

[REDACTED] - JOHN PAVLISH - Vol. I
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
-----X
MIDWEST ENERGY EMISSIONS CORP.
and MES INC.,
Plaintiffs, Case No.
1:19-cv-01334-CJB
v.
ARTHUR J. GALLAGHER & CO., ET AL.,
Defendants.
-----X

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
VOL. I
VIDEOTAPED DEPOSITION
VIA ZOOM VIDEOCONFERENCING
OF
JOHN PAVLISH
Thursday, August 25, 2022

REPORTED BY:
LINDA J. GREENSTEIN
JOB NO. 5407942

Page 2 1 [REDACTED] JOHN PAVLISH - Vol. I 2 August 25, 2022 3 8:36 A.M. CT 4 5 6 7 [REDACTED] Videotaped 8 Deposition held via Zoom 9 Videoconferencing of John Pavlish, 10 taken by Defendants, before Linda J. 11 Greenstein, a Certified Shorthand 12 Reporter and Notary Public of the 13 States of New York and New Jersey. 14 15 16 17 18 19 20 21 22 23 24 25	Page 4 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 CONTINUED 3 APPEARANCES: 4 5 BRADLEY ARANT BOULT CUMMINGS, LLP 6 Counsel for CERT Defendants 7 1819 5th Avenue N 8 One Federal Place 9 Birmingham, Alabama 35203 10 BY: PAUL M. SYKES, ESQ. 11 psykes@bradley.com 12 13 BENN C. WILSON, ESQ. 14 bCwilson@bradley.com 15 16 17 Also Present: 18 Kraig Hildahl, Videographer 19 James Budkins, Veritext Concierge 20 21 22 23 24 25
Page 3 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 APPEARANCES: 3 (All parties appearing via Zoom 4 Videoconferencing) 5 CALDWELL CASSADY & CURRY, LLP 6 Counsel for Plaintiffs & Witness 7 2121 N. Pearl Street. 8 Suite 1200 9 Dallas, Texas 75201 10 BY: JUSTIN NEMUNAITIS, ESQ. 11 jnemunaitis@caldwellcc.com 12 13 ADRIENNE DELLINGER, ESQ. 14 Adellinger@caldwellcc.com 15 16 GIBSON DUNN & CRUTCHER, I.L.P. 17 Counsel for Defendants 18 200 Park Avenue 19 New York, New York 10166-0193 20 BY: JOSEPH EVALL, ESQ. 21 jevall@gibsondunn.com 22 23 DAVID GLANDORF, ESQ. 24 dglandorf@gibsondunn.com 25 PAUL J. KREMER, ESQ. pkremer@gibsondunn.com INA KOSOVA, ESQ. ikosova@gibsondunnc.com	Page 5 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 THE VIDEOGRAPHER: We are going 3 on the record at 8:36 a.m. Central 4 Time on August 25, 2022. 5 This is Media Unit Number 1 of 09:36:50 6 the video-recorded deposition of John 7 Pavlish, taken in the Matter of 8 Midwest Energy Emissions Corporation 9 and MES Incorporated versus Arthur J. 10 Gallagher, et al., from the U.S. 09:37:09 11 District Court for the District of 12 Delaware, Case Number 1:19-CV-01334-CJB. 13 The location of this deposition 14 is Grand Forks, North Dakota. 15 My name is Kraig Hildahl from 09:37:41 16 Veritext Legal Solutions and I'm the 17 videographer. 18 The court reporter is Linda 19 Greenstein, also at Veritext. 20 Will counsel please introduce 09:37:57 21 themselves for the record. 22 MR. NEMUNAITIS: Justin 23 Nemunaitis for the plaintiffs and the 24 witness. 25 MR. EVALL: Joseph Evall for 09:38:05

2 (Pages 2 - 5)

Page 6

1 [REDACTED] - JOHN PAVLISH - Vol. I
 2 certain defendants, and with me are my
 3 colleagues, David Glandorf, Paul
 4 Kremer and Ina Kosova.
 5 MR. SYKES: Paul Sykes for the 09:38:21
 6 CERT defendants, and with me is my
 7 colleague, Doug Wilson.
 8 THE VIDEOGRAPHER: Will the
 9 court reporter please swear in the
 10 witness. 09:38:37
 11 JOHN PAVLISH,
 12 having been first duly sworn/affirmed, was
 13 examined and testified as follows:
 14 EXAMINATION BY
 15 MR. EVALL: 09:39:01
 16 Q. Good morning, Mr. Pavlish.
 17 A. Good morning.
 18 Q. My name is Joseph Evall. I
 19 represent many of the defendants in this
 20 case and as you know I'm here to take your 09:39:12
 21 deposition.
 22 Could you please state and spell
 23 your name for the record.
 24 A. John Pavlish, first name John,
 25 J-O-H-N. Last name Pavlish, P-A-V-L-I-S-H. 09:39:22

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1 [REDACTED] JOHN PAVLISH - Vol. I
 2 Q. Thank you. And can you also
 3 provide your address.
 4 A. 42204 210th Street Southwest,
 5 East Grand Forks, Minnesota 56721. 09:39:43
 6 Q. Mr. Pavlish, the court reporter
 7 put her hands up and that may have been
 8 because there was a little bit of
 9 interference in your answer; is that
 10 correct? Yes, the court reporter is 09:39:57
 11 nodding.
 12 There may be some feedback, and
 13 we're just trying to figure out the source
 14 of that feedback, so as we proceed we'll
 15 try to figure it out so that everything is 09:40:08
 16 clear.
 17 You understand that you are
 18 providing testimony in this Court
 19 proceeding today and that it is both in an
 20 individual capacity and you have also been 09:40:18
 21 designated as a witness on behalf of the
 22 plaintiffs with respect to certain topics.
 23 Do you understand that?
 24 A. That's my understanding.
 25 Q. Okay. Thank you. 09:40:33

Page 8

1 [REDACTED] - JOHN PAVLISH - Vol. I
 2 Have you ever been deposed
 3 before?
 4 A. No.
 5 Q. Have you ever testified in court 09:40:38
 6 before?
 7 A. No.
 8 Q. So because of that, I will take
 9 a couple of minutes reviewing just some of
 10 the things about how this works. 09:40:52
 11 The court reporter is recording
 12 the proceedings today. She will record my
 13 questions and your answers and any
 14 objections that your counsel may make.
 15 Because she is recording words, 09:41:07
 16 it is important that all of the answers be
 17 in words and nods and gestures and things
 18 like that won't be recorded.
 19 Do you understand that?
 20 A. Yes. 09:41:19
 21 Q. Okay. And in addition, it's
 22 very important, because the court reporter
 23 only has two hands, that we try not to --
 24 that you wait until I've completed my
 25 question before you begin your answer, and 09:41:34

Page 9

1 [REDACTED] - JOHN PAVLISH - Vol. I
 2 I will make every effort not to interrupt
 3 you and to let you finish your answers
 4 before I begin my next question.
 5 Okay? 09:41:42
 6 A. Okay.
 7 Q. Okay. We're going to take
 8 regular breaks. If you need a break at any
 9 time, please let me know and we will
 10 arrange a break at the nearest possible 09:41:51
 11 time; okay?
 12 A. All right, thank you.
 13 Q. If at any time you don't
 14 understand a question, please ask and I
 15 will do my best to clarify it; okay? 09:41:59
 16 A. Okay.
 17 Q. If at any time in the course of
 18 the day, or the two days, you feel that you
 19 need to correct or clarify an answer or
 20 that you misspoke or that you need to 09:42:14
 21 elaborate on something, please let me know
 22 and I will set aside some time to allow you
 23 to do that; okay?
 24 A. All right. Thank you.
 25 Q. Okay. Is there any reason that 09:42:30

3 (Pages 6 - 9)

Page 10

1 [REDACTED] - JOHN PAVLISH - Vol. I
2 you cannot testify honestly and accurately
3 today?
4 A. Not that I'm aware of.
5 Q. Okay. Are you planning on 09:42:43
6 providing testimony at trial?
7 A. Ycs.
8 Q. Do you know the subject of that
9 testimony?
10 MR. NEMUNAITIS: I counsel the 09:42:56
11 witness not to disclose any
12 communications with attorneys.
13 If there's a way to answer that
14 question, you can answer it. But
15 otherwise don't disclose any 09:43:08
16 communications with attorneys or your
17 trial preparation materials.
18 So you can answer the question
19 if you believe that there is some
20 information you can give. But if you 09:43:26
21 think there's nothing you can give,
22 then just say "I can't answer."
23 A. Nothing I can provide at this
24 time?
25 Q. Okay. But you are planning on 09:43:32

Page 11

1 [REDACTED] - JOHN PAVLISH - Vol. I
2 coming to Delaware and providing testimony
3 at trial. That is your current intention;
4 correct?
5 A. Correct. 09:43:40
6 Q. Are you being compensated for
7 this deposition?
8 A. No, other than the salary that I
9 receive.
10 Q. And that salary is paid by whom? 09:43:50
11 A. That would be Midwest Energy
12 Emissions Corp.
13 Q. Okay. That is a good time to
14 move into your employment.
15 Are you currently employed? 09:44:04
16 A. Yes.
17 Q. And who is your employer?
18 A. In short, ME2C.
19 Q. When we use the term ME2C, we'll
20 understand that to mean Midwest Energy 09:44:22
21 Corp. Is that agreeable to you?
22 A. Yes, Midwest Energy Emissions
23 Corp., ME2C.
24 Q. There's also an entity called
25 MES. 09:44:33

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 Are you familiar with that?
3 A. Somewhat.
4 Q. What is that entity?
5 A. I'm not really sure. My 09:44:37
6 understanding is it's -- it's a company
7 that's associated with ME2C. I'm not even
8 sure if it's in North Dakota or Delaware.
9 Q. Okay. But your paychecks are
10 signed by ME2C; is that right? 09:44:58
11 A. Correct.
12 Q. What is your position at ME2C?
13 A. My position is chief technology
14 officer, as well as I'm a senior research
15 VP. I should say a senior VP at ME2C. 09:45:10
16 Q. I see, okay.
17 A. Vice president for VP.
18 Q. What are your responsibilities
19 as chief technology officer?
20 A. Primary responsibilities is the 09:45:26
21 oversight of the development and the
22 support of the technology that is either
23 developed or commercialized or marketed by
24 ME2C.
25 Q. How long have you had that title 09:45:41

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 of CTO at ME2C?
3 A. Since 2014.
4 Q. Have your responsibilities
5 changed since 2014? 09:45:54
6 A. No.
7 Q. Okay. And you're also senior
8 VP.
9 Do you have any responsibilities
10 as senior VP at ME2C? 09:46:05
11 A. I would say no, other than
12 obviously representing the technology that
13 we're either developing or marketing.
14 Q. And how long have you had that
15 title? 09:46:21
16 A. Senior VP, since 2014.
17 Q. Okay. When were you first
18 employed by ME2C?
19 A. November 2014.
20 Q. And so when you came to ME2C in 09:46:32
21 November of 2014, you were given the titles
22 chief technology officer and senior VP and
23 you've held those titles since that time?
24 A. That is correct.
25 Q. Thank you. 09:46:46

4 (Pages 10 - 13)

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
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13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] 12:19:00
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED] 12:19:07

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1 [REDACTED] JOHN PAVLISH - Vol. I
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
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6 [REDACTED]
7 [REDACTED]
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9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 Q. So that is the '147 patent and I
18 have some questions about it.
19 Could you read the abstract on
20 the first page to yourself. 12:20:20
21 A. I've read it.
22 Q. Okay. Is that an accurate
23 description of your invention?
24 A. I would say it's not an
25 all-inclusive description of the invention. 12:21:26

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 Q. What's it missing?
3 A. More specificity.
4 Q. Okay. Is there any aspect of
5 the invention that's missing? 12:21:42
6 A. I think at a high level it
7 summarizes the invention, but -- specifics
8 are not included -- and like I say, it
9 doesn't include necessarily all of the
10 features -- 12:22:09
11 Q. Well --
12 A. -- of the invention.
13 Q. What features are missing?
14 A. I wouldn't say "missing." I
15 would say not described in detail. 12:22:19
16 Q. Okay. Do you see the third
17 sentence says: "Optional components may be
18 added to increase reactivity and mercury
19 capacity"?
20 A. Yes, I see that. 12:22:38
21 Q. What are those? What does that
22 mean?
23 A. That means essentially what it
24 states. Other components, meaning other
25 chemicals that are in addition to the 12:22:58

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1 [REDACTED] JOHN PAVLISH - Vol. I
2 singular -- in other words, not just one
3 product on the front or one product in the
4 back.
5 There could be additional 12:23:14
6 components to that, meaning they're not
7 necessarily required. They're optional in
8 the way of further enhancing or potentially
9 enhancing -- enhancing mercury capture
10 reactivity and capacity. 12:23:34
11 Q. So those are additives that are
12 separate from the sorbent and the
13 bromine-containing promoter; right?
14 A. They could be either/or. There
15 could be optional components that could be 12:23:51
16 added, either/or, to enhance the
17 effectiveness of the reactivity.
18 Q. Okay. But what I mean is, that
19 is something -- that's an additive other
20 than the sorbent and other than the 12:24:04
21 bromine-containing promoter.
22 A. Other than and in addition to.
23 Q. Okay. Right. I'm sorry, yes.
24 In addition to the -- it's an
25 optional additive that is in addition to 12:24:22

29 (Pages 110 - 113)

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 the sorbent and the bromine-containing
3 promoter; correct?
4 A. Correct.
5 Q. Okay. Thank you. 12:24:31
6 We're going to scroll down to
7 some of the -- to column 8.
8 A. All right.
9 Q. I may have said scroll. I guess
10 technically flipped. 12:25:22
11 A. Yeah, I flipped there.
12 Q. Okay. Good.
13 Actually, please go back to 5.
14 I apologize. I have --
15 A. Column 5? 12:25:39
16 Q. Yes.
17 A. Okay.
18 Q. Now, do you see where it says at
19 line 41 it says: "Figure 1 schematically
20 illustrates methods for preparation of 12:25:56
21 promoted carbon sorbents in accordance with
22 the present invention"?
23 A. I see that.
24 Q. That's an accurate statement,
25 isn't it? 12:26:10

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1 [REDACTED] JOHN PAVLISH - Vol. I
2 A. It's an accurate statement but
3 I'm not sure it includes all embodiments.
4 Q. Okay.
5 Could you look at column 8, 12:26:51
6 please.
7 A. Okay.
8 Q. Could you look at line 30 -- the
9 sentence starting on line 38.
10 I'm going to read that to you. 12:27:27
11 A. There it is. I see that. Go
12 ahead.
13 Q. You see it says:
14 "A source of air, nitrogen, or
15 other transport gasses is provided by gas 12:27:35
16 source 170 to transport line 115 for the
17 purpose of entraining materials discharged
18 from reservoirs 110, 120, 130 and 180 and
19 injecting such materials, via injection
20 .116 into contaminated flue gas stream 15." 12:27:54
21 Do you see that?
22 A. I do.
23 Q. What did you mean by the term
24 "entraining," "entraining materials"?
25 A. Conveying the material. 12:28:17

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 Q. Okay. So what does it mean to
3 say that a material is entrained in a gas
4 stream?
5 A. It would mean that it would flow 12:28:36
6 with.
7 Q. That the material would flow
8 with the gas stream.
9 A. Yeah.
10 Q. Let me see if I understand. 12:28:54
11 If I have leaves on my driveway
12 and a big wind comes up, they start moving,
13 are those leaves entrained in the wind
14 stream? I'm just trying to understand the
15 term. 12:29:19
16 A. That would be a -- probably a
17 critic's apple.
18 Q. Okay.
19 Now I'd like to turn now to
20 column 14. I have some questions about 12:30:03
21 some of the examples.
22 So you see Example 1:
23 "Preparation and Testing of
24 Halogenated Carbon (& Comparative Example)
25 Gas Phase Halogenation"? 12:30:32

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 A. I see that.
3 Q. Could you tell me what the
4 bromine-containing promoter is in that
5 example? 12:30:41
6 A. I don't know.
7 Q. Okay. Can you confirm for me
8 that in Example 1 no bromine was added
9 directly to the coal?
10 A. This description -- 12:32:48
11 Q. I'm sorry, could you repeat your
12 answer? Your audio cut out for a moment.
13 A. I said based on the description,
14 I would say no.
15 Q. Okay. Let's go to Example 2 on 12:33:07
16 the bottom of column 15.
17 Do you know what the
18 bromine-containing promoter is in Example 2?
19 A. No.
20 Q. And can you confirm to me that 12:33:29
21 no bromine was applied to the coal in
22 Example 2?
23 A. No, I probably can't confirm
24 that. I don't know if all of the
25 description was provided to ascertain that, 12:34:00

30 (Pages 114 - 117)

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 but...
3 Q. But it certainly doesn't
4 describe it?
5 A. I don't see the description 12:34:08
6 included, no.
7 Q. Okay. Example 3, "Liquid Phase
8 Water Halogenation."
9 Can you tell me what the
10 bromine-containing promoter is in that? 12:34:18
11 A. No.
12 Q. And can you confirm for me that
13 there's no mention of applying bromine
14 directly to coal?
15 A. I don't see that mentioned. 12:34:28
16 Q. Okay. Example 4, could you tell
17 me what the bromine-containing promoter is
18 in Example 4?
19 A. No.
20 Q. And can you confirm for me that 12:34:55
21 there's no discussion of adding bromine to
22 coal.
23 A. It's not described there.
24 Q. Okay. Example 5, can you tell
25 me what the bromine-containing promoter is? 12:35:23

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 A. I believe it's described.
3 Q. What is it?
4 A. Phosphorous tribromide.
5 Q. Okay. PBr3 is the 12:35:45
6 bromine-containing promoter?
7 A. I can't confirm that. I'm not a
8 chemist. I don't know if PB3 is the
9 chemical symbol for that.
10 Q. Okay. Phosphorous tribromide. 12:35:59
11 And then does Example 5 describe
12 the addition of bromine directly to coal?
13 A. It doesn't describe it.
14 Q. Okay. Example 6, what is the
15 bromine-containing promoter? 12:36:19
16 A. Apologize for the time. It's
17 just rather lengthy.
18 Q. That's okay. I understand it's
19 a long one.
20 I'm sorry, what did you say? 12:38:09
21 A. It's a long example to read
22 through.
23 Q. Yes.
24 A. Yeah, I can't tell you the form
25 of bromine. 12:40:33

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 Q. Okay. And can you confirm that
3 there's no description of adding bromine
4 directly to the coal?
5 A. I don't see that included. 12:40:43
6 Q. Okay. Let's go to Example 7.
7 And can you tell me what the
8 bromine-containing promoter is for Example
9 7?
10 A. No. No, I can't. 12:41:09
11 Q. Okay. And can you confirm that
12 Example 7 does not describe the addition of
13 bromine to coal?
14 A. I don't see that in the
15 description. 12:41:51
16 Q. Okay. Let's go to Example 8.
17 And I will be asking you the
18 same two questions.
19 A. That form of bromine would
20 appear to the HBr. 12:43:26
21 I don't see it included in the
22 description of that added to a coal.
23 Q. Okay. And so I just want to
24 confirm, for 8 you're saying that HBr is
25 the bromine-containing promoter? 12:43:45

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 A. I can say it was at least one
3 because it's referenced.
4 Q. Okay.
5 A. Point 1, normal of HBr powder 12:43:53
6 was collected by -- it further states
7 regeneration of HBr, so...
8 Q. Okay. So we're up to Example 9,
9 same two questions.
10 A. Molecular bromine. 12:44:57
11 Q. Molecular bromine, Br2?
12 A. It says "molecular bromine,"
13 so...
14 Q. That's the bromine-containing
15 promoter? 12:45:25
16 A. That's what was used to treat
17 carbon.
18 Q. And there's no disclosure of
19 bromine being applied directly to coal;
20 correct? 12:45:33
21 A. Not in that example.
22 Q. Okay. Let's look at Number 10.
23 Same two questions.
24 A. I don't see that it discloses
25 the form of bromine that was used -- 12:46:47

31 (Pages 118 - 121)

Page 122 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 bromine. 3 Q. And it also doesn't disclose the 4 addition of bromine to coal; correct? 5 A. I don't see the disclosure of 12:47:00 6 that. 7 Q. Okay. Will you look at -- this 8 is an Example 10 also, look at -- will you 9 look at the sentence that starts on line 10 10 of column 20 -- I'm sorry, the sentence 12:47:19 11 that starts at line 12. 12 It says: "In general, however, 13 the inventive sorbent can be injected where 14 desired (for example, before, after or 15 within the boiler)." 12:47:39 16 Do you see that? 17 A. I do. 18 Q. Is that a true statement, that 19 the sorbent can be injected before, after 20 or within the boiler? 12:47:50 21 A. Sure. Why not? 22 Q. Okay. So the activated -- 23 excuse me -- the activated carbon sorbent, 24 or the promoted activated carbon sorbent 25 can be injected either before, after or 12:48:08	Page 124 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 Q. So take a look at 11B. 3 A. I don't see the mention of the 4 form other than reference to a treated and 5 non-treated activated carbon, which 12:53:34 6 obviously the treated carbon has some form. 7 Q. Okay. But it doesn't tell you 8 what the bromine-containing promoter is? 9 A. I don't see that in the 10 description. 12:53:49 11 Q. Okay. And you also don't see a 12 description of applying bromine directly to 13 coal; correct? 14 A. I don't see that in the 15 description. 12:53:57 16 Q. Okay. Now we're up to the last 17 example, Example 12. If you take a moment 18 to read it, I'll be asking the same two 19 questions. 20 MR. NEMUNAITIS: You want to 12:54:11 21 take a break after this -- after 22 Example 12? 23 THE WITNESS: After Example 12? 24 MR. EVALL: Are you asking me or 25 the witness, Justin? 12:54:23
Page 123 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 within the boiler; is that correct? 3 A. It can be. 4 Q. Okay. And why was that sentence 5 included there? 12:48:25 6 MR. NEMUNAITIS: Objection. 7 I'll caution the witness, you 8 could answer that question, but only 9 if your answer would not reveal the 10 content of any privileged 12:48:32 11 communications. 12 If you could answer, go ahead 13 and answer. Otherwise, don't answer. 14 A. Other than stated earlier, it 15 can be. 12:48:44 16 Q. Okay. Let's look at Example 17 11A. 18 A. I can't tell you the form of 19 bromine but it refers to other figures 20 and... 12:49:58 21 Q. And it doesn't disclose the 22 application of bromine directly to coal; 23 correct? 24 A. It's not stated on this 25 disclosure. 12:50:09	Page 125 1 [REDACTED] - JOHN PAVLISH - Vol. I 2 MR. NEMUNAITIS: I was asking 3 you. 4 MR. EVALL: Yeah, that's fine. 5 MR. NEMUNAITIS: It just seems 12:54:30 6 like a logical point. 7 A. A form of mercury is defined. 8 Q. Where? 9 A. Br₂, Pb₃. 10 Q. Okay. And that's -- is that the 12:57:36 11 bromine-containing promoter? 12 A. Yes. 13 Q. Okay. And then can you confirm 14 that there's no disclosure in that example 15 of adding bromine directly to coal. 12:57:51 16 A. I can confirm there's nothing in 17 the description that states that. 18 Q. Great. 19 MR. EVALL: Is now a good time 20 then for everyone to take a break? 12:58:10 21 MR. NEMUNAITIS: Yes, that works 22 for me. 23 Do you want to take a lunch 24 break now? I'm sorry, off the record. 25 THE VIDEOGRAPHER: We're off the 12:58:19

32 (Pages 122 - 125)

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1 [REDACTED] JOHNPAVLISH - Vol. I
2 record at 11:58 a.m.
3 (A luncheon recess was taken.)
4 THE VIDEOGRAPHER: This is Media
5 Number 3 in the deposition of John 13:47:12
6 Pavlish.
7 Today is August 25, 2022.
8 We're back on the record at
9 12:47 p.m.
10 MR. EVALL: Thank you. 13:47:24
11 BY MR. EVALL:
12 Q. Good afternoon, Mr. Pavlish.
13 A. Good afternoon.
14 Q. Did you have any discussions
15 about the deposition with your counsel? 13:47:32
16 A. None.
17 Q. Okay. Returning to a couple of
18 things from this morning --
19 A. If I could comment before we
20 initiate those discussions? 13:47:45
21 Q. Uh-huh.
22 A. I guess what I'd like to
23 comment, we went through all the examples
24 and you asked some specific questions
25 related to those examples, and I am 13:47:58

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 familiar with a few of those in which I
3 know bromine was added to the coal.
4 I don't know or understand why
5 that was not included in record of the 13:48:11
6 patents and I -- that can be only be
7 determined I guess by the patent attorney
8 that filed it, but...
9 Q. Okay. Let me see if I
10 understand. 13:48:24
11 And am I correct that you did
12 not discuss the subject at lunch?
13 A. That is correct.
14 Q. What you're saying is that in
15 your recollection, some of those examples 13:48:33
16 that we went through in the '147 patent
17 actually did involve the application of
18 bromine to the coal, but that the fact that
19 bromine was applied to the coal was not
20 disclosed in the description of those 13:48:52
21 examples in the patent; is that correct?
22 A. That is correct. I don't know
23 if it was for the sake of brevity, why that
24 detail was not included, I can't comment to
25 that. 13:49:06

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1 [REDACTED] - JOHNPAVLISH - Vol. I
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4 [REDACTED]
5 A. [REDACTED] 17
6 [REDACTED]
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9 Q. [REDACTED]
10 [REDACTED] 13:49:31
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
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15 [REDACTED] 13:49:48
16 [REDACTED]
17 Q. [REDACTED]
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[REDACTED] 13:51:13
16 regulators. And you provided the specific
17 example of Vistra; right?
18 A. Yes, and I would go beyond
19 regulators. I would also mention for
20 safety and handling purposes. Not just for 13:51:25
21 regulatory purposes, but...
22 Q. In that case, that was a
23 disclosure to Vistra. It wasn't a breach
24 -- it was a planned disclosure to Vistra.
25 It wasn't a breach that made it public 13:51:39

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20 [REDACTED]
21 Q. How were you familiar with him?
22 A. I've known the expert witness
23 for a long time, going back almost to
24 '04-'05 time frame.
25 Q. That's Stephen Niksa, is it? 17:12:05

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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 A. Steve Niksa, that's correct, or
3 my understanding that's what was stated.
4 Q. How have you known him?
5 Have you known him 17:12:18
6 professionally?
7 A. Yes.
8 Q. Through your work at the EERC?
9 A. Not through the EERC.
10 Through encounters at various 17:12:27
11 venues such as conferences, DOE review
12 meetings, special meetings regarding topics
13 directly related to mercury on the domestic
14 and international front.
15 Q. And is he somebody who you 17:12:45
16 consider knowledgeable in the field?
17 A. Yes.
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
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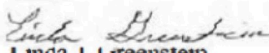
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22 [REDACTED]
23 [REDACTED]
24 JOHNPAVLISH
25 Subscribed and sworn to before me

Page 280

1 [REDACTED] JOHN PAVLISH - Vol. I
2 this ____ day of ____, 2022.
3 _____
4 _____
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1 [REDACTED] - JOHN PAVLISH - Vol. I
2 CERTIFICATE
3
4 I, Linda J. Greenstein, Professional
5 Shorthand Reporter and Notary Public in and
6 for the State of New York, do hereby
7 certify that, JOHN PAVLISH, the witness
8 whose deposition is hereinbefore set forth,
9 was duly sworn and that such deposition is
10 a true record of the testimony given by the
11 witness to the best of my skill and
12 ability.
13 I further certify that I am neither
14 related to or employed by any of the
15 parties in or counsel to this action, nor
16 am I financially interested in the outcome
17 of this action.
18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 26th day of August 2022.
20
21
22 
23 Linda J. Greenstein
24 My commission expires: January 30, 2025
25

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1 [REDACTED] - JOHN PAVLISH - Vol. I 2 INDEX 3 4 WITNESS EXAMINED BY PAGE 5 JOHN PAVLISH Mr. Evall 6 6 7 ----- INFORMATION REQUESTS ----- 8 DIRECTIONS: (NONE) 9 RULINGS: (NONE) 10 TO BE FURNISHED: (NONE) 11 REQUESTS: (NONE) 12 MOTIONS: (NONE) 13 ----- EXHIBITS ----- 14 NO. PAGE 15 (Pavlish Exhibit 1 marked for 48 16 identification, two-page 17 document, email exchange, top 18 cover email dated 8/6/18 from 19 Murray Abbot to Stacey Hyatt and 20 John Pavlish, production numbers 21 ME2C-RC-00215907 through 5908.) 22 (Pavlish Exhibit 2 marked for 49 23 identification, multi-page 24 document, presentation titled 25 "MEGA Symposium-August 23, 2018," production numbers ME2C-RC-00041150 through 1170.) (Pavlish Exhibit 3 marked for 62 identification, multi-page document titled "Fast and Accurate Troubleshooting to Ensure Mercury MATS Compliance," production numbers ME2C-RC-00215661 through 5666.)	Page 282	1 [REDACTED] - JOHN PAVLISH - Vol. I 2 CONTINUED 3 INDEX: 4 ----- EXHIBITS ----- 5 NO. PAGE 6 (Previously marked Pavlish 202 7 Exhibit 6 shown to witness.) 8 (Previously marked Pavlish 203 9 Exhibit 8 shown to witness.) 10 (Previously marked Pavlish 204 11 Exhibit 9 shown to witness.) 12 (Previously marked Pavlish 206 13 Exhibit 11 shown to witness.) 14 (Pavlish Exhibit 12 marked for 220 15 identification, multi-page 16 document titled "Center for Air 17 Toxic Metals (CATM) 2003 Research 18 Ideas.") 19 (Pavlish Exhibit 13 marked for 255 20 identification, multi-page 21 document, IPR proceedings with 22 declaration of John Pavlish.) 23 24 25	Page 284
1 [REDACTED] - JOHN PAVLISH - Vol. I 2 CONTINUED 3 INDEX: 4 ----- EXHIBITS ----- 5 NO. PAGE 6 (Pavlish Exhibit 4 marked for 68 7 identification, multi-page 8 document titled "Midwest Energy 9 Emissions Corporation Description 10 of Technology Products," 11 production numbers 12 ME2C-RC-00074412 through 4417.) 13 (Pavlish Exhibit 5 marked for 89 14 identification, multi-page 15 document, copy of U.S. Patent 16 8,168,147 B2, dated 5/1/12.) 17 (Pavlish Exhibit 6 marked for 89 18 identification, multi-page 19 document, copy of U.S. Patent 20 10,343,114 B2, dated 7/9/19.) 21 (Pavlish Exhibit 7 marked for 89 22 identification, multi-page 23 document, copy of U.S. Patent 24 10,589,225 B2, dated 3/17/20.) 25 (Pavlish Exhibit 8 marked for 90 identification, multi-page document, copy of U.S. Patent 10,596,517 B2, dated 3/24/20.) (Pavlish Exhibit 9 marked for 90 identification, multi-page document, copy of U.S. Patent 10,668,430 B2, dated 6/2/20.) (Pavlish Exhibit 10 marked for 154 identification, two-page document, listing of defendants and power plants.) (Previously marked Pavlish 178 Exhibit 5 shown to witness.) (Pavlish Exhibit 11 marked for 190 identification, multi-page document, provisional patent application, production numbers ME2C-RC-00055866 through 5890.)	Page 283	1 [REDACTED] - JOHN PAVLISH - Vol. I 2 DEPOSITION ERRATA SHEET 3 4 Our Assignment No.: 5407942 5 Case Caption: Midwest Energy v. Gallagher, 6 et al. 7 DECLARATION UNDER PENALTY OF PERJURY 8 9 I declare under penalty of 10 perjury that I have read the entire 11 transcript of my Deposition taken in the 12 captioned matter or the same has been read 13 to me, and the same is true and accurate, 14 save and except for changes and/or 15 corrections, if any, as indicated by me on 16 the DEPOSITION ERRATA SHEET hereof, with 17 the understanding that I offer these 18 changes as if still under oath. 19 _____ 20 JOHN PAVLISH 21 Subscribed and sworn to on the ____ day of 22 _____, 20 ____ before me. 23 _____ 24 Notary Public, 25 in and for the State of _____.	Page 285

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1 [REDACTED] - JOHN PAVLISH - Vol. I
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1 [REDACTED] JOHN PAVLISH - Vol. I
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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and
(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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