/>9 A Yes, yes.<br/>10 Q And you -- are you on that pain medication 10:14:13<br/>11 right now?<br/>12 A Yeah, I just started taking it last week,<br/>13 and this is like my second week of taking it. And<br/>14 there's some delays and some different things going<br/>15 on right now. 10:14:24<br/>16 Q Now, we realize that you're not a doctor,<br/>17 and neither -- neither is anybody in this room, but<br/>18 what I need to ask is are the medications that you<br/>19 have taken that you are on right now, are they<br/>20 affecting you in any way in terms of your ability to 10:14:35<br/>21 concentrate?<br/>22 A No. The only thing that makes me not<br/>23 concentrate is the pain.<br/>24 Q Okay. Are you in pain right now?<br/>25 A A little bit. 10:14:46</p> <p style="text-align: right;">Page 63</p> | <p>1 BY MR. COPLE:<br/>2 Q Do you recognize that document, Mr.<br/>3 Johnson?<br/>4 A I don't know if it's my first time seeing<br/>5 it. Looks like the first time seeing this, but it 10:16:22<br/>6 looks like regular court procedure papers talking<br/>7 about some details.<br/>8 Q Does this look like the complaint that was<br/>9 filed on your behalf against Monsanto?<br/>10 A I think we got to page -- what's this -- 5 10:16:40<br/>11 and 6 yet.<br/>12 Q All right. Well, I'm not going to ask you<br/>13 to read this cover to cover. What I do want to know<br/>14 is: When this complaint was filed, did you read it<br/>15 before it was filed with the California Superior 10:16:54<br/>16 Court?<br/>17 A No.<br/>18 Q Did your lawyers ask you to read it?<br/>19 MR. LITZENBURG: Objection to form. Don't<br/>20 tell him anything that you and I have discussed. 10:17:03<br/>21 I'm going to instruct you not to answer that.<br/>22 BY MR. COPLE:<br/>23 Q Did anyone ask to you read this complaint?<br/>24 MR. LITZENBURG: Again, don't answer as to<br/>25 any communications between me and you. 10:17:12</p> <p style="text-align: right;">Page 65</p> |

1 THE WITNESS: You mean you need to hear me  
2 say I refuse to answer questions?  
3 BY MR. COPLE:  
4 Q You're either going to follow your lawyer's  
5 advice or not. I just need to know did anyone ask 10:17:23  
6 you to read this document.  
7 MR. LITZENBURG: And I'm just telling you  
8 that -- I'm objecting. That's a very clear invasion  
9 of attorney-client privilege. But don't -- today  
10 and throughout the day, we're not going to answer 10:17:34  
11 any questions he asks about what you and I have  
12 discussed or -- at any time or any correspondence  
13 that I've sent to you.  
14 Other than me and my office, if somebody  
15 else has asked you to look at your complaint, you 10:17:44  
16 can answer that. Otherwise, I'll tell you to -- to  
17 not answer.  
18 BY MR. COPLE:  
19 Q All right. So your counsel is directing  
20 you not to answer the question of whether anyone 10:17:51  
21 asked you to read this document before it was filed;  
22 is that right? You're following his instruction?  
23 A I'm following his instruction.  
24 Q All right. Well, let's look at the  
25 document now. If you'll turn to page 26, and 10:18:05  
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1 there's a paragraph 85. And I want to ask you about  
2 that paragraph 85 which is: When were you living on  
3 a commercial sod farm where you were exposed to the  
4 weed chemical Roundup?  
5 A When was I living on a sod farm? 10:18:40  
6 Q Yes, that's what it says. This is your  
7 complaint against the company.  
8 A I never lived on a sod farm.  
9 Q Can you read it for the record, please,  
10 paragraph 85? 10:18:50  
11 A 85?  
12 Q Yes.  
13 A "Plaintiff were" -- "plaintiff were  
14 exposed to Defendants' Roundup products  
15 while living on a commercial sod farm, 10:18:57  
16 as described above, with [sic] knowledge  
17 of its dangerous characteristics."  
18 Q It actually says "without knowledge,"  
19 right?  
20 A Where -- without knowledge. 10:19:11  
21 Q My question is: When -- when were you  
22 living on this commercial sod farm?  
23 A It doesn't say "without knowledge" on my  
24 form. I've never lived on a sod farm. I don't know  
25 where that came from. 10:19:20  
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1 Q All right. So there is no complaint by you  
2 against Monsanto based on you living on a sod farm  
3 where you claim to be exposed to Roundup, right?  
4 You don't have that complaint against the company?  
5 A No. 10:19:35  
6 Q All right. So this -- this statement is  
7 actually false, right? It's not true?  
8 A It has to be false. I've never lived on a  
9 sod farm.  
10 Q Okay. And you've never seen this statement 10:19:42  
11 before; is that right?  
12 A I've never lived on any farm.  
13 Q But you've never seen this statement  
14 before?  
15 A Never. 10:19:50  
16 Q All right. Let me move to page 23, and if  
17 you look at page -- I'm sorry, paragraph 75,  
18 there -- there is a statement on your behalf or by  
19 you that says that you were "diagnosed with  
20 non-Hodgkin lymphoma in 2014 at the age of 42." 10:20:12  
21 That's correct, right?  
22 A That's correct.  
23 Q And the non-Hodgkin lymphoma that you're  
24 talking about here in your complaint is the mycosis  
25 fungoides, right? 10:20:23  
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1 A Yes.  
2 Q Okay. Now, if you go to the preceding  
3 paragraph, 74, it says that you were employed at all  
4 relevant times by the Benicia School District,  
5 right? 10:20:37  
6 A Right.  
7 Q And it goes on to say in the same  
8 paragraph, 74, that your responsibilities included  
9 direct application of Roundup and Ranger PRO to the  
10 school properties, right? 10:20:47  
11 A Yes.  
12 Q But it doesn't say anything in this  
13 complaint about those two times that you say you  
14 were exposed to Ranger PRO on the job, right?  
15 A Not that I've seen. I didn't read the 10:21:01  
16 whole pamphlet.  
17 Q You're not aware offhand if there's  
18 anything in this complaint that describes those  
19 exposures?  
20 A No, I wouldn't know because I haven't read 10:21:09  
21 the whole packet.  
22 Q Each time that -- how many times would you  
23 use Ranger PRO or other pesticides for weed  
24 management each -- each year that you were on the  
25 job? Just approximately. Are we talking about 50 10:21:24  
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1 times? 300 times?  
2 A Did I -- did I apply the chemical?  
3 Q That you went out -- that you went out and  
4 applied Ranger PRO.  
5 A By gallons or by times? I would say we 10:21:36  
6 would go out during the spray month -- what we call  
7 the spray month is August, June, July. We could go  
8 out -- four weeks in a month. I would say twelve  
9 times in a month. Three six, nine, twelve, because  
10 we only do three days, four days in a row, right? 10:21:54  
11 We have to keep this stuff in the morning, two hours  
12 in the morning before people start milling around,  
13 milling around. So we only had two hours. So we  
14 might get two or three days to do the same site and  
15 then go to another site.  
16 (Reporter clarification.)  
17 I get excited talking about spray. But  
18 anyway, you spray your site, you get it done, you go  
19 to the next site. We didn't bounce around, you  
20 know. We finished that site for three, four -- took 10:22:15  
21 four days on one site, we would stay there four  
22 days.  
23 Q Now, when you say "we," Mr. Johnson, are  
24 you saying you went out with a crew that did this?  
25 A No, it was me and Sapp and Martinez. 10:22:24  
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1 Q All right. So you and Mr. Martinez were  
2 the crew?  
3 A Right. Martinez and Sapp.  
4 Q Okay. Martinez and Sapp.  
5 A Ron Sapp. 10:22:34  
6 Q Now -- I'm sorry, what was his first name?  
7 A Ron, and the first -- other guy is Edwin.  
8 Edwin Martinez.  
9 Q Edwin Martinez and Ron Sapp.  
10 A Yes, sir. 10:22:43  
11 Q Did they -- did you all go as a -- as a  
12 crew of three, or did you go two at time or how did  
13 that work?  
14 A At the high school, we would go three at a  
15 time. That would be the high school. You take the 10:22:52  
16 parking lot, you take the playground and the  
17 basketball courts and all that, and you take the  
18 front. Split it up, you know what I mean?  
19 Q All right. And so how -- how would you  
20 each be applying the -- the weed chemical? 10:23:01  
21 A Those guys would be using [he backpacks,  
22 and I'd be using the power sprayer connected to the  
23 truck.  
24 Q All right. So you would use the truck  
25 typically? 10:23:10  
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1 A Mostly did the truck.  
2 Q Okay. Is there a reason that you did the  
3 truck and they did backpacks?  
4 A Because I got hired to be the pest control  
5 manager. Supposed to do more work; supposed to do 10:23:16  
6 the reports; supposed to spray more product. It  
7 just came with the job.  
8 Q What about the other nine months other than  
9 the spray season that you described? Did you apply  
10 Ranger PRO during those months? 10:23:28  
11 A Not really. I might spray around some  
12 trees.  
13 (Reporter clarification.)  
14 Spray around some trees or spray a fence  
15 line.  
16 (Reporter clarification.)  
17 Might spray a fence line or something that  
18 was getting out of hand, but mostly -- no. I mean,  
19 there wasn't any -- after a certain like spray time  
20 was done, we put those sprayers and stuff away, pack 10:23:48  
21 stuff away. We take the forklift, we take  
22 everything out of the way. We don't use it anymore.  
23 Q Now, each time that you went out during the  
24 spray season to apply Ranger PRO, did you read the  
25 Ranger PRO labeling? 10:24:00  
Page 72

1 A Every time. And I learned that at  
2 Applebee's because, you know, at the Applebee's,  
3 (unintelligible) they have a business, that even  
4 though you know the recipe, you've been cooking this  
5 for a long time, if we don't see that recipe out, 10:24:11  
6 you get wrote up. Chefs would be wrote up because  
7 they didn't have the recipe out.  
8 Q All right. So you -- you would --  
9 A I carried my recipe for Ranger PRO, a  
10 little book that they give you, I peel it off, and I 10:24:22  
11 put it in my pocket. Kept it in my pocket. So I go  
12 by my ounces when I spray something, and I know I  
13 used five gallons last time to ten ounces with it.  
14 I look in there. Tell me the same thing every time.  
15 Close the book. Put it in my pocket and go. 10:24:35  
16 Q Okay. So how long would that take you to  
17 read the label each time?  
18 A Less and less time. Every time I just flip  
19 right to the page. It was already set back for me,  
20 folded. Look it up. 10:24:44  
21 Q Five minutes?  
22 A Less than five.  
23 Q Two minutes?  
24 A Two, three minutes.  
25 Q All right. Two to three minutes. And you 10:24:51  
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|--|---|
| <p>1 would do that every single time?<br/> 2 A Yeah, go straight to the ratio sheet. The<br/> 3 ratio sheet is there. You look at the ratio, water<br/> 4 to product, and you go down there and start<br/> 5 squirting up in the tank, putting water in the tank 10:25:02<br/> 6 and then the juice. We used to call it the juice.<br/> 7 Q And that's how you knew how important it<br/> 8 was to wash with soap and water?<br/> 9 A It's very important. You can smell that<br/> 10 stuff as soon as you open the bottle. 10:25:14<br/> 11 (Reporter clarification.)<br/> 12 You can smell that stuff.<br/> 13 Q All right. Now, what about the product --<br/> 14 the product safety sheet; do you know what that is?<br/> 15 A Oh, yeah. 10:25:21<br/> 16 Q Where was that kept?<br/> 17 A Right in the glove box of the truck.<br/> 18 Q All right. Did you -- did you review that<br/> 19 document?<br/> 20 A Yeah, all the time. 10:25:28<br/> 21 Q Each time?<br/> 22 A Not each time, but --<br/> 23 Q Not each time?<br/> 24 A You know, that little square thing and all<br/> 25 that and other times -- we didn't have to look at 10:25:35<br/> Page 74</p>                      | <p>1 A It was hurting my -- it was hurting me. I<br/> 2 shouldn't have been smoking that stuff.<br/> 3 Q All right. And in 2006, you would have<br/> 4 been basically 30 -- 34 years old; is that about<br/> 5 right?<br/> 6 A 2000 what?<br/> 7 Q 2006. You were 42 when you were diagnosed<br/> 8 with --<br/> 9 A Yeah.<br/> 10 Q -- with non-Hodgkin's lymphoma, so 2006 10:26:43<br/> 11 would have been -- basically you were 34, right?<br/> 12 A Yep.<br/> 13 Q All right. And how many years did you<br/> 14 smoke these cigars?<br/> 15 A Maybe like two years. 10:26:54<br/> 16 Q Only two years?<br/> 17 A Yeah.<br/> 18 Q You just started --<br/> 19 A It was two years straight every day smoking<br/> 20 one of those. 10:27:01<br/> 21 Q And how many did you smoke a day?<br/> 22 A Only one. You can't smoke more than one a<br/> 23 day.<br/> 24 Q Okay. But you smoked every single day?<br/> 25 A Yeah. 10:27:08<br/> Page 76</p>   |
| <p>1 that every time.<br/> 2 Q And what would be a reason that you would<br/> 3 look at that?<br/> 4 A 'Cause you've done it so many mornings that<br/> 5 you know you're supposed to have your PPE on. 10:25:41<br/> 6 You're not supposed to be out there smoking a cigar<br/> 7 next to your tank, you know. It's not something<br/> 8 that you play around with, but it's not something<br/> 9 that you have to go check in that circle -- I mean,<br/> 10 the square and the product and all that and how much 10:25:52<br/> 11 product is in the product. You don't need that, you<br/> 12 know, but you do need your safety stuff.<br/> 13 Q Did you smoke cigars?<br/> 14 A No, no, no.<br/> 15 Q But you've smoked them in the past, right? 10:26:01<br/> 16 A Yeah, I smoked Black &amp; Milds back in the<br/> 17 day.<br/> 18 (Reporter clarification.)<br/> 19 Black &amp; Milds. Black &amp; Milds.<br/> 20 Q Can you spell that for the court reporter? 10:26:13<br/> 21 A B-l-a-c-k, M-i-l-d.<br/> 22 Q Okay. Now you stopped smoking those cigars<br/> 23 in 2006 according to your medical records, right?<br/> 24 A Yeah.<br/> 25 Q Am I right? 10:26:25<br/> Page 75</p> | <p>1 Q All right. And tell me again why you<br/> 2 stopped?<br/> 3 A Just wasn't healthy, you know. You felt<br/> 4 sick and you spitting out this green little --<br/> 5 little -- I don't know what it was, but it was some 10:27:17<br/> 6 green fluid. You just -- you knew it's from the<br/> 7 cigars.<br/> 8 Q Did you go to a doctor about this --<br/> 9 A Nah.<br/> 10 Q -- green fluid that was being -- 10:27:23<br/> 11 A It was obvious.<br/> 12 Q -- in your spittle?<br/> 13 A It was obvious. I had to cut those cigars<br/> 14 out.<br/> 15 Q Did you chew tobacco? 10:27:30<br/> 16 A No. These cigars have pipe tobacco inside,<br/> 17 you know, so that was the lure was the smell. Smell<br/> 18 like a pipe.<br/> 19 Q All right. Did you smoke a pipe at any<br/> 20 time? 10:27:41<br/> 21 A No. I love the way it smells though.<br/> 22 Q Okay. And you didn't use snuff?<br/> 23 A No.<br/> 24 Q All right. And cigarettes, did you use<br/> 25 those? 10:27:47<br/> Page 77</p> |

1 A No.  
2 Q So you just decided when you were 32 years  
3 old that you would start?  
4 A I've always wanted to try chew or snuff,  
5 whatever the guys put in the side of their mouth and 10:27:55  
6 chew it and spit it out, but I just knew it would  
7 give me mouth cancer, but basically what this looks  
8 like right now.  
9 Q Okay. All right. And there's -- there's  
10 nothing in this complaint which is -- let me make 10:28:05  
11 sure we have the right thing. This complaint runs  
12 for 45 pages, and there's nothing in this complaint  
13 that talks about you reading the Ranger PRO label,  
14 right?  
15 A I don't know. 10:28:24  
16 Q All right. And other than what you agreed  
17 with me is a false statement about the commercial  
18 sod farm --  
19 A No, there's nothing else.  
20 Q -- everything else in this complaint you 10:28:37  
21 believe is -- is true and accurate?  
22 A I can't say that without reading it.  
23 MR. LITZENBURG: He just said he --  
24 BY MR. COPLE:  
25 Q Okay. And so you can't -- you can't say it 10:28:46  
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1 because you don't remember reading it, or you  
2 don't --  
3 A I did not read it.  
4 Q -- or you know you never read it before?  
5 I'm sorry. 10:28:53  
6 A This is -- this is my first time seeing  
7 this report. I did not read this report ever.  
8 Q Okay. That is crystal clear.  
9 Let me turn to another thing so that we can  
10 take care of some questions we need to be sure we 10:29:12  
11 understand.  
12 MR. COPLE: Would you grab the deposition  
13 notice, Monsanto's.  
14 We need to mark this as Exhibit 2 for the  
15 deposition. 10:29:34  
16 (Deposition Exhibit 2 marked by the court  
17 reporter.)  
18 BY MR. COPLE:  
19 Q Do you know what this document is?  
20 A It looks like something all the lawyers 10:29:57  
21 who've been working on the case.  
22 Q All right. So have you seen this before?  
23 A Never.  
24 Q All right. In this document, on the second  
25 page, you'll see in the first paragraph -- and you 10:30:07  
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1 can, I think, quickly read that or we can read it  
2 together. You correct me if I misstate anything.  
3 It says:  
4 "PLEASE TAKE NOTICE that pursuant  
5 to California Code of Civil Procedure," 10:30:23  
6 and it has some sections of the law  
7 code, "Defendant MONSANTO  
8 COMPANY, ('Defendant') -- is in quotes,  
9 "will take the deposition of plaintiff  
10 DEWAYNE JOHNSON on Wednesday, 10:30:35  
11 December 6, 2017, beginning at  
12 9:00 a.m."  
13 Did you know that, that we were planning to  
14 depose you at 9:00 a.m. yesterday?  
15 A Yes. 10:30:45  
16 Q You did? Now, the next sentence says that:  
17 "The deposition will be taken at  
18 the law offices of Farella Braun +  
19 Martel" in downtown San Francisco.  
20 Did you know that? 10:30:56  
21 A No, I never heard that.  
22 Q No one ever told you that that was where  
23 the deposition was?  
24 A I was told it was here.  
25 Q Okay. When were you told where the 10:31:04  
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1 deposition was?  
2 MR. LITZENBURG: Objection. Any  
3 conversations between me and you we're not going to  
4 talk about today. If somebody else talked to you  
5 about the timing or the location of this deposition 10:31:13  
6 other than me and my office, you can answer.  
7 BY MR. COPLE:  
8 Q Let me ask it differently. When did you  
9 find out where the deposition location was as you  
10 understood it? 10:31:22  
11 THE WITNESS: Do you want me to answer  
12 that?  
13 MR. LITZENBURG: That's fine.  
14 THE WITNESS: Can you ask again, please?  
15 BY MR. COPLE:  
16 Q Yeah. When did you find out that you  
17 believed the deposition location was here?  
18 A I'd say a few days before that date that I  
19 mentioned say I found out about it.  
20 Q So earlier this week? 10:31:38  
21 A Yeah.  
22 Q All right.  
23 A By email and text.  
24 Q Okay. Now, those emails and texts, those  
25 were from lawyers, your lawyers, right? 10:31:45  
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|   |   |
|---|---|
| <p>1 A Yes.</p> <p>2 Q Okay. Now, did you -- did you have an</p> <p>3 objection to going to San Francisco to do this</p> <p>4 deposition?</p> <p>5 A No. 10:31:58</p> <p>6 Q No objection?</p> <p>7 A No.</p> <p>8 Q Okay. Now, did you drive here today?</p> <p>9 A Yeah.</p> <p>10 Q And you were able to still drive despite 10:32:07</p> <p>11 your medical condition?</p> <p>12 A Yes, I pushed through it. Sitting down is</p> <p>13 the worst. Getting up and sitting down is the</p> <p>14 worst. Hitting a bump or something like, it hurts,</p> <p>15 but it's -- 10:32:17</p> <p>16 Q Okay. And you're able to drive even with</p> <p>17 the medications that you're prescribed, right?</p> <p>18 A Yeah.</p> <p>19 Q Okay. You seemed to hesitate there.</p> <p>20 A No, but I read about it, and I heard from 10:32:27</p> <p>21 the nurses, you know, if they pull you over and they</p> <p>22 -- like I say, if you had your bottle of pills in</p> <p>23 your car, they might take you to jail, might take</p> <p>24 your pills or whatever, and they make it bad for</p> <p>25 you, you know? 10:32:37</p> <p style="text-align: right;">Page 82</p> | <p>1 A Right.</p> <p>2 Q But you were able to deal with that pain to</p> <p>3 drive here today?</p> <p>4 A Oh, yeah. I have to.</p> <p>5 Q All right. 10:33:25</p> <p>6 A Legal requirement.</p> <p>7 Q Right. Because we talked about it, it is</p> <p>8 your obligation, though we appreciate that you're --</p> <p>9 that you're here.</p> <p>10 Now, let's talk about your chemotherapy. 10:33:35</p> <p>11 Are you still receiving chemotherapy?</p> <p>12 A I'm receiving my first trial of -- my first</p> <p>13 real -- what do they call it? -- real chemotherapy.</p> <p>14 I did a trial -- a trial medication that only could</p> <p>15 last a month or two before. It gave me real bad 10:33:50</p> <p>16 neuropathy in my hands and feet, so we discontinued</p> <p>17 that. And we started up this new pralatrexate.</p> <p>18 Started that three weeks ago.</p> <p>19 Q Okay. Who is your doctor for that</p> <p>20 treatment? 10:34:04</p> <p>21 A Truong.</p> <p>22 Q Dr. Truong is --</p> <p>23 A Yes.</p> <p>24 Q Are the doctors that you had seen</p> <p>25 previously at Stanford involved in giving you that 10:34:09</p> <p style="text-align: right;">Page 84</p> |
| <p>1 Q Well, that can happen, but I just want to</p> <p>2 understand that you believe you're able to drive?</p> <p>3 A Yeah, I wouldn't drive impaired.</p> <p>4 Q Okay. And you didn't drive impaired today</p> <p>5 to get here? 10:32:49</p> <p>6 A No.</p> <p>7 Q How far was your trip here today?</p> <p>8 A A rock's throw.</p> <p>9 Q Okay. Are you able to drive into</p> <p>10 San Francisco? 10:32:53</p> <p>11 A Yeah.</p> <p>12 Q Have you done so recently?</p> <p>13 A Nope.</p> <p>14 Q Just because you had no reason to?</p> <p>15 A No reason to. 10:33:00</p> <p>16 Q All right.</p> <p>17 A You don't go there without a reason.</p> <p>18 Q Is there anything in your current medical</p> <p>19 treatment that would create a situation where you</p> <p>20 can't drive? 10:33:10</p> <p>21 A There's been some serious times I'm in</p> <p>22 serious pain where I wouldn't go anywhere. I won't</p> <p>23 go to the corner.</p> <p>24 Q All right. So it's the pain that you're</p> <p>25 talking about? 10:33:18</p> <p style="text-align: right;">Page 83</p>   | <p>1 treatment?</p> <p>2 A The doctors at Stanford gave me -- they</p> <p>3 gave me the clinical trial, and they gave me chemo</p> <p>4 and whatever -- I mean, they gave me full body</p> <p>5 radiation and some other stuff at Stanford. 10:34:24</p> <p>6 Q But they're not giving you this current</p> <p>7 chemotherapy?</p> <p>8 A Stanford doesn't have anything to do with</p> <p>9 it.</p> <p>10 Q All right. And what about University of 10:34:31</p> <p>11 California at San Francisco?</p> <p>12 A They were very helpful, but they don't have</p> <p>13 anything to do with me right now.</p> <p>14 Q So it's just Dr. Truong. Anyone else in</p> <p>15 Dr. Truong's practice besides her? 10:34:40</p> <p>16 A Inside her oncology office? No, just the</p> <p>17 nurses and stuff like that.</p> <p>18 Q All right. And Dr. Truong is an</p> <p>19 oncologist?</p> <p>20 A Yeah, right. 10:34:49</p> <p>21 Q All right. When was your -- when was your</p> <p>22 most recent chemotherapy?</p> <p>23 A Day before yesterday.</p> <p>24 Q So on --</p> <p>25 A 21st. 10:34:58</p> <p style="text-align: right;">Page 85</p>   |

1 Q -- Tuesday --  
2 A Yeah.  
3 Q -- of this week.  
4 A Yeah.  
5 Q Where did you -- where did you receive the 10:35:01  
6 chemotherapy?  
7 A In Vallejo, Sereno Avenue.  
8 Q All right. At Dr. Truong's office?  
9 A Yeah, at the oncology office.  
10 Q All right. And how much time did that take 10:35:10  
11 to have that treatment?  
12 A The treatment stuff takes about five  
13 minutes, but the whole prep takes about two hours,  
14 hour and a half.  
15 Q And after that treatment, were you able to 10:35:19  
16 drive?  
17 A Driving is fine. Walking is very bad.  
18 Walking from my kneecaps, from my ankles are like  
19 unexplainable.  
20 Q Now Tuesday night you -- you got ready, you 10:35:30  
21 prepared for this deposition, right?  
22 A Sorta kinda. I just had a really long  
23 night. I don't know if I was anxious or whatever.  
24 I just couldn't get sleep. And by the time I was  
25 ready to go, I was in so much pain, I was just 10:35:45  
Page 86

1 dragging around. It was a mess.  
2 Q And you didn't have chemotherapy yesterday?  
3 A No.  
4 Q It was just the day before?  
5 A Right. 10:35:54  
6 Q All right. Now, yesterday you were  
7 supposed to be here for the deposition in time to  
8 start at 9 o'clock. You're aware of that, right?  
9 A Yeah, I talked to Tim about that.  
10 Q Okay. And you did not show up. Can you 10:36:07  
11 tell us why?  
12 A I just -- I thought I explained. I was in  
13 a lot of pain, and it was very hard for me to walk.  
14 It just was a really bad morning for me.  
15 Q All right. Had -- had you anticipated this 10:36:19  
16 on Tuesday night?  
17 A No, not as bad, because, you know, I have  
18 some good nights and some bad nights. Like today  
19 was way better than yesterday, but I think I started  
20 preparing the night before. I started finding -- I 10:36:32  
21 went and bought some different clothes that was a  
22 lot smoother --  
23 Q All right.  
24 A -- different stuff like that that didn't  
25 chaff up against my skin. I have too many open 10:36:43  
Page 87

1 wounds, too many open wounds to really even have  
2 clothes on. It's like really hard to put on  
3 clothes.  
4 Q Did you tell anyone yesterday morning that  
5 you were not going to be able to come to the 10:36:53  
6 deposition?  
7 A No.  
8 Q And when you were in this situation of  
9 discomfort yesterday, were you home?  
10 A I was home most of the day. Then I had to 10:37:08  
11 go out and get some -- some help with the doctor. I  
12 went out to a -- Kaiser. I think that might have  
13 been the day after or the day before, and they gave  
14 me more medicine that I haven't even picked up yet.  
15 Q All right. You drove there? 10:37:24  
16 A To where, to the hospital?  
17 Q To wherever you went later in the day  
18 yesterday.  
19 A Yeah.  
20 Q At what time did you go? 10:37:30  
21 A I don't know exactly. It had to be three  
22 something, 3:30.  
23 Q All right. Before that you were at home?  
24 A I was at home, and I had to pick up my kids  
25 from school. 10:37:43  
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1 Q So you left to pick up your children?  
2 A Yeah.  
3 Q What time was that?  
4 A It was about 3:30, 4 o'clock.  
5 Q Okay. 10:37:49  
6 A Go back to Vallejo.  
7 Q Okay. Now, before the 3:30 or 4 o'clock  
8 pickup of your children, were you at home?  
9 A I was at home stuck. Like totally in pain.  
10 Q All right. You were in pain at home. Were 10:38:00  
11 you able to answer the door?  
12 A No, I wasn't able to answer the door  
13 yesterday. I didn't get out of bed yesterday until  
14 1 o'clock. I did sleep a little bit late. By the  
15 time I got to bed, it was early, like 1:30 or 2 10:38:12  
16 o'clock.  
17 Q Was anybody with you?  
18 A When I went to sleep at night?  
19 Q Well, yesterday morning, was anybody --  
20 A No, my family leaves out pretty early in 10:38:19  
21 the morning.  
22 Q All right. So you were alone?  
23 A Yes.  
24 Q And were you able to answer the phone  
25 yesterday? 10:38:26  
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|   |  |
|---|--|
| <p>1 A I was able to answer the phone, but I<br/>2 didn't have the phone anywhere near me. I didn't<br/>3 know where that phone was. It was in the living<br/>4 room or something where I didn't hear it ringing.<br/>5 Probably it died already 'cause I wasn't getting any<br/>6 phone calls or any buzzing around. It usually<br/>7 buzzes and rings. So if I did hear anything, I do<br/>8 not remember it, but I was sleeping in --<br/>9 Q Did anyone call you about -- to find out<br/>10 why you were not here yesterday? 10:38:47<br/>11 A When I woke up, I saw that I missed a few<br/>12 calls, from my wife, from -- actually, even from my<br/>13 other lawyer's office had called and said that the<br/>14 lawyer that you're working with on your other case<br/>15 had called, and he was pretty worried to see where 10:39:00<br/>16 you were, what's going on with you. So then I<br/>17 called Tim and let him know what's happening with<br/>18 me. And he decided that yeah, he made a date for<br/>19 today.<br/>20 So yeah, he called around. And then my mom 10:39:11<br/>21 had called. I just -- I was out of it. I was<br/>22 really in a lot of pain. Just didn't want to move.<br/>23 Q What time did you call your lawyer?<br/>24 A I called him about three something.<br/>25 Q Okay. When is your next chemotherapy 10:39:22<br/>Page 90</p> | <p>1 of the mouth sores, they're not going to treat you<br/>2 this week.<br/>3 Q All right. But I'm asking you about you,<br/>4 Mr. Johnson. Do you have the choice to tell your<br/>5 doctor you don't want to have chemo a particular 10:40:32<br/>6 week?<br/>7 A You got the choice to tell your doctor<br/>8 whatever you want to tell them.<br/>9 Q Okay. Well, let's just talk about this<br/>10 week. You had chemotherapy the day before 10:40:40<br/>11 yesterday, Tuesday. Could you have told the doctor<br/>12 you have a deposition so you need to put it off?<br/>13 A Definitely.<br/>14 Q But you didn't do that?<br/>15 A No. 10:40:52<br/>16 Q Is there a reason why you didn't do that?<br/>17 A I think it was because there was a space in<br/>18 between the appointments. I thought I would be<br/>19 okay. I didn't really feel like I needed to call<br/>20 off one or the other, and I'm not really sure if 10:41:04<br/>21 they have it on the same day.<br/>22 Q Okay. The -- the chemotherapy records for<br/>23 your current treatment, are they kept by Dr. Truong?<br/>24 A I'm pretty sure she has her own records,<br/>25 Kaiser has her records. 10:41:18<br/>Page 92</p>  |
| <p>1 scheduled from Dr. Truong.<br/>2 A It's next week. It's every week for five<br/>3 weeks and then you take two weeks off.<br/>4 Q Is it always on Tuesday?<br/>5 A No. It's been whenever they can find me a 10:39:33<br/>6 slot or whatever time.<br/>7 Q Okay. But it is -- it is every week?<br/>8 A It is every week.<br/>9 Q Are you scheduled to have chemotherapy on<br/>10 December 19th? 10:39:43<br/>11 A I'm talking about -- the thing about<br/>12 December is I'm going to see the doctor on the 23rd.<br/>13 So something has to happen right before I see her.<br/>14 She likes to have her little proof or whatever, so<br/>15 basically on the 19th I'm seen, so I don't know. 10:39:57<br/>16 Q What about December 18th, are you scheduled<br/>17 to have chemo then?<br/>18 A I don't know. I don't have the schedule<br/>19 with me, but I do have a schedule at home.<br/>20 Q Okay. Do you have a choice; in other 10:40:07<br/>21 words, if Dr. Truong says you need chemo in a<br/>22 particular week, can you say you want to put it off?<br/>23 A Oh, yeah, like I went in there the other<br/>24 day to get it, and they didn't give it to me. And I<br/>25 was pretty kind of discouraged. They said because 10:40:22<br/>Page 91</p>   | <p>1 Q Okay. Do you know if Dr. Truong has turned<br/>2 those records over to us?<br/>3 A If you ever have any questions, no, she<br/>4 hasn't turned anything over to us.<br/>5 Q All right. 10:41:28<br/>6 MR. COPLE: We -- we formally ask<br/>7 plaintiff's counsel to get us Dr. Truong's<br/>8 chemotherapy records for Mr. Johnson as soon as<br/>9 possible.<br/>10 We also renew our request that we stated on 10:41:46<br/>11 the record yesterday -- not request, our reservation<br/>12 of our right to seek costs and fees for having to<br/>13 postpone yesterday's deposition till today and also<br/>14 for the need to now incur costs for a return -- a<br/>15 return trip to California in order to participate in 10:42:05<br/>16 plaintiff counsel's preservation deposition.<br/>17 MR. LITZENBURG: You have to sign releases<br/>18 for his records, by the way.<br/>19 MR. COPLE: I'm sorry, I didn't get that.<br/>20 MR. LITZENBURG: The defendants have to 10:42:27<br/>21 sign releases for his records, including from Dr.<br/>22 Truong.<br/>23 MR. COPLE: No, I understand that. We're<br/>24 not disputing that. I'm just saying that because we<br/>25 are in a situation, Mr. Litzenburg, where you are 10:42:36<br/>Page 93</p> |

1 scheduling a preservation deposition, we need to see  
2 the records that we don't have and specifically his  
3 chemo -- Mr. Johnson's chemotherapy records for his  
4 current treatment.  
5 MR. LITZENBURG: Sure, we always give you 10:42:51  
6 all records we get, but you also have to sign a  
7 release form.  
8 MR. COPLE: Okay.  
9 BY MR. COPLE:  
10 Q You said just a moment ago you prepared on 10:43:28  
11 Tuesday night for this deposition. What did you do  
12 to prepare?  
13 A Last night?  
14 Q Did you prepare last night?  
15 A Yes. 10:43:39  
16 Q Okay. And you prepared the night before  
17 last?  
18 A No, I prepared last night because I felt  
19 bad the night before.  
20 Q So you did not prepare on Tuesday night for 10:43:45  
21 yesterday's scheduled deposition?  
22 A Not as well, no, I don't think so.  
23 Q Well, you're saying "not as well." Did you  
24 prepare at all on Tuesday night?  
25 A I tried. 10:43:57

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1 over a few.  
2 Q What did you review last night?  
3 A Just things that we had went over before  
4 kinda sorta --  
5 MR. LITZENBURG: Again, no discussions that 10:45:14  
6 we've had --  
7 BY MR. COPLE:  
8 Q I'm not --  
9 MR. LITZENBURG: If there's something that  
10 you looked over and you know what it is, you can 10:45:19  
11 tell him.  
12 BY MR. COPLE:  
13 Q Yeah, I'm not asking any question, Mr.  
14 Johnson, about what you might have talked to your  
15 lawyers. I just want to know what you reviewed. 10:45:26  
16 What documents you --  
17 A Just regular stuff we went over before.  
18 Q Well, like what?  
19 A The same records right here. This type of  
20 stuff. Not this stuff, the two things that I see 10:45:35  
21 right here, but yeah, one or two sheets I have, and  
22 we just kind of looked over them, stuff that was  
23 mailed to him and mailed to me.  
24 Q Did you look at -- mailed to you by whom?  
25 A I don't know exactly. I don't have it in 10:45:43

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1 Q All right. What did you do in terms of  
2 what you tried to do?  
3 A Just tried to -- tried to eat something,  
4 you know, because I haven't been able to eat. Tried  
5 to not stay up too late. I still stayed up late. I 10:44:10  
6 just don't know what's going on, my sleepiness --  
7 I'm always sleepy now because I'm not getting any  
8 sleep.  
9 Q I understand and appreciate your clarifying  
10 what you -- you did to be in good shape to testify, 10:44:22  
11 but what my question, actually, Mr. Johnson, is what  
12 did you do to prepare to give testimony? Did you  
13 look at documents, for example?  
14 A No. Today what I did is -- last night is  
15 that I ate more food. I went to sleep early. My 10:44:38  
16 wife harassed me every hour about the thing that's  
17 happening tomorrow, and that's how I was able to get  
18 over here. I just got it together and just drug  
19 down here and didn't worry about putting on creams  
20 and all that stuff. Just come on down. Get here as 10:44:55  
21 soon as possible.  
22 Q You didn't review any documents?  
23 A No --  
24 Q Have you reviewed --  
25 A -- except for last night, I think we went 10:45:03

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1 front of me, but just legal stuff. That's what we  
2 discussed.  
3 Q So it looked like legal documents to you?  
4 A Nah, not really like oh, super, this is  
5 something new. It was just regular stuff I've been 10:45:56  
6 given over time. It's not like these official  
7 exhibits, but --  
8 Q Did you review any of your own medical  
9 records?  
10 A No, we haven't been over that. 10:46:05  
11 Q Did you review any of the records from your  
12 time working as a pesticide applicator for Benicia?  
13 A No.  
14 Q Did you -- did you review your testimony  
15 that you gave under oath in the Workers' 10:46:19  
16 Compensation case, your deposition testimony?  
17 A No.  
18 Q Did you review the report that was compiled  
19 in your Workers' Compensation case by Dr. Ira  
20 Fishman? 10:46:35  
21 A No.  
22 Q Did you review any documents having to do  
23 with your Workers' Compensation case for mycosis  
24 fungoides?  
25 A No, me and -- Mr. Litzenburg is not my 10:46:45

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25 (Pages 94 - 97)

1 Workers' Comp attorney. We don't discuss my  
2 Workers' Comp case except the fact that he's trying  
3 to give us a few facts to give over to my lawyer.  
4 Q But you -- you can't recall specifically  
5 what documents that you looked at? 10:47:00  
6 A He was just writing down notes. He  
7 basically told me what I need to do. And I'm going  
8 to be here in deposition, and the main thing is to  
9 the tell the truth and be honest.  
10 MR. LITZENBURG: Again, don't -- don't get 10:47:10  
11 into anything. This is totally privileged, any  
12 discussion I've ever had with you. So don't tell  
13 him the topic, the words used.  
14 BY MR. COPLE:  
15 Q Again, I'm not trying to find that out, so 10:47:19  
16 I'm not -- this is not a trick. I'm just trying to  
17 find out what you reviewed, and at least we agree on  
18 this, the requirement to tell the truth is above all  
19 else most important --  
20 A Yeah. 10:47:31  
21 Q -- so for whatever that's worth, Mr.  
22 Johnson. I'm not your lawyer, though.  
23 Have you been deposed previously other than  
24 in the Workers' Compensation case?  
25 A Never. 10:47:42

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1 Q Did you ever testify at trial?  
2 A Yes.  
3 Q What trial?  
4 A It was an aggravated assault charge way  
5 back in '93 or something like that. 10:47:51  
6 Q Who was charged with aggravated assault?  
7 A I was.  
8 Q And was there an indictment issued; do you  
9 know?  
10 A I don't know. 10:48:02  
11 Q Who were you charged by?  
12 A Solano County.  
13 Q So this was -- this was a local charge?  
14 A Yes.  
15 Q California charge? 10:48:11  
16 A Yeah.  
17 Q This was not federal prosecution?  
18 A No.  
19 Q And what was the outcome of the aggravated  
20 assault charge? 10:48:19  
21 A Misdemeanor aggravated assault charges,  
22 probation, and that was it.  
23 Q Did you have to testify in front of a jury?  
24 A No.  
25 Q Okay. Just the judge? 10:48:28

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1 A Waive the jury, just the judge.  
2 Q Okay. And did you complete the terms of --  
3 A Everything done.  
4 Q You've done --  
5 A No problems on my record at all. 10:48:36  
6 Q And who did you assault, or who were you  
7 accused of assaulting?  
8 A I refuse to answer that. That's not  
9 important.  
10 Q What's that? 10:48:44  
11 A It's not important. I refuse to answer  
12 that.  
13 Q You refuse to answer who you were accused  
14 of assaulting?  
15 A Whoever I was in a situation with or 10:48:49  
16 combatant with, it doesn't matter.  
17 Q This is a public record unless it's been  
18 sealed. Do you --  
19 A I don't mind you looking, but I'm not going  
20 to just say who or what, what happened at that time. 10:48:59  
21 Q All right. Let me ask you a different -- a  
22 different way.  
23 MR. COPLE: We reserve our right to come  
24 back and ask Mr. Johnson questions about his  
25 aggravated assault charge. 10:49:10

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1 BY MR. COPLE:  
2 Q Have you ever been charged with any other  
3 crime?  
4 A No.  
5 Q Ever been charged with improperly driving a 10:49:16  
6 motor vehicle like under the influence?  
7 A DUI or anything like that? No. I did have  
8 a misdemeanor charge, having a brass knuckle, one  
9 brass knuckle in the car sitting out openly. And  
10 the guy took it, the cop, he took it, and he said, 10:49:32  
11 "You know this is a felony, right?" I said, "No, I  
12 didn't know it was a felony." He says, "Well, it  
13 is," and he took me to jail.  
14 Took me to jail and released me on the  
15 misdemeanor charge. I fought that for little while 10:49:42  
16 but didn't have the money to fight it. That's what  
17 they put down on my record. My record was totally  
18 different, too. So it is what it is.  
19 Q What was the outcome of that? Did you  
20 plead guilty? 10:49:54  
21 A Did I plead guilty? No.  
22 Q No, you fought it.  
23 A Yeah.  
24 Q Did you win?  
25 A Yeah. No, I was charged. Misdemeanor -- 10:49:59

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|   |   |
|---|---|
| <p>1 actually, misdemeanor weapons, I guess, charge, but<br/> 2 on the record, it says -- the PC code is<br/> 3 manufacturing weapons with the intent to sell, like<br/> 4 a bomb maker, terrorist. That's what's on my record<br/> 5 right now in Solano County. 10:50:18<br/> 6 Q Was a sentence imposed on you?<br/> 7 A No.<br/> 8 Q Did the judge impose anything on you?<br/> 9 A Nothing.<br/> 10 Q Well, what happened to the charge? It just 10:50:25<br/> 11 went away?<br/> 12 A It just went away.<br/> 13 Q All right. You had a lawyer to fight it;<br/> 14 is that right?<br/> 15 A Public defender. 10:50:34<br/> 16 Q All right. Have you -- have you had any<br/> 17 complaints made against you of a domestic nature?<br/> 18 A Yeah.<br/> 19 Q Abuse complaints, for example?<br/> 20 A Yes. 10:50:47<br/> 21 Q By who?<br/> 22 A Aurora Morris.<br/> 23 Q And who was that?<br/> 24 A The mother of my first child.<br/> 25 Q Okay. And did that lead to any charges? 10:50:54<br/> Page 102</p> | <p>1 Q All right. Have you ever brought a lawsuit<br/> 2 against anybody or any company other than this<br/> 3 lawsuit against Monsanto?<br/> 4 A Never.<br/> 5 Q But you have brought Workers' Compensation 10:51:50<br/> 6 claims?<br/> 7 A Against Vallejo, yeah.<br/> 8 Q Yeah.<br/> 9 A I got a hernia in Vallejo.<br/> 10 (Reporter clarification.)<br/> 11 A hernia. I got a hernia in Vallejo moving<br/> 12 a -- moving a -- what's that thing called? -- a<br/> 13 metal detector every night, five nights a week, no<br/> 14 dolly.<br/> 15 Q Have you brought a Workers' Compensation 10:52:12<br/> 16 case against any other employer besides Vallejo?<br/> 17 A No.<br/> 18 Q Before your diagnosis with non-Hodgkin's<br/> 19 lymphoma, specifically mycosis fungoides, have you<br/> 20 ever been diagnosed with any other cancer? 10:52:36<br/> 21 A Never.<br/> 22 Q Have you ever been diagnosed with any<br/> 23 immune system deficiency?<br/> 24 A Never.<br/> 25 Q Okay. And that would include such things 10:52:49<br/> Page 104</p>   |
| <p>1 A It did.<br/> 2 Q What was the outcome?<br/> 3 A Nothing. I went to jail one night. Got<br/> 4 released. Put on a formal -- not even formal,<br/> 5 informal probation for 90 days. It's you either do 10:51:09<br/> 6 the probation and the class, or you go and do the<br/> 7 time in prison.<br/> 8 Q Are you married?<br/> 9 A I am married.<br/> 10 Q All right. And not to the woman who 10:51:19<br/> 11 brought that charge?<br/> 12 A Not at all.<br/> 13 Q All right. And you have children?<br/> 14 A Yes, I do.<br/> 15 Q All right. And you have full custody of 10:51:27<br/> 16 them?<br/> 17 A Me and my wife have full custody of my<br/> 18 kids. We live like a family.<br/> 19 Q I'm not asking anything about your<br/> 20 children. I just want to know if you have full 10:51:36<br/> 21 custody of them. That's it.<br/> 22 A Yes.<br/> 23 Q All right. Do you have any children that<br/> 24 you don't have custody of?<br/> 25 A No. 10:51:41<br/> Page 103</p>                       | <p>1 as like the AIDS virus?<br/> 2 A That would include that.<br/> 3 Q All right. You've never been --<br/> 4 A Never been diagnosed with that.<br/> 5 Q Okay. Have you ever been diagnosed or 10:53:00<br/> 6 treated for a sexually transmitted disease?<br/> 7 A No.<br/> 8 Q When did your dermatitis start during the<br/> 9 course of your employment with Benicia?<br/> 10 A I don't know the exact dates when that 10:53:23<br/> 11 started. I know I seen a lady downtown. She<br/> 12 referred me to the dermatologist, and she seen me,<br/> 13 you know, without pay. And she seen my diag- -- my<br/> 14 biopsy into Stanford, and that's when Stanford took<br/> 15 over from there. That had to be 2000 -- late, you 10:53:41<br/> 16 know, '14 or '15, so I don't know exactly which one,<br/> 17 so I don't want to say.<br/> 18 Q All right. Before 2014, did you have any<br/> 19 dermatitis diagnosis?<br/> 20 A I never had any medical problems before 10:53:55<br/> 21 this problem started.<br/> 22 Q All right. You've never had a skin<br/> 23 irritation before 2014?<br/> 24 A No, never.<br/> 25 Q What about a -- a skin eruption, boils or 10:54:03<br/> Page 105</p> |

1 anything of that nature?  
2 A Never.  
3 Q Okay. Skin rashes, have you ever had that  
4 before 2014?  
5 A Never. I was told that I have arthritis by 10:54:13  
6 medical office, family, friends. They say well, you  
7 got arthritis. But I don't know if I have arthritis  
8 or not. I was never been diagnosed by a doctor.  
9 Q Okay. Well, I'm not going to ask you any  
10 questions about your arthritis, at least not now. 10:54:30  
11 But skin rashes, you went your entire childhood and  
12 adult life until 2014 without having a skin rash?  
13 A You know what, I guess I should say that I  
14 did have chicken pox. Is that a skin rash?  
15 Q Well, I don't know, but thank you for 10:54:46  
16 clarifying that.  
17 A Because I don't know if that's a skin rash  
18 --  
19 Q No.  
20 A -- or if that's a skin death, or I don't 10:54:48  
21 know what that is, but that's pretty bad.  
22 Q Other than chicken pox --  
23 A Chicken pox, yeah, I had chicken pox.  
24 Q -- have you had skin rashes at any time  
25 during your life? 10:54:57

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1 A No.  
2 Q No?  
3 A No, not eczema or anything like that, any  
4 of that crap. No acne.  
5 Q Before you went to work for Benicia, where 10:55:04  
6 did you work right before that?  
7 A I was taking care of my grandmother living  
8 at home, and then I started working at -- here and  
9 there, on and off I'd be working for the  
10 waterproofers and roofers. 10:55:19  
11 (Reporter clarification.)  
12 Waterproofers and roofers.  
13 Q Is this Urban Waterproofing?  
14 A That's Urban.  
15 Q Okay. When did you start working there? 10:55:24  
16 A I don't know. Around 2009.  
17 Q And how long did you work there?  
18 A About four summers, about four years.  
19 Q So from '09 to sometime in '13?  
20 A Yep. 10:55:45  
21 Q And so the period of time that you were  
22 unemployed because you were taking care of family  
23 members, like your grandmother, that was after 2013  
24 or before 2013?  
25 A It's in here because I was working both. I 10:55:56

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1 was doing two, three things at a time. Sometimes I  
2 have gone to the other job while I'm taking care of  
3 my grandmother.  
4 Q Okay. At Urban Waterproof --  
5 Waterproofing, what was your job title? 10:56:09  
6 A I was an apprentice -- apprentice, and I  
7 would mostly try to assist journeymen and -- first  
8 and second journeymen, try to work with them and  
9 learn what they were doing.  
10 Q What -- what did you assist the first and 10:56:23  
11 second journeymen with?  
12 A They were doing coatings -- they call it  
13 coatings across windows to keep the water out. Like  
14 if this building was windows a lot -- a building  
15 with a lot of windows, we would go on the outside, 10:56:36  
16 and we would take like these knives that we made and  
17 spray this little silicon, you know, like you use to  
18 keep water in and out of the bathrooms and  
19 everything. And we would put -- tool it one time,  
20 and tool it right back, and then go to the next 10:56:48  
21 window (indicating).  
22 Q Did you wear personal protective equipment?  
23 A Yeah, you have to wear the same stuff out  
24 there, mask and all that stuff, depending on if you  
25 were working with powder or anything. But we

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1 weren't usually using powder. We only used a cream.  
2 Q Was it a Tyvek suit?  
3 A Oh, yeah.  
4 Q And this was a daily suit you changed each  
5 day? 10:57:08  
6 A Every day.  
7 Q The -- other than -- did you use the  
8 silicon every day?  
9 A No, I didn't use silicon at all really  
10 because I was in training. 10:57:15  
11 Q Okay.  
12 A It was a dream for me.  
13 Q What -- were there any other chemicals that  
14 you used on that job?  
15 A No, I was basically a -- you know, at that 10:57:22  
16 stage, you're a gopher. You go get the stuff they  
17 tell you to get. And they might let me spray  
18 something or shoot something or throw some sand one  
19 time, but it's not your job to do what they do.  
20 It's to learn and to master before they can move you 10:57:35  
21 up and have you doing something that they don't have  
22 to worry about what you're doing.  
23 So it's one of those things where you got  
24 to get cool with the apprentice -- I mean, the  
25 journeymen and hope that they'll teach you and pull 10:57:46

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28 (Pages 106 - 109)

|   |  |
|---|--|
| <p>1 you along the way.<br/> 2 Q Before you started that job with Urban<br/> 3 Waterproofing, what was your job before that?<br/> 4 A I worked for the Vallejo Unified School<br/> 5 District. 10:58:02<br/> 6 Q Which school district?<br/> 7 A Vallejo Unified.<br/> 8 Q What did you -- what did you do for the<br/> 9 Vallejo School District?<br/> 10 A Vallejo School District, I was a campus 10:58:07<br/> 11 supervisor.<br/> 12 Q Which -- which involved what?<br/> 13 A Walking around, breaking up fights,<br/> 14 catching kids with alcohol, bringing kids to the<br/> 15 office. Like if you're a teacher, you're teaching 10:58:20<br/> 16 your class. You call up and say you know what, the<br/> 17 kid's on my nerves. You go to your phone and you<br/> 18 say can you send somebody to get Johnny out of here.<br/> 19 And me and my guys show up and say hey, Johnny, come<br/> 20 with us. 10:58:29<br/> 21 Q Did you do any maintenance work for the<br/> 22 school?<br/> 23 A Not for Vallejo. Benicia.<br/> 24 Q For Benicia you did maintenance in addition<br/> 25 to your pesticide application? 10:58:36<br/> Page 110</p> | <p>1 Q Any floors?<br/> 2 A I waxed floors in Vallejo. Gyms.<br/> 3 Everything.<br/> 4 Q Back when you were campus supervisor?<br/> 5 A Well, I started out as a custodian. 10:59:31<br/> 6 Q All right. We'll go back to that in a<br/> 7 moment.<br/> 8 When you were doing maintenance work for<br/> 9 Benicia, did you use any -- any chemicals as part of<br/> 10 your job? 10:59:44<br/> 11 A Nah, they getting rid of chemicals in the<br/> 12 school district. They're going towards the<br/> 13 peroxide-based formulas. They're not using a lot of<br/> 14 different stuff like they used to. They're using<br/> 15 chemical-free stuff. They're using peroxide base. 10:59:53<br/> 16 It comes out of a premixed pumper that you just hit<br/> 17 the pumper (indicating.) The amount you need goes<br/> 18 right to the bucket.<br/> 19 Now that stuff is there if you want to add<br/> 20 bleach, you want to add -- but you shouldn't because<br/> 21 they're asking us to stop using chemicals.<br/> 22 Q Did you use any solvents?<br/> 23 A Solvents?<br/> 24 Q Yes.<br/> 25 A No, no reason to use solvents. 11:00:11<br/> Page 112</p>  |
| <p>1 A Yep.<br/> 2 Q All right. What -- was -- was that part of<br/> 3 your job, maintenance, something that you did the<br/> 4 entire time you were employed with Benicia?<br/> 5 A Yep. When I first started I was a mail 10:58:48<br/> 6 boy.<br/> 7 Q Okay. We're talking about the Benicia now,<br/> 8 right?<br/> 9 A Yeah, mail boy/delivery boy delivering<br/> 10 lunches and mail. 10:58:57<br/> 11 Q All right. And from that point, what was<br/> 12 your next job responsibility after that?<br/> 13 A My next one was two more hours at Liberty<br/> 14 High School as a custodian.<br/> 15 Q As a custodian, what did you have to do at 10:59:06<br/> 16 the high school?<br/> 17 A Same thing. Clean classrooms, clean my two<br/> 18 bathrooms, vacuum up the hallways, dump all the<br/> 19 trash. If you want to get special, do the windows,<br/> 20 you know, do something nice with the tables or 10:59:17<br/> 21 something, lunchroom tables.<br/> 22 Q Did you wax the floors?<br/> 23 A Wax, no, not those floors.<br/> 24 Q Not those floors?<br/> 25 A No. 10:59:24<br/> Page 111</p>   | <p>1 Q You know what I mean by solvents?<br/> 2 A Oh, yeah.<br/> 3 Q Now, let's go back to Vallejo for a moment.<br/> 4 Before you were campus supervisor, you were also a<br/> 5 custodian there? 11:00:21<br/> 6 A I was a custodian, yeah.<br/> 7 Q That's for the school district?<br/> 8 A School district in Vallejo.<br/> 9 Q And in that job, you did floor waxing?<br/> 10 A Yeah. But not a lot of that, because see, 11:00:32<br/> 11 what happens is you have these veteran guys and --<br/> 12 (Reporter clarification.)<br/> 13 If they want to take a young guy like me<br/> 14 with the veterans, they would have, but mostly the<br/> 15 veterans would go in and do those floors. They 11:00:45<br/> 16 don't want anybody messing those floors up. They're<br/> 17 really sensitive about the floors. And they would<br/> 18 wax them so...<br/> 19 Sometimes they'd have us come in and push<br/> 20 some equipment out of the way, putting back the 11:00:53<br/> 21 desks, and they go in and do the waxing. They might<br/> 22 have us scrub the floor, you know, just scrub it<br/> 23 before you wax it. But the actual waxing, it's<br/> 24 usually done by one or two guys. They trusted their<br/> 25 mop. They used to put it -- applicate [sic] it by a 11:01:05<br/> Page 113</p> |

1 mop.  
2 Q All right. And what -- what custodian jobs  
3 did you handle?  
4 A I had regular jobs. You know, as a  
5 custodian, it was just regular custodian. You just 11:01:14  
6 really did a good job what I was doing. My  
7 bathrooms were always clean.  
8 (Reporter clarification.)  
9 So yeah, I just did a pretty good job at  
10 that job. 11:01:29  
11 Q Which chemical cleaning agents did you use;  
12 for example, for the bathrooms?  
13 A Peroxide base. It was called Peroxide 100  
14 or something like that, Peroxide 300, different  
15 names. 11:01:40  
16 Q Did you use -- did you use any solvents?  
17 A I think we used to use in there, I think we  
18 used a little bleach if it was really funky in  
19 there, but we didn't use stuff like Ajax on it and  
20 different stuff. We didn't use that stuff. It just 11:01:49  
21 wasn't feasible to use stuff every night.  
22 Q How long were you --  
23 A And I'd use that white resin powder  
24 everything -- everywhere.  
25 Q How long were you a custodian for Vallejo? 11:01:56  
Page 114

1 A Not long. It was about a year and half,  
2 two years, and I got moved up to the chemical  
3 supervisor.  
4 Q Now, before the Vallejo School District,  
5 what was your job before that? 11:02:07  
6 A I've actually worked in the Vacaville  
7 Unified School District.  
8 Q I'm sorry, in the what?  
9 A Vacaville.  
10 Q Vacaville. Okay. 11:02:13  
11 A Yeah.  
12 Q What was your job at Vacaville?  
13 A I subbed. I was sub for everything. I was  
14 sub for maintenance, sub for custodians, sub for  
15 lunch duty. 11:02:22  
16 Q Okay.  
17 A Yeah. Sub for everything. Whatever they  
18 called me for.  
19 Q Let's just talk about the custodian subbing  
20 that you did. 11:02:29  
21 A Yeah. Once --  
22 Q Did you use -- did you use chemical agents  
23 as a custodian?  
24 A No.  
25 Q Solvents? 11:02:35  
Page 115

1 A Not -- not at that school. At the other  
2 school I actually did, but not at this school.  
3 Q And which school did you use the solvents  
4 at?  
5 A In Benicia. 11:02:44  
6 Q In Benicia?  
7 A Yeah.  
8 Q Which solvents?  
9 A Which solvents we used?  
10 Q Yes. 11:02:49  
11 A Yeah, bleach.  
12 Q Anything besides bleach?  
13 A No.  
14 Q Before Vacaville -- how long were you at  
15 Vacaville? 11:02:54  
16 A I was there for about two years.  
17 Q And before Vacaville, where were you? What  
18 was your job?  
19 A I actually -- you might have that confused.  
20 You might have that confused. 'Cause I know that 11:03:04  
21 the last one, I was working for Benicia. The  
22 beginning school district for me was Vallejo. So  
23 that Benicia stop must have been in between those  
24 two.  
25 Q All right. So Benicia was in between which 11:03:14  
Page 116

1 two jobs?  
2 A Benicia was the last.  
3 Q Benicia was the last one. So tell me the  
4 order again. You started with Vallejo?  
5 A I started with Vallejo. 11:03:24  
6 Q Then Vacaville?  
7 A Left Vallejo, went to Vacaville and then to  
8 Benicia.  
9 Q Okay. And now before Vacaville, did you  
10 have another job? 11:03:34  
11 A That was the waterproofing.  
12 Q That was waterproofing?  
13 A That was Urban.  
14 Q Give me -- give me the time frame again for  
15 waterproofing. This is Urban Waterproofing, right? 11:03:42  
16 A Right. But actually, you know what, I  
17 worked for Urban on and off all the way up until I  
18 worked for Benicia.  
19 Q Okay. So --  
20 A A sub there and -- through the union, you 11:03:51  
21 know what I mean?  
22 Q All right.  
23 A So you're not working there every day of  
24 the week, every day of the month. So in the summer  
25 I went there to do the jobs. If they had work, they 11:03:57  
Page 117

1 had it; if not, they didn't, you know, so it wasn't  
2 like something that's permanent.  
3 Q Which union did you belong to?  
4 A I think it's called the Local 302 out of  
5 Oakland. 11:04:08  
6 Q And what does the union cover, what type of  
7 work?  
8 A Waterproofers, roofers. What's it called,  
9 wall -- so something that's under the walls. You  
10 do -- you take the concrete out of the wall and put 11:04:24  
11 it back in. I think I want to call it sparing. I  
12 don't know what it's called, wall sparing.  
13 Q Okay.  
14 A Some type construction thing that they do,  
15 they fix holes, and you can see them with a camera, 11:04:34  
16 and you go back and fix them.  
17 Q All right. Are you still a member?  
18 A No.  
19 Q And in which of these jobs did you have  
20 occasion to use Henry's Wet Patch? 11:04:42  
21 A Benicia.  
22 Q In Benicia?  
23 A Yeah.  
24 Q This was part of your maintenance duties?  
25 A Maintenance duties. 11:04:53  
Page 118

1 through your jeans?  
2 A Yeah.  
3 Q And you had a lesion diagnosed, right?  
4 A I did.  
5 Q On which knee? 11:05:55  
6 A Same knee.  
7 Q Okay. And that lesion, that was squamous  
8 cell carcinoma; do you recall?  
9 A Yes.  
10 Q And that's cancer? 11:06:05  
11 A That's the real deal.  
12 Q Okay. Now, I asked you previously if you'd  
13 ever been diagnosed with cancer other than mycosis  
14 fungoides. Did you just forget about --  
15 A Yeah, I did, because -- 11:06:15  
16 Q Okay.  
17 A -- that came before -- that came all at the  
18 same time.  
19 Q All right.  
20 A That came as part of the -- when they -- 11:06:18  
21 Q Let me just be sure, because we need to  
22 have a complete record --  
23 A Yeah.  
24 Q -- so that -- that you and I don't have to  
25 go back and clarify things like this. So you were 11:06:25  
Page 120

1 Q All right. And what were you using the  
2 Henry's product for?  
3 A It was always rainy this season. I don't  
4 know why. Like when I was out there the last couple  
5 of seasons, it was really rainy. And this classroom 11:05:03  
6 over the band was getting water --  
7 (Reporter clarification.)  
8 -- this classroom over the band room -- the  
9 band room had a leak in it at the top, so we had to  
10 go up there. It was like raining, splashing down. 11:05:15  
11 And one other guy went up there before us, the  
12 veteran maintenance guys. We didn't know they put  
13 the stuff down. So when I went up there with my  
14 splooge, I put my right in the splooge, too -- put  
15 my knee right in that splooge. 11:05:31  
16 Q So you were kneeling in the wet patch?  
17 A Laying in it, yeah.  
18 Q You were laying in the wet patch?  
19 A Mostly on my knee. So I was on my knee,  
20 and then I got down deep into the little patch that 11:05:38  
21 I was getting into, and then getting up my leg a  
22 little, but mostly on my knee.  
23 Q Were you wearing protective gear?  
24 A Naw, just regular jeans and work shirt.  
25 Q All right. And did the wet patch go 11:05:49  
Page 119

1 diagnosed, besides mycosis fungoides, with cancer in  
2 regard to the squamous cell carcinoma. Were they --  
3 A That was not -- that's not a different  
4 diagnosis though.  
5 Q Tell me what you mean by that. 11:06:39  
6 A Because that all came back with the same  
7 diagnosis of him having cutaneous T-Cell lymphoma,  
8 right?  
9 (Reporter clarification.)  
10 Cutaneous T-cell lymphoma. So when that 11:06:50  
11 came back, they said well you have lymphoma. And  
12 they said but it's a mighty shame that you have this  
13 squamo over here. You see what I'm saying? It's  
14 not a separate thing. It wasn't like: Oh, you have  
15 your squamo, let's deal with that. This came in  
16 with the mycosis fungoides.  
17 Q Did -- did a doctor tell you that your  
18 lesion on your knee, the squamous cell carcinoma,  
19 was part of the mycosis fungoides?  
20 A I think in a round about way. I can't put 11:07:17  
21 words in their mouth.  
22 Q Which doctor told you that?  
23 A The one that did surgery was Dr. Ofodile.  
24 (Reporter clarification.)  
25 Ofodile. Good luck with that. 11:07:31  
Page 121

1 Q And Ofodile --  
2 A Yeah.  
3 Q -- Dr. Ofodile, are you still be treated by  
4 a Dr. Ofodile?  
5 A No, she moved out of town. 11:07:34  
6 Q All right. Did Dr. Ofodile tell you that  
7 the lesion on your knee was related to mycosis  
8 fungoides?  
9 A Yes.  
10 Q Okay. Dr. Ofodile is not an oncologist, is 11:07:45  
11 she?  
12 A Absolutely not.  
13 Q All right.  
14 A Don't remind me.  
15 Q She's a dermatologist, right? 11:07:51  
16 A Yeah, not even an oncologist dermatologist,  
17 a regular dermatologist.  
18 Q Okay. But she's the one that gave you the  
19 diagnosis, correct?  
20 A No, the diagnosis came from Stanford. 11:08:00  
21 Q All right. But I'm talking just about  
22 where you got the information that your lesion on  
23 your knee was related to the mycosis fungoides.  
24 That came from Dr. Ofodile, right?  
25 A No, she can't diagnose that. 11:08:13  
Page 122

1 Q Okay. So who told you --  
2 A Stanford told her.  
3 Q Okay. Which doctor at Stanford told her  
4 that?  
5 A Dr. Youn Kim or Kim Youn. 11:08:21  
6 Q How do you know that Dr. Kim told Dr.  
7 Ofodile that?  
8 A Because they both agreed. You know, I  
9 don't know what they said or what they were saying,  
10 but they didn't -- she wouldn't move without Youn 11:08:32  
11 Kim's information.  
12 Q Okay.  
13 A Dr. Youn Kim sent her information saying  
14 this guy has the lymphoma thing, and that one on his  
15 knee, that's also a squamo. She sent me -- she sent 11:08:43  
16 her a biopsy from that right through the squamo.  
17 Q Well, we're not questioning what these  
18 doctors said, at least not in this deposition.  
19 A But you see what I'm saying? (Inaudible.)  
20 Q I understand you, Mr. Johnson. My 11:08:52  
21 question, though, is very specific, which is trying  
22 to find out where you learned this from. Did you  
23 learn it from Dr. Kim or from Dr. Ofodile?  
24 A No, I learned that from the dermatologist  
25 on Solano Avenue -- on -- 11:09:06  
Page 123

1 Q Which?  
2 A -- on Sereno.  
3 Q Which doctor is that?  
4 A That's Dr. H something, starts with an H.  
5 When you said that first you went to a 11:09:13  
6 dermatologist --  
7 Q Right.  
8 A -- I don't remember her name.  
9 Q Okay. So Dr. H is the one that told you  
10 that your lesion on the knee was related to mycosis 11:09:19  
11 fungoides?  
12 A Right. So I took that information back to  
13 Kaiser, and Kaiser took care of the knee.  
14 Q All right. Before your position at Vallejo  
15 School District, did you have another job? 11:09:37  
16 A Before the --  
17 Q Before Vallejo.  
18 A Before Vallejo. What did I do before  
19 Vallejo?  
20 Q Did you ever work in a restaurant? 11:09:53  
21 A Was that my restaurant time? Was that my  
22 Black Angus, Applebee's runs? I know I had a small  
23 space in between there. What was I doing right  
24 before Vallejo? I think I was in the waterproofing.  
25 Q Okay.  
Page 124

1 A Every summer I would get some work.  
2 Q All right. Well, the work you would get  
3 each summer was from Urban Waterproofing?  
4 A And from temporary companies out of Napa,  
5 just whatever I could scrape up. 11:10:17  
6 Q Okay. And you were still doing this work  
7 as an apprentice to journeymen?  
8 A Yeah.  
9 Q All right. Did you ever work in a  
10 restaurant? 11:10:24  
11 A Yes.  
12 Q Which one?  
13 A Applebee's and Black Angus.  
14 Q Okay. And when did you work at Applebee's?  
15 A I don't remember. 11:10:36  
16 Q Roughly?  
17 A Had to be in the 2013s. My son is 21, and  
18 I remember him being born right around that time.  
19 Q All right. And how about Black Angus?  
20 A Right around the time I was working there, 11:10:53  
21 so I don't know exactly the time.  
22 Q All right. Did you clean the restaurant  
23 equipment?  
24 A No, sir, I was a cook on the line, and I  
25 was prep cook manager trainer. 11:10:59  
Page 125

1 Q Did you have do degreasing of the  
2 equipment?  
3 A Huh?  
4 Q Degreasing, did you ever do degreasing of  
5 the equipment? 11:11:06  
6 A No, that wasn't my job.  
7 Q All right. We're going to go back right  
8 now to your job at Benicia as a pesticide  
9 applicator, but I've got a note here that it's  
10 probably about three minutes now. 11:11:23  
11 MR. COPLE: How much time still before we  
12 got to --  
13 VIDEO OPERATOR: Yeah, we're getting close.  
14 Shall I change?  
15 MR. COPLE: Yeah, I think this is a good 11:11:30  
16 place. Otherwise, we're going to start a new  
17 subject right now.  
18 VIDEO OPERATOR: Okay. This is the end of  
19 disk 1 of the Volume 1 of the deposition of Mr.  
20 Johnson. It's 11:11. 11:11:41  
21 (Recess.)  
22 VIDEO OPERATOR: We're back on the record.  
23 This is the beginning of disk 2 in Volume 1,  
24 deposition of Mr. Johnson. It's 11:21.  
25 BY MR. COPLE: 11:21:26  
Page 126

1 Q Mr. Johnson, are you okay?  
2 A Yeah, I'm fine.  
3 Q Let me ask you to clarify something having  
4 to do with your discussion -- your claim about what  
5 you called spray drift exposure. 11:21:45  
6 When you -- when you say you were exposed  
7 to this drift, you have always been wearing at the  
8 time the Tyvek suit, right?  
9 A Yeah.  
10 Q And that has a hood? 11:22:01  
11 A No, I was wearing a hood under it.  
12 Q You were wearing a hood under the --  
13 A Yeah, that's not a Tyvek. The Tyvek suits,  
14 they come with it all the way down. You can put  
15 them down to your face, but Roy never thought we 11:22:11  
16 needed those. The other guys didn't like wearing  
17 them, so I couldn't get a box of 200 of them. Maybe  
18 a box of non-hooded, you know what I mean?  
19 Q Did you ask for them?  
20 A Yes. 11:22:23  
21 Q And you didn't receive them?  
22 A No.  
23 Q Now, you had goggles on and you had the  
24 Tyvek suit. Did you wear your own hood?  
25 A It's a Benicia hood. 11:22:31  
Page 127

1 Q Just a Benicia hood?  
2 A Benicia hood.  
3 Q What's that made of? What's it consist of?  
4 A Regular space stuff. Not this type --  
5 (Reporter clarification.)  
6 Sweatshirt stuff. What's it called?  
7 Polyester.  
8 Q Did you pull -- pull the hood closer around  
9 your face as you were working?  
10 A Oh, yeah. 11:22:51  
11 Q As close as you could get it?  
12 A Close as you can get it with seeing out of  
13 these goggles and everything.  
14 Q Okay. So what -- what parts of -- once you  
15 had done that and you're ready to do your job with 11:23:01  
16 the Ranger PRO spraying, what parts of your face  
17 would have been exposed. What skin parts?  
18 A The cheeks.  
19 Q The cheeks?  
20 A The cheeks, nose tip. 11:23:10  
21 Q Okay.  
22 A Little bit of the forehead but not much.  
23 Q Okay. And did you ever go to a doctor to  
24 complain of skin irritation on any of those parts of  
25 your face? 11:23:24  
Page 128

1 A No. The first one I went is to the clinic  
2 downtown, and the lady is like oh, I don't know what  
3 that is. I'm referring you to a dermatologist.  
4 Q Okay. And when was this?  
5 A I don't know. I really don't know. 11:23:33  
6 Q All right. Your job was as an integrated  
7 pest management planner; is that right?  
8 A What did you say?  
9 Q Integrated pest management planner or an  
10 integrated pest manager? 11:23:52  
11 A Integrated pest control manager.  
12 Q Okay. And this was the job you were hired  
13 for by Benicia?  
14 A Yes.  
15 Q So from day one on the job at Benicia 11:24:01  
16 regarding weed management, that -- that's what your  
17 job title was?  
18 A So you're saying after referrals and all  
19 that, day one as a pest controller? Is that what  
20 you're saying? 11:24:15  
21 Q I'm saying when you were hired as the pest  
22 controller, that was your job title, integrated pest  
23 manager?  
24 A I'm asking like that because you do  
25 understand I was not hired as a pest controller. 11:24:22  
Page 129

|  |   |
|--|---|
| <p>1 Q All right. What were you hired as?<br/> 2 A A delivery driver for the cafeteria and the<br/> 3 mail.<br/> 4 Q And at what point did you become the<br/> 5 integrated pest manager? 11:24:31<br/> 6 A I would say about a year later is when I<br/> 7 became the permanent maintenance IPM guy, and IPM<br/> 8 stands for integrated pest management.<br/> 9 Q So you were the IPM guy by designation of<br/> 10 your employer? 11:24:44<br/> 11 A That was my job.<br/> 12 Q All right. When did that designation<br/> 13 happen?<br/> 14 A I don't know the exact date.<br/> 15 Q Was it in 2013? 11:24:51<br/> 16 A I really don't know. I know that I started<br/> 17 in '11, and there was like the training time and all<br/> 18 that. '13 sounds good. It sounds approximate.<br/> 19 Q But don't know, it could have been '12?<br/> 20 A I don't know. 11:25:03<br/> 21 Q All right. Now, was there something that<br/> 22 led to you becoming the IPM guy?<br/> 23 A I don't really know what happened. Roy<br/> 24 kind of passed by me, and he says, "Do you know how<br/> 25 to use the computer?" I said, "Yeah." And he 11:25:15<br/> Page 130</p>   | <p>1 know about irrigation. And then a week later Roy<br/> 2 came by and said, "Go apply for this job, integrated<br/> 3 pest manager. Here's the description."<br/> 4 Q And Roy Owens was your supervisor?<br/> 5 A Yes. 11:26:18<br/> 6 Q Did you have any other supervisor regarding<br/> 7 weed management besides Mr. Owens?<br/> 8 A No.<br/> 9 Q And Mr. Owens continued to be your<br/> 10 supervisor after you became what you call the IPM 11:26:29<br/> 11 guy?<br/> 12 A Yes, until he resigned.<br/> 13 Q All right. And when you said studying for<br/> 14 the test, are you referring to the test you spoke of<br/> 15 earlier that you took four times? 11:26:42<br/> 16 A Correct.<br/> 17 Q All right. And what was the reason that<br/> 18 you had to take that test in order to be the IPM<br/> 19 guy?<br/> 20 A I guess for the record. You know, the 11:26:54<br/> 21 records want the guy to be licensed. The job<br/> 22 required for the guy to be licensed.<br/> 23 Q Did you interview with anyone for the<br/> 24 Benicia IPM position?<br/> 25 A Yeah, I interviewed in front of a panel. 11:27:05<br/> Page 132</p>                                  |
| <p>1 said -- well, like he passed me again, and he said,<br/> 2 "Well, do you know how to work with sprinklers? Do<br/> 3 you know how to work with irrigation?"<br/> 4 "I mean, I don't know how, but I'm pretty<br/> 5 sure I could figure it out." He said, "Okay." And 11:25:24<br/> 6 a week later he said, "Maybe you should go apply for<br/> 7 this position. It's already online."<br/> 8 (Reporter clarification.)<br/> 9 A week later he told me to go apply for<br/> 10 this job online, the integrated pest manager. He<br/> 11 said that some other guy is going to interview you,<br/> 12 but he said you pretty much got the job, so start<br/> 13 studying for the test.<br/> 14 Too fast for you?<br/> 15 (Reporter clarification.)<br/> 16 Okay. Where do you need me to go back to?<br/> 17 Back to where?<br/> 18 THE REPORTER: Go back to --<br/> 19 BY MR. COPLÉ:<br/> 20 Q Why don't I ask the question again so we 11:25:55<br/> 21 can start fresh.<br/> 22 What led to the IPM job for you?<br/> 23 A The first questions about Roy coming by, I<br/> 24 said he's checking on me, he's asking me different<br/> 25 questions about did I know about computers, did I<br/> Page 131</p> | <p>1 (Reporter clarification.)<br/> 2 I interviewed in front of a panel.<br/> 3 Q Who was on the panel?<br/> 4 A John, Ron, Kathleen. And this would be<br/> 5 John -- I can't remember John's last name. 11:27:23<br/> 6 Q All right. Do you have last names for any<br/> 7 of those people?<br/> 8 A Ron Sapp.<br/> 9 Q Ron Sapp.<br/> 10 A Kathleen -- I don't even know her last 11:27:29<br/> 11 name. I don't think I ever got her last name. She<br/> 12 was a manager for the district office. Shouldn't be<br/> 13 hard to find. And John is the supervisor in<br/> 14 maintenance. He shouldn't be hard to find.<br/> 15 Q All right. Any other last names? 11:27:39<br/> 16 A Not at that time.<br/> 17 Q All right.<br/> 18 A No, wait, wait. Was there one more at that<br/> 19 panel? No more at the time I don't believe. If it<br/> 20 was, I don't remember. 11:27:48<br/> 21 Q What did they ask you -- what did the panel<br/> 22 ask you at the interview?<br/> 23 A The panels are given a certain amount of<br/> 24 questions, and you -- this person asks this one, the<br/> 25 next person asks certain things: "Do you know how 11:27:55<br/> Page 133</p> |

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| <p>1 to run a computer?" "Do you know how to spray<br/> 2 chemicals?" "Have you ever sprayed herbicides?"<br/> 3 "No."<br/> 4 You know, "Have you ever used a<br/> 5 computer-based irrigation system?" 11:28:08<br/> 6 "No, but I've been trained."<br/> 7 Well, okay. So blah, blah, blah, blah,<br/> 8 just a bunch of questions. You know, just a bunch<br/> 9 of different little questions.<br/> 10 Q Were you asked whether you had a QAC? 11:28:17<br/> 11 A Not at that interview, no.<br/> 12 Q Was there a later interview?<br/> 13 A No.<br/> 14 Q So you were not asked?<br/> 15 A Later on I was asked by the superintendent, 11:28:27<br/> 16 the -- not the superintendent but the assistant<br/> 17 superintendent said, "Do you have your QAC?" I<br/> 18 said, "No." Then they say, "When are you going to<br/> 19 be able to get it?" I said, "In a few months, I<br/> 20 hope." 11:28:42<br/> 21 Q Who was the assistant superintendent?<br/> 22 A Oh, man. It seems crazy not to know these<br/> 23 people's names, but trying to go in your head --<br/> 24 trying to get them out of your head, I don't know.<br/> 25 I can't remember this guy's name. They called him 11:28:52<br/> Page 134</p> | <p>1 every year with your raise or with your increase<br/> 2 class, you know, the new class, they send you a<br/> 3 receipt -- a paper that says all that on there, what<br/> 4 you should be doing, what you shouldn't have been<br/> 5 doing maybe, I don't know, and they give that back 11:29:53<br/> 6 to you with your new salary increase. So I should<br/> 7 go and find it around the house.<br/> 8 So it just says sometimes, you know -- you<br/> 9 know, you go out and you catch and release skunks or<br/> 10 animals or whatever, raccoons. And next line will 11:30:05<br/> 11 say not limited to blah, blah, blah. Once you in,<br/> 12 you do this. You also catch mice, you catch wasps,<br/> 13 you catch -- you shoot bees, you do whatever it<br/> 14 takes to catch --<br/> 15 (Reporter clarification.)<br/> 16 Bees, you trap them. Yeah. So it was a<br/> 17 long thing back to the point where it says "as<br/> 18 needed."<br/> 19 Q Did it say anything in that pamphlet about<br/> 20 weed management responsibilities? 11:30:28<br/> 21 A Definitely.<br/> 22 Q And about use of pesticides?<br/> 23 A They don't call it pesticides, they call it<br/> 24 herbicides.<br/> 25 Q Use of herbicides? 11:30:36<br/> Page 136</p> |
| <p>1 Bobblehead. That's all I can remember his name is<br/> 2 they called --<br/> 3 Q They called him Bobblehead?<br/> 4 A Yeah.<br/> 5 MR. COPLÉ: I'm sorry. Did you get all the 11:28:58<br/> 6 -- he had his head down when he was speaking.<br/> 7 (Discussion off the record.)<br/> 8 MR. COPLÉ: I'll repeat questions if I need<br/> 9 to.<br/> 10 BY MR. COPLÉ:<br/> 11 Q All right. So now you got the job, and<br/> 12 you're still working for Roy Owens?<br/> 13 A Right.<br/> 14 Q And did your job come with a list of job<br/> 15 responsibilities? Was there some pamphlet or -- 11:29:20<br/> 16 A Yeah, it did. It did come with a nice fat<br/> 17 pamphlet.<br/> 18 Q What was it called?<br/> 19 A Job description IPM Management and<br/> 20 Maintenance Worker. 11:29:34<br/> 21 Q Do you have a copy of that?<br/> 22 A (Shakes head.)<br/> 23 Q Can you tell us what was in that?<br/> 24 A I could probably try to describe from a<br/> 25 copy 'cause you know what they do, they send you --<br/> Page 135</p>  | <p>1 A Yeah.<br/> 2 Q All right. Did it?<br/> 3 A Yeah.<br/> 4 Q All right. And you think you might have a<br/> 5 copy of that somewhere at home? 11:30:42<br/> 6 A I might.<br/> 7 MR. COPLÉ: All right. We ask that that<br/> 8 document be produced if Mr. Johnson has it.<br/> 9 BY MR. COPLÉ:<br/> 10 Q What was your job -- once you became the 11:30:54<br/> 11 IPM person for Benicia, what -- what did that job<br/> 12 consist of?<br/> 13 A That job consist of a lot.<br/> 14 Q If I were your -- a new employer and you<br/> 15 wanted a job with me, and I said well, what did you 11:31:10<br/> 16 do as the IPM guy, what would you tell me?<br/> 17 A I would say as IPM guy I -- I tracked and<br/> 18 relocated skunks and squirrels and closed their<br/> 19 holes, closed their dens. I've also caught --<br/> 20 rescue, caught and catch -- rescue, caught and 11:31:30<br/> 21 captured wasps, not just killing them in front of<br/> 22 the kids in these catcher things, and then we'd<br/> 23 throw them out, and they still buzz and acting<br/> 24 crazy. Even some of the mice -- we caught mice and<br/> 25 rats live. We had to throw them out like that, you 11:31:43<br/> Page 137</p>                                      |

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| <p>1 know, when they're still kind of living.<br/> 2 And the other stuff would be that I took<br/> 3 really good care of -- we were trained by an<br/> 4 arborist how to cut trees, how to cut up to -- cut<br/> 5 up to the tree and not leave coat hangers and stuff 11:31:56<br/> 6 hanging off, and different things, just different<br/> 7 things you learn about bush cutting and bush<br/> 8 whacking and trimming bushes and knowing where to<br/> 9 trim them or not to trim them.<br/> 10 Q And it included -- 11:32:08<br/> 11 A I learned water management where I'm not<br/> 12 watering every night. Don't water when it rains.<br/> 13 There's a lot that you can learn out there.<br/> 14 Q And it included weed management?<br/> 15 A Definitely. 11:32:17<br/> 16 Q All right. On the weed management, were<br/> 17 you the person responsible for deciding how the<br/> 18 weeds were going to be managed?<br/> 19 A Yes.<br/> 20 Q So that would include whether to use an 11:32:30<br/> 21 herbicide, right?<br/> 22 A But it was already agreed, you know, from<br/> 23 my supervisor to me, that we were spraying<br/> 24 herbicides. You know what I mean? I wouldn't go<br/> 25 out there and say oh, what are we going to do today? 11:32:43<br/> Page 139</p> | <p>1 by Monsanto. It's the same thing.<br/> 2 Did you say who you worked for?<br/> 3 THE REPORTER: I'm sorry?<br/> 4 THE WITNESS: Did he say he worked for<br/> 5 Monsanto?<br/> 6 Do you know products and stuff like that?<br/> 7 Ranger PRO and Roundup, right? So Roundup is the<br/> 8 smaller garden one, and then Ranger PRO is, you<br/> 9 know, the industrial one.<br/> 10 BY MR. COPLÉ:<br/> 11 Q I'll ask the questions, Mr. Johnson.<br/> 12 A I was just asking you --<br/> 13 Q But that's fine. I understand what you're<br/> 14 trying -- trying to find out.<br/> 15 A So we started out as using Roundup, which 11:33:59<br/> 16 wasn't enough concentration without using too much<br/> 17 --<br/> 18 (Reporter clarification.)<br/> 19 We started out using Roundup which wasn't<br/> 20 doing the ticket for the large amounts that we 11:34:11<br/> 21 needed. We started using Roundup instead -- I mean<br/> 22 Ranger PRO, because it's supposed to be the<br/> 23 industrial version of Roundup. And it come in a<br/> 24 gallon, or it can come in a small square like<br/> 25 Roundup. Or it can come in big gallon buckets, 11:34:25<br/> Page 140</p>  |
| <p>1 That would be pissing him off because he already<br/> 2 knows that we made agreement. You're going to use<br/> 3 this 50 gallons of Ranger PRO that we have down at<br/> 4 the office.<br/> 5 (Reporter clarification.)<br/> 6 Ranger PRO. Sorry about that.<br/> 7 And then just -- just got to use that, and<br/> 8 we had an agreement that we would be using that, so<br/> 9 it wasn't good to go off --<br/> 10 Q You had an agreement -- 11:33:06<br/> 11 A -- this and do it the wrong way.<br/> 12 Q You had an agreement with who?<br/> 13 A Roy Owens.<br/> 14 Q Because the two of you discussed it?<br/> 15 A Of course. 11:33:12<br/> 16 Q All right. And did he have to approve<br/> 17 whatever you came up with?<br/> 18 A Yes, of course.<br/> 19 Q Did you have to prepare a written plan of<br/> 20 how you were going to manage weeds? 11:33:22<br/> 21 A No, I just did a proof of what's in that<br/> 22 pudding, that we were using a lot of Ranger -- just<br/> 23 regular stuff you can buy at Home Depot. What's<br/> 24 that called? It's not Ranger PRO, but it's<br/> 25 something you can buy at Home Depot, but it's made 11:33:35<br/> Page 139</p>   | <p>1 50 gallons.<br/> 2 Q Where do you get the Roundup from?<br/> 3 A Horizon.<br/> 4 Q Where do you get the Ranger PRO from?<br/> 5 A Horizon. 11:34:35<br/> 6 Q How long did you use Roundup?<br/> 7 A And that pause is because we can get that<br/> 8 Ranger PRO at Home Depot. We had an account there.<br/> 9 If somebody wanted to go buy a bunch of Ranger PRO,<br/> 10 they could -- I mean Roundup, they could. They 11:34:48<br/> 11 couldn't buy Ranger PRO at Home Depot.<br/> 12 Q So how long did you use Roundup?<br/> 13 A Not long after I got there because they<br/> 14 wouldn't be able to get -- a gallon tank is there,<br/> 15 right?<br/> 16 (Reporter clarification.)<br/> 17 -- 'cause I wouldn't be able to spray<br/> 18 Ranger -- I mean, I wouldn't be able to spray<br/> 19 Roundup out of a tank sprayer. Anytime I'd be<br/> 20 dumping bottles, and then you can't concentrate it 11:35:08<br/> 21 with water. So we used Roundup -- I mean the Ranger<br/> 22 PRO because it was easier. It had a pump on the<br/> 23 top. You would pump it into something. You could<br/> 24 pump it into -- into a gallon bucket. If you wanted<br/> 25 three gallons, you pump three gallons in your 11:35:21<br/> Page 141</p> |

1 (unintelligible) and pour it over into your tank.  
2 Q You did the mixing?  
3 A Oh, yeah.  
4 Q And you decided how much dilution there  
5 should be? 11:35:31  
6 A I did.  
7 Q What did you decide that based on?  
8 A I don't -- it has to go on what you're  
9 spraying and how far footage that we're spraying.  
10 That means the product -- if we're spraying cheese 11:35:40  
11 weed or we're spraying --  
12 (Reporter clarification.)  
13 Yeah. It's -- the -- there's another name  
14 for that called mallow, m-a-l-l-o-w. I like to call  
15 it cheese weed because it's a very strong weed. And 11:35:54  
16 if we're spraying that or if we're spraying  
17 dandelions or different ones, you might want --  
18 dandelions you don't want to go as hard as you want  
19 to go for cheese weed, you know what I mean?  
20 Q Did anyone have to approve your mixing 11:36:08  
21 decisions?  
22 A No.  
23 Q Did you use a reference book of some sort?  
24 A Yes. Start in -- start in the Ranger PRO,  
25 the little pamphlet. 11:36:18

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1 Q All right.  
2 A Pictures and everything.  
3 Q All right. Now, you became IPM. You got  
4 the job in what year and month; do you remember?  
5 A Hmm-hmm. 11:36:27  
6 Q When you started the job, Roundup was  
7 already being used at that point?  
8 A Yep.  
9 Q And for how many months after you started  
10 the job did you continue to use Roundup? 11:36:36  
11 A Maybe two months.  
12 Q Two months. And as I understand what you  
13 said just a moment ago, you and Mr. Owens had an  
14 agreement to change to Ranger PRO; is that right?  
15 A Yeah, Mr. Owens had even on his mind a 11:36:50  
16 little more than that, to spray even more stuff than  
17 that, but I just wasn't certified yet. So we used  
18 Ranger PRO because that's what he knew would do a  
19 little bit more industrial work, you know what I  
20 mean? Roundup would not work on cheese weed, and 11:37:01  
21 that's what we had was a lot of cheese weed, but  
22 Ranger PRO would knock that stuff out to the root.  
23 Q So your job as IPM included your decision  
24 for which herbicide to use; is that right?  
25 A Yes. 11:37:19

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1 Q Now, did you make a decision for using  
2 Ranger PRO, which has glyphosate as its active  
3 ingredient, as opposed to some other weed control  
4 option?  
5 A Oh, yeah, I had plenty of weed control 11:37:36  
6 options that I could have used, but I have to run  
7 them past my supervisor.  
8 Q What were your other options?  
9 A I had mentioned like on our -- on our --  
10 under our fences, what we would call fence lines, 11:37:48  
11 you get on both sides and then you get right on the  
12 fence, I suggested sand, rock. I suggested that we  
13 go in there and take the roots out of there so at  
14 least we don't have to keep spraying this area over  
15 and over just waiting to go spray the tree line and 11:38:05  
16 going to spray this.  
17 Once you remove the roots, you get to the,  
18 you know, relief of not spraying that area and not  
19 going out there dealing with that area.  
20 So one of my things with Ranger PRO and all 11:38:16  
21 that is that I wanted to use the most minimal I  
22 could use.  
23 (Reporter clarification.)  
24 One of my things with Ranger PRO is that I  
25 wanted to use the least amount of chemicals that I 11:38:25

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1 could. The more I learned about the treatment of  
2 chemicals -- I mean the treatment of product like  
3 cheese weed and whatever and different weed out  
4 there, that California wild weed and all that, as I  
5 learned more and more that you can actually kill 11:38:38  
6 this stuff with just smothering it with black tar,  
7 you know what I mean? You just don't let any water  
8 get under there. There's a lot of things you could  
9 have done.  
10 So I tried to implement those ideas and put 11:38:48  
11 them out there. And some of them they were okay  
12 with like: Okay, yeah, go try it over  
13 by Henderson's fence, whatever.  
14 (Reporter clarification.)  
15 Go ahead and try it by the fence at 11:38:53  
16 Henderson then, you know, or go try it over here,  
17 you know. So I think they was allowing me to  
18 experience a little bit of things, but they also had  
19 the tradition of -- you know, the traditional  
20 program that worked for them before, so why should 11:39:08  
21 they change that.  
22 Q And it was your decision that Ranger PRO  
23 was the best option?  
24 A I think so, yeah. It was my decision to  
25 say look, this is not working. Roundup is not 11:39:17

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1 concentrated enough. I should just keep putting  
2 more Roundup -- I mean, so Ranger PRO was way less  
3 concentration, and you got more area from the --  
4 from the -- from the ratio you can mix up with  
5 Ranger PRO, you can get a lot more done. 11:39:32  
6 Q Did Ranger PRO work?  
7 A It did.  
8 Q So it turned out to be the best option?  
9 A It worked really good.  
10 Q What -- you mentioned a number of different 11:39:43  
11 weeds. Can you just give me a list, generally, of  
12 what your targets were, what you were trying to  
13 control?  
14 A My main one was cheese weed, mallow. That  
15 mallow plant was very bad for me. It's being 11:39:57  
16 sprayed over the top the whole time. And what  
17 happens is the herbicides actually start to fuel and  
18 give nutrients to the roots. So the cheese weed I  
19 had last year is not the same cheese weed I'm going  
20 to have next year or the year after this year. In 11:40:14  
21 between this block it may get way worse.  
22 (Reporter clarification.)  
23 Might be in between two years, and at that  
24 third year, you might get a different mallow with a  
25 bigger root because no one is killing the roots. 11:40:24  
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1 So we also had that California weed, it  
2 looks like weed 'cause you can go out there and eat,  
3 but it's just -- it's just weeds, you know what I  
4 mean? And everywhere it's just brown and all nice,  
5 and then when you spray it, it cuts right down to 11:40:37  
6 the nub.  
7 Q Why did you need to control the cheese  
8 weed?  
9 A I asked the same question, and they said  
10 that what it is it's hazardous for the kids to be 11:40:45  
11 everywhere. You get some really wild weeds. So the  
12 reason was to do that was to keep it under  
13 containment before it took the playground, before it  
14 took the football field. You know, it could take  
15 it. 11:41:00  
16 Q And why did the California weed need to be  
17 controlled?  
18 A They wanted that hill cleaned. The  
19 supervisor said, you know, "I want that hill to be  
20 sprayed down and cleaned up," you know, so you do 11:41:06  
21 the best you could to get that stuff down.  
22 Q Were there safety issues involved there,  
23 too?  
24 A Only at the one school, at Matthew Turner.  
25 Parents contact me and say look, me and my wife -- 11:41:18  
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1 the wife was the one that called.  
2 (Reporter clarification.)  
3 The wife called, and she said her husband,  
4 the son and herself has a rare allergy to most  
5 pesticides. She says, "Before you spray over there 11:41:32  
6 at Matthew Turner, can you come in and let us know  
7 by phone 48 hours in advance?" I'm like okay. She  
8 said that way we can just pull our kids out, you  
9 know, and it's all good. We can bring them back  
10 when the stuff settles or whatever. 11:41:46  
11 Q So part of your job was to manage safety  
12 issues for the children at the school?  
13 A It's the community, it's the children, it's  
14 everything.  
15 Q Did your children go to the Benicia 11:41:56  
16 schools?  
17 A No, they go to Napa.  
18 (Reporter clarification.)  
19 Napa.  
20 Q Did you have -- did you need to control 11:42:03  
21 poison oak or poison ivy?  
22 A Never.  
23 Q Thistles?  
24 A Nah.  
25 Q Weeds that cause allergies? 11:42:11  
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1 A Not that gave me allergies.  
2 Q All right. So basically the cheese weed  
3 and the California weed?  
4 A Dandelions would be everywhere sometimes.  
5 (Reporter clarification.)  
6 Dandelions would still be everywhere  
7 sometimes.  
8 Q These were -- these were all pests --  
9 A I didn't mean to rhyme.  
10 Q These were all pests that the Benicia 11:42:36  
11 School District wanted you to manage as the IPM?  
12 A Yep, including the skunks and the raccoons  
13 and the other furry animals.  
14 Q In managing the other pests, the -- those  
15 other than weeds, did you -- did you use pesticides 11:42:49  
16 for those pests?  
17 A For the animals?  
18 Q Well, insects.  
19 A Insects, yep.  
20 Q What did you use? 11:42:59  
21 A It's called Wasp Zone or Wasp Freeze. It's  
22 got a 30-foot sprayer (indicating). Shoots to that  
23 sign over there so you can get the nest, you know.  
24 You got to kill that whole nest. You spray all  
25 around it with one can. It took one can to kill a 11:43:14  
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1 whole nest.  
2 Q You did that spraying?  
3 A Yep.  
4 Q Ants?  
5 A Mm-hmm. 11:43:20  
6 Q Spiders?  
7 A Mm-hmm.  
8 Q Roaches?  
9 A Oh, yeah.  
10 Q So all of this required pesticides? 11:43:24  
11 A Baits.  
12 (Reporter clarification.)  
13 Baits.  
14 Q Did you just spray them?  
15 A Yeah, most of it you can't use spray 11:43:30  
16 around -- you can't be spraying a bunch -- spreading  
17 a bunch a juice around the school, so we use baits  
18 and traps.  
19 Q What about the animal pests; did you --  
20 A Traps. 11:43:40  
21 Q -- use any sprays?  
22 A Traps.  
23 Q All right. So all of those were just  
24 through traps?  
25 A Yep. Catch and release. 11:43:47  
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1 MR. COPLE: Can you pull the Pesticide  
2 Application Tracking Sheet, Ranger PRO.  
3 I need to mark this as -- I think it's  
4 Exhibit 3 to the deposition.  
5 (Deposition Exhibit 3 marked by the court  
6 reporter.)  
7 BY MR. COPLE:  
8 Q Have you seen these documents, these  
9 multiple pages before?  
10 A I've seen these right here. Or have I seen 11:45:26  
11 this sheet before?  
12 Q Have you seen these -- these types of  
13 sheets?  
14 A Yes, I have definitely seen these types of  
15 sheets. 11:45:36  
16 Q Who maintains these? Who prepares them and  
17 keeps them?  
18 A I would prepare them and keep them.  
19 Q So you actually wrote this information down  
20 on the sheets? 11:45:43  
21 A I didn't write this information at all.  
22 2016, I was not even at work then.  
23 Q Okay. You would have prepared these  
24 sheets, these types of sheets --  
25 A Yeah. 11:45:55  
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1 Q -- when you were IPM?  
2 A These are transaction -- Benicia Unified  
3 School District Pesticide Application Tracking  
4 Sheet. I made those.  
5 Q Okay. When you were IPM, why did you 11:46:04  
6 prepare these?  
7 A That was part of my job description.  
8 Q Okay. What were these sheets used for?  
9 A To keep track of the date you sprayed, the  
10 site you sprayed, the amount of product that you 11:46:15  
11 used -- am I going too fast? -- the number of times  
12 applied, and the community treated. This says  
13 "Commodity Treated." You have to put there where it  
14 says like -- like how it says "baseball diamonds"  
15 and all that, you don't have to say that. All you 11:46:30  
16 need to say is right-of-way. That's all you need to  
17 say is right-of-way. When you say baseball diamond  
18 and stuff, they don't know what you mean.  
19 Q Under the "Site" column, these are all  
20 school locations in the school district? 11:46:43  
21 A Site columns. Yeah. That's BHS.  
22 Q Yes.  
23 A That's district office. That's Liberty  
24 High School. And then Liberty by the BBD put it in  
25 neutral, put it in the hallway. And then Liberty 11:46:54  
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1 and Semple. So Liberty is a pretty big site.  
2 (Reporter clarification.)  
3 Liberty is a pretty big site. You spray  
4 it, the field. It's got a field connected it to.  
5 So Semple is the same one. Actually it has -- 11:47:07  
6 Semple's around the corner and have a big view. It  
7 takes a lot of gallons over there. And this one's  
8 looking like Matthew Turner.  
9 Q Now, on the first page of this exhibit,  
10 which has a number called a Bates number on the 11:47:20  
11 lower left-hand side, and it says BUSD and goes  
12 basically No. 6.  
13 So on that page, BUSD 6, at the upper  
14 right-hand corner, it says "Lisa Auther" or  
15 "Auther." Do you know who that is? 11:47:37  
16 A If I'm not mistaken, that would be Lisa  
17 from the middle school.  
18 Q Okay. And why is her name on this?  
19 A Because they brought a couple of custodians  
20 up when I left and when the plumber left. And when 11:47:46  
21 I left -- when I went on Workers' Comp, they brought  
22 some people up from the custodian department and put  
23 them in the maintenance yard.  
24 Q Okay. But why is Lisa's name on this  
25 document? 11:47:59  
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|   |  |
|---|--|
| <p>1 A That would have to be what Lisa sprayed.<br/> 2 If her name is on there like that, this is what she<br/> 3 sprayed.<br/> 4 Q All right.<br/> 5 A But don't hold me to that because I didn't 11:48:03<br/> 6 make this sheet.<br/> 7 Q All right. When you prepared your sheets,<br/> 8 did you have -- did you have a practice of listing<br/> 9 the name of the person who did the spraying?<br/> 10 A Definitely you had to have his name on as 11:48:13<br/> 11 part of the record.<br/> 12 Q So where would you write the name?<br/> 13 A Over the top, right in the middle. Right<br/> 14 in the middle there.<br/> 15 Q Okay. And same thing for the next page, 11:48:21<br/> 16 which is at the bottom. It has Edwin Martinez. He<br/> 17 would be the sprayer?<br/> 18 A Like see this one right here? This is how<br/> 19 mine would look. But it just wouldn't be so<br/> 20 scribbly. 11:48:36<br/> 21 Q What page are you looking at? Tell me --<br/> 22 lower left-hand corner.<br/> 23 A Last page from the -- second page from the<br/> 24 last, 8.<br/> 25 Q All right. So No. 8. And you would put 11:48:44<br/> Page 154</p> | <p>1 Q Ron Sapp?<br/> 2 A Yeah.<br/> 3 Q And did you -- did you spray Surflan?<br/> 4 A No.<br/> 5 Q Okay. When you prepared these pesticide 11:49:38<br/> 6 application tracking sheets when you were IPM, you<br/> 7 prepared them for yourself as well?<br/> 8 A No, I prepared them for everybody.<br/> 9 Q Yes, but it would include for yourself?<br/> 10 A Definitely. 11:49:52<br/> 11 Q So for your own application, you'd do your<br/> 12 own sheet and put your name on it?<br/> 13 A What I would do is on the morning we're<br/> 14 going to spray --<br/> 15 Q Right. 11:49:58<br/> 16 A -- I would give them their sheets, and it<br/> 17 had their names on there. So wherever they went --<br/> 18 they went Matthew Turner or whatever, they wrote<br/> 19 that down on their sheets. End of the day, they<br/> 20 bring it back to me, I put it in their computer and 11:50:07<br/> 21 put it all into the computer, and then that's the<br/> 22 end of the day for me.<br/> 23 Q All right. So if we had all of the -- all<br/> 24 of the school district records of the pesticide<br/> 25 application tracking sheets, we should have sheets 11:50:21<br/> Page 156</p> |
| <p>1 the name, and this page 8 has Ron Sapp on it.<br/> 2 A Yeah.<br/> 3 Q So that's where you would put somebody's<br/> 4 name?<br/> 5 A Yeah. 11:48:53<br/> 6 Q And this would indicate to you that Ron<br/> 7 Sapp was the applicator?<br/> 8 A He was, yeah.<br/> 9 Q And the same would be true as we go through<br/> 10 these, there's -- Estrada is on No. 9. That person 11:49:00<br/> 11 would be Rony Estrada?<br/> 12 A Yeah.<br/> 13 Q And the next one -- the next one doesn't<br/> 14 seem to have --<br/> 15 A That one has something in the back here 11:49:13<br/> 16 (unintelligible).<br/> 17 Q Yeah, the last one has --<br/> 18 A Pretty straight.<br/> 19 Q What is Surflan?<br/> 20 A That would be -- that would be something 11:49:21<br/> 21 that only Ron would be spraying. That's a<br/> 22 controlled chemical that, unless you have a license<br/> 23 to spray controlled chemicals, you shouldn't be<br/> 24 spraying that. As far as I know, Ron was going to<br/> 25 get his license, so... 11:49:33<br/> Page 155</p>  | <p>1 that you prepared that have your name on them,<br/> 2 right?<br/> 3 A It would say Lee Johnson on the side just<br/> 4 like everybody else.<br/> 5 Q All right. Are these sheets supposed to be 11:50:32<br/> 6 kept for a period of time?<br/> 7 A I think four to five years.<br/> 8 Q So let's just say it is five years, then<br/> 9 the school district should be giving us sheets going<br/> 10 back to 2012 which would cover the period when you 11:50:43<br/> 11 were spraying, right?<br/> 12 A Yep. I didn't see those anywhere that you<br/> 13 gave me.<br/> 14 Q Okay. Well, we don't see it either.<br/> 15 A No. No, no.<br/> 16 Q That's why I'm asking the question. We --<br/> 17 those records should -- should be there somewhere<br/> 18 with your name on it?<br/> 19 A Yep, unless somebody threw them out.<br/> 20 Q All right. 11:51:03<br/> 21 A They could have put them in a separate --<br/> 22 (Reporter clarification.)<br/> 23 They could have put them in a separate<br/> 24 file, you know, thinking that: Well, Lee might come<br/> 25 back, he might not come back, and what if it turns 11:51:09<br/> Page 157</p>                                |

1 into a legal thing? Let's keep these in a file over  
2 here.  
3 I see -- I see Ron as being that smart. I  
4 also see the new supervisor saying let's keep these  
5 just for the future, don't throw that out. But I 11:51:20  
6 don't know why they didn't send them.  
7 Q Now, you had mentioned that you had  
8 certain -- today -- earlier today you mentioned you  
9 had certain records that you think you kept or left  
10 in a -- in a cubby location where you worked. Would 11:51:34  
11 that have included these types of records?  
12 A Yeah, that would have been this type.  
13 Q So it would -- it would have been pesticide  
14 application tracking sheets?  
15 A It would have been inside a regular desk or 11:51:45  
16 right -- it's John's desk.  
17 Q Uh-huh.  
18 A He has desk drawers, and I had a drawer at  
19 the bottom to keep all my stuff in, my paperwork and  
20 my files -- files, or, you know, wherever it is, I 11:51:56  
21 keep it in that drawer, so that was my little  
22 drawer, my little cubbyhole.  
23 Q Now, at the top of each one of these pages  
24 on this Exhibit 3, in the smaller type it says  
25 "Solano County Department of Agriculture." Is that 11:52:14  
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1 who these sheets were sent to?  
2 A Oh, no. They were sent to Oakland, East  
3 Oakland.  
4 Q Okay. Why were they sent to East Oakland?  
5 A I think that's where Ron and John got that 11:52:27  
6 -- not John, Roy got that thing made up. He took a  
7 few pieces from the yard. He had a tank that they  
8 bought. They took a Toyota engine into the frame,  
9 and they were going to take some type of speed  
10 control thing over here that they could use. And 11:52:42  
11 they took it to a guy in Oakland, and the guy in  
12 Oakland didn't do it right, because when I got the  
13 machine, it didn't even work.  
14 So when I got the machine, it didn't even  
15 work. But I got it to work with water, right? And 11:52:52  
16 like all right. So I start using the machine. I  
17 wasn't even using the machine for months --  
18 (Reporter clarification.)  
19 Yeah, I wasn't using the machine anymore,  
20 so then I stopped spraying. You know, I had the 11:53:02  
21 spray time off. I went back to it again. It  
22 wouldn't spray again. So I told Roy, I said, "Man,  
23 you know, I'm taking a chance with this thing. Get  
24 this thing fixed, man." And I was --  
25 (Reporter clarification.)  
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1 "Get this thing fixed, and I'll continue to  
2 spray like I've been spraying." He says, "All  
3 right, whatever you want to do, get it done to it."  
4 So I says, "Who's your guy?" He says, "He's a guy  
5 in East Oakland." 11:53:25  
6 All right. So I took it to the guy in East  
7 Oakland. And I waited a few days, went back and  
8 picked it up. Exactly the same. No power switch,  
9 no nothing. You have to just deal with it how it  
10 is. There's supposed to be an on and off switch on 11:53:40  
11 that thing where you can turn it off on the outside,  
12 a trip by the window, shut everything down, the  
13 engine and everything. They could never figure that  
14 out.  
15 Q I appreciate the clarification, but my 11:53:50  
16 question is: Do these pages, these types of  
17 documents that are in Exhibit 3, do they get sent to  
18 Solano County's Department of Agriculture?  
19 A The actual papers?  
20 Q Yeah. 11:54:03  
21 A I have to actually sit there at the  
22 computer and dial them in. So I dialed them in the  
23 computer, each one, and I push enter. You should  
24 get a filing for that spray date or the next spray  
25 dates in a row. 11:54:15  
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1 Q Okay. And what about the handwritten  
2 copies; are they sent to the Department of  
3 Agriculture?  
4 A To the cubbyhole.  
5 Q They go only to your cubbyhole? 11:54:22  
6 A That's right.  
7 Q In Ron Sapp's desk?  
8 A John's desk.  
9 Q John Sapp's [sic] desk?  
10 A Yeah. 11:54:28  
11 Q All right. It also says "Operator  
12 Identification Number." What is that number? What  
13 does it mean?  
14 A That's the number you use when you go into  
15 the county computer. Their number matches your 11:54:37  
16 number so you have that account number. You just  
17 type it in. And that would be on every line that  
18 comes from Benicia Unified School District. That  
19 number automatically go -- the whole 48 number will  
20 go with every line automatically because that's the 11:54:54  
21 way you type it into the little computer program.  
22 It's an old school computer program also.  
23 (Reporter clarification.)  
24 Old school. Yeah, and they just type it  
25 in, and then it goes right into our files to prove 11:55:03  
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1 what we've been spraying for the year.  
2 Q And these are files that you think have to  
3 be kept for five years?  
4 A Yes.  
5 Q And there'd be no reason that they should 11:55:16  
6 be discarded or destroyed before the five-year  
7 period; is that right?  
8 A Especially when you got a case pending. I  
9 wouldn't think so. Not -- I'm not a lawyer or  
10 anything, but I would have kept everything for me 11:55:27  
11 after I got sent out of there or decided to get  
12 Workmen's Comp. I would have kept everything for  
13 me. Maybe somebody has something. I don't know.  
14 Q In the column on right-of-way that you were  
15 describing, why does it say "right-of-way"? What 11:55:42  
16 does that indicate?  
17 A See, when you say right-of-way, that means  
18 you can spray against the sidewalk, you can spray  
19 against the building. You can spray -- you have the  
20 right of way. So they have another one that's 11:55:51  
21 called forestry. They have another one that's  
22 called -- one for funeral homes and golf courses.  
23 That number would be totally different. It wouldn't  
24 be called right-of-way. I think it's called  
25 something else. 11:56:06

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1 Q When you were working for Benicia, did any  
2 of your job include painting?  
3 A Oh, yeah. We did a little painting.  
4 Q What did you paint?  
5 A I painted over there the sidewalks. I 11:56:16  
6 painted the red and the yellow, thousands and  
7 thousands and thousands of feet.  
8 Q How often?  
9 A I was there every summer.  
10 Q So every summer you would paint thousands 11:56:30  
11 of feet of sidewalk?  
12 A Traffic red or traffic yellow.  
13 Q Just you or others?  
14 A Mostly me. And then the stencils we were  
15 doing together. Like we had to do handicap stencils 11:56:41  
16 or yield this way or a big fat arrow. We would use  
17 a stencil. So that was a two-guy thing. Get a  
18 stencil for him. Make sure when he runs over it  
19 that he's straight, get his string straight, and the  
20 guy comes with a gun (indicating). It looked really 11:56:57  
21 nice.  
22 Q Did you wear protective equipment?  
23 A All the time.  
24 Q I'm sorry, what?  
25 A All the time. 11:57:07

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1 Q Tyvek suit?  
2 A Tyvek suit, and sometimes in this  
3 situation, I wear like the Tyvek pants because it  
4 was a low impact.  
5 (Reporter clarification.)  
6 Pants. It just depends. It's summertime.  
7 You know, you try to stay as cool as you can be.  
8 You don't want to be out there with that Tyvek all  
9 day, so we wear pants.  
10 Q Did you assist with maintaining vehicles? 11:57:26  
11 A No.  
12 Q Did you gas vehicles up?  
13 A Yep.  
14 Q Where did you gas them up?  
15 A At the maintenance yard. 11:57:36  
16 Q Was this outside or an inside location?  
17 A Inside location.  
18 Q Inside location. Was it ventilated?  
19 A Totally. It's outside.  
20 Q All right. How was it ventilated? 11:57:45  
21 A It was outside.  
22 Q Oh, it was outside. I'm sorry.  
23 A That tank was outside.  
24 Q It was outside. Did you also use any  
25 diesel fuel? 11:57:54

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1 A Diesel. We use diesel in -- in our big  
2 tractor, the one with the wings and the 48D, 48  
3 diesel -- 480D, we used diesel in that.  
4 Q Did you fuel the diesel?  
5 A Yes. 11:58:07  
6 Q You yourself?  
7 A Yeah.  
8 Q And were you required to caulk when you  
9 were at Benicia?  
10 A No. 11:58:16  
11 Q Did you use fertilizer?  
12 A No. Wait, wait, wait. We used to use them  
13 little patches. We use like some turf patch. It's  
14 actually -- it's actually fertilizer but not like in  
15 the sense you're trying to fertilize a -- he hated 11:58:35  
16 -- supervisor -- Supervisor Roy hated -- he hated  
17 that stuff because it burned out a lot of grass a  
18 lot of times.  
19 Q Did anyone at the school fertilize the  
20 grounds? 11:58:48  
21 A No, they were talking about that when I  
22 left. They were talking about that when I left.  
23 They talking about how come you didn't fertilizer  
24 it. They bought two new machines and everything.  
25 But Roy definitely didn't like fertilizer. 11:58:55

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1 Q So it wasn't used when you were there?  
2 A Naw, it's -- he found out that we used it.  
3 He was really upset. Like "Oh, don't use that,  
4 don't use that. Don't use that."  
5 Q What about chalk marking or paint marking 11:59:04  
6 on playing fields, was that --  
7 A Yep, I've done that a lot.  
8 Q Anyone else besides you?  
9 A Yep. When Ron was out, I was doing his  
10 stuff. So Ron is the baseball field, football 11:59:18  
11 field, and soccer field guy. So what Ron would do  
12 or what I would do when I was in Ron's position, is  
13 that if I'm doing the track, it takes four people to  
14 do the track. This -- this stuff called Dolomark.  
15 Old school mark. It's called Dolomark. And if I 11:59:36  
16 was doing the baseball field, I could do that by  
17 myself. If I was doing the softball field, that's a  
18 solo job.  
19 (Reporter clarification.)  
20 Softball -- yeah softball, baseball and you 11:59:49  
21 can do all that yourself. I didn't done the  
22 football by myself.  
23 Q Did you wear protective equipment?  
24 A Gloves. They look like gardener gloves,  
25 but they're actually chemical proof. They look like 11:59:57  
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1 dishwasher gloves. They're chemical proof gloves,  
2 chemical proof boots, and then regular jeans.  
3 Q No body suit?  
4 A No body suit for this.  
5 Q Okay. Goggles? 12:00:08  
6 A Goggles.  
7 Q All right.  
8 A And a mask when you're (unintelligible) to  
9 spray.  
10 Q There was a mask for what? 12:00:14  
11 A (Unintelligible) the spray. Paper masks.  
12 It was regular paper masks.  
13 Q Did you wear the paper mask when you were  
14 applying Ranger PRO?  
15 A Yes, I did. 12:00:27  
16 Q You have the QAC certificate, and you said  
17 that Mr. Owens also has a license; is that right?  
18 A Last I heard, yeah.  
19 Q Okay. Anybody else have either a license  
20 or a certificate for applying pesticides? 12:00:42  
21 A I don't want to say for sure, but I know  
22 that Ron Sapp was going for his. Remember, at this  
23 point he thinks that it's okay because he's working  
24 under Rony's license or whoever the supervisor is.  
25 Supervisor has it again. 12:00:57  
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1 Q And you were -- you were working under  
2 Mr. Owens' license when you didn't have a  
3 certificate?  
4 A That's what they said.  
5 Q Okay. How long after you became the IPM 12:01:06  
6 person did you get your certificate?  
7 A Six months later, the first one. I believe  
8 six months later, the first one. And then the  
9 second one it took a little bit longer. And then  
10 that last one I got in a little bit shorter time. 12:01:29  
11 Q Did you contact Monsanto about your use of  
12 Ranger PRO or Roundup?  
13 A Yeah, when I first found out.  
14 Q When you first found out what?  
15 A I don't know exactly, but I was trying to 12:01:47  
16 find out and pull the stars and squares, whatever I  
17 can pull to find out what happened. I know I'd been  
18 spraying Ranger PRO, so I contacted them to say, you  
19 know...  
20 Q All right. When you say "what happened," 12:01:57  
21 you're talking about your diagnosis?  
22 A Yeah.  
23 Q Okay. Who did you contact?  
24 A At Monsanto?  
25 Q Yes. Who at Monsanto? 12:02:04  
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1 A I don't know who I talked to. Secretary.  
2 Q Was there a particular office that you  
3 asked for or got ahold of?  
4 A No, no. She had a whole spiel for me. She  
5 had a whole thing like she understood what she 12:02:19  
6 needed to do, and I just never heard back.  
7 Q A secretary?  
8 A Yeah, she had it down.  
9 Q All right. Now --  
10 A She knows her product very well. 12:02:29  
11 Q Now, how many times did you talk to the  
12 secretary?  
13 A Only once.  
14 Q How long were you on the phone with her?  
15 A I would say about 45 minutes. 12:02:39  
16 Q 45 minutes?  
17 A (Nods head.)  
18 Q Did you write any notes of your  
19 conversation?  
20 A Hmm-hmm. I wasn't even thinking along that 12:02:46  
21 level at the time.  
22 (Reporter clarification.)  
23 I wasn't even thinking along that level at  
24 the time. I was just thinking who can I speak to  
25 over here that might know something. So I didn't 12:02:57  
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1 take notes or anything of the conversation.  
2 Q Did you get her name?  
3 A No.  
4 Q Do you remember what you told her?  
5 A I told her that I have been exposed to 12:03:05  
6 chemicals, and I was wondering if this Roundup might  
7 -- Ranger PRO might be the one. And then she said,  
8 "well, what symptoms are you having?"  
9 (Reporter clarification.)  
10 "What symptoms are you having?" I told her 12:03:18  
11 what I was having and going on. She said, "Well, we  
12 really don't have those symptoms along with this  
13 product, but if you want, I can have somebody call  
14 you back and they can talk about to you about it  
15 later." I said okay. Well -- I told her a few more 12:03:28  
16 questions. I don't remember those questions. And  
17 then 30, 45 minutes, we was off the phone.  
18 Q Did you email anybody?  
19 A She asked -- she asked me a lot of  
20 questions it just seemed like. And I couldn't 12:03:38  
21 really answer some of her questions either.  
22 Q What kind of questions did she ask you?  
23 A The same ones I went into: Exactly where  
24 were you exposed? You know, what time was it when  
25 you got exposed? It's like -- I don't know. 12:03:45  
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1 Q Did you -- did you email this person?  
2 A No.  
3 Q Send her --  
4 A Not that I remember. Not that I remember.  
5 Q Okay. Send her a letter? 12:03:55  
6 A Not that remember, no. I just talked to  
7 her on the phone.  
8 Q Did you tell anyone about this phone call?  
9 A I probably did, but I don't remember.  
10 Q Do you remember telling anyone at Benicia 12:04:09  
11 schools about your call?  
12 A I had no reason to talk to those guys about  
13 my situation.  
14 Q All right. Did -- did anyone at Benicia  
15 Unified School District contact Monsanto regarding 12:04:27  
16 your situation?  
17 A That would have been nice, but I don't  
18 think so. I don't even think that Benicia Unified  
19 School District or Kaiser, which I went to first,  
20 reported that to Sacramento, because when you get a 12:04:46  
21 pesticide exposure, it's supposed to be reported to  
22 the state that you're in. If I was New York, I'm  
23 supposed to report -- the pesticide board is  
24 supposed to get that information that Mr. Johnson  
25 was exposed to chemicals on this day or whatever. 12:05:01  
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1 Q Did you report the disconnected hose and  
2 your exposure at the Mary Farmar location?  
3 A Oh, yeah.  
4 Q Who did you report that to?  
5 A I reported to John right away, like I told 12:05:17  
6 you. John was the only one in. When Roy came in, I  
7 talked to him about it. The only reply to Ron --  
8 that Ron had -- I mean Roy had that was shocking to  
9 me is he said, "Doesn't that stuff take years to  
10 give you cancer?" 12:05:30  
11 Q Okay. You did answer. I apologize, Mr.  
12 Johnson. That's not what I was asking. I'm trying  
13 to find out now: Did you report it to any  
14 government agency? Did you report it to Monsanto?  
15 A Monsanto, yeah. 12:05:41  
16 Q How did you report it to Monsanto?  
17 A Over the phone.  
18 Q So that was the 45-minute --  
19 A Yeah, that was the report.  
20 Q All right. You were diagnosed with mycosis 12:05:49  
21 fungoides in August 2014. How -- how much time  
22 after that diagnosis did you contact Monsanto?  
23 A I think it was before the diagnosis because  
24 I was looking for answers.  
25 Q Well, if it was before your diagnosis, 12:06:11  
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1 what -- why were you contacting Monsanto if  
2 you didn't --  
3 A It was before the '14 or before whenever  
4 they say I got diagnosed --  
5 Q What --  
6 A -- because I had the lesion. I had --  
7 remember I had those marks already on my body?  
8 Q All right. So you were telling the  
9 secretary about your symptoms --  
10 A Yeah. 12:06:31  
11 Q -- but not the diagnosis because you didn't  
12 have it yet?  
13 A No.  
14 Q Okay.  
15 A Oh, wow. 12:06:41  
16 Q How did you -- how did you come to file a  
17 lawsuit against Monsanto? Did -- did someone  
18 approach you and ask you if you wanted to do that?  
19 A People at the job see me and they see me  
20 getting sicker. They see me getting real brown from 12:07:00  
21 the chemo. And they're like, "You need a lawyer,  
22 you need a lawyer, dude." And I'm like, "I don't  
23 really need no lawyer." "You need a lawyer to get  
24 some legal help."  
25 All right. So I reached out to 12:07:13  
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|   |   |
|---|---|
| <p>1 two different lawyers, and they both got back with<br/>2 me. Just put it out from there.</p> <p>3 Q How did you decide which lawyer to reach<br/>4 out to?</p> <p>5 A I really don't know. I talked to them on 12:07:24<br/>6 the phone. If they sound doubtful or we don't know,<br/>7 you know, people have those cases all the time and,<br/>8 you know, they never -- I just hung -- I didn't hang<br/>9 up, but I was like okay, thank you. And I went to<br/>10 the ones that said yeah, I know about this. We can 12:07:39<br/>11 help you a lot over here. You know, that's the one<br/>12 I went with.</p> <p>13 Q Did you -- did you see anything on<br/>14 television or the Internet?</p> <p>15 A You know, I didn't see anything -- anything 12:07:48<br/>16 on television until about month ago. I was sitting<br/>17 inside Solano dying and just in super pain, and it<br/>18 comes on the TV, because I don't watch cable TV at<br/>19 home. We have Internet TV. So I see different --<br/>20 you have to see the commercial three times during 12:08:04<br/>21 the show, you know what I mean? So we don't watch<br/>22 cable TV.</p> <p>23 So I was sitting there watching cable TV at<br/>24 Sutter, and the commercial comes on and says if<br/>25 you've been exposed to Ranger PRO or Roundup, you 12:08:14<br/>Page 174</p> | <p>1 Eddie Murphy. You need to get a lawyer." So some<br/>2 dark humor there.</p> <p>3 And yeah, other people say, "Do you have a<br/>4 lawyer?" Even the lady at Christine Hernandez, or<br/>5 whatever her name was, who's the dermatologist, her 12:09:26<br/>6 mother's a teacher at the school district. She told<br/>7 me too, she says, "You need to get a lawyer. My<br/>8 daughter told me that you were in very bad shape."<br/>9 Her daughter -- her daughter is a doctor,<br/>10 same doctor. We just happened to have that 12:09:37<br/>11 connection and learned -- when she found out it was<br/>12 her daughter that diagnosed me, she's like, "Oh,<br/>13 yeah, I talked to my daughter." You know, it's very<br/>14 sad that you have that" or whatever. She said,<br/>15 "What are you going to do? You need a lawyer, man." 12:09:49</p> <p>16 Q Why did you decide to sue Monsanto?</p> <p>17 A Because I felt like they are the bigger<br/>18 company than my school district. My school district<br/>19 is only going to be the Workers' Comp case, but my<br/>20 life is going to be ruined unless a miracle happens, 12:10:05<br/>21 so that's why I decided to go after Monsanto.</p> <p>22 Q You sued Monsanto because they were the<br/>23 biggest company in the school district?</p> <p>24 A No, because they're a company that's bigger<br/>25 than my company, and you can do a personal injury 12:10:16<br/>Page 176</p> |
| <p>1 should call this number right here, get compensation<br/>2 for people that's been exposed.</p> <p>3 So I'm saying to myself, like oh, this is<br/>4 serious now. They're actually really starting to<br/>5 get this going, you know, so it was pretty tough. 12:08:28</p> <p>6 Q Did you call?</p> <p>7 A No.</p> <p>8 Q Did you already have a lawyer?</p> <p>9 A Yes, sir. Two lawyers.</p> <p>10 Q Who at -- who at the Benicia Unified 12:08:38<br/>11 School --</p> <p>12 A Huh?</p> <p>13 MR. COPLE: Am I the only one hearing<br/>14 music?</p> <p>15 MS. SALEK: No. 12:08:51</p> <p>16 THE WITNESS: We better be hearing that<br/>17 music.</p> <p>18 BY MR. COPLE:</p> <p>19 Q All right. Who at the Benicia Unified<br/>20 School District said to you, Mr. Johnson, that you 12:09:01<br/>21 should get a lawyer?</p> <p>22 A My coworkers. Edwin definitely was the<br/>23 first one. He was like --<br/>24 (Reporter clarification.)<br/>25 Edwin Martinez. He said, "You look like 12:09:10<br/>Page 175</p>   | <p>1 case with just going directly into them. I couldn't<br/>2 do a personal injury with the school district. I<br/>3 only can do Workers' Comp as far as I knew.</p> <p>4 Q Did anybody tell you to sue Monsanto?</p> <p>5 A What? 12:10:29</p> <p>6 Q Did anybody tell you to sue Monsanto?</p> <p>7 A Nobody told me but myself.</p> <p>8 Q All right.</p> <p>9 A Actually, I saw the opposite. Told me<br/>10 don't go after Monsanto by a lot of people who I 12:10:37<br/>11 trust and love who said don't you do it.</p> <p>12 Q None of your doctors that have treated you<br/>13 have -- have told you that Ranger PRO causes mycosis<br/>14 fungoides, right?</p> <p>15 A They won't say. 12:10:58</p> <p>16 Q I didn't get that.</p> <p>17 A They won't say.</p> <p>18 Q They won't say. So none of them have said<br/>19 that to you?</p> <p>20 A You can ask them, and they won't rule it 12:11:06<br/>21 out -- they won't rule it out, and they won't rule<br/>22 it in, and they won't answer it.</p> <p>23 Q And you're aware that there's no medical<br/>24 basis for what causes mycosis fungoides?</p> <p>25 MR. LITZENBURG: Object to form. You can 12:11:18<br/>Page 177</p>  |

|  |  |
|--|--|
| <p>1 answer that if you have some medical expertise;<br/>2 otherwise, don't.<br/>3 BY MR. COPLÉ:<br/>4 Q You're -- you're aware of that?<br/>5 A No, I'm not aware of that. 12:11:26<br/>6 Q So none of your -- your testimony is that<br/>7 none of the doctors who have examined and treated<br/>8 you have told you that there's no medical reason<br/>9 that's known for what causes mycosis --<br/>10 A No, they say there's no cure. They didn't 12:11:39<br/>11 say there's no medical reason. They just say<br/>12 there's no cure right now at this point, and you're<br/>13 in for a long fight.<br/>14 Q Do you have insurance right now, medical<br/>15 insurance? 12:11:51<br/>16 A No.<br/>17 Q Health insurance?<br/>18 A No.<br/>19 Q Why don't you have insurance?<br/>20 A Because the school district canceled my 12:11:58<br/>21 personal insurance because I was on Workers' Comp,<br/>22 so Workers' Comp doesn't have medical. So I went to<br/>23 Social Security and tried to get it through them and<br/>24 got turned down just recently, last week, for too<br/>25 much income. My wife's income and my Social 12:12:14<br/>Page 178</p> | <p>1 any topicals or anything else going on with her<br/>2 treatment.<br/>3 Q Okay.<br/>4 A So she's basically cancelled -- cancelled<br/>5 out -- cancelled out dermatology because she doesn't 12:13:23<br/>6 want any creams or anything going on right now other<br/>7 than Aquaphor.<br/>8 Q And she referred you to pain management?<br/>9 A Yeah.<br/>10 Q And did you -- did you tell us what the 12:13:32<br/>11 name of that doctor was?<br/>12 A Chaol. I can't spell it. I haven't seen<br/>13 the spelling yet.<br/>14 Q Okay. That -- was that Dr. Chul (phonetic)<br/>15 that you -- 12:13:42<br/>16 A Yeah.<br/>17 Q Okay. You also mentioned a Dr. H before.<br/>18 A That was the dermatologist from Solano<br/>19 Dermatology.<br/>20 Q Do you remember who Dr. H was? 12:13:52<br/>21 A I don't know her whole name. She's from<br/>22 Solano Dermatology.<br/>23 (Reporter clarification.)<br/>24 Solano Dermatology.<br/>25 Q When was the last time that you saw 12:14:04<br/>Page 180</p>  |
| <p>1 Security income disqualifies me for MediCal, so then<br/>2 I have to sign up for Covered California.<br/>3 Q Have you applied for coverage under<br/>4 Obamacare?<br/>5 A Obamacare, Trumpcare, whatever you want to 12:12:29<br/>6 call it, Covered California, but yeah, I signed up,<br/>7 and I'm waiting for -- now for more papers to come<br/>8 back from that so I can just start my enrollment<br/>9 fee. It should be all right hopefully.<br/>10 Q So -- 12:12:43<br/>11 A Who knows?<br/>12 Q -- it's pending?<br/>13 A It's pending.<br/>14 Q So while your insurance is pending, you are<br/>15 still receiving medical care for mycosis fungoides, 12:12:52<br/>16 correct?<br/>17 A Yes, sir. Yeah.<br/>18 Q And who's -- who's providing that care now?<br/>19 Who are your doctors right now?<br/>20 A Kaiser oncology. 12:13:03<br/>21 Q And that's Dr. Truong?<br/>22 A Dr. Truong.<br/>23 Q And anyone else besides Dr. Truong?<br/>24 A The dermatology department has been a<br/>25 little bit involved, but Dr. Truong does not want 12:13:12<br/>Page 179</p>  | <p>1 Dr. Truong at Kaiser?<br/>2 A This week.<br/>3 Q And was that as part of the chemotherapy<br/>4 that you took?<br/>5 A Yeah, she stopped by and checked me out and 12:14:16<br/>6 did some other stuff.<br/>7 Q The doctors at Stanford are not treating<br/>8 you anymore?<br/>9 A I don't know what they're doing. No, I<br/>10 don't think so. I don't know what they're doing. I 12:14:26<br/>11 don't think so.<br/>12 Q You haven't visited with them?<br/>13 A No. I talked with them, but I haven't been<br/>14 in with them.<br/>15 Q And the doctor at University of California 12:14:38<br/>16 at San Francisco, Dr. Pincus, is she still treating<br/>17 you?<br/>18 A No. She was good. I think she's a really<br/>19 good doctor.<br/>20 Q Why isn't she treating you anymore? 12:14:53<br/>21 A I thought that was part of the referral<br/>22 thing, and then I didn't have coverage. And I went<br/>23 out there, and I paid a few things with cash, and<br/>24 they don't want you to get started unless you have<br/>25 coverage. And now with a lapse of coverage, it's 12:15:05<br/>Page 181</p> |

1 hard to get help right now 'cause I know that it's  
2 expensive.  
3 Q And you're aware that Dr. Pincus has no  
4 opinion on what caused your mycosis fungoides?  
5 MR. LITZENBURG: Object to form. 12:15:16  
6 THE WITNESS: I don't know. I don't know.  
7 BY MR. COPLE:  
8 Q Well, I'm asking the question. Do you know  
9 that she has no opinion on what caused your mycosis  
10 fungoides?  
11 MR. LITZENBURG: Object to misrepresentation.  
12 (Reporter clarification.)  
13 Misrepresentation.  
14 When he asks questions that make an  
15 assumption like that, you don't have to accept his 12:15:38  
16 assumption or his representations. You just answer  
17 the question if you -- if you know or not.  
18 THE WITNESS: Okay.  
19 BY MR. COPLE:  
20 Q Do you know or not? 12:15:48  
21 A I don't know.  
22 Q All right. The backpack that you  
23 mentioned, the backpack sprayer that you have said  
24 caused your lower back to be wet with Ranger -- with  
25 Ranger PRO, was that backpack sprayer ever inspected 12:16:06  
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1 for any defects?  
2 A It should get inspected every day,  
3 especially on a spray day. It had been used this  
4 morning, the same morning, so I thought it had been  
5 inspected, but did I inspect it? No, I did not. 12:16:19  
6 Q Is it your job to inspect it?  
7 A Not every time I use it if it's already  
8 been used by sprayers in the morning.  
9 Q Is there a person who has the job of  
10 inspecting it every day? 12:16:29  
11 A We all inspect different things during the  
12 time of the day, but if you've been working with  
13 something that morning, I don't see a person going  
14 in and checking that person's work. Like if  
15 somebody went behind me and used a sprayer, all I 12:16:38  
16 have to do is just flush the residuals out and go  
17 get --  
18 (Reporter clarification.)  
19 -- flush the residuals out, the residue,  
20 just flush out the residue, and they're good to go, 12:16:49  
21 because I'm checking my stuff all the time. But I  
22 don't use backpacks all the time, so maybe it was  
23 not checked for days. I don't know.  
24 Q Did you ask for the sprayer -- backpack  
25 sprayer to be inspected? 12:17:01  
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1 A No, I asked did you both of them. I say,  
2 "Can I use both of these in the later day?" Because  
3 it was Saturday, we're going to spray on Saturday.  
4 It was like 10 o'clock, so I asked them, "Can I  
5 spray with these?" Like, "Yeah, you can use them." 12:17:10  
6 Q And this occurred after the incident when  
7 you said it made your lower back wet?  
8 A Yeah, and this -- this had been the second  
9 time I got wet from backpacks.  
10 Q Did you visually look at it to see if it 12:17:21  
11 was --  
12 A Yeah, I filled them up and everything. You  
13 know, you kind of fill them up and you look at them  
14 and make sure they're not dripping.  
15 (Reporter clarification.)  
16 Yeah, you pick them up and make sure  
17 they're not dripping, look at them when you wipe 'em  
18 down. You're kind of making sure they don't have  
19 any stuff on the back, backpack already when you put  
20 it on, and now it's got juice on the backpack. So  
21 you got to wipe the whole thing down, make sure it's  
22 clean, make sure it's dry.  
23 (Reporter clarification.)  
24 Going too fast?  
25 Make sure it's dry, make sure it's clean 12:17:42  
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1 before you put it on, and check for little drips,  
2 leaks or anything that happens that's significant.  
3 But if you don't see anything significant, you don't  
4 have to -- it's just three hoses. It's not like  
5 checking a big (unintelligible). 12:17:56  
6 Q Did you find any defects?  
7 A I didn't, not till I found out it was  
8 dripping on my back.  
9 Q After -- after the dripping on your back  
10 that you described -- 12:18:06  
11 A Yeah.  
12 Q -- did you -- did you find any defects?  
13 A A little bit of drip by the handle.  
14 Q And so --  
15 A As it comes into the handle, it goes right 12:18:14  
16 to the backpack, that thing was a little wet.  
17 Q The -- where -- where is the -- is the  
18 handle?  
19 A The handle comes over here. Like I'm a  
20 right-hander, right? So on this one, you just 12:18:27  
21 switch the handle over to this side. Now you pump  
22 it with this. This is my pump. You keep the  
23 pressure up. You have a little wand over here.  
24 (Indicating.) You get it? I'm pumping and I'm  
25 spraying, and I don't have to pump anymore because I 12:18:42  
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1 got enough pressure in my tank. Now I'm just  
 2 (indicating).  
 3 Q And the leak was at the pump?  
 4 A In the back.  
 5 Q In the back. 12:18:53  
 6 A So the backpack is on my back like this,  
 7 right? This is the pump. This is the guy with the  
 8 backpack on. Now, there's a little tube that comes  
 9 up to the back. (Indicating.)  
 10 Q All right. Now, given this leak that you 12:19:02  
 11 saw, is that backpack sprayer still in service --  
 12 A I would think so.  
 13 Q -- even though you reported this leak?  
 14 A I fixed the leak right away.  
 15 Q So the leak no longer occurred afterwards? 12:19:16  
 16 A No. We were required to fix these things.  
 17 If we can't fix them, then we send them out and get  
 18 a new one or get -- then we're required to send them  
 19 out, fix them or get a new one. But we're required  
 20 to do what's called maintenance on all our stuff. 12:19:30  
 21 Q And as the IPM person, that would be part  
 22 of your job to make sure that either they don't leak  
 23 or if they do, that the leaks get fixed, right?  
 24 A Exactly.  
 25 Q All right.

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1 Q So you left -- you left the school district  
 2 at that point?  
 3 A I was disabled. I had a doctor's note.  
 4 Dr. Kimmelman.  
 5 Q Dr. who? 12:21:00  
 6 A Kimmelman.  
 7 Q And what did Dr. Kimmelman find  
 8 specifically about your condition?  
 9 A Rotator cuff ruined and some other stuff in  
 10 the shoulder ruined.  
 11 (Reporter clarification.)  
 12 Rotator cuff is ruined. Some other stuff  
 13 in my shoulder and pectoral is not going to ever  
 14 be -- he suggested surgery, and my oncologist  
 15 suggested no surgery right now. And that was the 12:21:24  
 16 last I heard from Dr. Fishburn -- Osburn. That's  
 17 when they decided to give surgery.  
 18 MR. COPLE: Can you pull the Ranger PRO  
 19 label? And can you also pull the Safety Data Sheet  
 20 for Ranger PRO? 12:22:00  
 21 Let's mark this as Exhibit 4. I think it's  
 22 Exhibit 4.  
 23 (Deposition Exhibit 4 marked by the court  
 24 reporter.)  
 25 MR. COPLE: And while we're at it, let's 12:22:28

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1 A Even if somebody else can't fix them, it  
 2 would be my job next, and if I can't fix it, then we  
 3 take it out.  
 4 Q Is that backpack sprayer still being used  
 5 right now; do you know? 12:19:47  
 6 A I'm not -- I haven't been there in three  
 7 years, so I don't know what they're using over there  
 8 now.  
 9 Q You haven't been in the -- working as the  
 10 IPM for three years; is that right? 12:20:01  
 11 A I think so.  
 12 Q All right. When did you stop working for  
 13 Benicia?  
 14 A I think it was the summer of 2000 -- you  
 15 got to check. You can check that. It's right in my 12:20:13  
 16 records, comp cases and everything. The records are  
 17 there, but I don't know exactly the day I stopped.  
 18 It was the summer, because it was the last day of  
 19 school, so actually, the last day of school. I was  
 20 the campus supervisor -- I was the campus 12:20:25  
 21 supervisor, so it would be before I started Workers'  
 22 Comp. I don't know exactly.  
 23 Q When you stopped being the IPM for Benicia,  
 24 did you also stop all employment?  
 25 A I'd become pretty sick, yeah. 12:20:43

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1 mark the Safety Data Sheet as Exhibit 5.  
 2 (Deposition Exhibit 5 marked by the court  
 3 reporter.)  
 4 BY MR. COPLE:  
 5 Q Now, if you'll look at Exhibit 4, Mr. 12:22:48  
 6 Johnson, this is the Ranger PRO label. Is this the  
 7 label that you said that you reviewed every day  
 8 before you did a spraying?  
 9 A Well, what happens is it's just like  
 10 this -- 12:23:07  
 11 Q Yes.  
 12 A -- but it's condensed down to a pocket  
 13 size.  
 14 Q Okay. Even so, as a pocket size, it's all  
 15 the same information? 12:23:14  
 16 A Totally.  
 17 Q So all of this information that's contained  
 18 in each one of these, all of these pages, you would  
 19 review every day that you did spraying before you  
 20 did the spraying, right? 12:23:27  
 21 A That would not be true for, let's say,  
 22 looking at every section before I sprayed. I look  
 23 at the section that's important to me which is the  
 24 ratio --  
 25 Q Okay. 12:23:36

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1 A -- which is the gallons per -- per -- per  
2 gallons of water to ounces of chemical. That was  
3 the most important page to me. That page is flipped  
4 out and marked, that page.  
5 Q Okay. 12:23:47  
6 A And this page is also very important, the  
7 weed species. This is a very important page right  
8 here on No. 8 and 9. So if I wanted to spray like  
9 ice plant or I wanted to spray -- ice plant is that  
10 green stuff. Looks like french fries in your yard. 12:24:03  
11 Pretty serious weed. You could it spray it easily,  
12 though it will break. You know, if you were  
13 spraying Hickory, if you're spraying Oak, you can  
14 find out what to spray on there before you even get  
15 started, you know. 12:24:13  
16 So that sheet -- that page is very  
17 important. And then the other page that was  
18 important -- my mouth is killing me. Yes, that is  
19 the sheet. 8 and 9 and probably No. 10. These are  
20 all your ratios for everything that you want to 12:24:36  
21 spray from regular grass to basically all the trees  
22 and things, Willow. Yep. That's the --  
23 Q Well, let me ask you about some other  
24 things in this document to see if they're very  
25 important. 12:24:51

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1 Under -- under 3.1. We're on page 1 of the  
2 label. 3.1, "Hazards to Humans and Domestic  
3 Animals." There's a section in the right-hand  
4 column. It starts with some bolded text that says  
5 "Personal Protective Equipment. Applicators and 12:25:08  
6 other handlers must wear." Do you see that?  
7 Right-hand column.  
8 A Right-hand column.  
9 Q About halfway down.  
10 A Personal Protective Equipment. 12:25:22  
11 Q Right. Do you see that?  
12 A Yep.  
13 Q And did you read that every day, every day  
14 that you sprayed?  
15 A No, it was one thing we -- we paid -- 12:25:31  
16 (Reporter clarification.)  
17 We paid attention mostly to this 1.0,  
18 Ingredients. That was important to see that every  
19 morning.  
20 Q Right. So you didn't read the PPE section 12:25:42  
21 of that?  
22 A That was not important because you kind of  
23 knew what to do after you did this.  
24 Q All right. So you didn't read that each  
25 time. 12:25:51

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1 A No. The most important part was making  
2 sure that you didn't go and start and try to be a  
3 little --  
4 (Reporter clarification.)  
5 The best thing was not to try to go out 12:25:56  
6 there and see that over here, like on 8, 9, it say  
7 use this amount, and you say well, it look a little  
8 strong today. I'm going to put a little ten more  
9 percent in there, right? So they didn't want you to  
10 do that.  
11 That's why I say go to the direction page  
12 and use the instructions from that every time so  
13 you're not doing a little doctoring on stuff and  
14 killing off those little birdies.  
15 Q Obviously we agree, all of those steps of 12:26:17  
16 instructions are very important. I just want to see  
17 what else is very important.  
18 If you go down, the same column, there is a  
19 box that says "User Safety Recommendations." Do you  
20 see that? 12:26:31  
21 A Yeah.  
22 Q Did you read that every day before you  
23 sprayed?  
24 A "Wash your hands before eating,  
25 drinking, chewing gum, using tobacco or 12:26:38

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1 using the toilet.  
2 "Remove clothing immediately if  
3 pesticide gets inside. Then wash  
4 thoroughly and put on clean clothing."  
5 Q You read that every day? 12:26:50  
6 A No. That was not required of me to read  
7 that every day. It was required for me to read what  
8 I was mixing every day.  
9 Q Requirement by who or from who?  
10 A From my supervisors to make sure you keep 12:27:03  
11 your directions on you, keep your supervisor -- keep  
12 your little -- keep your little directions in your  
13 pocket in case you need to look to that for a  
14 reference. You know what I mean? So yeah, I kept  
15 mine to the ingredients page so I'd know -- 12:27:14  
16 Q Well, you -- in addition to having  
17 supervisors, Mr. Johnson, you also were a qualified  
18 applicator certificate holder, so you -- you know it  
19 was important to read the entire label, right?  
20 A Oh, yeah, we read the label a lot. 12:27:29  
21 Q All right. But just not every day?  
22 A No.  
23 Q All right. If you go to --  
24 A When I spraying -- when I'm spraying, I  
25 watch the label what I'm spraying, and watch that 12:27:37

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|   |   |
|---|---|
| <p>1 every day, the ingredients and the ratio, per ratio.<br/> 2 Q Okay. If you go -- if you go to the box at<br/> 3 the top where it says "ATTENTION," in all bold, and<br/> 4 you go to the last bullet, it says:<br/> 5 "Always follow the precautions and 12:27:56<br/> 6 instructions for use on the label of the<br/> 7 pesticide that you are using."<br/> 8 Do you see that?<br/> 9 A Yeah.<br/> 10 Q You always did that? 12:28:04<br/> 11 A Yeah.<br/> 12 Q But you didn't read the complete label<br/> 13 every day; is that right?<br/> 14 A Nah.<br/> 15 Q All right. 12:28:09<br/> 16 A I did the same thing every day with the<br/> 17 PPE. I didn't have to go looking at that.<br/> 18 Q Okay.<br/> 19 A Put on a white suit. Put your boots on<br/> 20 that you wear every time. 12:28:15<br/> 21 Q If you go to the left-hand column, and<br/> 22 there's some bolded language, "Complete Directions<br/> 23 for Use," and if you go down a little bit, there's<br/> 24 some more bolded language, but if you go past that,<br/> 25 the first thing that the -- that the Ranger PRO 12:28:28<br/> Page 194</p>   | <p>1 A Yep.<br/> 2 Q And you did that, right?<br/> 3 A Yeah, pretty much. Like you said, the<br/> 4 mixing part is a little different than the PPE.<br/> 5 Q Okay. But you didn't read the entire label 12:29:37<br/> 6 each time, right?<br/> 7 A No.<br/> 8 Q All right. And it says "when tank<br/> 9 mixing" --<br/> 10 A And it says -- it says "read carefully and 12:29:43<br/> 11 observe directions," right?<br/> 12 Q You handled the tank mixing, right?<br/> 13 A Yeah.<br/> 14 Q Okay. Let's go to the -- Exhibit 5, which<br/> 15 you have, which is the Safety Data Sheet. Is this 12:30:09<br/> 16 the document that you kept in the glove compartment?<br/> 17 A Yep.<br/> 18 Q Okay. And you --<br/> 19 A This went in that. We have the fat one in<br/> 20 there, too. 12:30:29<br/> 21 (Reporter clarification.)<br/> 22 The big one. Let's use the big one.<br/> 23 Q What's the fat one?<br/> 24 A This is the fat one (indicating).<br/> 25 Q Okay. And that was in the -- 12:30:34<br/> Page 196</p>  |
| <p>1 label says is: "Read the entire label before using<br/> 2 this product," right?<br/> 3 A Yeah.<br/> 4 Q So the label itself directs the user to<br/> 5 read the label before using the product, right? 12:28:42<br/> 6 A It doesn't say use before -- it says to<br/> 7 read the entire thing before you use it, right? Not<br/> 8 every time. It says before you use it. That means<br/> 9 if you sit down with your crew and read it, that's<br/> 10 one good time. Now, if you decide to go out there 12:28:53<br/> 11 and not to take your pamphlet with you, that's<br/> 12 something that you decide to do and break those<br/> 13 rules, but you should have the pamphlet on you at<br/> 14 all times is what I was told.<br/> 15 Q Told by whom? 12:29:04<br/> 16 A Roy Owens.<br/> 17 Q All right. Now, if you go to section<br/> 18 6.3 -- this is on the third page -- for Tank Mixing<br/> 19 Procedure. In the first paragraph, it says that:<br/> 20 "When tank mixing, read and 12:29:17<br/> 21 carefully observe label directions,<br/> 22 cautionary statements and all<br/> 23 information on the labels of all<br/> 24 products used."<br/> 25 Right? 12:29:25<br/> Page 195</p> | <p>1 A Yeah, we kept both of those in there.<br/> 2 Q All right. And that's the one that you<br/> 3 read occasionally to refresh yourself, is that why?<br/> 4 A This one?<br/> 5 Q No, Exhibit 5, the -- 12:30:44<br/> 6 A No, we just had that just in case.<br/> 7 Q So you didn't -- you didn't --<br/> 8 A (Unintelligible) the Safety Data Sheet.<br/> 9 Q You didn't read that one?<br/> 10 A Every day? 12:30:54<br/> 11 Q Yes.<br/> 12 A No, we read that in a meeting and went over<br/> 13 the whole product thing and all that. But no, you<br/> 14 don't -- we didn't read this every day.<br/> 15 Q All right. So why did you keep it in the 12:31:00<br/> 16 glove compartment?<br/> 17 A Because you need to know this -- if you get<br/> 18 this on your skin and you're out there in the field,<br/> 19 you're supposed to be able to hand this to you when<br/> 20 you pull up in the ambulance, and say, "I got this 12:31:09<br/> 21 stuff on me right here." And he'll be able to look<br/> 22 at this stuff. As an ambulance person, you know --<br/> 23 (Reporter clarification.)<br/> 24 As an ambulance person means you will know,<br/> 25 you know, what's going on. 12:31:16<br/> Page 197</p> |

1 Q If you go to page 2 of this Exhibit 5, and  
2 it says, section No. 4, "First Aid Measures," and  
3 first thing it says is:  
4 "Use personal protection  
5 recommended in section 8." 12:31:32  
6 You followed that, right?  
7 A Yes.  
8 Q You followed that, right?  
9 A Yes.  
10 Q Okay. And if you go to section 8, which is 12:31:43  
11 over -- it's two more pages, under "Exposure  
12 Controls/Personal Protection," if you go down to  
13 section 8.3.2, it says "Skin protection," right?  
14 A Which one is that?  
15 Q Skin protection, 8.3.2. 12:32:05  
16 A Yeah.  
17 Q And it says, "No special requirement when  
18 used as recommended" meaning when the product is  
19 used as recommended, correct?  
20 A Yep. 12:32:15  
21 Q But you -- you did use -- anyway, you used  
22 the Tyvek suit?  
23 A Yep.  
24 Q And you did, as it says, wear chemical  
25 resistant clothes; you had that? 12:32:25  
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1 A Yes.  
2 Q And you had the boots?  
3 A The boots and everything.  
4 Q And the mask?  
5 A And the paper mask. 12:32:30  
6 Q And the goggles?  
7 A And the goggles.  
8 Q Okay. And if you go -- if you go back to  
9 section 4, "First Aid Measures," and we just talked  
10 about personal protection. If you go down a little 12:32:45  
11 further under "Description of first aid measures,"  
12 it's 4.1. And further down from there is "Skin  
13 contact," 4.1.2. Do you see that?  
14 A Mm-hmm.  
15 Q It says: 12:33:01  
16 "Take off contaminated clothing.  
17 Rinse skin immediately with plenty of  
18 water for 15-20 minutes. Call a poison  
19 control center or doctor for treatment  
20 advice." 12:33:15  
21 So on the -- you didn't read this every day  
22 because you already knew what this said; is that  
23 why?  
24 A No.  
25 Q Why didn't you read it every day? 12:33:26  
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1 A Because I was too busy mixing the other  
2 stuff, and I couldn't sit here and read both of  
3 these pamphlets every day.  
4 Q Okay. But you did have it in the glove  
5 compartment? 12:33:36  
6 A Definitely.  
7 Q All right. Under these different things  
8 under 4.1.2 for skin contact, the first thing it  
9 says is "take off contaminated clothing." Now, on  
10 the two incidents that you described on the -- the 12:33:51  
11 spray in 2014 and then earlier the Mary Farmer hose  
12 disconnect, on both those times, did you -- did you  
13 take contaminated clothing off right away?  
14 A After I got the whole containment of the  
15 hose and the little bit of liquid that was spilled 12:34:17  
16 on the ground, it was puddling -- I didn't want to  
17 get that liquid on to the drain at the bottom of  
18 that hill, 'cause, of course, water drains down to  
19 that hill. I need to take the pesticide back up the  
20 hill. I use my push broom whatever has to get back  
21 into the weeds.  
22 (Reporter clarification.)  
23 I used whatever I could to push that  
24 product back into the weeds, back into the weeds,  
25 back into the weeds. Because if not, it would have 12:34:35  
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1 ran down into the drain.  
2 So within 20 minutes is not acceptable  
3 because I was already still working on cleaning up  
4 the spill.  
5 Q All right. So you took it -- you took 12:34:44  
6 contaminated clothing off as soon as you could?  
7 A When I got back to the yard, I went to our  
8 little kitchen sink. I took off my -- I mean I took  
9 off my stuff in the outside. We're not supposed to  
10 take the chemical clothes inside. I took off my 12:34:53  
11 stuff outside by the truck. Went inside; did my  
12 little rinse-down at the sink that was in front of  
13 me.  
14 Q And when you believed that you had spray  
15 drift on your skin, did you take your contaminated 12:35:04  
16 clothing off?  
17 A All the time. Well, we just come in, we  
18 would just wash our faces. It was mostly on our  
19 faces, so we'd come in. We'd just hit our faces to  
20 death right over there at the sink. 12:35:15  
21 Q All right. So that's the second point,  
22 which is "rinse skin immediately with plenty of  
23 water for 15 to 20 minutes." Did you rinse with --  
24 A Yeah.  
25 Q -- water for 15 to 20 minutes? 12:35:22  
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|   |  |
|---|--|
| <p>1 A Yeah.</p> <p>2 Q Okay.</p> <p>3 A My thing is I didn't have an overhead<br/>4 shower. If I had an overhead shower, I'd probably<br/>5 got the stuff to go down. You're just running this 12:35:28<br/>6 stuff in with the sink. You know, you're not really<br/>7 getting it off, I don't think.</p> <p>8 Q But you did rinse with water?</p> <p>9 A I did the best that I could at the time.</p> <p>10 Q All right. And the last thing is to, if 12:35:37<br/>11 you have skin contact, for you to call poison<br/>12 control or a doctor for treatment advice.</p> <p>13 When you had the Mary Farmar situation, did<br/>14 you call poison control?</p> <p>15 A I told my supervisor that was on hand what 12:35:50<br/>16 happened.</p> <p>17 (Reporter clarification.)</p> <p>18 Supervisor that was on hand. I told John<br/>19 what happened. And when Roy got back to work, I<br/>20 told him what happened. I didn't think it was my 12:36:01<br/>21 job to report to the poison control people that this<br/>22 had happened to me.</p> <p>23 Now, if the other guys, Ron or -- Ron or<br/>24 Edwin got it on them and they came in and they said:<br/>25 Hey, Lee, I got this stuff on me, now it's my job to 12:36:12<br/>Page 202</p>   | <p>1 stuff. I figured once I got home, I'd be okay.</p> <p>2 'Cause it got down to my neck, and when it rolls<br/>3 down to about the tip of my shoulder, I was able to<br/>4 wipe that stuff --</p> <p>5 (Reporter clarification.)</p> <p>6 It got down to my shoulder. I was able to<br/>7 rinse a lot of that off, wipe a lot of that off, I<br/>8 guess. I don't know if I'm wiping it in or I'm<br/>9 taking it off, I don't know, but I'm using what I<br/>10 had at that time, the kitchen sink. 12:37:23</p> <p>11 Q So you didn't call the doctor?</p> <p>12 A No.</p> <p>13 Q All right. Now, what about the other<br/>14 exposure with the -- the spray drift. Did you call<br/>15 poison control about that? 12:37:36</p> <p>16 A No, not at all.</p> <p>17 Q Did you call a doctor about treatment<br/>18 advice?</p> <p>19 A Once I saw the lesions on my skin, once I<br/>20 saw the lesions on my skin. 12:37:49</p> <p>21 Q And that was when you saw Dr. Carrie<br/>22 Chanson; is that right?</p> <p>23 A That's the dermatologist in our town? I<br/>24 think so.</p> <p>25 Q Okay. So in that case -- 12:37:56<br/>Page 204</p> |
| <p>1 get their report. It's my job to get everything for<br/>2 them because it's not me, and they're not supposed<br/>3 to take it from me. They're supposed to give me<br/>4 their information. I'm supposed to put their<br/>5 information in. I'm supposed to take care of them.</p> <p>6 I might have just learned that after the<br/>7 fact, it might be after, you know, but that's what I<br/>8 think should happen. If I told John, John should<br/>9 have stopped and said: Okay, where'd you get -- you<br/>10 know, where did -- where did this happen at? We 12:36:33<br/>11 should have had a sit-down at Mary Farmar<br/>12 (unintelligible), went over it and got it straight.</p> <p>13 And we would have a report on it, that day, that<br/>14 time, that whatever. But he talked to me with doubt<br/>15 like: Well, I don't know nothing about that, da, 12:36:43<br/>16 da, da.</p> <p>17 I says: What can you do? These are my<br/>18 employers. These are people that hired me to do<br/>19 this. They don't have incident reporting. I'm<br/>20 going to stop there. 12:36:52</p> <p>21 Q All right. When -- when you had the<br/>22 exposure you discussed about -- that occurred --<br/>23 happened at Mary Farmar and the disconnected hose,<br/>24 did you call a doctor for treatment advice?</p> <p>25 A No. They told us the stuff is pretty safe 12:37:05<br/>Page 203</p> | <p>1 A Carrie Chanson sounds like a teacher from<br/>2 my school. I don't know if you're trying to throw<br/>3 me a curve or something.</p> <p>4 Q We'll take a look at her report in a<br/>5 moment. 12:38:07</p> <p>6 A Yeah, that doesn't sound like the Carrie<br/>7 Chanson that works with dermatology. That's sounds<br/>8 like her mother.</p> <p>9 Q If I have that wrong, I'll be the first to<br/>10 admit it, so we'll look at that document in a 12:38:13<br/>11 moment.</p> <p>12 Now, there -- there's a document within<br/>13 Benicia Unified School District called the<br/>14 "Acknowledgment of Pesticide Safety Training" form.<br/>15 Are you familiar with that document? 12:38:36</p> <p>16 A Not really.</p> <p>17 Q You've never seen that document?</p> <p>18 A I didn't say that. I'm just not familiar<br/>19 with it.</p> <p>20 MR. COPLE: All right. Do you have that? 12:38:44<br/>21 Let's mark this as -- I think it's<br/>22 Exhibit 5.</p> <p>23 MR. LITZENBURG: 6.</p> <p>24 MR. COPLE: 6, sorry.</p> <p>25<br/>Page 205</p>  |

1 (Deposition Exhibit 6 marked by the court  
2 reporter.)  
3 BY MR. COPLÉ:  
4 Q Would you take a look at that document, and  
5 let us know if you've seen that document before? 12:39:31  
6 A Looks like the sheet that they bring from  
7 Monsanto that the lady, Leah, used to bring over.  
8 Q So do know what this document is?  
9 A It's acknowledging that you have some type  
10 of training for a couple of hours. 12:40:00  
11 Q And did you ever sign that document or  
12 anything like it?  
13 A I think I signed it once.  
14 Q I'm sorry, what?  
15 A I think I signed it once. 12:40:10  
16 Q You signed it once. And that -- that was  
17 signed by you as part of your employment with the  
18 school district?  
19 A That was signed by me after sitting down in  
20 class with Leah for a few hours and being said that 12:40:22  
21 I was certified, and then I sign right here.  
22 Q All right. What did -- what did this  
23 person Leah -- was it Leah; is that what you said  
24 her name was?  
25 A (Nods head.) 12:40:33

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1 Q What did she certify you as?  
2 A Nothing. She couldn't qualify me as  
3 anything.  
4 Q So what was the reason for your session  
5 with her? 12:40:44  
6 A My supervisor just turned me over to her  
7 and says the lady you will sit with, and she's going  
8 to give you some basic training on applicating [sic]  
9 chemicals and this, that and the other. I was doing  
10 what my employer told me to do. 12:40:58  
11 Q All right. Section 1 here -- and you think  
12 you may have signed this once?  
13 A At least once, I think.  
14 Q At least once. And you think you may have  
15 signed it in connection with your session with Leah. 12:41:08  
16 Are you sure about that, that it was in connection  
17 with her session with you?  
18 A What? Sure about what?  
19 Q That you signed this.  
20 A The sheet looks familiar. It looks like 12:41:19  
21 Leah's sheet. And if I signed this, I signed it  
22 under her, you know, little teachings and took it  
23 sort of for what I had.  
24 Q Okay. Now, No. 1 says:  
25 "Before USING OR HANDLING A 12:41:32

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1 PESTICIDE," and that's in all capital  
2 letters, "I must read the label on the  
3 pesticide container, the whole label,"  
4 which is underlined, "and follow  
5 instructions carefully." 12:41:44  
6 Correct?  
7 A Yeah.  
8 Q And it specifically mentions reading the  
9 whole label, correct?  
10 A Yeah, but I think it's -- it's kind of 12:41:52  
11 being a little -- I'm not here to try to correct  
12 your verbiage, but it just seems like that's not  
13 saying what you're saying that it's saying.  
14 Q I'm not saying it's saying anything. I'm  
15 just saying -- 12:42:05  
16 A Okay.  
17 Q -- it directs -- it directs whoever signs  
18 this acknowledgment that they should read the whole  
19 label --  
20 A At least once before you use the product is 12:42:11  
21 what it sounds like me, without adding words to it.  
22 Q It may sound that way to you, Mr. Johnson,  
23 but it doesn't say that, right, it doesn't say to  
24 read it only once?  
25 A What's your question? 12:42:26

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1 Q That the paragraph numbered 1 doesn't say  
2 to only read it once?  
3 A No, it doesn't. But what is your other  
4 question, the main question?  
5 Q No, that was my question, just to be sure 12:42:35  
6 we're clear as to what it says. And it doesn't  
7 say --  
8 Do you recall if there are -- there are --  
9 in this three-page document, four-page document,  
10 there are 32 particular -- particular acknowledgment 12:42:51  
11 points. Do you see that? Each one starting with  
12 the phrase "I understand" or something like it?  
13 A Yep.  
14 Q All right. Do you remember going over  
15 these 32 points with anybody? 12:43:06  
16 A The -- not totally because I don't -- I've  
17 taken a couple of these kind of like these little  
18 things for -- for -- not only for chemicals, but  
19 this is all about chemicals. This must have to be  
20 Leann because I only did it with her once. So I 12:43:22  
21 don't remember it verbally, just line for line, but  
22 some of those things look familiar.  
23 (Reporter clarification.)  
24 Line for line, verbally line for line, I  
25 don't remember.

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1 MR. COPLE: Do you have -- can you pull the  
2 pesticide training record. Do we have that,  
3 pesticide training record?  
4 MS. SALEK: Don't have that.  
5 MR. COPLE: All right. What about the -- 12:43:50  
6 there's actually another side to this. I don't know  
7 if we have that either.  
8 MS. SALEK: No, we don't.  
9 BY MR. COPLE:  
10 Q All right. Well, let me ask you this, Mr. 12:43:57  
11 Johnson. Do you recall a document they used in the  
12 Benicia Unified School District called the Pesticide  
13 Safety Training Record?  
14 A Yep.  
15 Q And did you fill out Pesticide Safety 12:44:10  
16 Training program records for yourself?  
17 A Yeah.  
18 Q And those records, which -- which we don't  
19 have with your information or signature, those  
20 records need to be kept by the school district; is 12:44:22  
21 that right?  
22 A I think so.  
23 Q Do you know for how long they have to keep  
24 those training records?  
25 A I'm going on a limb, I think it's four to 12:44:29  
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1 five years.  
2 Q All right. Four to five years. I won't  
3 hold you to that. But four to five years. So there  
4 would be -- for your information about your own  
5 training, there would be no reason that you can 12:44:41  
6 think of that the school district shouldn't have  
7 this, right, about you?  
8 A I mean, that's one way, that they threw out  
9 by accident, you know, they're doing the transition  
10 from management --  
11 (Reporter clarification.)  
12 They doing the transition from management.  
13 Only thing I can think of they might have  
14 accidentally thrown it out.  
15 Q But you didn't throw it out though? 12:44:56  
16 A Never.  
17 Q Do you know who kept these training  
18 records?  
19 A Kept the what?  
20 Q The -- the documents that basically say 12:45:05  
21 what training each employee has received.  
22 A For me, it was Roy.  
23 Q Roy kept your records?  
24 A Well, you gave me -- no, Roy kept his own  
25 records before I got the job. 12:45:16  
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1 Q What about the record of your training?  
2 A I didn't throw mine out. I didn't throw  
3 any of them out.  
4 Q All right. Did you keep your own record?  
5 A No. Except when this came -- it's like 12:45:26  
6 this came, yeah, I just took that and I took my  
7 file, you know, whatever else go in my little file.  
8 I had a Lee file, I had a Ron file and Edwin file.  
9 (Reporter clarification.)  
10 I had a Lee file, an Edwin file, and a Ron 12:45:43  
11 file. A file for each guy. You know what I mean?  
12 You wouldn't say file -- am I saying "file" the  
13 wrong way? Am I saying "file" --  
14 THE REPORTER: No, "file" is okay.  
15 THE WITNESS: Okay. That "file" keeps 12:45:54  
16 throwing you off. It's like -- every time we go  
17 down "file," she goes like...  
18 MR. COPLE: You got Carrie Chanson's --  
19 MS. SALEK: Yes.  
20 MR. COPLE: -- office visit? 12:46:04  
21 Let's mark this as Exhibit 7 for the  
22 deposition.  
23 (Deposition Exhibit 7 marked by the court  
24 reporter.)  
25 BY MR. COPLE: 12:46:40  
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1 Q Have you seen this document before, Mr.  
2 Johnson?  
3 A Hmm-hmm. Don't know. No. I know Carrie  
4 Chanson is not on Sereno Avenue.  
5 Q You agree that this is a -- that this 12:46:56  
6 indicates that it says a Kaiser Permanente Medical  
7 Group record?  
8 A Yep.  
9 Q If you'll look -- and it says at the top  
10 "Encounter Record." Have you ever seen an Encounter 12:47:08  
11 Record from Kaiser before?  
12 A No.  
13 Q If you look at -- at the top line, which is  
14 called "Visit Information," first of all, there's a  
15 date and time says July 23rd, 2014, 8:50 in the 12:47:21  
16 morning.  
17 Do you see that?  
18 A Where at?  
19 Q Top line under Visit Information. It's  
20 right below Work Comp. 12:47:31  
21 A Encounter Visits?  
22 Q It says "Visit Information" on the  
23 left-hand side of the document.  
24 A Visit Information. Left-hand side. Yep.  
25 Q Do you see that? 12:47:56  
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|  |   |
|--|---|
| <p>1 A Mm-hmm.<br/> 2 Q July 23, 2014?<br/> 3 A Uh-huh.<br/> 4 Q And next to that it says "Provider Carrie<br/> 5 Chanson, M.D." 12:48:04<br/> 6 Do you see that?<br/> 7 A Yes.<br/> 8 Q Now, do you recall now who Dr. Chanson is?<br/> 9 A I still don't. Dr. Chanson might be a<br/> 10 Workers' Comp doctor. 12:48:14<br/> 11 Q Do you recall going to a Workers' Comp<br/> 12 doctor in July of 2014?<br/> 13 A I saw an Asian guy over there. It seems<br/> 14 like his name was Dr. -- something that starts with<br/> 15 a T. And then he referred me to another doctor who 12:48:28<br/> 16 was also Asian, who was a physical therapist. I<br/> 17 never -- I don't remember this Chanson, M.D.<br/> 18 Q Okay. Well, let's see if we can go through<br/> 19 some of this and see if there's anything you do<br/> 20 remember about it. If you go halfway down, on the 12:48:41<br/> 21 left-hand side, it says "Diagnoses." Do you see<br/> 22 that?<br/> 23 A Yes.<br/> 24 Q And the diagnoses for you is Dermatitis,<br/> 25 Atopic, meaning Atopic Dermatitis, Eczema, Atopic as 12:48:51<br/> Page 214</p>                | <p>1 A Yeah. Looks like --<br/> 2 Q All right. And below that just a little<br/> 3 bit, a couple of lines, it says Injury Date:<br/> 4 April 30, 2014.<br/> 5 Do you see that? 12:50:05<br/> 6 A Mm-hmm.<br/> 7 Q All right. Do you remember now what --<br/> 8 what injury you were reporting from April of 2014?<br/> 9 A Must have been the skin rash or something<br/> 10 going on with my skin. 12:50:20<br/> 11 Q Okay. And if you go to the next page,<br/> 12 there's Progress Notes continued from Dr. Chanson,<br/> 13 and this is -- this is all on July 23rd, 2014, for<br/> 14 your visit to Kaiser. And it says -- and I'll just<br/> 15 read it, and you can correct me if you think I've 12:50:38<br/> 16 not read it right. It says: "Body Part(s)" --<br/> 17 well, first of all, it says your job title, Pest<br/> 18 Management for 3 years. That would be correct,<br/> 19 right?<br/> 20 A Mm-hmm. 12:50:52<br/> 21 Q That would have come from you? You would<br/> 22 have told the doctor that, right?<br/> 23 A Told her what exactly?<br/> 24 Q That your job was pest manager for the last<br/> 25 three years? 12:51:03<br/> Page 216</p> |
| <p>1 the primary diagnosis.<br/> 2 A Yeah, this is a Workers' Comp doctor. You<br/> 3 see at the top --<br/> 4 Q Mm-hmm.<br/> 5 A -- before Visit Information?<br/> 6 Q Yes.<br/> 7 A So what she probably did, she probably put<br/> 8 whatever she put right here and sent me to Ofodile,<br/> 9 or whoever was the doctor that got the right<br/> 10 diagnosis, 'cause this is not even the right 12:49:10<br/> 11 diagnosis.<br/> 12 Q All right. But do you remember that this<br/> 13 diagnosis was given to you of atopic dermatitis in<br/> 14 July of 2014?<br/> 15 A I barely even remember her. I seen so many 12:49:22<br/> 16 doctors since then, and I don't even remember her.<br/> 17 Q All right. If you go to the bottom of this<br/> 18 first page, it says -- first of all, it says under<br/> 19 the heading "Progress Notes by" Dr. Chanson, "by<br/> 20 Carrie Chanson M.D.," at 9:05 a.m. 12:49:38<br/> 21 Do you see that?<br/> 22 A Mm-hmm.<br/> 23 Q And this would indicate the notes that Dr.<br/> 24 Chanson created on your progress from your visit.<br/> 25 Would you agree? 12:49:52<br/> Page 215</p> | <p>1 A Yes, she asked me that.<br/> 2 Q And then it says "Body Part(s): skin." And<br/> 3 that would have been because that was what you were<br/> 4 complaining an injury about, right?<br/> 5 A Right. 12:51:12<br/> 6 Q And then it goes on to say "Mechanism of<br/> 7 Injury" and there's two question marks. This is all<br/> 8 from Dr. Chanson's progress notes. And Dr. Chanson<br/> 9 continues on this page and says:<br/> 10 "He has used the pesticide 'Ranger 12:51:26<br/> 11 PRO' for 2 years at work."<br/> 12 That would mean you, right, that you used<br/> 13 it?<br/> 14 A Me, I guess.<br/> 15 Q And -- well, there would be no other -- 12:51:33<br/> 16 this is your visit; you agree with that?<br/> 17 A Yeah, yeah.<br/> 18 Q And it goes on to say that: "On DOI,"<br/> 19 which would be date of injury; you would agree with<br/> 20 that, right? 12:51:44<br/> 21 A Agree with what?<br/> 22 Q DOI means date of the injury?<br/> 23 A No.<br/> 24 Q And it says: "...small amount of the<br/> 25 pesticide" -- this is talking about Ranger PRO -- it 12:51:53<br/> Page 217</p>  |

1 says: "Small amount of the pesticide got into" the  
2 "left side of his face." And they're talking about  
3 your face.  
4 Do you remember this injury now?  
5 A Yep. 12:52:05  
6 Q And it goes on to say: "He did not  
7 develop" -- "he" meaning you -- "He did not develop  
8 any skin irritation at that time."  
9 Do you remember that?  
10 A Right. 12:52:15  
11 Q You do?  
12 A I do remember telling her something like --  
13 like that.  
14 Q And it goes on to say: "Patient states" --  
15 that's you. You're the patient. "Patient states 12:52:22  
16 that he developed skin rash to his whole body  
17 (sparing the face)," meaning no rash -- no skin rash  
18 on your face, right?  
19 A Right.  
20 Q Right. "... (sparing the face) about 1 12:52:33  
21 month after the said incident."  
22 So if the incident's in April and this  
23 visit is July, your rash would have been, based on  
24 your own report to the doctor, your rash would have  
25 been occurring sometime in May or early June, right? 12:52:47  
Page 218

1 A Right.  
2 Q And it goes on to say: "He is wondering  
3 about the relationship between the incident and his"  
4 -- "his skin rash," right?  
5 A Okay. Yes. 12:53:00  
6 Q Now, if you go to the next page --  
7 A Did you skip a page?  
8 Q Yeah -- no, I didn't skip a page. I'm  
9 just -- I didn't read the whole page. But I can go  
10 back -- go to the bottom. We can talk about one 12:53:17  
11 other thing that Dr. Chanson observed in her notes.  
12 If you go towards the bottom --  
13 A How do you know that Dr. Chanson's notes  
14 are not the notes of the other nurses and doctors?  
15 Q Well, I'm just saying this is what the 12:53:29  
16 document -- you agree this is what the document  
17 says, right?  
18 A At some time I remember these notes being  
19 in there, but I don't know about talking to Chanson.  
20 (Reporter clarification.)  
21 But I don't know about talking to Chanson.  
22 I don't remember talking to Chanson this much about  
23 anything.  
24 Q Okay. And it goes on, at the bottom --  
25 towards the bottom of this same page 2, as saying 12:53:44  
Page 219

1 "Physical Exam." You see where it says "Physical  
2 Exam"?  
3 A Yeah.  
4 Q Okay. And it says:  
5 "Physical Exam: no apparent 12:53:55  
6 distress, healthy appearing, appropriate  
7 mood and affect."  
8 This is all about you based on the doctor's  
9 examination of you right, right?  
10 A I know. 12:54:05  
11 Q All right. And then if you go to the  
12 last -- the last page. You just flip the page over  
13 to the next one, and it says that -- first of all,  
14 there's a dash next to patient near the top. It  
15 says: 12:54:24  
16 "- Patient is discharged without  
17 permanent impairment. No further  
18 treatment is necessary from this  
19 clinic."  
20 Do you remember that? 12:54:34  
21 A Yeah.  
22 Q And if you go down further to  
23 "Causation" -- do you see "Causation," where it says  
24 "Causation"?  
25 A Reading it right now. 12:54:45  
Page 220

1 Q All right. And I'll read it along with --  
2 again, you correct me if I've said something  
3 incorrect here.  
4 "Causation: After careful review  
5 of all available evidence, it is my 12:54:55  
6 opinion" -- this is Dr. Chanson's  
7 notes -- "it is my opinion that the  
8 patient's current medical condition,  
9 more likely than not, was not caused or  
10 aggravated by factors of employment." 12:55:08  
11 She goes on to say:  
12 "I base this opinion on MSDS of the  
13 pesticide..."  
14 That would be the data safety sheet that we  
15 already talked about, right? And she goes on to say 12:55:20  
16 that she bases it on the:  
17 "...MSDS of the pesticide, timing  
18 and clinical presentations."  
19 You would agree that means your visit with  
20 her; that was your clinical presentation? 12:55:33  
21 A I guess if that's -- I guess that's the way  
22 it looks on paper.  
23 Q And then it goes on to say:  
24 "Per" the "MSDS of this product,  
25 skin irritation to the exposed body 12:55:44  
Page 221

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| <p>1 parts is likely. Patient did not<br/> 2 present skin irritation to the face at<br/> 3 that time. His skin rash that involves<br/> 4 the whole body and developed one month<br/> 5 after the claimed incident is not likely 12:55:57<br/> 6 resulted of the incident with date of<br/> 7 injury of April 30, 2014."<br/> 8 These are all the thoughts and evaluation<br/> 9 of Dr. Chanson according to this document, right?<br/> 10 A Yep. 12:56:12<br/> 11 Q All right. And then it goes on. In the<br/> 12 last paragraph, it says:<br/> 13 "The total visit time face to face<br/> 14 with the patient was 20 minutes."<br/> 15 And she further says: 12:56:20<br/> 16 "I spent greater than 50 percent of<br/> 17 this time counseling and in discussion<br/> 18 with the patient. We reviewed injury,<br/> 19 exam findings and work."<br/> 20 So do you recall what Dr. Chanson was 12:56:30<br/> 21 counseling you about?<br/> 22 A Cancer, and what you're going to go through<br/> 23 and, you know, the symptoms, and, you know, keeping<br/> 24 a good attitude and eating a good diet.<br/> 25 Q Well, there's nothing in this -- in this 12:56:42<br/> Page 222</p>   | <p>1 my skin results out to Stanford. I don't remember<br/> 2 Dr. Chanson. I'm thinking that you need to look at<br/> 3 that closer. Dr. Chanson is a Workers' Comp doctor.<br/> 4 That has nothing to do with skin or anything else.<br/> 5 Q You remember that you visited with Dr. 12:58:06<br/> 6 Chanson, don't you?<br/> 7 A I remember visiting the Workers' Comp<br/> 8 department.<br/> 9 Q Okay. And --<br/> 10 A I remember immediately getting transferred 12:58:14<br/> 11 from Dr. Chanson as fast as I could.<br/> 12 Q You have no reason right now to doubt that<br/> 13 Dr. Chanson prepared these notes about her visit<br/> 14 with you, right?<br/> 15 A I don't know who prepared the notes. I 12:58:26<br/> 16 just have this in front of me. It says her name on<br/> 17 there.<br/> 18 Q But you have no reason right now to say<br/> 19 that she didn't prepare these notes, right?<br/> 20 A I have reason to say that some of those 12:58:35<br/> 21 notes she probably got from somewhere else, 'cause<br/> 22 how could she ever write those notes after a<br/> 23 20-minute visit?<br/> 24 Q You would be speculating.<br/> 25 A I'm not speculating. I'm just saying that 12:58:44<br/> Page 224</p> |
| <p>1 document about cancer. This is all about<br/> 2 dermatitis.<br/> 3 A Yeah, because nobody knew what I had, and<br/> 4 she was talking to me about all these different<br/> 5 things. Like even though some of those can be 12:56:52<br/> 6 associated with skin cancer soon, but they already<br/> 7 thought that I had skin cancer. Nobody wanted to<br/> 8 say it. So when the results came back from<br/> 9 Stanford, everyone was scared to say it.<br/> 10 Q When did the results come back from 12:57:05<br/> 11 Stanford?<br/> 12 A I don't know the exact date, but it was --<br/> 13 it was shortly after hooking up Ofodile and hooking<br/> 14 up with Solano Dermatology. They both were the<br/> 15 first people to do biopsy on me. Solano Dermatology 12:57:19<br/> 16 introduced me to biopsy.<br/> 17 Q You agree that Dr. Chanson in this<br/> 18 document, which is her -- her progress notes of your<br/> 19 visit with her, doesn't say anything about cancer,<br/> 20 right? 12:57:32<br/> 21 A It says that Dr. Chanson is a doctor at 975<br/> 22 Sereno Drive. The person I'm talking about has a<br/> 23 practice on Solano Avenue. No, what is it? That is<br/> 24 called Sacramento Street. Her thing is called<br/> 25 Solano Dermatology. That's the first one that sent 12:57:51<br/> Page 223</p> | <p>1 why would she write these extensive notes for<br/> 2 20 minutes -- for a 20-minute visit?<br/> 3 Q Well, we can ask Dr. Chanson, but I'm<br/> 4 asking you right now if you have any reason to think<br/> 5 that Dr. Chanson did not write the -- 12:58:55<br/> 6 A They'll do that at Kaiser a lot. They'll<br/> 7 buddy up to other person's notes and just pass the<br/> 8 notes on to the next thing. This is -- apparently<br/> 9 this is her last notes. I don't think she's signing<br/> 10 these notes off like, you know, this is my full -- 12:59:03<br/> 11 you know what I mean?<br/> 12 Q You don't know if that happened one way or<br/> 13 the other, do you?<br/> 14 A No.<br/> 15 Q All right. 12:59:10<br/> 16 MR. COPLE: Do you have Dr. Pincus's<br/> 17 deposition?<br/> 18 MS. SALEK: Not her deposition, no.<br/> 19 MR. COPLE: Okay. I'll -- just give me a<br/> 20 second here. 12:59:28<br/> 21 BY MR. COPLE:<br/> 22 Q Do you know, Mr. Johnson, that Dr. Pincus<br/> 23 was deposed in your Workers' Compensation case?<br/> 24 A Did I know that you said?<br/> 25 Q Did you know that she was deposed? 01:00:31<br/> Page 225</p>   |

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| <p>1 A No, I don't know who's been disposed [sic].</p> <p>2 Q Deposed, like we're doing here today.</p> <p>3 A Deposed. Yeah, I don't know who's been.</p> <p>4 Q Can you tell us who Dr. Pincus is?</p> <p>5 A I think she's from UCSF, UCS -- UCSF. 01:00:43</p> <p>6 Q And do you remember visiting with her for</p> <p>7 her examination of you?</p> <p>8 A I remember seeing several doctors at UCSF,</p> <p>9 and I believe that she gave the last diagnosis,</p> <p>10 Pincus. 01:01:00</p> <p>11 Q And do you remember what she diagnosed you</p> <p>12 with?</p> <p>13 A Several levels of cancer. It was kind of</p> <p>14 unexplainable. It could lean towards -- definitely</p> <p>15 towards T-cell lymphoma but with signs of different 01:01:19</p> <p>16 cancers that she biopsied.</p> <p>17 Q Do you know that Dr. Chan- -- I'm sorry,</p> <p>18 Dr. Pincus was asked under oath, just as you're</p> <p>19 under oath here today, whether she has any opinion</p> <p>20 on whether occupational exposure to items like 01:01:32</p> <p>21 herbicides cause mycosis fungoides. Are you aware</p> <p>22 that she was asked that under oath?</p> <p>23 MR. LITZENBURG: Object to form. He said</p> <p>24 he's unaware that she had a deposition.</p> <p>25 BY MR. COPLÉ: 01:01:48</p> <p style="text-align: right;">Page 226</p> | <p>1 your cancer?</p> <p>2 A I've seen so many doctors that I don't</p> <p>3 really know, and I was like, I don't know who would</p> <p>4 know right now, 'cause I've seen so many different</p> <p>5 doctors over the last year. I've seen over 120 01:02:49</p> <p>6 doctors.</p> <p>7 Q You've seen 120 doctors. Can you remember</p> <p>8 one doctor that you've seen who has told you that</p> <p>9 they know what caused your cancer?</p> <p>10 A Nah, I can't remember their name right now. 01:03:00</p> <p>11 But I do remember hearing different things that</p> <p>12 people didn't have asking their opinion. And they'd</p> <p>13 just say well, I just don't know if it's from work</p> <p>14 or not. People wrote out big long things saying</p> <p>15 well, I don't think it's this or it's that, that, 01:03:11</p> <p>16 that and this or whatever -- this, that and</p> <p>17 whatever, you know. So I don't know.</p> <p>18 Q So doesn't that mean that every doctor that</p> <p>19 you've seen has said they don't know what caused</p> <p>20 this? 01:03:20</p> <p>21 A No, because 80 out of the 120 I seen at the</p> <p>22 jamboree at Stanford, I didn't even get to talk to</p> <p>23 them. They came in, they looked at me, put my robe</p> <p>24 up, put my robe down, looked behind by ears, went on</p> <p>25 about their business. 01:03:32</p> <p style="text-align: right;">Page 228</p> |
| <p>1 Q So you don't -- you're not aware of that?</p> <p>2 A I'm not aware.</p> <p>3 Q So you're not aware, sitting here today,</p> <p>4 that Dr. Pincus responded under oath that she does</p> <p>5 not have an opinion on whether occupational 01:01:57</p> <p>6 exposures to such things as herbicides can cause</p> <p>7 mycosis fungoides?</p> <p>8 A I'm not surprised.</p> <p>9 MR. LITZENBURG: Object to testimony of</p> <p>10 counsel. You can go ahead. 01:02:06</p> <p>11 BY MR. COPLÉ:</p> <p>12 Q You're not surprised why?</p> <p>13 A Because all the doctors that they -- they</p> <p>14 have talked to and come in contact with, they have</p> <p>15 the same answer where it's like: I can't answer 01:02:13</p> <p>16 that. You know what I mean? And they honestly --</p> <p>17 they're honestly answering that I don't know if that</p> <p>18 came from his job or if it came from just walking</p> <p>19 down the street.</p> <p>20 Q So your testimony is every doctor that you 01:02:23</p> <p>21 have seen about your non-Hodgkin's lymphoma and --</p> <p>22 A Not everyone.</p> <p>23 Q All right. Which one have you seen about</p> <p>24 your non-Hodgkin's lymphoma and mycosis fungoides</p> <p>25 who has told you -- who has told you what caused 01:02:40</p> <p style="text-align: right;">Page 227</p>      | <p>1 Q What's the jamboree at Stanford?</p> <p>2 A It's a crazy day, bro, for a skin patient.</p> <p>3 They bring in all these doctors from everywhere, and</p> <p>4 they let them come in. They check you out, and they</p> <p>5 see you, and look at you. These people are from 01:03:41</p> <p>6 Belgium, they're from Russia, they're from</p> <p>7 everywhere. And they go: Oh, (unintelligible), and</p> <p>8 then they leave out.</p> <p>9 And then somebody else comes in, "Hey, Mr.</p> <p>10 Johnson." He might be from Asia. And you talk for 01:03:53</p> <p>11 a minute, and he says, "Okay, nice to see you," and</p> <p>12 he goes, too.</p> <p>13 And then some other guy from Poland might</p> <p>14 come in and start asking. It was crazy.</p> <p>15 Q When did you go to the jamboree at 01:04:02</p> <p>16 Stanford?</p> <p>17 A Or is it called the roundups.</p> <p>18 Q The roundups at Stanford. Whatever you</p> <p>19 want to call it, the meetings at Stanford.</p> <p>20 A I think it's called the roundups. That was 01:04:08</p> <p>21 back in about two, three years ago when I was going</p> <p>22 to Stanford. I haven't been back to Stanford since</p> <p>23 radiation.</p> <p>24 Q Which doctor put you in that position of</p> <p>25 seeing all these other doctors? 01:04:21</p> <p style="text-align: right;">Page 229</p>   |

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| <p>1 A Youn Kim, Dr. Youn Kim.<br/> 2 Q So Dr. Kim --<br/> 3 A She's the head over there. She's the head<br/> 4 dermatologist over there. She's the specialist in<br/> 5 the world. 01:04:31<br/> 6 Q And Dr. Kim has ever told that she knows<br/> 7 what has caused your mycosis fungoides, right?<br/> 8 A No one will tell me.<br/> 9 Q Including Dr. Kim; she's never told you,<br/> 10 right?<br/> 11 A Truong told me that she might be able to<br/> 12 find out where it came from.<br/> 13 (Reporter clarification.)<br/> 14 Truong told me she might be able to find<br/> 15 out where it came from. 01:04:43<br/> 16 Q Dr. Truong has told you that she might be<br/> 17 able to find out where your cancer came from?<br/> 18 A Mm-hmm. After she keeps treating me.<br/> 19 Q When did she tell you this?<br/> 20 A Like about six months ago, seven months. 01:04:55<br/> 21 Q And what did she tell you might have caused<br/> 22 it?<br/> 23 A She says she might be able to tell me. She<br/> 24 didn't tell me yet.<br/> 25 Q So you're waiting for her to get back to 01:05:05<br/> Page 230</p>  | <p>1 Q Do you think Dr. Kim has been deposed?<br/> 2 A I think so.<br/> 3 Q Where was she deposed, as far as you<br/> 4 recall?<br/> 5 A I don't know. Bruce might have deposed her 01:06:06<br/> 6 in her office or in his. Most likely it was in her<br/> 7 office because she doesn't have time to travel<br/> 8 around.<br/> 9 Q We need to know for the record who Bruce<br/> 10 is. 01:06:16<br/> 11 A You need to know who Bruce is?<br/> 12 Q No, we need to know who Bruce is on the<br/> 13 record.<br/> 14 A Oh, Bruce is my Workers' Comp lawyer.<br/> 15 Q Okay. So you think that your Workers' Comp 01:06:23<br/> 16 lawyer may have told you that Dr. Kim has been<br/> 17 deposed?<br/> 18 A Before, yes. At least once by him, I<br/> 19 think. I could be guessing.<br/> 20 Q I understand. We're not holding you to 01:06:35<br/> 21 that. Just your recollection right now sitting here<br/> 22 is that you think that your lawyer might have told<br/> 23 you that?<br/> 24 A Yep.<br/> 25 MR. COPLÉ: All right. All right. Let's 01:06:43<br/> Page 232</p> |
| <p>1 you with what she thinks caused it?<br/> 2 A Not really. I just would like to know.<br/> 3 I'm not waiting for her, but I definitely would like<br/> 4 to know.<br/> 5 Q Now, I want to be clear about Dr. Kim, who 01:05:15<br/> 6 was treating you for some period of time for mycosis<br/> 7 fungoides, correct? Correct?<br/> 8 A Correct.<br/> 9 Q All right. And Dr. Kim is one of the<br/> 10 doctors that diagnosed you with T-cell cutaneous 01:05:29<br/> 11 lymphoma, right?<br/> 12 A Right.<br/> 13 Q And Dr. Kim has not ever told you<br/> 14 specifically, Mr. Johnson, that she knows what --<br/> 15 what has caused your mycosis fungoides, right? 01:05:39<br/> 16 A I don't know about that. (Unintelligible.)<br/> 17 She will not --<br/> 18 (Reporter clarification.)<br/> 19 She will not say where she thinks anything<br/> 20 came from. 01:05:47<br/> 21 Q Meaning she will not say to you what she<br/> 22 thinks caused your cancer?<br/> 23 A Not even under deposition. She'd say I<br/> 24 don't know. I can treat his -- I can treat his<br/> 25 condition, but I don't know where he got that from. 01:05:59<br/> Page 231</p> | <p>1 cut it off now. I'm getting into something quite<br/> 2 lengthy that I don't want to start, so...<br/> 3 VIDEO OPERATOR: This is the end of disk 2<br/> 4 in Volume 1, deposition of Mr. Johnson. It's 1:06.<br/> 5 (Lunch recess.) 01:55:33<br/> 6 VIDEO OPERATOR: We are back on the record.<br/> 7 This is the beginning of disk No. 3, Volume 1,<br/> 8 deposition of Mr. Johnson. It's 1:55.<br/> 9 BY MR. COPLÉ:<br/> 10 Q You okay, Mr. Johnson? 01:55:57<br/> 11 A Mm-hmm.<br/> 12 Q "Yes"?<br/> 13 A Yep.<br/> 14 Q All right. You had mentioned a person<br/> 15 named John a number of times this morning in your 01:56:06<br/> 16 testimony.<br/> 17 Do you remember that?<br/> 18 A Mm-hmm, yes.<br/> 19 Q And who is John again?<br/> 20 A John was -- when I came there, he was just 01:56:16<br/> 21 a regular union guy and a carpenter, and by the time<br/> 22 I left, he was a supervisor.<br/> 23 Q That's at Benicia?<br/> 24 A Yes.<br/> 25 Q An you don't remember his name, his last 01:56:27<br/> Page 233</p>                                      |

1 name?  
2 A It keeps bouncing around in there, but I  
3 still haven't been able to spit out his last name.  
4 Q Would it be d'Silva?  
5 A That was his last name. 01:56:36  
6 Q So we're talking -- all of your references  
7 to John were to John d'Silva?  
8 A Mm-hmm.  
9 Q Now, when you became the integrated pest  
10 manager guy, you were also responsible, then, from 01:56:46  
11 that point forward, for training other people in  
12 proper use of pesticides, correct?  
13 A Not correct. Like I'm not supposed to  
14 train Ron. I was told specifically don't try to  
15 train Ron and Edwin. 01:57:06  
16 Q So you never trained anybody?  
17 A Never. But myself.  
18 Q You never trained any groundskeepers on  
19 what to do with pesticides?  
20 A No. 01:57:17  
21 Q Never trained any custodians?  
22 A No.  
23 Q So the only training that was done in your  
24 job was training that you received from others?  
25 A Yep, that's it. 01:57:27

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1 Q And those others -- those others included  
2 the Leann or Leandra that you referenced?  
3 A Yeah, only Leann, and then what I did on my  
4 own, self-studies.  
5 Q So that you have the self-study to get your 01:57:49  
6 QAC, right?  
7 A Yep.  
8 Q And the two-hour meeting or session with  
9 Leann?  
10 A Something like that, yeah. 01:57:59  
11 Q Something like that. And other than that,  
12 you received no other training yourself, correct?  
13 A Hmm-hmm. Just what I went out and got for  
14 myself.  
15 Q And you never were asked or took it upon 01:58:10  
16 yourself to train anybody in pesticide use?  
17 A No.  
18 Q Okay. Let's talk about drift, because  
19 you've mentioned that a number of times today. And  
20 when you speak of drift, is that an aspect of 01:58:30  
21 pesticide application that you were trained on?  
22 A Yeah, and how to control it.  
23 Q All right. Where did -- where did that  
24 training come from about drift?  
25 A It came from reading. 01:58:43

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1 Q And you were taught methods on how to  
2 reduce drift?  
3 A No, not like by a person or whatever. Just  
4 only by conversation. Roy and my other people,  
5 "turn the machine down and turn up the volume," 01:58:56  
6 which is not something you can do with that machine  
7 because it had no adjustments on it.  
8 Q And you could avoid drift by not spraying  
9 when the winds were higher than normal?  
10 A Supposed to spray when the winds are very 01:59:11  
11 normal, like the temperature I said, from 85 to 95.  
12 Usually in the morning that time would be -- just  
13 like to be a day like that in the daytime, it would  
14 be like 75 --  
15 (Reporter clarification.)  
16 Just a day like that, it probably would be  
17 like 75, 80 in the morning, and you think later on  
18 in the day, after 10:00 or 11:00 it might turn into  
19 90 or 95.  
20 So we had to have a special temperature, 01:59:30  
21 low winds and no fog or mist and stuff like that  
22 out, you know? You can't have fog while you're  
23 spraying or mist. We get deep in there.  
24 Q And you were also aware that you could  
25 avoid or minimize drift spray by using nozzles to 01:59:48

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1 make a larger spray drop?  
2 A Yeah. And we had smaller nozzles and  
3 larger nozzles. We also had a Benicia blend -- a  
4 Benicia breeze. It's very sturdy.  
5 Q And you followed all those steps to 02:00:03  
6 minimize drift --  
7 A Minimize drift, yeah. I followed them.  
8 Q -- in spraying application that you  
9 yourself did?  
10 A We had several nozzles, several different 02:00:11  
11 changes, and I couldn't change the speed because  
12 that was unavailable.  
13 Q And you were taught during your self-study  
14 or other training that the Ranger PRO and Roundup is  
15 a nonvolatile pesticide, correct? 02:00:25  
16 A Yeah, it's a -- they call it something.  
17 It's a non-something and herbicide. It actually  
18 would be there on that sheet. It's a non- -- I want  
19 to say embrace, but that's not the right word. It's  
20 a non- -- 02:00:46  
21 Probably being a post-emergent. That's  
22 supposed to like kill the weeds before they come out  
23 of the ground. A pre-emergent would kill it before  
24 it came out. This is a post-emergent, right? So  
25 it's a non-herbal -- I mean, it's an herbal, 02:01:15

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1 non-pre- -- pre-emergent weed. So it's not  
2 something that you can spray on the weed that's  
3 already out and expect to kill the roots. You're  
4 only going to kill the tops with this spray here,  
5 the Ranger PRO. 02:01:33  
6 Q And you're specifically aware from your  
7 training that Ranger PRO and Roundup are nonvolatile  
8 pesticides, right?  
9 A Right.  
10 Q And the lower the volatility, the lower the 02:01:42  
11 potential areas for drift during spraying, correct?  
12 A Not necessarily. It depends on what you're  
13 spraying and how that stuff sticks to certain things  
14 or if you need to have Surflan inside. So not -- so  
15 you can't just say: Well, I'm spraying Surflan. I 02:02:01  
16 don't need any -- any stickers or anything. It  
17 depends on what you're spraying and how you're  
18 mixing it.  
19 Q No, I'm not suggesting in my question, Mr.  
20 Johnson, that -- that you forego other steps that 02:02:10  
21 can be taken to minimize drift. Just making the  
22 point and asking you if it's your understanding that  
23 the lower the volatility, the lower the chances for  
24 drift to happen?  
25 A Could be. 02:02:26

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1 Q You don't know specifically?  
2 A No, I don't know specifically.  
3 Q You don't have any specific basis to point  
4 to to say that you were exposed in your skin to  
5 spray drift from Ranger PRO or Roundup, right? 02:02:40  
6 A What do you mean?  
7 Q Do you have any measurement device that you  
8 used to figure out that you were exposed?  
9 A No, I was never given a test before I  
10 started spraying. I was supposed to be given a test 02:02:54  
11 before I started spraying. Cholinesterase -- I  
12 think that's the right way to say it -- to check out  
13 your colon or whatever. I think it's called  
14 cholinesterase. I know that's not spelled good. I  
15 never been no speller.  
16 Q And who was supposed to give you the  
17 cholinesterase test?  
18 A The company was supposed to send me to  
19 somebody.  
20 Q And what is this based on? What is your 02:03:12  
21 understanding of this based on?  
22 A My understanding is that it tells you if  
23 you're healthy to spray chemicals.  
24 Q Did you -- is that listed as a step that  
25 the company was going to take for you? 02:03:23

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1 A They didn't have a list of anything that  
2 they were going to do because it was a new  
3 assignment.  
4 Q And what was your basis for understanding  
5 in your mind that that was something that was going 02:03:33  
6 to be done?  
7 A Because it's in the book, and I didn't know  
8 until later on until I was already spraying down the  
9 road, and I saw it in the licensing book.  
10 Q Is that the self-study book that you're 02:03:44  
11 talking about?  
12 A Self-study, yeah, for forest and highways  
13 or either right-of-ways.  
14 Q So did you follow up with your employer and  
15 inquire about having this test done? 02:03:56  
16 A I did talk to Roy about that on more than  
17 one occasion. And I had talked to him too about the  
18 other license and stuff that I was supposed acquire.  
19 And I told him, you know, I'm probably not even  
20 going to get them because I'm already sick. So why 02:04:11  
21 should I still be trying to acquire a license to  
22 spray for chemicals.  
23 Q You were already sick with what diagnosis?  
24 A This was after I got diagnosed with the  
25 skin cancer. 02:04:19

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1 Q Are you talking about the non-Hodgkin's  
2 lymphoma?  
3 A Yes, sir. Same thing we've been talking  
4 about all morning.  
5 Q You understand that that's not skin cancer, 02:04:27  
6 that that's a form of non-Hodgkin's lymphoma, right?  
7 A I've been told all I have is skin cancer.  
8 Q All right. Who told you that you have skin  
9 cancer?  
10 A The doctors. They said it's not 02:04:37  
11 internally, blood and running everywhere, Cancer  
12 running everywhere.  
13 (Reporter clarification.)  
14 It's not internally running wild. It's not  
15 in any of my vital organs. It's only on my skin. 02:04:44  
16 Q Did a specific doctor tell you that mycosis  
17 fungoides is skin cancer?  
18 A It is.  
19 Q Which doctor told you that?  
20 A Ofodile. 02:04:56  
21 (Reporter clarification.)  
22 Ofodile.  
23 Q Ofodile told you that mycosis fungoides is  
24 skin cancer. When did she tell you that?  
25 A I don't know exactly. 02:05:09

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|  |  |
|--|--|
| <p>1 Q And she is not a -- an oncologist, correct?<br/> 2 A No, correct.<br/> 3 Q And she is not a dermatologist that<br/> 4 specializes in oncology, right?<br/> 5 A Correct. 02:05:21<br/> 6 Q So she does not specialize in skin cancer,<br/> 7 correct?<br/> 8 A No.<br/> 9 Q She doesn't specialize in non-Hodgkin<br/> 10 lymphoma? 02:05:29<br/> 11 A Not that I know of.<br/> 12 Q And she doesn't specialize in mycosis<br/> 13 fungoides, right?<br/> 14 A No.<br/> 15 Q The doctors at Stanford never told you that 02:05:36<br/> 16 you had a skin cancer, right?<br/> 17 A Of course they did.<br/> 18 Q They told you that mycosis fungoides is<br/> 19 skin cancer?<br/> 20 A Yeah, and they treated me for a skin cancer 02:05:45<br/> 21 twice.<br/> 22 Q They didn't explain to you that mycosis<br/> 23 fungoides is a subtype of non-Hodgkin's lymphoma?<br/> 24 A I don't know where you're getting your<br/> 25 information. On every paper it says -- it says this 02:05:57<br/> Page 242</p>   | <p>1 from Los Angeles. That's when I flew down --<br/> 2 THE REPORTER: I can't go that fast.<br/> 3 THE WITNESS: Okay. I keep thinking you're<br/> 4 not even here and that's why.<br/> 5 MR. COPLÉ: The report. Let me also have 02:07:01<br/> 6 the -- Mr. Johnson's deposition as well. Same time.<br/> 7 Let's mark first as Exhibit -- what are we<br/> 8 up to, 8? Exhibit 8, Dr. Fishman's Agreed Medical<br/> 9 Evaluation.<br/> 10 (Deposition Exhibit 8 marked by the court<br/> 11 reporter.)<br/> 12 BY MR. COPLÉ:<br/> 13 Q Have you seen this document before? Have<br/> 14 you seen this before?<br/> 15 A I'm kind of confused on whether this guy is 02:09:55<br/> 16 a doctor I saw down south or it's another doctor<br/> 17 that I saw in Vallejo.<br/> 18 Q This is a doctor that, according to the<br/> 19 first page of his Agreed Medical Evaluation, he saw<br/> 20 you on June 26th, 2017. 02:10:11<br/> 21 A Yeah, I see that. That -- that sounds like<br/> 22 the guy.<br/> 23 Q All right. Do you recall seeing Dr.<br/> 24 Fishman at that time or thereabouts?<br/> 25 A Give me just a minute. This is the guy 02:10:40<br/> Page 244</p> |
| <p>1 is a rare, aggressive skin cancer. This is a rare,<br/> 2 aggressive skin cancer. They say it in all kinds of<br/> 3 reports in here. So I don't know where you're<br/> 4 getting the lymphoma not being skin cancer. It's<br/> 5 cutaneous T-cell -- cutaneous is on the skin --<br/> 6 T-cell lymphoma. So lymphoma non-Hodgkin's might be<br/> 7 what you're getting at.<br/> 8 Q Yes. You have cutaneous T-cell lymphoma,<br/> 9 as I understand it, which mycosis -- mycosis<br/> 10 fungoides is a form of, correct? 02:06:25<br/> 11 A Yeah.<br/> 12 Q Yes?<br/> 13 A It kind of goes together.<br/> 14 Q All right. Do you know who Dr. Fishman is?<br/> 15 A I saw him, I think, once. 02:06:38<br/> 16 Q And do you remember the circumstances under<br/> 17 which you saw him?<br/> 18 A Is he from LA?<br/> 19 Q Do you remember the circumstances?<br/> 20 A Is he from LA? 02:06:47<br/> 21 Q I'm sorry, what did you say?<br/> 22 A Is he from LA, Los Angeles?<br/> 23 Q Well, you tell me. Where did you see him?<br/> 24 A I told you, I've seen so many doctors. I'm<br/> 25 just asking you respectfully if you know if he's 02:06:57<br/> Page 243</p> | <p>1 that -- that specifically said that he doesn't think<br/> 2 that it came from the job.<br/> 3 Q Well, I'm asking you if you remember.<br/> 4 A I remember walking into his office. We sat<br/> 5 down. Yeah, we walked in there, and he gave me an 02:11:05<br/> 6 examination with some pictures and some other stuff,<br/> 7 and we talked a little bit, and he sent me on my<br/> 8 way.<br/> 9 Q So Dr. Fishman did examine you?<br/> 10 A Yes, he did. 02:11:16<br/> 11 Q In fact, he spent an hour and a half with<br/> 12 you, didn't he?<br/> 13 A Yeah.<br/> 14 MR. COPLÉ: And why don't we also mark at<br/> 15 the same time the deposition of Mr. Johnson as 02:11:28<br/> 16 Exhibit 9.<br/> 17 (Deposition Exhibit 9 marked by the court<br/> 18 reporter.)<br/> 19 BY MR. COPLÉ:<br/> 20 Q Now, Dr. Fishman reviewed your job history 02:11:52<br/> 21 as an integrated pesticide manager, correct?<br/> 22 A I don't think so. I don't know if he did<br/> 23 or not.<br/> 24 Q You don't think he did that?<br/> 25 Let's go to page 6 of Dr. Fishman's report. 02:12:07<br/> Page 245</p>   |

|  |   |
|--|---|
| <p>1 That's Exhibit 8. It's got a Bates number on the<br/>2 bottom left, NBSIA, ending in the number 56, lower<br/>3 left-hand corner.</p> <p>4 Dr. Fishman reviewed your job as a pest<br/>5 manager, right? 02:14:39</p> <p>6 A Yeah, that's what I'm reading in this page<br/>7 right here.</p> <p>8 Q Yes, you reviewed it?</p> <p>9 A Yep, yep.</p> <p>10 Q So he -- Dr. Fishman was aware that you 02:16:37<br/>11 had -- you had joined Benicia Unified School<br/>12 District in 2012 and then promoted to a full-time<br/>13 position as the integrated pest manager in June of<br/>14 2012, right?</p> <p>15 A Mm-hmm. 02:16:54</p> <p>16 Q And you continued in that position as the<br/>17 IPM till the summer of 2016. That's all correct,<br/>18 right?</p> <p>19 A That's all correct.</p> <p>20 Q All right. If you go to page 10 of Dr. 02:17:02<br/>21 Fishman's Agreed Medical Evaluation report, he talks<br/>22 about a section on recreational exposures.</p> <p>23 Do you see that?</p> <p>24 A 10 is it?</p> <p>25 Q Page 10 of the report, 10 of 8. It starts 02:17:21<br/>Page 246</p> | <p>1 the onset of mycosis fungoides."</p> <p>2 This is all correct, right?</p> <p>3 A It's weird, because I wouldn't have said<br/>4 all that. I'm a painter, but I don't go out and<br/>5 paint every day. 02:18:48</p> <p>6 Q So you think that Dr. Fishman somehow got<br/>7 that wrong?</p> <p>8 A I think what he said -- he's saying that I<br/>9 didn't do any -- what is it called? He's asking for<br/>10 recreational, but didn't handle -- involve handling 02:18:59<br/>11 toxic chemicals. It's like putting in the same<br/>12 thing where it's like he does painting and whatever<br/>13 else, but no toxic painting.</p> <p>14 THE REPORTER: I'm not getting that.</p> <p>15 THE WITNESS: I'm not getting that, either. 02:19:11<br/>16 The whole paragraph is like weird.</p> <p>17 BY MR. COPLE:</p> <p>18 Q You're saying you didn't have recreational<br/>19 activities which involved exposure to these various<br/>20 potential toxic substances; is that right? 02:19:20</p> <p>21 A No.</p> <p>22 Q That's not right? You were involved -- you<br/>23 were exposed to toxic substances as part of your --</p> <p>24 A No. Because hand painting, the oil paints<br/>25 are not toxic unless you're sitting there and just a 02:19:31<br/>Page 248</p> |
| <p>1 at 51, or is that in this next one? It's on<br/>2 page 10. It's at the bottom, Recreational Toxic<br/>3 Exposures.</p> <p>4 A Exhibit 9?</p> <p>5 Q Do you see that? No, no, no, I'm sorry. I 02:17:44<br/>6 apologize. No, we're on Exhibit 8 still and there<br/>7 are --</p> <p>8 MR. LITZENBURG: That's 9.</p> <p>9 BY MR. COPLE:</p> <p>10 Q Okay. We together now? 02:18:01</p> <p>11 A All together now.</p> <p>12 Q All right. At the bottom, it says<br/>13 "Recreational Toxic Exposures," and what Dr. Fishman<br/>14 says here is that:</p> <p>15 "The applicant," and that would be 02:18:10<br/>16 you, Mr. Johnson, "denies hobbies<br/>17 involved with stained glass, paints,<br/>18 painting, woodworking, metal working,<br/>19 welding, photography or any recreational<br/>20 tasks that involve handling toxic 02:18:24<br/>21 chemicals. The applicant denies<br/>22 significant nonindustrial exposure to<br/>23 herbicides and...pesticides. The<br/>24 applicant is unaware of any recreational<br/>25 exposures that would have contributed to 02:18:35<br/>Page 247</p>         | <p>1 gallon every day and just hoofing it, right? So if<br/>2 you're painting in a good environment, you're not<br/>3 getting toxic paint.</p> <p>4 Q Let me ask it in different way, Mr.<br/>5 Johnson. 02:19:40</p> <p>6 A Okay.</p> <p>7 Q Based upon your meeting with Dr. Fishman,<br/>8 it was his understanding that you -- you had not<br/>9 been exposed to Ranger PRO or Roundup or anything<br/>10 else with glyphosate in it before you started 02:19:51<br/>11 working as the integrated pest manager at Benicia in<br/>12 June 2012; is that right?</p> <p>13 A Correct.</p> <p>14 Q All right. So any exposure that you had to<br/>15 Ranger PRO, Roundup or glyphosate would have been 02:20:04<br/>16 starting in June of 2012, right?</p> <p>17 A Right.</p> <p>18 Q All right. He goes on to say on page 6 of<br/>19 the report -- if you go to page 6. You have to go<br/>20 back a couple of pages -- that "the applicant," and 02:20:24<br/>21 that was you, was -- when you were spraying<br/>22 herbicides, you were wearing the full Tyvek suit,<br/>23 right?</p> <p>24 A Mm-hmm.</p> <p>25 Q And you've told us that, right? 02:20:37<br/>Page 249</p>   |

1 A Yes.

2 Q So Dr. Fishman knew this from talking with  
3 you, correct?

4 A Yes. I mean, it could be from me talking  
5 to him or it could be somebody have to read a manual 02:20:47  
6 and say that he assumed that I'm wearing the skirt,  
7 the dress, every day, right, the outfit or whatever  
8 it is. But, yeah, he might have heard it from me.  
9 But why would he hear that from me if he could look  
10 at the job description? 02:21:00

11 Q Well, he goes on to say -- well, he wrote  
12 the job description presumably, in part, from  
13 talking to you, right?

14 A Yeah.

15 Q All right. Correct? 02:21:05

16 A I did not write the job description. Roy  
17 wrote the job description.

18 Q Did Dr. -- Dr. Fishman discussed your job  
19 with you, right? He spent an hour and a half with  
20 you. 02:21:16

21 A Yeah, we didn't discuss that much, but he  
22 just discuss job the same way I did with you.

23 Q Did you discuss with Dr. Fishman that you  
24 would apply Ranger PRO weed killer 20 to 40 times  
25 each year? 02:21:29

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1 A That seems a little lower because it could  
2 be more than that.

3 Q You think that Dr. Fishman got that number  
4 from somebody other than you?

5 A I don't know what he did. I know that was 02:21:41  
6 from the same thing I told you, that I sprayed three  
7 or four times a week, and it can vary from 20 to  
8 50 gallons or more. It could be a hundred gallons  
9 at the high school.

10 Q Now, is it correct that you only started 02:21:52  
11 using a respirator in applying Ranger PRO after you  
12 had been diagnosed with lymphoma?

13 A That's correct, sir.

14 Q All right. So before that time, you only  
15 used the paper mask; is that -- 02:22:07

16 A Paper mask.

17 Q -- is that right?

18 Just to be clear, no one else besides you  
19 decided what the mixing ratio was going to be for  
20 the Ranger PRO that you use; is that right? 02:22:38

21 A The manual.

22 Q No other person though?

23 A Person was me.

24 Q Was you. And you -- did you mix it for  
25 everybody? 02:22:49

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1 A No.

2 Q Each person -- each applicant mixed their  
3 own?

4 A Yes.

5 Q Okay. So as integrated pest manager, did 02:22:54  
6 you have any responsibility --

7 A To whom?

8 Q -- for mixing or deciding the mixing ratio  
9 that was being used for the dilution --

10 A For my own tank, I had all the control 02:23:07  
11 needed to mix my tank. I had no power to go to the  
12 guy and say, "Hey, your backpack looks like you only  
13 have 20 percent in there." I had no power to do  
14 that. I had to mind my own business.

15 Q Do you remember what Dr. Fishman's 02:23:26  
16 conclusion was based upon his --

17 A I don't.

18 Q -- interview with you? You don't?

19 A I was already confused that Dr. Fishman was  
20 somebody else, but no, I don't. 02:23:38

21 Q Let's go to page 109 of Dr. Fishman's  
22 report. And you see on page 109 -- let me make sure  
23 I get on the page with you, Mr. Johnson.

24 Would you read the last paragraph on  
25 page 109, please, out loud. 02:24:16

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1 A (Reading) With all regards to second  
2 injury of --

3 Q I'm sorry, we're on page 109.

4 A 109.

5 Q It starts with the word "regarding." 02:24:32

6 A My bad.

7 Q Yeah, we're not looking at the numbers that  
8 are printed.

9 A So 109 on mine is this. That's 109, right?

10 Q Let's take a look and make sure. No, 02:24:54  
11 that's page 59. See, these are the numbers of the  
12 report, sir, right here at the bottom of each page  
13 (indicating).

14 A I was going by --

15 Q I understand. That's why we're trying to 02:25:04  
16 clarify that.

17 A 109. I'm there. Okay. Right. Now, last  
18 paragraph?

19 Q Yes, if you read that starting with the  
20 word "regarding." 02:25:42

21 A "Regarding the three specific  
22 glyphosate exposure incidents outlined  
23 by the applicant alleged to have  
24 occurred in 2012, 2014 and 2015, it is  
25 my medical/legal contention that the 02:25:54

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1 alleged exposures in 2014 and 2015 are  
2 not relevant to an AOE/COE medical/legal  
3 analysis for this claim because such  
4 alleged" glyphosate -- "glycocholate" --  
5 They spelled it wrong right there, I guess. 02:26:13  
6 Q Yes.  
7 A Must be something different -- so  
8 glyphosate, or whatever it says the wrong way --  
9 "exposures would have" --  
10 "...exposures would have occurred 02:26:21  
11 after the diagnosis and initial  
12 treatment of mycosis fungoides."  
13 Q You understand that Dr. Fishman is saying  
14 in this paragraph that you just read that in his  
15 view, your exposures in 2014 and 2015 happened after 02:26:33  
16 the time that you already were diagnosed with the  
17 lymphoma, right?  
18 A Okay.  
19 Q That's what he was saying, right?  
20 A Yep. 02:26:47  
21 Q You have no reason to disagree with that  
22 statement, right?  
23 A I-- I have plenty to disagree with that,  
24 but, you know, he's made his opinion.  
25 Q Well, we can look at the time frame. You 02:26:54  
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1 were diagnosed in August of 2014, starting with  
2 Dr. Laura Pincus, with having mycosis fungoides,  
3 correct?  
4 A As far as I know, the first time I really  
5 heard a solid decision on it that I had skin cancer 02:27:11  
6 and the kind that I had came from Stanford. I don't  
7 know why we're looking over that, but that didn't  
8 come from UCSF. UCSF had a broad idea: Maybe you  
9 might have this, maybe you have that, or we don't  
10 know. We're going to send you to Stanford. 02:27:28  
11 Q Stanford diagnosed you -- or Dr. Kim  
12 diagnosed you at Stanford with mycosis fungoides on  
13 September 2014, correct?  
14 A Yes.  
15 Q So by the calendar date in 2015, when you 02:27:36  
16 said you had an exposure from the backpack that was  
17 leaking, you already had been diagnosed with  
18 non-Hodgkin's lymphoma, correct?  
19 A Yep.  
20 Q So Dr. Fishman would be correct about that, 02:27:56  
21 correct?  
22 A I don't know. I'm not a doctor. I don't  
23 think it would be correct just because he says that.  
24 Q You have no reason to disagree with him  
25 sitting here today? 02:28:06  
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1 A I have no reason to disagree with that.  
2 MR. LITZENBURG: Object to form.  
3 BY MR. COPLÉ:  
4 Q All right. In 2012, there was an incident  
5 that you have described to us involving the Mary 02:28:15  
6 Farmar school location, correct?  
7 A What was -- what was the detailing?  
8 Q Yeah, you told us that Mary Farmar in  
9 2012 --  
10 A About the truck and the exposure -- 02:28:27  
11 Q Yes, about the disconnected hose.  
12 A Yeah, tell me what you're talking about  
13 (unintelligible) --  
14 Q Yes, that would be. In reference to that,  
15 if you turn to the next page of Dr. Fishman's report 02:28:36  
16 and you look at the top, if you will read that  
17 paragraph starting with the words "regarding  
18 solely."  
19 A The top of 109?  
20 Q Yes, top -- I'm sorry, top of 110. Which 02:29:03  
21 is just the next page from where you were just now.  
22 A "Regarding solely the alleged 2012  
23 exposure, it is not entirely clear to me  
24 how the applicant was specifically" --  
25 "specifically exposed to glyphosate 02:29:22  
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1 given the PPE he was wearing. I am not  
2 an environmental hygienist nor would I  
3 be expected to inspect the" applicant --  
4 "applicant's workplace or pesticide  
5 spraying equipment. That determination, 02:29:37  
6 as well as the actual determination and  
7 description of the herbicide spray  
8 'drift,' should be to the expertise of  
9 an environmental hygienist who would  
10 have" -- "who would have that particular 02:29:47  
11 expertise and would be selective by the  
12 parties if legally relevant."  
13 Q Now, you just -- now, Dr. Fishman is simply  
14 saying he doesn't understand, based on the  
15 circumstances that he was made aware of, how you 02:30:09  
16 were exposed to Ranger PRO in 2012, right?  
17 A Mm-hmm, yes.  
18 Q And you discussed this with him when you  
19 met with him for an hour and a half on June 26th?  
20 A No. I didn't have a big discussion with 02:30:23  
21 him. We had a few good words. He had a few  
22 questions for me, took some pictures, and he said --  
23 you know, told me some personal things about what  
24 was going on with him and his friend, and he told me  
25 when I was leaving out that it looks like I paid 02:30:37  
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1 pretty good into the system, and I should be okay  
2 for a while, but this thing has to go to court.  
3 Q He's talking about your Workers'  
4 Compensation claim?  
5 A Yeah, I'm just talking about what he said, 02:30:49  
6 every word he said to me on the way out and on the  
7 way in.  
8 Q Every word he said to you on the way out  
9 and the way in --  
10 A Yeah. 02:30:57  
11 Q -- was what? Had to do with what?  
12 A Different things, you know, just -- he has  
13 a friend that has the same thing that I have,  
14 cutaneous T-cell lymphoma, a really good friend that  
15 was dying in the hospital at that point. And I 02:31:12  
16 said, "Well, how did he get exposed? Did he get  
17 exposed from chemicals? He said, "No, I don't know  
18 how he got it."  
19 And didn't really -- I asked him if he was  
20 a cancer doctor, and he told me no, he was a -- I 02:31:22  
21 think a hematologist or something like that. I  
22 don't know what he is.  
23 Q Do you understand the difference between a  
24 hematologist and an oncologist?  
25 A Not much. There's not much between the two 02:31:33  
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1 there. Actually, the hematology department is  
2 sometimes in the cancer department. They're  
3 internal medicine people.  
4 Q You understand the relationship between  
5 hematology and oncology, right? 02:31:43  
6 A That's why I asked him, because he didn't  
7 seem to have much connection between oncology.  
8 Q All right. If you turn to Dr. Fishman's  
9 report on page 17 -- we're still in the same report,  
10 and the numbers are still in the same place, 02:31:56  
11 centered at the bottom.  
12 A So should that even be in a report like  
13 that that you guys put in there like "splashing  
14 Ranger PRO onto the left side of his face"? Does  
15 that even sound right? It just sounds weird to me. 02:32:26  
16 They have it marked in here some type of splashing  
17 of stuff on the side of his face. It's like why is  
18 that not --  
19 THE REPORTER: I can't hear you.  
20 VIDEO OPERATOR: Yeah, it's making it  
21 impossible --  
22 THE WITNESS: Why can't it -- it fell off.  
23 Why can't it say that -- what it says, that  
24 he was exposed or whatever? Why does it say  
25 "splashing Ranger PRO"? That sounds like a duck in 02:32:48  
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1 the water.  
2 BY MR. COPLÉ:  
3 Q Well, you tell me, Mr. Johnson. We're  
4 simply showing you the medical documentation, and on  
5 page 17 of Dr. Fishman's report, evaluating your 02:32:58  
6 compen- -- Workers' Compensation claim, he's  
7 referencing the progress notes from Dr. Carrie  
8 Chanson, which we already talked about. So my  
9 question to you is you must have told that  
10 information to Dr. Chanson which is why it's in the 02:33:16  
11 progress notes, correct?  
12 A Not necessarily, no. They're making their  
13 own notes from whatever I say, whatever they get  
14 from their own colleagues. Especially in that  
15 Workers' Comp department, she got notes from the  
16 other doctors before she even spoke to me.  
17 Q And you know how that -- you know that how?  
18 A Because when you walk in, they say, "Oh,  
19 Mr. Johnson, how you doing?" They look in the  
20 computer and they say, "Oh, so we heard you got the 02:33:38  
21 injury on the shoulder," and then da, da, da.  
22 "How's that going for you?"  
23 "Oh, it hurts."  
24 Q Did Dr. Chanson show you what notes she  
25 received from -- 02:33:45  
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1 A She didn't.  
2 Q -- other medical providers?  
3 A She didn't show me any other notes except  
4 for her own notes.  
5 Q So you don't know where Dr. Chanson's notes 02:33:51  
6 came from?  
7 A Maybe from Dr. Chang (phonetic), the person  
8 that passed it over to her when I got transferred.  
9 Q You don't know though because you're  
10 speculating, right? 02:34:03  
11 A I don't know.  
12 Q Now, back to Dr. Fishman's report on  
13 page 7 -- 17, I'm sorry. Dr. Fishman is now  
14 referencing Dr. Chan- -- Chanson's statement about  
15 causation, and I will read it again. 02:34:16  
16 A Why -- not to interrupt you, but why is he  
17 referencing a Workers' Comp doctor?  
18 Q Let me read the statement, and then I'll  
19 ask you the question, Mr. Johnson.  
20 A I'm sorry. 02:34:27  
21 Q That's fine. That's fine. We're working  
22 our way through this together, you and I.  
23 It says, according to Dr. Fishman's report:  
24 "A doctors note signed" by --  
25 "signed from Carrie Chanson M.D. on 02:34:39  
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|   |   |
|---|---|
| <p>1 July 23, 2014, indicates the following:<br/> 2 "Causation: After careful review of all<br/> 3 evidence, it is my opinion" -- this is<br/> 4 Dr. Chanson's opinion -- "it is my<br/> 5 opinion that patient's current medical 02:34:56<br/> 6 condition, more likely than not, was not<br/> 7 caused" -- the word not is underlined --<br/> 8 "was not caused or aggravated by factors<br/> 9 of employment. I base this opinion on<br/> 10 MSDS of the pesticide, timing, and 02:35:09<br/> 11 clinical presentations."<br/> 12 You see all that in the report, right?<br/> 13 A Yes.<br/> 14 Q And I read it correctly, right?<br/> 15 A Yes. 02:35:19<br/> 16 Q So you agree that Dr. Fishman took this<br/> 17 into consideration when he was doing his evaluation<br/> 18 of your Workers' Comp claim for mycosis fungoides,<br/> 19 right?<br/> 20 A Okay. I don't totally agree, but yeah -- 02:35:32<br/> 21 Q But you agree that he took that into<br/> 22 consideration?<br/> 23 A Not really.<br/> 24 Q You don't think he took that into<br/> 25 consideration even though he wrote it in the report? 02:35:40<br/> Page 262</p>  | <p>1 "...indicates that," and this is in<br/> 2 bold, "that males are twice as likely as<br/> 3 females to get this condition," meaning<br/> 4 mycosis fungoides, "and African<br/> 5 American's are twice as likely to 02:37:13<br/> 6 develop this condition."<br/> 7 Do you see all that?<br/> 8 A Yeah, and that's amazing because everybody<br/> 9 at Stanford says: Oh, my God, we can't believe that<br/> 10 you got this disease because African Americans don't<br/> 11 get this disease, especially young black males.<br/> 12 Q And who told you that at Stanford?<br/> 13 A Youn Kim.<br/> 14 Q Dr. Kim said that to you?<br/> 15 A Dr. Kim said that more than once. And just 02:37:29<br/> 16 said it recently with the doctor that I had in<br/> 17 Detroit -- in mean, in Chicago.<br/> 18 (Reporter clarification.)<br/> 19 (Discussion off the record.)<br/> 20 Chicago. People that I've seen said the 02:37:46<br/> 21 opposite of that. When I first was seen by my<br/> 22 Workers' Comp doctor, Dr. Kimmelman, he said the<br/> 23 same thing. It's rarely, rarely, rarely that people<br/> 24 like you get this disease.<br/> 25 Q All right. There -- there's nothing that 02:37:57<br/> Page 264</p>  |
| <p>1 A I think he took into consideration what he<br/> 2 wanted to, and then he made his report.<br/> 3 Q Let me turn you to page 18 of Dr. Fishman's<br/> 4 report. It should be just the next page, sir.<br/> 5 There is a subheading called: "I am being asked to 02:36:00<br/> 6 address the following questions:" And there's some<br/> 7 italicized numbered paragraphs, but I want to -- to<br/> 8 bring your -- bring your attention down further to<br/> 9 the middle of that page 18 starting with the words<br/> 10 "The study Mycosis fungoides:" 02:36:18<br/> 11 Do you see that?<br/> 12 A I was too busy looking at this number one<br/> 13 thing up here. But where are we now?<br/> 14 Q We're looking at the paragraph starting<br/> 15 with the words "The study," quote, "Mycosis 02:36:33<br/> 16 Fungoides."<br/> 17 A Yes.<br/> 18 Q Do you see that?<br/> 19 A Yeah.<br/> 20 Q And the statement that was written by Dr. 02:36:39<br/> 21 Fishman on June 26th, 2017, that is "The study<br/> 22 'Mycosis Fungoides: Case Report and Literature<br/> 23 Review,'" and it goes on to say "Clinical Medicine<br/> 24 Insights Case Report," and there is citation<br/> 25 references to it, and it continues with the text: 02:36:58<br/> Page 263</p> | <p>1 Dr. Kim wrote down in her progress notes on your<br/> 2 medical evaluation that says that she can't believe<br/> 3 that an African American would get mycosis<br/> 4 fungoides, correct?<br/> 5 A I don't understand what you're saying. 02:38:11<br/> 6 Q She never wrote that down in any of her<br/> 7 progress notes about her medical treatment of you,<br/> 8 right?<br/> 9 A Dr. Chanson?<br/> 10 Q No, Dr. Kim. 02:38:17<br/> 11 A I never seen her reports because her<br/> 12 reports don't come back through her, they come back<br/> 13 through her nurse. But Dr. Kim, I've never seen a<br/> 14 note from her. I never got a call from her. I go<br/> 15 out there, there's this big excitement with Dr. Kim. 02:38:31<br/> 16 Dr. Kim is -- I don't know how she could be the best<br/> 17 that she is, to be honest.<br/> 18 Q You don't -- you don't see how Dr. Kim<br/> 19 could be the best that she is, to be honest. I<br/> 20 don't understand. Explain that. 02:38:43<br/> 21 A She says she's the best in the world, and<br/> 22 she's got all these different answers, and she's the<br/> 23 best that's ever done this. I don't see that. I<br/> 24 don't hear that when she speaks.<br/> 25 Q So you are -- 02:38:52<br/> Page 265</p> |

1 A I spent two years out there with them.  
2 Q You're questioning the diagnosis and  
3 treatment you received from Dr. Kim at Stanford; is  
4 that right?  
5 A The treatment, sir. 02:39:04  
6 Q Is that right?  
7 A The treatment. I don't question the  
8 diagnosis. It is what it is.  
9 Q You're -- you're questioning Dr. Kim's  
10 treatment of you? 02:39:12  
11 A Yeah.  
12 Q In what particular -- what particular  
13 treatment do you have concerns about Dr. Kim?  
14 A When it says all the different treatments  
15 to treat this disease and that you shouldn't die and 02:39:21  
16 that you shouldn't get worse, and that you should be  
17 okay, I haven't gotten any of those treatments.  
18 I've had methotrexate which is supposed to be chemo  
19 in a bottle.  
20 (Reporter clarification.)  
21 Chemo in a bottle. I've had full body  
22 chemo, two rounds of that. Didn't seem to do much.  
23 It's just weird. And I don't see where Dr. Kim has  
24 ever treated me. I've been treated by her team, I  
25 think. And I don't know if she had anything to do 02:39:52  
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1 with it, but I never had a report where Dr. Kim said  
2 do this.  
3 Q Have you ever voiced this concern you have  
4 directly to Dr. Kim?  
5 A No. Last time I called for her to make a 02:40:00  
6 an appointment, because I was making appointments  
7 because I was in pretty bad shape. Kaiser didn't do  
8 anything. Nobody was doing anything, so I called  
9 back to Stanford. Start back at square one.  
10 (Reporter clarification.)  
11 I called back to Stanford to call Stanford  
12 from square one to start back to Stanford. When I  
13 started back at Stanford, they made an appointment  
14 and everything, but then they found out I didn't  
15 have coverage. They said, "No, you better go back 02:40:19  
16 to Kaiser. If you don't have coverage, we're not  
17 going to be able to help you out here."  
18 Q Did you ever voice your concerns to Dr. Kim  
19 about her course of treatment plan for you?  
20 A No, because she never treated me. 02:40:30  
21 Q Did you keep all of your medical  
22 appointments with Dr. Kim?  
23 A Some of them I missed because of -- just  
24 the travelling and everything is too much. I  
25 couldn't drive out there. 02:40:43  
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1 Q So you didn't keep all of the appointments?  
2 A Not all of them.  
3 Q And some of those appointments you missed  
4 were for purposes of treatment, correct?  
5 A I don't think so. I was never treated 02:40:52  
6 except only for the full body chemo. Everything  
7 else was treated in Vallejo. Referred back out  
8 to Vallejo. "Tell Vallejo to give you this. Tell  
9 Walnut Creek to give you this."  
10 Q Your testimony is that, other than full 02:41:07  
11 body chemotherapy, Dr. Kim never treated you for  
12 mycosis fungoides?  
13 A Not that I know of.  
14 Q Who else did you see at Stanford besides  
15 Dr. -- 02:41:22  
16 A Dr. Hoppe was the main doctor I saw.  
17 Q Did Dr. Hoppe treat you?  
18 A Full body chemo, two rounds.  
19 Q And did Dr. Hoppe give you any other  
20 treatment for mycosis fungoides? 02:41:34  
21 A Not at all. No other treatments over  
22 there. Stanford, I thought, sent a clinical trial  
23 to Vallejo, but when I talked to the clinical trial  
24 people about sending that to Vallejo, they said, "We  
25 don't know nothing about that. We didn't send that 02:41:45  
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1 over there."  
2 Q Do you have concerns with the course of  
3 treatment that Dr. Hoppe gave you?  
4 A No. Everything Dr. Hoppe said would happen  
5 happened. He said, "You'll turn brown, real brown, 02:41:56  
6 and you can lose some skin. It's going to peel.  
7 Around your eyes it's going to peel." Because they  
8 cover your eyes with titanium contact lens so your  
9 eyes are not exposed to the cancer. He said,  
10 "You're going to have some problems after this, but 02:42:10  
11 it won't be bad. You'll get over it."  
12 Q Did you ever tell Dr. Hoppe that you had  
13 concerns with Dr. Kim's course of treatment?  
14 A Never.  
15 Q Is there a reason why you never told him? 02:42:19  
16 A I learned a long time ago you just don't  
17 discuss one doctor with another doctor. You don't  
18 discuss any chef with another chef when they both  
19 work on the same line.  
20 Q Let's go to page 28 of Dr. Fishman's 02:42:30  
21 report.  
22 A One what?  
23 Q I'm sorry. Page 28. If you go down to the  
24 third from last entry on that page, which has the  
25 date 1/29/15. 02:43:11  
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|  |   |
|--|---|
| <p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 Q It says JLG - Dr. Jeffrey Gao.</p> <p>4 Do you see that?</p> <p>5 A Oh, yeah, Dr. Gao. 02:43:23</p> <p>6 Q And this is a Workers' Comp visit with Dr.</p> <p>7 Gao, right?</p> <p>8 A Yeah.</p> <p>9 Q Do you recall Dr. Gao?</p> <p>10 A I remember transferring from Dr. Gao after 02:43:33</p> <p>11 the second appointment.</p> <p>12 Q And this particular visit with Dr. Gao,</p> <p>13 does this relate to the exposure incident that</p> <p>14 you've told us about with the leaking backpack?</p> <p>15 A Yep. 02:43:51</p> <p>16 Q It did?</p> <p>17 A "...15 minutes per patient."</p> <p>18 That's weird.</p> <p>19 "He went home soon after the</p> <p>20 exposure and washed the area with soap 02:44:09</p> <p>21 and water several times..."</p> <p>22 (Reporter clarification.)</p> <p>23 (Discussion off the record.)</p> <p>24 Q Why don't we do this, Mr. Johnson. Why</p> <p>25 don't you just read that paragraph for the record 02:44:24</p> <p style="text-align: right;">Page 270</p>  | <p>1 Q Did you tell Dr. Gao?</p> <p>2 A No, I transferred from Mr. Gao's care</p> <p>3 immediately.</p> <p>4 Q So I didn't understand what you meant. You</p> <p>5 transferred from Dr. Gao to who? 02:45:28</p> <p>6 A I put in a transfer to get away from</p> <p>7 Dr. Chao as soon as possible -- Gao.</p> <p>8 Q You mean Dr. Gao, G-a-o?</p> <p>9 A Yeah.</p> <p>10 Q And why did you --</p> <p>11 A Patient request to leave his services as</p> <p>12 soon as possible.</p> <p>13 Q And why -- why did you do that?</p> <p>14 A 'Cause he couldn't get it right. He told</p> <p>15 me that the shoulder's burning and it wasn't. He 02:45:45</p> <p>16 kept telling me I had a shoulder problem, and it</p> <p>17 wasn't hurting at that time. The only thing that</p> <p>18 was hurting was over here (indicating) in the</p> <p>19 pectorals. And I didn't get exposed up here at all.</p> <p>20 I was exposed in the lower back. 02:45:57</p> <p>21 Q Dr. Gao's note says total exposure time for</p> <p>22 this particular event was 15 minutes for you.</p> <p>23 A Well, he assumed that.</p> <p>24 Q Is -- is that correct, 15 minutes?</p> <p>25 A It's wrong. Totally wrong. 02:46:08</p> <p style="text-align: right;">Page 272</p>   |
| <p>1 and then I can ask you some questions about it or</p> <p>2 you can say whatever comment you want to make about</p> <p>3 it.</p> <p>4 A "Patient reports that earlier today</p> <p>5 when spraying herbicide with full Tyvek 02:44:32</p> <p>6 suit [sic] and full hood and respirator</p> <p>7 protection on, he had some chemical</p> <p>8 spill from a leaky tank onto</p> <p>9 his...shoulder area, with minimal</p> <p>10 burning at the time, total exposure 02:44:45</p> <p>11 time" is "about 15 minutes per patient.</p> <p>12 He went home soon after the exposure and</p> <p>13 washed the area with soap and water</p> <p>14 several times, now with more skin</p> <p>15 irritation in" the "left shoulder..." 02:44:57</p> <p>16 Don't know where he's coming from with the</p> <p>17 left shoulder. The only thing on the left shoulder</p> <p>18 is a strap. Now, the pectoral was hurting after</p> <p>19 carrying the thing around. I could feel a little</p> <p>20 muscles in here hurt (indicating). 02:45:15</p> <p>21 Q You had no skin irritation in your</p> <p>22 shoulder?</p> <p>23 A No.</p> <p>24 Q Where did you have skin irritation?</p> <p>25 A My lower back. 02:45:20</p> <p style="text-align: right;">Page 271</p> | <p>1 Q What was -- what do you say was the</p> <p>2 exposure time?</p> <p>3 A We already know that I had to pack up the</p> <p>4 stuff over there at the school. We discussed that.</p> <p>5 Another 20, 30 minutes right there to get the stuff 02:46:16</p> <p>6 up from going down the drains and hoses everywhere.</p> <p>7 Q No, we're talking about the backpack right</p> <p>8 now, not the motorized tank sprayer.</p> <p>9 A Well, if you think he's talking about the</p> <p>10 backpack being 15 minutes, it's still wrong. I 02:46:29</p> <p>11 still had to go back to the office.</p> <p>12 Q Okay. Well, tell -- tell us now, what is</p> <p>13 your testimony about how long --</p> <p>14 A Back to the office. And then I had to get</p> <p>15 proof from somebody, anybody around the area help me 02:46:38</p> <p>16 see that this thing is wet through and through. As</p> <p>17 soon as I found out from Ms. Crane, the office</p> <p>18 manager, that's when I told her, I said, "I'm</p> <p>19 cracking a pill, and I'm going to take a shower at</p> <p>20 this time." She said you -- (unintelligible). 02:46:49</p> <p>21 "I'm going. I'm going to take a shower</p> <p>22 now, and I'll be back after I take a shower."</p> <p>23 VIDEO OPERATOR: Try not to touch the</p> <p>24 microphone.</p> <p>25 BY MR. COPLE: 02:46:59</p> <p style="text-align: right;">Page 273</p> |

1 Q So you followed the instructions that  
2 you're supposed to do for a skin exposure, right?  
3 A Yeah.  
4 Q But what was the total time that you would  
5 say -- 02:47:08  
6 A Well, at least 45 minutes.  
7 Q 45 minutes before you showered?  
8 A After I showered, I went to Kaiser.  
9 Q Okay. And it wasn't possible for you to  
10 shower earlier than 45 minutes? 02:47:16  
11 A I had to travel home.  
12 Q Okay. Now, at that time, we're talking  
13 about January 2015, you had already been diagnosed  
14 as having mycosis fungoides by Dr. Kim, correct?  
15 A Correct. 02:47:35  
16 Q And Dr. Hoppe, right?  
17 A Yep.  
18 Q And Dr. Pincus, right?  
19 A And Dr. Hoppe is not a diagnosis doctor.  
20 Hoppe is the one that treats you with what he treats 02:47:42  
21 you with.  
22 Q Dr. Hoppe agreed with the diagnosis?  
23 A I would assume, or maybe he just does it to  
24 do it. I don't know.  
25 Q But you're aware that Dr. Kim had told you 02:47:51  
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1 that the diagnosis was mycosis fungoides back in  
2 September?  
3 A Yes.  
4 Q So at this time of this exposure, your --  
5 your cancer condition had already been recognized by 02:48:04  
6 your treating doctors, right?  
7 A My school district, by everybody.  
8 Everybody knew.  
9 Q So at that point in time, your visit with  
10 Dr. Gao on January 29, 2015, whatever it is in this 02:48:24  
11 world that might have caused you to have mycosis  
12 fungoides had already happened, right?  
13 MR. LITZENBURG: Object to form. Calls for  
14 medical expertise.  
15 MR. COPLE: He's just doing his legal 02:48:50  
16 objections. You can answer my question.  
17 THE WITNESS: I refuse to answer that  
18 question.  
19 BY MR. COPLE:  
20 Q You refuse why? 02:48:56  
21 A There must be a reason I need to not answer  
22 it. My attorney said don't answer it.  
23 MR. LITZENBURG: No, no, no, I didn't say  
24 don't answer it.  
25 (Reporter clarification.)  
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1 THE WITNESS: What do you want to hear?  
2 Which part?  
3 My attorney said not to answer the question  
4 so I'm not answering the question.  
5 Any you're saying that you're not saying  
6 that?  
7 MR. LITZENBURG: No, you can answer. I'm  
8 just objecting that it's not a proper question.  
9 THE WITNESS: Okay. Ask that question  
10 again. Could I hear that, please? 02:49:21  
11 BY MR. COPLE:  
12 Q Yes, I will answer -- I will ask the  
13 question again understanding that -- that Mr.  
14 Litzenburg is making a legal objection, but he's not  
15 telling you not to answer. 02:49:32  
16 At the time of your visit with Dr. Gao on  
17 January 29, 2015, whatever in this world had caused  
18 you to get mycosis fungoides had already happened,  
19 right?  
20 A I think so. 02:49:49  
21 Q If you -- if you turn to page 62 of Dr.  
22 Fishman's report. We're still on Exhibit 8 -- I  
23 know you have two exhibits in front of you. The  
24 other one is your deposition. We haven't talked  
25 about that yet. So we're still on the one you're 02:50:30  
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1 working with. Go to page 62.  
2 A How come you keep saying I got confused  
3 with the book on the table? Will it help if I move  
4 this thing out of the way? I'm on the same page  
5 with you. It's the same number. It's all good. 02:50:47  
6 Move on forward.  
7 Q My first question, Mr. Johnson, is that,  
8 from pages 62 all the way up through page 67, Dr.  
9 Fishman took the time to include in his report an  
10 evaluation of the testimony that you had given under 02:51:36  
11 oath for the Workers' Comp case, right?  
12 A I don't know.  
13 Q You don't know? If you turn to page 62,  
14 and it starts with, right at the bottom in bold,  
15 underlined, "Deposition of Dewayne Johnson," dated 02:51:52  
16 10/28/15, pages 1 to 139.  
17 A Yeah, cool.  
18 Q And then it proceeds for the next six pages  
19 to talk about what you said in your deposition,  
20 right? 02:52:07  
21 A Okay.  
22 Q So Dr. Fishman took into account your sworn  
23 testimony when he was doing his evaluation, right?  
24 A I don't know.  
25 Q If you go to -- if you go to page 67, go 02:52:19  
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|  |  |
|--|--|
| <p>1 towards the bottom of the page, and there's another<br/> 2 subheading in bold underlined. It says "Deposition<br/> 3 of Laura B. Pincus, M.D."<br/> 4 A What number?<br/> 5 Q Page 67. It says "Deposition of Laura B. 02:52:41<br/> 6 Pincus MD...dated December 19, 2016, pages 1 to 31."<br/> 7 Do you see that?<br/> 8 A Yes.<br/> 9 Q And Dr. -- Dr. Fishman is now summarizing<br/> 10 the sworn testimony of the deposition of Dr. Pincus 02:53:03<br/> 11 about your Workers' Compensation claim, right?<br/> 12 A I don't know exactly. Is that what's here<br/> 13 on this page?<br/> 14 Q Well, you can look at it, but it's talking<br/> 15 about -- every paragraph talks about what Dr. Pincus 02:53:20<br/> 16 said in that deposition, correct?<br/> 17 A I see -- I see the Deposition of Laura B.<br/> 18 Pincus at the bottom dated 12/19/16?<br/> 19 Q Yes.<br/> 20 A Okay. 02:53:32<br/> 21 Q And the next two pages -- well, that page<br/> 22 and the following page talk about what Dr. Pincus<br/> 23 said under oath, right?<br/> 24 A Yeah, just what I said earlier. Remember I<br/> 25 said earlier that Dr. Pincus had said that there was 02:54:50<br/> Page 278</p> | <p>1 that.<br/> 2 Q Now, you were examined by Dr. Pincus,<br/> 3 right?<br/> 4 A Yes, thoroughly.<br/> 5 Q And Dr. -- did you say terrible? 02:56:01<br/> 6 A Thoroughly.<br/> 7 Q Oh, thoroughly. Okay.<br/> 8 A She told me.<br/> 9 Q Not terrible, thoroughly?<br/> 10 A No, thoroughly. She give me my first HIV 02:56:08<br/> 11 test and all that over there. She was very<br/> 12 professional. I had no coverage.<br/> 13 Q All right. So this very professional Dr.<br/> 14 Pincus who examined you made this statement under<br/> 15 oath that she has no opinion on mycosis fungoides 02:56:21<br/> 16 and -- and whether it's caused by occupational<br/> 17 exposure. Dr. -- here's my question: Dr. Pincus<br/> 18 never told you that, that she had an opinion on what<br/> 19 caused your mycosis fungoides?<br/> 20 A She couldn't even tell me what kind of 02:56:36<br/> 21 cancer I had because it was so crazy at that time.<br/> 22 You know, it was really like running rampant. And<br/> 23 once she took another -- she took another biopsy and<br/> 24 sent it on, the next time I heard from anybody, I<br/> 25 heard from Stanford through my doctor at Kaiser. 02:56:50<br/> Page 280</p>   |
| <p>1 a lot going on. That she even gave me basal and<br/> 2 squamous, all kind of -- and one thing is like she<br/> 3 was so concerned about getting me to Stanford. She<br/> 4 was saying that same thing here, and yet she was --<br/> 5 Q Okay. Then let's look at the one -- one 02:55:02<br/> 6 particular thing that she said right here, which is<br/> 7 right in the middle of page 68 of Dr. Fishman's<br/> 8 report. It says in bold on page 20 -- you see that,<br/> 9 where I am?<br/> 10 A Yeah. 02:55:18<br/> 11 Q It says on page 20 -- this is a quote --<br/> 12 quote on page 20:<br/> 13 "Dr. Pincus indicates that she has<br/> 14 some degree of expertise on mycosis<br/> 15 fungoides and cutaneous T-cell 02:55:28<br/> 16 lymphoma."<br/> 17 And then continues -- Dr. -- Dr. Fishman<br/> 18 continues on page 21, and he's referring to Dr.<br/> 19 Pincus' sworn deposition. On page 21, Dr. Pincus<br/> 20 states that: 02:55:44<br/> 21 "She does not have an opinion on<br/> 22 whether occupational exposure to items<br/> 23 such as herbicides causes mycosis<br/> 24 fungoides."<br/> 25 A Sounds familiar from this morning/ I said 02:55:53<br/> Page 279</p>       | <p>1 And they were saying that I didn't have all these<br/> 2 other crazy cancers, but I did have a very serious<br/> 3 and rare, aggressive cancer.<br/> 4 Q So Dr. Pincus never -- never told you --<br/> 5 A Dr. Pincus was on -- on the -- in the 02:57:03<br/> 6 situation like this: You came here. I helped you.<br/> 7 You had no coverage, but I can't give you a medical<br/> 8 report in my name. You understand what I'm saying?<br/> 9 See, if I came to you as a lawyer, and you said, you<br/> 10 know, man, I can help you out, but I can't give you 02:57:15<br/> 11 much, actually, you know, 'cause I'm not -- you're<br/> 12 not paying for this. So if I give you my honest<br/> 13 opinion on this and you run with it, now I got to<br/> 14 get involved, and I don't want to get involved.<br/> 15 Q I understand what your testimony is on 02:57:25<br/> 16 that, Mr. Johnson, I do, but I have -- my question<br/> 17 is a factual one, which is: Dr. Pincus, when she<br/> 18 saw you and did her evaluation of you, she never<br/> 19 told you that -- whether she had an opinion on what<br/> 20 caused it? 02:57:40<br/> 21 MR. LITZENBURG: Objection. Asked and<br/> 22 answered. If you don't like his answer, we're not<br/> 23 going to keep doing it.<br/> 24 THE WITNESS: I mean, all she told me was<br/> 25 what she could tell me, is that, you know, you do 02:57:50<br/> Page 281</p> |

|   |   |
|---|---|
| <p>1 have a very bad situation going on here. I sent the<br/>2 test on to Stanford and let Kaiser and Stanford<br/>3 handle it because I'm not going to be involved at<br/>4 this point.<br/>5 BY MR. COPLE: 02:58:01<br/>6 Q She never told you what -- whether she<br/>7 thought there was a particular cause, right?<br/>8 A Not particular cause. No doctor would tell<br/>9 me that.<br/>10 Q All right. 02:58:07<br/>11 A I mean, so far I think it's two, they say<br/>12 what they really actually think. The other ones are<br/>13 like I don't want to say anything.<br/>14 Q All right. Which two say what they really<br/>15 actually think? 02:58:19<br/>16 A Obviously Fisherman. Fisherman or Fishman.<br/>17 Q Fishman.<br/>18 A Fishman. There was another one.<br/>19 Q You're saying this about Dr. Fishman<br/>20 because we just read portions of his report? 02:58:29<br/>21 A I'm just saying because these are the<br/>22 people that stick out as far as giving their whole<br/>23 opinion on the whole thing.<br/>24 Q All right. And who you was the other one?<br/>25 A I don't know who the other guy was in LA. 02:58:38<br/>Page 282</p>   | <p>1 Do you have medical records of your own in<br/>2 your possession having to do with your diagnosis and<br/>3 treatment for non-Hodgkin's lymphoma?<br/>4 A Yes.<br/>5 Q And you have not given them to your lawyer, 02:59:43<br/>6 right?<br/>7 A I don't know, because I have given him a<br/>8 lot of papers.<br/>9 Q All right. You also have records having to<br/>10 deal in one way or another with your employment as 02:59:53<br/>11 a -- a pesticide sprayer at Benicia that you haven't<br/>12 given to your lawyer; is that right?<br/>13 A Yeah, they haven't asked me for anything on<br/>14 that side.<br/>15 (Reporter clarification.)<br/>16 They haven't asked me for anything on that<br/>17 side.<br/>18 Q All right. Let's go to page 113 on Dr.<br/>19 Fishman's report. Now, on page 113 of Dr. Fishman's<br/>20 report, there is a bolded, underlined subheading 03:00:41<br/>21 called "Apportionment of Permanent Disability Based<br/>22 on Causation." If you will look down to the last<br/>23 paragraph where it starts with the words "at the<br/>24 present time." Do you see that?<br/>25 A "At the present time." Yes. 03:01:05<br/>Page 284</p> |
| <p>1 I don't know who he was. I seen him for such a<br/>2 short time, and then we had a good appointment, and<br/>3 it was tough trying to bring my papers, and then he<br/>4 told me later you didn't need to bring any papers.<br/>5 (Reporter clarification.)<br/>6 I didn't need to bring any papers. It<br/>7 wasn't my responsibility to bring papers.<br/>8 Q It wasn't your responsibility to bring<br/>9 papers here today; is that what you're saying?<br/>10 A No, not here either. 02:59:00<br/>11 Q Do you have papers that you could have<br/>12 brought if someone --<br/>13 A No.<br/>14 Q -- told you to?<br/>15 A No. I mean, you asked me for some stuff 02:59:06<br/>16 that, I mean, people haven't asked me for yet. Like<br/>17 Tim asked me for the little flashcards. But like<br/>18 the other thing you asked me for, I didn't know<br/>19 about that. You asked me for something else this<br/>20 morning, I believe. 02:59:18<br/>21 Q Yeah, a couple of things, but, you know,<br/>22 let's just go back to that, Mr. Johnson. I don't --<br/>23 I don't want to belabor this, but we do need to be<br/>24 sure that we are clear, the record is clear on your<br/>25 testimony about this. 02:59:30<br/>Page 283</p> | <p>1 Q Would you read that paragraph for us,<br/>2 please?<br/>3 A Okay.<br/>4 "At the present time, I am<br/>5 concluding through reasonable medical 03:01:14<br/>6 probability that the applicant's mycosis<br/>7 fungoides is nonindustrial etiology<br/>8 without identifiable industrial factors<br/>9 that rise to the medical/legal<br/>10 conclusion validity of 'reasonable and 03:01:30<br/>11 medical probability.' Therefore, when<br/>12 the applicant reaches MML, there's no<br/>13 appointment discussions required because<br/>14 the applicant's cutaneous T-cell<br/>15 lymphoma is entirely of nonindustrial 03:01:46<br/>16 etiology. The only factors impacting on<br/>17 onset of mycosis fungoides for this case<br/>18 are: male gender and African American<br/>19 ancestry."<br/>20 Q And we already read that portion of Dr. 03:01:59<br/>21 Fishman's report where he referenced the factors of<br/>22 male gender and African American ancestry, right?<br/>23 A Yep.<br/>24 Q Okay. Now, do you understand that -- that<br/>25 simply put, what Dr. Fishman is saying in this 03:02:15<br/>Page 285</p>  |

1 paragraph is that he does not think that anything  
2 that happened in your workplace with pesticide  
3 spraying caused your mycosis fungoides?  
4 A Yeah, that's what he says.  
5 Q All right. Did he discuss that conclusion 03:02:32  
6 with you when you met with him?  
7 A No, I never met with him after he wrote his  
8 report.  
9 Q Did you discuss that conclusion or -- or  
10 viewpoint with him? 03:02:44  
11 A At the office?  
12 Q Yes.  
13 A No.  
14 Q Did you ask him?  
15 A I asked him, "How did we do?" And he said, 03:02:49  
16 "Well, you paid into the system long enough and  
17 Social Security, you should be okay while this thing  
18 goes to court." I told you that earlier, a few  
19 minutes ago. Them the words. They were honest  
20 words. I'll remember them until the day I die. 03:03:02  
21 He knew that I was going to go to court;  
22 that he's not going to make a decision to my favor.  
23 That's the way I took it.  
24 Q And you didn't discuss that any further  
25 with him; is that right? 03:03:13

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1 A No. So he's basically saying in that last  
2 thing that this happened to me because I'm black?  
3 Is that what he's saying?  
4 Q You can read the report yourself.  
5 A I mean, I can read it a hundred times, but 03:03:38  
6 I am clarifying --  
7 Q I just want to be sure -- I want to be sure  
8 that -- that you understand that Dr. Fishman's  
9 statement is that he does not see that anything that  
10 happened to you in your workplace caused you to have 03:03:49  
11 mycosis fungoides.  
12 A That's a strong line right there, Brother.  
13 Can I -- can I get a marker, a highlighter?  
14 Q That's an exhibit. You can't mark anything  
15 on that. 03:04:04  
16 MR. LITZENBURG: You can mark on it if you  
17 want.  
18 THE WITNESS: Can I mark on it?  
19 BY MR. COPLE:  
20 Q What are you going to mark on? This is an 03:04:09  
21 exhibit in a legal proceeding. It may --  
22 MR. LITZENBURG: You're asking him --  
23 MR. COPLE: I'm not asking him to mark this  
24 exhibit.  
25 MR. LITZENBURG: You done with this? 03:04:16

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1 THE WITNESS: Do we get this stuff, our own  
2 copies?  
3 BY MR. COPLE:  
4 Q All of these are for the court reporter.  
5 These are all -- 03:04:21  
6 A But these are my copies for the court  
7 reporter?  
8 Q No, these are the court reporter's.  
9 A So I am going to hand this back to you when  
10 I'm done? I'm going to --  
11 Q You're going to hand it to the court  
12 reporter when -- when you're done. Your lawyer has  
13 copies of everything we have been talking about.  
14 A Okay. I'll remember that line. It's all  
15 good. 03:04:35  
16 Q Is there a reason that you want to  
17 highlight that line?  
18 A Of course there's a reason I want to  
19 highlight that. Can I write on the notebook? Can I  
20 get a piece of --  
21 MR. LITZENBURG: You can write on mine.  
22 THE WITNESS: Yeah, just a page.  
23 I can do that after we're done if I'm  
24 holding you up. Am I holding you up right now?  
25 BY MR. COPLE:

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1 Q You're not holding me up, but if you mark  
2 that -- if you mark something, we're going to make  
3 that document an exhibit, too.  
4 A Great, great. I don't think that should be  
5 a problem. Would that be a problem if I rewrote 03:04:59  
6 this sentence right here? This sentence right  
7 here --  
8 MR. LITZENBURG: What do you want -- let's  
9 go off the record.  
10 THE VIDEO OPERATOR: Okay. It is -- 03:05:05  
11 actually, let's change the disk. This is the end of  
12 disk No. 3 and Volume 1, deposition of Mr. Johnson.  
13 It's 3:05.  
14 (Recess.)  
15 VIDEO OPERATOR: We're back on the record. 03:17:55  
16 This is the beginning of disk 3 -- disk 4 in Volume  
17 1 of the deposition of Mr. Johnson. It's 3:18.  
18 BY MR. COPLE:  
19 Q Mr. Johnson, when we left off before the  
20 break, you -- you had wanted, I think, to mark 03:18:15  
21 something on Dr. Fishman's report.  
22 Do you still desire to do that?  
23 A No, I don't.  
24 Q Okay. Before we move on to your deposition  
25 in the Workers' Compensation case, I want to just 03:18:33

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1 again be clear about a couple of things that you  
2 talked about earlier today.  
3 When -- you worked for a number of years  
4 with Urban Waterproofing, and I think you said that  
5 there was a couple of years that you worked just at 03:18:50  
6 Urban Waterproofing; is that right?  
7 A No.  
8 Q No?  
9 (Reporter clarification.)  
10 A It was always a temporary summer job. The 03:18:58  
11 weather didn't permit all-year work.  
12 BY MR. COPLE:  
13 Q All right. The temporary summer job, did  
14 that mean that you never worked for Urban  
15 Waterproofing other than in the summers? 03:19:07  
16 A Pretty much.  
17 Q All right. And what span of time did that  
18 cover? How many years?  
19 A About three or four years.  
20 Q All right. Did I hear correctly that one 03:19:14  
21 of the things that the journeymen would do that you  
22 were an apprentice assisting them with was to glaze  
23 windows?  
24 A It's called glazing or it could be called  
25 coating. 03:19:31

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1 that come up at the school district.  
2 Q So you never actually -- even though you  
3 earned the right to do it, you didn't do it?  
4 A No. I was -- it was already pretty much  
5 done for me over there at the waterproofers. 03:20:25  
6 (Reporter clarification.)  
7 I moved on from waterproofing.  
8 Q You mentioned something earlier about -- I  
9 think it was with respect to your knee and  
10 arthritis. Is that right? 03:20:39  
11 A I don't have arthritis.  
12 Q You never were diagnosed with arthritis?  
13 A (Shakes head.)  
14 Q Anywhere in your body?  
15 A No. 03:20:47  
16 Q Okay. Mr. Johnson, do you -- do you drink  
17 alcohol?  
18 A Sometimes.  
19 Q All right. And when you say "sometimes,"  
20 can you give us an idea of -- of how often that 03:21:03  
21 would be?  
22 A Right now I can only drink beer, and if I  
23 drink hard alcohol, I can only drink one -- one,  
24 maybe a pint of hard alcohol per month. And that  
25 would be for the whole month. You know what I mean? 03:21:17

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1 Q Okay. Do you know what chemical substance  
2 was used to coat or glaze the windows?  
3 A Silicone [sic].  
4 Q And it also involved caulking those  
5 windows? 03:19:43  
6 A With a sausage gun.  
7 Q With what?  
8 A A sausage gun.  
9 Q Okay.  
10 A You put it in this machine, squeeze it down 03:19:47  
11 like a caulk machine, and you shoot the bead, and  
12 it's done.  
13 Q And do you know what -- what the caulk was  
14 made of?  
15 A Silicone [sic]. 03:19:56  
16 Q So it was all silicon, both for the coating  
17 and for the caulking?  
18 A Yeah, yep.  
19 Q And was it your testimony that you did not  
20 actually do the coating or the caulking? 03:20:05  
21 A No, you have to earn that. You had to earn  
22 your way up to that.  
23 Q And you never did?  
24 A I did, but then when it came down to it, I  
25 was already leaving because I had the current job 03:20:15

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1 Because with the stuff that I'm taking right now,  
2 they don't want me drinking and all that. They say  
3 beer is okay, but I don't drink beer, so -- so,  
4 yeah, I'm not really drinking right now.  
5 Q All right. So not ever, not at all? 03:21:30  
6 A I used to drink a lot when I was younger.  
7 Q All right.  
8 A Not too much, but I used to drink like a  
9 young person.  
10 Q Let's talk about -- I mean, haven't we all, 03:21:37  
11 Mr. Johnson, at some point in time.  
12 A Yeah, I get that. I get that.  
13 Q When -- when you say you were younger you  
14 drank more, what does "younger" mean to you?  
15 A It means like when you turn 20, 21 and you 03:21:48  
16 can go to the store and buy your own drink. You  
17 know, it's when you turn 21 or 22, you can go to the  
18 club and you could have a few drinks.  
19 (Reporter clarification.)  
20 You can go to the club and go have drinks, 03:21:57  
21 and you can -- you know, you can go to a bar and  
22 have a burger and a drink. You know what I mean?  
23 So I think people starting to take in more.  
24 Q All right. So you're -- you're about 45  
25 now; is that right? 03:22:07

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74 (Pages 290 - 293)

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| <p>1 A I am 45 on the dot.<br/> 2 Q All right. 45 on the dot.<br/> 3 At -- at what point did your drinking of<br/> 4 alcohol habit change?<br/> 5 A I would say about six years ago when I was 03:22:18<br/> 6 living up in Napa, and I just -- I knew I was<br/> 7 drinking too much. My wife knew I was drinking too<br/> 8 much. So we just came to an agreement that I would<br/> 9 stop.<br/> 10 Q Before you stopped, what -- what is too 03:22:28<br/> 11 much to you?<br/> 12 A Just having a gallon or something like that<br/> 13 around and not really getting intoxicated or<br/> 14 whatever, but sorta not remembering things. And<br/> 15 just starting to have a little bit of stomach ache, 03:22:41<br/> 16 you know, sometimes. It's like that achy alcohol<br/> 17 feeling.<br/> 18 Q Did you -- did you drink every day?<br/> 19 A No.<br/> 20 Q Did you drink every week? 03:22:49<br/> 21 A For a while it was every week, yeah.<br/> 22 Q Every weekend?<br/> 23 A It was Friday. A bottle every week.<br/> 24 Q Okay. What -- what -- I realize you just<br/> 25 told us now you're under a restriction, medical 03:22:59<br/> Page 294</p>  | <p>1 body -- your body tells you, you know, you know.<br/> 2 Q So that was six years ago?<br/> 3 A Mm-hmm.<br/> 4 Q Was there an occasion that you recall that<br/> 5 you had liver tests done by Dr. Ofodile -- Ofodile 03:24:18<br/> 6 (pronunciation) where your liver enzymes were<br/> 7 elevated and she believed the reason was you had had<br/> 8 drinks before the test?<br/> 9 A There was one time when we first started<br/> 10 where she was saying a little something about that 03:24:40<br/> 11 where, you know, you have alcohol in your system.<br/> 12 But to me, what happened is that even though I knew<br/> 13 she was giving me labs, I think they figured out<br/> 14 it's cold turkey quit. But to me I was still<br/> 15 drinking. I was having a beer here, I was having 03:24:54<br/> 16 some wine. I wasn't getting drunk, but I was still<br/> 17 drinking.<br/> 18 They tested me the next day in the lab, and<br/> 19 of course they say, "Oh, man, what you doing here?"<br/> 20 You know what I mean? So that's the reason that I 03:25:04<br/> 21 stopped, because if I do need a regular surgery or<br/> 22 something like that, they won't even give it to you<br/> 23 if you got a bunch of juice in your system. And I<br/> 24 don't mean Hawaiian punch. I mean, if you have a<br/> 25 bunch of alcohol in your system, they're not giving<br/> Page 296</p> |
| <p>1 restriction --<br/> 2 A Even before the cancer restriction, I<br/> 3 already started to cut back to just maybe a pint a<br/> 4 week.<br/> 5 Q Okay. But before you cut back, what did 03:23:08<br/> 6 you drink? Did you -- you said you don't like beer,<br/> 7 so you didn't drink --<br/> 8 A No, I would drink wine. I would drink dark<br/> 9 wine. I would drink Chardonnay, Merlot, Menage a<br/> 10 Trois which is a mix of three blends. I like that a 03:23:22<br/> 11 lot. And if I'm drinking hard, I would drink<br/> 12 Jameson, Hennessy or -- that would be it.<br/> 13 Q All right. How often did you drink liquor?<br/> 14 A That would be not too much per week, but I<br/> 15 could drink a pint -- like I said, I can drink a 03:23:46<br/> 16 pint probably in about three days.<br/> 17 Q Did you ever have medical treatment for<br/> 18 drinking?<br/> 19 A Never had a problem with drinking; never<br/> 20 had a soft liver; never had a soft stomach, any of 03:23:51<br/> 21 that.<br/> 22 Q Did you ever have occasion to be enrolled<br/> 23 voluntarily or otherwise in any program to stop<br/> 24 drinking?<br/> 25 A Hmm-hmm. When, you know, you telling your 03:24:06<br/> Page 295</p> | <p>1 you --<br/> 2 (Reporter clarification.)<br/> 3 If they're giving you -- if you have too<br/> 4 much alcohol in your system, they aren't giving you<br/> 5 a kidney or a lung, you know, if you need a kidney. 03:25:19<br/> 6 You know what I mean? They'll give it to the<br/> 7 healthier person. That's another reason why I cut<br/> 8 back and ready to quit.<br/> 9 Q All right. So you do remember the --<br/> 10 A There was a point to quitting. 03:25:27<br/> 11 Q You do remember the occasion with<br/> 12 Dr. Ofodile when your liver tests were off because<br/> 13 of some drinks?<br/> 14 A Yeah, but I haven't had an off one since.<br/> 15 Q Okay. Have you ever had your blood alcohol 03:25:38<br/> 16 level tested, either by law enforcement or<br/> 17 medically?<br/> 18 A The night of the rollover crash, yeah, I<br/> 19 had my blood -- I had my blood taken by the doctor<br/> 20 -- I mean by the -- by the doctor and by the 03:25:59<br/> 21 sheriffs gave me the (indicating). They gave me a<br/> 22 -- tested out your blood, you know.<br/> 23 They thought the only reason I flipped that<br/> 24 car was because I was drinking. There was a lot of<br/> 25 drinking going on in that car. 03:26:14<br/> Page 297</p>   |

1 Q Do you recall what your level was?  
2 A Naw. No, not at all.  
3 Q Did you receive any citation relating to  
4 the blood alcohol level?  
5 A No way. I wasn't over the limit. Hadn't 03:26:25  
6 been drinking. (Unintelligible.)  
7 (Reporter clarification.)  
8 You know how you might have a drink the  
9 night before at dinner or something else and that  
10 whole experience, whipping and twisting and turning, 03:26:37  
11 I think I might have (indicating), you know, a  
12 little something. He might have smelled that. But  
13 this guy comes up and sees some old beer bottles on  
14 the side of the car with worms in there.  
15 "This is your beer bottles?" 03:26:48  
16 "No, that's not mine, sir. There's worms  
17 in there."  
18 You know, so it's just weird.  
19 Q All right. Now, you have been dealing --  
20 you have been dealing with mycosis fungoides for a 03:27:01  
21 couple of years now, correct?  
22 A It's been more than a couple.  
23 Q All right. How many years?  
24 A About four years coming up.  
25 Q All right. Four years. 03:27:19

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1 And you're measuring the four years back to  
2 the point even before you were actually diagnosed  
3 with mycosis fungoides, right?  
4 A Well, I don't know that to be true. I know  
5 the day -- it was different days, like Kaiser said 03:27:39  
6 this day and Stanford said that day, so it's been at  
7 least three years.  
8 Q All right. So three years back to the  
9 diagnosis?  
10 A I've been saying within a few months, it's 03:27:47  
11 going to be up to the four years.  
12 Q Okay. And do you have medical expenses  
13 that have not been covered by insurance?  
14 A Oh, yeah.  
15 Q And do you still owe those expenses? 03:27:58  
16 A Yeah, all kinds. There's \$110,000 right  
17 now, and it's probably more since I've been having  
18 chemo. I've had three treatments of chemo.  
19 Probably it's about \$170,000 right now.  
20 Q All right. And your estimate of a 170,000, 03:28:10  
21 is that based on the billing statements?  
22 A Yes, sir. I got a bill the other day that  
23 said \$110,000.  
24 Q And you have those records?  
25 A I did not bring that. 03:28:20

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1 Q But you have those records?  
2 A Yes, I do.  
3 Q Okay. And no one asked you to bring them?  
4 A No.  
5 Q All right. And you haven't turned them 03:28:25  
6 over to your attorneys, right?  
7 A No.  
8 Q All right. In addition to the -- the  
9 medical expenses that you -- that you have that --  
10 that you think are not covered that you owe Kaiser, 03:28:39  
11 do you -- do you owe other medical providers,  
12 individual doctors or other hospitals?  
13 A I went to Sutter once with no coverage and  
14 I paid 172. I didn't pay it 'cause they were going  
15 to kick in the MediCal soon, so I didn't think I 03:28:56  
16 should pay it, but I now owe Sutter \$172.  
17 Q Do you owe Stanford anything?  
18 A No.  
19 Q Do you owe any of the doctors at Stanford  
20 any amount due? 03:29:07  
21 A Nope, that's why they didn't want to see me  
22 this time. They're like, "You don't have any bills  
23 here."  
24 (Reporter clarification.)  
25 So that's why they didn't want to see me

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1 last time. They're like, "You don't have any bills  
2 here, you don't have any coverage, and you want to  
3 come see us? Not smart, Dude."  
4 Q How about Dr. Pincus and her group, do you  
5 owe them anything? 03:29:23  
6 A No.  
7 Q And you mentioned -- and we're not holding  
8 you to this number, but you mentioned at one point  
9 120 different doctors that you might have seen.  
10 A It's kind of -- kind of twisted down to 03:29:34  
11 120, 115, 120.  
12 Q Whatever the number is --  
13 A Yeah.  
14 Q -- other than Kaiser, do you owe any of  
15 those doctors? 03:29:42  
16 A No. Those doctors were students. They're  
17 learning.  
18 Q Okay.  
19 A Those students there, they're learning.  
20 It's called the roundups. (Unintelligible.)  
21 (Reporter clarification.)  
22 The roundups. It's called roundups. Not  
23 the jamboree, roundups.  
24 Q All right. The roundups at Stanford, those  
25 were for medical interns and residents? 03:30:00

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1 A And doctors to be --  
2 Q Yes.  
3 A -- and stuff like that, yes.  
4 Q Okay.  
5 A They were from all different countries, 03:30:06  
6 too. It was cool.  
7 Q Are you still participating in that in some  
8 way?  
9 A Hmm-hmm.  
10 Q Is that a "no"? 03:30:14  
11 A That's a no.  
12 Q When did you stop working?  
13 A The summer of -- I want to say '17 or '16.  
14 Q Has --  
15 A Summer of -- I don't know exactly. But if 03:30:36  
16 we could look at that on a calendar, it would tell  
17 me exactly.  
18 Q Has a doctor or doctors that -- that treat  
19 you advised you that you cannot work?  
20 A Yes. Dr. Kimmelman put me on permanent 03:30:49  
21 rest -- permanent disability from the beginning.  
22 Q And that started when?  
23 A I don't know exactly. I do not know  
24 exactly. But I know --  
25 Q Three years ago? 03:31:04

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1 A No, because I haven't been on Workers' Comp  
2 that long. Workers' Comp kicked in right after the  
3 last day of summer school job. And summer had just  
4 started. They just graduated. Kids were just  
5 leaving out. There was like books and stuff all 03:31:19  
6 over the ground.  
7 That's when I got the letter. I seen it  
8 when I got home, "You would no longer go to summer  
9 school" --  
10 (Reporter clarification.)  
11 "You would no longer go to summer school at  
12 the high school. Stay home. You're going to be on  
13 permanent disability. Workmen's Comp will contact  
14 you."  
15 I have that letter, but I don't have it 03:31:35  
16 with me. I don't want to tell you dates that don't  
17 make sense.  
18 Q All right. Now, your -- your medical  
19 condition, mycosis fungoides, has it interfered with  
20 you doing any particular activities that you used to 03:31:47  
21 do?  
22 A I'm a rapper and producer.  
23 Q You're a what?  
24 A A rapper and a producer.  
25 Q And you can't do that any longer? 03:31:57

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1 A It kind of hurts to be at the keyboard. It  
2 hurts to sit in a certain position for too long. So  
3 yeah, it's not comfortable making music. It's not  
4 comfortable making art right now. If you don't feel  
5 good, you don't make good art. 03:32:09  
6 Q Okay. Anything else besides that?  
7 A I can't work. I'm permanently disabled  
8 with all this crazy stuff on my skin and my lungs  
9 and stuff hurting. I get lesions here and lesions  
10 there. So I can't work. Go work for Burger King or 03:32:20  
11 something, go work at the local coffee shop or  
12 something. I can't because it hurts.  
13 Q All right. Well, what about recreation?  
14 A I can't play with my sons. I can't squeeze  
15 my sons. I can't wrestle with my sons. I can't go 03:32:32  
16 play basketball with my sons because the bottom of  
17 my feet are burning.  
18 Q Okay.  
19 A And just the whole -- whole season of  
20 football this year, I couldn't run the chains. I 03:32:40  
21 had to do the snack bar.  
22 Q Okay. Run the chains for what football?  
23 A Junior -- you know, junior midgets.  
24 Q Junior football?  
25 A Junior football, yeah. 03:32:51

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1 Q Okay. And you had previously done that?  
2 A Yeah, I have another son that's older.  
3 (Reporter clarification.)  
4 I have another son that's older.  
5 Q Okay. And you had done that every year? 03:32:57  
6 A This was his first year. The  
7 nine-year-old, this was --  
8 Q No, I'm asking about you working the  
9 chains.  
10 A No, no. You volunteer for it, and you get 03:33:06  
11 your time to chains, trying to do this, trying to do  
12 that.  
13 Q And before you -- your condition interfered  
14 with you, how often did you play basketball with  
15 your sons or by yourself? 03:33:17  
16 A Every day. Sometimes we go -- on our way  
17 home and just stop off and play basketball, or if  
18 it's baseball today, or if it's scooters today, or  
19 whatever they wanted to do. Yeah, keep them busy.  
20 Q Are there any other recreational or hobbies 03:33:27  
21 that -- being interfered with?  
22 A Swimming. I can't go to the pool. Even  
23 just working on the car sometime, you know, you get  
24 trash out of the car. My skin is so messed up. And  
25 you stretch and stretch different ways, it's just no 03:33:47

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|  |  |
|--|--|
| <p>1 good.</p> <p>2 So we hope with this medicine that it works</p> <p>3 out a little better, but this Placeo- -- Paleo- --</p> <p>4 I don't know how to say it, some chemo medicine.</p> <p>5 Q Okay. You mentioned -- 03:34:01</p> <p>6 A Paleotrexate [sic].</p> <p>7 (Reporter clarification.)</p> <p>8 Paleotrexate [sic].</p> <p>9 BY MR. COPLE:</p> <p>10 Q You mentioned that you can't work on cars. 03:34:06</p> <p>11 Is that something you had as a hobby?</p> <p>12 A No, I just kept my car really clean, kept</p> <p>13 the maintenance up and everything.</p> <p>14 Q So you weren't like re- -- rebuilding cars</p> <p>15 or engines? 03:34:17</p> <p>16 A No, I only did that once when I was</p> <p>17 younger.</p> <p>18 Q Okay.</p> <p>19 A I take them to the shop.</p> <p>20 Q Are there other family activities that you 03:34:23</p> <p>21 now say you can't participate in?</p> <p>22 A We used to get season passes to the water</p> <p>23 park. I've been there only once. The kids have</p> <p>24 been there only twice or three times, and my wife</p> <p>25 used to go there a lot. 03:34:40</p> <p style="text-align: right;">Page 306</p>   | <p>1 out?</p> <p>2 A Every once in a while, yeah.</p> <p>3 Q So that's not -- that's not interfered</p> <p>4 with?</p> <p>5 A Not -- well, not right now I couldn't go 03:35:37</p> <p>6 dine out.</p> <p>7 Q Right. Well, that's all we got to go with</p> <p>8 is right now, so...</p> <p>9 A Well, no, right, I couldn't go out to eat.</p> <p>10 Q You can't go out to eat? 03:35:45</p> <p>11 A No.</p> <p>12 Q And how long has it been since you haven't</p> <p>13 been able --</p> <p>14 A At least three days.</p> <p>15 Q All right. But before three days ago, you 03:35:52</p> <p>16 were able to dine?</p> <p>17 A If I wanted to, I could go out.</p> <p>18 Q All right. Now, has your medical</p> <p>19 condition, your cancer, affected your relationship</p> <p>20 with your children? 03:36:04</p> <p>21 A Yeah, it has. My son.</p> <p>22 Q In what way?</p> <p>23 A He say, "Dad, I wish you was feeling better</p> <p>24 so you can go outside and do this and do that, do</p> <p>25 more fun stuff." 03:36:13</p> <p style="text-align: right;">Page 308</p>   |
| <p>1 Now we don't go to water parks. You never</p> <p>2 know what's in that water. We know the sun is</p> <p>3 beaming. Yeah, I have no -- I have no intentions of</p> <p>4 going to no water parks or something like that.</p> <p>5 I've had people ask me if I wanted to go 03:34:51</p> <p>6 out of town with them to Bermuda, Brazil, all paid,</p> <p>7 just get your -- bring your passport and let's go.</p> <p>8 "Can't go, Bro."</p> <p>9 "Why, Dude?"</p> <p>10 "Oh, my skin is all messed up." 03:35:01</p> <p>11 'Cause they don't see it, you know. They</p> <p>12 see you got a little something on your face. That's</p> <p>13 nothing. They don't know what's really going on.</p> <p>14 Q Did you used to go on vacations?</p> <p>15 A Oh, yeah. 03:35:09</p> <p>16 Q And now?</p> <p>17 A No. Just trying to get better.</p> <p>18 Q All right. Because of your condition?</p> <p>19 A Yeah, just day to day.</p> <p>20 Q All right. How about dining out? You had 03:35:18</p> <p>21 a practice of dining out with your family?</p> <p>22 A Yeah, we still go out. They don't mind</p> <p>23 that. You know, people look at my mangled hands or</p> <p>24 my mangled face. We're used to that now.</p> <p>25 Q So you -- you do -- you continue to dine 03:35:31</p> <p style="text-align: right;">Page 307</p> | <p>1 You know, the -- the little one, the</p> <p>2 nine-year-old --</p> <p>3 (Reporter clarification.)</p> <p>4 The little nine-year-old says, "Dad, did</p> <p>5 you know they were hiring at Subway? I saw the 03:36:19</p> <p>6 sign, Dad, it said they're hiring, right?"</p> <p>7 I said, "I can't go to work, I'm sick."</p> <p>8 He said, "Well, they also hiring at</p> <p>9 WalMart, too."</p> <p>10 So he's been seeing signs. It's like I 03:36:30</p> <p>11 know when dad was working, certain things happening.</p> <p>12 Now that dad's not working, certain things don't</p> <p>13 happen. You know what I mean? Like his allowance.</p> <p>14 Like "Dad, you owe me allowance, Bro. You getting</p> <p>15 to 140 already." 03:36:42</p> <p>16 You know, so... It's a trip, man. Little</p> <p>17 kids, they're watching you and watching you and</p> <p>18 they're saying --</p> <p>19 Q All right. Has your cancer affected your</p> <p>20 relationship with your wife? 03:36:51</p> <p>21 A Yeah.</p> <p>22 Q In what way?</p> <p>23 A We just not all affect- -- affectionate</p> <p>24 like we used to be. I don't want her squeezing me.</p> <p>25 I don't want her touching me. And she's a very 03:36:58</p> <p style="text-align: right;">Page 309</p> |

1 strong, young girl, and she's goes hard, you know,  
2 she goes hard.  
3 Q Okay.  
4 A So yeah, I tell her, "No, no, no." I can't  
5 take that right now, all over my skin. 03:37:07  
6 Q All right. I'm going to apologize in  
7 advance to you, sir, but I have to ask this question  
8 because we need to know what your testimony is.  
9 Has your cancer affected your intimacy with  
10 your wife? 03:37:21  
11 A Up to this point, yes, because the praleo-  
12 -- paleotrexate [sic] -- I hope I'm saying it right,  
13 will cause me to not have any sex at all.  
14 Q Okay. And how long has that been going on?  
15 A Four weeks. 03:37:32  
16 Q And before that, did your cancer affect  
17 your --  
18 A Yeah, I've been -- the only reason that I  
19 didn't would be just because we didn't, but it's not  
20 like anything else. The only thing that I don't 03:37:41  
21 have that's on my skin is on that area.  
22 (Reporter clarification.)  
23 (Discussion off the record.)  
24 Q I'm sorry. I lost track as to what your  
25 last answer was. I don't want to read it back, 03:37:56  
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1 so...  
2 A Johnson.  
3 Q Okay. So it has or has not affected your  
4 general --  
5 A It has not. 03:38:03  
6 Q Okay. Do you have extended family  
7 relationships that you say have been affected by  
8 your cancer, mother or father, brothers, sisters?  
9 A My little brother right now who's dealing  
10 with some schizophrenia, I could help him a lot more 03:38:25  
11 when I was healthy. Now I can't do nothing with  
12 him. It's like I can't even trust to be around him  
13 right now because he -- he hangs out with different  
14 people at night and stuff, and, you know, my immune  
15 system is exposed right now. 03:38:42  
16 So I'm really trying to be careful around  
17 the people that I'm around and who I'm talking to  
18 and -- you know, 'cause anything can happen to me at  
19 any time.  
20 So my brother. One thing that concerns 03:38:50  
21 me -- my mom is okay because she got the nieces and  
22 nephews and my other sisters. I got two other  
23 sisters, you know what I'm saying? My mom is cool.  
24 Everybody is cool except, you know -- I can tell  
25 it's making a toll -- taking a toll on my immediate 03:39:07  
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1 family that I live in the house with, those three  
2 other people. You know, very young, very  
3 compassionate people and they love their dad, they  
4 want to hang out, and they want to play, do what we  
5 do, you know. 03:39:16  
6 Q Your -- your complaint, which we looked at  
7 briefly before, it's an exhibit -- I don't remember  
8 which one. I don't know that we need to pull it out  
9 for this question. If we do, we can.  
10 In your lawsuit against Monsanto, are 03:39:30  
11 you -- are you claiming that you have pain and  
12 suffering that the company is responsible for?  
13 A Of course.  
14 Q And what -- what is -- describe the pain  
15 and suffering. 03:39:42  
16 A Full body skin cancer with pain inside,  
17 with fire --  
18 (Reporter clarification.)  
19 Full body skin cancer with pain inside. It  
20 feels like fire. Especially from the kneecaps to 03:39:51  
21 the ankles, it feels like fire when I walk. Then  
22 once I get going, I can feel a little okay, but I  
23 still feel it every step I take. And then I have  
24 open lesions on the back of these legs from the hip  
25 up, in the front and in the back, so every time I  
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1 take a step, the clothes are rubbing that, rubbing  
2 that, and rubbing that, and it's bad.  
3 Q You're currently being treated for pain?  
4 A Yes.  
5 Q And how long have you been treated for 03:40:17  
6 pain?  
7 A Only about a week or two here. They have  
8 pain medicine ready for me right now at Kaiser. I  
9 need to go try and pick that up. The last time I  
10 went there, there was a problem where MediCal didn't 03:40:29  
11 pay for that kind of medicine. Okay. "We're just  
12 going to need co-pay, \$75." I'm not supposed to be  
13 paying for anything. They want a co-pay. So I'm  
14 just going to pay the \$75 and move on with it.  
15 Q Before you had issues with the insurance 03:40:45  
16 coverage, were you receiving pain medication?  
17 A I didn't need any pain medication. When I  
18 was with the school district, I had my coverage. I  
19 paid my coverage, at Kaiser high 'cause of the  
20 cancer. And basically it. 03:41:01  
21 I would go to my treatments, I'd go to  
22 this, go to that. Find out this wasn't working,  
23 that wasn't working, go to something else, and try  
24 to get on something solid. But I never had  
25 coverage -- ever since they cut my coverage, my 03:41:13  
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1 personal insurance, it's been awash, all downhill,  
2 from MediCal being denied twice to now just going to  
3 go to Covered California if everything works out in  
4 the next couple of days.  
5 Q At what point in your progression of your 03:41:28  
6 disease did you feel you needed to have pain  
7 medication?  
8 A The first night they gave me that  
9 paleotrexate [sic], the next day I could barely  
10 stand up. 03:41:41  
11 Q And that was two weeks ago?  
12 A Mm-hmm.  
13 Q But before then, you didn't feel you needed  
14 pain medication?  
15 A I did, but I was a taking Advil over the 03:41:46  
16 counter and I was fine.  
17 Q No narcotics?  
18 A No narcotics. But what was problematic was  
19 that -- was problematic 'cause I was using too many  
20 Aleves a day. 03:41:59  
21 VIDEO OPERATOR: Your phone, sir, is  
22 completely interfering.  
23 MR. LITZENBURG: Okay.  
24 (Reporter clarification.)  
25 (Discussion off the record.)

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1 THE WITNESS: No, I didn't give you an  
2 amount yet.  
3 BY MR. COPLÉ:  
4 Q Why don't you give us an amount.  
5 A Five Aleves three times a day. 03:42:12  
6 Q So 15 Aleves a day?  
7 A Yes.  
8 Q Do your doctors know this?  
9 A Yes, I'm not taking Aleve anymore. I'm  
10 taking some other crap that's at the house right now 03:42:24  
11 that is probably more powerful than Aleve.  
12 Q How long were you taking Aleve in that  
13 amount before the doctors told you --  
14 A About two months, two months.  
15 Q Did something happen that caused you to 03:42:35  
16 reveal this to your doctors?  
17 A The question was asked.  
18 (Reporter clarification.)  
19 That question was asked from the doctor to  
20 me. 03:42:44  
21 Q What you were doing about pain?  
22 A Yeah, same way. Like she said, "What have  
23 you been taking for pain?" "What have you been  
24 taking for pain?" I told her Advil or Aleve. She  
25 said, "Well, how many you taking a day?" I told her 03:42:56

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1 15 a day.  
2 Q Do you have a pain management plan now?  
3 A Dr. Chaol.  
4 Q Yes.  
5 A He's the one I'm going to see. 03:43:01  
6 Q Yes. Oh, so you haven't seen him yet?  
7 A I seen him once; I'm going to see him  
8 again. He didn't give me any big plan this time.  
9 He just try to give me what he could, and there was  
10 a delay with that because they didn't take MediCal. 03:43:10  
11 Q Okay. Have any of your doctors given you a  
12 prognosis for pain?  
13 A No.  
14 Q So no doctor has discussed with you  
15 whether -- whether your pain will get worse and when 03:43:21  
16 that's likely to happen?  
17 A Oh, okay. So yeah, Dr. Chaol said that it  
18 might take up to six months before I don't feel  
19 serious pain in these legs. Six months.  
20 Q Okay. That's the burning sensation you're 03:43:34  
21 talking about?  
22 A Yeah.  
23 Q What about your eating habits? Has your  
24 cancer interfered with what you eat?  
25 A Not until recently. Recently I started to 03:43:45

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1 taste that metal taste in the water.  
2 (Reporter clarification.)  
3 It's a metal taste that comes into the  
4 water sometimes when you're drinking water. Metal,  
5 yeah. I taste that sometimes. And then the eating 03:44:00  
6 thing is just like I'm not really wanting to eat.  
7 Recently it's been the mouth thing. Last think I  
8 can remember, like the last three days --  
9 (Reporter clarification.)  
10 The last three days it's been the mouth. 03:44:09  
11 Q All right. So that's related, I assume, to  
12 the chemotherapy?  
13 A Yeah, to the paleotrexate [sic] --  
14 paleotrexate [sic].  
15 Q All right. Other than the chemotherapy 03:44:19  
16 effects, has -- has your cancer itself, as far as  
17 you know, interfered with what you can eat?  
18 A No, I made a decision because I hadn't  
19 eaten chicken for a long time. So I brought chicken  
20 back into my life. Let me get some animal fat,  
21 right? So I started eating fried chicken again and  
22 baked chicken and whatever. So that brought turkey,  
23 that brought chicken lunch meat, it brought chicken  
24 salad, you know. So it brought a lot back by eating  
25 chicken. 03:44:49

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1 The only other meat that I desire right now  
2 is lamp chops, but I wouldn't desire that six months  
3 ago. Two months ago I wouldn't desire no lamb  
4 chops. You know what I mean? So yeah, I start  
5 eating chicken again, and it just brought back some 03:45:01  
6 other stuff, but I think what was happening with my  
7 mouth and what's happening with the chemicals and  
8 the pills and everything I'm taking internally, that  
9 it's kind of messing me up inside a little bit.  
10 Q All right. You testified earlier today 03:45:13  
11 that you're still able to drive, correct?  
12 A (Nods head.)  
13 Q Are you able to drive to the places that  
14 you want to drive to, or are there limits that you  
15 have on yourself now? 03:45:26  
16 A There's limits.  
17 Q What are the limits?  
18 A I can't just be taking three, four-hour  
19 trips, you know what I mean, just sitting there for  
20 four hours straight grinding it out. I can't do 03:45:35  
21 that.  
22 Q Can you fly on a plane, if you know?  
23 A Yeah.  
24 Q Have you done so?  
25 A Yeah. 03:45:41

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1 Q And you were able to manage that?  
2 A Yeah, I was in worse condition then because  
3 I had no pain pills or whatever, so I was in worse  
4 condition, but I still was able to pull that off.  
5 Q Do you ride a bike? 03:45:51  
6 A I used to. I don't anymore. I'm chaffin  
7 [sic].  
8 Q All right. Do you not ride a bike because  
9 of your condition?  
10 A That's right. 03:45:59  
11 Q How does your condition limit you from  
12 riding a bicycle?  
13 A The bicycle hits -- you know, it comes  
14 down, it comes up, it comes down, it comes up.  
15 That's a real strain on your whole hip and the back 03:46:08  
16 of your leg, and the top of your hip. And I have  
17 lesions on the back of here, like this side's  
18 lesions on the back of my leg, you know, and little  
19 small ones on the front of my legs, so that's too  
20 much friction. Unless you ride down the street 03:46:20  
21 naked.  
22 Q Okay. You mentioned rap music before. Are  
23 you able to attend public performances by whoever  
24 you're a fan of?  
25 A I don't go to a lot of rap shows. 03:46:34

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1 Q Well, any shows that you desire, are you  
2 able to go to them?  
3 A I went a to jazz concert about three, four  
4 months ago. I went to Humpty Hump, to Rick -- Rick  
5 something show, which is really pretty kickback. 03:46:49  
6 It's not like you got to be out there whooping it up  
7 or nothing. You just kick back and have a little  
8 drink or something and get out of there.  
9 (Reporter clarification.)  
10 Maybe hear one of your old favorite songs. 03:47:02  
11 Q All right. We had -- before I get into  
12 that, have you worked at any time in any of your  
13 jobs with benzene?  
14 A No.  
15 Q Have you worked in any of your jobs with 03:47:20  
16 chlorinated solvents?  
17 A No.  
18 Q And you did use a number of pesticides in  
19 Benicia besides Roundup and/or Ranger PRO. Were  
20 those just insecticides? 03:47:41  
21 A That's it.  
22 Q Any fungicides?  
23 A No. I didn't bait my traps with the poison  
24 needed because we didn't want to lose mice.  
25 Q And in your previous jobs where you had 03:47:53

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1 certain maintenance or custodial duties, did you --  
2 did you use pesticides?  
3 A No.  
4 Q No insecticides?  
5 A I don't even hardly at home, no. 03:48:05  
6 Q Okay. No fungicides?  
7 A No.  
8 Q All right. We've previously marked as  
9 Exhibit, I think it's 9, which is your deposition  
10 from your Workers' Comp case. Can you -- should be 03:48:30  
11 somewhere on the top there.  
12 Now this is the deposition transcript of  
13 your own testimony on October 28, 2015, regarding  
14 your Workers' Comp claim. Do you remember this  
15 deposition? 03:48:51  
16 A Mm-hmm. Yes, I do.  
17 Q Did you, at some point, have an opportunity  
18 to read your testimony?  
19 A No, I didn't.  
20 Q All right. So has anyone ever given you a 03:49:15  
21 copy of this testimony before?  
22 A No.  
23 Q If you'll turn to -- there's just a couple  
24 of questions I have about certain things that --  
25 that you had testified to. So let's -- let's start 03:49:32

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1 by turning to page 12. And if you haven't seen this  
2 setup before, Mr. Johnson, this is a condensed  
3 transcript, so the pages are numbered in the lower  
4 right-hand corner of each of the boxes. So if you  
5 look at the lower right-hand corner of the page that 03:49:52  
6 shows 9, 10, 11, 12, you'll see in the lower right  
7 quadrant 12. Do you see that?  
8 MR. LITZENBURG: There's three different  
9 numbers. We're going to use those ones  
10 (indicating). 03:50:10  
11 THE WITNESS: Mm-hmm.  
12 BY MR. COPLE:  
13 Q Do you see that?  
14 A Yes. Yeah, I see it.  
15 Q Okay. There's a -- in the middle of that, 03:50:17  
16 there is a question by the person who was deposing  
17 you. It says: "How often would you do painting?"  
18 Do you see that?  
19 A Which number is it on?  
20 Q It's the -- the line is 14. The lines are 03:50:35  
21 actually numbered on the left-hand margin.  
22 A But what box?  
23 Q 12. It's in Box 12, and if you go down,  
24 you'll see line number 13, there's a question:  
25 "How often would you do painting?" 03:50:49  
Page 322

1 A Okay.  
2 Q All right. And your answer is:  
3 "During the summer we painted --  
4 sometimes we could paint all week" or  
5 "we could paint all day." 03:51:01  
6 Was this -- was this at Benicia?  
7 A Yes.  
8 Q And was this the painting that you  
9 referenced before about painting the sidewalk  
10 through the summer? 03:51:10  
11 A Traffic red and traffic yellow, and you put  
12 the top light on everything --  
13 Q All right.  
14 A -- don't stop.  
15 Q Did you do any other painting besides that, 03:51:16  
16 painting of walls in the schools or anything of that  
17 nature?  
18 A No. We might have a little project like  
19 paint the stage or go paint a door.  
20 Q All right. Was the painting primarily 03:51:26  
21 outdoors?  
22 A There's a painter inside, though, so he did  
23 all the painting.  
24 Q Okay. But what did you do? You only did  
25 the --  
Page 323

1 A I didn't do much painting. He was the  
2 painter for real.  
3 Q All right. So what was are your  
4 responsibility -- when you say in the answer to this  
5 -- this is why I'm trying to get clarification. You 03:51:42  
6 said that during the summer "we" -- "we" painted --  
7 "we" --  
8 A We painted parking lots. That's obviously  
9 like the red zones, the yellow zones --  
10 Q Right.  
11 A -- the white stripes or the arrows.  
12 Q But did you do the actual painting or did  
13 somebody -- so you did?  
14 A Me and another guy, me and Edwin.  
15 Q All right.  
16 A Hundreds of lines of parking, hundreds and  
17 hundreds.  
18 (Reporter clarification.)  
19 Okay. Parking lines. Parking signs.  
20 Q Okay. 03:52:08  
21 A Okay.  
22 Q If you'll turn the page, and now we're in  
23 the Box 16. It's also on the right-hand side,  
24 lower -- lower right corner, and there's line 2.  
25 You see that? 03:52:26  
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1 A "What pesticides." Okay.  
2 Q "What pesticides were you spraying" was the  
3 question, and your answer was:  
4 "Ranger PRO. Ranger PRO, and we  
5 also were spraying Roundup." 03:52:38  
6 Now, is your reference here the same as  
7 your earlier testimony --  
8 A Yeah.  
9 Q -- where when you started -- first started  
10 as the pest manager, that for two or three months 03:52:48  
11 you were using Roundup?  
12 A Yeah, and it just wasn't working for us  
13 because all kinds of refills of bottles all the  
14 time.  
15 Q Okay. And that's because Roundup had been 03:52:58  
16 already -- was already being used by your  
17 supervisor?  
18 A Yeah, they were using that.  
19 Q If you go to the next page and go to block  
20 19, which is in the upper right, if you go down to 03:53:27  
21 line 24. And the question is:  
22 "You needed certification for that  
23 position?"  
24 Do you see that?  
25 A Mm-hmm, yes. 03:53:44  
Page 325

1 Q And your answer is "yes."  
2 What position are you talking about? Is  
3 this the integrated pest manager position?  
4 A I don't know. It would have to be, right,  
5 because they're talking about my position. They're 03:53:59  
6 talking about maintenance. What's this say again?  
7 "You needed certification for that position?" Yeah,  
8 you needed four certifications.  
9 Q You needed four certifications?  
10 A QAC, QAL, Q -- QME and Right-of-Way. 03:54:13  
11 Q Okay. Let's walk through these. What are  
12 the four certifications you need?  
13 A QAC.  
14 Q That's your Qualified Applicator  
15 Certificate? 03:54:25  
16 A Qualified certified -- QAC -- QCE.  
17 Qualified certified -- what's QCA -- applicator.  
18 Qualified Certified Applicator, and then it's the  
19 QME. And then there's --  
20 Q What's the QME? 03:54:45  
21 A I don't know what the --  
22 Q Do you have one?  
23 A I have one.  
24 Q All right. How did you get it?  
25 A I took the test. 03:54:51

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1 Q All right.  
2 A And then when you take one of those tests,  
3 you get the Right-of-Way with it. So that's how I  
4 got my four. I got Right-of-Way, and I got -- I  
5 don't know if it was Forestry or whatever I got. 03:55:01  
6 Q All right. So Right-of-Way, Forestry, QME  
7 and QAC?  
8 A Right.  
9 Q And you got all four of them, right?  
10 A Got those. 03:55:12  
11 Q This was all through self-study?  
12 A Right. The one thing I didn't get was my  
13 QAC, quality Applicant Certificate, or there was one  
14 that was above that, the license.  
15 Q The license. 03:55:24  
16 A Not the certificate, the license.  
17 Q So you have the certificate?  
18 A Yeah.  
19 Q And the certificate is the test you took  
20 four times? 03:55:29  
21 A Yeah. QAC is the one that got me -- the  
22 QAC and the Right-of-Way. That's what it is. And  
23 then I passed the qualified -- I want to say  
24 medical, but I don't think so.  
25 Q All right. So QME, you can't remember what 03:55:38

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1 it is. Did they all relate to pesticide  
2 application?  
3 A All of them was for that. The more you  
4 want, the more you can get, all the way up through  
5 section Z. 03:55:52  
6 (Reporter clarification.)  
7 The more you want, the more you can get,  
8 all the way up through section Z.  
9 Q When you say that you needed certification  
10 for that position, who sets the certification -- who 03:55:55  
11 says you do? Is it the school district? Is it --  
12 is it the state?  
13 A The State of California.  
14 Q All right. So the State of California says  
15 you can't be an integrated pest manager for -- under 03:56:06  
16 the Healthy Schools Act unless you have these  
17 qualifications?  
18 A Yep.  
19 Q All right. But before you got these  
20 qualifications, you were spraying Ranger PRO, right? 03:56:18  
21 A Oh, yeah.  
22 Q That was your job?  
23 A That was my job.  
24 Q Even before you got certified?  
25 A That's what I got hired to do. In the 03:56:28

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1 maintenance department, that's what I got hired to  
2 do was spray chemicals and start a chemical program.  
3 Q And your supervisor and the school district  
4 knew you didn't have the certification?  
5 A Oh, yeah. 03:56:38  
6 MR. COPLE: Do we have the licenses?  
7 MS. SALEK: Mm-hmm.  
8 MR. COPLE: The certificates?  
9 All right. Let's mark as Exhibits -- I'm  
10 sorry, I don't know what we're up to. 10? -- 10 03:57:29  
11 and 11. 10 will be the earlier dated document from  
12 2014.  
13 (Deposition Exhibit 10 marked by the court  
14 reporter.)  
15 MR. COPLE: And 11 will be the 2015 03:57:52  
16 document.  
17 (Deposition Exhibit 11 marked by the court  
18 reporter.)  
19 MR. COPLE: And this is just an extra copy.  
20 BY MR. COPLE: 03:58:13  
21 Q Okay. Let's start with Exhibit --  
22 Exhibit 10. And there's a stamp on this document.  
23 First of all, this is a copy of your certificate,  
24 right?  
25 A Yes. 03:58:27

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| <p>1 Q All right. And there's a stamp on here.<br/> 2 It says received by the Benicia School District,<br/> 3 Human Resources, with a -- with a date.<br/> 4 Can you tell us what that stamp is for? Do<br/> 5 you know? 03:58:37<br/> 6 A I don't know. Maybe they got a license --<br/> 7 Q Okay.<br/> 8 A Maybe they got a copy of this from the<br/> 9 county.<br/> 10 Q Okay.<br/> 11 A I don't see the county's number on here or<br/> 12 anything.<br/> 13 Q All right. And there's some handwriting on<br/> 14 the left-hand side starting at the top. It says<br/> 15 "EIN 7785." I assume that's employee -- employer 03:58:52<br/> 16 identification number?<br/> 17 A That is my -- that is my employee<br/> 18 identification number, 7785.<br/> 19 Q And in the middle of the page on the left<br/> 20 side, it says "Move to range 41." 03:59:03<br/> 21 A That's a good thing. I moved up a couple<br/> 22 of ranges. That's why I'm on C right here. See how<br/> 23 it's blank over here?<br/> 24 Q Right.<br/> 25 A I moved to C over here, so now I have the 03:59:11<br/> Page 330</p>  | <p>1 see the whole copy, but it looks like it's the<br/> 2 listing of all the different categories, right?<br/> 3 A Yeah, you can see I had to cut some off.<br/> 4 Q Right. And you had C, which was<br/> 5 Right-of-Way, right? 04:00:10<br/> 6 A Right-of-way. And also give me<br/> 7 Residential, Landscape Maintenance and Right-of-Way.<br/> 8 Q Okay.<br/> 9 A Yeah, and I should have -- I don't see it<br/> 10 on here, but Plant -- and I think I was going for 04:00:26<br/> 11 Plant Agriculture, and -- I don't know about Forest.<br/> 12 Forest was the first one I started.<br/> 13 Q Okay. And it says under the word<br/> 14 "Signature" -- I assume that it's a space for a<br/> 15 signature -- but we don't see one on this document. 04:00:43<br/> 16 But it says:<br/> 17 "This person is qualified to apply<br/> 18 or supervise the application of<br/> 19 pesticides pursuant to..." and there's a<br/> 20 legal citation. 04:00:51<br/> 21 You applied pesticides, right?<br/> 22 A Yeah.<br/> 23 Q Did you supervise anybody who applied them?<br/> 24 A No, like I told you, Roy, you know, told me<br/> 25 immediately: Don't try to supervise these guys. 04:01:01<br/> Page 332</p>          |
| <p>1 two, plus one more. So I moved to 41.<br/> 2 Q All right. Tell us what range 41 means.<br/> 3 A I'm one step away from doing controlled<br/> 4 substances, not controlled drugs but controlled --<br/> 5 spraying controlled substances. 03:59:23<br/> 6 Q So controlled pesticides?<br/> 7 A Yeah, you might as well say that.<br/> 8 Q All right. And the range is -- where do<br/> 9 they start and where do they go to?<br/> 10 A They go to Z. They go way up there. 03:59:31<br/> 11 Q So range 41 --<br/> 12 A No, I'm saying letter-wise they go to Z. I<br/> 13 don't know where those numbers stop.<br/> 14 Q Okay.<br/> 15 A I've seen a sheet they sent. Man, they go 03:59:39<br/> 16 to category C -- I mean Z, I mean.<br/> 17 Q All right. So the range numbers are<br/> 18 associated with these letter categories?<br/> 19 A I think so. So maybe you get there to the<br/> 20 highest and stuff is when you get to the Z. 03:59:48<br/> 21 Q All right.<br/> 22 A Or more.<br/> 23 Q And on the -- it looks like the second page<br/> 24 is the back side of your certificate which lists all<br/> 25 of these different -- it doesn't look like we can 03:59:59<br/> Page 331</p> | <p>1 They got way more experience than you. They've been<br/> 2 out there longer. It's just going to give you<br/> 3 problems. Do your job. If you see them doing<br/> 4 something stupid, let me know, and I'll talk to<br/> 5 them. That was my instruction. 04:01:12<br/> 6 Q Even though you were the pest manager?<br/> 7 A So-called.<br/> 8 Q So-called. Why you do say "so-called"?<br/> 9 A 'Cause I didn't have the duties I should of<br/> 10 had.<br/> 11 (Reporter clarification.)<br/> 12 I didn't have the duties that I should have<br/> 13 had from the beginning.<br/> 14 Q What duties should you have had?<br/> 15 A I should have the duties of having power 04:01:24<br/> 16 over those guys letting them know that: Hey, you're<br/> 17 screwing up. You don't have your suit on today,<br/> 18 Ron. You should have your suit on, at least put<br/> 19 your suit on if I'm not looking. Whatever you got<br/> 20 to do, wear your suit so I don't have to tell the<br/> 21 supervisor you don't have your suit on. You know<br/> 22 what I mean?<br/> 23 Q Did you complain to the school district<br/> 24 about that?<br/> 25 A No, I complained to Roy. I told Roy once, 04:01:40<br/> Page 333</p> |

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| <p>1 I said, you know -- I told Roy, I said, "This guy's<br/>2 out here. He's not wearing his PPE." And Roy not<br/>3 being professional as he should have been, he went<br/>4 and said, "Oh, Lee said you didn't have your PPE<br/>5 on." 04:01:52<br/>6 So you know what that meant for me later on<br/>7 after lunch, right? "I don't know who's out there<br/>8 saying what they were saying about us not wearing<br/>9 our suits. Whoever it was, F that mother F'er."<br/>10 Right? It's like hey, you know it was me. 04:02:03<br/>11 Q It was your job to point that out, right?<br/>12 A Yeah, he just basically said "F you, mother<br/>13 F'er" to my face.<br/>14 Q All right. But it was your job to point<br/>15 that out, right? 04:02:11<br/>16 A It was my job.<br/>17 Q All right. This -- this Exhibit 10 has an<br/>18 expiration of December 31, 2014. It issued on<br/>19 July 31, 2014, so this certificate was good for six<br/>20 months; is that right? 04:02:24<br/>21 A Naw, like I say, over here on this page, it<br/>22 says effective 8/1/2014.<br/>23 Q Yes.<br/>24 A Because I turned it in so late, it's almost<br/>25 close to being time to go again. 04:02:37<br/>Page 334</p> | <p>1 at this point.<br/>2 Q Now, if you go to -- I think it's the next<br/>3 page in your deposition, and if you go to block --<br/>4 box 22. And if you go to line 19, there's a<br/>5 question that says: 04:03:54<br/>6 "What percentage of that position<br/>7 was paperwork or desk work?"<br/>8 And your answer was:<br/>9 "Maybe 40 percent," and then you<br/>10 continue, "forty or fifty percent 04:04:04<br/>11 sometimes, depending --" on different<br/>12 things.<br/>13 This means that 40 to 50 percent of your<br/>14 job was preparing and filing reports about spraying?<br/>15 A Yeah, I had to -- I started logging all my 04:04:21<br/>16 stuff in. I caught a skunk; I logged that. If I<br/>17 had to spray in the day, I logged all that, of<br/>18 course. Yeah, I just made a lot of coverage for<br/>19 myself in case something happened.<br/>20 Q So -- so half of your -- half of your 04:04:39<br/>21 employment time was -- was on spraying or tasks<br/>22 related to it and the other half was on paperwork;<br/>23 is that right?<br/>24 A Yeah.<br/>25 Q All right. Go to page 34. Now, on line 4 04:05:09<br/>Page 336</p>                                      |
| <p>1 Q Okay. So the annual recertification --<br/>2 A They started me out at 8/14 instead of --<br/>3 so they brought me back.<br/>4 Q So your QAC has to be reissued each year?<br/>5 A Yes. 04:02:48<br/>6 Q All right. So we have Exhibit 11, which<br/>7 also has that Human Resources stamp, this time<br/>8 May 1, 2015. And you have the same QAC, applicator<br/>9 certificate, and this is good for the year 2016 --<br/>10 through the year 2016, right? 04:03:04<br/>11 A Yes.<br/>12 Q Okay. At the end of that period, did --<br/>13 did you renew?<br/>14 A No.<br/>15 Q Okay. Were you still employed? 04:03:13<br/>16 A Still what?<br/>17 Q Were you still employed?<br/>18 A No. No, within there, at that time?<br/>19 Q Yeah, because the eight-year [sic]<br/>20 certificate expired the last day of 2016. 04:03:25<br/>21 A Remember I told -- I told Roy specifically<br/>22 that I would not be pursuing any more licenses at<br/>23 this point.<br/>24 Q Okay.<br/>25 A I would not be pursuing any more licenses<br/>Page 335</p>  | <p>1 there's question. It says: "What happened?" And<br/>2 -- actually, if we can move up to the box above<br/>3 that. Box 33, the last line 25 is a question. It<br/>4 says:<br/>5 "You said there was a backpack 04:05:42<br/>6 exposure. About when was that?"<br/>7 And your answer, which is on page -- on<br/>8 box 34 says:<br/>9 "That was since we had the new<br/>10 secretary. So that's been less" -- less 04:05:54<br/>11 "than a year."<br/>12 And I assume that means it's a year before<br/>13 your date of the deposition, which was October 28,<br/>14 2015. And then the questioner asks you:<br/>15 "What happened?" 04:06:07<br/>16 And you talk about the backpack spraying<br/>17 incident, which -- which would have been back in<br/>18 January of 2015. So here's my question. It's on<br/>19 line 15 of box 34. And the question put to you is:<br/>20 "Did you go for treatment?" 04:06:22<br/>21 And if you'll read that -- that paragraph.<br/>22 Read your answer to that question starting with "I<br/>23 went down to industrial relations" for the record.<br/>24 A "I went down to industrial<br/>25 relations or Kaiser again, and they 04:06:40<br/>Page 337</p> |

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| <p>1 checked it out and everything. And<br/> 2 because I already had been to the doctor<br/> 3 for the skin situation that I have, they<br/> 4 said that the backpack exposure was<br/> 5 something related to my family's history 04:07:00<br/> 6 and" that this is -- this is this and<br/> 7 this is that. "But to my" own<br/> 8 "knowledge, I don't have anybody in my<br/> 9 family that has had anything like what I<br/> 10 have on my skin. So that's" why -- 04:07:09<br/> 11 "they left it" -- "so that's" where<br/> 12 "they left it. And they did deny the<br/> 13 whole case and closed it" and "with<br/> 14 that."<br/> 15 Another question came in right there. You 04:07:26<br/> 16 want me to read it?<br/> 17 Q No, we'll stop. I have a question about<br/> 18 this.<br/> 19 This is the visit you had with Dr. Gao,<br/> 20 right? 04:07:37<br/> 21 A I think so.<br/> 22 Q All right. That would have been<br/> 23 January 29, 2015. And it was at that time that you<br/> 24 had already received the diagnosis a couple of<br/> 25 months earlier from Dr. Kim and maybe other doctors 04:07:48<br/> Page 338</p> | <p>1 A Not at all.<br/> 2 Q Okay. You're answering these questions<br/> 3 very quickly, Mr. Johnson. Maybe you do know the<br/> 4 answer, but you haven't -- you haven't talked to<br/> 5 anyone in your family about any of these details of 04:08:48<br/> 6 this?<br/> 7 A Not the -- not the first time those<br/> 8 questions have been asked of me.<br/> 9 Q Okay. So -- so this is --<br/> 10 A I researched it. 04:08:54<br/> 11 Q This is what you think is the case sitting<br/> 12 here?<br/> 13 A Unless somebody said something -- that had<br/> 14 a diagnosis that we don't know about --<br/> 15 Q All right.<br/> 16 A -- but we know about it so far, and nobody<br/> 17 has it. We had two heart attacks happen in our<br/> 18 family, both my grandmother and my mother, and stuff<br/> 19 like that, but nothing serious that I can tell you<br/> 20 about AIDS or cancer or something serious. 04:09:11<br/> 21 Q Okay. Turn to page 68, block 68, rather,<br/> 22 of this deposition transcript. Just give me one<br/> 23 moment here.<br/> 24 Okay. In block -- block 68, there's a<br/> 25 question at line 4 by Ms. Cunningham who says to 04:10:21<br/> Page 340</p> |
| <p>1 about your mycosis fungoides, right?<br/> 2 A Of course, yeah.<br/> 3 Q Okay. Now, this issue about your family<br/> 4 history, what particular about your family history<br/> 5 did Dr. Gao or anybody else at Kaiser say was 04:08:05<br/> 6 relevant to you?<br/> 7 A Nothing. He just said that the backpack<br/> 8 exposure was something that happens in his family<br/> 9 and it's hereditary.<br/> 10 Q All right.<br/> 11 A That's what it sounds like. I could read<br/> 12 it again.<br/> 13 Q Does your family have a history of<br/> 14 cancer --<br/> 15 A No. 04:08:24<br/> 16 Q -- of any kind?<br/> 17 A No.<br/> 18 Q Okay. So your family has no history of<br/> 19 non-Hodgkin's lymphoma?<br/> 20 A Not at all. 04:08:30<br/> 21 Q Does your family have a history of immune<br/> 22 deficiency?<br/> 23 A Not at all.<br/> 24 Q Does your family have a history of<br/> 25 autoimmune disease? 04:08:38<br/> Page 339</p>  | <p>1 you, Mr. Johnson, that:<br/> 2 "You had mentioned earlier that<br/> 3 none of the doctors that you've seen<br/> 4 have given you a cause for the<br/> 5 lymphoma." 04:10:36<br/> 6 Do you see that?<br/> 7 A Most of them. I would say that.<br/> 8 Q Yeah, you see that. So Ms. Cunningham is<br/> 9 correctly stating your -- your view or testimony<br/> 10 that -- that not one of your doctors had given you a 04:10:52<br/> 11 cause?<br/> 12 A What was the question again?<br/> 13 Q The question is: Was Ms. Cunningham's<br/> 14 question to you accurate when she said that you had<br/> 15 mentioned earlier in this deposition that none of 04:11:06<br/> 16 the doctors that you've seen have given you a cause<br/> 17 for your lymphoma?<br/> 18 A That's true.<br/> 19 Q All right. And when -- when she was asking<br/> 20 about your lymphoma, she's talking about the mycosis 04:11:16<br/> 21 fungoides, right?<br/> 22 A I believe so.<br/> 23 Q Okay. Go to page 70 with a box -- box 71.<br/> 24 And in box 71 on line 14 is a question put to you<br/> 25 that says: 04:12:08<br/> Page 341</p>  |

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| <p>1 "When you say you brought paperwork<br/>2 from Kaiser, what paperwork are you<br/>3 referring to?"<br/>4 And can you read for the record what your<br/>5 answer was to that question? Starts on line 16. 04:12:21<br/>6 A In 70, box 70?<br/>7 Q 71, line 16.<br/>8 A Answer -- you want the answer?<br/>9 Q Yeah, the answer.<br/>10 A (Reading): From my doctors letting 04:12:36<br/>11 them know what my condition was, and<br/>12 what it could be caused by, and what it<br/>13 might not be caused by, because they<br/>14 don't have scientific proof. And that's<br/>15 the hitting -- that's the thing with the 04:12:47<br/>16 doctor, I guess. You know, if they have<br/>17 a scientist that says things -- things<br/>18 happen because of that, right? That's<br/>19 better for them. When they're guessing,<br/>20 then they're guessing. So that is not 04:13:00<br/>21 saying it is. They're not saying it's<br/>22 not. So it's not like he said that it<br/>23 is. It's been investigated and there's<br/>24 other little things. And there's other<br/>25 things, you know, that he could be 04:13:15<br/>Page 342</p>  | <p>1 where the machine was sitting in the<br/>2 truck, to turn it off, because the<br/>3 machine didn't have proper things to<br/>4 turn it off without me coming into<br/>5 direct contact with the chemical." 04:14:29<br/>6 Now, you're referencing in your testimony<br/>7 here at your deposition that you had two Ranger PRO<br/>8 exposures. One was the truck -- the machine on the<br/>9 truck at Mary Farmar, correct?<br/>10 A Can you repeat that? 04:14:45<br/>11 Q Yeah. One of those two exposures to Ranger<br/>12 PRO was the -- the disattached hose on the<br/>13 machine --<br/>14 A Yeah.<br/>15 Q -- at Mary Farmar, right? 04:14:53<br/>16 A Right.<br/>17 Q And the second one was -- was this drift<br/>18 spray that you went to see Dr. -- Dr. Carrie Chanson<br/>19 about?<br/>20 A Okay. I remember. 04:15:06<br/>21 Q Was that the second one?<br/>22 A No, I think Carrie Chanson got in there in<br/>23 some kind of way. I don't know how Carrie<br/>24 Chanson --<br/>25 Q So you're not -- you're not -- you're 04:15:18<br/>Page 344</p>                 |
| <p>1 saying.<br/>2 Q All right. Your reference to the doctor<br/>3 saying that there -- what it could be caused by,<br/>4 did -- did any of your doctors that have diagnosed<br/>5 and treated you for non-Hodgkin lymphoma tell you 04:13:30<br/>6 what the cause could be?<br/>7 A I think he said it could be sun, it could<br/>8 be exposure to the sun, exposure to the chemicals.<br/>9 It could be a lot of things. That's what they said,<br/>10 could be a lot of things, but they don't know just 04:13:44<br/>11 yet.<br/>12 Q Okay. Now if you go further down onto the<br/>13 next box, 72, it's right below the box that you were<br/>14 just in. And there's a question at line 21 that<br/>15 says: 04:13:57<br/>16 "When you say 'having exposure<br/>17 twice,' what do you mean by that?"<br/>18 And your answer is that you were "exposed<br/>19 to Ranger PRO twice." And you go on to say:<br/>20 "I've been exposed to other 04:14:09<br/>21 chemicals on other occasions.<br/>22 "But definitely a big exposure, you<br/>23 know, on my skin, the first time with<br/>24 the broken -- the machine broke down,<br/>25 and I had to get into the machine, like 04:14:19<br/>Page 343</p> | <p>1 not ref- -- this was your --<br/>2 A This was when I went to Dr. Chao or Chen.<br/>3 Q Okay. Gao.<br/>4 A Yeah.<br/>5 Q So the two -- the two exposures that you 04:15:24<br/>6 had testified to in October of 2015 in your<br/>7 deposition was, number one, the Mary Farmar exposure<br/>8 with the machine?<br/>9 A Yeah.<br/>10 Q And secondly, the backpack leak that you 04:15:35<br/>11 said happened in January of 2015, right?<br/>12 A Right.<br/>13 Q All right. So those were the two<br/>14 exposures. But you also say that you've been<br/>15 exposed to other chemicals on other occasions. This 04:15:48<br/>16 was on page -- box 72, lines 23 and 24.<br/>17 What other chemicals and on what other<br/>18 occasions were you referring to?<br/>19 A Like the wasp spray.<br/>20 Q The what spray? 04:16:07<br/>21 A Wasp.<br/>22 Q The wasp spray. And you were exposed how?<br/>23 A I don't know if I was exposed to that or<br/>24 not. Is that what you're asking me, if I was<br/>25 exposed to that? Is that what the question was? 04:16:18<br/>Page 345</p> |

1 Q Well, this is your testimony, and I know  
2 you might not remember what you were saying at the  
3 time, which is why I'm asking you the question right  
4 now, which is, you said that you were exposed to  
5 other chemicals on other occasions. What were these 04:16:31  
6 chemicals that you got exposed to?  
7 A I have been exposed to that wasp spray  
8 before.  
9 Q Okay.  
10 A I've used mouse baits around the field. I 04:16:43  
11 had to put the corrugated -- corrugated mouse baits  
12 inside there. I didn't use those in the school too  
13 much, but I definitely used those on the field, my  
14 little traps out there. I would also use something  
15 called -- what was this stuff called? It was a 04:17:01  
16 natural spray. I don't remember what it's called.  
17 It's a powder you put on it.  
18 Q Do you know what the wasp spray was called?  
19 A Wasp spray. It was in a white can from  
20 Hillyard, and if you look on the -- on the sheet, it 04:17:24  
21 says wasp spray. I'm not trying to be funny.  
22 Q Okay. Let me ask you about -- what -- what  
23 is Tempo SC Ultra Insecticide?  
24 A I've never used that.  
25 Q You never used that? 04:17:52

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1 A They made me write down all the chemicals  
2 -- I had to write down all the chemicals in the  
3 school district, period, that I've ever seen.  
4 Q You've never used Tempo SC Ultra  
5 Insecticide in June of 2012 at Benicia? 04:18:09  
6 A It wasn't me using that. No.  
7 Q And so if your name is listed as the  
8 applicator for that insecticide --  
9 A Even if I bought it for the people that are  
10 working on Robert Semple to kill the roaches, I 04:18:20  
11 didn't apply it.  
12 Q Okay. So if you bought it for someone else  
13 to use --  
14 A Yes.  
15 Q -- your name would be put down next to that 04:18:29  
16 chemical; is that right?  
17 A Unfortunately so.  
18 Q Okay. Who -- who would put your name down,  
19 you?  
20 A As the person who bought it, not as the 04:18:36  
21 person to apply [sic] it, 'cause I don't know  
22 why I'd say that.  
23 Q Okay. You know what Tempo SC Ultra  
24 Insecticide is though?  
25 A I've heard of it because we were treating 04:18:46

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1 the roaches there at the Mary Farmar and Robert  
2 Semple with that. Treating the roaches at Robert  
3 Semple with that.  
4 Q Okay. And this wasp spray, which I get it,  
5 you're not trying to be humorous, it's called wasp 04:18:56  
6 spray. When were you exposed to that; do you  
7 remember?  
8 A One time at Robert Semple I got a good  
9 little glob of that on me, and I went and washed  
10 that off right away because it was just on my arms. 04:19:13  
11 It was easy to get off. I just got it on there and  
12 just rinsed it off.  
13 Q Did this happen more than once?  
14 A No.  
15 Q And when you say "Robert Semple," that's 04:19:21  
16 the school location, right?  
17 A Yeah, it's really waspy up there. I had  
18 wasps up there every year. I had to go through it  
19 with a few cans.  
20 Q Robert Semple is the name of the school? 04:19:32  
21 A Robert Semple, yeah.  
22 Q All right. If you go to box 81, it's a  
23 couple of pages further from where you are. And the  
24 line question is No. 7. Do you see that on box 81?  
25 A Yep. 04:20:14

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1 Q And the line question at 7 says:  
2 "The log that you have that shows  
3 when the Ranger PRO was used, does it  
4 say which employee used it" -- used --  
5 used the Ranger PRO? 04:20:26  
6 A Yes.  
7 Q And then your answer is, and you correct me  
8 if I say this wrong, that:  
9 "We have our own sheets, so on my  
10 sheet it would say 'Lee Johnson' in my 04:20:36  
11 little folder. And what happens,  
12 Mr. Sapb" -- is misspelled, but  
13 "Mr. Sapb and Mr. Martinez, they don't  
14 report to DPR. I do. They don't do the  
15 reporting in the computer. It's just a 04:20:51  
16 part of my job. So they hand me their  
17 sheets, and it will say 'Evans,' it will  
18 say 'Sapb' or it will say 'Johnson.'"  
19  
20 And then your answer goes on to more 04:21:00  
21 details.  
22 The log you're talking about, is this the  
23 log that's kept for DPR?  
24 A Yep, in the cubbyhole. That's the  
25 cubbyhole sheets. 04:21:12

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1 Q Okay. And that's the sheets that when you  
2 left employment, you left them all in that  
3 cubbyhole?  
4 A Definitely.  
5 Q Okay. And those would have been sheets 04:21:20  
6 that you would have entered into the computer  
7 because it was part of your job?  
8 A Right. Like I said, if we were spraying  
9 for a couple of weeks or a couple of days --  
10 (Reporter clarification.)  
11 If we were spraying for a couple of weeks  
12 or a couple of days, as soon as we're done spraying,  
13 I would just take those sheets and just respray  
14 them -- I mean, re-upload them, get all the sheets  
15 uploaded and get them back into the computer so the 04:21:40  
16 county can have them.  
17 Q All right. If you go to box 85, next page  
18 or two. It's up at the top left. And there's a  
19 line question, line 23. And it says that -- first  
20 of all, let's go further up to -- to line 20, and 04:22:04  
21 the question at line 20 was:  
22 "And are you sure that" the --  
23 "that that exposure happened before your  
24 diagnosis?"  
25 And your answer is: 04:22:15

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1 "Definitely."  
2 Which exposure were you referencing there?  
3 A What is the question before that?  
4 Q Well, the question is do you recall -- do  
5 you know which -- which exposure you were talking 04:22:33  
6 about 'cause in this --  
7 A How would I know that?  
8 Q -- in this deposition you testified that  
9 there were only -- there were only two Ranger PRO  
10 exposures, so I was asking you -- 04:22:40  
11 A At this point it's only two?  
12 Q Well, there were -- you said there were  
13 only two, and one of them actually happened after  
14 you were diagnosed.  
15 A I'm not sure. 04:22:51  
16 Q All right. So you just don't remember?  
17 A Yeah, it's (unintelligible).  
18 Q But it could not have been the backpack  
19 because that happened after you got back.  
20 A I understand, you know, this mode. There's 04:22:58  
21 nowhere -- there's no date or anything, so how would  
22 I know?  
23 Q But it could not have been the backpack  
24 incident because that happened after you were  
25 diagnosed, right? 04:23:12

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1 A I believe so.  
2 Q All right.  
3 A And I believe that after the bulk -- before  
4 the bulk of the backpack diagnosis. I don't  
5 remember putting those before one or the other. I 04:23:23  
6 think I started using the backpacks more after I got  
7 exposed. Stopped using tanks. Tanks are broke all  
8 the time. I wasn't using that tank for months.  
9 Q But the particular incident that you  
10 testified about, both today and in this deposition, 04:23:36  
11 was an incident that occurred in January 2015,  
12 right?  
13 A Yep.  
14 Q So that was after you were diagnosed?  
15 A That was after I diagnosed in '13, yeah. 04:23:48  
16 Q Now, if you -- if you stay on box 85, and  
17 you move down to a different line, it's actually the  
18 next line, line 23, it says:  
19 "You said it also measures how much  
20 was sprayed, but it's a 50-gallon tank. 04:24:01  
21 So how do you know how much was  
22 sprayed?"  
23 And your answer -- again, you correct me if  
24 I'm reading this wrong.  
25 "Well, 50 gallons, right. You have 04:24:12

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1 50 gallons of water. So what you add to  
2 the water is the percentage of liquid,  
3 which would be pesticide that you want  
4 to add to the water. Right? So if  
5 you're spraying something heavy, right, 04:24:23  
6 something serious like ivy or pampus  
7 grass or something crazy, right, and  
8 have a higher ratio of liquid, pesticide  
9 that you put into the water, which, you  
10 know -- let's say you were" just -- "you 04:24:36  
11 were doing just some annuals..."  
12 And you go on and talk a little bit more  
13 about that.  
14 My question is, these changes in the -- in  
15 the ratio, these were decisions you would make about 04:24:44  
16 the tank, right?  
17 A Yes.  
18 Q All right. And when you're talking about  
19 something -- spraying something heavy or serious  
20 like ivy or pampus grass -- you previously talked 04:24:54  
21 about California weed, and you talked about cheese  
22 weed, but you didn't say anything about ivy or  
23 pampus grass. So what is that?  
24 A What is what?  
25 Q Ivy or pampus grass. 04:25:07

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1 A Weeds.  
2 Q All right. And those are weeds that you  
3 were treating in the Benicia School District?  
4 A Yes, but just not as much as cheese weed.  
5 Cheese weed was everywhere. Not that stuff. 04:25:19  
6 Q Okay. And ivy or pampus grass requires a  
7 higher ratio of --  
8 A Yeah, we really don't like to spray pampus  
9 grass. It's such a --  
10 (Reporter clarification.)  
11 We really don't like to spray pampus grass.  
12 If you spray a bunch of pampus grass -- a bunch --  
13 we really don't like to spray pampus grass. You  
14 spray a bunch of that on, you got to spray a lot of  
15 that on there or a high concentration of it. Or you 04:25:37  
16 could cut it down -- you cut it down, down, down,  
17 down, as low as you could cut it, drag it out and  
18 then spray it on top of the roots, then you might be  
19 able to kill something. You can get rid of the  
20 pampus grass that way rather than going out there 04:25:48  
21 and spraying and watching it cook up and go out  
22 there and trim it real nice, but it come back  
23 heavier.  
24 Q All right. Was the -- was the cheese weed  
25 something that was heavy or serious that required a 04:25:57  
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1 higher ratio of pesticide to water?  
2 A It was just a very big stalk. It was a  
3 very strong weed. Some people liked it: "Why are  
4 you cutting that down? Why are you spraying the  
5 chemicals on that?" 04:26:10  
6 "It's a weed."  
7 Q Some people like cheese weed?  
8 A Love it. Like my neighbor upstairs is  
9 growing it. Like a nightmare for me. I killed so  
10 many pounds of that. Now I look at it every day, 04:26:18  
11 like the thing is haunting me.  
12 Q Okay. But I still don't know if I heard  
13 the answer, which is, is cheese weed one of those  
14 weeds that require a higher ratio of pesticide to  
15 water? 04:26:31  
16 A Cheese weed is an annual, so it will show  
17 up every year. Every year you don't spray, it's  
18 going to show up. It will go away, it will show up.  
19 Q So a higher ratio?  
20 A Not necessarily. That's not the answer. 04:26:43  
21 High ratio is not the answer.  
22 Q All right. So --  
23 A It's not the answer.  
24 Q -- you didn't change the ratio that was --  
25 A Never. 04:26:53  
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1 Q -- used on cheese weed?  
2 A No, I used the cheese weed ratio.  
3 Q Okay. That's my question. You didn't --  
4 you didn't alter it the way you might alter it for  
5 ivy or pampus grass? 04:27:03  
6 A You don't alter it. You go by the recipes  
7 that are given to that to you take a higher --  
8 Q Okay. And cheese weed does not have a  
9 higher ratio?  
10 A You're saying it does not? 04:27:10  
11 Q No, I'm asking you.  
12 A I'm telling you that it does.  
13 Q All right. No, I'm asking you does it have  
14 a higher ratio.  
15 A Yes, sir, that's what I'm saying it does, 04:27:15  
16 three times already.  
17 Q All right. All right. Not trying to make  
18 this difficult.  
19 A Me neither.  
20 Q Okay. I know you're not. 04:27:21  
21 A No, not at all.  
22 Q We're coming to the end pretty soon, so  
23 we'll we get through this.  
24 A I hope so. I'm really --  
25 MR. COPLE: Before I start this next 04:27:31  
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1 section, how much time are we on the record now?  
2 VIDEO OPERATOR: We are 4:41 plus 1:09  
3 which makes 5:50.  
4 MR. COPLE: Okay. Let's go off the record  
5 for just a moment. 04:27:53  
6 VIDEO OPERATOR: Okay. It is 4:27. We're  
7 going off the record.  
8 (Recess.)  
9 VIDEO OPERATOR: We are back on the record.  
10 It's 4:38. 04:38:24  
11 BY MR. COPLE:  
12 Q Mr. Johnson, do you still have at home, if  
13 you ever had at home, any pesticide application  
14 manuals or teaching materials?  
15 A No. 04:38:36  
16 Q Did you ever have any?  
17 A The only thing I have is a  
18 Forest/Right-of-Way book, but it's not really  
19 specifically sticking to spraying.  
20 Q Okay. You -- you testified earlier today 04:38:48  
21 about the 50-gallon tank and the absence of a  
22 shutoff switch.  
23 A Mm-hmm.  
24 Q And this was in connection with the Mary  
25 Farmer disconnection of the -- of the hose. And my 04:39:07  
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|  |  |
|--|--|
| <p>1 question is: When you said that you -- you brought<br/>2 or somebody at the school district brought the tank<br/>3 to an East -- East Bay Oakland company --<br/>4 A I did.<br/>5 Q You brought it. Who did you bring it to? 04:39:22<br/>6 A I don't remember the guy's name. They're<br/>7 very nice guys, but they weren't very professional<br/>8 at all.<br/>9 Q Okay. And these are the guys that you got<br/>10 the tank back, and they didn't do anything? 04:39:31<br/>11 A Right.<br/>12 Q And did you ask them to do anything in<br/>13 particular?<br/>14 A Yes, I asked for the emergency cutoff<br/>15 switch. 04:39:38<br/>16 Q Okay. Okay. So you got it back. They<br/>17 didn't do the work that -- that you asked them to<br/>18 do. What did you then do with the tank?<br/>19 A I took it back to Vallejo and told Roy that<br/>20 those people are very scary and I don't think they 04:39:48<br/>21 know what I'm talking about. And they speak very<br/>22 good English, but they tell me basically I don't<br/>23 need a switch, and I know I need a switch because<br/>24 it's a legal requirement.<br/>25 Q So from that point forward, you just 04:40:00<br/>Page 358</p> | <p>1 BY MR. COPLE:<br/>2 Q All right. We've marked as Exhibit 12 the<br/>3 Progress Notes from Dr. Roberto Rafael<br/>4 Ricardo-Gonzalez at UCSF Medical Center. Do you<br/>5 recall visiting with Dr. Ricardo-Gonzalez in 04:41:36<br/>6 September 2014?<br/>7 A No, I don't.<br/>8 Q All right. Have you seen this medical<br/>9 record previously?<br/>10 A No, I don't remember seeing this at all. 04:41:47<br/>11 Q All right. Do you know who -- can you tell<br/>12 us who Dr. Ricardo Gonzalez is?<br/>13 A No. I don't know who he is. I don't<br/>14 remember him at all.<br/>15 Q In the History of Present Illness -- so you 04:41:56<br/>16 go down towards the middle of this page, first page,<br/>17 document, second paragraph below History of Present<br/>18 Illness starts with the sentence "reports that he<br/>19 thinks." Do you see that?<br/>20 A What page is that? 04:42:20<br/>21 Q It's the first page.<br/>22 A This is coming out pretty good. It looks<br/>23 pretty accurate to me.<br/>24 Q Okay. Let's go back to my question, which<br/>25 is: In the History of Present Illness, second 04:42:58<br/>Page 360</p> |
| <p>1 continued to use the tank without the switch?<br/>2 A No, I told Roy that I refuse to use the<br/>3 tank until he gets it working right manually.<br/>4 Q Did he?<br/>5 A Never. 04:40:08<br/>6 Q So the tank was never used -- or you never<br/>7 used the tank again?<br/>8 A I took it out of the back of the truck and<br/>9 I set it down and started using the backpack.<br/>10 Q All right. Did anyone else start using the 04:40:17<br/>11 tank after that?<br/>12 A I don't know.<br/>13 Q And do you -- after talking about this<br/>14 during today's deposition, do you -- do you have a<br/>15 specific recollection of when this all happened with 04:40:26<br/>16 -- with the tank and Mary Farmar?<br/>17 A None other than what I told you. If I knew<br/>18 any dates, I would try to drag them up.<br/>19 Q Okay.<br/>20 A I don't really know. 04:40:38<br/>21 Q All right. Do you have the August 26th --<br/>22 is that it?<br/>23 Let's mark this as Exhibit 12.<br/>24 (Deposition Exhibit 12 marked by the court<br/>25 reporter.) 04:41:21<br/>Page 359</p>   | <p>1 paragraph, first line, starting with the words<br/>2 "reports that he thinks." Do you see that?<br/>3 A Yes.<br/>4 Q It says:<br/>5 "Reports that he thinks he first 04:43:07<br/>6 noticed the skin rash on some areas of<br/>7 the chest/trunk and face around Fall of<br/>8 2013."<br/>9 Do you see that?<br/>10 A Yes. 04:43:15<br/>11 Q So you were experiencing this skin rash<br/>12 in -- somewhere in the fall of 2013, right?<br/>13 A Yep.<br/>14 Q Okay. Was it at an earlier time than that?<br/>15 A Hmm-hmm. 04:43:28<br/>16 Q That would have been the earliest,<br/>17 according to what this record says you told<br/>18 Dr. Ricardo-Gonzalez?<br/>19 A That papulosquamous is 'cause that's<br/>20 squamous on my knee.<br/>21 (Reporter clarification.)<br/>22 Papulosquamous. Papulosquamous. That was<br/>23 on my knee that she cut out.<br/>24 Q Yes, but to be clear, my question is not<br/>25 about your knee, my question is about what's being 04:43:51<br/>Page 361</p>   |

|   |   |
|---|---|
| <p>1 reported that you told -- according to<br/> 2 Dr. Ricardo-Gonzalez, you told him that you think<br/> 3 you first noticed a skin rash on your chest and<br/> 4 trunk and face around the fall of 2013, right?<br/> 5 A Yes. 04:44:09<br/> 6 Q And that would be consistent with what you<br/> 7 recall sitting here?<br/> 8 A Yes, said it a couple of times today.<br/> 9 Q All right. Who is Dr. Fawn McCloud?<br/> 10 MR. LITZENBURG: Do you know?<br/> 11 THE WITNESS: No.<br/> 12 MR. LITZENBURG: Do you remember?<br/> 13 THE WITNESS: No.<br/> 14 BY MR. COPLE:<br/> 15 Q Dr. John Geisse? 04:44:22<br/> 16 A No.<br/> 17 Q You don't recall seeing either of those<br/> 18 doctors?<br/> 19 A Neither one.<br/> 20 Q Okay. Do you recall being referred to 04:44:31<br/> 21 Solano Dermatology?<br/> 22 A Oh, yeah.<br/> 23 Q Okay. You say "oh, yeah" like you have<br/> 24 something to add. Maybe you don't. Is there some<br/> 25 reason you -- 04:44:46</p> <p style="text-align: right;">Page 362</p>   | <p>1 recall them at all. I referred to Ofodile and<br/> 2 Truong and Merley (phonetic), the little radiation<br/> 3 lady with the lights over there.<br/> 4 Q Well, let me ask it a different way,<br/> 5 because the -- the question that's occurring to me 04:46:38<br/> 6 is that one or both of these doctors referred you to<br/> 7 Dr. Ricardo-Gonzalez at UCSF Medical specifically<br/> 8 for the diffuse papulosquamous rash.<br/> 9 A I probably never went there. I probably<br/> 10 went to Stanford. Only went to UCSF once. 04:46:57<br/> 11 Q Well, the question I have, to try to put it<br/> 12 a different way, Mr. Johnson, is: Who do you recall<br/> 13 was your treating doctor for the -- the lesion on<br/> 14 your knee, the rash?<br/> 15 A Ofodile. 04:47:07<br/> 16 Q Pardon?<br/> 17 A Ofodile.<br/> 18 Q Ofodile. Did you know at the time that Dr.<br/> 19 Ofodile did not specialize in --<br/> 20 A Yes, somebody else -- 04:47:25<br/> 21 Q -- dermatology and oncology?<br/> 22 A Somebody tell me -- somebody say: Next<br/> 23 time you go in there, you need to go in there and<br/> 24 ask her has she ever done a case like yours before.<br/> 25 And then ask her this: Can you -- do you think you 04:47:34</p> <p style="text-align: right;">Page 364</p>            |
| <p>1 A It was a crazy experience. You know, the<br/> 2 lady pulled out a book, and she had these different<br/> 3 books for scars and lesions, and she gave me an idea<br/> 4 what she thought it might be. And I was like:<br/> 5 Whoa, I hope it's not what she just said. So she 04:44:59<br/> 6 sent me to the dermatologist and then asked me to<br/> 7 find out the results.<br/> 8 Q And who did you see at Solano Dermatology?<br/> 9 A I don't remember her name. I was asking<br/> 10 earlier if it was Dr. Chanson, but that's not Dr. 04:45:09<br/> 11 Chanson. It has to be something over there. You<br/> 12 know, it would be easy to get her name, but I don't<br/> 13 have it on me. I don't have it with me.<br/> 14 Q Okay. In the first page of this<br/> 15 Exhibit 12, it says under History of Present 04:45:39<br/> 16 Illness: Dewayne Johnson 42 year old male. Goes on<br/> 17 to say:<br/> 18 "New patient, referred by Dr. Fawn<br/> 19 McCloud/John Geisse for evaluation of"<br/> 20 the "papulosquamous rash concerning for 04:45:55<br/> 21 cutaneous lymphoma."<br/> 22 You don't remember seeing Dr. McCloud or<br/> 23 Dr. Geisse regarding your papulosquamous rash?<br/> 24 A No. I mean, sometimes my regular doctor is<br/> 25 out. I don't know. Those people I never -- I don't 04:46:20</p> <p style="text-align: right;">Page 363</p> | <p>1 can take care of my case and get me back healthy?<br/> 2 And then ask her this third question: Had you ever<br/> 3 seen somebody with my case like this before? Repeat<br/> 4 the first question back to her.<br/> 5 So I did that. I went in there and tell 04:47:45<br/> 6 her that. And she was honest, she said, "No, I've<br/> 7 never seen anything like this before. She said:<br/> 8 "I've seen cases and heard of them, but I never<br/> 9 treated anybody for this." So...<br/> 10 Q And what is it about her answer that led 04:47:56<br/> 11 you to continue to stay with her as your doctor<br/> 12 then?<br/> 13 A She said she was going to get on it right,<br/> 14 that they was going to get me healed, you know, to<br/> 15 the point where I'd be all right. So I never heard 04:48:05<br/> 16 any other doctors say that. They all just say, you<br/> 17 know, I'll do what I can for you, whatever, blah,<br/> 18 blah, blah. But she actually said, you know, "I<br/> 19 think I can do it. I can do it."<br/> 20 Q When was the last time that you were 04:48:15<br/> 21 treated or examined by Dr. Ofodile?<br/> 22 A I think a couple of years, about three<br/> 23 years.<br/> 24 Q Three years?<br/> 25 A (Nods head.) 04:48:26</p> <p style="text-align: right;">Page 365</p> |

1 Q As of the last time you saw her for  
2 examination or treatment, was she continuing to tell  
3 you that she could heal you?  
4 A No. She was done just like I was. I  
5 needed to get out of here and get referred to some 04:48:40  
6 specialist. She says you're right. I says you go  
7 ahead and make a suggestion. You make the  
8 suggestion. You're the doctor. I'm not going to  
9 get involved. You let me know what you want me to  
10 do, and I'll do it. She says: Okay, we're going to 04:48:48  
11 send you back down to oncology down the hall. She  
12 knew I hated that place, but I was like "Okay," like  
13 that.  
14 Q Who did she send you to specifically?  
15 A Dr. Whitney. 04:48:57  
16 Q Dr. Whitney?  
17 A Yeah.  
18 Q And Dr. Whitney was also with Kaiser  
19 Permanente?  
20 A Yes, sir. 04:49:03  
21 Q And Dr. Whitney was treating your  
22 papulosquamous carcinoma rash?  
23 A No.  
24 Q No?  
25 A Person who cut the rash out was 04:49:13  
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1 Dr. Ofodile.  
2 Q Yes, but Dr. -- so she continued to treat  
3 that carcinoid -- that carcinoma on your knee?  
4 A And the rest -- and the rest of the skin  
5 cancer also. 04:49:25  
6 Q All right. And the rest of the cancer,  
7 then, was referred by her to Dr. Whitney for  
8 treatment?  
9 A Yes. Dr. Whitney is -- Whitney -- Whitney  
10 had taken us once. And I didn't like how the way 04:49:35  
11 she was talking. She was talking about giving me  
12 bone marrow transplants and all kind of stuff just  
13 to get to the treatment thing.  
14 And I was like I don't know about that. So  
15 I got a second opinion about that. Next thing you 04:49:44  
16 know, you can't get bone marrow treatment right now  
17 because that's a very serious procedure, and you're  
18 not ready for that right now. That could kill you.  
19 So another doctor said it.  
20 So I got rid of Whitney. I'm like just 04:49:57  
21 send me back to Ofodile. So Ofodile took me back to  
22 --  
23 (Reporter clarification.)  
24 Ofodile took me back to Truong. Not to  
25 Whitney, to Truong. 04:50:05  
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1 Q Truong was also with Kaiser Permanente?  
2 A Oncologist right next door to Whitney.  
3 MR. COPLE: All right. Do you have  
4 Dr. Kim's record, this one --  
5 MS. SALEK: Mm-hmm. 04:50:17  
6 MR. COPLE: -- the office visit.  
7 We'll mark as Exhibit 13 for the  
8 deposition.  
9 (Deposition Exhibit 13 marked by the court  
10 reporter.) 04:51:13  
11 BY MR. COPLE:  
12 Q Have you seen this document before?  
13 A Yep.  
14 Q When did you see this?  
15 A When I got my records from Stanford about 04:51:18  
16 six months ago.  
17 Q And you reviewed them?  
18 A Yes.  
19 Q Do you remember this visit with Dr. Kim  
20 based on her notes here from December 2015? 04:51:32  
21 A Yeah, this is her notes from the records,  
22 sure.  
23 Q My question is: Do you remember the visit  
24 with her at that time?  
25 A A little bit. Not all the way. 04:51:48  
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1 Q What do you remember about it?  
2 A She's a very nice lady. She seemed like  
3 she was very knowledgeable, but she just didn't seem  
4 like she had any answers for me.  
5 Q What do you mean she didn't have answers 04:52:03  
6 for you?  
7 A She had all these options that I could do:  
8 You could do this, you could do that, you could do  
9 this, you could do that, you could do this, you  
10 could do that, so what do you want to do, Mr. 04:52:14  
11 Johnson? I was more confused when I went in there  
12 before I left. I mean before I left -- before I  
13 came in, and when I came out, I was more confused.  
14 Q Okay. Is there a specific reason why you  
15 were confused by your visit with Dr. Kim at 04:52:24  
16 Stanford?  
17 A It was just all that information. It was  
18 information overload and everything. You're in bad  
19 shape and you take this for six months and we'll see  
20 what happens. 04:52:33  
21 Q Okay. If you go to page 93 of this  
22 Exhibit 13.  
23 A 13?  
24 Q Yes. Exhibit 13, page 93. The page  
25 numbers are on the bottom right-hand -- right-hand 04:52:51  
Page 369

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| <p>1 side. It's towards the end. It's actually the<br/> 2 second to last page. Are you with me on 93?<br/> 3 A Yes.<br/> 4 Q If you go to the second full paragraph, it<br/> 5 starts with the words "today he is here." And these 04:53:18<br/> 6 are Dr. Kim's notes about her examination of you.<br/> 7 And he says -- she says:<br/> 8 "Today he is here to reassess for<br/> 9 additional course of TSEBT. His skin is<br/> 10 stable and he denies pain or 04:53:35<br/> 11 pruritis."<br/> 12 So at this point you -- you didn't have<br/> 13 pain from the -- from the skin condition and you<br/> 14 didn't have itching?<br/> 15 A I don't recall. 04:53:46<br/> 16 Q He goes on to say -- or she goes on to say:<br/> 17 "No clinical LAD. In consultation<br/> 18 with Dr. Hoppe we decided to postpone<br/> 19 evaluation for" a "2nd course of TSEBT<br/> 20 for next month since" the "pt has not 04:54:01<br/> 21 been compliant with Targretin."<br/> 22 Do you remember being on Targretin?<br/> 23 A Not compliant with Targretin. That's one<br/> 24 of those comments, I'm not being compliant with it,<br/> 25 but I remember taking that. 04:54:18<br/> Page 370</p>                              | <p>1 Q Okay. No, I'm asking you, they didn't?<br/> 2 A I don't know.<br/> 3 Q Okay. Do you remember them talking to you<br/> 4 about it?<br/> 5 A No. 04:55:17<br/> 6 Q All right. If you go down -- if you skip<br/> 7 the next block, which talks about Treatment -- well,<br/> 8 actually, let's not skip that.<br/> 9 Under "Treatment," which is the next<br/> 10 paragraph down, it says that in the next to last 04:55:32<br/> 11 dash, it says "we recommend." That would be Dr. Kim<br/> 12 and maybe Dr. Hoppe, too.<br/> 13 "We recommend establishing care<br/> 14 with primary oncologist."<br/> 15 Did they talk to you about having care by 04:55:48<br/> 16 a primary oncologist?<br/> 17 A Not that I remember.<br/> 18 Q Do you know what a primary oncologist is?<br/> 19 A I guess. Is the primary the first --<br/> 20 Q Right. 04:56:01<br/> 21 A First in line.<br/> 22 Q Did you have an oncologist who was your<br/> 23 primary treater?<br/> 24 A This was my first time having an<br/> 25 oncologist. As my primary treater right now is 04:56:08<br/> Page 372</p>   |
| <p>1 Q Do you remember Dr. Kim and/or Dr. Hoppe<br/> 2 discussing with you that you were not being<br/> 3 compliant by not taking Targretin the way you're<br/> 4 supposed to?<br/> 5 A That's what I mean. I mean, that's what<br/> 6 I'm talking about is that --<br/> 7 (Reporter clarification.)<br/> 8 I said that's what I see -- that's what I<br/> 9 mean is that by using that word "compliant," that's<br/> 10 saying that I'm not taking the medicine. 04:54:39<br/> 11 Q That's what it's saying, correct?<br/> 12 A Yeah, that makes no sense to me.<br/> 13 Q Or, Mr. Johnson, it might be saying that<br/> 14 you're not taking it in the way --<br/> 15 A That's what it should say, she worried that 04:54:51<br/> 16 my body was not accepting whatever that is,<br/> 17 Targretin --<br/> 18 Q All right.<br/> 19 A -- not that I was not compliant.<br/> 20 Q Well, let me ask you a question about it. 04:54:56<br/> 21 Did Dr. Kim or Dr. Hoppe discuss with you this --<br/> 22 this view they have that you were not compliant, you<br/> 23 weren't taking Targretin the way they thought you<br/> 24 should have been?<br/> 25 A I had refused? Then no, they didn't. 04:55:07<br/> Page 371</p> | <p>1 Dr. Truong.<br/> 2 Q Before Dr. Truong, did you have one?<br/> 3 A Never.<br/> 4 Q All right. Do you remember Dr. Kim making<br/> 5 the recommendation to you about establishing care 04:56:17<br/> 6 with a primary oncologist?<br/> 7 A Not that I remember. We were already going<br/> 8 with Dr. Hoppe's diagnosis and what he was going to<br/> 9 do.<br/> 10 Q All right. And then in the next discussion 04:56:28<br/> 11 section "Future Treatment," in the -- in the second<br/> 12 dash, it says:<br/> 13 "We discussed brentuximab or HDAC<br/> 14 inhibitor (vori or romi) on 10/22/15..."<br/> 15 It goes on to say: 04:56:50<br/> 16 "...but pt expressed lack of<br/> 17 interest in systemic therapies for the<br/> 18 time being."<br/> 19 Do you recall that?<br/> 20 A Of course. They tell me that they really 04:56:58<br/> 21 didn't want to give me that medicine because once<br/> 22 they put internal medicine in me, I can get<br/> 23 neuropathy, I can get -- in my hands and my feet. I<br/> 24 could get this, I can get that, once they start<br/> 25 going from the inside out. 04:57:09<br/> Page 373</p> |

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| <p>1 Q So you -- you declined to have systemic<br/>2 therapies from them?</p> <p>3 A I didn't decline it. I was just confused<br/>4 on what my diagnosis would be after that.</p> <p>5 Q Okay. Their char- -- their -- their words 04:57:21<br/>6 are that you expressed a lack of interest in<br/>7 systemic therapies.</p> <p>8 A A lack of interest of getting more sick.</p> <p>9 Q All right. Did you -- did you tell them<br/>10 that -- that you didn't have an interest in having 04:57:33<br/>11 that therapy?</p> <p>12 A I told them that I have an interest in not<br/>13 getting more sick. I didn't have any time off from<br/>14 work. My job wasn't like: "Oh, Lee, you got<br/>15 cancer? You ought to get some time off." No, they 04:57:43<br/>16 were like: "You got to be at work tomorrow." So I<br/>17 don't want to be sick if I didn't have to be. And<br/>18 they tell me anything they gave me on that list will<br/>19 make me really sick, and it might not still cure<br/>20 this cancer at all. 04:57:54</p> <p>21 Q If you go to the last page, and this is a<br/>22 continuation of Dr. Kim's progress notes about your<br/>23 examination and care. She says that -- if you go<br/>24 down to the second full paragraph, starts with "MF<br/>25 stage IIB, with LCT." Did Dr. Kim discuss with you 04:58:26<br/>Page 374</p> | <p>1 generally earlier today. And you did say you missed<br/>2 some appointments. Did you keep all your<br/>3 appointments with Dr. Kim?</p> <p>4 A I just told you I missed a couple of times<br/>5 with Dr. Kim. 04:59:48</p> <p>6 MR. COPLE: Let me -- why don't you pull up<br/>7 Dr. Kim's next progress note, 2016. Let's mark this<br/>8 as Exhibit 14 for the deposition.</p> <p>9 (Deposition Exhibit 14 marked by the court<br/>10 reporter.) 05:00:48</p> <p>11 BY MR. COPLE:</p> <p>12 Q This is a February 22nd, 2016, progress<br/>13 note from an office visit you had with Dr. Kim. Do<br/>14 you remember anything about this visit?</p> <p>15 A I wouldn't know about this visit. I just 05:00:58<br/>16 got this paper, and I haven't read it yet.</p> <p>17 Q All right. Well, then let me ask you a<br/>18 different question first, which is: Have you seen<br/>19 these notes before?</p> <p>20 A Yeah. 05:01:09</p> <p>21 Q You saw it when you got your records from<br/>22 Stanford --</p> <p>23 A Yeah.</p> <p>24 Q -- is that right? Now, in the -- in the --<br/>25 on page 1 in the History of Present Illness, there's 05:01:33<br/>Page 376</p> |
| <p>1 that you had mycosis fungoides stage IIB?</p> <p>2 A Yes.</p> <p>3 Q She did? In the next sentence Dr. Kim says<br/>4 that:</p> <p>5 "Pt is not very compliant and is 04:58:42<br/>6 not an optimal candidate for trials,<br/>7 including INNATE."</p> <p>8 Do you remember discussing the INNATE<br/>9 trials with her?</p> <p>10 A Hmm-hmm. As I told you, that Youn Kim 04:58:52<br/>11 didn't really take to me well at all. So Youn Kim<br/>12 was at that point doing what -- Youn Kim, she treat<br/>13 you as a doctor and say, "Well, he's not compliant."<br/>14 Because I've never been noncompliant. They just<br/>15 gave me all kind of options, and I'm like I don't 04:59:03<br/>16 know what to take.</p> <p>17 These people are weird, man.</p> <p>18 Q Did Dr. Kim tell you in -- in speaking with<br/>19 you on this particular occasion, which is<br/>20 December 18, 2015 -- 2015, that she didn't think you 04:59:22<br/>21 were compliant with her instructions?</p> <p>22 A She's never told me that, but her actions<br/>23 always showed it.</p> <p>24 Q Did you -- did you meet all of your<br/>25 appointments? I asked you about appointments 04:59:36<br/>Page 375</p>   | <p>1 a reference to skin biopsies from early 2014 done by<br/>2 Dr. Eunice Tsai, T-s-a-i. Do you remember Dr. Tsai?</p> <p>3 A Yep. Very good.</p> <p>4 Q And what did she do for you?</p> <p>5 A She's an oncologist/dermatology. She got a 05:01:57<br/>6 lot more information on my stuff.</p> <p>7 Q And how long were you under Dr. Tsai's<br/>8 care?</p> <p>9 A Very shortly.</p> <p>10 Q Why is that? 05:02:11</p> <p>11 A I don't know.</p> <p>12 Q Did you make the decision not to see her<br/>13 anymore?</p> <p>14 A No, I did not make that decision.</p> <p>15 Q Was she with Kaiser? 05:02:19</p> <p>16 A She was with Kaiser.</p> <p>17 Q How did you find out that she was no longer<br/>18 going to be seeing you?</p> <p>19 A She let me know that by I'll be going to<br/>20 Dr. Kim. She was the one who referred me to 05:02:35<br/>21 Dr. Kim.</p> <p>22 Q All right. Did you ask her why you were<br/>23 now being referred to Dr. Kim at Stanford?</p> <p>24 A No.</p> <p>25 Q Is there a reason you didn't ask? 05:02:46<br/>Page 377</p>  |

1 A They're doctors. I thought they were doing  
2 what they should do. I don't question a lot unless  
3 I need to.  
4 Q Well, did you question her at all about  
5 why -- why the change in doctors? 05:03:00  
6 A No. I knew I was going to Stanford.  
7 Q Now, you had Met- -- Methicillin-resistant  
8 Staphylococcus, sometimes called M- -- MRSA -- MRSA  
9 infection?  
10 A Not that I heard of. Didn't tell me. 05:03:32  
11 I'd've remembered that.  
12 Q Dr. Kim didn't -- Dr. Kim didn't tell you  
13 that she was concerned about your history of having  
14 MRSA?  
15 A Not at all. 05:03:45  
16 Q Have you ever had a staff infection of any  
17 kind?  
18 A Just recently.  
19 Q But not at the time you were seeing  
20 Dr. Kim? 05:03:58  
21 A No.  
22 Q Okay. On page 109 of Dr. Kim's notes -- if  
23 you'll turn to page 109, you'll see right in the --  
24 in the middle of the page is a reference to "Kaiser  
25 Recommendations." 05:04:37  
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1 Do you see the Kaiser Recommendations  
2 section? Do you see that?  
3 A Yeah.  
4 Q Okay. And the Kaiser Recommendations,  
5 there's -- there's one recommendation: 05:05:02  
6 "- order nodule/skin wound culture.  
7 Start Bactrim antibiotic course  
8 empirically for possible MRSA."  
9 Did anybody at Kaiser discuss with you the  
10 possibility that you had a staff infection called 05:05:19  
11 MRSA?  
12 A They never mentioned that.  
13 Q All right. If you go down to the next  
14 section on this page under "Treatment," you go to  
15 the last dash, it says patient -- this is still 05:05:29  
16 Dr. Kim's notes. It says:  
17 "- pt refuses recommended weekly  
18 bleach soaks to avoid infection and  
19 further colonization."  
20 Do you see that? 05:05:44  
21 A That's just something I was talking about  
22 right there is that they didn't prescribe me bleach  
23 baths. They said, "Well, have you -- have you ever  
24 tried bleach baths?" And one person would say, "Oh,  
25 oh, I don't know." And another person say, "Yeah, 05:05:54  
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1 you should try it because, you know, it works."  
2 And I'm -- I tried it. It wasn't a  
3 prescription, but because I laughed at it when they  
4 said, "like what," and then she thought I wouldn't  
5 do it. I just felt like she wasn't being real 05:06:06  
6 honest in her reports, like people don't read the  
7 reports, because I didn't read it this deep to where  
8 I could see where she was really saying all this  
9 kind of --  
10 (Reporter clarification.)  
11 I never read the reports this deep where I  
12 can see where she was, at the end of every line,  
13 saying something that I didn't do to cover her own  
14 self. It's call CYOA.  
15 Q All right. What basis do you have for 05:06:21  
16 saying that Dr. Kim was covering her own -- her own  
17 self?  
18 A It would have to be. It's like why would I  
19 refuse a bleach bath? I'm not just going to do  
20 that. It's only a cap of bleach. Put it in there 05:06:34  
21 and see what happens. Half a cap, whatever you want  
22 to do. I wasn't scared of that at all.  
23 Q Did you discuss the bleach bath with  
24 Dr. Kim?  
25 A Yeah. 05:06:44  
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1 Q And did she tell you that that was what she  
2 recommended?  
3 A She told me a lot of things she  
4 recommended, and I tried a lot of them. Yeah,  
5 that's one of them, bleach bath. 05:06:52  
6 Q Did she tell you specifically that she was  
7 recommending bleach baths for you so that you would  
8 avoid infection?  
9 A No, she was avoiding that because they  
10 couldn't get the scars on my body to clean up. So 05:07:02  
11 they tried -- "have you tried bleach baths?" I had  
12 these big clumpy, lumpy things all over my body.  
13 She would do nothing about it. After therapies and  
14 chemo and pills, nothing happened.  
15 Q All right. This is under the section -- 05:07:15  
16 it's the last entry under the section of  
17 "Treatment," and the next section is "Future  
18 Treatment." And the second dash says:  
19 "- we," meaning Dr. Kim and  
20 yourself, Mr. Johnson, "we discussed 05:07:27  
21 brentuximab or HDAC inhibitor (vori or  
22 romi) on 10/22/15 but pt expressed lack  
23 of interest in systemic therapies for  
24 the time being."  
25 Do you see that? 05:07:44  
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1 A Yeah, I see that.  
2 Q And this is a separate visit a couple of  
3 months after the previous note we were discussing a  
4 few minutes ago, and Dr. Kim is recording again that  
5 you were not interested or expressed lack of 05:07:57  
6 interest in systemic therapies. Was she correct?  
7 A I was very healthy at that point, and I was  
8 not happy to try to jump on anything that went  
9 inside my veins, systemic medicine.  
10 Q Did Dr. Kim tell you what the consequence 05:08:12  
11 might be for not starting systemic treatments?  
12 A No, she did not tell me I had any danger  
13 from anything. She told me that I have all these  
14 options that I could take. Choose one.  
15 Q If you go to page 110 of Dr. Kim's notes, 05:08:29  
16 which I think is the next page, and you go to the  
17 top, and it says under No. 3, "3 H/o MRSA," and the  
18 first sentence after that says:  
19 "Pt has a history of MRSA on scalp  
20 wound culture on 4/29/2015." 05:08:58  
21 Did Dr. Kim discuss that with you?  
22 A Yeah, I got that little spot on my head  
23 where this piece of skin peeled off and it was  
24 pretty deep. And it's amazing just the way they  
25 word stuff, you know, has a history of wounds on his 05:09:16  
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1 head. It's like I don't have a history of any of  
2 this stuff.  
3 Q Well, what Dr. Kim is saying, actually, Mr.  
4 Johnson, according to her note, is you have a  
5 history at that time of a staff infection on your 05:09:28  
6 scalp wound.  
7 A Yeah, I heard of it, and they say that  
8 there:  
9 "Given MRSA history, we recommend  
10 Kaiser providers do a wound culture and 05:09:42  
11 start a Bactrim..."  
12 And then it says -- what else did it say  
13 about the history of it?  
14 Q It's saying you have a history of MRSA --  
15 -- history of staff infection on your scalp wound 05:09:52  
16 culture on April 29, 2015. And this is almost a  
17 year later. This is -- these notes are from  
18 February 22nd, 2016.  
19 MR. COPLÉ: Why don't we turn to -- is this  
20 Dr. Osley's -- 05:10:11  
21 MS. SALEK: Mm-hmm.  
22 MR. COPLÉ: -- telephone notes?  
23 Okay. Let's mark this document as  
24 Exhibit 15.  
25  
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1 (Deposition Exhibit 15 marked by the court  
2 reporter.)  
3 BY MR. COPLÉ:  
4 Q All right. This is a -- a Telephone  
5 Encounter Record from March 4th, 2016, which is a 05:10:56  
6 couple of weeks after the -- the previous progress  
7 notes from Dr. Kim. This -- this telephone record  
8 is by a Dr. Katie Lynn Osley.  
9 Can you tell us who Dr. Osley is?  
10 A Sounds like a dermatologist that was in 05:11:17  
11 while Dr. Ofodile was out. She took over her  
12 patients while she was out pregnant -- not pregnant  
13 but having the baby, in labor, and taking some labor  
14 time off.  
15 Q Were you -- were you treated by Dr. Osley? 05:11:28  
16 A I was treated very successfully by Dr.  
17 Osley with something called mustard cream. It's a  
18 \$10,000 cream, four tubes. It only makes four at a  
19 time. It's \$10,000 for that.  
20 They gave me a hard time about that and 05:11:48  
21 gave her a hard time about that.  
22 Q Who gave her a hard time?  
23 A I guess her superiors and the other people  
24 that didn't want her ordering that. They don't even  
25 make it here. They have to special order it out of 05:11:57  
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1 Florida.  
2 Q But she ordered it for you?  
3 A She did. She went all out and beyond.  
4 Q And did you continue the mustard cream  
5 treatment? 05:12:06  
6 A Dr. Ofodile came back, and she couldn't get  
7 it anymore.  
8 Q All right. Let's look at what Dr. Osley,  
9 who you said was successful in treating you, and  
10 what she says in her notes. If you go down to the 05:12:15  
11 Telephone Encounter - Call Documentation. That's  
12 the section right in the middle of -- of this  
13 telephone record. And if you will look right in the  
14 middle of this paragraph -- it's one, two, three --  
15 four lines down, about a third of the way in, it 05:12:36  
16 starts with the words "I explained." Do you see  
17 that?  
18 A Okay.  
19 Q It says: "I explained" -- this Dr. Osley's  
20 own record of her call with you. She says: 05:12:49  
21 "I explained to him that there is  
22 now..."  
23 Excuse me. Let's go off the record before  
24 I ask this question.  
25 (Discussion off the record.)  
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|---|--|
| <p>1 MR. COPLE: All right. Let's go back on<br/>2 the record.<br/>3 BY MR. COPLE:<br/>4 Q Sorry for the interruption, Mr. Johnson.<br/>5 Let me continue where I started. 05:13:36<br/>6 Halfway through this paragraph, fourth line<br/>7 down, about a third of the way, it starts with "I<br/>8 explained." Do you see that?<br/>9 A Yep.<br/>10 Q "I explained to him" -- this is Dr. Osley 05:13:47<br/>11 talking about explaining to you, Mr. Johnson.<br/>12 "I explained to him that there is<br/>13 now some evidence that the lymphoma is<br/>14 in his blood as there was an increase<br/>15 count of" the "CD4+/CD26 cells on his 05:14:01<br/>16 serum flow cytometry."<br/>17 It goes on to say -- she goes on to say<br/>18 that:<br/>19 "I understand his hesitation for<br/>20 intravenous systemic therapy, but I 05:14:15<br/>21 counseled him that it may be in his best<br/>22 interest in the future."<br/>23 Do you recall that counseling from<br/>24 Dr. Osley?<br/>25 A Yeah. 05:14:28</p> <p style="text-align: right;">Page 386</p>  | <p>1 therapy. Your decision at that time was to not do<br/>2 that; is that right?<br/>3 A Benzoyl and Triaminicol, those are all<br/>4 steroids. I found that out during the course of<br/>5 this treatment, so they actually giving me a cream 05:15:38<br/>6 that makes it worse.<br/>7 (Reporter clarification.)<br/>8 -- give me a cream that made it worse.<br/>9 Those two creams are making it worse. They're<br/>10 steroid creams. 05:15:50<br/>11 Q So Dr. Osley's treatment made you worse?<br/>12 A Never said that.<br/>13 Q All right. What did you say?<br/>14 A I said those creams made me worse. She<br/>15 wants to get me get be back on Triaminicol and 05:16:00<br/>16 Clobetasol. She didn't want me to use the Valchlor,<br/>17 and I think it's because it can give you worse<br/>18 cancer, and it's so expensive.<br/>19 Q Okay.<br/>20 A It's \$10,000 an order. 05:16:13<br/>21 Q All right. The bottom line is at this<br/>22 time, you decided you were not going to do the<br/>23 systemic therapy again, right?<br/>24 A I was trying to stay working as long as I<br/>25 could and do what I needed to do, you know, because 05:16:24</p> <p style="text-align: right;">Page 388</p> |
| <p>1 Q Dr. Osley wanted you to start the systemic<br/>2 therapy intravenously?<br/>3 A I didn't really hear that from her as much<br/>4 as she's stressing it on this paper, but everybody<br/>5 was trying to suggest that I start using systemic. 05:14:39<br/>6 That's when I went back to Ofodile after a<br/>7 few months and told her: You can pick whatever you<br/>8 want to do. Whatever you -- if you want to go<br/>9 intravenously, if you want to do whatever, just do<br/>10 that, because I'm tired going round and round in 05:14:55<br/>11 circles.<br/>12 They say what do you want to do, and you<br/>13 tell them what you want to do and what you might<br/>14 want to do, and then it's like don't tell us that.<br/>15 "He's refusing it. Refusing what he's 05:15:03<br/>16 telling us to do."<br/>17 Q Well, in this same paragraph, the first<br/>18 thing Dr. Osley says, as you just testified, that<br/>19 the:<br/>20 "Patient reports that the Valchlor 05:15:12<br/>21 nitrogen mustard helps his skin a lot."<br/>22 That's the mustard cream, right?<br/>23 A Yeah.<br/>24 Q All right. So she recognized that for you.<br/>25 But then she counseled you to begin the systemic 05:15:22</p> <p style="text-align: right;">Page 387</p> | <p>1 those people were not believing me that I got cancer<br/>2 from them.<br/>3 Q Who was not believing you?<br/>4 A Benicia.<br/>5 MR. COPLE: We can -- 05:16:34<br/>6 THE WITNESS: I guess I was still taking<br/>7 Targretin, seven pills a day, too, at that point.<br/>8 MR. COPLE: Okay. Now we can change the<br/>9 disk.<br/>10 VIDEO OPERATOR: Okay. This is the end of 05:16:42<br/>11 disk No. 4 in Volume 1 of the deposition of Mr.<br/>12 Johnson. It's 5:16.<br/>13 (Recess.)<br/>14 VIDEO OPERATOR: We're back on the record.<br/>15 This is the beginning of disk 5 in Volume 1 of the 05:27:03<br/>16 deposition of Mr. Johnson. It's 5:27.<br/>17 BY MR. COPLE:<br/>18 Q You okay, Mr. Johnson?<br/>19 A No, I'm struggling. We'll get through it,<br/>20 though. 05:27:16<br/>21 Q All right. An you want to push through the<br/>22 next 30 minutes.<br/>23 A I have to. I'm here.<br/>24 Q Okay. Well, we're not going to make you do<br/>25 it, but we don't want to come back either, not for 05:27:26</p> <p style="text-align: right;">Page 389</p>   |

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| <p>1 -- not for 30 minutes.<br/> 2 A It's an hour of time to stick on this.<br/> 3 We'll just get it done --<br/> 4 Q All right. We'll get it done. No more --<br/> 5 no more breaks unless you tell us you need it. 05:27:34<br/> 6 MR. COPLÉ: This is the record pulled from<br/> 7 Dr. Ofodile?<br/> 8 MS. SALEK: Mm-hmm.<br/> 9 MR. COPLÉ: I'm going to mark as Exhibit 15<br/> 10 -- 16 for the deposition. 05:27:49<br/> 11 (Deposition Exhibit 16 marked by the court<br/> 12 reporter.)<br/> 13 BY MR. COPLÉ:<br/> 14 Q Have you seen this office visit record<br/> 15 before, Mr. Johnson? 05:28:07<br/> 16 A Yeah, I've seen it.<br/> 17 Q Is this because you got your records out of<br/> 18 Kaiser Permanente?<br/> 19 A Yep.<br/> 20 Q All right. Now, Dr. Ofodile has on the -- 05:28:13<br/> 21 the reason for the encounter on June 8th, 2016,<br/> 22 dermatitis and then a comment mycosis fungoides.<br/> 23 Was Dr. Ofodile still working with a<br/> 24 diagnosis of dermatitis at that point?<br/> 25 A I don't know. That was the latest 05:28:42<br/> Page 390</p>                  | <p>1 man.<br/> 2 Q But that's what her record says, right?<br/> 3 A Where is that?<br/> 4 Q Under Progress Notes. It's right in the<br/> 5 center of the document, first page. It's all 05:30:02<br/> 6 capital, CC for chief complaint, Dermatitis.<br/> 7 A So what is dermatitis?<br/> 8 Q So did Dr. Ofodile say she was treating you<br/> 9 for dermatitis?<br/> 10 A Mycosis fungoides is what she was treating 05:30:17<br/> 11 me for, so the diagnosis is mycosis fungoides.<br/> 12 Q Okay. Under her history for you, which is<br/> 13 right below Chief Complaint Dermatitis, in the<br/> 14 second dash it says:<br/> 15 "decided to cancel appointment with 05:30:36<br/> 16 Stanford..."<br/> 17 A Where do you see chief complaint at?<br/> 18 Q It's right above that. It's CC.<br/> 19 MR. LITZENBURG: CC.<br/> 20 BY MR. COPLÉ: 05:30:44<br/> 21 Q CC, it usually means chief complaint.<br/> 22 A Okay.<br/> 23 Q I mean, I can't speak for this doctor.<br/> 24 Maybe she means courtesy copy, but I think she means<br/> 25 chief complaint. 05:30:53<br/> Page 392</p>                |
| <p>1 (inaudible) report. We just read this one, didn't<br/> 2 we? Did we not, about the clobetasol and the<br/> 3 paperwork and --<br/> 4 Q This is a different one. This is<br/> 5 Exhibit 16. So I'm just asking you if, at this 05:28:56<br/> 6 encounter with -- with Dr. Ofodile, whether she<br/> 7 discussed with you dermatitis?<br/> 8 A No.<br/> 9 Q No?<br/> 10 A No, dermatitis never came up. 05:29:12<br/> 11 Q All right.<br/> 12 A I wish for dermatitis.<br/> 13 Q All right.<br/> 14 A Youn Kim told me --<br/> 15 Q She does have down in her progress notes 05:29:18<br/> 16 right in the middle --<br/> 17 A Dr. Youn Kim said, "Mr. Johnson, you know<br/> 18 what, I have to tell you, you're very sick. You<br/> 19 don't have a skin rash. You have cancer."<br/> 20 That's what Dr. Kim, Youn Kim said. That's 05:29:30<br/> 21 what she really said.<br/> 22 Q All right. And Dr. Ofodile's progress note<br/> 23 on June 8th, 2016, has as your chief complaint, CC,<br/> 24 Dermatitis, right?<br/> 25 A I don't know what they're doing over there, 05:29:51<br/> Page 391</p> | <p>1 In any event, that's not my question. My<br/> 2 question is further down in the interval history, in<br/> 3 the second dash where it says "decided to cancel";<br/> 4 do you see that?<br/> 5 A Yes. 05:31:11<br/> 6 Q "Decided to cancel appt with<br/> 7 Stanford as he is unable to go due to<br/> 8 work restraints."<br/> 9 Do you remember that?<br/> 10 A Definitely I remember that. 05:31:22<br/> 11 Q You -- what was your work restraint that<br/> 12 you couldn't --<br/> 13 A Need to go to work, because every time I<br/> 14 went to work, at that point after, if I left a day,<br/> 15 I would lose a hundred and something dollars per 05:31:32<br/> 16 day. I had no sick leave. My sick leave was burnt<br/> 17 out from this cancer. I had no disability 'cause<br/> 18 they don't even take the disability at all times in<br/> 19 Benicia.<br/> 20 Q Okay.<br/> 21 A They don't extract unemployment.<br/> 22 Q Well, what was it -- do you remember what<br/> 23 the visit was supposed to be for that you had to<br/> 24 cancel?<br/> 25 A I don't. 05:31:51<br/> Page 393</p> |

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| <p>1 Q Okay.</p> <p>2 A But it was early -- if I was still on</p> <p>3 Clobetasol and on Targretin, that was early in the</p> <p>4 game.</p> <p>5 Q So this is -- this is in June 2016, right? 05:32:03</p> <p>6 A No. I was not taking any Clobetasol or any</p> <p>7 liquids like that, Targretin, in 2016. That was</p> <p>8 just last year.</p> <p>9 Q All right. And in 2016 --</p> <p>10 A Maybe that's in the report that you're on. 05:32:21</p> <p>11 Q Yes, if you go to the next -- flip it over</p> <p>12 to the next side, at the top of -- this is</p> <p>13 Dr. Ofodile's continuing notes. It says:</p> <p>14 "Skin: Denies additional</p> <p>15 concerning skin lesions." 05:32:35</p> <p>16 Do you remember that at that time?</p> <p>17 A A little bit.</p> <p>18 (Reporter clarification.)</p> <p>19 A little bit.</p> <p>20 Q So at that time, your skin eruptions or 05:32:44</p> <p>21 conditions or rash had -- had not changed from your</p> <p>22 previous visit?</p> <p>23 A Not a lot. Might even have gotten worse at</p> <p>24 that point.</p> <p>25 Q Well, this is probably a good time to ask 05:33:04</p> <p style="text-align: right;">Page 394</p>   | <p>1 Did --</p> <p>2 A They didn't tell me if I didn't ask.</p> <p>3 Q They didn't tell you. All right.</p> <p>4 A No.</p> <p>5 Q So as far as you know, sitting here right 05:34:26</p> <p>6 now, your prognosis is what Dr. Ofodile told you,</p> <p>7 right?</p> <p>8 A Not really, no.</p> <p>9 Q What do you mean "not really"?</p> <p>10 A I'm not going with what none of them said. 05:34:38</p> <p>11 (Reporter clarification.)</p> <p>12 I'm not going with what any of them said.</p> <p>13 Q So you don't -- you don't agree with</p> <p>14 Dr. Ofodile's prognosis, do you?</p> <p>15 A It's not about me agreeing with her. It's 05:34:49</p> <p>16 about me understanding that she told me to take some</p> <p>17 creams or some pills, I'm supposed to do that.</p> <p>18 That's the way I look at it. I don't look at it do</p> <p>19 I believe them, are they right or are they wrong. I</p> <p>20 just ask for the treatment. I go in. I try to do 05:34:59</p> <p>21 the best I can to take the treatments. If it makes</p> <p>22 me sick, I stop taking them. If I started throwing</p> <p>23 up and doing all that kind of stuff, I just couldn't</p> <p>24 do it.</p> <p>25 Q Dr. Truong --</p> <p style="text-align: right;">Page 396</p> |
| <p>1 you, then, about this question. What is -- what is</p> <p>2 your prognosis for the progression of your disease</p> <p>3 and its treatment; do you know?</p> <p>4 A Three to five years life expectancy.</p> <p>5 Q And who has told you that? 05:33:26</p> <p>6 A Dr. Ofodile.</p> <p>7 Q I'm sorry, Dr. who?</p> <p>8 A Ofodile. Some reading in some magazines.</p> <p>9 American Cancer Society says that. I've heard</p> <p>10 Dr. Youn Kim and her team talking about that. 05:33:43</p> <p>11 Q So Dr. Ofodile is the only doctor who</p> <p>12 treats you who is -- has told you that prognosis?</p> <p>13 A Pretty much. Oncology says some of the</p> <p>14 same things, I believe, in the notes to my lawyer</p> <p>15 letting them know that I only have three to five 05:33:59</p> <p>16 years.</p> <p>17 Q Well, I'm not asking about what they might</p> <p>18 have said to your lawyers. I am interested in,</p> <p>19 since you're their patient, what they told you</p> <p>20 directly. 05:34:09</p> <p>21 So did anybody who treats you tell you your</p> <p>22 prognosis other than Dr. Ofodile?</p> <p>23 A I never asked my prognosis from any of</p> <p>24 them.</p> <p>25 Q Okay. You may not have asked, Mr. Johnson. 05:34:19</p> <p style="text-align: right;">Page 395</p> | <p>1 A I wasn't off work; I was at work.</p> <p>2 Q Dr. Truong is your oncologist that is</p> <p>3 treating you with chemotherapy right now, correct?</p> <p>4 A Correct.</p> <p>5 Q Has she discussed with you your prog- -- 05:35:19</p> <p>6 prognosis based on receiving the chemotherapy?</p> <p>7 A It's only been one week.</p> <p>8 Q Yes, but did she tell --</p> <p>9 A She treated me one week.</p> <p>10 Q But did she tell you what you can expect by 05:35:31</p> <p>11 undergoing chemotherapy?</p> <p>12 A Not her as much as the nurses. Even</p> <p>13 Dr. Chaol had some information for me. She gave me</p> <p>14 a pamphlet and a little bit of information and just</p> <p>15 said read it over, and we'll see what happens this 05:35:45</p> <p>16 time around.</p> <p>17 Q Now, if you go on the second page of</p> <p>18 Dr. Ofodile's progress notes -- again this is for</p> <p>19 June 8, 2016 -- you will see under the section A/P</p> <p>20 for Mycosis Fungoides, a note from Dr. Ofodile that 05:36:24</p> <p>21 says right under the Mycosis:</p> <p>22 "Note: extensive cutaneous</p> <p>23 involvement."</p> <p>24 Do you see that?</p> <p>25 A Yeah. 05:36:43</p> <p style="text-align: right;">Page 397</p>                 |

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| <p>1 Q It says:<br/>2 "Note: extensive cutaneous<br/>3 involvement. Explained to pt my concern<br/>4 about progression of disease w/o<br/>5 systemic treatment." 05:36:53<br/>6 Do you recall discussing that with<br/>7 Dr. Ofodile?<br/>8 A Yep.<br/>9 Q So Dr. Ofodile also wanted you to begin<br/>10 systemic treatment in June of 2016? 05:37:04<br/>11 A Yep, and I think we started right after<br/>12 that.<br/>13 Q Did you tell her that you were planning on<br/>14 starting right after that?<br/>15 A I'm not telling her anything. I'm telling 05:37:19<br/>16 her, whatever she wants me to do at this point, I'm<br/>17 ready to do it.<br/>18 Q It doesn't say anything in this progress<br/>19 note that you're going to start that therapy, right?<br/>20 A No. 05:37:30<br/>21 MR. COPLÉ: All right. Let's go to -- can<br/>22 you pull for me Dr. Truong's progress note from<br/>23 December of last year.<br/>24 You know, before we do this, can you pull<br/>25 for me the document from Nurse Cummings. 05:38:02<br/>Page 398</p> | <p>1 Q And she's the doctor that's overseeing and<br/>2 prescribing your chemotherapy right now?<br/>3 A Yes.<br/>4 Q Now, on page 2 of this note by Dr. Truong,<br/>5 which is on December 2nd, 2016, you'll see under the 05:40:01<br/>6 Routing History there's a comment starting with<br/>7 "please schedule this patient." Do you see that?<br/>8 A You know, all these things about no shows<br/>9 and little tardies and whatever else, the way they<br/>10 would do this to me, I told them at certain times I 05:40:20<br/>11 was so sick that I couldn't get out there. Them<br/>12 making records of oh, he has records of no shows<br/>13 like I'm at school or something, I'm at home sick.<br/>14 Q Well, it's your testimony. You can answer<br/>15 however you like, but I am -- 05:40:31<br/>16 A I'm sick. I can't make it some days.<br/>17 Q -- but I need to ask you the question so<br/>18 that we know what your testimony is.<br/>19 Do you see the comments starting with<br/>20 "please schedule"? 05:40:39<br/>21 A I see the pattern in the report.<br/>22 Q Right. It says "please" --<br/>23 A Yeah, I see that.<br/>24 Q All right. It says:<br/>25 "Please schedule this patient to 05:40:45<br/>Page 400</p> |
| <p>1 MR. LITZENBURG: How many minutes do we<br/>2 have on this tape?<br/>3 VIDEO OPERATOR: I'm sorry?<br/>4 MR. LITZENBURG: How many minutes do we<br/>5 have on this tape? 05:38:40<br/>6 VIDEO OPERATOR: Eleven.<br/>7 MR. COPLÉ: You mean so far?<br/>8 VIDEO OPERATOR: Right.<br/>9 MR. COPLÉ: So we have about 20 minutes<br/>10 left, correct? 05:38:50<br/>11 THE WITNESS: 28 total minus 12, at this<br/>12 point, so 16.<br/>13 MR. COPLÉ: I'm going to proceed while<br/>14 you're looking at that.<br/>15 We're going to mark this document as 05:39:08<br/>16 Exhibit 17 for the deposition.<br/>17 (Deposition Exhibit 17 marked by the court<br/>18 reporter.)<br/>19 BY MR. COPLÉ:<br/>20 Q This is a telephone note from Dr. Truong, 05:39:26<br/>21 Mr. Johnson. Have you seen this note before?<br/>22 A No, I never seen any notes.<br/>23 Q Dr. Truong is your current oncologist,<br/>24 right?<br/>25 A Yes. 05:39:39<br/>Page 399</p>   | <p>1 see me the same day as his chemotherapy<br/>2 on December 9 - he has had a number of<br/>3 no shows and needs to see me again."<br/>4 Did Dr. Truong discuss with you the reasons<br/>5 that you were not able to show up for these 05:40:59<br/>6 appointments?<br/>7 A Never talked to me about that ever. She<br/>8 just put in the report that he's had a bunch of no<br/>9 shows and blah, blah, blah, like I'm being<br/>10 neglectful, like I'm just not showing up. It looks 05:41:09<br/>11 like to me. It looks like a report that she use,<br/>12 medical record.<br/>13 Q Well, there's nothing about why she wrote<br/>14 this. I'm just asking if she ever talked to you<br/>15 about what reasons you had. 05:41:19<br/>16 A Not at all.<br/>17 MR. COPLÉ: Let me see -- if you cannot<br/>18 locate Nurse Cummings, how about Nurse Valencia?<br/>19 MS. SALEK: What's the date?<br/>20 MR. COPLÉ: It's from March 22nd, 2017. 05:41:49<br/>21 We're marking as Exhibit 19 -- 18 for the<br/>22 deposition.<br/>23 (Deposition Exhibit 18 marked by the court<br/>24 reporter.)<br/>25 BY MR. COPLÉ:<br/>Page 401</p>   |

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| <p>1 Q Exhibit 18 is another telephone note, Mr.<br/>2 Johnson. This was prepared by a registered note --<br/>3 nurse, Gloria Valencia. Do you know who that is?<br/>4 A Yes.<br/>5 Q Now, who is Gloria Valencia? 05:42:29<br/>6 A Dr. Truong's charge nurse.<br/>7 (Reporter clarification.)<br/>8 Dr. Truong's charge nurse.<br/>9 Q And in her notes, it says under<br/>10 Chemotherapy, which says "Reason For Encounter," 05:42:39<br/>11 meaning the telephone call. It says, "Comment:<br/>12 Missed chemo and MD appointments," which I take it<br/>13 to mean doctor appointment.<br/>14 Did -- did Nurse Valencia discuss with you<br/>15 the reasons that you were not able to make 05:42:58<br/>16 chemotherapy and the doctor appointment?<br/>17 A What is the question?<br/>18 Q Yes, did Nurse Valencia talk to you about<br/>19 why you were not able to make these chemo and doctor<br/>20 appointments? 05:43:15<br/>21 A I didn't have any coverage for a certain<br/>22 amount of time, and I stopped going down there for<br/>23 that reason. Another reason is is that I wasn't<br/>24 getting any results, and I had neuropathy all over<br/>25 my hand, open wounds and everything, so we 05:43:29<br/>Page 402</p> | <p>1 by Nurse Valencia says:<br/>2 "Refuses to schedule chemo<br/>3 appointment until he sees Dr. Truong."<br/>4 Is that correct; did you refuse?<br/>5 A It's correct. But why did I refuse? 05:44:22<br/>6 Q Did she discuss with you --<br/>7 A Well, why -- let me -- why did I refuse?<br/>8 Because Dr. Truong told me not to call and make an<br/>9 appointment.<br/>10 Q Did you discuss that with Nurse Valencia? 05:44:32<br/>11 A No, because Valencia's office is not<br/>12 speaking to Dr. Truong. I don't know what they're<br/>13 talking about.<br/>14 Q If you go to the next page on this exhibit,<br/>15 and you go down to the Routing History, under the 05:44:47<br/>16 Routing History, there's a comment, and the comment<br/>17 says:<br/>18 "Please schedule pt to see<br/>19 Dr. Truong ASAP. He will need<br/>20 reinforcement to ensure he keeps 05:45:07<br/>21 appointment as he is consistently no<br/>22 show or 'confused' about his<br/>23 appointments."<br/>24 The word "confused" is in quotations. It<br/>25 goes on to say that: 05:45:16<br/>Page 404</p>  |
| <p>1 stopped this -- we stopped the whole thing for a<br/>2 little while.<br/>3 I think Dr. Truong's office and her<br/>4 secretaries and their nurses have different<br/>5 schedules sometimes, and they kind of get things 05:43:36<br/>6 thrown off. Then they tell you that they did<br/>7 things, that they called you, blah, blah, and I've<br/>8 never gotten calls from these people. They changed<br/>9 my schedule just the other day. It's like they just<br/>10 do whatever they want to down there. 05:43:47<br/>11 Q Okay.<br/>12 A They say whatever they want to.<br/>13 Q Okay. Let's go down to what Nurse Valencia<br/>14 said in her call documentation about the telephone<br/>15 call. It's right in the middle of the block there 05:43:57<br/>16 with --<br/>17 A Yeah, I see it. It says that:<br/>18 "He was scheduled for an infusion<br/>19 appointment. Refuses to schedule chemo<br/>20 appointment..."<br/>21 'Cause the doctor told me not to do any<br/>22 chemo appointments.<br/>23 Q Well, that's my -- I'm going to ask you<br/>24 about that.<br/>25 What you just read, the statement written 05:44:11<br/>Page 403</p>  | <p>1 "He already has appointment on<br/>2 April 4 but he needs to see her sooner,<br/>3 meaning the appointment will have to be<br/>4 canceled."<br/>5 A Meaning that when you go down there and you 05:45:26<br/>6 don't have your Kaiser card and everything, your<br/>7 medical stuff in line, they look at you like you're<br/>8 crazy, like: What you doing here? You don't have<br/>9 no coverage. Get out of here. Right?<br/>10 And then you go on and on about the MediCal 05:45:37<br/>11 that you told them about last week, and they<br/>12 actually go ahead and see you, but we have to go<br/>13 through this process just to make sure that you know<br/>14 that you didn't pay us any money today.<br/>15 Q Did Nurse Valencia say any of that to you? 05:45:47<br/>16 A She can't say that to me. She can put it<br/>17 in a note that I'm a no show without asking any<br/>18 questions: Why is he no show? Why is he not<br/>19 showing up? Is he sick? Is he hurt? Why's he not<br/>20 showing up? Well, he has -- there's several no 05:45:59<br/>21 shows, like that's my job. It's because I'm sick.<br/>22 I'm not going down there 'cause I get paid.<br/>23 MR. COPLE: Do you have the notes of Nurse<br/>24 Cummings?<br/>25 THE WITNESS: Weird little reports to save 05:46:08<br/>Page 405</p> |

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| <p>1 their own bottoms.<br/> 2 BY MR. COPLE:<br/> 3 Q I'm sorry. Were you -- you might not have<br/> 4 been finished. Are you finished with your answer?<br/> 5 A Yeah, I'm finished. 05:46:14<br/> 6 Q Okay. Now --<br/> 7 A I've just been here too long. I can't --<br/> 8 MR. COPLE: No, that's fine. I'll -- I'll<br/> 9 switch over, then, and move to the front here.<br/> 10 BY MR. COPLE:<br/> 11 Q One thing, Mr. Johnson, we apparently don't<br/> 12 seem to have any medical records provided to us for<br/> 13 you from 1998 to 2001. Did you see any doctors<br/> 14 during that period of time?<br/> 15 A I don't recall. I don't know. I don't 05:47:00<br/> 16 really know at all. I didn't see a lot of doctors<br/> 17 before this job, I know that.<br/> 18 Q You were not under any medical care for --<br/> 19 as far as you can recall, for any of those years?<br/> 20 A Hmm-hmm. Not that I recall, unless it was 05:47:21<br/> 21 a local clinic or something, because I didn't have<br/> 22 no medical coverage.<br/> 23 Q Okay. Now, we have the same issue,<br/> 24 apparently, we're not seeing medical records<br/> 25 provided to us for you from 2007 all the way up 05:47:46<br/> Page 406</p> | <p>1 Okay. Let's just mark this as the last<br/> 2 document for today, Exhibit 20 -- 19.<br/> 3 (Deposition Exhibit 19 marked by the court<br/> 4 reporter.)<br/> 5 BY MR. COPLE: 05:50:07<br/> 6 Q Now, this is a Dermatopathology Report, and<br/> 7 your treating physician here was Dr. Laura Pincus.<br/> 8 If you look on the last page, you'll see her<br/> 9 signature on the report. Do you see that?<br/> 10 A Where would that be? 05:50:28<br/> 11 Q Last page, bottom of the page. It has<br/> 12 signature, Laura B. Pincus, M.D.<br/> 13 A Okay.<br/> 14 Q Okay. If you go to the first page of this<br/> 15 derma- -- derm- -- Dermatopathology Report, the 05:50:39<br/> 16 Clinical Data section, which is the first section.<br/> 17 It's actually in all capital letters. It says:<br/> 18 "AA MALE WITH - 1 YEAR OF RASH ON<br/> 19 TRUNK/EXTREMITIES NOW WITH 3 MONTHS OF<br/> 20 SPREADING TO ALL BODY AND BECOMING MORE 05:50:58<br/> 21 SCALY."<br/> 22 So you had this rash that was -- had<br/> 23 already been examined and observed as of one year<br/> 24 from -- measured from 2014, from September 2014,<br/> 25 correct? 05:51:15<br/> Page 408</p> |
| <p>1 until 2013. Were you seeing any doctors during that<br/> 2 period of time?<br/> 3 A No.<br/> 4 Q So you had no reason to have medical care<br/> 5 until the time that you were reporting a skin rash; 05:48:02<br/> 6 is that right?<br/> 7 A That doesn't sound right at all.<br/> 8 Q Did you see doctors, any doctors between<br/> 9 '07 and '13?<br/> 10 A Not for skin rash. 05:48:15<br/> 11 Q Not for anything?<br/> 12 A I don't know. I don't remember.<br/> 13 Q You don't recall?<br/> 14 A Don't recall.<br/> 15 MR. COPLE: Let me see Dr. Pincus's 05:48:44<br/> 16 consultation from August 2014.<br/> 17 MR. LITZENBURG: How many minutes on this<br/> 18 tape?<br/> 19 VIDEO OPERATOR: So far we've done 22.<br/> 20 MR. COPLE: Does that mean I have eight 05:49:03<br/> 21 minutes?<br/> 22 VIDEO OPERATOR: That means you have six.<br/> 23 MR. COPLE: Six minutes. Okay.<br/> 24 All right. I want to make sure -- I want<br/> 25 to mark this before we do that. 05:49:12<br/> Page 407</p>   | <p>1 A I believe so.<br/> 2 Q So your rash would have dated back to<br/> 3 September or August 2013, right?<br/> 4 MR. LITZENBURG: Object to form.<br/> 5 THE WITNESS: I don't know exactly. 05:51:31<br/> 6 BY MR. COPLE:<br/> 7 Q Do you have any reason to think that Dr.<br/> 8 Pincus has her -- her dates wrong, her timeline<br/> 9 wrong?<br/> 10 MR. LITZENBURG: Object to form. 05:51:41<br/> 11 THE WITNESS: I have no idea what Dr.<br/> 12 Pincus would --<br/> 13 BY MR. COPLE:<br/> 14 Q Okay. And did you discuss this -- first,<br/> 15 have you seen this document before? 05:51:53<br/> 16 A No.<br/> 17 Q Did you discuss your pathology report about<br/> 18 your disease with Dr. Pincus?<br/> 19 A I don't recall.<br/> 20 Q What did she tell you about? 05:52:04<br/> 21 A She says to me that she couldn't really<br/> 22 keep talking to me about my illness and about my<br/> 23 prognosis and this and that because she was not my<br/> 24 physician. She did something for me out of a haste<br/> 25 and out of a favor, and her office let her do it 05:52:16<br/> Page 409</p>   |

1 because I was really in bad shape. So that's why I  
2 got a free biopsy in Vallejo, and then a free biopsy  
3 at UCSF, and then another -- I got a biopsy at  
4 Kaiser, but I was already having coverage at that  
5 point. So I got three biopsies in a row, and you 05:52:32  
6 can see on the papers, three different opinions --  
7 (Reporter clarification.)  
8 You can see on the papers there was like  
9 three different opinions from different, you know,  
10 diagnosis and whatever else. You know, there was so 05:52:43  
11 many little different things on the UCSF paperwork  
12 with -- the first diagnosis and things. It was like  
13 this, that, that squamous and papulosquamous, and  
14 all that you have.  
15 Q Who was your treating physician at the 05:52:53  
16 time?  
17 A Dr. Pincus and her crew.  
18 Q Well, Dr. Pincus did it as a favor. Did  
19 you have a regular treating physician?  
20 A No, I didn't have any coverage at that 05:53:00  
21 point.  
22 Q All right. How did you end up with Dr.  
23 Pincus doing you this favor?  
24 A I think it came from the dermatologist in  
25 Vallejo. 05:53:09

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1 Q Who was that?  
2 A I don't know her whole name. I can't even  
3 guess at it because she was the first one I've seen.  
4 Q All right. This -- there are copies --  
5 according to this report, there's copies that are 05:53:17  
6 sent to Dr. Geisse, John Geisse, Dr. Weiyun Ai and  
7 Dr. Ricardo-Gonzalez.  
8 Were you treated by any of those doctors?  
9 A Not that I know of. Dr. Geisse sounds a  
10 little bit familiar because -- for family reasons. 05:53:33  
11 I have a Geisse in my family.  
12 Q After the -- after this report was issued  
13 and you talked to Dr. Pincus over the phone about  
14 it, did you ever see her again?  
15 A Never seen her again. 05:53:46  
16 MR. COPLE: What's the time?  
17 VIDEO OPERATOR: Got about a minute.  
18 MR. COPLE: All right. Thank you for your  
19 patience today, Mr. Johnson. We reserve the right  
20 to continue the deposition of Mr. Johnson based on 05:54:04  
21 additional records being made available about his  
22 employment and about his medical condition and  
23 diagnosis and treatment and based on information  
24 that may be obtained from any of his treating  
25 physicians. 05:54:19

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1 MR. LITZENBURG: I've got some questions.  
2 The defendant's gone 6:59 on the record or so. I'll  
3 say it before I start mine.  
4  
5 EXAMINATION  
6 BY MR. LITZENBURG:  
7 Q Mr. Johnson, I'm going to introduce myself  
8 for the camera even though we know each other. I'm  
9 Tim Litzenburg from the Miller firm, and I'm your  
10 lawyer in this lawsuit against Monsanto over your 05:54:41  
11 cancer, right?  
12 A Right.  
13 Q Okay. How do you feel today, just  
14 generally?  
15 A I feel pretty bad and under right now just 05:54:48  
16 from the pain. I have a lot of pain going on right  
17 now.  
18 Q And -- and I mean, explain that from the  
19 beginning. How do you feel today versus how you  
20 felt four years ago? 05:55:00  
21 A I was able to exercise; I was able to work  
22 out with my kids; I was able to go outside and shoot  
23 the hoops; I was able to do different things that I  
24 could do all the time.  
25 Q What is it that you -- what's changed 05:55:11

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1 between now and then?  
2 MR. COPLE: Objection. Asked and answered.  
3 THE WITNESS: Huh?  
4 BY MR. LITZENBURG:  
5 Q He's going to make objections like that. 05:55:17  
6 MR. COPLE: Objection. Asked and answered.  
7 THE WITNESS: I have neuropathy in my feet  
8 and neuropathy in my hands.  
9 BY MR. LITZENBURG:  
10 Q I mean, for more basic -- what has happened 05:55:22  
11 to you? What have you been diagnosed with? What is  
12 going on?  
13 MR. COPLE: Objection. Asked and answered.  
14 MR. LITZENBURG: Let me withdraw that.  
15 BY MR. LITZENBURG: 05:55:30  
16 Q What has happened to you between now and  
17 then?  
18 MR. COPLE: Objection, vague.  
19 BY MR. LITZENBURG:  
20 Q You can go ahead. 05:55:36  
21 A Propolexate (phonetic) -- propriolexate  
22 trexate (phonetic) I think it is. That happened to  
23 me. After they started giving me that, I had  
24 neuropathy up my legs and arms.  
25 Q Is that the chemotherapy? 05:55:48

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|   |   |
|---|---|
| <p>1 A Yes.</p> <p>2 Q But I mean, what conditions have you been</p> <p>3 diagnosed with? Is that cancer?</p> <p>4 A Yes, I have cutaneous T-cell lymphoma, full</p> <p>5 body cancer -- skin cancer. 05:55:55</p> <p>6 Q Okay. And -- and I've heard that referred</p> <p>7 to as mycosis fungoides. Is that the same thing?</p> <p>8 A I don't think it's -- the full body skin</p> <p>9 cancer is the same as mycosis, but cutaneous T-cell</p> <p>10 lymphoma is the same. 05:56:06</p> <p>11 Q Okay.</p> <p>12 A You can have a different skin cancer, but</p> <p>13 it won't be mycosis fungoides.</p> <p>14 Q Okay. The jury in this case will hear a</p> <p>15 whole lot of evidence not having to do with you 05:56:17</p> <p>16 about what Monsanto knew and saw and did decades</p> <p>17 before your case begins. But let me start your</p> <p>18 timeline in 2011.</p> <p>19 Is that the year that you began working for</p> <p>20 the school district? 05:56:34</p> <p>21 MR. COPLE: Objection. Lacks foundation.</p> <p>22 THE WITNESS: Right about that time.</p> <p>23 BY MR. LITZENBURG:</p> <p>24 Q Okay. And I'm going to -- let's see.</p> <p>25 Let's use these. This will be Exhibit 20. 05:57:00</p> <p style="text-align: right;">Page 414</p> | <p>1 Number"; do you see that box?</p> <p>2 A Mm-hmm.</p> <p>3 Q Okay. And it refers to "Maintenance/Lee</p> <p>4 Johnson." Is that you?</p> <p>5 A Yeah. This is -- this is for the two 05:58:26</p> <p>6 gallons.</p> <p>7 Q Okay. But -- and, no, just answer the</p> <p>8 question I asked, if you would, and we'll kind of</p> <p>9 expand from there. The -- but this is dated 9/7 of</p> <p>10 2012. Do you see that? 05:58:41</p> <p>11 A Yeah.</p> <p>12 Q Okay. Does that mean that you were</p> <p>13 ordering and/or picking up --</p> <p>14 A Yes.</p> <p>15 Q -- Ranger PRO -- 05:58:48</p> <p>16 A Oh, yeah.</p> <p>17 Q -- for the school in -- in this time</p> <p>18 period?</p> <p>19 A Yeah, big time.</p> <p>20 Q Okay. And yeah. Now tell me how you know 05:58:53</p> <p>21 that.</p> <p>22 A I drove over there and picked it up.</p> <p>23 Q Okay.</p> <p>24 A I ordered it. I picked it up. And</p> <p>25 whenever anybody else needed something, I'd pick up 05:59:00</p> <p style="text-align: right;">Page 416</p>   |
| <p>1 (Deposition Exhibit 20 marked by the court</p> <p>2 reporter.)</p> <p>3 BY MR. LITZENBURG:</p> <p>4 Q Mr. Johnson, who is Horizon?</p> <p>5 A Horizon is a store out in Concord we used 05:57:25</p> <p>6 to get our irrigation supplies from and our traps</p> <p>7 and everything we needed for gardening and</p> <p>8 landscaping.</p> <p>9 Q Did -- did any of the Roundup or Ranger PRO</p> <p>10 in this case come from Horizon? 05:57:37</p> <p>11 A All of it came from Horizon.</p> <p>12 Q Okay. I've handed you Exhibit 20, which is</p> <p>13 Bates stamped at the bottom DJohnson pages 28</p> <p>14 through 33. These were produced to us directly from</p> <p>15 Horizon. What I'm interested in is sort of the top 05:57:52</p> <p>16 left corner of these pages. There's a space that</p> <p>17 says "Customer P/O Number." Do you see that?</p> <p>18 A Customer Pick-Up.</p> <p>19 Q Let's start at the beginning or -- yeah,</p> <p>20 let's do the page 1. 05:58:09</p> <p>21 A Customer Pick-Up?</p> <p>22 Q Yeah. Do you see -- well, the top left,</p> <p>23 there's a Bill To, right?</p> <p>24 A Yes.</p> <p>25 Q And underneath, it says "Customer P/O 05:58:18</p> <p style="text-align: right;">Page 415</p>                          | <p>1 something, too --</p> <p>2 Q Okay.</p> <p>3 A -- while I'm out there.</p> <p>4 Q And you said that's the two gallon. What</p> <p>5 do you mean by that? 05:59:08</p> <p>6 A Actually, it probably was more than that.</p> <p>7 It probably was a two-and-a-half gallon.</p> <p>8 Q Okay.</p> <p>9 A Yeah.</p> <p>10 Q And then on the third page of that packet, 05:59:18</p> <p>11 it says -- it says -- there are a couple of</p> <p>12 different numbering -- yeah, third page of that</p> <p>13 packet. There you go, I think. That's -- there is</p> <p>14 a reference to 30-gallon Ranger PRO. Is that also a</p> <p>15 product that you bought and picked up? 05:59:39</p> <p>16 A See the price on that?</p> <p>17 Q Uh-huh.</p> <p>18 A That's a big gallon drum of that.</p> <p>19 Q Okay. But that was something in your job</p> <p>20 at Benicia, you'd pick up the big giant drums as 05:59:47</p> <p>21 well?</p> <p>22 A I didn't pick up the drum. You'll probably</p> <p>23 see it delivered on there somewhere.</p> <p>24 (Reporter clarification.)</p> <p>25 No, I didn't pick up the drum. Usually I 06:00:00</p> <p style="text-align: right;">Page 417</p> |

1 have them deliver the drum.  
2 Q Okay. Well, let's look at the next page,  
3 the forward one. This refers to Lee, and it's a  
4 30-gallon drum, right?  
5 A It doesn't say my name on there. 06:00:20  
6 Q Customer P/O number in the same place we  
7 were looking at before.  
8 A 1180 Arnold construction [sic], shipped to  
9 Benicia Unified School District.  
10 Q Right. So under "Bill to" -- the top 06:00:30  
11 left-hand corner it says "Bill to" and it says  
12 Benicia School District --  
13 A Lee.  
14 Q -- the next thing below it says "Lee"; is  
15 that you? 06:00:36  
16 A Yeah, that customer P/O number is not a  
17 pick off -- or pick up. That's the P/O number that  
18 we used to order all business stuff.  
19 Q And I'm not arguing with you. The --  
20 that's your name, and then the -- the receipt is for 06:00:44  
21 a 30-gallon Ranger PRO, right?  
22 A Right.  
23 Q Okay. And then it says -- yeah, it says:  
24 "Please call Lee. Please have Jeff deliver to  
25 them." 06:00:53

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1 Unified School District; is that right?  
2 MR. COPLE: Asked and answered.  
3 THE WITNESS: Yes.  
4 BY MR. LITZENBURG:  
5 Q Okay. And I just handed you Exhibit 21, 06:02:22  
6 which is a record from Benicia Unified School  
7 District. Does that piece of paper give you any  
8 information about when you started doing pest  
9 management there?  
10 MR. COPLE: Objection. Vague. 06:02:31  
11 THE WITNESS: 10/31/2011.  
12 BY MR. LITZENBURG:  
13 Q And why do you say that?  
14 A Hire date.  
15 Q Okay. Tell us what -- under Comments, do 06:02:37  
16 you see the first line there?  
17 A "6/11/2012 - Employee Promoted to -  
18 Grounds-Integrated Pest Manager."  
19 Q Okay. Does that -- did you get a -- is  
20 that consistent with what happened? Did you get a 06:02:53  
21 promotion to a pest manager in that year?  
22 A Yes.  
23 MR. COPLE: Objection. Asked and answered.  
24 BY MR. LITZENBURG:  
25 Q Mr. Johnson, did you ever use Roundup or 06:03:02

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1 So Horizon would bring you big drums of  
2 Ranger PRO to use at your job?  
3 A Yeah, it had a setup where they can just  
4 throw it on the back of a truck. They had the  
5 forklift and everything set up. They would just 06:01:02  
6 grab it and throw it on the back of their truck.  
7 Q Okay.  
8 A Zip tie it down and bring it home.  
9 Q Okay. So is it fair to say that by  
10 September, based on the first page of this, at 06:01:13  
11 least, by September of 2012, you were spraying  
12 Roundup/Ranger PRO at work at Benicia?  
13 A Yeah.  
14 Q Okay.  
15 MR. LITZENBURG: I only have one copy of 06:01:22  
16 this. We can make a copy.  
17 THE REPORTER: Am I going to mark  
18 something?  
19 MR. LITZENBURG: Yeah, after he looks at  
20 it. 06:01:44  
21 MR. COPLE: Give me a moment to look at it.  
22 (Deposition Exhibit 21 marked by the court  
23 reporter.)  
24 BY MR. LITZENBURG:  
25 Q You did pest management work at Benicia 06:02:14

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1 Ranger PRO before working for Benicia Unified School  
2 District?  
3 MR. COPLE: Objection. Asked and answered.  
4 THE WITNESS: I never used that.  
5 BY MR. LITZENBURG: 06:03:12  
6 Q Okay. Did you ever have cancer before you  
7 used Ranger PRO or Roundup?  
8 MR. COPLE: Objection.  
9 THE WITNESS: No.  
10 MR. COPLE: Asked and answered. 06:03:17  
11 BY MR. LITZENBURG:  
12 Q Okay. In the course of your work at  
13 Benicia, did you familiarize yourself with the  
14 Roundup/Ranger PRO label?  
15 MR. COPLE: Objection. Asked and answered. 06:03:28  
16 THE WITNESS: I carry the label at all  
17 times.  
18 (Reporter clarification.)  
19 I carry the label at all times.  
20 BY MR. LITZENBURG: 06:03:35  
21 Q And we've had some exhibits today. Are  
22 these -- Exhibit 4 and 5, those are things you're  
23 familiar with?  
24 A Very familiar with.  
25 Q Okay. And when you started working, you 06:03:43

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106 (Pages 418 - 421)

1 studied them for -- for -- well, let me withdraw  
2 that question.  
3 Do either of those pieces of paper, No. 4  
4 and 5 -- well, can you identify what they are for a  
5 jury? 06:03:57  
6 MR. COPLE: Objection. Asked and answered.  
7 THE WITNESS: This is a Material Safety  
8 Datasheet that Monsanto uses and do whatever they do  
9 with it.  
10 (Reporter clarification.)  
11 Material Safety Datasheet.  
12 THE REPORTER: That somebody uses?  
13 THE WITNESS: Huh? That somebody used that  
14 -- that Monsanto uses to show what their chemicals  
15 and the names of the chemicals are inside the 06:04:21  
16 product and how volatile they are and how dangerous  
17 they are and different things.  
18 This is a regular label to show you what  
19 you can spray, how much you can spray, how much you  
20 should spray on certain things, and what you're safe 06:04:33  
21 to spray or not safe to spray as far as animals --  
22 (Reporter clarification.)  
23 -- animals and traps and -- again, things  
24 you might see you want to stay away from where you  
25 think something might be living. 06:04:47  
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1 MR. COPLE: Objection. Asked and answered.  
2 THE WITNESS: No, they said it was a safe  
3 product to use.  
4 (Reporter clarification.)  
5 They said it was a safe product to use. 06:05:41  
6 BY MR. LITZENBURG:  
7 Q Okay. You touched on that about your  
8 training. You said somebody made a statement about  
9 its safety during your training; is that right?  
10 A Yes. 06:05:47  
11 MR. COPLE: Objection. Lacks foundation.  
12 BY MR. LITZENBURG:  
13 Q What -- what happened; can you tell us?  
14 A I was told more than one time it was safe  
15 enough to drink. 06:05:53  
16 Q Safe enough to drink. Okay.  
17 Now, is it Monsanto that made all these  
18 glyphosate products that you used?  
19 A Yes.  
20 Q Okay. I'm going to give you -- 06:06:03  
21 (Deposition Exhibit 22 marked by the court  
22 reporter.)  
23 BY MR. LITZENBURG:  
24 Q I'm handing you what we've marked as  
25 Exhibit No. 22. Now, before we get into it, did you 06:06:27  
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1 BY MR. LITZENBURG:  
2 Q Do either of those, No. 4 or No. 5, warn  
3 you that these products might cause cancer?  
4 A No, I haven't seen anything on here.  
5 Q Okay. And well, you said you looked at the 06:04:56  
6 label multiple times during your employment; is that  
7 right?  
8 A Oh, yeah.  
9 Q At any of those points, was -- did you find  
10 something on the label warning you that you may get 06:05:04  
11 cancer from using that product?  
12 A They tested it on rats or something like  
13 that, and the rats didn't get sick, so they figured  
14 humans wouldn't get sick.  
15 (Reporter clarification.)  
16 They tested it on rats and mice, and they  
17 didn't get sick, so I figured that they didn't put  
18 it in the report because, you know, they did their  
19 lab test. Now, they never tested it on humans  
20 because they can't. I don't think you can test this 06:05:23  
21 on humans.  
22 Q So, and again, does the -- do either of  
23 these or the versions of them that you used, did  
24 they ever warn you, while you were at your job, that  
25 this may cause cancer? 06:05:34  
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1 ever contact Monsanto to tell them about your  
2 cancer?  
3 MR. COPLE: Objection. Asked and answered.  
4 THE WITNESS: Not to just tell them, but I  
5 went up there to -- I called up there to try to find 06:06:38  
6 out if they knew something that could help me.  
7 BY MR. LITZENBURG:  
8 Q Okay. If there was a connection between --  
9 A Yeah.  
10 Q -- the products -- 06:06:44  
11 A I told them a few things, and it was like:  
12 Oh, we heard of that before. You need to go down to  
13 the doctor and tell them this, that or whatever.  
14 Q Okay. So some of these labeling, it does  
15 say to contact Poison Control or 1-800 number. Is 06:06:53  
16 that -- is that what you did, you called Monsanto's  
17 number?  
18 A Yeah. The main number.  
19 Q Okay. Now Exhibit No. 22, if you flip to  
20 the third page of it, it gives a date of March 27th 06:07:08  
21 of 2015. And could you read the History and Notes  
22 section for me?  
23 A (Reading):  
24 History and Notes: Calie -- caller  
25 states he had been using Ranger PRO as 06:07:23  
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|   |   |
|---|---|
| <p>1 part of his job for 2 to 3 years. He<br/> 2 has recently been diagnosed with<br/> 3 cutaneous T-cell lymphoma. He has<br/> 4 concerns about continuing to use Roundup<br/> 5 as part of his job and questions if 06:07:34<br/> 6 Roundup could be a source of his cancer.<br/> 7 As the call progressed, caller said that<br/> 8 doctors are unsure as to how to treat<br/> 9 his condition. And they may not have<br/> 10 even -- they may not be sure that it's 06:07:47<br/> 11 even cancer. Caller states that he<br/> 12 works with Ranger PRO using the<br/> 13 50-gallon tank and also using a backpack<br/> 14 sprayer. His duties -- he dilutes 10<br/> 15 ounces of Roundup per gallon (3.0%) for 06:08:01<br/> 16 the 50 gallon tank and 4 ounces of<br/> 17 Roundup per gallon (1.25%) when using<br/> 18 the backup sprayer. He recalls having<br/> 19 been exposed to Roundup twice in the<br/> 20 past 2 to 3 years, both from the backup 06:08:23<br/> 21 leaking/malfunction -- both from the<br/> 22 backpack leaking/malfunctioning. In one<br/> 23 case, he was wearing personal protective<br/> 24 equipment but have soaked through --<br/> 25 what did I say? -- equipment (PPE) but 06:08:39<br/> Page 426</p> | <p>1 diagnosed with cancer?<br/> 2 A It is true.<br/> 3 Q Okay. Had anybody -- well, we had a<br/> 4 exhibit early on. Let me see if I can find it.<br/> 5 Yeah, No. 7. Can you find that in your stack? 06:09:55<br/> 6 A From you or from the other party? 7.<br/> 7 Q Yeah, No. 7.<br/> 8 Okay. Do you have Exhibit No. 7?<br/> 9 A No. 7?<br/> 10 Q Yeah, it's a July 2014 note; is that right? 06:10:56<br/> 11 A 23, 2014, yeah.<br/> 12 Q And when -- is this a record of -- well,<br/> 13 you had an incident where you sprayed Ranger PRO on<br/> 14 your -- or spilled -- had skin -- let me withdraw<br/> 15 that. 06:11:14<br/> 16 You had an incident at work in or around<br/> 17 2014 when you had skin contact with Ranger PRO; is<br/> 18 that correct?<br/> 19 A That's correct.<br/> 20 Q Okay. And did you go to the -- to seek 06:11:20<br/> 21 help about it from a healthcare provider?<br/> 22 A Yeah, I went down to the clinic downtown.<br/> 23 Q Okay. This lady, Carrie Chanson, M.D., was<br/> 24 that some -- something that your work provided<br/> 25 you or -- 06:11:35<br/> Page 428</p> |
| <p>1 it soaked through the PPE and his<br/> 2 clothing. Recently, he has had a<br/> 3 swollen foot and the MD's cannot figure<br/> 4 out what is going on. The caller's<br/> 5 level of fear is rising over his 06:08:52<br/> 6 continued use of Ranger PRO. He states<br/> 7 that he continues to get unexplained<br/> 8 rashes and nodules all over his body.<br/> 9 MRPC discussed the product toxicity.<br/> 10 The symptoms are not an expected 06:09:08<br/> 11 response from the product. Advised MRPC<br/> 12 is available, if the treatment M.D. has<br/> 13 any questions.<br/> 14 Q Okay. And I'll represent to you that I<br/> 15 asked Monsanto for any documents about Dwayne 06:09:22<br/> 16 Johnson, and they gave me this.<br/> 17 Does this sound like the call that you're<br/> 18 talking about?<br/> 19 A Yes.<br/> 20 MR. COPLÉ: Objection. Lacks foundation. 06:09:30<br/> 21 BY MR. LITZENBURG:<br/> 22 Q Okay. Let me ask you a few questions,<br/> 23 then, about that.<br/> 24 So is it true, then, that you continued to<br/> 25 use Ranger PRO on your job after you had been 06:09:37<br/> Page 427</p>  | <p>1 A Yeah. That's actually -- that's Workmen's<br/> 2 Comp --<br/> 3 (Reporter clarification.)<br/> 4 That's Workmen's Comp that would have sent<br/> 5 me there. 06:11:40<br/> 6 Q And did you ask Dr. Chanson at that time in<br/> 7 2014 if the skin condition you were experiencing<br/> 8 could have had anything to do with the Ranger PRO<br/> 9 contact?<br/> 10 A Yeah, I did. 06:11:53<br/> 11 Q And what did she tell you?<br/> 12 A She didn't know at first. She just was<br/> 13 like "I don't know."<br/> 14 Q Okay.<br/> 15 A And most of them said -- most of them said 06:11:59<br/> 16 "I don't know."<br/> 17 Q And if you look at that -- the last page,<br/> 18 which is -- yeah. She says there -- do you see<br/> 19 where it says:<br/> 20 "I base this opinion on MSDS of the 06:12:08<br/> 21 pesticide"?<br/> 22 See that sentence?<br/> 23 A Yep.<br/> 24 Q Okay. She says:<br/> 25 "I base this opinion on MSDS, the 06:12:21<br/> Page 429</p>   |

|   |  |
|---|--|
| <p>1 pesticide, timing, and clinical<br/>2 presentations."<br/>3 What is the MSDS?<br/>4 A That's the Material Safety Datasheet.<br/>5 Q Okay. And that's what we looked at just a 06:12:30<br/>6 moment ago, right?<br/>7 A Right. This thing on top.<br/>8 Q Okay. And it doesn't -- it doesn't say<br/>9 anything about cancer or -- well, let me withdraw<br/>10 that. 06:12:40<br/>11 It says:<br/>12 "Per MSDS of this product, skin<br/>13 irritation to the exposed body parts is<br/>14 likely."<br/>15 And you -- and it says: 06:12:48<br/>16 "Patient did not present skin<br/>17 irritation to the face at that time."<br/>18 A Which makes sense.<br/>19 Q Is that true?<br/>20 A Like I said, my face was always in better 06:12:56<br/>21 shape than the rest of my body.<br/>22 Q And so do you remember this? Did Dr.<br/>23 Chanson get out that label and look at it with you<br/>24 to figure out if your --<br/>25 A They figured it out. What happens is that 06:13:05<br/>Page 430</p>  | <p>1 did never print it.<br/>2 (Reporter clarification.)<br/>3 MR. LITZENBURG: Withdraw the question.<br/>4 BY MR. LITZENBURG:<br/>5 Q It was your suggestion to look at the MSDS? 06:14:13<br/>6 A Well, I'm not -- I'm the guy that's<br/>7 supposed to tell you that because the school<br/>8 district won't know.<br/>9 Q But again, MSDS at the time didn't say<br/>10 anything about this causing cancer -- 06:14:21<br/>11 A No.<br/>12 Q -- or any other skin condition --<br/>13 MR. COPLE: Objection.<br/>14 BY MR. LITZENBURG:<br/>15 Q -- is that correct?<br/>16 MR. COPLE: Asked and answered.<br/>17 THE WITNESS: Not that I know of.<br/>18 MR. COPLE: Objection. Asked and answered.<br/>19 BY MR. LITZENBURG:<br/>20 Q Okay. So you checked in with -- can I 06:14:26<br/>21 characterize it as a work doctor or work comp doctor<br/>22 in July 2014 about this?<br/>23 A Yes.<br/>24 Q Okay. And then you called -- it looks like<br/>25 about eight months later, you called Monsanto 06:14:37<br/>Page 432</p>   |
| <p>1 -- they're supposed -- the hospital, when they get<br/>2 me -- the hospital, when they get me, they're<br/>3 supposed to -- they're supposed to report that to<br/>4 the DPS, Department of -- either DPS, Department of<br/>5 Pesticide Services or DPR -- actually DPR board. 06:13:25<br/>6 They're supposed to send that up there immediately.<br/>7 You know, "Mr. Johnson got exposed to some chemicals<br/>8 out here."<br/>9 "Well, what is it?"<br/>10 "Ranger PRO." 06:13:37<br/>11 "Okay. Let's check it out. I'll call you<br/>12 guys back."<br/>13 They never done that. They sent this from<br/>14 the school. I called them. I said: Hey, can you<br/>15 send over the MSDS and the -- and the other safety 06:13:44<br/>16 sheets from the Ranger PRO; send it over to Kaiser,<br/>17 and I'll be there as soon as I can. I just need the<br/>18 sheets.<br/>19 So I met the sheets there. The sheets were<br/>20 there when I got there. 06:13:54<br/>21 Q Okay. So you guys looked at the sheets<br/>22 together, you and this doctor, because you wanted to<br/>23 know if when you picked up the Ranger PRO --<br/>24 MR. COPLE: Asked and answered.<br/>25 THE WITNESS: She never printed it. She<br/>Page 431</p> | <p>1 directly; is that right?<br/>2 A Mm-hmm.<br/>3 Q Okay. And I want to look at what they told<br/>4 you in -- in response. It says:<br/>5 "The symptoms are not an expected 06:14:49<br/>6 response from the product."<br/>7 Does that -- does that mean that the lady<br/>8 on the phone from Monsanto told you that your cancer<br/>9 didn't come from the Ranger PRO use?<br/>10 MR. COPLE: Objection. Lacks foundation. 06:15:01<br/>11 THE WITNESS: The way I see it.<br/>12 BY MR. LITZENBURG:<br/>13 Q You can say that -- I didn't catch it.<br/>14 A That's the way I took it.<br/>15 Q That's the way you took it? Okay. 06:15:07<br/>16 And did -- were you hoping or expecting for<br/>17 some followup after this phone call?<br/>18 A I expected somebody would call and say<br/>19 something.<br/>20 Q Okay. So that's what I'm interested in 06:15:18<br/>21 looking at now is --<br/>22 (Deposition Exhibit 23 marked by the court<br/>23 reporter.)<br/>24 BY MR. LITZENBURG:<br/>25 Q Okay. So I've given you Exhibit 23. This 06:15:43<br/>Page 433</p> |

1 is "IARC Monographs Volume 112." Do you see a date  
2 of 20 March 2015 in it?  
3 MR. COPLE: Objection. Lacks foundation.  
4 BY MR. LITZENBURG:  
5 Q The top right. 06:15:57  
6 A Yep.  
7 Q Okay. And so if you look between this and  
8 the call you made, you made the call seven days  
9 after this, correct?  
10 A Yep. 06:16:05  
11 Q Okay. Did the lady on the phone tell you  
12 that the World Health Organization had classified  
13 glyphosate as probably carcinogenic to humans?  
14 A Not at all.  
15 MR. COPLE: Objection. Lacks foundation. 06:16:19  
16 (Reporter clarification.)  
17 THE WITNESS: Not at all.  
18 BY MR. LITZENBURG:  
19 Q Okay. But you were calling to ask about a  
20 possible connection between your cancer and that 06:16:22  
21 chemical, right?  
22 A Yes.  
23 MR. COPLE: Objection. Lacks foundation.  
24 BY MR. LITZENBURG:  
25 Q And you called the company that made it? 06:16:27  
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1 A Yes.  
2 MR. COPLE: Same objection.  
3 BY MR. LITZENBURG:  
4 Q Okay. And this does, in fact, say 20  
5 March 2015. This document, in the third paragraph, 06:16:34  
6 it says:  
7 "The herbicide glyphosate and the  
8 insecticides malathion and diazinon were  
9 classified as probably carcinogenic to  
10 humans." 06:16:45  
11 Do you see that there?  
12 MR. COPLE: Objection. Lacks foundation.  
13 THE WITNESS: Yes.  
14 BY MR. LITZENBURG:  
15 Q Okay. So when did Monsanto call you to 06:16:48  
16 tell you about this?  
17 A They never called me back.  
18 Q They never called you back at all after you  
19 called them to ask?  
20 A No. 06:16:57  
21 MR. COPLE: Objection. Asked and answered.  
22 BY MR. LITZENBURG:  
23 Q Okay. Did anybody from Monsanto get in  
24 touch with you to let you know about this  
25 determination that the World Health Organization had 06:17:04  
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1 made?  
2 MR. COPLE: Objection. Lacks foundation.  
3 THE WITNESS: No.  
4 BY MR. LITZENBURG:  
5 Q Okay. Did they get in touch with -- with 06:17:08  
6 Kaiser or your employer, Monsanto, to make sure that  
7 you were aware of -- of this classification that the  
8 World Health Organization --  
9 MR. COPLE: Objection. Lacks foundation.  
10 THE WITNESS: Not at all. 06:17:21  
11 BY MR. LITZENBURG:  
12 Q Okay. Has Monsanto reached out to you --  
13 by one of their representatives, have they spoken  
14 with you at all between that telephone call and  
15 today when they sent their lawyers to question you 06:17:30  
16 for seven -- nine hours?  
17 A No.  
18 MR. COPLE: Objection. Asked and answered.  
19 THE WITNESS: Not at all.  
20 BY MR. LITZENBURG: 06:17:38  
21 Q So between March and -- 2015 and today,  
22 despite you going -- making calls to Monsanto to ask  
23 them about a connection between the cancer that you  
24 had and their products that you used, they've never  
25 bothered to let you know that somebody thinks 06:17:51  
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1 there's a connection between them?  
2 A No.  
3 MR. COPLE: Objection. Asked and answered.  
4 Lacks foundation.  
5 BY MR. LITZENBURG: 06:17:57  
6 Q Okay. And in this phone call, you let --  
7 you let the telephone operator know at Monsanto that  
8 you were continuing to use the product after being  
9 diagnosed with cancer, right?  
10 A Yes. 06:18:08  
11 MR. COPLE: Objection. Asked and answered.  
12 BY MR. LITZENBURG:  
13 Q Okay. And was it lymphoma that you had at  
14 this time?  
15 A Yes, it was. 06:18:12  
16 Q Okay. And looking back at this that we  
17 were just looking at, right there, the biggest  
18 paragraph there, where it starts "for the herbicide  
19 glyphosate." Do you see that?  
20 A Yep. 06:18:33  
21 Q Okay. And that sentence says:  
22 "...there was limited evidence of  
23 carcinogenicity in humans for  
24 non-Hodgkin lymphoma."  
25 Do you see that? 06:18:42  
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1 A Nah, I just thought it was a typo.  
2 Q Right here. It begins "for the herbicide  
3 glyphosate."  
4 A Yep, I see it.  
5 Q Okay. And non-Hodgkin lymphoma, that's 06:18:51  
6 what you had, right? And you have now?  
7 A That's what I have now.  
8 Q Okay. Now, there was a number of questions  
9 about -- well, so the person on the telephone call  
10 didn't tell you in any way, shape or form that the 06:19:08  
11 World Health Organization had said that same month  
12 that not only can this cause cancer, but it can  
13 cause non-Hodgkin lymphoma?  
14 MR. COPLE: Objection. Asked and answered.  
15 THE WITNESS: I didn't hear that until last 06:19:18  
16 month --  
17 BY MR. LITZENBURG:  
18 Q Okay.  
19 A -- coming back from Chicago.  
20 Q And --  
21 (Reporter clarification.)  
22 A -- coming back from Chicago from two  
23 strangers. One of the ladies worked for the World  
24 Health -- World Health Organization.  
25 Q Is that right? 06:19:28

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1 A Sitting there in the bar just talking,  
2 chatting it up right next to somebody.  
3 Q So that was how you found out about the  
4 World Health Organization's classification of this  
5 Monsanto chemical was on a plane -- 06:19:38  
6 A Yeah.  
7 Q -- many years later, not from Monsanto that  
8 you called, right?  
9 A No.  
10 Q Okay. And you continued to -- well, 06:19:43  
11 counsel for Monsanto that's come down here to ask  
12 you questions today has asked a number of questions  
13 about the timing of some of your exposures and when  
14 you first got diagnosed with cancer. Is it correct  
15 that you continued for some time to use these 06:20:05  
16 products after you'd gotten cancer?  
17 A It is.  
18 Q Okay. And is that partially because you'd  
19 been told by both Monsanto, as well as Kaiser  
20 Permanente, that there was no connection between the 06:20:16  
21 two?  
22 MR. COPLE: Objection. Lacks foundation.  
23 THE WITNESS: The school district just  
24 never acknowledged that --  
25 (Reporter clarification.)

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1 The school district never acknowledged that  
2 I could have even maybe gotten the cancer from them.  
3 BY MR. LITZENBURG:  
4 Q Has your cancer gotten better or worse  
5 since it began? 06:20:33  
6 A It's been better, and then it got worse,  
7 and then it got better, and now it's worse.  
8 Q Okay. But you did continue -- after  
9 getting some of those reassurances, you did continue  
10 to use those products after getting cancer? 06:20:43  
11 A I've always had --  
12 MR. COPLE: Objection. Asked and answered.  
13 THE WITNESS: I've always had some type of  
14 treatment going on until I couldn't afford it no  
15 more without the coverage. And then just all the 06:20:50  
16 confusion with this doctor over here in oncology,  
17 that's when I stopped taking the treatments, when I  
18 got the neuropathy and bad hands. And she didn't  
19 know what to do except stop the treatments and say I  
20 wasn't coming.  
21 (Reporter clarification.)  
22 -- except stop the treatments and then say:  
23 Well, he's not showing up. I don't know why he  
24 won't show up.  
25 BY MR. LITZENBURG: 06:21:09

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1 Q Now, if -- let's do some hypotheticals. If  
2 you'd made this phone call in March of 2015, and the  
3 lady at Monsanto had told you yes, in fact, this can  
4 cause non-Hodgkin lymphoma, would you have kept  
5 using it after that? 06:21:21  
6 MR. COPLE: Objection. Calls for  
7 speculation. Incomplete hypothetical.  
8 THE WITNESS: Absolutely not.  
9 BY MR. LITZENBURG:  
10 Q Okay. And what about when you were looking 06:21:26  
11 at the labels themselves and learning those labels  
12 on the job, if they had a warning that said this  
13 causes non-Hodgkin lymphoma, would you have used  
14 them?  
15 MR. COPLE: Objection. Calls for 06:21:37  
16 speculation. Incomplete hypothetical.  
17 THE WITNESS: Absolutely not.  
18 BY MR. LITZENBURG:  
19 Q Okay. And again, through writing,  
20 telephone, anything like that, since contacting the 06:21:46  
21 company in March of 2015 and today, the company has  
22 never got back in touch with you to let you know of  
23 any of this information?  
24 A No.  
25 MR. COPLE: Objection. Asked and answered. 06:21:55

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1 THE WITNESS: Never.  
2 BY MR. LITZENBURG:  
3 Q Can you tell us just generally an overview  
4 of the frequency and the amount of Roundup and  
5 Ranger PRO that you would use on the job? 06:22:12  
6 MR. COPLE: Objection. Asked and answered.  
7 Vague.  
8 THE WITNESS: 50 to 100, no more than a 200  
9 pounds in a shooting.  
10 BY MR. LITZENBURG: 06:22:21  
11 Q You're talking 50 to 100 gallons?  
12 A Gallons, not pounds.  
13 Q Okay. And how many hours a day and how  
14 many days a week would this --  
15 MR. COPLE: Objection. Asked and answered. 06:22:28  
16 BY MR. LITZENBURG:  
17 Q -- spraying occur?  
18 A Two and a half to three hours. No more  
19 than three hours if it was on good late day.  
20 Q Okay.  
21 A Usually you got two hours to spray.  
22 Q And would you mix the chemicals yourself?  
23 MR. COPLE: Objection. Asked and answered.  
24 THE WITNESS: Yes.  
25 BY MR. LITZENBURG: 06:22:42  
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1 produced to us, for whatever reason, is things dated  
2 2016 that don't have your name on it.  
3 Before 2016, were you making records of you  
4 spraying stuff?  
5 A I think in 2012, I remember making those 06:23:40  
6 records.  
7 Q Okay. And you didn't throw --  
8 A I even made the copies, the agreements that  
9 you're looking at.  
10 Q And you didn't throw those records away? 06:23:45  
11 A Not at all. Those are legal documents.  
12 Q Okay. So as far as you know, the school  
13 district should have records of all the spraying  
14 that you did?  
15 A Plenty. If not, you can get them from the 06:23:54  
16 county, from Leann.  
17 Q Okay. Now, there are been some -- there  
18 have been some uses of the word "exposure" today  
19 that I want to clarify.  
20 There were two incidents in which you got 06:24:10  
21 large amounts of glyphosate on you that you did not  
22 intend to that we've talked about today; is that  
23 right?  
24 A Yes.  
25 MR. COPLE: Objection. Lacks foundation. 06:24:20  
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1 Q Okay. Now, it sounds like you -- you wore  
2 a Tyvek suit. Was that for safety?  
3 A Yes.  
4 Q Okay. We looked at some records -- this is  
5 Exhibit 3 -- some records of spraying, and I think 06:22:54  
6 you said you were familiar with this type of record;  
7 is that correct?  
8 A Oh, yeah.  
9 Q Okay. Now, the school district, we asked  
10 for all these records. They didn't have anything 06:23:05  
11 before 2016. Was the school district spraying  
12 Roundup and Ranger PRO before 2016?  
13 A Oh, yeah.  
14 Q Were you making --  
15 A No, it wasn't spraying Ranger PRO, it was 06:23:14  
16 spraying Roundup.  
17 Q Okay. And were you making sheets like  
18 this?  
19 A I wasn't there yet.  
20 Q No, before 2016. 06:23:20  
21 A Before 2016, no, 'cause when I first came  
22 in, I wasn't making the sheets.  
23 Q Okay. Let me start again.  
24 A 2012 --  
25 Q So you started in 2012, right. All they've 06:23:31  
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1 BY MR. LITZENBURG:  
2 Q Can you just generally tell us -- well,  
3 just briefly what each of those were in your own  
4 words?  
5 MR. COPLE: Objection. Asked and answered. 06:24:26  
6 Vague.  
7 THE WITNESS: It was the pump sprayer and  
8 the backpack sprayer.  
9 BY MR. LITZENBURG:  
10 Q Okay. And those are two separate instances 06:24:31  
11 which in addition to -- well, let me withdraw.  
12 Those were two separate instances in which  
13 you spilled Roundup directly on the skin?  
14 A Yes.  
15 Q Okay. And aside from that, were there 06:24:41  
16 times that your skin was exposed when you were  
17 spraying Roundup?  
18 A I think so, from drift and other things.  
19 Q Okay. And drift is when wind catches the  
20 spray and can put it back on you; is that right? 06:24:53  
21 A Put it anywhere it wants to. That's why we  
22 don't spray on windy days because drift can go  
23 anywhere.  
24 Q And even when you were being extra safe and  
25 wearing the Tyvek suit, parts of you were exposed to 06:25:06  
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1 that drift; is that right?  
2 A Yep.  
3 Q Okay. So when we talk about exposures to  
4 glyphosate products, it wasn't two times you were  
5 exposed, it was many times you exposed yourself over 06:25:13  
6 a period of years; is that correct?  
7 A I could say.  
8 Q Okay.  
9 (Reporter clarification.)  
10 A I could say that. 06:25:21  
11 Am I going to be able to use the restroom  
12 sometime?  
13 MR. LITZENBURG: Yeah, sure. You want to  
14 take a quick break, our last break. Five minutes?  
15 THE WITNESS: Take a little longer than 06:25:29  
16 that.  
17 VIDEO OPERATOR: Okay. It is 6:25. We're  
18 going off the record.  
19 (Recess.)  
20 VIDEO OPERATOR: We are back on the record. 06:40:05  
21 It's 6:40.  
22 BY MR. LITZENBURG:  
23 Q Mr. Johnson, are you married?  
24 A Yes.  
25 Q Do you have children? 06:40:23

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1 A Yes.  
2 Q How old are your children?  
3 A 9, 12 and 21.  
4 Q 9, 12 and 21. Could you tell the jury what  
5 their names are? 06:40:33  
6 A Ali (phonetic), Cali (phonetic) and Camari  
7 (phonetic) Johnson.  
8 Q Do you live with your wife and children at  
9 the moment?  
10 A I live with the two younger ones and my 06:40:43  
11 wife. The other one has moved on.  
12 Q Do you work at the moment?  
13 A No.  
14 Q Why is that?  
15 A I'm totally disabled. 06:40:50  
16 Q And is that because of the cancer?  
17 A Yeah.  
18 Q If you didn't get cancer, had you planned  
19 on continuing to work full time?  
20 A Oh, yeah. I would be making \$50,000 or 06:40:58  
21 more at the school district right now.  
22 Q Mr. Johnson, you made reference to your  
23 cancer not being curable today; is that something  
24 somebody has told you?  
25 A What happened? 06:41:12

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1 Q You made reference to your cancer not being  
2 curable today.  
3 A Right.  
4 Q Is that something the doctor has told you?  
5 A Yeah, more than once. 06:41:19  
6 Q Okay.  
7 (Reporter clarification.)  
8 How does it make you feel to know that you  
9 might pass away in your forties at a relatively  
10 young age? 06:41:28  
11 MR. COPLE: Objection. Argumentative.  
12 THE WITNESS: It's a hard thing to think  
13 about. I think about it all the time. I thought  
14 about it more than once. It's a hard pill to  
15 swallow. You know, you lose a lot when you get sick 06:41:39  
16 like this.  
17 BY MR. LITZENBURG:  
18 Q Do you know how your family is going to  
19 support themselves if you're gone?  
20 A We have one life insurance policy, and then 06:41:47  
21 my wife works, so they'll be fine.  
22 Q Okay. There has been -- let me back this  
23 up.  
24 We looked at a document of you calling  
25 Monsanto to ask about whether this could cause 06:42:05

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1 cancer way back in March of 2015, right?  
2 A (Nods head.)  
3 Q And then did you say that between  
4 March 2015 and December of 2017 nobody from Monsanto  
5 ever got in touch with you again until -- until 06:42:16  
6 today?  
7 A Not that I --  
8 MR. COPLE: Objection. Asked and answered.  
9 THE WITNESS: I haven't heard anything.  
10 BY MR. LITZENBURG: 06:42:23  
11 Q Okay. Knowing what you know about the --  
12 what happened in the meantime at the World Health  
13 Organization and various other things, how does that  
14 make you feel that they've never bothered to speak  
15 to you until they sent this lawyer to ask seven 06:42:33  
16 hours of questions?  
17 MR. COPLE: Objection. Argumentative.  
18 Calls for speculation.  
19 THE WITNESS: I really don't know except  
20 that, you know, I just really wish that somebody 06:42:41  
21 could understand. So I don't really know what they  
22 sent a lawyer or whatever, but they didn't -- I  
23 don't think they had any concerns for what I was  
24 going through at all.  
25 BY MR. LITZENBURG: 06:42:53

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1 Q They didn't. And, in fact, they knew --  
2 well, let me withdraw that.  
3 Their lawyer today seemed to have suggested  
4 a couple of times that -- that you were mistaken or  
5 you weren't telling the truth about something in 06:43:04  
6 these facts. How did you feel about that?  
7 MR. COPLÉ: Objection. Argumentative.  
8 Misstates the record.  
9 THE WITNESS: Not good at all. Some of the  
10 stuff that's stated in those records from those 06:43:15  
11 doctors I don't like either.  
12 BY MR. LITZENBURG:  
13 Q Okay. Have you told us the whole truth  
14 today in your testimony?  
15 A The whole truth and nothing but the truth. 06:43:21  
16 Q Okay. There was -- some of those -- you  
17 made reference to what you don't like in some of  
18 those records. There were a few records in there  
19 that talked about skipped appointments or -- well,  
20 let me withdraw that. 06:43:35  
21 On that last note, the defense attorney has  
22 shared with us some records today that make it look  
23 like you were noncompliant at times; is that right?  
24 MR. COPLÉ: Objection. Lacks foundation.  
25 Misstates the record. 06:43:47  
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1 THE WITNESS: I did see that in the record.  
2 BY MR. LITZENBURG:  
3 Q Okay. So you called Monsanto to ask about  
4 whether this causes cancer in March 2015. And they  
5 didn't get back in touch with you ever in any way. 06:43:59  
6 How do you feel about their lawyer suggesting  
7 that -- that the way you are now is partially your  
8 fault?  
9 MR. COPLÉ: Objection. Argumentative.  
10 Misstates the factual record of this deposition. 06:44:11  
11 THE WITNESS: Yeah, it's not good to feel  
12 that way. Even when Dr. Truong asked me -- she saw  
13 me walking outside of Kaiser, she goes, "Where have  
14 you been, Mr. Johnson? You haven't come to your  
15 appointments." 06:44:18  
16 I said, "I didn't even know I had  
17 appointments."  
18 She said, "Oh, yeah, where you been? You  
19 been taking care of your lawsuit?"  
20 Like what? 06:44:25  
21 BY MR. LITZENBURG:  
22 Q So --  
23 A What?  
24 Q And again, Dr. Truong or anybody else at  
25 Kaiser, they've never said: Hey, listen, we just 06:44:31  
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1 found this out from Monsanto that their chemical  
2 does cause lymphoma and we need to talk with you  
3 about it?  
4 A She's not --  
5 MR. COPLÉ: Objection. Lacks foundation. 06:44:41  
6 THE WITNESS: They don't care about doing  
7 investigation and stuff like that. That's not a  
8 part of their program.  
9 BY MR. LITZENBURG:  
10 Q Okay. Are you going through chemotherapy 06:44:47  
11 right at the moment?  
12 A Yep.  
13 Q Okay. And we had a deposition scheduled  
14 for yesterday. Were you able to make that?  
15 MR. COPLÉ: Objection. Asked and answered. 06:45:00  
16 THE WITNESS: I wasn't able to make it.  
17 BY MR. LITZENBURG:  
18 Q And can you tell us why, how you felt?  
19 MR. COPLÉ: Objection. Asked and answered.  
20 THE WITNESS: I felt really bad. Yesterday 06:45:09  
21 I was really sick. These legs are really burning.  
22 I've got some pain medication since then. I've been  
23 getting different pain medication every three days  
24 so they can switch it up and find out what's working  
25 for me. There's some waiting at the pharmacy right  
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1 now.  
2 And it's just trial and error, push and  
3 pull until I get to the point where I just take the  
4 treatments down there at Kaiser. Took my pills  
5 through the week until I can get out of the hole 06:45:29  
6 that I'm in right now.  
7 BY MR. LITZENBURG:  
8 Q Do you -- are you familiar with -- well, do  
9 you see signs -- living in California, do you see  
10 signs out that say there's a chemical here that's 06:45:38  
11 known in the state of California to cause cancer or  
12 birth defects?  
13 A Yeah.  
14 MR. COPLÉ: Objection. Lacks foundation.  
15 BY MR. LITZENBURG: 06:45:47  
16 Q Have you ever seen one for -- for Roundup?  
17 MR. COPLÉ: Objection. Calls for  
18 speculation.  
19 THE WITNESS: No, not directly for Roundup.  
20 BY MR. LITZENBURG: 06:45:54  
21 Q I'm going to represent --  
22 A Except that commercial that I saw.  
23 Q I'm going to represent to you that in 2015  
24 the state of California declared that glyphosate was  
25 a chemical known to them to cause cancer, and that 06:46:02  
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1 no signs have been put up in the last two years  
2 because Monsanto has been suing the state to prevent  
3 it from happening.  
4 Given the fact that you made that call and  
5 you've done your investigation, how does that make 06:46:16  
6 you feel?  
7 MR. COPLE: Objection. Asked and answered.  
8 Lacks foundation. Argumentative.  
9 THE WITNESS: A little bit ahead of the  
10 game to do some research trying to find out what's 06:46:25  
11 going on without accusing people. Back trace --  
12 back trace some of my steps to the whatever, you  
13 know, and just see what happens.  
14 BY MR. LITZENBURG:  
15 Q And if Monsanto had known, going back to 06:46:35  
16 the '80s or the '90s, that this is something that  
17 could cause cancer, would you have wanted them to  
18 share that information with you in the label or in  
19 some other way?  
20 MR. COPLE: Objection. 06:46:45  
21 THE WITNESS: Definitely.  
22 MR. COPLE: Lacks foundation. Asked and  
23 answered. Calls for speculation. Argumentative.  
24 MR. LITZENBURG: Okay. I know it's been a  
25 long day. Thank you for coming in. And no further 06:46:59  
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1 questions.  
2 MR. COPLE: I have some redirect, Mr.  
3 Johnson, about --  
4 MR. LITZENBURG: We're going to -- we're  
5 going to walk. 06:47:06  
6 MR. COPLE: Well, I got some redirect right  
7 now.  
8 MR. LITZENBURG: No, I was very  
9 questionable --  
10 MR. COPLE: This is our deposition. 06:47:11  
11 MR. LITZENBURG: -- highly questionable you  
12 running down the -- the counter to exactly zero  
13 seconds. You could have reserved them. You've done  
14 in depositions with me before in this litigation,  
15 reserved time for redirect, right? 06:47:21  
16 MR. COPLE: We did exactly what we were  
17 required to do.  
18 Now, Mr. Johnson, I have questions for you.  
19 MR. LITZENBURG: And we're --  
20 MR. COPLE: If you walk from the 06:47:28  
21 deposition, we're going to call the judge.  
22 MR. LITZENBURG: That's fine.  
23 MR. COPLE: Are we walking from the  
24 deposition?  
25 THE WITNESS: Sir, I have -- I have to go.  
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1 I'm retained --  
2 MR. LITZENBURG: Yeah, you've used up your  
3 seven -- used up -- he's leaving the deposition  
4 under my advice. It's up to you -- you ran down;  
5 didn't reserve. That's why I asked 20 times, Bill, 06:47:40  
6 on the record. I was shocked that you weren't  
7 reserving any time.  
8 MR. COPLE: If you're walking out, then  
9 we'll take this up with the judge.  
10 MR. LITZENBURG: That's fine. 06:47:50  
11 MR. COPLE: Let the record reflect -- show  
12 that over our objection in taking the deposition of  
13 the witness, on instruction of counsel, he's  
14 quitting the deposition.  
15 VIDEO OPERATOR: Shall we? 06:48:05  
16 (The witness leaves proceedings.)  
17 MR. COPLE: Yes.  
18 VIDEO OPERATOR: Okay. This is the end of  
19 disk 5 and Volume 1 in the deposition of Mr.  
20 Johnson. It's 6:48. The original media will be 06:48:12  
21 retained by Veritext.  
22 (TIME NOTED: 6:48 p.m.)  
23  
24  
25  
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1  
2  
3  
4  
5  
6  
7  
8 I, DEWAYNE ANTHONY LEE JOHNSON, do hereby  
9 declare under penalty of perjury that I have read  
10 the foregoing transcript of my deposition; that I  
11 have made such corrections as noted herein, in ink,  
12 initialed by me, or attached hereto; that my  
13 testimony as contained herein, as corrected, is true  
14 and correct.  
15 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
16 2017, at \_\_\_\_\_,  
17 (City) (State)  
18  
19 \_\_\_\_\_  
20 DEWAYNE ANTHONY LEE JOHNSON  
21 Volume I  
22  
23  
24  
25  
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| <p>1 I, the undersigned, a Certified Shorthand<br/>2 Reporter of the State of California, do hereby<br/>3 certify:<br/>4 That the foregoing proceedings were taken<br/>5 before me at the time and place herein set forth;<br/>6 that any witnesses in the foregoing proceedings,<br/>7 prior to testifying, were duly sworn; that a record<br/>8 of the proceedings was made by me using machine<br/>9 shorthand which was thereafter transcribed under my<br/>10 direction; that the foregoing transcript is a true<br/>11 record of the testimony given.<br/>12 Further, that if the foregoing pertains to<br/>13 the original transcript of a deposition in a Federal<br/>14 Case, before completion of the proceedings, review<br/>15 of the transcript [ ] was [ ] was not requested.<br/>16 I further, certify I am neither financially<br/>17 interested in the action nor a relative or employee<br/>18 of any attorney or party to this action.<br/>19 IN WITNESS WHEREOF, I have this date<br/>20 subscribed my name.<br/>21 Dated: December 18, 2017<br/>22<br/>23<br/>24 <br/>25 SUZANNE F. GUDELJ<br/>CSR No. 5111</p> |  |
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[ankles - april]

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[misdemeanor - mycosis]

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[mycosis - never]

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[okay - operator]

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California Code of Civil Procedure

Article 5. Transcript or Recording

Section 2025.520

(a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the Original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or

refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the

deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

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