

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COLUMBIA INSURANCE COMPANY and
MITEK INC.,

Plaintiffs,

v.

Case No.

SIMPSON STRONG-TIE COMPANY,
INC.,

3:19-CV-04683-TSH

Defendant.

VIDEOTAPED DEPOSITION OF
SAM HENSEN

DATE: Monday, March 17, 2025

TIME: 10:08 a.m.

LOCATION: Shartsis Friese, LLP
425 Market Street, 11th Floor
San Francisco, CA 94105

OFFICIATED BY: Ariana Crisafulli

JOB NO.: 7228490

Columbia EX2065
Simpson Strong-Tie Company Inc. v. Columbia Insurance
Company
PGR2024-00050

<div>Page 2</div> <div> <p>1 A P P E A R A N C E S</p> <p>2 ON BEHALF OF PLAINTIFFS COLUMBIA INSURANCE COMPANY AND</p> <p>3 MITEK INC.:</p> <p>4 B. SCOTT EIDSON, ESQUIRE</p> <p>5 JUDITH ARAUJO, ESQUIRE (by videoconference)</p> <p>6 Stinson LLP</p> <p>7 7700 Forsyth Boulevard</p> <p>8 Saint Louis, MO 63105</p> <p>9 scott.eidson@stinson.com</p> <p>10 judith.araujo@stinson.com</p> <p>11 (314) 863-0800</p> <p>12</p> <p>13 ON BEHALF OF DEFENDANT SIMPSON STRONG-TIE COMPANY, INC.:</p> <p>14 JOSEPH V. MAUCH, ESQUIRE</p> <p>15 Shartsis Friese LLP</p> <p>16 425 Market Street, 11th Floor</p> <p>17 San Francisco, CA 94105</p> <p>18 jmauch@sflaw.com</p> <p>19 (415) 421-6500</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 Shawna Hynes, Videographer</p> <p>23</p> <p>24</p> <p>25</p> </div>	<div>Page 4</div> <div> <p>1 E X H I B I T S (Cont'd)</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 12 Email String Starting from Tim</p> <p>4 Stauffer 4/24/2014 148</p> <p>5 Exhibit 13 Email Starting from Tom Evans</p> <p>6 3/21/2017 156</p> <p>7 Exhibit 14 Email Starting from Tom Evans</p> <p>8 4/22/2014 162</p> <p>9 Exhibit 15 Email Starting from Tom Evans</p> <p>10 7/25/2014 165</p> <p>11 Exhibit 16 Email Starting from Shane</p> <p>12 Vilasineekul 7/30/2014 170</p> <p>13 Exhibit 17 Email Starting from Curt Johnson</p> <p>14 1/15/2015 172</p> <p>15 Exhibit 18 Email Starting from Dan Scullion</p> <p>16 2/12/2015 174</p> <p>17 Exhibit 19 Email Starting from Brian Lynch</p> <p>18 3/10/2015 176</p> <p>19 Exhibit 20 Email Starting from Dan Scullion</p> <p>20 3/10/2015 177</p> <p>21 Exhibit 21 Email Starting from Kent Fairchild</p> <p>22 2/8/2016 182</p> <p>23 Exhibit 22 Email Starting from Kent Phillips</p> <p>24 1/14/2016 188</p> <p>25</p> </div>
<div>Page 3</div> <div> <p>1 I N D E X</p> <p>2 EXAMINATION: PAGE</p> <p>3 By Mr. Eidson 7</p> <p>4 By Mr. Mauch 216</p> <p>5 By Mr. Eidson 224</p> <p>6</p> <p>7 E X H I B I T S</p> <p>8 NO. DESCRIPTION PAGE</p> <p>9 Exhibit 1 Defendant Simpson Strong-Tie</p> <p>10 Company Expert Disclosure - 3/17 9</p> <p>11 Exhibit 2 Re: Simpson Strong-Tie HU43tf</p> <p>12 Hanger 36</p> <p>13 Exhibit 3 Testing Engineers Inc. Oct 28 2009 37</p> <p>14 Exhibit 4 Testing Engineers Inc. Oct 20 2009 39</p> <p>15 Exhibit 5 Computations 39</p> <p>16 Exhibit 6 US Patent Application</p> <p>17 us2024/0376704 62</p> <p>18 Exhibit 7 Wood Construction Connectors</p> <p>19 2019-2020 70</p> <p>20 Exhibit 8 United States Patent Brekke et al. 84</p> <p>21 Exhibit 9 DG DGF DGT DU totals 86</p> <p>22 Exhibit 10 Email String Starting Jan 14 2013</p> <p>23 from Richard Kessler 133</p> <p>24 Exhibit 11 Email String Starting from Randy</p> <p>25 Daudet 4/24/2014 139</p> </div>	<div>Page 5</div> <div> <p>1 E X H I B I T S (Cont'd)</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 23 Email Starting from Sam Hensen</p> <p>4 1/15/2016 191</p> <p>5 Exhibit 24 Email Starting from Sam Hensen</p> <p>6 3/11/2016 194</p> <p>7 Exhibit 25 Email Starting from Dave Williams</p> <p>8 3/15/2017 198</p> <p>9 Exhibit 26 Architectural Record 211</p> <p>10</p> <p>11 QUESTIONS INSTRUCTED NOT TO ANSWER</p> <p>12 PAGE LINE</p> <p>13 10 9</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div>

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<p style="text-align: right;">Page 6</p> <p>1 P R O C E E D I N G S</p> <p>2 THE OFFICER: Good morning. My name is</p> <p>3 Ariana Crisafulli; I am the reporter assigned by</p> <p>4 Veritext to take the record of this proceeding. We are</p> <p>5 now on the record at 10:08 a.m.</p> <p>6 This is the deposition of Sam Hensen,</p> <p>7 taken in the matter of Columbia Insurance Company and</p> <p>8 MiTek, Inc. vs. Simpson Strong-Tie Company, Inc. on</p> <p>9 Monday, March 17, 2025, at San Francisco, California</p> <p>10 94105.</p> <p>11 I am a notary authorized to take</p> <p>12 acknowledgements and administer oaths in California.</p> <p>13 Additionally, absent an objection on the</p> <p>14 record before the witness is sworn, all parties and the</p> <p>15 witness understand and agree that any certified</p> <p>16 transcript produced from the recordings of this</p> <p>17 proceeding:</p> <p>18 - is intended for all uses permitted</p> <p>19 under applicable procedural and</p> <p>20 evidentiary rules and laws in the same</p> <p>21 manner as a deposition recorded by</p> <p>22 stenographic means; and</p> <p>23 - shall constitute written stipulation</p> <p>24 of such.</p> <p>25 This proceeding will be recorded via</p>	<p style="text-align: right;">Page 8</p> <p>1 Q All right. We've done this a few times. I'm</p> <p>2 not going to belabor the ground rules. Do you remember</p> <p>3 all the rules of the deposition?</p> <p>4 A I do.</p> <p>5 Q Okay. Can we operate by the same rules that</p> <p>6 we've always operated in the deposition process?</p> <p>7 A Yes.</p> <p>8 Q Okay. The one I want to remind you of is if</p> <p>9 there's a question pending, we take care of that</p> <p>10 question before we take a break. Does that sound fair?</p> <p>11 A That sounds fair.</p> <p>12 Q All right. Do you have any medical conditions</p> <p>13 that would have affect your ability to testify</p> <p>14 truthfully or accurately today?</p> <p>15 A No.</p> <p>16 Q Are you on any medication that would affect</p> <p>17 your ability to testify truthfully or accurately today?</p> <p>18 A No.</p> <p>19 Q Okay. You know why we are here today;</p> <p>20 correct?</p> <p>21 A I do.</p> <p>22 Q Why?</p> <p>23 A We are here to ask questions about the</p> <p>24 product, the fire wall hangers, and --</p> <p>25 Q Okay. Let me -- maybe little more intentional</p>
<p style="text-align: right;">Page 7</p> <p>1 video technology by Shawna Hynes.</p> <p>2 At this time, will everyone in attendance</p> <p>3 please identify yourself for the record, beginning from</p> <p>4 my right.</p> <p>5 MR. EIDSON: Scott Eidson from Stinson</p> <p>6 LLP on behalf of the plaintiff, Columbia Insurance</p> <p>7 Company and MiTek Inc. And with me on Zoom is my</p> <p>8 colleague, Judith Araujo.</p> <p>9 MR. MAUCH: Joseph Mauch of Shartsis</p> <p>10 Friese on behalf of Defendant Simpson Strong-Tie Company</p> <p>11 and defending the witness, Sam Hensen, today.</p> <p>12 THE OFFICER: Thank you. Hearing no</p> <p>13 objection, I will now swear in the witness.</p> <p>14 Please raise your right hand.</p> <p>15 WHEREUPON,</p> <p>16 SAM HENSEN,</p> <p>17 called as a witness and having been first duly sworn to</p> <p>18 tell the truth, the whole truth, and nothing but the</p> <p>19 truth, was examined and testified as follows:</p> <p>20 THE OFFICER: Thank you.</p> <p>21 You may proceed.</p> <p>22 EXAMINATION</p> <p>23 BY MR. EIDSON:</p> <p>24 Q Happy Saint Patrick's Day, Mr. Hensen.</p> <p>25 A Happy Saint Patrick's Day.</p>	<p style="text-align: right;">Page 9</p> <p>1 with it.</p> <p>2 A Okay.</p> <p>3 Q I'm going to hand you what we have marked or</p> <p>4 we'll mark as Hensen Exhibit 1.</p> <p>5 (Hensen Exhibit 1 was marked for</p> <p>6 identification.)</p> <p>7 MR. EIDSON: And, Mr. Mauch, just so you</p> <p>8 know, we're going to -- I know we've got a lot of Hensen</p> <p>9 1s, but this one's going to have the date 3/17 on it, so</p> <p>10 hopefully we don't get our Hensen Exhibit 1s confused.</p> <p>11 MR. MAUCH: Okay.</p> <p>12 BY MR. EIDSON:</p> <p>13 Q Have you seen Hensen Exhibit 1 before,</p> <p>14 Mr. Hensen?</p> <p>15 A Yes, I have.</p> <p>16 Q Okay. Did you assist in preparing Hensen</p> <p>17 Exhibit 1?</p> <p>18 A No, I did not.</p> <p>19 Q Did you review it before it was submitted in</p> <p>20 this case?</p> <p>21 A No.</p> <p>22 Q Okay. And I want to focus your opinion -- or</p> <p>23 attention on page 2 and page 3 of this exhibit. Do you</p> <p>24 see under subsection B where it says Rule 26 A2C,</p> <p>25 disclosures nonretained experts, and then number 1 is</p>

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<p style="text-align: right;">Page 10</p> <p>1 Sam Hensen?</p> <p>2 A I do.</p> <p>3 Q And under this section B, it lists items for</p> <p>4 which Simpson intends for you to offer expert testimony.</p> <p>5 Do you see that?</p> <p>6 A I do see that.</p> <p>7 Q Okay. And did you review each of these items</p> <p>8 before they were put in this document?</p> <p>9 MR. MAUCH: Objection. To the extent it</p> <p>10 seeks testimony related to a draft of his expert</p> <p>11 opinion, which under the Federal Rules of Civil</p> <p>12 Procedures Rule 26, is not discoverable information.</p> <p>13 So, Sam, you're instructed not to answer</p> <p>14 that question.</p> <p>15 BY MR. EIDSON:</p> <p>16 Q Do you agree, looking at these topics under</p> <p>17 subsection B, that you are going to offer expert</p> <p>18 testimony about each of these topics?</p> <p>19 A I do.</p> <p>20 Q Okay. And so this is a little bit of a</p> <p>21 different situation, Mr. Hensen, because unlike</p> <p>22 traditional experts, who Simpson has retained in this</p> <p>23 case, and you're familiar with those gentlemen; correct?</p> <p>24 MR. MAUCH: Objection. Vague.</p> <p>25 //</p>	<p style="text-align: right;">Page 12</p> <p>1 whenever I'm asking about it. Does that make sense?</p> <p>2 A That does.</p> <p>3 Q Okay. And before we jump into this, you're</p> <p>4 still a Simpson employee; correct?</p> <p>5 A I am.</p> <p>6 Q Still the senior VP of the Northwest region?</p> <p>7 A Correct.</p> <p>8 Q No additional training or certification since</p> <p>9 the last time we chatted?</p> <p>10 A No.</p> <p>11 Q No additional expertise developed on patent</p> <p>12 law since the last time we chatted?</p> <p>13 A No.</p> <p>14 Q As it pertains to the opinions in this case,</p> <p>15 did you attempt to apply any principles of patent law to</p> <p>16 your opinions that you have in this matter?</p> <p>17 MR. MAUCH: Objection. Vague.</p> <p>18 THE WITNESS: I did not.</p> <p>19 THE VIDEOGRAPHER: Counsel, can you raise</p> <p>20 your mic higher?</p> <p>21 MR. MAUCH: Yeah.</p> <p>22 THE VIDEOGRAPHER: You're okay.</p> <p>23 MR. EIDSON: Me? Which counsel? Oh, I'm</p> <p>24 good. Okay.</p> <p>25 //</p>
<p style="text-align: right;">Page 11</p> <p>1 BY MR. EIDSON:</p> <p>2 Q Mr. Fennell, Mr. Serwin, and Mr. Hoffman?</p> <p>3 A I don't know them.</p> <p>4 Q Okay. Retained experts have to give reports</p> <p>5 and fully lay out all of their opinions, and I'm just</p> <p>6 giving you a little background so it'll make it easier</p> <p>7 for what we're here to do today.</p> <p>8 Whereas a company expert like yourself, you</p> <p>9 have to give me the subject matter of your opinions, but</p> <p>10 you don't necessarily have to lay it out in a report.</p> <p>11 Does that make sense?</p> <p>12 A It does.</p> <p>13 Q Okay. However, I'm here to ask you today</p> <p>14 about the substance of your opinions. And if you have</p> <p>15 an opinion, you have to tell me. Do you understand</p> <p>16 that?</p> <p>17 A I do.</p> <p>18 Q Okay. And if you don't have an opinion, you</p> <p>19 can say "I don't have an opinion about that," but I'm</p> <p>20 going to ask you questions about the substance for which</p> <p>21 Simpson claims you're going to offer expert testimony.</p> <p>22 Does that make sense?</p> <p>23 A It does.</p> <p>24 Q Okay. And I want your full and complete</p> <p>25 answers as to the substance of all of your opinions</p>	<p style="text-align: right;">Page 13</p> <p>1 BY MR. EIDSON:</p> <p>2 Q Did you prepare any report that details your</p> <p>3 opinions in this matter?</p> <p>4 A I did not.</p> <p>5 Q Other than what's identified in this</p> <p>6 Exhibit 1, are there any other expert opinions that you</p> <p>7 plan to offer in this matter?</p> <p>8 A Not that I'm aware of.</p> <p>9 Q And you're prepared to talk about all of your</p> <p>10 opinions today; correct?</p> <p>11 A I am.</p> <p>12 Q When you formed your expert opinions in this</p> <p>13 case, did you have access to all the information that</p> <p>14 you needed?</p> <p>15 A To the best of my knowledge.</p> <p>16 Q You had access to all of Simpson's documents;</p> <p>17 right?</p> <p>18 A Correct.</p> <p>19 Q Did you review any MiTek documents when</p> <p>20 reaching your opinions?</p> <p>21 A I did not.</p> <p>22 Q Do you have any opinions about whether the</p> <p>23 MiTek patent is infringed by the DGF product line?</p> <p>24 MR. MAUCH: Objection. Vague.</p> <p>25 THE WITNESS: Can you repeat the</p>

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<p style="text-align: right;">Page 14</p> <p>1 question?</p> <p>2 BY MR. EIDSON:</p> <p>3 Q Sure. Do you have any opinions about whether</p> <p>4 the MiTek patent in the 510 that's at issue in this</p> <p>5 litigation is infringed by the DGF product line?</p> <p>6 MR. MAUCH: Objection. Vague. And</p> <p>7 objection to the extent it seeks legal opinion.</p> <p>8 THE WITNESS: I am not a patent lawyer,</p> <p>9 so I don't know the specifics.</p> <p>10 BY MR. EIDSON:</p> <p>11 Q It's fair to say you don't have any opinions</p> <p>12 on that?</p> <p>13 A That's correct.</p> <p>14 Q Do you have any opinions on whether Claim 40</p> <p>15 of the MiTek 510 patent is invalid?</p> <p>16 MR. MAUCH: Same objections.</p> <p>17 THE WITNESS: To the best of my</p> <p>18 knowledge, it's currently valid.</p> <p>19 BY MR. EIDSON:</p> <p>20 Q And my question is, do you have any opinions</p> <p>21 about whether it's invalid, one way or another?</p> <p>22 MR. MAUCH: Same objection.</p> <p>23 THE WITNESS: Well, if the patent claim</p> <p>24 is valid, how could it be invalid?</p> <p>25 //</p>	<p style="text-align: right;">Page 16</p> <p>1 A I did not.</p> <p>2 Q No customers, no engineers, nobody like that?</p> <p>3 A No.</p> <p>4 MR. MAUCH: Meaning outside of Simpson?</p> <p>5 MR. EIDSON: Yes.</p> <p>6 THE WITNESS: No.</p> <p>7 BY MR. EIDSON:</p> <p>8 Q Did you confer with any of the other experts</p> <p>9 that Simpson has retained in this matter?</p> <p>10 A I did not.</p> <p>11 Q Did you read the reports?</p> <p>12 A I did not.</p> <p>13 Q Did you read any deposition transcripts in</p> <p>14 preparing your opinions in this matter?</p> <p>15 A I did not.</p> <p>16 Q How many times did you confer with</p> <p>17 Mr. Shackelford?</p> <p>18 A Probably three times.</p> <p>19 Q Was Mr. Mauch present each time?</p> <p>20 A He was.</p> <p>21 Q Was there anything in that conversation that</p> <p>22 you are utilizing to form your expert opinions in this</p> <p>23 case?</p> <p>24 A Previous codes that were in effect during</p> <p>25 those timelines.</p>
<p style="text-align: right;">Page 15</p> <p>1 BY MR. EIDSON:</p> <p>2 Q When you prepared your opinions that are</p> <p>3 detailed in this Exhibit 1, did you -- well, let me back</p> <p>4 up. Start with a different premise.</p> <p>5 What did you do to prepare your opinions</p> <p>6 detailed in this Exhibit 1?</p> <p>7 A I reviewed code, building code, I had</p> <p>8 communications with our legal counsel, and I reviewed</p> <p>9 our products.</p> <p>10 Q Anything else?</p> <p>11 A Not that I recall.</p> <p>12 Q With the legal counsel, was that Mr. Mauch?</p> <p>13 A That's correct.</p> <p>14 Q Anybody else?</p> <p>15 A No.</p> <p>16 Q Did you meet with anybody else at Simpson to</p> <p>17 help form your expert opinions in this matter?</p> <p>18 A I did have virtual calls with Joe and with</p> <p>19 also our code manager, Randy Shackelford.</p> <p>20 Q And who's Joe?</p> <p>21 A Joe Mauch, our legal counsel.</p> <p>22 Q Did you confer with anybody else at Simpson?</p> <p>23 A I did not.</p> <p>24 Q Did you chat with any third parties in</p> <p>25 reaching your opinions in this matter?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q Please tell me what you mean by that?</p> <p>2 A The previous codes that existed. So in 2000,</p> <p>3 2003, '9, '12, '15, are -- Randy Shackelford is our</p> <p>4 manager of code standards and he was able to provide</p> <p>5 those earlier documents that I don't have access to.</p> <p>6 Q Did you review those documents?</p> <p>7 A In part.</p> <p>8 Q Did you rely on those documents informing your</p> <p>9 opinions in this matter?</p> <p>10 A I think it provided clarification.</p> <p>11 Q So did those documents help you clarify your</p> <p>12 opinions in this matter?</p> <p>13 A Yes.</p> <p>14 Q And do you have copies of those documents?</p> <p>15 A I do not.</p> <p>16 Q So you reviewed them, and then what happened</p> <p>17 to the documents?</p> <p>18 A They were digitally shown on the screen by</p> <p>19 Randy Shackelford during our virtual call.</p> <p>20 Q Do you recall specifically which documents you</p> <p>21 saw during the call?</p> <p>22 A Yes, it was the International Building Code in</p> <p>23 all cases.</p> <p>24 Q IBC for which years?</p> <p>25 A Specifically 2000, 2009, 2012.</p>

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<p style="text-align: right;">Page 18</p> <p>1 Q And what sections were you looking at?</p> <p>2 A I believe it was chapter seven, but I can't</p> <p>3 recall the specific number.</p> <p>4 Q Chapter seven for each year?</p> <p>5 A Correct.</p> <p>6 Q And you don't remember anything beyond that?</p> <p>7 A I do not.</p> <p>8 Q Did you create any notes when you were</p> <p>9 preparing your expert opinions in this matter?</p> <p>10 A I did not.</p> <p>11 Q Have you ever provided expert testimony</p> <p>12 before?</p> <p>13 A I believe so, in previous cases with you.</p> <p>14 Q Have you been designated as an expert by any</p> <p>15 party and prepared a report in connection with expert</p> <p>16 testimony you've provided?</p> <p>17 A No.</p> <p>18 Q And what would you say your expertise is?</p> <p>19 A My deep understanding of structural</p> <p>20 connectors, how they're designed, and their uses.</p> <p>21 Q Anything else?</p> <p>22 A No.</p> <p>23 Q And when you say your deep understanding of</p> <p>24 structural connectors, is that just Simpson structural</p> <p>25 connectors or is that all structural connectors out in</p>	<p style="text-align: right;">Page 20</p> <p>1 that you have a deep understanding of their structural</p> <p>2 connectors?</p> <p>3 A No.</p> <p>4 Q Other than the design of Simpson's structural</p> <p>5 connectors, is there any other company that you have a</p> <p>6 deep understanding of structural connector design for a</p> <p>7 particular connector?</p> <p>8 MR. MAUCH: Objection. Vague.</p> <p>9 BY MR. EIDSON:</p> <p>10 Q Let me try to ask a better question. One of</p> <p>11 the other bases of your expert testimony was your deep</p> <p>12 understanding of how structural connectors are designed.</p> <p>13 I assume that understanding is based on Simpson</p> <p>14 structural connectors; is that fair to say?</p> <p>15 MR. MAUCH: Objection. Vague.</p> <p>16 THE WITNESS: My whole experience has</p> <p>17 been with Simpson structural connectors during my</p> <p>18 career.</p> <p>19 BY MR. EIDSON:</p> <p>20 Q And do you have an understanding of how any</p> <p>21 other company designs its structural connectors?</p> <p>22 MR. MAUCH: Objection. Assumes facts not</p> <p>23 in evidence.</p> <p>24 THE WITNESS: I have a familiarity with</p> <p>25 other connector products in the market.</p>
<p style="text-align: right;">Page 19</p> <p>1 the marketplace?</p> <p>2 A I would say particularly Simpson's structural</p> <p>3 connectors.</p> <p>4 Q Do you have a deep understanding of structural</p> <p>5 connectors from any other company other than Simpson?</p> <p>6 A I would say I have a familiarity with other</p> <p>7 connectors from other companies.</p> <p>8 Q Which companies?</p> <p>9 A MiTek.</p> <p>10 Q Who else?</p> <p>11 A In the past, other companies that no longer</p> <p>12 exist.</p> <p>13 Q And what -- my question is, earlier you said</p> <p>14 one of the basis for your expertise was a deep</p> <p>15 understanding of structural connectors, and so I'm</p> <p>16 looking for those companies that you have a deep</p> <p>17 understanding of their structural connectors. Does that</p> <p>18 make sense?</p> <p>19 A It does.</p> <p>20 Q Okay. And so far I've got Simpson. And would</p> <p>21 you put MiTek on that list or no?</p> <p>22 A Well, I would say that I have a familiarity</p> <p>23 with Simpson -- or MiTek connectors. I have a deep</p> <p>24 understanding of Simpson connectors.</p> <p>25 Q Other than Simpson, is there any other company</p>	<p style="text-align: right;">Page 21</p> <p>1 BY MR. EIDSON:</p> <p>2 Q My question was about how they were designed.</p> <p>3 Do you have an understanding about how other companies</p> <p>4 design their structural connector products?</p> <p>5 MR. MAUCH: Same objection. Assumes</p> <p>6 facts not in evidence.</p> <p>7 THE WITNESS: I don't have access to</p> <p>8 other companies' designs.</p> <p>9 BY MR. EIDSON:</p> <p>10 Q And so the answer would be no?</p> <p>11 A Correct.</p> <p>12 Q You mentioned "uses" as well. You have a deep</p> <p>13 understanding of how Simpson structural connector</p> <p>14 products are used; correct?</p> <p>15 A Correct.</p> <p>16 Q And other than Simpson structural connector</p> <p>17 products, do you have a deep understanding of how any</p> <p>18 other company's structural connector products are used?</p> <p>19 MR. MAUCH: Objection. Assumes facts not</p> <p>20 in evidence.</p> <p>21 THE WITNESS: I have an understanding of</p> <p>22 other companies' connector products based on the</p> <p>23 literature and installation information they provide</p> <p>24 that's public information.</p> <p>25 //</p>

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<p style="text-align: right;">Page 22</p> <p>1 BY MR. EIDSON:</p> <p>2 Q And so is your level of understanding for the</p> <p>3 uses of those products the same or less than your</p> <p>4 understanding of Simpson's product use?</p> <p>5 A I would say that my understanding of Simpson's</p> <p>6 product use is deeper.</p> <p>7 Q Than the other companies?</p> <p>8 A That's correct.</p> <p>9 Q And what other companies do you understand how</p> <p>10 their structure of connector products are used based on</p> <p>11 the public literature?</p> <p>12 A MiTek.</p> <p>13 Q Anybody else?</p> <p>14 A No.</p> <p>15 Q In this disclosure, Hensen Exhibit 1, I'm just</p> <p>16 going to refer to the bullets and what's listed in here</p> <p>17 as your expert opinions. Does that sound fair?</p> <p>18 A It does.</p> <p>19 Q Okay. How much time did you spend preparing</p> <p>20 your expert opinions found in this disclosure?</p> <p>21 MR. MAUCH: And I just object. Vague and</p> <p>22 mischaracterizes the document. I think the document is</p> <p>23 clear that they're facts and opinions.</p> <p>24 THE WITNESS: Could you repeat the</p> <p>25 question?</p>	<p style="text-align: right;">Page 24</p> <p>1 products; correct?</p> <p>2 A That's correct.</p> <p>3 Q But they're not fire wall hangers; right?</p> <p>4 A Correct.</p> <p>5 Q All right. Mr. Hensen, one of the things that</p> <p>6 you are prepared to offer expert opinions about is the</p> <p>7 state of technology relating to using hangers and fire</p> <p>8 resistant wall assemblies, including state of technology</p> <p>9 prior to the DU and how it's evolved. Does that sound</p> <p>10 fair?</p> <p>11 A That's correct.</p> <p>12 Q Okay. Prior to Simpson's DU series hanger --</p> <p>13 well, let me back up.</p> <p>14 And let me start this by saying I don't intend</p> <p>15 to replot a lot of old ground from your prior deposition</p> <p>16 testimony. I think there's some natural overlap between</p> <p>17 what you've already testified and what you have in this</p> <p>18 disclosure. Does that sound fair?</p> <p>19 A It does.</p> <p>20 Q Okay. But there were a few things in your</p> <p>21 prior deposition that you were maybe unclear on at the</p> <p>22 time. And so I just want to follow up and see if you've</p> <p>23 developed any further clarity on a few of those items;</p> <p>24 okay?</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 23</p> <p>1 BY MR. EIDSON:</p> <p>2 Q Sure. How much time did you spend preparing</p> <p>3 your opinions?</p> <p>4 MR. MAUCH: Same objection.</p> <p>5 THE WITNESS: About 12 hours.</p> <p>6 BY MR. EIDSON:</p> <p>7 Q Is there anything in this disclosure that you</p> <p>8 do not feel comfortable offering expert opinion</p> <p>9 testimony about?</p> <p>10 A No.</p> <p>11 Q Other than what you've already mentioned, do</p> <p>12 you have any other specialized knowledge, skill, or</p> <p>13 experience in connection with structural engineering,</p> <p>14 construction practices, and the development of joist</p> <p>15 hangers for fire wall assemblies?</p> <p>16 A Can you repeat that again?</p> <p>17 Q Sure. Hang on. I'll just do it again. Other</p> <p>18 than what you've already mentioned, do you have any</p> <p>19 other specialized knowledge, skill, and experience that</p> <p>20 relates to structural engineering, construction</p> <p>21 practices, and the development of joist hangers for fire</p> <p>22 resistant assemblies?</p> <p>23 A No.</p> <p>24 Q You have patents related to -- or you're an</p> <p>25 inventor on patents for other structural connector</p>	<p style="text-align: right;">Page 25</p> <p>1 Q All right. And so one of those things was,</p> <p>2 earlier, we were talking about the development of wood</p> <p>3 frame construction in the wood industry getting involved</p> <p>4 in the late 2000s and 2010s. Do you recall that?</p> <p>5 A I do.</p> <p>6 Q Okay. And your testimony was that the wood</p> <p>7 industry was pushing to increase the use of wood in</p> <p>8 construction of kind of type three construction; right?</p> <p>9 A That's correct.</p> <p>10 Q Okay. Before the wood industry started that</p> <p>11 push, how was type three construction done?</p> <p>12 A Type three construction was primarily done</p> <p>13 with concrete and steel as the -- the materials.</p> <p>14 Q And what is type three construction?</p> <p>15 A It's non-combustible materials that are used</p> <p>16 in the type three construction that allows for taller</p> <p>17 buildings and larger occupancy.</p> <p>18 Q So type three construction would be</p> <p>19 multifamily, multilevel construction; right?</p> <p>20 A That's correct.</p> <p>21 Q And then what changed that allowed for wood</p> <p>22 framing to be used for multifamily, multistory</p> <p>23 construction where it previously was not?</p> <p>24 A Yeah, so good question. My previous</p> <p>25 deposition and testimony, I believe I stated that there</p>

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<p style="text-align: right;">Page 26</p> <p>1 was a code change that occurred that prompted the need 2 for this use of wood in this taller construction with 3 more densely occupancy. 4 And after further understanding the previous 5 codes, that type three construction was permitted in the 6 2000 IBC, which was the first version of the 7 International Building Code. 8 It later became popularized by WoodWorks 9 Association, which was an association established to 10 promote the use of wood as a material in construction. 11 And one area that they found that could be 12 a -- an increase in wood use was to further promote type 13 three construction using wood, which was already in the 14 building code. It just wasn't very well thought of or 15 used. 16 There were concerns about fire in large scale 17 structures that were constructed of wood. And so 18 WoodWorks in the late 2000s spent a lot of time 19 educating and promoting the type three construction for 20 wood. 21 Q And you said the initial change that allowed 22 for this wood frame construction happened in the 2000 23 building code? 24 A Well, it was included in the original 2000 25 International Building Code, which is the first version</p>	<p style="text-align: right;">Page 28</p> <p>1 to type three wood frame construction in the 2012 code? 2 A No, not to my knowledge. 3 Q So earlier, you mentioned you looked at 4 chapter 7 of the 2000, 2009, and 2012. And as it 5 pertains to the substance of your expert testimony, you 6 didn't really see any distinctions between the three; is 7 that fair to say? 8 A They were all very similar. 9 Q Were there any differences that you noted? 10 A I can't recall. 11 Q So in 2000, whenever the code was changed, 12 it's fair to say that if someone wanted to do 13 multifamily, multilevel wood frame construction and 14 utilize a two-hour fire wall using sheet rock, they 15 could do it; correct? 16 A It was permitted in the code. 17 Q The hesitation and why it didn't take off 18 immediately was due to industry buy-in; is that fair to 19 say? 20 A Yes. 21 Q And you mentioned the concrete and steel 22 industry, you mentioned WoodWorks educating others. Was 23 there any other industry group that you can think of 24 that was hesitant to move over to this new construction 25 method?</p>
<p style="text-align: right;">Page 27</p> <p>1 of the International Building Code. 2 Q And then later, we looked in your last 3 deposition at a 2009 version. Do you recall that? 4 A I do recall a section that you provided from 5 the 2009 code, but it wasn't really construction of 6 floor assemblies to a wall assembly and a fire rated 7 wall. It was for openings in a fire rated wall 8 assembly. 9 Q And then what happened from 2000 to 2009 via 10 the code and changes in the code as it pertains to type 11 three construction with wood frame? 12 A As I searched through the previous code 13 models, there wasn't a lot of change between type three 14 construction in -- in the later code sections. 15 There was a heightened awareness in the 16 industry that this could be used, and there were 17 concerns by the concrete and the steel industries that 18 wood construction of larger scale would be safe for the 19 occupants due to fire concerns. 20 And so there was hesitancy in the industry to 21 utilize wood in these taller structures. And there were 22 lots of training and workshops occurring throughout the 23 US by WoodWorks promoting this, helping to clarify and 24 answer a lot of questions regarding that. 25 Q Was there any subsequent code change relating</p>	<p style="text-align: right;">Page 29</p> <p>1 A I believe just the industry in general is slow 2 to take new types of construction techniques. And wood 3 frame -- large scale wood frame construction had been 4 largely unchanged for several decades. And to overcome 5 those practices and installation processes is 6 significant. 7 And so there's a lot of reluctance to change 8 construction techniques by the industry in general, 9 which is why WoodWorks did a lot of education to 10 overcome a lot of those concerns. 11 Q And so in 2000, for those that wanted to 12 utilize some of the new code requirements for wood frame 13 construction, that would be the first instance where 14 someone would perhaps be asking Simpson for a fire wall 15 hanger to meet that specific type of construction; is 16 that fair to say? 17 MR. MAUCH: Objection. Vague. 18 Incomplete hypothetical. Lacks foundation. 19 MR. EIDSON: I'll ask a different 20 question and then I'll come back to that. 21 BY MR. EIDSON: 22 Q Prior to 2000, in your expert opinion, was 23 there any need for a fire wall hanger in the industry? 24 MR. MAUCH: Objection. Vague. 25 THE WITNESS: Prior to the International</p>

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<p style="text-align: right;">Page 30</p> <p>1 Building Code that was formed, there were three code 2 models throughout the US. 3 The Uniform building code, which was 4 largely on the west coast; the Southern building code, 5 which was in the southeast; and then the BOCA, and I 6 can't recall what the acronym stood for, but that was 7 mostly in the northeast. 8 Those three code models were combined 9 into one code model nationwide as the International 10 Building Code. And the only code model that allowed for 11 type three construction using wood, I believe, was BOCA. 12 And so that was included into 13 International Building Code at that time. And then I 14 don't know how long that had been in the BOCA code. I 15 wasn't able to go back that far. 16 BY MR. EIDSON: 17 Q When did Simpson first have a customer asked 18 for a fire wall hanger that could be utilized with this 19 new construction process? 20 MR. MAUCH: Objection. Vague. 21 THE WITNESS: I first had a call from 22 Mark Shepard with SCA, or Shepard Crane and Associates 23 Engineering, out of Houston, Texas in the 2009, 2010 24 timeline. And they had developed a patent for wood 25 frame construction utilizing top cord bearing trusses</p>	<p style="text-align: right;">Page 32</p> <p>1 and installation instruction on that product. And that 2 was the first time I had ever been asked to provide a 3 connector that could be used in that type of 4 construction. 5 BY MR. EIDSON: 6 Q You didn't market that as a fire wall hanger; 7 correct? 8 MR. MAUCH: Objection. Vague. 9 THE WITNESS: We did not. We marketed it 10 as a size that was available for those existing hangers. 11 BY MR. EIDSON: 12 Q And the existing HUTF was used in what 13 application? 14 MR. MAUCH: Objection. Vague. Lacks 15 foundation. 16 THE WITNESS: For wood to wood 17 connections with the top flange supported by the carried 18 or carrying member. 19 THE OFFICER: Did -- did you say top 20 "flince"? 21 THE WITNESS: Flange. 22 BY MR. EIDSON: 23 Q Top flange of what, a truss? 24 A The hanger had a top flange that would bear on 25 top of the carried -- carrying member.</p>
<p style="text-align: right;">Page 31</p> <p>1 that would require the top cord of a wood floor truss to 2 be strengthened. 3 It had two structural wood members as the 4 top of the truss and they would bear that top cord of 5 the truss on top of the wall assembly. 6 The bottom cord of the truss would be 7 held back short, and that allowed for Mark Shepard to 8 allow for the drywall to continue up to the top of the 9 wall and be cut around the top cord of the trusses. 10 And he connected with me directly because 11 there were some cases where the other end of the truss 12 would bear or come in contact with a wood beam that was 13 supporting a opening below that beam, a window or door 14 opening. 15 And they didn't want to notch the top of 16 the beam to accept this top cord of the truss. So they 17 needed a hanger to support that top cord member in those 18 applications. 19 And so in 2000, late 2010, early 2011, we 20 took one of our existing hangers, an HUTF style hanger, 21 and created the size that would fit the double top cord 22 of his wood bearing truss concept. And we introduced 23 that into our 2013 catalog. 24 But I also provided a flyer or a 25 technical bulletin that provided information of loads</p>	<p style="text-align: right;">Page 33</p> <p>1 Q And you provided some pictures of this right 2 before your deposition; correct, to your counsel? 3 A That's correct. 4 Q Okay. And we're going to get those out and 5 look at them. And what was the gentleman's name you 6 spoke to again? 7 A Mark Shepard. He is the inventor on the 8 patent for that wall assembly. 9 Q Before we get that on, let me just finish my 10 thought here. So that was, you said, in the 2009, 2010 11 range? 12 A I believe it was the 2010, 2011 timeline. 13 Q Was Mr. Shepard and his company -- were they 14 hanging joists in multilevel, multiframe construction 15 and then installing the drywall after the joist was 16 hung? 17 MR. MAUCH: Objection. Calls for 18 speculation. 19 THE WITNESS: To the best of my 20 knowledge, they were installing the floor joist with the 21 bottom cord of the truss held short so that the drywall 22 can be installed afterwards. 23 BY MR. EIDSON: 24 Q How do you know that? 25 A With discussions from Mr. Shepard.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q In 2009?</p> <p>2 A Well, I believe I said 2010 and 2011.</p> <p>3 Q So your discussions with him, and is that --</p> <p>4 so you had those discussions about installing the sheet</p> <p>5 rock after the truss or joist is hung in multilevel wood</p> <p>6 frame construction in 2010; correct?</p> <p>7 A I had discussions with Mr. Shepard about a</p> <p>8 connector that he needed to tie the floor truss to a</p> <p>9 beam, and we provided the connector that he was</p> <p>10 requesting.</p> <p>11 Q And my question is about how he was using the</p> <p>12 connector. Other than your conversation with him, is</p> <p>13 there any other information that you have about whether</p> <p>14 he was using the connector to install the floor joist</p> <p>15 before or after the drywall was hung?</p> <p>16 A I don't recall discussions like that with</p> <p>17 Mr. Shepard.</p> <p>18 Q So you don't know one way or another about</p> <p>19 whether he was installing this hanger over the drywall</p> <p>20 after the drywall was already up or whether he was doing</p> <p>21 the hanger first and then installing the drywall after?</p> <p>22 A I can tell you that I recall him designing and</p> <p>23 patent -- applying for a patent for this application so</p> <p>24 that he could meet the type three construction.</p> <p>25 The -- the sequencing and the specifics around</p>	<p style="text-align: right;">Page 36</p> <p>1 last time and they've taken that responsibility away</p> <p>2 from me. That's probably the more likely explanation.</p> <p>3 Mr. Hensen, I've handed you what we have</p> <p>4 marked as Hensen Exhibit 2.</p> <p>5 (Hensen Exhibit 2 was marked for</p> <p>6 identification.)</p> <p>7 It's a document Bates labeled SST 0105238.</p> <p>8 You recognize this document; correct?</p> <p>9 A I do.</p> <p>10 Q And this is a picture of one of the HUTF</p> <p>11 hangers that we were just discussing; correct?</p> <p>12 A That's correct.</p> <p>13 Q And this is the one that Simpson developed for</p> <p>14 or adopted for Mr. Shepard; is that right?</p> <p>15 A That's correct.</p> <p>16 Q And was this hanger in existence before you</p> <p>17 spoke with Mr. Shepard?</p> <p>18 MR. MAUCH: Objection. Vague.</p> <p>19 THE WITNESS: This connector series was</p> <p>20 available and had been available for over 40 years. The</p> <p>21 size of this connector to support a four -- a nominal</p> <p>22 four by three member of the top -- top cord of that</p> <p>23 truss was not available.</p> <p>24 BY MR. EIDSON:</p> <p>25 Q And you're familiar with the Simpson catalog;</p>
<p style="text-align: right;">Page 35</p> <p>1 how that was done, I did not have discussions with him</p> <p>2 about that. I talked to him about the need for the</p> <p>3 connector loads and installation of that to a top cord</p> <p>4 truss and to a carrying beam member.</p> <p>5 Q So we'll use kind of the word "sequencing."</p> <p>6 It allows us to both save a mouthful whenever we're</p> <p>7 talking about installing a hanger and then doing the</p> <p>8 drywall after or vice versa.</p> <p>9 It's fair to say that you don't have any idea</p> <p>10 about the sequencing that Mr. Shepard was using for</p> <p>11 installing drywall in his construction with this HUTF</p> <p>12 hanger?</p> <p>13 A I don't have any specific information about</p> <p>14 sequencing.</p> <p>15 MR. EIDSON: Oh, I'm sorry. That's</p> <p>16 supposed to -- my mistake.</p> <p>17 THE WITNESS: Did you put these on last</p> <p>18 time? Because I don't remember the reporter doing this</p> <p>19 last time.</p> <p>20 BY MR. EIDSON:</p> <p>21 Q I did it last time. She's full service.</p> <p>22 A Oh, okay.</p> <p>23 Q Yeah, it's makes my life easier.</p> <p>24 A Let's -- let's pay extra for that.</p> <p>25 Q Yeah. Either that or I screwed something up</p>	<p style="text-align: right;">Page 37</p> <p>1 correct?</p> <p>2 A I am.</p> <p>3 Q Each catalog is broken up into sections by</p> <p>4 particular product. Masonry screws, fire wall hangers,</p> <p>5 et cetera; right?</p> <p>6 A Yes.</p> <p>7 Q What section of the catalog was this</p> <p>8 particular product in?</p> <p>9 A It was in our top flange hanger wood</p> <p>10 connections.</p> <p>11 Q Mr. Hensen, I'm handing you a document that we</p> <p>12 have marked as Hensen Exhibit 3.</p> <p>13 (Hensen Exhibit 3 was marked for</p> <p>14 identification.)</p> <p>15 It's Bates labeled SST 0105239 through 246.</p> <p>16 Do you recognize this document?</p> <p>17 A I do.</p> <p>18 Q What is it?</p> <p>19 A It is a test report for the HU-43-TF hanger.</p> <p>20 Q And what is this test report testing?</p> <p>21 A It is testing the product as it's to be</p> <p>22 installed in the field or as indicated in the Exhibit</p> <p>23 Number 2 that you showed previously.</p> <p>24 Q It's load testing; is that fair to say?</p> <p>25 A Correct.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q And you can see that on page SST 105241, for 2 example? 3 A Correct. 4 Q Let's look at page 3. I'm sorry, photo 3, 5 which is on page 105244. 6 A Okay. 7 Q You understand what's being shown there; 8 correct? 9 A I do. 10 Q Okay. That's a load failure photo; correct? 11 A That's correct. 12 Q All right. And it looks like in this picture, 13 the truss is butted all the way up against the top plate 14 here; correct? 15 A That's correct. 16 Q All right. And if one wanted to install 17 drywall around this after it was hung, you would cut a 18 U-shape slip around the entirety of the hanger and slide 19 it up? Is that how it was done, or that's how one would 20 do it? 21 A That's how one would -- 22 MR. MAUCH: Hold on. Objection. Calls 23 for speculation. 24 You can answer now, Mr. Hensen. 25 THE WITNESS: Yeah, that's how it would</p>	<p style="text-align: right;">Page 40</p> <p>1 A I do. 2 Q Is this testing that you actually did? 3 A These are the computations that we perform on 4 our connections where we provide reference information 5 and then calculations that are done in accordance with 6 the building code and reference standards in the 7 building code. 8 And then a summary of the testing loads that 9 were done in accordance with the test reports that you 10 shared in Exhibits 3 and 4. And it provides the -- the 11 allowable loads that we would move forward with in a 12 catalog for that connector based on this information. 13 Q And so just to, by way of example, look at the 14 last page of the exhibit. There's a table at the bottom 15 that says "allowable loads" and it's highlighted yellow. 16 Do you see that? 17 A I do see that. 18 Q So tell me what that table represents? 19 A Those are the loads that would be 20 calculated -- the summary of the loads that would be 21 calculated at those different load duration factors in 22 the building code. 23 So at 100 percent in that table, that's for 24 long term or gravity loads. And then the higher 25 percentages, 115, 125, 133, are for more short-term load</p>
<p style="text-align: right;">Page 39</p> <p>1 be done in the field. They would have to notch around 2 the wood member and the hanger to get it, the drywall, 3 to be installed. 4 BY MR. EIDSON: 5 Q Mr. Hensen, I'm handing you what we have 6 marked as Hensen Exhibit 4. 7 (Hensen Exhibit 4 was marked for 8 identification.) 9 It's a document Bates labeled SST 105247 10 through 254. You recognize this document? 11 A I do. 12 Q And this looks like it's load testing for a 13 different configuration of the HUTF hanger; correct? 14 A That's correct. 15 Q And this is the load testing for the angled 16 version that you can see on the right on Hensen 17 Exhibit 2; correct? 18 A Yes, that's correct. 19 Q Mr. Hensen, I'm handing you what has been 20 labeled as Hensen Exhibit 5. 21 (Hensen Exhibit 5 was marked for 22 identification.) 23 It's a document Bates labeled SST 0105229 24 through 237. I take it you recognize this because it 25 appears to have your engineering seal on the cover?</p>	<p style="text-align: right;">Page 41</p> <p>1 durations on that connection that are permissible by the 2 building code. 3 Q And what do you mean by that, by the 4 percentage versus the number below? Like look at 115 5 and then 158. So what does that represent? 6 A So if it is a short-term duration load on a 7 wood member in a building such as an uplift or a -- a 8 short-term live load that might be on the building 9 that's not there for the length of the building, the 10 timeline of the building, you can increase the allowable 11 load on that connection or that wood member by 15 12 percent. 13 And so we're providing the connector load at 14 that 115 level for that short-term duration load. 15 Q And the connector load is 158; is that right? 16 A For that particular application. For that one 17 instance, yes. 18 Q And what is 158? What unit of measure is 19 that? 20 A The unit of measure that we're listing there, 21 I believe that is in pounds. And I think this is for -- 22 yeah, that looks like that is the uplift load that it 23 would be limited to. 24 Q The uplift. Okay. All right. And you 25 mentioned earlier that with this special project that</p>

11 (Pages 38 - 41)

<p style="text-align: right;">Page 42</p> <p>1 you did for Mr. Shepard, that one, if they wanted to, 2 could install the joist and then install the drywall 3 after just by cutting around the hanger; correct? 4 A That's my understanding of how it's going to 5 be installed. 6 Q But you could do that for any structural 7 hanger used for a similar application that Simpson 8 offered; correct? 9 MR. MAUCH: Objection. Vague. Assumes 10 facts not in evidence. Incomplete hypothetical. 11 You can answer to the extent you're able 12 to, Mr. Hensen. 13 THE OFFICER: Was the last one 14 "incomplete hypothetical"? 15 MR. MAUCH: It was, thank you. 16 THE WITNESS: I -- I believe that if you 17 installed other hangers that are more typical that are 18 the full depth of the truss, so the floor joist, that 19 you would be cutting the drywall down into an open 20 cavity area of the wall that could potentially allow for 21 penetration of fire and heat into the wall assembly. 22 And with the connections that Mr. Shepard 23 had designed, whether it was directly on top of the wall 24 and then cutting the drywall around the truss cords 25 around those truss members to the wall, they were always</p>	<p style="text-align: right;">Page 44</p> <p>1 Q Okay. Last time, we walked through the pros 2 and cons of each version over a similar version. Do you 3 recall that testimony? 4 A I do. 5 Q I'm happy to do that again. I also want to be 6 respectful of your time, so I'll ask you this. Is there 7 anything about your prior testimony that you want to add 8 or supplement or change as it pertains to the benefits 9 of the DU versus the DG versus the DGF versus the DGT 10 that we previously talked about? 11 A No. 12 Q And what we didn't talk about was how those 13 changes might benefit the end users. And so as it 14 pertains to the changes in the hangers, the fire wall 15 hangers over time, how have the changes starting with 16 the introduction of the DU -- and we'll just start with 17 that. How did that benefit the end user? 18 MR. MAUCH: Objection. Vague. 19 THE WITNESS: The benefit of the DU 20 series hangers was that it could be installed directly 21 over two layers of five-eighths drywall, as it was 22 tested for that exact application. 23 BY MR. EIDSON: 24 Q Anything else? 25 A The other benefit is that it's a cost</p>
<p style="text-align: right;">Page 43</p> <p>1 done in a solid lead back connection point. 2 And so I think there was less concern by 3 Mr. Shepard whether or not that was degradating the fire 4 resistant wall assembly. 5 BY MR. EIDSON: 6 Q But you agree with me that there were other 7 Simpson hangers that were in your catalog at the time 8 that were used for wood frame construction, multifamily, 9 multilevel, where I could install them before the 10 drywall and then I could just cut a notch in the drywall 11 and slide it up; correct? 12 A There are many, yes. 13 Q And that's how construction was typically done 14 at that time; right? 15 A Yes. Although the difference with Mark 16 Shepard's is that the wall extended up so that the only 17 thing that was bearing on top of the wall was the top of 18 the truss, not the bottom of the truss. So that's a big 19 difference. And it was more closely resembling type 20 three construction as it relates to today. 21 Q I'll go back to that. So how -- last time, we 22 chatted about Simpson's DU hanger, MiTek's FWH hanger, 23 and then the evolution of Simpson's product from the DU 24 to the DG to the DGF to the DGT. Do you recall that? 25 A I do.</p>	<p style="text-align: right;">Page 45</p> <p>1 effective method for doing it. 2 Q And do you mean cost effective as in the 3 individual part is inexpensive or do you mean cost 4 effective as in then the process of doing the 5 construction is faster and therefore less labor 6 intensive? 7 A Yeah, I'm referring to the materials of the 8 connector. 9 Q The price point of the connector; is that fair 10 to say? 11 A Correct. 12 Q And then what is the benefit to the consumer 13 of the DG product line? 14 A The benefit was by request from our customers 15 so that they could install the connector and the floor 16 joist during framing stage and install the drywall 17 afterwards. 18 Q And so what benefits did that give the 19 consumer? 20 A That there was less need to have multiple 21 trades there at the same time during construction. 22 Q What else? 23 A I don't know. 24 Q And what about the DGF versus the DG? What 25 benefits did that have for the consumer over the DG?</p>

12 (Pages 42 - 45)

<p style="text-align: right;">Page 46</p> <p>1 Let me back up. I think I threw every model in there. 2 What benefits did the DGF have for the 3 consumer over the DG? 4 A The DGF provided the same installation and 5 features that the DG provided, but it was different in 6 the way that it stopped the floor joist from closing in 7 on the gap that was required for the drywall. 8 Q What do you mean by that? 9 A The positive stop that prevented the floor 10 joist from closing and the gap to allow the drywall to 11 be installed was different in both of those models. 12 Q What other benefits did it have for the 13 consumer? 14 A They provided the same benefits. 15 Q And then what about the DGT versus the DGF? 16 A The DGT also provides a stop and a gap that 17 the other two models do, but in a different method. 18 Q And what about that method is better for the 19 consumers? 20 A The -- the newer DGT style hanger allows for a 21 single piece of steel to be folded and bent into shape 22 and not require any welding, which is a lower cost for 23 the consumer. 24 Q So there's a cost component. Is there 25 anything else that was a benefit for the consumer over</p>	<p style="text-align: right;">Page 48</p> <p>1 A Correct. 2 Q Any other drawbacks for a consumer that you 3 can think of, comparing the DGT model to its 4 predecessor, the DGF? 5 A Not that I'm aware of. 6 Q What drawbacks for the consumer -- now I'm 7 going to go backwards, so you track me here, Mr. Hensen. 8 What drawbacks for the consumer were there for 9 the DGF model as compared to the prior DG model? 10 MR. MAUCH: Same objection. Calls for 11 speculation. 12 You can answer to the extent you know. 13 THE WITNESS: I don't think there were 14 any. 15 BY MR. EIDSON: 16 Q And then what drawbacks were there from the DG 17 model versus the DU model? 18 A There's more steel on the DG model than the 19 DU. So they're more -- more costly from a material 20 standpoint. 21 Q Cost more for the consumer? 22 A Correct. 23 Q Anything else? 24 A Not that I can think of. 25 Q And then what are the benefits of MiTek's fire</p>
<p style="text-align: right;">Page 47</p> <p>1 the prior model? 2 A I think the features are similar. 3 THE OFFICER: Did you say over the prior 4 amount? 5 MR. EIDSON: Model. 6 BY MR. EIDSON: 7 Q Was there anything that was worse for the 8 consumer with the DGT versus the DGF? 9 MR. MAUCH: Objection. Calls for 10 speculation. 11 You can answer it to the extent you know, 12 Mr. Hensen. 13 THE WITNESS: I think some of the drywall 14 notching might be a little larger than the other ones, 15 but other than that, I'm not aware of any. 16 BY MR. EIDSON: 17 Q Load values were the same? 18 A Load values are similar. 19 Q Fastener schedule was the same? 20 A Fastener schedule may be similar or better. 21 Q Time to install was the same for a user? 22 A Similar. 23 Q Which one was quicker? 24 A I believe the previous model was quicker. 25 Q The DGF?</p>	<p style="text-align: right;">Page 49</p> <p>1 wall hanger versus the DU model hanger? 2 MR. MAUCH: I'm sorry, could you either 3 read back the question or restate the question? I 4 didn't -- 5 MR. EIDSON: I can read it back. 6 MR. MAUCH: Sure. 7 BY MR. EIDSON: 8 Q What are the benefits of MiTek's fire wall 9 hanger versus the DU hanger? 10 A The MiTek fire wall hanger allowed for 11 sequencing that allowed for the -- the floor joist to be 12 installed before drywall. 13 Q What else? 14 A And that's its major benefit, I believe. I 15 don't know if there's anything else. 16 Q What advantage did the MiTek fire wall hanger 17 have over the DG line of hangers? 18 A I can't think of any. 19 Q How many slits did it require for the DG 20 hanger to be hung? 21 A I believe it required one. 22 Q And how many did the MiTek hanger require? 23 A Oh, I'm sorry. Excuse me. You said DG, but I 24 thought you said MiTek. So the MiTek required one slit, 25 and then the DG was two slits.</p>

13 (Pages 46 - 49)

<p style="text-align: right;">Page 50</p> <p>1 Q So that's a benefit of the MiTek hanger over 2 the DG hanger; correct?</p> <p>3 A It could be seen as a benefit.</p> <p>4 Q Well, I mean, you agree with me that someone 5 installing sheet rock would rather cut one slit versus 6 two; right?</p> <p>7 A It's minimal. But yes, there would be some 8 benefit there.</p> <p>9 Q It also upholds the integrity of the drywall; 10 right? Because if you have two slits, you create a 11 little tab that can be snapped off; right?</p> <p>12 A The slit that's required on the MiTek hanger 13 is much longer. Goes down even potentially into the 14 cavity of the wall assembly where there's not wood 15 backing the drywall.</p> <p>16 The Simpson connector was tested with a full 17 notch there in the fire assembly testing, and there was 18 no degradation in the fire wall system.</p> <p>19 Q Yeah, and my question was about creating the 20 notch that could be easily snapped off in installation. 21 You agree that's a drawback of having a two-slot system 22 for a hanger; correct?</p> <p>23 A It's a drawback if the drywall was needed for 24 fire resistance. If it's not, then there would be no 25 reason good or bad if it was snapped off.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q Do you know which ones?</p> <p>2 A Not off the top of my head.</p> <p>3 Q Does the MiTek product -- or is the MiTek 4 product capable of being installed faster than the 5 Simpson products?</p> <p>6 A I don't know.</p> <p>7 Q Let's jump back a little bit, and I want to 8 talk about some of your earlier testimony where you 9 talked about different concepts that were being tested 10 for fire wall hangers. Do you recall us having that 11 discussion?</p> <p>12 MR. MAUCH: Objection. You mean today?</p> <p>13 MR. EIDSON: No, in prior deposition.</p> <p>14 THE WITNESS: I do.</p> <p>15 BY MR. EIDSON:</p> <p>16 Q Okay. Did you review your transcript before 17 your deposition today?</p> <p>18 A From the previous deposition?</p> <p>19 Q From the one we did in January.</p> <p>20 A I did.</p> <p>21 Q Excellent. That makes two of us, so hopefully 22 we can be on the same page here. All right. We were 23 talking about the development of Simpson's first fire 24 wall hanger in January at the last deposition, and we 25 talked about how you landed on the DU.</p>
<p style="text-align: right;">Page 51</p> <p>1 Q But these are products that are called fire 2 wall hangers; right?</p> <p>3 MR. MAUCH: Objection. Lacks foundation.</p> <p>4 THE WITNESS: These are hangers that 5 attached to a fire wall resistive assembly, and Simpson 6 tested in a third-party lab our connections.</p> <p>7 BY MR. EIDSON:</p> <p>8 Q But Simpson markets these hangers as fire wall 9 hangers; right?</p> <p>10 MR. MAUCH: Objection. Lacks foundation.</p> <p>11 THE WITNESS: The section in our catalog 12 is fire wall hangers.</p> <p>13 BY MR. EIDSON:</p> <p>14 Q What advantages does the MiTek product have 15 over the DGF product line?</p> <p>16 A I believe it's similar to the DG.</p> <p>17 Q Anything else?</p> <p>18 A Not that I can think of.</p> <p>19 Q And what advantages does the MiTek product 20 have over the DGT product line?</p> <p>21 A I believe it's similar to the others.</p> <p>22 Q Are the load values of the MiTek product 23 superior to the Simpson product? Any of them?</p> <p>24 A There might be a couple that are a little bit 25 higher than the Simpson product.</p>	<p style="text-align: right;">Page 53</p> <p>1 You talked about some cantilever concepts that 2 were coming up and over the drywall, and then you listed 3 off a few additional concepts, and I've got some 4 questions about those concepts for you; okay?</p> <p>5 A Okay.</p> <p>6 Q So as it pertained to those different 7 concepts, the first one you mentioned was a top flange 8 hanger that cantilevered out over the drywall that you 9 could slide the drywall behind; correct?</p> <p>10 A That's correct.</p> <p>11 Q Okay. And that was a concept that Simpson 12 came up with that allowed the drywall to be installed 13 afterward?</p> <p>14 A That's correct.</p> <p>15 Q What problems did Simpson encounter with that 16 particular top flange cantilever design?</p> <p>17 A The engineer that was working on that project 18 felt that keeping that gap at an inch and a quarter 19 during -- during installation of the floor system might 20 get smaller.</p> <p>21 Q So essentially, when you hung the truss in 22 there, it would push the bottom of the channel shape 23 portion closer to the wall, therefore you couldn't get 24 the sheet rock in behind? Is that fair to say?</p> <p>25 A That was his concern.</p>

14 (Pages 50 - 53)

<p style="text-align: right;">Page 54</p> <p>1 Q Was it a valid concern?</p> <p>2 A I believe based on the specifications that he</p> <p>3 was working on for that connector, that it was a valid</p> <p>4 concern. I think that we could have easily have</p> <p>5 overcome that if we had spent more time working on it.</p> <p>6 Q How could you have easily overcome it?</p> <p>7 A Putting in features in the top flange to make</p> <p>8 it stiffer.</p> <p>9 Q Such as?</p> <p>10 A Rolled edges, embossment are just a -- a</p> <p>11 couple, to name a few.</p> <p>12 Q What else could you have done?</p> <p>13 A I -- we could have thickened the steel a</p> <p>14 little bit more.</p> <p>15 Q Anything else come to mind from an engineering</p> <p>16 perspective that you could have done?</p> <p>17 A There could have been other flanges bent into</p> <p>18 shape to support it diagonally that would give it some</p> <p>19 gusset strength that weren't considered.</p> <p>20 Q And how would you bend something diagonally to</p> <p>21 give it gusset strength?</p> <p>22 A At the 90-degree bend line, you could bend in</p> <p>23 another tab there of that same steel that would come</p> <p>24 down and make a gusset.</p> <p>25 Q Anything else?</p>	<p style="text-align: right;">Page 56</p> <p>1 from moving inwards once it's loaded. And it would also</p> <p>2 provide a square edge for the drywall to butt up</p> <p>3 against.</p> <p>4 Q If I gave you a piece of paper, could you draw</p> <p>5 it?</p> <p>6 A I would rather we pulled up the information</p> <p>7 from the deposition before.</p> <p>8 Q Well, I'm just trying to picture it in my</p> <p>9 head. I'm having a tough time. So you've got -- it's</p> <p>10 two separate -- the C channel concept, it's two separate</p> <p>11 pieces?</p> <p>12 A The C channel is a separate piece that would</p> <p>13 get attached to the wall first, and then a standard</p> <p>14 joist hanger would go over top of the C channel and</p> <p>15 fasten to the wall assembly and then the drywall would</p> <p>16 butt up to the bottom of the C channel.</p> <p>17 Q Okay. So let me -- how about -- so the C</p> <p>18 channel, it's like a -- is it like an upside down U that</p> <p>19 you would attach to the wall assembly? Which way does</p> <p>20 the C orient, off the top plate or off the front face of</p> <p>21 the wall assembly?</p> <p>22 A I mean, again, I don't recall how we were</p> <p>23 testing that. It could have been a C channel in this</p> <p>24 direction that then the joist hanger would attach to. I</p> <p>25 would have to look at our original testing that I had</p>
<p style="text-align: right;">Page 55</p> <p>1 A I don't know.</p> <p>2 Q Another concept that we talked about was a C</p> <p>3 channel concept. Do you recall that?</p> <p>4 A I do.</p> <p>5 Q I believe you said you could attach it to the</p> <p>6 wall system and then you could attach to -- and the</p> <p>7 drywall would abut up to the bottom. And I apologize</p> <p>8 for that rough description. I was just trying to bring</p> <p>9 you back to our testimony from January.</p> <p>10 But explain to me what the C channel concept</p> <p>11 was that Simpson was working on at the time? And by the</p> <p>12 way, before I -- let me back up.</p> <p>13 These are all concepts you were working on at</p> <p>14 the same time that you were working on the concept that</p> <p>15 eventually ended up as the DU; correct?</p> <p>16 A That's correct.</p> <p>17 Q Okay. So with that, the C channel concept,</p> <p>18 what was that?</p> <p>19 A The C channel would be attached to the wall</p> <p>20 assembly during construction before the floor joist is</p> <p>21 in place. And then the standard joist hangers that are</p> <p>22 readily available in our catalog could be attached to or</p> <p>23 over the top of that C channel and support the floor</p> <p>24 joist.</p> <p>25 And then that would prevent the floor joist</p>	<p style="text-align: right;">Page 57</p> <p>1 deposition on back a month ago.</p> <p>2 Q So okay, so I think I understand now. So a C</p> <p>3 channel, wherein the top and the bottom part of the C</p> <p>4 would stick out from the joist; is that fair to say?</p> <p>5 A Stick out from the wall.</p> <p>6 Q From the wall, yes.</p> <p>7 A Yeah.</p> <p>8 Q Thank you.</p> <p>9 A That's correct.</p> <p>10 Q Okay. And then you would fasten the C channel</p> <p>11 concept in the middle of the C to the back wall?</p> <p>12 A Correct.</p> <p>13 Q And then somewhere on that C channel, you</p> <p>14 would hang just any joist hanger that you had in the</p> <p>15 catalog?</p> <p>16 A Yeah, whatever the engineer needed for the</p> <p>17 loads.</p> <p>18 Q And then the person installing the drywall --</p> <p>19 so the C channel would be spaced enough such that it</p> <p>20 would allow for two layers of drywall to be slipped</p> <p>21 behind the joist after the secondary hanger was hung?</p> <p>22 A That's correct.</p> <p>23 Q And you would have to just cut a little groove</p> <p>24 to fit around the C clamp or the C channel?</p> <p>25 A As I recall, that's correct.</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1 Q And what problems did that concept encounter 2 during evaluation and testing? 3 MR. MAUCH: Objection. Lacks foundation. 4 Assumes facts not in evidence. 5 THE WITNESS: There was a secondary piece 6 that needed to be installed first. 7 BY MR. EIDSON: 8 Q Too fussy of an installation application; is 9 that fair to say? 10 A I would agree. 11 Q Any other problems that you can recall? 12 A Not to my knowledge. 13 Q Another one that we talked about was the L 14 angle concept. Do you recall that? 15 A I do recall that. 16 Q Tell me about that one? 17 A Similar to the C channel, it was an L angle 18 that the L would be kind of upside down, I guess. And 19 the -- the top flange of the L angle would be pointed 20 away from the wall. And then the vertical section of 21 the L would be fastened to the wall assembly with some 22 of our SDS screws, and then a standard joist hanger 23 would be installed over top of that. 24 Q So there would be nothing at the bottom 25 keeping the joist hanger and the joist from coming close</p>	<p style="text-align: right;">Page 60</p> <p>1 BY MR. EIDSON: 2 Q And do you recall from an engineering 3 perspective what made that particular concept not be 4 susceptible to gap closure whereas the cantilever 5 concept was? 6 MR. MAUCH: Objection. Mischaracterizes 7 prior testimony. Lacks foundation. 8 THE WITNESS: The L angle was thicker 9 steel. 10 BY MR. EIDSON: 11 Q Anything else? 12 A No. 13 Q And the L angle, you could also install the 14 drywall after; correct? 15 A Yes. 16 Q We talked about the DU product, which is what 17 Simpson eventually settled on; correct, last time? 18 A That's -- that's correct. 19 Q And how that was developed? You mentioned 20 that there were other products and methods that were 21 considered. 22 Other than what we've talked about, was there 23 any other product or prototype that Simpson was 24 evaluating to address the problem of being able to 25 install the joist hanger first and then allow someone to</p>
<p style="text-align: right;">Page 59</p> <p>1 to the wall in the L angle concept; correct? 2 A Correct. 3 Q Okay. And was that a problem that Simpson 4 identified with the L angle concept? 5 A Not that I recall. 6 Q What problems did Simpson identify with the L 7 angle concept? 8 MR. MAUCH: Objection. Lacks foundation. 9 Assumes facts not in evidence. 10 THE WITNESS: I believe it was the 11 secondary piece that still also needed to be installed 12 before the joist hanger. 13 BY MR. EIDSON: 14 Q Anything else? 15 A The thickness of the L angle and the fasteners 16 impede into the area where the drywall needs to be 17 inserted. 18 Q Anything else? 19 A Not that I recall. 20 Q Did it also have the problem of allowing the 21 gap to close like the cantilever solution had? 22 MR. MAUCH: Objection. Mischaracterizes 23 prior testimony. 24 THE WITNESS: I don't believe it did. 25 //</p>	<p style="text-align: right;">Page 61</p> <p>1 install drywall after? 2 MR. MAUCH: Objection. Lacks foundation. 3 Assumes facts not in evidence. Mischaracterizes prior 4 testimony. 5 THE WITNESS: Not that I recall. 6 BY MR. EIDSON: 7 Q So it's fair to say that there were at least 8 three concepts that Simpson was evaluating to address 9 the problem of having a joist hanger that could be hung 10 first and then have sheet rock installed after? 11 MR. MAUCH: Objection. Lacks foundation. 12 Assumes facts not in evidence. Mischaracterizes prior 13 testimony. 14 THE WITNESS: I believe so. 15 BY MR. EIDSON: 16 Q Last time we chatted, I asked you whether you 17 had personally installed any of the hangers that we've 18 talked about, whether it's MiTek's or Simpson's. Has 19 that changed? 20 A No. 21 Q You still doing okay? 22 A Yeah. 23 MR. EIDSON: I was just going to go until 24 lunch if that works for you guys. 25 THE WITNESS: That's fine.</p>

16 (Pages 58 - 61)

<p style="text-align: right;">Page 62</p> <p>1 MR. MAUCH: Yeah, I don't know if 2 Reporter or Videographer -- 3 MR. EIDSON: You guys want a break or are 4 you okay? 5 THE VIDEOGRAPHER: The only thing is in 6 about -- in about ten minutes, I will need to at least 7 change the file because it's getting long on the video 8 file. 9 MR. EIDSON: I will take advantage of 10 that ten minutes. 11 THE VIDEOGRAPHER: Okay. Thank you. 12 MR. EIDSON: You guys, don't hesitate to 13 flag me down if we're -- okay. Can you put another 14 sticker on this as well? Just right above this sticker? 15 THE OFFICER: Yes. 16 MR. EIDSON: Thank you. 17 BY MR. EIDSON: 18 Q Mr. Hensen, I'm handing you what we have 19 marked as Hensen Exhibit 6. 20 (Hensen Exhibit 6 was marked for 21 identification.) 22 It is also a document that was used with 23 Mr. Rotzin as Exhibit 12 in Mr. Rotzin's deposition. It 24 is US patent application publication number US 25 2024/0376704. You've seen this document before;</p>	<p style="text-align: right;">Page 64</p> <p>1 THE OFFICER: Yeah. Give me one moment. 2 MR. EIDSON: Yeah. Sorry about that. 3 (The officer repeated the record as 4 requested.) 5 THE OFFICER: Go ahead. 6 THE WITNESS: I'm not familiar with the 7 novel features that are described in this patent. 8 BY MR. EIDSON: 9 Q Do you know what the novel features are of the 10 DGT? 11 MR. MAUCH: Objection. Calls for a legal 12 conclusion. 13 THE WITNESS: Again, this is the first 14 time I've seen this document, so I'm not aware. 15 BY MR. EIDSON: 16 Q But you've seen the DGT before; right? 17 A I have. 18 Q Okay. And if we look at the cover of this 19 Hensen Exhibit 6, it's a picture of the DGT; right? 20 A Yes. 21 Q And so are you able to point out any novel 22 feature of the DGT over other technologies? 23 MR. MAUCH: Objection, to the extent it 24 calls for a legal conclusion. 25 THE WITNESS: I would have to refer to</p>
<p style="text-align: right;">Page 63</p> <p>1 correct? 2 A I actually haven't. This is the first time 3 I've seen this document. 4 Q Do you recognize what's on the cover of this 5 document? 6 A I do. 7 Q What is it? 8 A It's the current DGT hanger that Simpson 9 sells. 10 Q Were you aware that Simpson had filed patent 11 protection on this? 12 A I was. 13 Q And do you know what the allegedly novel 14 features are of this DGT product depicted in this 15 patent? 16 MR. MAUCH: And how does this relate to 17 Mr. Hensen's disclosed specialized -- 18 MR. EIDSON: Benefits or differences of 19 the DGT over prior art. The patent application 20 supposedly identifies novel benefits. 21 THE WITNESS: Can you repeat the 22 question? 23 MR. EIDSON: Well, I'll just have it read 24 back. Can you read that last question back? Is that 25 all right?</p>	<p style="text-align: right;">Page 65</p> <p>1 the claims that are in this application. I -- I don't 2 know, other than I would be speculating. 3 THE OFFICER: I'm sorry, what was the -- 4 the very last -- 5 THE WITNESS: I don't know. Other -- 6 otherwise, I would be speculating. 7 BY MR. EIDSON: 8 Q Looking at the cover of this Hensen Exhibit 6, 9 you understand what the top flange is on this picture; 10 right? 11 A I do. 12 Q Okay. And then there's a sloped portion that 13 comes off the top flange. Do you see that? 14 A I see that. 15 Q Okay. And then right behind that sloped 16 portion, there's another portion that extends back 17 toward the wall and angles back inward with two holes 18 for attachment. Do you see that? 19 A I do see that. 20 Q What's the purpose of that portion? 21 A Is it listed in the claims? That's number 22 what, 20, 26? 23 Q It's listed in the specification. But as you 24 know, claims don't include the numbers of the photos. 25 A Yeah.</p>

17 (Pages 62 - 65)

<p style="text-align: right;">Page 66</p> <p>1 Q So I guess from an expert or engineering 2 perspective, someone that is familiar with hangers, are 3 you able to identify what the benefit of that portion is 4 to the DGT hanger? 5 MR. MAUCH: Objection. Vague. 6 THE WITNESS: If you're asking my 7 opinion, I believe it provides stability in the 8 connection. 9 BY MR. EIDSON: 10 Q And what do you mean by stability in the 11 connection? 12 A To keep the gap at the -- the distance that is 13 desired. 14 Q So that the channel shape portion doesn't 15 collapse down? 16 A Potentially. 17 Q Well, that's the purpose of it; right? 18 A Again, I tell you that's my opinion. 19 Potentially, that's what it is. I would have to look 20 through the document to see if they provide any more 21 clear information on it. 22 Q Would you call that a gusset that was added 23 for stability? 24 MR. MAUCH: Objection. Vague. What's 25 the "it" you're referring to?</p>	<p style="text-align: right;">Page 68</p> <p>1 THE VIDEOGRAPHER: About three to five 2 minutes. 3 MR. EIDSON: Oh, let's change it. 4 THE VIDEOGRAPHER: Off the record? 5 MR. EIDSON: Yes, please. 6 THE VIDEOGRAPHER: Okay. This marks the 7 end of media number 1. Off the record. The time is 8 11:35. 9 (Off the record.) 10 THE VIDEOGRAPHER: This marks the 11 beginning of media number 2 in the deposition of Sam 12 Hensen. We're back on the record. The time is 11:42. 13 BY MR. EIDSON: 14 Q All right. Mr. Hensen, I've got another 15 question relating to our prior conversation in January. 16 A Okay. 17 Q When we chatted at that time, you mentioned 18 that Simpson, around the 2015 timeframe, had a product 19 that was suitable for a one-hour fire wall rating. Do 20 you recall that? 21 A Well, we have a flyer, a technical flyer 22 showing our traditional hangers over a single layer of 23 drywall. But that date's way before 2015. 24 Q And I want to just make sure that I fully 25 understood your testimony before. So in 2010, Simpson</p>
<p style="text-align: right;">Page 67</p> <p>1 THE WITNESS: Can you clarify? 2 BY MR. EIDSON: 3 Q I just said would you call that a gusset 4 that's added for stability? 5 MR. MAUCH: Same objection. 6 THE WITNESS: I mean, I think it's a 7 flange that provides some stability, potentially similar 8 to a gusset. 9 BY MR. EIDSON: 10 Q What's the difference between a flange and a 11 gusset? 12 A A gusset usually is an embossment that's 13 pushed into place in the center, potentially, of the 14 steel. This is a flange that's bent sideways and at an 15 angle. So it's just technical. It's not really a 16 gusset, it's more of a flange. 17 Q So it's just placement of where it is? 18 A Essentially. 19 Q Do you have any opinions whatsoever about how 20 the DGT is novel over other fire wall hanger 21 applications? 22 MR. MAUCH: Objection, to the extent it 23 calls for a legal conclusion. 24 THE WITNESS: I do not. 25 MR. EIDSON: About how much time we have?</p>	<p style="text-align: right;">Page 69</p> <p>1 has hanger products that are suitable for use with a 2 one-hour fire wall? 3 A We tested our top flange hangers or several of 4 our hangers over one layer of drywall, five-eighths 5 drywall, at that time, which was a fire -- one-hour fire 6 rating, and provided a technical bulletin in our flyer, 7 allowing for our traditional hangers to be installed 8 that way. 9 Q And which hangers were those? 10 A The LBV, the B, and there were several others 11 on that technical flyer that I can't recall without 12 seeing it. 13 Q And would that installation be installing the 14 hanger over the sheet rock after the sheet rock is 15 already installed? 16 A Yes. 17 Q But those were not marketed as fire wall 18 hangers; correct? 19 MR. MAUCH: Objection. Vague. 20 THE WITNESS: I don't believe the flyer 21 ever stated fire wall. It just -- it stated a hanger 22 over a single layer of drywall. 23 THE OFFICER: Sorry, what was the thing 24 that you said before drywall? The word? It sounded to 25 me like "varsity," but I know that's not it.</p>

18 (Pages 66 - 69)

<p style="text-align: right;">Page 70</p> <p>1 MR. MAUCH: Single layer. 2 THE WITNESS: Single -- single layer of 3 drywall. 4 THE OFFICER: Okay. 5 MR. EIDSON: I don't think we need to 6 renumber these. Well, hold on. Let's do that. Let's 7 put a sticker on it. Because if I don't number some and 8 I don't number the others, I'll -- just can you just put 9 it right above the other -- or wherever? Yeah. 10 THE OFFICER: Sorry. Is that okay? 11 MR. EIDSON: Oh, where'd you -- oh, yeah, 12 yeah, up the top. Yes. 13 THE OFFICER: Yeah. I just didn't want 14 it to cover -- 15 MR. EIDSON: Yes. No, all good. You 16 nailed it. Thank you so much. 17 BY MR. EIDSON: 18 Q Mr. Hensen, I'm handing you what we have 19 labeled as Hensen Exhibit 7. 20 (Hensen Exhibit 7 was marked for 21 identification.) 22 You've seen this in your prior depo, at least 23 one of your prior depositions, as Hensen Exhibit 13. You 24 recognize this; correct? 25 A I do.</p>	<p style="text-align: right;">Page 72</p> <p>1 to modify that hanger with load modification factors. 2 And then there's tables starting in, like, 3 page 129 where you can find more of a specific model and 4 then modify it if you have a skew or a slope or anything 5 else on that. 6 Q So then looking at the LB line, and I'll let 7 you pick whichever picture you want, how would someone 8 install it on a joist? And then would they slide the 9 drywall up behind it and then cut a slit or a cut a 10 channel? 11 A No, the drywall would be installed first. 12 Q Always first. Okay. Is it always first; is 13 that right? 14 A With that technical bulletin, yes. 15 Q Would there need to be any alteration of the 16 LB hanger if you installed the drywall first? 17 A No. 18 Q And so essentially, the fastening means in the 19 top flange would still be sufficient because you're 20 pulling it out a little bit away from the wall; right? 21 Which moves the fastening holes in the top flange closer 22 to the front of the wall assembly. 23 So there's no issue with anything like that as 24 you've used it for a one-hour fire wall rating? 25 A Correct, which is what we tested and then</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Okay. So earlier, we were talking about your 2 work with Mr. Shepard. Do you recall that? 3 A I do. 4 Q And you said you -- was it that you modified 5 your existing HU hanger to be the HUTF hanger? 6 A No, that's not quite right. We took the 7 existing HUTF model series and created a size that would 8 fit the double top cord of the truss, which was four by 9 three. 10 Q And if you look at HUTF in this exhibit, which 11 you can find on page 128 of the catalog, is that the 12 version that fits the top cord of the truss? 13 A This is the model series. Yes. 14 Q Is the version that fits the top cord of the 15 truss depicted here? 16 A It is not. It's noted on page 130 in the 17 table under four by three on the left column. 18 Q Then using this catalog, you mentioned the LBV 19 as one of the earlier one-hour fire rating products; is 20 that right? 21 A That's one hanger that I recall is on that 22 technical bulletin that we provide, yes. 23 Q And that's on page 122 to 24; is that right? 24 A The depiction of it is shown on 122. And then 25 there's some information on those pages if you're going</p>	<p style="text-align: right;">Page 73</p> <p>1 provided a technical bulletin based on our testing for 2 engineers to use. 3 Q If you decided to use those same things for a 4 two-hour fire wall rating, would you have issues 5 utilizing those products for a two-hour fire wall? 6 A Yes. 7 Q And what would those issues be? 8 A The fasteners would not fall in line with the 9 lumber at that point. 10 Q That's a much more elegant way of putting it 11 than I was trying to articulate it. Thank you. Another 12 one you mentioned was the B series? 13 A And it's very similar to the LB. It's -- it's 14 right there on that same page, 122. The BA is another 15 variation of the B where we created a die that made the 16 B style hanger. Anytime we have an A at the end of the 17 name, it's -- that's been automated with a die. The B 18 was more handmade. 19 Q Were there any other products that you had 20 that you can recall where a customer could use a hanger 21 for a one-hour fire wall rating? 22 A It's on our technical bulletin. 23 Q Is your technical bulletin in this catalog? 24 A No. 25 Q What types of construction required only a</p>

<p style="text-align: right;">Page 74</p> <p>1 one-hour fire wall rating?</p> <p>2 A Construction with less occupancy than those</p> <p>3 that require two-hour fire rating. And I -- I don't</p> <p>4 know specifically what types of buildings those might</p> <p>5 be, but lower occupancy buildings.</p> <p>6 Q Did you have customers using your LB or B</p> <p>7 series hangers for one-hour fire wall ratings?</p> <p>8 MR. MAUCH: Objection. Calls for</p> <p>9 speculation.</p> <p>10 You can answer to the extent you know.</p> <p>11 THE WITNESS: Well, the reason why we</p> <p>12 created the technical bulletin is because it was</p> <p>13 requested by our customers.</p> <p>14 BY MR. EIDSON:</p> <p>15 Q And then you're just, as you sit here today,</p> <p>16 not familiar with what type of construction those</p> <p>17 customers were using that for; is that fair to say?</p> <p>18 A Yes. I don't know exactly what buildings</p> <p>19 types those were used for.</p> <p>20 Q Would it be multilevel construction along with</p> <p>21 just multifamily, so to speak?</p> <p>22 A It could be for type five construction or</p> <p>23 something with lower occupancy than type three.</p> <p>24 There could also be an instance where early</p> <p>25 on, WoodWorks was promoting the use of two layers of</p>	<p style="text-align: right;">Page 76</p> <p>1 Do you see that?</p> <p>2 A I do see that.</p> <p>3 Q Okay. And in the fire wall section of</p> <p>4 Simpson's catalog, there were only two products in 2019;</p> <p>5 correct?</p> <p>6 MR. MAUCH: Objection. Vague.</p> <p>7 THE WITNESS: I mean, technically there's</p> <p>8 more than two, but there's a series of DG, DGF -- I'm</p> <p>9 sorry. DGF, DGHF, DGBF, and then we have the DU, DHU,</p> <p>10 DHUTF. So there's more than two hangers, but there's</p> <p>11 multiple series.</p> <p>12 BY MR. EIDSON:</p> <p>13 Q Got it. And so I understand what you're</p> <p>14 saying is that there's the DGF series and the DU series</p> <p>15 of hangers, and those are the only two fire wall hanger</p> <p>16 product lines that Simpson has in this section of the</p> <p>17 catalog; correct?</p> <p>18 A That's correct.</p> <p>19 Q Okay. When did Simpson create the fire wall</p> <p>20 hanger section in its catalog as a separate section?</p> <p>21 A I don't recall.</p> <p>22 Q Would it have been when it first introduced</p> <p>23 the DU?</p> <p>24 MR. MAUCH: Objection. Calls for</p> <p>25 speculation.</p>
<p style="text-align: right;">Page 75</p> <p>1 gypsum on the wall assembly and two layers on the</p> <p>2 ceiling, and then extending just one layer of gypsum up</p> <p>3 into the floor cavity area, and then using our LB style</p> <p>4 hanger over that single layer.</p> <p>5 And they had a flyer on that in part of their</p> <p>6 workshops and training that they were doing back in the</p> <p>7 late 2010 timeframe.</p> <p>8 Q And do you still market these products for</p> <p>9 one-hour fire wall use today?</p> <p>10 A That technical bulletin is still available.</p> <p>11 Q Do customers use it for one-hour uses today?</p> <p>12 MR. MAUCH: Objection. Calls for</p> <p>13 speculation.</p> <p>14 You can answer to the extent you know.</p> <p>15 THE WITNESS: I believe so.</p> <p>16 BY MR. EIDSON:</p> <p>17 Q Who are you aware of that uses it like that or</p> <p>18 has in the past?</p> <p>19 A I'm not aware of customers that use it.</p> <p>20 Q If you look in the catalog, and if you look</p> <p>21 around page 229, you'll see the DGF. Do you see that?</p> <p>22 A I see it.</p> <p>23 Q And if you see under catalog page 229, it's</p> <p>24 Bates labeled Simpson 4081. There is a orange dot that</p> <p>25 says fire wall hangers as this section of the catalog.</p>	<p style="text-align: right;">Page 77</p> <p>1 THE WITNESS: I don't know.</p> <p>2 BY MR. EIDSON:</p> <p>3 Q If a customer wanted a fire wall hanger, would</p> <p>4 there be any other section for them to look in the</p> <p>5 Simpson catalog other than the fire wall hanger section?</p> <p>6 MR. MAUCH: Objection. Vague.</p> <p>7 THE WITNESS: If they wanted a single</p> <p>8 layer or one-hour fire rating, they would have to go to</p> <p>9 our technical bulletin on our website.</p> <p>10 BY MR. EIDSON:</p> <p>11 Q And if they wanted the two-hour rating for</p> <p>12 multifamily, multilevel construction, would there be any</p> <p>13 other section for them to look other than the fire wall</p> <p>14 hanger section?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q And that's consistent with the catalog that</p> <p>17 you put out today; correct?</p> <p>18 MR. MAUCH: Objection. Vague.</p> <p>19 THE WITNESS: I believe it is.</p> <p>20 BY MR. EIDSON:</p> <p>21 Q Last time, we went over a variety of the</p> <p>22 features of the products in this catalog, the DGF in</p> <p>23 particular. I don't want to replot that field with you.</p> <p>24 Do you have anything to add or correct from</p> <p>25 that prior testimony as it pertains to your expert</p>

20 (Pages 74 - 77)

<p style="text-align: right;">Page 78</p> <p>1 opinions in this case?</p> <p>2 A I do not.</p> <p>3 MR. EIDSON: It's noon. Do you guys want</p> <p>4 to take a lunch break?</p> <p>5 MR. MAUCH: That sounds good to me.</p> <p>6 THE VIDEOGRAPHER: Off the record. The</p> <p>7 time is 11:58.</p> <p>8 (Off the record.)</p> <p>9 THE VIDEOGRAPHER: We're back on the</p> <p>10 record. The time is 12:38.</p> <p>11 BY MR. EIDSON:</p> <p>12 Q Mr. Hensen, you didn't discuss the substance</p> <p>13 of your testimony at lunch; did you?</p> <p>14 A I did not.</p> <p>15 Q Okay. I'm going to keep kind of tracking down</p> <p>16 Exhibit 1, which is your expert disclosure. You can</p> <p>17 look at that if you want. You don't have to. I'm just</p> <p>18 kind of letting you know my roadmap here --</p> <p>19 A Okay.</p> <p>20 Q -- as we keep moving. One of the areas in</p> <p>21 which you are going to -- or you have said you would</p> <p>22 offer expert opinion testimony are facts related to why</p> <p>23 Simpson contends each of the following does not support</p> <p>24 nonobviousness.</p> <p>25 Commercial success, long felt and unresolved</p>	<p style="text-align: right;">Page 80</p> <p>1 provided by Mr. Hensen, but he can answer.</p> <p>2 BY MR. EIDSON:</p> <p>3 Q I want to know the testimony you intend to</p> <p>4 provide. So that's what I'm asking.</p> <p>5 MR. MAUCH: And let me just -- to be</p> <p>6 clear about the purpose of my -- or the nature of my</p> <p>7 objection, is you keep referring it as an opinion when</p> <p>8 in fact what it states and what we stated in this</p> <p>9 disclosure is it may be a fact or opinion.</p> <p>10 BY MR. EIDSON:</p> <p>11 Q Okay. I mean, if it's a fact or opinion, I</p> <p>12 want your testimony on it. And so that's what I'm</p> <p>13 getting at, Mr. Hensen. You understand?</p> <p>14 A I do.</p> <p>15 Q Okay. Very good. What opinions do you have</p> <p>16 about the commercial success of MiTek's fire wall hanger</p> <p>17 product?</p> <p>18 A That it meets the desire by the construction</p> <p>19 industry to sequence installing it prior to drywall.</p> <p>20 Q What else?</p> <p>21 A I can't think of anything.</p> <p>22 Q And so is it your opinion that it is the</p> <p>23 sequencing that has led to the commercial success of the</p> <p>24 MiTek fire wall hanger product?</p> <p>25 A I believe that's the thing that people want</p>
<p style="text-align: right;">Page 79</p> <p>1 need, failure of others to make the invention or solve</p> <p>2 the problem addressed, skepticism or disbelief, positive</p> <p>3 recognition, copying, and unexpected results or</p> <p>4 properties. Do you see that?</p> <p>5 A I do.</p> <p>6 Q Okay. Very good. Are you opining that all of</p> <p>7 these factors of nonobviousness weigh in favor of</p> <p>8 invalidity?</p> <p>9 MR. MAUCH: Objection. Mischaracterizes</p> <p>10 the document. Seeks a legal conclusion.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: I don't know the answer to</p> <p>13 that, as I'm not a patent attorney.</p> <p>14 BY MR. EIDSON:</p> <p>15 Q Okay. Well, all right. So I'm going to walk</p> <p>16 through each of them, then. And is it your opinion that</p> <p>17 each of those factors that are listed in your disclosure</p> <p>18 does not support a finding that the MiTek fire wall</p> <p>19 hanger is nonobvious?</p> <p>20 A I believe so.</p> <p>21 Q Okay. So let's talk about commercial success.</p> <p>22 What opinions do you have about the commercial success</p> <p>23 of MiTek's fire wall hanger patent?</p> <p>24 MR. MAUCH: Same objection. To the</p> <p>25 extent that mischaracterizes the testimony that may be</p>	<p style="text-align: right;">Page 81</p> <p>1 mostly.</p> <p>2 Q Do you consider the MiTek fire wall hanger</p> <p>3 product to be commercially successful?</p> <p>4 A I have no idea how it's doing monetarily.</p> <p>5 I -- so that's one category possibly of success, but it</p> <p>6 does meet the need of installing prior to drywall, and</p> <p>7 that could also be seen as a success.</p> <p>8 Q And MiTek had a fire wall hanger on the market</p> <p>9 that could be installed prior to drywall before Simpson</p> <p>10 did; correct?</p> <p>11 A To the best of my knowledge, yes.</p> <p>12 Q Okay.</p> <p>13 THE WITNESS: Is that a fire alarm going</p> <p>14 on? It must be outside.</p> <p>15 MR. MAUCH: Yeah, it's not in the</p> <p>16 building.</p> <p>17 THE WITNESS: Okay.</p> <p>18 BY MR. EIDSON:</p> <p>19 Q So then is it your opinion that the entirety</p> <p>20 of the success attributed to MiTek's fire wall hanger is</p> <p>21 essentially tied to the method for how it's installed?</p> <p>22 A I think it's tied to the sequencing of how</p> <p>23 it's installed.</p> <p>24 Q Which is before drywall; right?</p> <p>25 A That's correct.</p>

21 (Pages 78 - 81)

<p style="text-align: right;">Page 82</p> <p>1 Q Is there anything else that you would 2 attribute the commercial success of the fire wall hanger 3 invention to? 4 A The MiTek product? 5 Q Mm-hmm. 6 A No. 7 Q And in your prior deposition, you mentioned 8 that the DGT product was a success; correct? Simpson's 9 DGT product? 10 A The current one that we saw now, correct. 11 Q Sales had gone up every year? 12 A Yes. 13 Q And the reason for that success was due to the 14 sequencing issue? 15 MR. MAUCH: Objection. Vague. 16 THE OFFICER: I didn't hear the answer. 17 THE WITNESS: Yes. 18 MR. MAUCH: Make sure you pause, 19 Mr. Hensen. 20 BY MR. EIDSON: 21 Q Is it your opinion that the commercial success 22 of MiTek's fire wall hanger weighs against a finding of 23 invalidity or for a finding of invalidity? 24 MR. MAUCH: Objection. Calls for a legal 25 conclusion.</p>	<p style="text-align: right;">Page 84</p> <p>1 (Hensen Exhibit 8 was marked for 2 identification.) 3 It's a copy of the 510 patent you and I were 4 just discussing. And if you look to the last page, 5 there's Claim 40. You see that? 6 A I see that. 7 Q You've seen this claim before; right? 8 A I have. 9 Q We talked about it a little bit at your last 10 deposition; correct? 11 A Yes. 12 Q Okay. So looking at the hanger that is 13 claimed in Claim 40, that hanger as described in Claim 14 40 allows for the construction to have the hanger hung 15 first and then the drywall to be installed after; 16 correct? 17 A Well, I do agree that it states that the back 18 flange plane provides a distance size large enough to 19 permit drywall to be received. The sequencing of it 20 isn't described in this at all. 21 Q So my question is, does the apparatus that's 22 claimed in Claim 40 allow for the drywall to be 23 installed after the hanger is hung? 24 A I believe it provides a gap large enough for 25 drywall to be installed.</p>
<p style="text-align: right;">Page 83</p> <p>1 THE WITNESS: Can you restate the 2 question? 3 BY MR. EIDSON: 4 Q Sure. Is it your opinion that the commercial 5 success of the MiTek fire wall hanger supports a finding 6 of invalidity or weighs against a finding of invalidity? 7 A I don't know. 8 Q Do you know whether Simpson contends the 9 commercial success weighs in favor of a finding of 10 invalidity or against? 11 A I don't believe that the sequencing of 12 installation in the MiTek product is mentioned in their 13 IP. 14 Q In which IP? 15 A In their 510 patent. 16 Q You agree with me that the structure described 17 in the 510 patent and claimed by Claim 40 allows for 18 drywall to be installed after the hanger is hung? 19 A I don't think it's clear that it does in that 20 claim. 21 Q You mentioned that you've looked at the claim; 22 right? 23 A I have. 24 Q Mr. Hensen, I'm handing you what we have 25 marked as Hensen Exhibit 8.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q And that's the apparatus that's in Claim 40; 2 correct? 3 A That's correct. 4 Q What is your understanding -- and so let me 5 back up. 6 What is your understanding of what it means to 7 be commercially successful? 8 A Acceptance of the industry. 9 Q Has the MiTek fire wall hanger product been 10 accepted in the industry? 11 A I've seen it used in the industry, so yes. 12 Q And that understanding of commercially 13 successful is what you're applying to your observations 14 in this case; correct? 15 MR. MAUCH: Objection. Mischaracterizes 16 prior testimony. Assumes facts not in evidence. 17 THE WITNESS: Yes. 18 BY MR. EIDSON: 19 Q Did the launch of the DU product and the 20 MiTek's fire wall hanger product, did they create a new 21 market product category when they were launched? 22 MR. MAUCH: Objection. Vague. 23 THE WITNESS: I think they filled a need 24 that the construction industry had, based on new 25 construction techniques that were advocated by the Wood</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 Association.</p> <p>2 BY MR. EIDSON:</p> <p>3 Q And that need was the creation of a new type</p> <p>4 of product; right?</p> <p>5 A That's right.</p> <p>6 Q And prior to the DU or DG or DGF or DGT,</p> <p>7 Simpson did not include in its catalog a separate</p> <p>8 category for fire wall hangers; did it?</p> <p>9 MR. MAUCH: Objection. Vague.</p> <p>10 THE WITNESS: We did not, because there</p> <p>11 was no request for it.</p> <p>12 BY MR. EIDSON:</p> <p>13 Q Other than Simpson and MiTek, are you aware of</p> <p>14 any other company that makes a fire wall hanger?</p> <p>15 A I'm not.</p> <p>16 Q So it's fair to say that as far as you're</p> <p>17 aware, Simpson and MiTek have the entirety of the market</p> <p>18 of that particular product category?</p> <p>19 A They're the only companies that I know that</p> <p>20 offer a solution.</p> <p>21 Q Mr. Hensen, I'm handing you what we have</p> <p>22 labeled as Hensen Exhibit 9.</p> <p>23 (Hensen Exhibit 9 was marked for</p> <p>24 identification.)</p> <p>25 It is a printout of a native spreadsheet that</p>	<p style="text-align: right;">Page 88</p> <p>1 correct?</p> <p>2 A I am.</p> <p>3 Q And it looks as if in almost every year for</p> <p>4 the DG, the DGF, and the DGT products, sales increased</p> <p>5 year over year; is that right?</p> <p>6 MR. MAUCH: Misstates the document.</p> <p>7 Objection.</p> <p>8 THE WITNESS: The DGF does not increase</p> <p>9 year over year from '23 to '22. So there's some</p> <p>10 differences there.</p> <p>11 BY MR. EIDSON:</p> <p>12 Q And that's because the DGF was discontinued;</p> <p>13 right?</p> <p>14 A In that year, yes.</p> <p>15 Q Okay. So you stopped selling the DGF in the</p> <p>16 2022, 2023 timeframe, and that's when the DGT came in to</p> <p>17 be; right?</p> <p>18 A That's correct.</p> <p>19 Q In roughly June?</p> <p>20 A That sounds correct.</p> <p>21 Q So as an overall category, your fire wall</p> <p>22 hangers that allow for the drywall to be installed after</p> <p>23 the hanger is hung, have shown increased sales on a year</p> <p>24 to year basis; correct?</p> <p>25 A No, that's not entirely correct. I mean, if</p>
<p style="text-align: right;">Page 87</p> <p>1 we receive, and the Bates label is SST 105 --</p> <p>2 THE OFFICER: I'm sorry, the pen writing</p> <p>3 is -- the mic is really picking that up.</p> <p>4 MR. MAUCH: Oh, sorry. Sorry.</p> <p>5 MR. EIDSON: Hensen Exhibit 9, Bates</p> <p>6 label. Good? Start there?</p> <p>7 THE OFFICER: Yes.</p> <p>8 MR. EIDSON: You got it.</p> <p>9 BY MR. EIDSON:</p> <p>10 Q The Bates label is SST 105219. And this was</p> <p>11 produced, I think, in connection with or after some</p> <p>12 recent depositions that we had in this case. But it</p> <p>13 reports to be a sales summary of all of the Simpson Fire</p> <p>14 wall hanger products.</p> <p>15 And then the top first page is a summary, and</p> <p>16 then what I tried to do was keep each tab in the</p> <p>17 spreadsheet together. And in your copy there, I kept</p> <p>18 them together by paper clipping them for your ease of</p> <p>19 reference. Does that sound fair or seem consistent with</p> <p>20 my description?</p> <p>21 A It does.</p> <p>22 Q Okay. So you recognize Hensen Exhibit 9?</p> <p>23 A I do.</p> <p>24 Q Okay. Let's look at the first page of Hensen</p> <p>25 Exhibit 9. You're familiar with this sales summary;</p>	<p style="text-align: right;">Page 89</p> <p>1 you look at 2022, it's 14,600,000. If you look at 2023</p> <p>2 and you add those together, it's 13,400,000. So that's</p> <p>3 not a year over year increase. So I think you're not</p> <p>4 entirely accurate there in that statement.</p> <p>5 Q So 2022 to 2023 was a little flat?</p> <p>6 A Yes.</p> <p>7 Q And then 2023 to 2024, it looks like it went</p> <p>8 down a little bit as a total category that allows the</p> <p>9 drywall to be installed after; correct?</p> <p>10 A It appears so.</p> <p>11 Q And is that because Simpson had transitioned</p> <p>12 over to the DGT product exclusively as its product</p> <p>13 offering for that purpose?</p> <p>14 A I -- I don't believe that's the case. I think</p> <p>15 there were market fluctuations, external forces on the</p> <p>16 market. That, you know, we have high interest rates, we</p> <p>17 have high cost of construction, and the overall</p> <p>18 multifamily market is down.</p> <p>19 Q So let's look at 2024. Of the products that</p> <p>20 Simpson offers that allow the drywall to be installed</p> <p>21 after the hanger, it's a little under 10 million.</p> <p>22 If MiTek's sales that year, just for ease of</p> <p>23 math, were also 10 million, would it be fair to assume</p> <p>24 that each of you had 50 percent of the market of that</p> <p>25 particular product category?</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 90</p> <p>1 A I don't know how much top cord bearing truss 2 applications are part of this whole scenario. There are 3 a lot of those types of applications out there that Mark 4 Shepard has designed and don't need hangers. 5 So it -- it doesn't mean that that's the most 6 that the market is. There are other ways to frame or -- 7 or assemble these types of buildings. And, you know, I 8 don't think Simpson and MiTek have 100 percent of what 9 the market will ever be. 10 Q My question is for this particular type of 11 hanger, not other applications or something like that. 12 A Well, it's the same application. 13 Q I understand that, but I'm talking about 14 people that are buying the fire wall hanger where you 15 can slide two pieces of drywall behind. 16 In 2024, you offered one product in a handful 17 of sales of the DGF. If MiTek's sales were roughly 10 18 million dollars during the same period, as it pertains 19 to those products that are designed to allow the hanger 20 to be hung and drywall to be installed second, on my 21 example, you each would have roughly 50 percent of the 22 market on that; right? 23 MR. MAUCH: Objection. Vague. Lacks 24 foundation. Misstates prior testimony. 25 You can answer.</p>	<p style="text-align: right;">Page 92</p> <p>1 the FWH product? 2 A Can you repeat that question? 3 Q Sure. Have you had situations where Simpson 4 has been able to successfully persuade customers to use 5 a DU product instead of an FWH product, a MiTek FWH 6 product? 7 MR. MAUCH: Objection. Calls for 8 speculation. 9 THE WITNESS: Simpson doesn't market or 10 address things in that manner. We provide a product 11 that meets a solution or a need, and support them in the 12 use of those products. If they want to choose to use 13 one or the other, that's up to the -- the designer and 14 installer. 15 BY MR. EIDSON: 16 Q So you don't have salesmen out in the field 17 who are trying to flip a spec from a MiTek FWH to a 18 Simpson DU product? 19 A If the contractor or the installer or the 20 customer is coming to us saying, "We want a price on 21 products for this," we'll provide price for products on 22 our solutions. 23 Q Do you try to flip specs? 24 A When they come to us and want a Simpson 25 solution, we'll provide a solution.</p>
<p style="text-align: right;">Page 91</p> <p>1 THE WITNESS: It could be 50 percent or 2 less. 3 BY MR. EIDSON: 4 Q What other product would be out there that you 5 would want to have the market data for to make that 6 determination? 7 A A structural engineer could design a 8 connection if they wanted to, to address the issue, and 9 wouldn't necessarily need a product from Simpson or 10 MiTek. 11 Q So a custom hanger? 12 A That's correct. 13 Q How often does a structural engineer design a 14 custom hanger where the application would also be 15 suitable for a DGT or an FWH? 16 MR. MAUCH: Objection. Calls for 17 speculation. 18 THE WITNESS: I have no idea. 19 BY MR. EIDSON: 20 Q How many times have you seen that done? 21 A I can't recall. 22 Q Can you name one time you've seen it done? 23 A I cannot. 24 Q Have you had instances where Simpson has been 25 able to ask customers to use the DU product instead of</p>	<p style="text-align: right;">Page 93</p> <p>1 Q And part of that solution involves lower 2 priced items; right? 3 MR. MAUCH: Objection. Vague. 4 THE WITNESS: I think we provide products 5 that are similar in pricing. 6 BY MR. EIDSON: 7 Q Is one of the strategies that Simpson has 8 employed in the past to offer customers who are 9 considering using the FWH product, the DU product at a 10 cheaper price? 11 MR. MAUCH: Objection. Vague. 12 THE WITNESS: I think the DU product is a 13 less expensive product from a material standpoint, and 14 it will provide a solution. If they want to use it, 15 they can. 16 BY MR. EIDSON: 17 Q And so because it's less expensive, then the 18 offering to the customer would be at a cheaper price 19 than the MiTek FWH; right? 20 A From a material standpoint, that would be the 21 case. 22 Q And that's also how Simpson tries to price 23 that product; right? 24 A No, that's a fact. Simpson's product has less 25 material than the FWH and it will be less expensive.</p>

24 (Pages 90 - 93)

<p style="text-align: right;">Page 94</p> <p>1 Q Well, just because it has less material 2 doesn't mean that that's how Simpson's going to price 3 it; right? And you could price it at five times if you 4 wanted to and have your margins be through the roof? 5 A The Simpson product was to market before the 6 MiTek product, and we did not adjust our pricing. 7 Q Are you aware of customers that have paid a 8 premium for the MiTek fire wall hanger product? 9 A I don't know what the MiTek -- 10 MR. MAUCH: Objection. Vague. 11 Make sure you pause before you answer. 12 Now go ahead. 13 THE WITNESS: I don't know the MiTek 14 pricing. 15 BY MR. EIDSON: 16 Q You've never been made aware of any MiTek 17 pricing in any region? 18 A Not specifically. 19 Q Generally? 20 A That it was more expensive than our product. 21 Q And you're aware that customers have elected 22 to use the MiTek fire wall hanger regardless of that 23 additional expense; correct? 24 A When I've seen them in the field, they must 25 have decided that, yes.</p>	<p style="text-align: right;">Page 96</p> <p>1 in those respective years from which sales are 2 indicated? 3 A Yes. 4 Q In the current environment, construction 5 environment, a majority of your customers that are 6 building multifamily, multilevel construction, they 7 prefer a hanger that'll let you install the sheet rock 8 after the hanger is hung; correct? 9 MR. MAUCH: Objection. Calls for 10 speculation. 11 THE WITNESS: I mean, I think by the 12 level of our sales in both of those products, you could 13 definitely determine that. 14 BY MR. EIDSON: 15 Q Have customers verbalized that to you other 16 than by just making a purchase? 17 A They did when we initially developed a hanger 18 that could be installed first. They came to us saying 19 they wanted a Simpson solution. 20 Q There was a period of time when Simpson just 21 had the DU product in the marketplace and MiTek had the 22 FWH product in the marketplace. Did Simpson lose 23 customers to MiTek's fire wall hanger product? 24 MR. MAUCH: Objection. 25 //</p>
<p style="text-align: right;">Page 95</p> <p>1 Q When customers are choosing your DU product 2 over a product that allows you to install the drywall 3 after the hanger is installed, what are the reasons that 4 the customers are telling you they prefer the DU 5 product? 6 MR. MAUCH: Objection. Calls for 7 speculation. 8 THE WITNESS: A lot of times when I see 9 the DU products installed, they're installed in 10 stairwells, which there is no break in the wall assembly 11 necessarily. And going over the drywall in those, which 12 is -- it has to be done first. 13 They need access to the upper levels, 14 they're putting the stairs in. And they -- they prefer 15 to use the DU series of hangers in those applications. 16 BY MR. EIDSON: 17 Q Any other? Any other reason, to finish out my 18 question? I'm sorry. 19 A Other than what we've already talked about, 20 no. 21 Q In looking at the tabs behind this Hensen 22 Exhibit 9 for the DG family, the DGF family, and the DGT 23 family, is it fair to say that each of these tabs that 24 have the respective DG, DGF, and DGT on it represents a 25 summary of sales of all of the models offered by Simpson</p>	<p style="text-align: right;">Page 97</p> <p>1 BY MR. EIDSON: 2 Q When it did not have -- sorry. When it did 3 not have its own product offering where you could 4 install the drywall after the hanger is hung? 5 MR. MAUCH: Objection. Calls for 6 speculation. 7 THE WITNESS: I'm not aware of ever 8 losing a customer, potentially losing a job, that used 9 hangers was a challenge. 10 BY MR. EIDSON: 11 Q And so you're aware of losing several jobs, 12 but did you didn't have an entire customer just all of a 13 sudden leave Simpson who'd been with you for 40 years; 14 is that fair to say? 15 A Correct. 16 Q How many jobs did you lose to the MiTek fire 17 wall hanger product? 18 A I don't know. 19 Q Did you have entire markets that you lost jobs 20 to due to local code requirements? 21 MR. MAUCH: Objection. Vague. 22 THE WITNESS: Not to my knowledge. 23 BY MR. EIDSON: 24 Q As you sit here today, are you able to 25 identify how many jobs or sales that Simpson lost to the</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 MiTek fire wall hanger product?</p> <p>2 A I don't have that information.</p> <p>3 Q Other than what we've discussed, do you have</p> <p>4 any other opinions related to whether the MiTek product</p> <p>5 was commercially successful?</p> <p>6 A I do not.</p> <p>7 Q And do you have a conclusion as to whether the</p> <p>8 commercial success of the MiTek product favors or does</p> <p>9 not favor invalidity?</p> <p>10 MR. MAUCH: Objection, to the extent it</p> <p>11 calls for a legal conclusion.</p> <p>12 THE WITNESS: I don't think commercial</p> <p>13 success dictates validity in a patent or IP. I think</p> <p>14 it's the facts that validate or invalidate that.</p> <p>15 BY MR. EIDSON:</p> <p>16 Q So it is fair to say you don't have an opinion</p> <p>17 one way or another?</p> <p>18 A I don't.</p> <p>19 Q The next one on this list is whether the MiTek</p> <p>20 invention satisfied a long felt but unmet need.</p> <p>21 A Okay.</p> <p>22 Q What opinions do you have about whether</p> <p>23 MiTek's fire wall hanger invention satisfied a long felt</p> <p>24 but unmet need in the industry?</p> <p>25 A I don't think that there was a long felt unmet</p>	<p style="text-align: right;">Page 100</p> <p>1 design from 2010, '11.</p> <p>2 Q What length of time -- earlier, you said you</p> <p>3 didn't consider there to be a long felt but unmet need.</p> <p>4 What length of time is long felt, as you have applied</p> <p>5 that here in reaching your conclusions?</p> <p>6 MR. MAUCH: Objection, to the extent it</p> <p>7 seeks a legal conclusions.</p> <p>8 THE WITNESS: I would say multiple years.</p> <p>9 It takes 18 to 24 months to get a product to the market</p> <p>10 from idea to commercialization. And, you know, it --</p> <p>11 that can happen pretty quickly.</p> <p>12 So the fact that Simpson started in 2012,</p> <p>13 2013 delivered a product, is falling right into that</p> <p>14 timeline. And if there was a long felt unmet need, we</p> <p>15 would have certainly started much sooner.</p> <p>16 BY MR. EIDSON:</p> <p>17 Q So multiple years, is it two, three years?</p> <p>18 A I think more than five.</p> <p>19 Q More than five. What about five years? Is</p> <p>20 that long? Or is it five years and a day?</p> <p>21 MR. MAUCH: Objection, to the extent it</p> <p>22 seeks a legal conclusion.</p> <p>23 THE WITNESS: That there isn't a product</p> <p>24 available on the market and fits a need?</p> <p>25 //</p>
<p style="text-align: right;">Page 99</p> <p>1 need in the industry.</p> <p>2 Q Okay. We talked earlier about the change in</p> <p>3 the code in 2000 and the industry slowly coming around</p> <p>4 to utilizing wood frame construction for multilevel</p> <p>5 multifamily construction. Do you recall that?</p> <p>6 A I do.</p> <p>7 Q When did the need in the industry arise for</p> <p>8 the type of fire wall hanger product that Simpson</p> <p>9 eventually developed and that MiTek developed?</p> <p>10 A Right about the same time that Simpson and</p> <p>11 MiTek began developing them.</p> <p>12 Q So is that 2010 timeframe?</p> <p>13 A I don't believe so.</p> <p>14 Q We talked about the C clamp and the L hanger</p> <p>15 and the cantilever. When did Simpson start developing</p> <p>16 those types of products?</p> <p>17 A 2012.</p> <p>18 Q So then from 2000 to 2012, there was a space</p> <p>19 in the industry for these types of products, but your</p> <p>20 testimony is that the industry just wasn't asking for</p> <p>21 the products yet; is that fair to say?</p> <p>22 A There was a space because the code permitted</p> <p>23 would frame construction in type three. There wasn't a</p> <p>24 need for it because the industry wasn't ready for it and</p> <p>25 it wasn't asking for it, other than Mark Shepard's</p>	<p style="text-align: right;">Page 101</p> <p>1 BY MR. EIDSON:</p> <p>2 Q That you would consider it to be long felt?</p> <p>3 A I believe five years or more would be a long</p> <p>4 felt time.</p> <p>5 Q When you say that the need is unmet, what is a</p> <p>6 need that is unmet?</p> <p>7 MR. MAUCH: Same objection, to the extent</p> <p>8 it seeks a legal conclusion.</p> <p>9 THE WITNESS: In the case of fire wall</p> <p>10 assemblies and connecting joist -- floor joist to those,</p> <p>11 that they would want a product that would be able to</p> <p>12 attach the assemblies together and that it met the need.</p> <p>13 If that wasn't available, then it -- there was an unmet</p> <p>14 need.</p> <p>15 BY MR. EIDSON:</p> <p>16 Q And what was the need you were addressing in</p> <p>17 2012?</p> <p>18 A To attach floor systems to a fire wall</p> <p>19 assembly.</p> <p>20 Q When did you start addressing the need of the</p> <p>21 sequencing issue?</p> <p>22 A When we were requested by our customers to do</p> <p>23 that in the 2014 time range.</p> <p>24 Q You had customers requesting that before 2014</p> <p>25 though; right?</p>

<p style="text-align: right;">Page 102</p> <p>1 A No, I don't believe it was that specific. I</p> <p>2 think that they were asking for a way to connect floor</p> <p>3 systems to fire wall assemblies. I also think that I</p> <p>4 testified last time that we were looking at multiple</p> <p>5 ways to do that and we ultimately landed on the DU style</p> <p>6 of hanger.</p> <p>7 Q Are you aware of any municipalities that</p> <p>8 modified their code to require a fire wall hanger with</p> <p>9 MiTek's particular properties?</p> <p>10 MR. MAUCH: Objection. Vague.</p> <p>11 THE WITNESS: I'm not aware.</p> <p>12 BY MR. EIDSON:</p> <p>13 Q Are you aware of the code amendments in New</p> <p>14 York State?</p> <p>15 THE OFFICER: Sorry, what was that? The</p> <p>16 code what?</p> <p>17 MR. EIDSON: Amendments in New York</p> <p>18 State.</p> <p>19 MR. MAUCH: Objection. Vague.</p> <p>20 THE WITNESS: I'm not aware.</p> <p>21 BY MR. EIDSON:</p> <p>22 Q Code amendments made by Charlotte</p> <p>23 Municipality?</p> <p>24 A I am not aware of those.</p> <p>25 Q As it pertains to whether the MiTek invention</p>	<p style="text-align: right;">Page 104</p> <p>1 knowledge of specifiers and how they felt to buy it.</p> <p>2 Q Do you have any other opinions about -- well,</p> <p>3 I guess let me back up.</p> <p>4 Do you have an opinion one way or another</p> <p>5 about how the industry received MiTek's product bears on</p> <p>6 its validity one way or another?</p> <p>7 MR. MAUCH: Objection, to the extent it</p> <p>8 seeks a legal conclusion.</p> <p>9 THE WITNESS: I mean, again, I -- I</p> <p>10 believe that validity is based on facts.</p> <p>11 BY MR. EIDSON:</p> <p>12 Q Do these facts support the patent being</p> <p>13 invalid or not?</p> <p>14 MR. MAUCH: Same objection. Calls for a</p> <p>15 legal conclusion.</p> <p>16 THE WITNESS: That somebody liked a</p> <p>17 product? I don't know that that has any bearing on the</p> <p>18 facts that invalidate or validate it. And --</p> <p>19 BY MR. EIDSON:</p> <p>20 Q Do you know what objective indicia of</p> <p>21 nonobviousness are?</p> <p>22 THE OFFICER: Okay, sorry, can you say</p> <p>23 that again?</p> <p>24 MR. EIDSON: Sure. Objective indicia,</p> <p>25 I-N-D-I-C-I-A, of nonobviousness.</p>
<p style="text-align: right;">Page 103</p> <p>1 satisfied a long felt but unmet need, do you have any</p> <p>2 other opinions related to this particular element that</p> <p>3 we haven't discussed?</p> <p>4 A No.</p> <p>5 Q And I believe, to summarize your opinion, is</p> <p>6 that it didn't satisfy a long felt but unmet need</p> <p>7 because the need was not long felt; is that fair to say?</p> <p>8 A I would agree with that.</p> <p>9 Q Any other reasons?</p> <p>10 A Not that I can think of.</p> <p>11 Q One of the other elements that you are opining</p> <p>12 on is whether the invention was well received in the</p> <p>13 industry. And this relates a little bit to some of the</p> <p>14 commercial success earlier that we talked about.</p> <p>15 And so other than what we've already talked</p> <p>16 about, what opinions do you have about whether MiTek's</p> <p>17 invention was well received in the industry?</p> <p>18 A I believe it was well received by those that</p> <p>19 used it because it could allow them to install the</p> <p>20 drywall after they installed the framing.</p> <p>21 Q And who were those that received it well?</p> <p>22 A I don't know specifics, but installers or</p> <p>23 contractors that used it at that time.</p> <p>24 Q What about specifiers?</p> <p>25 A I don't know. I -- I don't have direct</p>	<p style="text-align: right;">Page 105</p> <p>1 THE WITNESS: Could you rephrase it</p> <p>2 another way in a way that I would understand?</p> <p>3 BY MR. EIDSON:</p> <p>4 Q I'm going to give it a shot. Do you know what</p> <p>5 secondary considerations are?</p> <p>6 A I've heard of that.</p> <p>7 Q Okay. What is your understanding of what</p> <p>8 secondary considerations are?</p> <p>9 A I can't recall off the top of my head to be</p> <p>10 specific.</p> <p>11 Q Do you have any idea how secondary</p> <p>12 considerations bear on whether a patent might be deemed</p> <p>13 valid or invalid?</p> <p>14 A I'm not a patent attorney, so I don't know.</p> <p>15 Q And so you have no conclusions one way or</p> <p>16 another about how any secondary consideration might</p> <p>17 weigh in favor of validity or invalidity; is that fair</p> <p>18 to say?</p> <p>19 MR. MAUCH: Objection, to the extent it</p> <p>20 seeks a legal conclusion. Mischaracterizes prior</p> <p>21 testimony.</p> <p>22 THE WITNESS: If I had specifics about</p> <p>23 those secondary considerations, I might be able to</p> <p>24 comment on them, but I don't know at this point.</p> <p>25 //</p>

27 (Pages 102 - 105)

<p style="text-align: right;">Page 106</p> <p>1 BY MR. EIDSON: 2 Q You can comment on the factual specifics, but 3 you wouldn't be able to make a determination of whether 4 it beared in favor of or against invalidity; is that 5 fair to say? 6 A I think so. 7 Q As it relates to how the MiTek invention was 8 received in the industry, do you have any other opinions 9 related to that particular element? 10 A I do not. 11 Q Would you consider Simpson's products that 12 allow the drywall to be installed after the hanger is 13 hung to be well received in the industry? 14 A I do think they were well received in the 15 industry. 16 Q Customers like them? 17 A Yes. 18 Q Did you win any awards for the product? 19 A Not that I can recall. 20 Q This is an aside. Does the structural 21 connector industry, do they have trade shows where 22 people issue awards for innovation of the year or 23 something like that? 24 A They do. 25 Q They do? What is that trade show?</p>	<p style="text-align: right;">Page 108</p> <p>1 BY MR. EIDSON: 2 Q In January, your prior deposition? 3 A What I was saying is that you can degradate 4 the fire wall resistiveness unless you do testing to 5 show that it doesn't. 6 Q But Simpson was initially somewhat skeptical 7 that if you did cut a slit in that that it would 8 maintain the fire wall rating, which is why Simpson 9 didn't take that approach when it did its DU design; 10 right? 11 MR. MAUCH: Objection. Misstates prior 12 testimony. Assumes facts not in evidence. 13 You can answer to the extent you can, 14 Mr. Hensen. 15 THE WITNESS: Prior to attaching floor 16 assemblies to fire wall systems, we did not have a lot 17 of experience in. And so our position was to stay away 18 from making any kind of alterations to the fire wall 19 assembly. 20 And then we began to become more educated 21 on fire wall assemblies and did testing on those 22 assemblies and know much more about, you know, what can 23 be done and what can't be done. 24 BY MR. EIDSON: 25 Q When Simpson was designing and ended up with</p>
<p style="text-align: right;">Page 107</p> <p>1 A It might be the Structural Engineers 2 Association. It's a national association. And 3 generally, engineers are providing case studies on new 4 and innovative buildings that maybe they've designed. 5 Q Is there any other type of industry 6 association that you can think of that hands out what 7 I'll call awards for structural connectors? 8 A There might be, but I can't recall. 9 Q It's not like automobiles where you've got, 10 like, motor train car of the year and a bunch of other 11 people that that hand out awards about your car; right? 12 A It's not. 13 Q The next one on the list is whether the 14 invention achieved unexpected results. What opinions do 15 you have about the unexpected results achieved by 16 MiTek's fire wall hanger product? 17 A I don't think that there was any unexpected 18 results. They offered a product that supported a joist 19 that provided a gap and met that need. 20 Q Well, I think earlier, we talked about it was 21 unexpected that cutting a slit in the drywall would be 22 able to maintain a fire wall rating; right? 23 MR. MAUCH: Objection. Misstates prior 24 testimony. 25 //</p>	<p style="text-align: right;">Page 109</p> <p>1 its DU product, it also didn't believe that the 2 construction industry was willing to change its 3 practices to hang a hanger and a joist before installing 4 the sheet rock; right? 5 MR. MAUCH: Objection. Misstates prior 6 testimony. Assumes facts not in evidence. Lacks 7 foundation. 8 THE WITNESS: No, I don't think that's 9 the case at all. 10 I think that our opinion was that most of 11 these multifamily jobs are very large and multiple 12 trades are on the jobs at the same time, and that being 13 able to install drywall at the upper portion of the wall 14 to install a more cost effective hanger without the need 15 to develop a -- a product that would cantilever off was 16 a -- a quick way to get to market with a product and 17 suffice a need. And so that's the approach that we 18 took. 19 BY MR. EIDSON: 20 Q Yeah, and that wasn't quite my question. My 21 question was having a product developed that could be 22 installed before the drywall. 23 We testified earlier you talked about the 24 construction industry being slow to change, that old 25 practice was to put up the drywall and they put the</p>

<p style="text-align: right;">Page 110</p> <p>1 hangers over it.</p> <p>2 And so my question then is, one of the things</p> <p>3 that Simpson personnel were skeptical of was that the</p> <p>4 construction industry would change the way it does</p> <p>5 construction and install a hanger before it installs the</p> <p>6 drywall; right?</p> <p>7 MR. MAUCH: Objection. Misstates prior</p> <p>8 testimony. Lacks foundation.</p> <p>9 THE WITNESS: No, that's not at all what</p> <p>10 I stated. So we were talking about the construction</p> <p>11 industry slow to change. And what it was they were slow</p> <p>12 to change on was not stacking the floor system on top of</p> <p>13 the walls.</p> <p>14 So that's traditionally over the last 40</p> <p>15 years the way that those types of buildings have been</p> <p>16 built. They would build the walls, stack the floor</p> <p>17 system on top of that, which is called platform framing,</p> <p>18 and then build more walls to do the next level, and then</p> <p>19 continue up.</p> <p>20 And extending the walls taller and then</p> <p>21 attaching the floor systems to the side of the walls was</p> <p>22 very unique and not been done. And getting the</p> <p>23 construction industry to change the way they do things</p> <p>24 takes time.</p> <p>25 They like to have stability. So when you</p>	<p style="text-align: right;">Page 112</p> <p>1 there's still a need for both, as shown by our sales on</p> <p>2 Exhibit 9 that you provided us.</p> <p>3 Q But you don't know whether those sales are the</p> <p>4 result of a preference for installing the hanger first</p> <p>5 or, for instance, cost saving measures; right?</p> <p>6 A Well, I think if they didn't prefer the hanger</p> <p>7 at all, they would not use it.</p> <p>8 Q You think? Or you know?</p> <p>9 A That's my opinion.</p> <p>10 Q You don't have any idea why the customers that</p> <p>11 chose the DU hanger in Hensen Exhibit 9 chose that</p> <p>12 hanger over a version where the sheet rock could be</p> <p>13 installed after the hanger is hung; correct?</p> <p>14 A I don't have specific information, but the</p> <p>15 fact that the hanger sales have been increasing almost</p> <p>16 every year since we've launched it and really hasn't</p> <p>17 dropped much after we launched some of the other</p> <p>18 products, indicates that we didn't lose a lot of sales</p> <p>19 when we launched our other products that could be</p> <p>20 installed prior to the drywall.</p> <p>21 I mean, if you look at 2019 versus 2018,</p> <p>22 our -- our sales dropped a little bit, but there was a</p> <p>23 pretty good increase in the hangers that can be</p> <p>24 installed prior to those -- the drywall.</p> <p>25 I mean, if people didn't like our hanger that</p>
<p style="text-align: right;">Page 111</p> <p>1 build the walls and put the floor on top, it's stable</p> <p>2 almost immediately.</p> <p>3 When you build the walls and attach the</p> <p>4 floor system to the side of the walls, there's less</p> <p>5 stability there during construction phase, and there's</p> <p>6 more costliness that happens because they're not used to</p> <p>7 building that way, requires other things to be</p> <p>8 manufactured. And that's where the concern was, is that</p> <p>9 people were not used to doing that type of construction.</p> <p>10 Whether or not the drywall was installed</p> <p>11 first or after, we did a study initially. We called in</p> <p>12 contractors, did a field study on the concepts that we</p> <p>13 were looking at, which I discussed in my last</p> <p>14 deposition.</p> <p>15 And the results were inconclusive to us.</p> <p>16 About half of them liked it and half of them didn't.</p> <p>17 And so we chose to go the route of providing a solution</p> <p>18 that could be over the drywall for a cost-effective</p> <p>19 solution.</p> <p>20 BY MR. EIDSON:</p> <p>21 Q And now as you sit here today, you'd have to</p> <p>22 agree with me that the industry prefers the method where</p> <p>23 you install the joist first and the sheet rock second;</p> <p>24 correct?</p> <p>25 A I think there's preference to that, but</p>	<p style="text-align: right;">Page 113</p> <p>1 could be installed on a drywall, we probably would have</p> <p>2 lost sales altogether because we were offering a</p> <p>3 solution at that point.</p> <p>4 Q Unless it was cheaper?</p> <p>5 A Or they liked it.</p> <p>6 Q But you don't know that by looking at those</p> <p>7 sales numbers?</p> <p>8 A And neither do you know that they thought it</p> <p>9 was cheaper and they liked it for that preference.</p> <p>10 Q Do you have any other opinions related to</p> <p>11 whether MiTek's invention achieved unexpected results</p> <p>12 that we haven't discussed?</p> <p>13 A I do not.</p> <p>14 Q Your opinion is to summarize that the</p> <p>15 invention did not achieve any unexpected results; is</p> <p>16 that fair to say?</p> <p>17 A I would agree with that.</p> <p>18 Q And just as we've talked about before, you</p> <p>19 have no opinion about whether that weighs in favor of or</p> <p>20 against validity in this case; correct?</p> <p>21 MR. MAUCH: Objection, to the extent it</p> <p>22 seeks a legal conclusion.</p> <p>23 THE WITNESS: I don't know.</p> <p>24 BY MR. EIDSON:</p> <p>25 Q What would you consider to be an unexpected</p>

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<p style="text-align: right;">Page 114</p> <p>1 result?</p> <p>2 A That for a long time, potentially there was a</p> <p>3 need for a product to provide a solution and nobody was</p> <p>4 able to meet it ever. And they provided a solution</p> <p>5 finally that nobody thought could be done.</p> <p>6 Q And that is the understanding of unexpected</p> <p>7 result you've applied when analyzing unexpected results</p> <p>8 for your opinions?</p> <p>9 A That's my opinion.</p> <p>10 Q And that's what you've applied when you've</p> <p>11 done your analysis in this case; correct?</p> <p>12 MR. MAUCH: Objection. Lacks foundation.</p> <p>13 Vague.</p> <p>14 THE WITNESS: I would say so.</p> <p>15 BY MR. EIDSON:</p> <p>16 Q What opinions do you have regarding whether</p> <p>17 others failed in trying to achieve the invention claimed</p> <p>18 by MiTek's fire wall hanger product?</p> <p>19 A I'm not aware of anybody that failed.</p> <p>20 Q Are you -- other than yourself, and by</p> <p>21 "yourself" I mean Simpson, are you aware of others that</p> <p>22 have tried to solve the fire wall hanger problem other</p> <p>23 than Simpson and MiTek?</p> <p>24 A I'm not.</p> <p>25 Q And when you say "fail to achieve the</p>	<p style="text-align: right;">Page 116</p> <p>1 THE WITNESS: Obvious is that here's the</p> <p>2 need and this is the solution that could meet that need.</p> <p>3 BY MR. EIDSON:</p> <p>4 Q Okay. And if it's obvious, is it obvious to</p> <p>5 others to identify that solution?</p> <p>6 MR. MAUCH: Objection, to the extent it</p> <p>7 seeks a legal conclusion.</p> <p>8 BY MR. EIDSON:</p> <p>9 Q Yeah, and you can answer the question, then</p> <p>10 I'll follow up.</p> <p>11 A If it's obvious to others -- can you repeat</p> <p>12 what you stated?</p> <p>13 Q Sure. You threw out the word "obvious," which</p> <p>14 is a legal term of art, and you're here offering expert</p> <p>15 opinions. And so my question to you is, are you</p> <p>16 venturing down that legal opinion road or are you not?</p> <p>17 And I'm just trying to figure that out.</p> <p>18 And so my question then is when it comes to</p> <p>19 whether others failed to achieve the invention, do you</p> <p>20 have any opinions about whether that fact weighs for or</p> <p>21 against a finding of invalidity in the obviousness</p> <p>22 context?</p> <p>23 MR. MAUCH: Objection, to the extent it</p> <p>24 seeks a legal conclusion. And objection that it</p> <p>25 mischaracterizes testimony.</p>
<p style="text-align: right;">Page 115</p> <p>1 invention," what do you understand that to mean?</p> <p>2 A That there was a product that was provided</p> <p>3 that solved the -- the need. Or wasn't provided.</p> <p>4 Q And that they attempted to solve the problem</p> <p>5 and could not?</p> <p>6 A That's correct.</p> <p>7 Q Do you have any idea how this bears on whether</p> <p>8 the patent is valid or invalid?</p> <p>9 A If the product provides a solution that others</p> <p>10 had tried to do and failed, then I think it provides</p> <p>11 validity in that -- in that patent.</p> <p>12 Q And what do you base that on?</p> <p>13 A Because it's a solution that wasn't obvious to</p> <p>14 others.</p> <p>15 Q And what do you mean by obvious to others?</p> <p>16 A That they couldn't provide a solution. They</p> <p>17 failed.</p> <p>18 Q What does it mean to be obvious to others?</p> <p>19 MR. MAUCH: Objection, to the extent it</p> <p>20 seeks a legal conclusion.</p> <p>21 THE WITNESS: That they couldn't solve</p> <p>22 the problem.</p> <p>23 MR. EIDSON: Mauch, I think my question</p> <p>24 was what does it mean to be obvious to others?</p> <p>25 MR. MAUCH: Same objection.</p>	<p style="text-align: right;">Page 117</p> <p>1 THE WITNESS: I'm -- I'm not a legal</p> <p>2 attorney or a patent attorney. I mean, I don't know the</p> <p>3 differences of what you're talking about. What I'm</p> <p>4 telling you is that if it's obvious, meaning that you</p> <p>5 can easily identify the solution, then I believe that</p> <p>6 that's not something that can be validated. That's just</p> <p>7 my opinion.</p> <p>8 BY MR. EIDSON:</p> <p>9 Q Do you think that the MiTek solution was</p> <p>10 something that was easy to identify?</p> <p>11 A I do.</p> <p>12 Q How so?</p> <p>13 A That to create a gap between the end of the</p> <p>14 floor joist and the wall requires some structural</p> <p>15 element there to support that system. And the best way</p> <p>16 to do that is with steel vertically rather than</p> <p>17 horizontally. And to me, that's pretty obvious that's a</p> <p>18 solution.</p> <p>19 Q Even though you were going through the drywall</p> <p>20 with that steel support?</p> <p>21 A I think that testing can be done to show that</p> <p>22 it doesn't interrupt the fire resistiveness of the wall.</p> <p>23 Q But that wasn't obvious to Simpson to do at</p> <p>24 the time; was it?</p> <p>25 A I'm not saying that it wasn't obvious to</p>

<p style="text-align: right;">Page 118</p> <p>1 Simpson to do it. We didn't want to do it. We wanted 2 to stay away from that and offer a solution that was 3 cost effective. 4 Q But you stayed away from it because you didn't 5 think it could be done? 6 A That's not what I said. 7 Q Do you have any other opinions that we haven't 8 discussed related to whether others tried and failed to 9 achieve the invention that MiTek did in its fire wall 10 hanger patent? 11 A I do not. 12 THE OFFICER: Did you say, "I do not"? 13 THE WITNESS: Correct. 14 BY MR. EIDSON: 15 Q What opinions do you have about whether others 16 in the field or at Simpson were skeptical that MiTek's 17 invention would work? 18 A I don't think there was any skepticism that 19 their product worked. 20 Q I'm sorry, Mr. Hensen. One more time? 21 A I don't think there was any skepticism that 22 their product worked. 23 Q So everyone believed their product would work 24 from day one at Simpson Strong-Tie? 25 MR. MAUCH: Objection. Vague.</p>	<p style="text-align: right;">Page 120</p> <p>1 Q Would part of the skepticism also be whether 2 customers would adopt it for its intended use? 3 MR. MAUCH: Objection, to the extent 4 seeks a legal conclusion. 5 You can answer. 6 THE WITNESS: I don't think "skepticism" 7 is the right word for that. I think reluctance to adopt 8 something new is just typical in the wood frame 9 construction industry. They're slow to do new things. 10 BY MR. EIDSON: 11 Q So Simpson wasn't skeptical that customers 12 would adopt the new MiTek product? 13 A I don't believe so. 14 Q Did Simpson take a wait and see approach with 15 the MiTek product before determining whether it was 16 going to design, develop, and launch its own hanger 17 product that could be installed before the drywall is 18 installed? 19 A Not at all. We were focused on our DU style 20 hangers and supporting the use of our hangers during 21 that same time, providing technical flyer support in the 22 field of how to use our product. And when our customers 23 came to us, we finally decided, okay, we will provide a 24 product that could be installed prior to the drywall. 25 Q Do you have any other opinions about whether</p>
<p style="text-align: right;">Page 119</p> <p>1 THE WITNESS: I don't know that I'm aware 2 of anybody that believed that their product didn't work. 3 BY MR. EIDSON: 4 Q Was there anybody skeptical that the product 5 would perform as advertised? 6 MR. MAUCH: Objection. Vague. Calls for 7 speculation. 8 THE WITNESS: I don't recall any 9 skepticism. 10 BY MR. EIDSON: 11 Q Was there anyone skeptical that people in the 12 construction industry would adopt the product such that 13 you would hang the hanger first and install the sheet 14 rock second? 15 MR. MAUCH: Objection. Calls for 16 speculation. 17 THE WITNESS: No, I don't believe that. 18 BY MR. EIDSON: 19 Q What is your understanding of what it means to 20 be skeptical the invention would work? 21 A That it would perform as marketed. That it in 22 fact would provide a gap that would allow for the fire 23 wall assembly to be installed after the framing was in 24 place and didn't degradate the fire resistiveness of the 25 wall.</p>	<p style="text-align: right;">Page 121</p> <p>1 others in the field were skeptical whether that MiTek's 2 invention would work? 3 A No. 4 Q Are you aware of anybody that was skeptical 5 that the invention would work? 6 A I am not. 7 Q Do you know one way or another whether that 8 favors or does not favor invalidity of a MiTek patent? 9 Whether someone was skeptical? 10 A I mean, again, I'm not a patent attorney and 11 I'm not going to venture down whether or not it is valid 12 or invalid based on that. I'm -- my understanding is 13 that people were not skeptical that this type of 14 invention was possible. 15 Q If somebody was skeptical, would that change 16 your mind? 17 MR. MAUCH: Objection. Vague. Lacks 18 foundation. Incomplete hypothetical. 19 BY MR. EIDSON: 20 Q Let me ask a better question. If somebody was 21 skeptical, would that lead you to believe that the 22 invention is more likely valid than invalid? 23 MR. MAUCH: Same objections. Lacks 24 foundation. Assumes facts not in evidence. Incomplete 25 hypothetical. Vague.</p>

<p style="text-align: right;">Page 122</p> <p>1 THE WITNESS: I would say it's possible.</p> <p>2 BY MR. EIDSON:</p> <p>3 Q Do you have any other opinions related to</p> <p>4 skepticism in the industry that we haven't discussed?</p> <p>5 A I do not.</p> <p>6 Q We talked a little bit about this earlier, but</p> <p>7 what opinions do you have about whether others</p> <p>8 independently came up with the same invention at the</p> <p>9 same time?</p> <p>10 MR. MAUCH: Objection. Vague.</p> <p>11 THE WITNESS: I'm not aware of any.</p> <p>12 BY MR. EIDSON:</p> <p>13 Q At the same time, the only other solution</p> <p>14 you're aware of that was put to market was the Bundy</p> <p>15 solution that Simpson came up with; correct?</p> <p>16 A I mean, again, there are other ways to frame,</p> <p>17 and Mark Shepard is one example of that. So there were</p> <p>18 other ways to build these types of buildings.</p> <p>19 As far as fire wall hangers go and the -- what</p> <p>20 we're talking about, the -- the Bundy product and the</p> <p>21 FWH were the only two that I'm aware of.</p> <p>22 Q Do you have any other opinions or observations</p> <p>23 about whether others independently came up with a</p> <p>24 similar invention around the same time that we haven't</p> <p>25 already discussed?</p>	<p style="text-align: right;">Page 124</p> <p>1 a-half-year period of time where Simpson had only its DU</p> <p>2 product in the marketplace and MiTek had the fire wall</p> <p>3 hanger, its FWH, in the marketplace; correct?</p> <p>4 A That seems about the same time. Correct.</p> <p>5 Q And during that time period, customers were</p> <p>6 asking Simpson, "Hey, do you guys have a product that I</p> <p>7 could install before I install drywall"; correct?</p> <p>8 A Much later in the release of our DU product</p> <p>9 closer to the 2014, 2015 timeline, the customers started</p> <p>10 asking us for that. But not when we launched the DU</p> <p>11 product.</p> <p>12 Q And then during that later timeline, Simpson</p> <p>13 also identified the MiTek fire wall hanger as a</p> <p>14 competitive threat; right?</p> <p>15 A We did.</p> <p>16 Q And after that, Simpson decided to launch its</p> <p>17 own hanger where you could install the hanger first and</p> <p>18 do drywall second, just like the MiTek fire wall hanger;</p> <p>19 correct?</p> <p>20 A No, I wouldn't agree with that. We decided to</p> <p>21 offer a solution to our customers that allowed the</p> <p>22 hanger to be installed first and then the drywall would</p> <p>23 be installed afterwards. But it was different than the</p> <p>24 MiTek product.</p> <p>25 Q It looked different, but it had the same</p>
<p style="text-align: right;">Page 123</p> <p>1 A I do not.</p> <p>2 Q Do you know one way or another whether your</p> <p>3 observations weigh for or against validity?</p> <p>4 MR. MAUCH: Objection. Vague. Object to</p> <p>5 the extent it seeks legal conclusion.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 BY MR. EIDSON:</p> <p>8 Q What opinions do you have about whether others</p> <p>9 copied MiTek's invention?</p> <p>10 A I'm not aware of anybody that has copied</p> <p>11 MiTek's invention.</p> <p>12 Q Simpson copied the idea to have a hanger in</p> <p>13 the marketplace where you could install the hanger first</p> <p>14 and then the drywall second after MiTek's hanger had</p> <p>15 success in the marketplace; correct?</p> <p>16 A No.</p> <p>17 Q Why is the answer "no" to that question?</p> <p>18 A Our products are wildly different.</p> <p>19 Q My question, though, is about the products</p> <p>20 that you have. Not the DU, but the product that you</p> <p>21 introduced later. The DG, the DGF, and the DGT, where</p> <p>22 you could install the hanger first and then do the</p> <p>23 drywall second. So we'll break this down and go piece</p> <p>24 by piece.</p> <p>25 You agree with me that there was a three-and-</p>	<p style="text-align: right;">Page 125</p> <p>1 benefit of allowing a customer to install the hanger</p> <p>2 first and the drywall second; correct?</p> <p>3 A It also had differences in that the notching</p> <p>4 was quite a bit more extensive than the MiTek hanger in</p> <p>5 that we had to team up with a fire testing laboratory to</p> <p>6 prove that our hanger still met the need of the</p> <p>7 industry. So there was quite a bit of difference there</p> <p>8 between our product and the fire wall hanger.</p> <p>9 Q And I'm asking about the similarities of the</p> <p>10 installation mechanism. The way they're installed, the</p> <p>11 sequencing if you will, was identical to the MiTek</p> <p>12 product sequencing; correct?</p> <p>13 MR. MAUCH: Objection. Vague. Lacks</p> <p>14 foundation.</p> <p>15 THE WITNESS: The timing was similar.</p> <p>16 The -- but there are differences.</p> <p>17 BY MR. EIDSON:</p> <p>18 Q What do you mean by timing?</p> <p>19 A Installing the product first versus the</p> <p>20 drywall. Similar.</p> <p>21 Q What was different about it?</p> <p>22 A The notching that's required, the amount of</p> <p>23 notching that was required. Those are some differences</p> <p>24 there.</p> <p>25 Q But what is identical is that the hanger goes</p>

<p style="text-align: right;">Page 126</p> <p>1 up first and the drywall goes up second; right?</p> <p>2 A I would say yes.</p> <p>3 Q And of that particular product feature,</p> <p>4 MiTek's product was in the marketplace with that feature</p> <p>5 before Simpson's; correct?</p> <p>6 A Yes.</p> <p>7 Q And Simpson identified that feature from the</p> <p>8 MiTek product as a desirable feature that it wanted to</p> <p>9 offer to its customers; correct?</p> <p>10 A No. Simpson identified that need from our</p> <p>11 customers that came to us and asked us for a product</p> <p>12 that could do that.</p> <p>13 Q Because your customers were using the MiTek</p> <p>14 product; right?</p> <p>15 A Our customers came to us because they wanted a</p> <p>16 Simpson solution.</p> <p>17 Q And they had been exposed to the MiTek</p> <p>18 product; right?</p> <p>19 MR. MAUCH: Objection. Calls for</p> <p>20 speculation.</p> <p>21 THE WITNESS: Whether they were or not, I</p> <p>22 don't know. They requested us -- for us to make a</p> <p>23 product where it could be installed first.</p> <p>24 BY MR. EIDSON:</p> <p>25 Q So your testimony here today is that you were</p>	<p style="text-align: right;">Page 128</p> <p>1 product out there and we felt like it was necessary to</p> <p>2 copy them. So I don't agree with your question. And</p> <p>3 you can ask it ten more times. I'm just going to</p> <p>4 continue to disagree.</p> <p>5 Q Have you ever copied a competitor's product</p> <p>6 before?</p> <p>7 A I think we've already discussed this in other</p> <p>8 depositions.</p> <p>9 Q You can answer.</p> <p>10 A There might be some similarities between our</p> <p>11 products and other products, but there's very few.</p> <p>12 Q So your testimony, then, is that Simpson did</p> <p>13 not set out to copy the functional benefits of the MiTek</p> <p>14 fire wall hanger product, and those benefits being the</p> <p>15 sequencing of installation?</p> <p>16 A We set out to provide a solution that our</p> <p>17 customers were asking for.</p> <p>18 Q And your customers were forwarding you flyers,</p> <p>19 attaching the MiTek fire wall hanger product, saying,</p> <p>20 "We want a product that can be installed like this</p> <p>21 product"; right?</p> <p>22 MR. MAUCH: Objection. Lacks foundation.</p> <p>23 Assumes facts not in evidence.</p> <p>24 THE WITNESS: There may have been</p> <p>25 instances.</p>
<p style="text-align: right;">Page 127</p> <p>1 aware of the MiTek fire wall hanger product and the</p> <p>2 sequencing of its installation; that you designed a</p> <p>3 competitive product with identical sequencing, hanger</p> <p>4 first, sheet rock second; but that was not done to copy</p> <p>5 the benefits of the MiTek hanger?</p> <p>6 A It was done to satisfy the requests of our</p> <p>7 customers. You can phrase it however you want. It</p> <p>8 doesn't mean it's true. And you can ask me that again</p> <p>9 and again and again. Our reason for providing a</p> <p>10 solution was at the request of our customers.</p> <p>11 Q Do you take issue with the word "copying"?</p> <p>12 A I do take issue with the word "copying."</p> <p>13 Q What issue do you take with it?</p> <p>14 A Because we did not copy the MiTek solution.</p> <p>15 Q How did you not copy it? Did you have it --</p> <p>16 you knew what it was when you were designing your</p> <p>17 product; right?</p> <p>18 A You're -- you're asking if we copied MiTek's</p> <p>19 solution, and I'm telling you we did not. We offered a</p> <p>20 solution that had a similar benefit where you can</p> <p>21 install it first prior to the drywall, but there were</p> <p>22 definitely differences in our product versus their</p> <p>23 product.</p> <p>24 But it satisfied the need of our customer that</p> <p>25 was requesting that, not because a competitor had a</p>	<p style="text-align: right;">Page 129</p> <p>1 BY MR. EIDSON:</p> <p>2 Q How many instances are you aware of?</p> <p>3 A I don't know.</p> <p>4 Q Certainly more than one; right?</p> <p>5 A I don't know.</p> <p>6 Q What is your understanding of what it means to</p> <p>7 copy an invention?</p> <p>8 MR. MAUCH: Objection. Vague and seeks a</p> <p>9 legal conclusion.</p> <p>10 THE WITNESS: That the product matches</p> <p>11 the copying product.</p> <p>12 BY MR. EIDSON:</p> <p>13 Q Identical?</p> <p>14 MR. MAUCH: Same objection. Vague. And</p> <p>15 object to extent it seeks a legal conclusion.</p> <p>16 THE WITNESS: Potentially.</p> <p>17 BY MR. EIDSON:</p> <p>18 Q So for your definition of "copying" that</p> <p>19 you've applied in this case, it has to be an identical</p> <p>20 one for one copy?</p> <p>21 MR. MAUCH: Same objection. Vague and</p> <p>22 seeks a legal conclusion.</p> <p>23 THE WITNESS: No, I said "potentially."</p> <p>24 BY MR. EIDSON:</p> <p>25 Q What definition did you apply in this case?</p>

<p style="text-align: right;">Page 130</p> <p>1 A That the two products in question were 2 different. 3 Q They're also similar in some respects; right? 4 A They have some similarities. 5 Q So copying, then, is based on the differences 6 or the similarities? 7 MR. MAUCH: Objection. Vague. 8 THE WITNESS: "Copying," in my opinion, 9 implies that you take the product that you want to copy 10 and come up with solutions around that product that you 11 want to copy. 12 Coming up with a solution that meets the 13 customer's need is completely different. You're coming 14 up with solution based on your own, and it may meet the 15 same need. 16 The need is the need, regardless of what 17 product it is. You're meeting the need. But in no case 18 did Simpson take the FWH hanger and copy it. 19 BY MR. EIDSON: 20 Q Did you copy certain parts of the hanger? 21 MR. MAUCH: Objection. Vague. 22 THE WITNESS: Again, we did not take the 23 MiTek hanger and copy it. We came up with a solution 24 that met the need, which may be the same need that MiTek 25 was trying to provide with their product.</p>	<p style="text-align: right;">Page 132</p> <p>1 A That's correct. 2 Q So if there are Simpson documents out there 3 where personnel are saying, "We need a product like 4 MiTek that can have similar sequencing of installation," 5 in your opinion, is that copying the MiTek product 6 features or not? 7 MR. MAUCH: Objection. Vague. 8 Incomplete hypothetical. Lacks foundation. 9 THE WITNESS: In my opinion, it's solving 10 the same problem. We came up with different solutions 11 to meet that need, and the need was the need. And it 12 required that our customers had a solution that can be 13 installed prior to the drywall. That -- that product 14 solved that need. 15 BY MR. EIDSON: 16 Q Do you have any other testimony about copying 17 and whether others in the industry had copied MiTek's 18 product or its benefits that are a result of the 19 product? 20 A Not that I'm aware of. 21 Q Do you have any understanding about whether 22 someone copying the invention weighs for or against 23 validity of the patent? 24 A I do not know. 25 Q We've been going an hour and a half. You want</p>
<p style="text-align: right;">Page 131</p> <p>1 BY MR. EIDSON: 2 Q Is there a difference between copying and 3 emulating, in your mind? 4 A I don't know. 5 Q Did you try to emulate any of the features of 6 the MiTek fire wall hanger? 7 A No. 8 MR. MAUCH: Objection. Vague. 9 Make sure you pause. 10 THE WITNESS: No. 11 BY MR. EIDSON: 12 Q So one of the features we talked about is a 13 sequencing issue; right? 14 A Yes. 15 Q And the product that you came up with had a 16 similar sequencing issue; right? 17 A Which product? 18 Q The DG product. 19 A It didn't have an issue. 20 Q Similar sequencing? 21 A Okay. Yes. 22 Q And your testimony that you didn't copy is 23 because you decided to have a product with similar 24 sequencing based on customer requests, not just because 25 of your observations in the marketplace with MiTek?</p>	<p style="text-align: right;">Page 133</p> <p>1 to take a break? 2 A Sure. 3 MR. EIDSON: All right. 4 THE VIDEOGRAPHER: Off the record. The 5 time is 1:08. 6 (Off the record.) 7 THE VIDEOGRAPHER: This marks the 8 beginning of media number 3 in the deposition of San 9 Hensen. I'm sorry, excuse me. Sam Hensen. We're back 10 on the record. The time is 2:10. 11 BY MR. EIDSON: 12 Q Mr. Hensen, I'm handing you a document which 13 we have marked as Hensen Exhibit 10. 14 (Hensen Exhibit 10 was marked for 15 identification.) 16 Hensen Exhibit 10 is Bates labeled SST 78264 17 through 78269. This is a collection of email strings, 18 some of which you are on. For instance, if you look at 19 page 4 of the exhibit, 5 of the exhibit, some of which 20 you've authored. You recognize this email, the email 21 string that's in Exhibit 10; correct? 22 A I do. 23 Q You know all the people that are sending these 24 communications around and CC'd? 25 A I do.</p>

<p style="text-align: right;">Page 134</p> <p>1 Q Okay. Let's look at -- let's start with, 2 well, I guess the last page. Who's BKBM Engineers? 3 A They're an engineering firm in Minneapolis. 4 Q And what do they do for Simpson? 5 MR. MAUCH: Objection. Vague. 6 BY MR. EIDSON: 7 Q Are they customers, are they specifiers? 8 A They're specifiers. 9 Q That work with some of your customers? 10 A Yes. 11 Q And let's go to page 4 of the exhibit, which 12 is on page 78267. 13 A Okay. 14 Q Who is -- well, I guess is Rampart 15 Construction a customer? I'm in the middle 16 communication from Johnny Yates. 17 A Yes, he would be. 18 Q And where is Mr. Yates located? 19 A I can't recall. Must be in the Minnesota 20 area. 21 Q Do you know for sure? Or are you just 22 guessing based on this email? 23 A I -- I don't. 24 Q What makes you say that? 25 A Well, the engineer is in Minnesota, and I</p>	<p style="text-align: right;">Page 136</p> <p>1 BY MR. EIDSON: 2 Q I understand. Sorry, I thought you meant 3 there was something in addition from your earlier 4 testimony that I was missing. 5 And you agree that one of the problems of 6 using exterior gyp could be that it does allow for 7 moisture penetration; correct? 8 A Moisture penetration is I don't think the 9 correct terminology. Moisture on the inside of the 10 exterior rated drywall could happen during construction 11 and possibly not dry out until after it's been 12 constructed. But it's not penetrating through it. 13 Q And this particular customer, he does not want 14 to use exterior gypsum; correct? 15 A That's correct. 16 Q And he is asking for a solution where you can 17 install the hanger first and do the drywall second; 18 correct? 19 A Yep. Just like I stated earlier, when our 20 customers came to us and wanted a solution. 21 Q And this is in 2012? 22 A Yes, it's in 2012. 23 Q And this is before you had launched the DU 24 product; right? 25 A Yes.</p>
<p style="text-align: right;">Page 135</p> <p>1 don't know if they design in other states or not. So I 2 was just surmising that that would be the case. Curt 3 Johnson is our sales rep who that was sent to 4 originally, and he's in Minnesota. And so -- 5 Q And in this particular instance, this email 6 from April in 2012, he says "We don't really want to use 7 exterior gyp for this as it could result in moisture 8 penetration and subsequent mold conditions within the 9 cavity during the open frame period." Do you hear that? 10 A I do see that. 11 Q Okay. And so prior to solving, or I guess 12 typical construction hanging the hanger first and then 13 doing the drywall second, one of the solutions that was 14 available to the construction team was to use 15 essentially weatherproof drywall; correct? 16 A That's correct, and also what I testified at 17 my earlier depositions. 18 Q As in a different type of drywall? Or -- 19 A No, I testified in my last deposition that 20 they could use exterior rated drywall or DensGlass. 21 Yes. 22 THE OFFICER: Or -- or what, sorry? 23 THE WITNESS: DensGlass. I just was 24 stating that I testified to that earlier. 25 //</p>	<p style="text-align: right;">Page 137</p> <p>1 Q And if you look on the previous page, which is 2 page 3 of the exhibit, there are some communications 3 from Michelle Kam-Biron, who is at WoodWorks. Do you 4 see that? 5 A I do see that. 6 Q And WoodWorks is the industry organization we 7 talked about earlier; right? 8 A That's correct. 9 Q Okay. And they are asking in the middle of 10 this page in 2011 whether Simpson has any applications 11 for fire wall hangers in light of the construction code 12 changes that we discussed earlier; correct? 13 A Correct. 14 Q And then who's Mr. Ellis? 15 A Jeff Ellis is one of our directors for 16 structural composite solutions currently. 17 Q If you go to the prior page, which is on page 18 2, Bundy, Mr. Bundy, who's the inventor on the DU 19 patent, Greg Bundy; right? 20 A That's correct. 21 Q He says "Attached are some emails have 22 accumulated over the past few months that are inquiries 23 from customers in Branch 20, 22, 23, and 24 concerning 24 the need for a two-hour fire wall hanger." Do you see 25 that?</p>

35 (Pages 134 - 137)

<p style="text-align: right;">Page 138</p> <p>1 A I do see that.</p> <p>2 Q What area of the country is Branch 20?</p> <p>3 A The Northwest.</p> <p>4 Q What about 22?</p> <p>5 A The Southwest.</p> <p>6 Q What about 23?</p> <p>7 A The Southeast.</p> <p>8 Q What about 24?</p> <p>9 A The Northeast.</p> <p>10 Q How many branches are there at Simpson?</p> <p>11 A In the US?</p> <p>12 Q Yes.</p> <p>13 A Four.</p> <p>14 Q And so we just covered all four for the US?</p> <p>15 A That's correct.</p> <p>16 Q All right. And then there's a link to an</p> <p>17 intranet repository it looks like. Do you see that?</p> <p>18 A I do see that.</p> <p>19 Q That's the http://29intranet URL right there?</p> <p>20 A I see it.</p> <p>21 Q And is that where Mr. Bundy put all of the</p> <p>22 accumulations over the past few months regarding the</p> <p>23 request for a two-hour fire wall hanger?</p> <p>24 A I don't think that's what his email states.</p> <p>25 His email says that he attached the accumulated emails</p>	<p style="text-align: right;">Page 140</p> <p>1 A I do.</p> <p>2 Q Like who's Randy Daudet?</p> <p>3 A He's our manager of codes.</p> <p>4 Q Currently? Or was in 2014?</p> <p>5 A Oh, I'm sorry. I thought we said Randy</p> <p>6 Shackelford we talked about earlier. Randy Daudet at</p> <p>7 the time here was one of our product managers.</p> <p>8 Q And then who's Tom McClain?</p> <p>9 A Tom McClain is another one of our product</p> <p>10 managers.</p> <p>11 Q Have you seen this email string before?</p> <p>12 A It doesn't look familiar.</p> <p>13 Q You don't doubt that this is an authentic</p> <p>14 email circulated between various Simpson personnel; do</p> <p>15 you?</p> <p>16 A I don't.</p> <p>17 Q Let's go to the last page or the next to last</p> <p>18 page. You'll see there's an email from Tom Evans dated</p> <p>19 Wednesday, April 23, 2014, to a small team of people.</p> <p>20 Who is the team of people that he's emailing?</p> <p>21 I mean, are they all product managers, are they</p> <p>22 salespeople, or does each of them have a different role?</p> <p>23 THE OFFICER: I am sorry --</p> <p>24 MR. EIDSON: Yep, yep.</p> <p>25 THE OFFICER: Thank you.</p>
<p style="text-align: right;">Page 139</p> <p>1 over the past month, and then the original request for a</p> <p>2 hanger was put into that request queue.</p> <p>3 Q Have you reviewed any of these communications</p> <p>4 in reaching your opinions?</p> <p>5 A Not recently. But again, this is really the</p> <p>6 beginning of us making our DU hanger. And again, we</p> <p>7 were looking at several different concepts which</p> <p>8 included a cantilever, a C channel, an L angle, to allow</p> <p>9 the drywall to go behind.</p> <p>10 And we had field studies that were done that I</p> <p>11 believe were inconclusive where 50 percent said it was</p> <p>12 okay and 50 percent said that they preferred to have the</p> <p>13 hanger installed first. And at the time, the</p> <p>14 engineering team working on that product decided to go</p> <p>15 with the DU style hanger.</p> <p>16 Q It's fair to say there were more than two</p> <p>17 possible solutions you were considering to address a</p> <p>18 problem?</p> <p>19 A That's correct.</p> <p>20 Q Mr. Hensen, I'm handing you a document that</p> <p>21 labeled as Hensen Exhibit 11.</p> <p>22 (Hensen Exhibit 11 was marked for</p> <p>23 identification.)</p> <p>24 It is Bates labeled SST 87797 through 87799.</p> <p>25 Do you know the individuals on this email string?</p>	<p style="text-align: right;">Page 141</p> <p>1 MR. EIDSON: Got you. Thank you.</p> <p>2 THE WITNESS: Tom Evans is our hanger</p> <p>3 product manager. Or was, until he retired. Randy</p> <p>4 Daudet is, or was during this time, our product manager</p> <p>5 for cold-formed steel products.</p> <p>6 Dustin Muhn was the engineer that works</p> <p>7 on new products, so R&D. Shane Vilasineekul is the</p> <p>8 engineer in the south -- I'm sorry, the northeast. Greg</p> <p>9 Bundy is an engineer in the northeast.</p> <p>10 Paul McEntee is the R&D engineering</p> <p>11 manager. Tom McClain is the product manager at this time</p> <p>12 for strong walls. Zac Shess was our marketing manager.</p> <p>13 Tim Coucher [ph] and Damon Ho were both engineers.</p> <p>14 BY MR. EIDSON:</p> <p>15 Q So Mr. Evans on page 2, going on to page 3, he</p> <p>16 sends an email to the team in 2014 with some</p> <p>17 observations of the MiTek product versus the Simpson</p> <p>18 product; correct?</p> <p>19 A Yes.</p> <p>20 Q He also notes that the Simpson team -- some</p> <p>21 skepticism about whether you could cut a slit in the</p> <p>22 drywall for fire wall purposes; correct? He says the</p> <p>23 question of violating the fire wall assembly will come</p> <p>24 up our view.</p> <p>25 A Where is that located?</p>

<p style="text-align: right;">Page 142</p> <p>1 Q It's -- I'm sorry, it's at the last paragraph 2 on the page 7799. 3 A Okay. 4 Q And at this time, is it fair to say that 5 Simpson had some skepticism that you could cut a slit in 6 the drywall and maintain the fire wall? 7 A Yeah, I think they were asking questions. We 8 had not dealt with fire testing in the past, and I think 9 that our understanding of this was still early on. And 10 so we needed more clarity and needed to talk to more 11 consultants and laboratories about the assemblies. 12 Q And one of the advantages of the MiTek product 13 over the Simpson product was that you don't need to 14 pre-rock; right? Second bullet down from the last page. 15 A I see that listed there. Yes. 16 Q And if you go back to page 2 of the exhibit, 17 Mr. Daudet further thought that you'll have to do a lot 18 of fire caulking around the fin plate, which is where 19 the slit is in the MiTek fire wall hanger; correct? 20 A I see that. But again, Randy has really no 21 exposure at this time to fire testing and fire wall 22 assemblies and really isn't aware of what would be 23 required. 24 Q Does he have exposure to joist hanger 25 construction?</p>	<p style="text-align: right;">Page 144</p> <p>1 or not this would work really constitutes Simpson's 2 skepticism or that we had skepticism that that product 3 would work. 4 BY MR. EIDSON: 5 Q Tom McLain is a Simpson employee? 6 A He's retired. 7 Q Was he a Simpson employee in 2014? 8 A Yes. 9 Q Did he work with joist hangers? 10 A Tom Evans was the product manager for joist 11 hangers. Tom McLain was the product manager for our 12 lateral walls or shear walls. 13 Q Did Mr. McLain work with joist hangers? 14 A From time to time. 15 Q If we look up here, Mr. Evans chimes in right 16 after that, and then right above that Mr. McLain chimes 17 in again. And he says, after Mr. Evans's explanation, 18 he says "I see it now. But if that's a flat piece of 19 steel, wouldn't it buckle and crumple as the bottom of 20 the hanger tries to rotate back into the wall?" 21 Do you see that? 22 A I do see it. 23 Q Then he further says, regarding the design, 24 that "It seems shaky as hell to me..." Do you see that? 25 A I see that.</p>
<p style="text-align: right;">Page 143</p> <p>1 MR. MAUCH: Objection. Vague. 2 BY MR. EIDSON: 3 Q Construction utilizing joist hangers? 4 A He does. 5 Q Why would it be expensive and time consuming 6 to fire caulk around the fin plate if that was required? 7 A Because fire caulking is expensive, and I'm 8 assuming trying to get a bead of caulk into that tight 9 area would be difficult. 10 Q And it would take extra man hours; right? 11 A Correct. 12 Q Adding time to the project; correct? 13 A Correct. 14 Q If you go to the first page. Mr. McLain, he's 15 doubtful that the MiTek fin portion could support a load 16 properly. Do you see that in the next to last email on 17 the page, the one dated April 24, 2014, at 2:23 p.m.? 18 A I do see that. 19 Q So it's fair to say that at least at this 20 time, Simpson was skeptical that the design of the MiTek 21 product would work as advertised; correct? 22 MR. MAUCH: Objection. Misstates 23 document. 24 THE WITNESS: Tom McLain's not an 25 engineer, and I don't know that his opinion of whether</p>	<p style="text-align: right;">Page 145</p> <p>1 Q So then is it fair to say that at this time, 2 Simpson personnel doubt the viability of the MiTek 3 product design? 4 A No. I think Tom McLain, who's again not an 5 engineer, felt indifferent about it. I don't think the 6 rest of the team did. 7 Q Well, he wasn't the only person to express 8 skepticism about the design; right? 9 A I don't know. 10 Q How many Simpson personnel would have to 11 express skepticism about the design for you to be of the 12 opinion that there was in fact skepticism about the 13 design? 14 MR. MAUCH: Objection. Vague. Object to 15 extent it seeks a legal conclusion. 16 THE WITNESS: There wasn't clear 17 understanding of how fire wall assemblies work, and 18 there was questions about whether or not you would have 19 to fire caulk around the fin and how it used -- how it 20 needed to be used and how it performed. 21 I don't think this constitutes Simpson's 22 skepticism in that. These are people asking questions 23 on a product. 24 BY MR. EIDSON: 25 Q And they're making observations about the</p>

<p style="text-align: right;">Page 146</p> <p>1 product too?</p> <p>2 A And they're not engineers either.</p> <p>3 Q But they have familiarity with joist hangers?</p> <p>4 A Salespeople have familiarity with joist</p> <p>5 hangers. It doesn't mean that they're technical and can</p> <p>6 answer engineering questions.</p> <p>7 Q What about a user in the field that has</p> <p>8 installed thousands of fire wall hangers over their</p> <p>9 career but they're not engineers? Would you say that</p> <p>10 their opinions don't matter?</p> <p>11 A Would they know --</p> <p>12 MR. MAUCH: Oh, hold on, hold on. Got to</p> <p>13 pause.</p> <p>14 Objection. Incomplete hypothetical.</p> <p>15 Lacks foundation. Assumes facts not in evidence.</p> <p>16 Now, you can answer.</p> <p>17 THE WITNESS: Installers don't know how</p> <p>18 to -- how products perform in testing, and nor would I</p> <p>19 expect them to.</p> <p>20 BY MR. EIDSON:</p> <p>21 Q Do they know how they perform in the field?</p> <p>22 A Field loading of a hanger is not the same as</p> <p>23 loading a product to failure and seeing how it performs.</p> <p>24 Q Whether you need to fire caulk around</p> <p>25 something after it's installed, that's something a field</p>	<p style="text-align: right;">Page 148</p> <p>1 THE OFFICER: Yeah. Difficult to get it</p> <p>2 right.</p> <p>3 MR. MAUCH: No, no, I totally -- I'm just</p> <p>4 messing with you.</p> <p>5 BY MR. EIDSON:</p> <p>6 Q Give me a second, Mr. Hensen. My staples kind</p> <p>7 of came undone here.</p> <p>8 Mr. Hensen, I'm handing you a document that we</p> <p>9 have marked as Hensen Exhibit 12.</p> <p>10 (Hensen Exhibit 12 was marked for</p> <p>11 identification.)</p> <p>12 It is an email string between Mr. Stauffer,</p> <p>13 Mr. Evans, Mr. Muhn, and others. And Mr. Muhn attaches,</p> <p>14 you can see from the Wednesday, April 23, 2014,</p> <p>15 communication, a letter.</p> <p>16 It's to whom it may concern, Doc X. And that</p> <p>17 letter is attached to the back of this chain. The Bates</p> <p>18 range on Hensen Exhibit 12 is SST 87749 through 87752,</p> <p>19 email with the attachment. Have you seen Hensen Exhibit</p> <p>20 12 before?</p> <p>21 A I have.</p> <p>22 Q In what context did you see it? When it</p> <p>23 originally came out or in preparation for this</p> <p>24 deposition or some other time?</p> <p>25 A I think it was at some other time.</p>
<p style="text-align: right;">Page 147</p> <p>1 guy would know?</p> <p>2 A Only if the inspector told him it had to be</p> <p>3 done.</p> <p>4 Q Is it your observation that you have to be an</p> <p>5 engineer in order to make an observation or be skeptical</p> <p>6 of a product, of a fire wall hanger product?</p> <p>7 MR. MAUCH: Objection to the extent it</p> <p>8 seeks a legal conclusion. And vague.</p> <p>9 THE WITNESS: The decisions that Simpson</p> <p>10 makes on products are based on information that people</p> <p>11 know how these systems are used and how they're</p> <p>12 designed, not based on comments from non-technical</p> <p>13 people.</p> <p>14 BY MR. EIDSON:</p> <p>15 Q And who did you say Dustin Muhn was?</p> <p>16 A He was one of our R&D engineers.</p> <p>17 Q So what if Mr. Muhn expressed skepticism of</p> <p>18 the MiTek fire wall hanger? Would you think that would</p> <p>19 be valid skepticism?</p> <p>20 A It would be a little more weighty.</p> <p>21 MR. MAUCH: I want to place an objection</p> <p>22 to the last question that it was vague.</p> <p>23 THE OFFICER: Would you mind moving your</p> <p>24 microphones a little closer?</p> <p>25 MR. MAUCH: Too close? Far?</p>	<p style="text-align: right;">Page 149</p> <p>1 Q Looking at -- some of this is similar content</p> <p>2 from the earlier email we saw. You know, Mr. Evans's</p> <p>3 communication and others. But then Mr. Muhn chimes in</p> <p>4 here in his April 23, 2014, email to the team and he</p> <p>5 says "See the attached letter for my thoughts on the</p> <p>6 matter."</p> <p>7 Do you see that? It's the first sentence of</p> <p>8 his note.</p> <p>9 A Yeah, I see that.</p> <p>10 Q Okay. And you can see that the attachment is</p> <p>11 called "To whom it may concern," Doc X on the front</p> <p>12 page; right?</p> <p>13 A I do see that.</p> <p>14 Q All right. If we go to the last page of the</p> <p>15 exhibit, there's a document that starts off with "to</p> <p>16 whom it may concern"?</p> <p>17 A I see that.</p> <p>18 Q Okay. And this document, according to</p> <p>19 Mr. Muhn, is an expression of design concerns of the</p> <p>20 MiTek fire wall hanger product; correct?</p> <p>21 A Yes, that's correct.</p> <p>22 Q Okay. So you'd agree with me that this</p> <p>23 document expresses some skepticism about the viability</p> <p>24 of the MiTek design; correct?</p> <p>25 MR. MAUCH: Objection. Vague.</p>

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<p style="text-align: right;">Page 150</p> <p>1 Mischaracterizes the document.</p> <p>2 THE WITNESS: I -- I think that this</p> <p>3 letter identifies that there was some differences in the</p> <p>4 testing methods that USP or MiTek employed when they</p> <p>5 developed this product outside of the test criteria AC</p> <p>6 13 and ASTM D 7147, which governs the testing criteria</p> <p>7 for hangers.</p> <p>8 And there was concerns on the way this</p> <p>9 was tested that possibly would have elevated the</p> <p>10 artificially the load carrying capacity of the hangers</p> <p>11 and that it probably would not have performed</p> <p>12 appropriately if they would have followed the criteria</p> <p>13 exactly as it was written in the ASTM or AC documents.</p> <p>14 BY MR. EIDSON:</p> <p>15 Q So there's some concerns about the test setup</p> <p>16 and the characteristics that the product was claiming;</p> <p>17 correct?</p> <p>18 A There were, but the test setup and the</p> <p>19 criteria that they did or did not follow doesn't</p> <p>20 constitute that the product couldn't have met the need</p> <p>21 or been tested properly and -- and secured it.</p> <p>22 I -- I think that, you know, when they were</p> <p>23 testing and saw how the other product was tested, they</p> <p>24 had some serious concerns and -- and even approached</p> <p>25 ICCES, which is the International Code Counsel for</p>	<p style="text-align: right;">Page 152</p> <p>1 was never the head of R&D. He was one of our product</p> <p>2 design engineers.</p> <p>3 As a matter of fact, he was one of the junior</p> <p>4 design engineers and is no longer working with us. And</p> <p>5 as a matter of fact, shortly after I became the vice</p> <p>6 president of connectors and lateral, we decided to let</p> <p>7 Dustin go.</p> <p>8 Q So because of all of that, does his opinion</p> <p>9 now not carry any weight?</p> <p>10 A No. What I'm saying is that I'm differing</p> <p>11 from what you said. You just said that he was the head</p> <p>12 of R&D, and he certainly most was not the head of our</p> <p>13 R&D.</p> <p>14 Q I thought you said he was involved with R&D.</p> <p>15 What was he involved with at the time?</p> <p>16 A He was one of our product design engineers.</p> <p>17 Research and developing products.</p> <p>18 Q Okay. So a product engineer researching and</p> <p>19 developing products at Simpson was skeptical at this</p> <p>20 time that the MiTek fire wall hanger could be used for</p> <p>21 its intended purpose; correct?</p> <p>22 A I think he was skeptical on the loads because</p> <p>23 of how it was tested and whether or not fire caulking</p> <p>24 would be required.</p> <p>25 Q Well, then he says it could not be approved by</p>
<p style="text-align: right;">Page 151</p> <p>1 Evaluation Services, and questioned them about why they</p> <p>2 were allowed to use these differences in these</p> <p>3 standards.</p> <p>4 And so I -- you know, whether or not there was</p> <p>5 skepticism that the product would work or that it would</p> <p>6 just meet the loads and perform as they stated, are two</p> <p>7 different things in my opinion.</p> <p>8 Q Let's look at the next paragraph.</p> <p>9 A Okay.</p> <p>10 Q Where it says "It would be the expectation</p> <p>11 that the use of the fire wall hanger would not be</p> <p>12 approved by building officials without extensive use of</p> <p>13 fire retardant caulking, which may add unforeseen costs</p> <p>14 or delays to a project."</p> <p>15 And that expectation was based on the fact</p> <p>16 that you had a piece of steel running through the</p> <p>17 drywall; correct?</p> <p>18 A I see that, but again, Dustin is not a fire</p> <p>19 expert and nor would he know if that's a requirement.</p> <p>20 And -- and until we did testing to -- to show whether or</p> <p>21 not that was acceptable, this is his opinion.</p> <p>22 Q And so at least as of this time, your head of</p> <p>23 R&D was skeptical that the MiTek product was viable for</p> <p>24 its intended use; correct?</p> <p>25 A No, that's not a correct statement. Dustin</p>	<p style="text-align: right;">Page 153</p> <p>1 building officials without extensive use of fire</p> <p>2 retardant caulking. Doesn't that mean that he's</p> <p>3 skeptical of how it should be used -- of it's intended</p> <p>4 use? Excuse me.</p> <p>5 A Again, that's his opinion as one of our junior</p> <p>6 R&D engineers.</p> <p>7 Q So you've got at least one person at Simpson</p> <p>8 who is skeptical of the MiTek fire wall hanger patent or</p> <p>9 fire wall hanger product; correct?</p> <p>10 MR. MAUCH: Objection. Vague.</p> <p>11 THE WITNESS: I think this is one data</p> <p>12 point.</p> <p>13 BY MR. EIDSON:</p> <p>14 Q All right. He's also skeptical of any benefit</p> <p>15 of the feature that allows a contractor to avoid</p> <p>16 pre-rocking; correct?</p> <p>17 He says "Intimate knowledge of this connection</p> <p>18 problem will show that the feature that allows a</p> <p>19 contractor to avoid pre-rocking is null and void." Do</p> <p>20 you see that?</p> <p>21 A I do see that.</p> <p>22 Q All right. So this particular Simpson</p> <p>23 engineer at this time is skeptical that avoiding</p> <p>24 pre-rocking was going to be any real benefit of the</p> <p>25 MiTek fire wall hanger product; correct?</p>

<p style="text-align: right;">Page 154</p> <p>1 A That was Dustin's opinion.</p> <p>2 Q And he goes on to give several reasons to</p> <p>3 support his opinion; correct?</p> <p>4 A He does.</p> <p>5 Q One of them is based on how a drywall crew</p> <p>6 will come in whenever they're doing drywall, and they</p> <p>7 will stack product and place a lot of load on the floor</p> <p>8 design so that they don't have to make several trips for</p> <p>9 restocking; right?</p> <p>10 A I see that.</p> <p>11 Q And because of that extra weight that wouldn't</p> <p>12 normally be there because of the drywall contractors, he</p> <p>13 did not think that the fire wall hanger would be able to</p> <p>14 maintain the gaps such that you could slide the drywall</p> <p>15 in behind; correct?</p> <p>16 A That's his statement, but I don't think it's</p> <p>17 correct.</p> <p>18 Q I mean, he calls the MiTek fire wall hanger</p> <p>19 product in its related testing and claims of performance</p> <p>20 "shaky at best, with expectations of litigation." Do</p> <p>21 you see that? Last paragraph?</p> <p>22 A I see that.</p> <p>23 Q Okay. Were there any other personnel at</p> <p>24 Simpson that shared his opinions as you sit here today</p> <p>25 that you're aware of?</p>	<p style="text-align: right;">Page 156</p> <p>1 There's a code criteria for that and they will</p> <p>2 check it for that deflection, and that often will govern</p> <p>3 over the load.</p> <p>4 So they're not allowed to design a floor</p> <p>5 system to bend under load to that code criteria, and</p> <p>6 that almost entirely will govern over a load that's on</p> <p>7 the floor system.</p> <p>8 So they could have loaded up the floor system</p> <p>9 to the maximum load that the engineer had said they</p> <p>10 could put on it, but the deflection criteria would</p> <p>11 govern and there probably wouldn't be much deflection of</p> <p>12 the floor system at that load that could be put on</p> <p>13 there.</p> <p>14 MR. EIDSON: Exhibit 13 is where I</p> <p>15 figured out to give you time to mark the exhibit before</p> <p>16 I start talking. Because you've been so nice to mark</p> <p>17 those for me, so I apologize. Thank you.</p> <p>18 (Hensen Exhibit 13 was marked for</p> <p>19 identification.)</p> <p>20 THE OFFICER: Yeah, No problem.</p> <p>21 BY MR. EIDSON:</p> <p>22 Q Mr. Hensen, we have handed you what has been</p> <p>23 marked as Exhibit 13. It is Bates labeled SST --</p> <p>24 THE OFFICER: Oh, sorry, it's covering</p> <p>25 the microphone. Sorry. I have to move it again. Could</p>
<p style="text-align: right;">Page 155</p> <p>1 A Not that I'm aware of.</p> <p>2 Q Before we leave this exhibit, do you disagree</p> <p>3 with his assessment about how a drywall crew would come</p> <p>4 in and perform their tasks and bring as much drywall to</p> <p>5 the job site so that they could minimize trips?</p> <p>6 A I do agree that generally, drywall is stacked</p> <p>7 on the floor so they can install it, but in no case</p> <p>8 would they overload the floor systems. There's a -- a</p> <p>9 construction means and method that the contractor has to</p> <p>10 follow so that they don't overload floor systems. And</p> <p>11 so I -- I just don't think that Dustin's statement there</p> <p>12 is correct.</p> <p>13 Q Well, he says they will stack as high as the</p> <p>14 floor design will allow; correct?</p> <p>15 A I see that.</p> <p>16 Q So that's correct; right?</p> <p>17 A That's correct.</p> <p>18 Q And by doing it as high as the floor design</p> <p>19 will allow, it minimizes restocking trips for the</p> <p>20 drywall crew; right?</p> <p>21 A Correct. For clarity, by the way, load and</p> <p>22 deflection are two different checks that an engineer</p> <p>23 does when they're designing a floor system. And when</p> <p>24 you design a floor system for load, you also have to</p> <p>25 check it for deflection.</p>	<p style="text-align: right;">Page 157</p> <p>1 you repeat what you said?</p> <p>2 MR. EIDSON: You bet.</p> <p>3 BY MR. EIDSON:</p> <p>4 Q Mr. Hensen, we've handed you what you've</p> <p>5 marked as Exhibit 13. It's Bates labeled SST 45542</p> <p>6 through 45543. This is an email string. The 2017 time</p> <p>7 period. March, to be specific. And you are on the</p> <p>8 middle two messages of the string. Have you seen this</p> <p>9 exhibit before?</p> <p>10 A I have.</p> <p>11 Q You recognize this as an email string between</p> <p>12 Simpson personnel discussing drywall hanger fire wall</p> <p>13 hanger designs?</p> <p>14 A I do.</p> <p>15 Q Okay. So here, this is March of 2017. So</p> <p>16 this is right before -- or at this time, you still do</p> <p>17 not have a product that is capable of being installed</p> <p>18 before the drywall; correct?</p> <p>19 A Correct.</p> <p>20 Q All right. And you're about to launch a new</p> <p>21 product; correct?</p> <p>22 A We were getting close. I don't know that we</p> <p>23 had -- we were about to launch a product. I certainly</p> <p>24 didn't have any inventory.</p> <p>25 Q All right. So if you go to the last page,</p>

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<p style="text-align: right;">Page 158</p> <p>1 Mr. Evans -- who's an engineer; correct?</p> <p>2 A Yes, he is.</p> <p>3 Q All right. He says "I want to update you on</p> <p>4 our efforts for a new drywall hanger. We're planning to</p> <p>5 launch three types. Competing with MiTek's fire wall</p> <p>6 hanger"; right? I'm assuming there were pictures of</p> <p>7 this, but they just didn't transfer through.</p> <p>8 "We will have two types. One that is folded</p> <p>9 left looking much like their product for loads up to</p> <p>10 1400 pounds and another that is welded supporting loads</p> <p>11 up to about 2100 pounds." Do you see that?</p> <p>12 A I see that.</p> <p>13 Q Okay. So in 2017, the initial plan was to</p> <p>14 launch two drywall hangers that looked much like MiTek's</p> <p>15 products; correct?</p> <p>16 A I think what you read is that there was two</p> <p>17 types, one that was folded and one that wasn't. And the</p> <p>18 one that wasn't was quite different than theirs.</p> <p>19 Q Okay. At least one, if not both of those,</p> <p>20 were going to look much like the MiTek product; correct?</p> <p>21 A There was some discussion of that.</p> <p>22 Q I mean, he's forwarding this group, which</p> <p>23 you're on, a picture of the MiTek fire wall hanger</p> <p>24 product with the two concepts that Simpson's considering</p> <p>25 at the time; right?</p>	<p style="text-align: right;">Page 160</p> <p>1 Q He's responsible for selling fire wall</p> <p>2 hangers?</p> <p>3 A His team of salesmen.</p> <p>4 Q And he sends a note to you, Mr. Evans, and</p> <p>5 others. And it says "It looks like we now have a</p> <p>6 single-slit version just like USP." Do you see that?</p> <p>7 A I see that.</p> <p>8 Q And was the version that you were</p> <p>9 contemplating at the time a single-slit version, just</p> <p>10 like the fire wall hanger?</p> <p>11 A There was an option there for that.</p> <p>12 Q And Mr. Evans notes to Mr. Dill in the March</p> <p>13 21, 9:39 a.m. comments that "The field tests and</p> <p>14 comments have shown that the single slit version to be</p> <p>15 the preferred design, sometimes a mild preference and</p> <p>16 sometimes a very strong preference." Do you see that?</p> <p>17 A I see that.</p> <p>18 Q The single slit version would be identical to</p> <p>19 the MiTek version; correct?</p> <p>20 MR. MAUCH: Objection. Vague. Lacks</p> <p>21 foundation. Assumes facts not in evidence.</p> <p>22 THE WITNESS: There were differences.</p> <p>23 BY MR. EIDSON:</p> <p>24 Q What?</p> <p>25 A The length of the -- the flange.</p>
<p style="text-align: right;">Page 159</p> <p>1 A I see that.</p> <p>2 Q Okay. And the folded version is one that</p> <p>3 essentially is made from a single flat piece of metal</p> <p>4 that that is then folded and formed into the shape and</p> <p>5 doesn't require welding; right?</p> <p>6 A That's correct.</p> <p>7 Q Kind of like the DGT product?</p> <p>8 A Yes.</p> <p>9 Q Usually those products are cheaper, but they</p> <p>10 have less load values; is that fair to say?</p> <p>11 A I would generally agree with that.</p> <p>12 Q And then the other product that you were</p> <p>13 planning on was a welded product which would support</p> <p>14 higher load values; correct?</p> <p>15 A That's right.</p> <p>16 Q Was the MiTek product welded that was in the</p> <p>17 marketplace?</p> <p>18 A I've never seen a MiTek product that's welded</p> <p>19 for fire wall hangers.</p> <p>20 Q You have or have not?</p> <p>21 A I haven't.</p> <p>22 Q And then going to the first page, Mr. Dill.</p> <p>23 Who's Mr. Dill?</p> <p>24 A Our sales manager at the time in the northeast</p> <p>25 area.</p>	<p style="text-align: right;">Page 161</p> <p>1 Q What else?</p> <p>2 A I don't recall.</p> <p>3 Q And the field tests and comments showed a</p> <p>4 preference. Are the field tests and comments from</p> <p>5 customers?</p> <p>6 MR. MAUCH: Objection. Calls for</p> <p>7 speculation.</p> <p>8 THE WITNESS: I don't recall if we</p> <p>9 invited customers for those field tests.</p> <p>10 BY MR. EIDSON:</p> <p>11 Q Well, if there's a mild preference and</p> <p>12 sometimes a very strong preference, where would those</p> <p>13 preferences come from?</p> <p>14 A It could be our sales team. If there were</p> <p>15 field tests with customers, we would have had</p> <p>16 nondisclosure agreements signed.</p> <p>17 Q Who do you do field tests with other than</p> <p>18 customers?</p> <p>19 A It could just be with our sales team.</p> <p>20 Q So your sales team would do a field test?</p> <p>21 A They would get us access to a field, a job,</p> <p>22 and then we would potentially go and install those</p> <p>23 products and make a report of that.</p> <p>24 Q Do you know what happened here?</p> <p>25 A It looks like there was some mild preference</p>

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<p style="text-align: right;">Page 162</p> <p>1 and sometimes strong preference. 2 Q And do you know where that preference came 3 from? 4 A I don't. 5 Q So either internal Simpson had it or your 6 customers had it; is that fair to say? 7 A Yes. 8 Q Why was there a preference for the single-slit 9 design? 10 MR. MAUCH: Objection. Calls for 11 speculation. 12 THE WITNESS: I don't recall. 13 BY MR. EIDSON: 14 Q Do you know, in your expert capacity, why 15 there would be a preference for the single-slit design? 16 A Most likely less labor. 17 Q Ease of installation? 18 A Potentially. 19 Q Mr. Hensen, I'm showing you what we have 20 marked as Hensen Exhibit 14. 21 (Hensen Exhibit 14 was marked for 22 identification.) 23 It's a document Bates labeled SST 87800. It's 24 an email string to Mr. Evans, Mr. Bundy, and others. 25 Have you seen this email string before?</p>	<p style="text-align: right;">Page 164</p> <p>1 THE WITNESS: I don't know. 2 BY MR. EIDSON: 3 Q Mr. Evans looks at the FWH engineering tech 4 bulletin apparently and quotes some of it, but then he 5 says "It gives them a high load, avoids pre-rock, but 6 the drywallers will have to work around that." Do you 7 see that? 8 A I do see that. 9 Q And then he says "We purposely avoided that 10 type of interference." Do you see that? 11 A I do see that. 12 Q And what he means by that or what you 13 understand by that is that they purposely avoided 14 putting a slit in the drywall during the design process 15 of your DU; correct? 16 MR. MAUCH: Objection. Calls for 17 speculation. 18 THE WITNESS: I believe that's what he's 19 inferring. 20 BY MR. EIDSON: 21 Q That's what you understand it to mean? 22 A Yes. 23 Q And he says "Of course the framers will love 24 it. Not sure about the drywall companies." Why would 25 framers love it?</p>
<p style="text-align: right;">Page 163</p> <p>1 A I don't recall seeing it. 2 Q You don't doubt that it's a authentic email 3 string between Simpson employees discussing the fire 4 wall hanger; correct? 5 A I don't. 6 Q Okay. So who is Shane Vilasineekul? Did I 7 say that right? 8 A Yeah, it's close. Vilasineekul. 9 Q Vilasineekul. Okay. 10 A He's the director of engineering in the 11 northeast region for us. 12 Q Is he an engineer? 13 A Yes. 14 Q And he is letting the team know and forwarding 15 a USP document about the fire wall hanger and says that 16 a truss customer is moving forward with a USP connector 17 in order to avoid having to pre-rock. Do you see that? 18 A I do see that. 19 Q Do you recall which customer this was? 20 A I do not. 21 Q Fair to say it's a customer that was normally 22 a Simpson customer that decided for this particular 23 product to change to MiTek? 24 MR. MAUCH: Objection. Calls for 25 speculation.</p>	<p style="text-align: right;">Page 165</p> <p>1 MR. MAUCH: Calls for speculation. 2 THE WITNESS: Because they could do the 3 framing before the drywall was installed. 4 BY MR. EIDSON: 5 Q Get it all done at once? 6 A Yes. 7 Q Mr. Hensen, I'm handing you what we have 8 marked as Hensen Exhibit 15. 9 (Hensen Exhibit 15 was marked for 10 identification.) 11 It's a document Bates labeled SST 46428 12 through 29. This is an email string, or the latest 13 email is from Mr. Evans to Mr. Johnson, and you're CC'd. 14 And it's dated July 25, 2014. 15 Who are Scherer Brothers Lumber? Or let me 16 ask a better question. 17 Is Scherer Brothers Lumber Company a customer 18 of Simpson's? 19 A Yes. 20 Q And so they supply fire wall hanger products 21 to customers on job sites; is that fair to say? 22 A Yes. 23 Q And one of your customers is forwarding to 24 Mr. Johnson a PDF of the fire wall hanger and asking 25 whether Simpson has any products that allow you to apply</p>

<p style="text-align: right;">Page 166</p> <p>1 the sheet rock after the hanger is installed; correct?</p> <p>2 A Yes.</p> <p>3 Q And at this time, Simpson did not have any</p> <p>4 such products; correct?</p> <p>5 A That's correct.</p> <p>6 Q At this time, was Simpson working on</p> <p>7 developing products?</p> <p>8 A I don't recall the timing.</p> <p>9 Q And then Mr. Evans says "We've kicked this</p> <p>10 around a bit, but I think management wants to see how</p> <p>11 the current product is accepted before jumping to the</p> <p>12 next possible stage, which is drywall after hanger." Do</p> <p>13 you see that?</p> <p>14 A I see that.</p> <p>15 Q So is it fair to say that Simpson wasn't sure</p> <p>16 whether the industry was going to jump to the drywall</p> <p>17 after hanger installation method, and they were going to</p> <p>18 wait and see before they started developing a competing</p> <p>19 product?</p> <p>20 A That's what Tom stated.</p> <p>21 Q And what was Mr. Evans's title at this time?</p> <p>22 A A product manager.</p> <p>23 Q He says "I have a preliminary concept for a</p> <p>24 drywall after hanger design, but I don't know if it has</p> <p>25 much support at this time." Do you see that?</p>	<p style="text-align: right;">Page 168</p> <p>1 A That's my -- my best recollection of probably</p> <p>2 what happened here.</p> <p>3 Q And do you know that from speaking with Tawn?</p> <p>4 Or --</p> <p>5 A I know that -- I know that because when I</p> <p>6 first got there, that's how Tawn operated.</p> <p>7 Q You know that based on his historical conduct;</p> <p>8 is that fair to say?</p> <p>9 A That's correct.</p> <p>10 Q But do you have any specifics related to why</p> <p>11 he didn't move on it, other than his historical conduct?</p> <p>12 A Again, you know, Tawn was managing fasteners,</p> <p>13 anchors, adhesives, connectors, shear walls, and wanted</p> <p>14 to manage the resources that were needed to develop a</p> <p>15 product. And so probably did not want to invest in</p> <p>16 another connector design at that point yet.</p> <p>17 Q And so if he was in charge of pulling the</p> <p>18 trigger on an additional design, is it fair to say he</p> <p>19 wasn't fully sold on whether the industry was going to</p> <p>20 be jumping to a drywall after hanger type fire wall</p> <p>21 hanger design?</p> <p>22 MR. MAUCH: Objection. Calls for</p> <p>23 speculation.</p> <p>24 THE WITNESS: I don't know if he felt</p> <p>25 that way or not, but I think using resources that we had</p>
<p style="text-align: right;">Page 167</p> <p>1 A I do see that.</p> <p>2 Q And where would that lack of support been</p> <p>3 from? Let me ask a better question.</p> <p>4 He says "Management wants to see how the</p> <p>5 current product is accepted before jumping to the next</p> <p>6 possible stage." Who is the management he's referring</p> <p>7 to?</p> <p>8 MR. MAUCH: Objection. Calls for</p> <p>9 speculation.</p> <p>10 THE WITNESS: It certainly wasn't me. I</p> <p>11 had just gotten this role at this time, and I think I</p> <p>12 was still in transition from Texas to our home office in</p> <p>13 Pleasanton at this exact time. And there was a handoff</p> <p>14 between myself and Tawn Simons who was the manager of</p> <p>15 product managers.</p> <p>16 So there wasn't a VP of connectors and</p> <p>17 lateral systems at this time until I got there. And so</p> <p>18 it could have been coming from Tawn Simons who was</p> <p>19 managing all of our new product development and maybe</p> <p>20 did not want to spend more time and effort developing</p> <p>21 another hanger because there were so many other products</p> <p>22 he was working on at the time.</p> <p>23 BY MR. EIDSON:</p> <p>24 Q Do you know that or are you just assuming</p> <p>25 that?</p>	<p style="text-align: right;">Page 169</p> <p>1 to develop products was probably being dedicated</p> <p>2 elsewhere for other products and didn't want to turn our</p> <p>3 attention to it.</p> <p>4 BY MR. EIDSON:</p> <p>5 Q What other products do you know?</p> <p>6 A Like I stated earlier, he was in charge of</p> <p>7 fasteners, anchors, adhesives, connectors, lateral</p> <p>8 systems. Any of those products that they were working</p> <p>9 on probably at the time.</p> <p>10 Q Do you know of any specific products they were</p> <p>11 working on at the time?</p> <p>12 A We provide a list of all of our new products</p> <p>13 in all of our catalogs that year, and there's a</p> <p>14 connector catalog, a fastener catalog. We can go</p> <p>15 through those and see what he was working on.</p> <p>16 Q So every product that's listed as a new</p> <p>17 product for that calendar year would be something he was</p> <p>18 working on?</p> <p>19 A That he was overseeing, yes. Tawn Simons, the</p> <p>20 manager.</p> <p>21 Q Was he working on it or overseeing it or both?</p> <p>22 A Tawn managed the product managers. He did not</p> <p>23 do the work, but he was responsible for the resources</p> <p>24 that needed to get those products to the finish line.</p> <p>25 Q Mr. Hensen, I've handed you a document which</p>

<p style="text-align: right;">Page 170</p> <p>1 we have marked as Hensen Exhibit 16. 2 (Hensen Exhibit 16 was marked for 3 identification.) 4 It is Bates labeled SST 46441 through 43. 5 Email string between a variety of parties. The entire 6 string was sent to you on July 30, 2014, and Mr. Wert. 7 And then there's an email from you in the middle where 8 you loop in Mr. Vilasineekul. Have you seen Exhibit 16 9 before? 10 A I have. 11 Q And you recognize this as an email string 12 between Simpson personnel; correct? 13 A Yes. 14 Q All right. With, I guess, somebody from looks 15 like a R&M Group email being forwarded? Who is R&M 16 Group? It's on the last page of these pages. 17 A An engineering firm in Charlotte, North 18 Carolina. 19 Q Specifiers? 20 A Yes. 21 Q And it looks like someone had forwarded a PDF 22 with a MiTek fire wall hanger, and they're asking 23 Simpson whether they have anything like this; is that 24 fair to say? 25 A Yes.</p>	<p style="text-align: right;">Page 172</p> <p>1 A Yeah, I -- I don't think so. I think I was in 2 the middle of moving my family from Texas to Pleasanton 3 and trying to survive drinking from a fire hose. 4 Q Mr. Hensen, I've handed you a document that we 5 have marked as Hensen Exhibit 17. It's Bates labeled 6 SST 88590. 7 (Hensen Exhibit 17 was marked for 8 identification.) 9 It's an email string between Simpson 10 personnel. You are not on any of these strings. Have 11 you seen this string before? 12 A I don't recall seeing it. 13 Q You recognize the people on this string to be 14 Simpson employees; correct? 15 A I do. 16 Q You don't doubt that this is an authentic 17 email string between Simpson employees; correct? 18 A I don't. 19 Q And here, Mr. Evans in January of 2015 is 20 asking a question. "Is there a market for drywall 21 hanger that allows the drywall to be installed after the 22 hanger?" Do you see that? 23 A I do. 24 Q Is Mr. Evans making this inquiry of the group 25 at your direction or on his own initiative?</p>
<p style="text-align: right;">Page 171</p> <p>1 Q And then 2014, is this right when you took 2 over your new role in the job? 3 A Yes, it was during that time. 4 Q You are asking Mr. Evans, what do you know 5 about this USP connector? Have you heard anything, see 6 anything about it? And Mr. Evans says "It seems to be 7 getting some buzz in the industry." Do you see that? 8 A I do see that. 9 Q Okay. And you don't disagree with that 10 statement when it was made at the time; right? 11 A I do not. 12 Q Okay. And Mr. Evans sent you a summary 13 comparing the differences between the DU series and the 14 MiTek FWH; correct? 15 A Yes. 16 Q And when you got -- I guess when Mr. Evans 17 sent you this table comparing the differences between 18 the two, did you make a decision at this point to start 19 developing a fire wall hanger that could be installed 20 after the hanger? 21 A No. I think it was shortly thereafter, 22 though. 23 Q And let me clarify that question. Develop a 24 fire wall hanger that could be installed before the 25 sheet rock is what I meant to say.</p>	<p style="text-align: right;">Page 173</p> <p>1 A Not at my direction. As the product manager 2 for our entire hanger line, he's always monitoring the 3 health of his products, and I think he was asking the 4 team, based on continued requests that he had, for us to 5 provide a solution. 6 Q And who is Curt Johnson? 7 A He's one of our sales reps in the Minnesota 8 area. 9 Q And Curt says in response to Mr. Evans's 10 inquiry "The USP version that has this feature is 11 preferred in my market, even though it's quite a bit 12 more expensive." Do you see that? 13 A I do see that. 14 Q And you understand that to mean preferred by 15 customers; correct? 16 A I do. 17 Q All right. And he says, the top email, that 18 "We could sell more of the hanger if you had one that 19 could be installed before the drywall"; correct? 20 A That's correct. 21 Q All right. And at this time, had Simpson 22 started development of its competing product, the DG? 23 A I don't recall the timing without seeing the 24 testing when we started it. 25 Q Mr. Hensen, I'm handing you what we have</p>

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<p style="text-align: right;">Page 174</p> <p>1 marked as Hensen Exhibit 18.</p> <p>2 (Hensen Exhibit 18 was marked for</p> <p>3 identification.)</p> <p>4 It's a email string, and the Bates label is</p> <p>5 SST 77384 through 77386. Again, this is an email string</p> <p>6 that you are not on, but it is between Simpson</p> <p>7 personnel. Have you seen this email string before?</p> <p>8 A I can't recall seeing it before.</p> <p>9 Q You don't doubt that it's an authentic email</p> <p>10 string between Simpson personnel; correct?</p> <p>11 A I don't.</p> <p>12 Q If you go to the last page, who is Dan</p> <p>13 Scullion?</p> <p>14 A He was -- he is a retired sales rep in the</p> <p>15 Charlotte area.</p> <p>16 Q And he says, and this is in 2015, that the</p> <p>17 Charlotte Building Department will only accept USP's</p> <p>18 version of a hanger for multifamily projects. Do you</p> <p>19 see that on the last page?</p> <p>20 A I do see that. And it's in reference to our</p> <p>21 DU style hanger and not having fire testing.</p> <p>22 Q So then at this time, for fire wall hangers,</p> <p>23 the USP version would be the only one that the Charlotte</p> <p>24 area would take; is that correct?</p> <p>25 A Until we provided fire testing of our DU</p>	<p style="text-align: right;">Page 176</p> <p>1 A It was his territory, yes.</p> <p>2 Q Mr. Hensen, I'm showing you what we've marked</p> <p>3 as Hensen Exhibit 19.</p> <p>4 (Hensen Exhibit 19 was marked for</p> <p>5 identification.)</p> <p>6 This is an email from Mr. Lynch to Mr. Evans</p> <p>7 and Mr. Scullion -- an email chain, excuse me, from</p> <p>8 January of 2015 at the bottom, and at the top from March</p> <p>9 of 2015. It's Bates labeled SST 87986. Have you seen</p> <p>10 this Exhibit 19 before?</p> <p>11 A I haven't.</p> <p>12 Q And this is another response to Mr. Evans's</p> <p>13 earlier inquiry that we saw in Exhibit 17; correct?</p> <p>14 A Yes.</p> <p>15 Q And who's Mr. Lynch?</p> <p>16 A At the time, he was our sales rep in North</p> <p>17 Carolina.</p> <p>18 Q And he says in North Carolina -- or I guess he</p> <p>19 says that it is a new product, the DHU, and will take</p> <p>20 some time, but the preferred method is for drywall</p> <p>21 installed after. Do you see that?</p> <p>22 A I do see that.</p> <p>23 Q And you understand that to mean that in his</p> <p>24 market, anyway, that the customers prefer a hanger that</p> <p>25 can be installed before the drywall; correct?</p>
<p style="text-align: right;">Page 175</p> <p>1 hanger, which we did not long after this.</p> <p>2 Q And then Mr. Scullion says to Mr. Wert "We</p> <p>3 need to push for a solution that makes sense for the</p> <p>4 construction process," this is on the first page, "by</p> <p>5 designing a connector that can be installed during</p> <p>6 framing stages and not after drywall is installed." Do</p> <p>7 you see that?</p> <p>8 A I do see that.</p> <p>9 Q And he says "Despite USP's questionable load</p> <p>10 capacities and high price, they're getting jobs in</p> <p>11 Charlotte. I just verified another one yesterday." Do</p> <p>12 you see that?</p> <p>13 A I do see that.</p> <p>14 Q So is it fair to say that at this time, at</p> <p>15 least in the Charlotte market, Simpson was losing jobs,</p> <p>16 so to speak, because it did not have a hanger that was</p> <p>17 fire rated or that could be installed before the</p> <p>18 drywall?</p> <p>19 MR. MAUCH: Objection. Compound. Vague.</p> <p>20 Lacks foundation.</p> <p>21 THE WITNESS: This was Dan Scullion's</p> <p>22 position.</p> <p>23 BY MR. EIDSON:</p> <p>24 Q And he would know better because he's on the</p> <p>25 ground in Charlotte; right?</p>	<p style="text-align: right;">Page 177</p> <p>1 A Yes. I see that.</p> <p>2 Q And that's your understanding of what he's</p> <p>3 saying; correct?</p> <p>4 A Yes.</p> <p>5 Q And then at the top, Mr. Lynch is saying</p> <p>6 there's also USP having exclusive approval in some</p> <p>7 cities due to their fire testing, which is what we</p> <p>8 chatted about before; correct?</p> <p>9 A Yes.</p> <p>10 Q And we mentioned you thought Charlotte. Are</p> <p>11 you aware of any other cities?</p> <p>12 A I don't recall.</p> <p>13 Q And he says: "Did you get a consensus on this</p> <p>14 topic? Are we moving forward with the new hanger?"</p> <p>15 Now, this is in March of 2015. And had Simpson decided</p> <p>16 to move forward with the new hanger at this time?</p> <p>17 A I mean, again, until I saw the testing or the</p> <p>18 reports of when we decided to move forward, I don't</p> <p>19 remember what the dates were.</p> <p>20 Q Mr. Hensen, I'm handing you what we have</p> <p>21 marked as Hensen Exhibit 20.</p> <p>22 (Hensen Exhibit 20 was marked for</p> <p>23 identification.)</p> <p>24 And this is from the same time period, it</p> <p>25 looks like actually the same day, March 10, 2015. It is</p>

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<p style="text-align: right;">Page 178</p> <p>1 basic labeled SST 77501. The middle message, or I guess 2 both messages in this string, you were involved with. 3 And the March 10th 6:05 p.m. message, that is in fact 4 your message to the team. 5 You recognize this exhibit; correct? 6 A I do. 7 Q Okay. This is an email that you exchanged 8 with the Simpson team about developing a competing 9 hanger to the MiTek FWH? 10 A I'm sorry, can you repeat the question? 11 Q Sure. This is about developing a hanger that 12 allows you to put the hanger up before the drywall; 13 right? 14 A That's what I stated in the bottom paragraph 15 of that email to the team here on this email. 16 Q So it's fair to say that as of March 10th, you 17 had already started R&Ding for a hanger that allowed you 18 to hang the hanger and the joist before you would 19 install the drywall; correct? 20 A This sounds like the time. Yes. 21 Q And you say you're R&Ding an alternate 22 connector. Do you know what the design was that you 23 were R&Ding at this time? 24 A There were eight different concepts that were 25 being considered. And you showed in a previous exhibit</p>	<p style="text-align: right;">Page 180</p> <p>1 them to the sales staff and had them install them and 2 give them -- him, meaning Tom Evans, feedback on which 3 ones they liked or didn't like. 4 Q Can you describe any of the concepts? If you 5 get to five, that's fine. I just want to know how 6 different they were. 7 A I -- I don't know. I wasn't the product 8 manager. I wasn't involved in all the details of what 9 they looked like or didn't look like. That was Tom's 10 job. 11 Q Can you describe any of the concepts that were 12 under consideration? The single slit was mentioned in 13 the email from Mr. Evans. And what about any others? 14 A They looked like the DG. 15 Q What else? 16 A I don't recall. 17 Q Can you describe any of the concepts other 18 than the DG? 19 A I -- I don't recall. That was Tom's job. 20 MR. MAUCH: What was the exhibit you were 21 reading from, just for the record? 22 THE WITNESS: Exhibit 13. 23 MR. MAUCH: Thirteen. That's all. All 24 right. 25 //</p>
<p style="text-align: right;">Page 179</p> <p>1 where Tom talks about taking those to the ISM, which is 2 our International Sales Meeting. And so there were 3 several different concepts that were being considered 4 during that time. 5 Q There were eight different concepts? 6 A In that range. 7 Q Can you describe the concepts? And let me 8 back up real quick. 9 Were all of these concepts designs that would 10 allow you to put the hanger up first and the sheet rock 11 second? 12 A Yes. 13 Q Okay. Tell me what the eight concepts were? 14 A I -- I don't recall that. This is almost a 15 decade ago. But if you look at Exhibit 13 that you 16 shared earlier. 17 Q Yeah. 18 A You kind of glossed over this, but in the 19 middle of that first page, Tom Evans is replying to 20 Kevin Dill and several others. And he tells Kevin "This 21 is one of many prototypes at the ISM." So the ISM is 22 our International Sales Meeting, and he said that 23 there's many prototypes. 24 So we took several prototypes. And when I say 25 "many," it's in the seven to eight range, and showed</p>	<p style="text-align: right;">Page 181</p> <p>1 BY MR. EIDSON: 2 Q If you had seven to eight concepts that you 3 presented at ISM, is it fair to say that those concepts 4 would have been prototyped? 5 MR. MAUCH: Objection. Vague. 6 THE WITNESS: Yes. As I mentioned 7 earlier, they installed them to see what they look like 8 and how easy they were to install, and they gave 9 feedback to Tom there in real time. 10 BY MR. EIDSON: 11 Q So these weren't just drawings they showed 12 somebody. They actually had physical prototype products 13 and they let people touch them, look at them, and give 14 feedback while actually using the product; is that fair 15 to say? 16 A Correct. 17 Q Do you have any other testimony or information 18 about those seven to eight concepts? 19 A I don't have the information. 20 MR. EIDSON: You guys doing okay? You 21 want a break? 22 THE OFFICER: I'm okay. 23 THE VIDEOGRAPHER: I've got about 12 24 minutes before I need to. 25 MR. EIDSON: Let's do one more exhibit,</p>

<p style="text-align: right;">Page 182</p> <p>1 and then we'll take a break. 2 BY MR. EIDSON: 3 Q Mr. Hensen, I'm handing you a document that we 4 have marked as Hensen Exhibit 21. 5 (Hensen Exhibit 21 was marked for 6 identification.) 7 It is Bates labeled SST 20897 through 899. 8 Email string. And you're on the emails and have sent 9 one of the emails. Email string is from February of 10 2016. You recognize this email string in Exhibit 21; 11 correct? 12 A I do. 13 Q You've seen this before, then; correct? 14 A I have. 15 Q All right. Who's Rich Kessler? 16 A He's retired. And at the time, he was the 17 sales manager for the southeast. 18 Q And Mr. Evans starts the conversation on 19 February 5th at 2016. And his question is essentially, 20 if we get all of the code reports and fire wall ratings, 21 is that good enough to satisfy building departments that 22 have balked about using the DHU? That's his question on 23 the very last page of the exhibit. Do you see that? 24 A I do see that. 25 Q And then Mr. Kessler says "Tom, in our market,</p>	<p style="text-align: right;">Page 184</p> <p>1 wall assembly. And that was very easy for them to do in 2 a factory setting and to crane the walls in place, set 3 the floor systems, and then come in later and do the 4 drywall after the fact. 5 So there were many ways to tackle this thing, 6 especially in inclement weather, that our products were 7 being used. And that was one success that I was showing 8 there for them. 9 Q That's one. In general, did customers prefer 10 and were they getting market share because the USP 11 hanger could be installed before the sheet rock was 12 installed? 13 A Again, that's what Rich was claiming for his 14 territory, and I was sharing in other areas we weren't 15 necessarily seeing that. 16 Q And so in the Minnesota region, you've got 17 this example of walls being craned in. Which is more 18 common, wall construction where the walls are being 19 craned in like that or wall construction where the 20 hanger is installed and framed up before the sheet rock 21 is put in? 22 MR. MAUCH: Objection. Calls for 23 speculation. 24 THE WITNESS: I think at the same time, 25 panelizing walls offsite had been gaining a lot of</p>
<p style="text-align: right;">Page 183</p> <p>1 it isn't as much about fire ratings, although that's 2 important, but it's a constructability issue." And he 3 goes on to say "No one is willing to put sheet rock up 4 before they install the floor system for the floor 5 above." Do you see that? 6 A I do see that. 7 Q Okay. And so here, at least in Mr. Kessler's 8 region in 2016, it's not necessarily the fire rating 9 that is driving consumer demand, but it is the 10 sequencing issue of being able to install the hanger 11 before the drywall; correct? 12 A That's correct. 13 Q And you don't disagree with this statement 14 where he says USP is getting market share because the 15 hanger can be installed before the sheet rock; correct? 16 A I don't disagree, but in this same email on 17 the first page, "I had recently visited a job with Curt 18 Johnson in Minnesota, and they had used our product and 19 they built the wall systems offsite," panelized wall 20 systems, "and craned them in place, largely due to the 21 inclement whatever that they're used to building to in 22 that area." 23 And having the drywall installed in the 24 picture on this document at 20898 page, it's shown that 25 the drywall's installed on the upper two feet of the</p>	<p style="text-align: right;">Page 185</p> <p>1 popularity and was starting to see -- happen more often, 2 but stick frame was certainly on site. 3 THE OFFICER: I'm sorry, sorry. The -- I 4 apologize. Go ahead. 5 THE WITNESS: But building on site was 6 probably the predominant thing that was done. 7 BY MR. EIDSON: 8 Q Mr. Bourne is a territory manager for Western 9 Washington and Alaska; correct? 10 A Yes. He was until he passed away. 11 Q RIP. And he says in 2016 that he agrees in 12 part with Rich. "The whole fire rating thing has never 13 come up. Pre-rocking hasn't been an issue until 14 recently where the engineer in the GC was poking me 15 about the USP hanger." 16 Then he identifies some problems with 17 pre-rocking there, which is getting soaked in the rain, 18 additional trip for the drywall sub. Do you see all 19 that? 20 A I do see that. 21 Q So as of this time in his region, pre-rocking 22 was also less desirable for the consumer for this type 23 of construction project; correct? 24 A I mean, I think if you look at that sentence, 25 the third sentence, he said pre-rocking has not been an</p>

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<p style="text-align: right;">Page 186</p> <p>1 issue until recently, and this was in 2016. And then 2 he's saying that it's starting to see a need for it. So 3 this was as late as 2016 where pre-rocking wasn't an 4 issue. 5 Q And he lists some problems with pre-rocking as 6 in the rock getting soaked in the rain, additional trip 7 for the drywall subs. You don't disagree with those 8 observations about issues with pre-rocking; do you? 9 A I don't, which is why I responded with my 10 example of Minnesota where I had just visited and then 11 they installed our products and there were no issues. 12 Q You also say, though, in your note "We hear 13 you all on this issue and we have a plan for a new 14 product that would allow a standard TF hanger to be 15 installed before the rock." Do you see that? 16 A I do see that. 17 Q So this plan was the DG; right? 18 A What would eventually become the DG. Correct. 19 Q Who's Mr. Fairchild? 20 A He's one of our sales reps in the Atlanta, 21 Georgia territory. 22 Q And he says, in the southeast, sequencing is 23 the number one issue. Do you see that? 24 A I do see that. 25 Q You don't disagree with his observation at</p>	<p style="text-align: right;">Page 188</p> <p>1 beginning of media number 4 in the deposition of Sam 2 Hensen. We're back on the record. The time is 3:50. 3 BY MR. EIDSON: 4 Q Mr. Hensen, I'm handing you a document that we 5 have marked as Hensen Exhibit 22. It Bates labeled SST 6 19911 through 19916. 7 (Hensen Exhibit 22 was marked for 8 identification.) 9 THE VIDEOGRAPHER: Your mic. 10 MR. EIDSON: Thank you. 11 BY MR. EIDSON: 12 Q Email strings between a variety of people. 13 Simpson, some of which include portions of emails that 14 we've seen in previous exhibits. But you've seen this 15 Exhibit Hensen 22 before; correct? 16 A Yes. 17 Q You're on the first page. You're on the email 18 from Mr. Evans on January 13, 2016, at 7:05 p.m. to 19 others that forward along this string. So I want to 20 start on page SST 19915. Who's Kent Phillips? 21 A At the time -- he's no longer with our 22 company, but at the time, he was the multifamily 23 business manager. 24 Q I see that from his title. Is there any 25 particular region he was in?</p>
<p style="text-align: right;">Page 187</p> <p>1 this time; do you? 2 A I don't. 3 Q And he also says that he's been told by 4 specifiers, framers, and GCs that it doesn't matter how 5 expensive the FWH is or its lack of availability. 6 "Until we," i.e. Simpson, "get the pre-rock issue fixed, 7 they cannot use our hanger or specify it." Do you see 8 that? 9 A I do see that. 10 Q Are you familiar with which specifiers, 11 framers, or GCs in his region were telling Simpson they 12 couldn't use their hangers until they get the pre-rock 13 issue fixed? 14 A I don't know. 15 Q And so at least in his region, customers seem 16 to be shifting toward the MiTek fire wall hanger because 17 of the sequencing issue at least; correct? 18 A Yes. 19 THE WITNESS: Tape time? 20 THE VIDEOGRAPHER: Couple minutes left. 21 MR. EIDSON: It's fine. Go ahead. 22 THE VIDEOGRAPHER: This marks the end of 23 media number 3. Off the record. The time is 3:38. 24 (Off the record.) 25 THE VIDEOGRAPHER: This marks the</p>	<p style="text-align: right;">Page 189</p> <p>1 A The Southeast. 2 Q Southeast. Okay. He says "The attached PDF 3 from Brand X is showing their FWH series hanger." Do 4 you see that? Very first sentence of his January 13th 5 email? 6 A Yeah, I -- yes, I see that. 7 Q Okay. And he's talking about the MiTek 8 hanger; correct? 9 A Yes. 10 Q All right. And he has a couple of issues. 11 And he says: "The real problem here is the install 12 sequence. Brand X product can be installed by the 13 framer without the drywall being installed. Framers do 14 not touch the drywall." 15 He goes on to list some other benefits of the 16 MiTek. Or some problems, I guess, with doing sheet rock 17 first. Do you see that? 18 A I do see that. 19 Q All right. So here in January of 2016, 20 Mr. Phillips is identifying some problems with the 21 historical sequencing issue of doing the sheet rock 22 before the hangers and the framing were done; correct? 23 A Yes. 24 Q You don't disagree with any of the problems 25 he's identified here for the historical install</p>

<p style="text-align: right;">Page 190</p> <p>1 sequence; do you?</p> <p>2 A I do not.</p> <p>3 Q And then Mr. Scullion in the message above</p> <p>4 says that he is "getting my butt whipped on this product</p> <p>5 in Charlotte." You see that?</p> <p>6 A I do see that.</p> <p>7 Q You don't doubt Mr. Scullion's observation, do</p> <p>8 you?</p> <p>9 A I don't -- I don't doubt his email.</p> <p>10 Q And his further observation, much like his</p> <p>11 prior observations, is that "The biggest drawback to our</p> <p>12 solution is construction sequencing of drywall, as you</p> <p>13 mentioned previously." Do you see that?</p> <p>14 A I do see that.</p> <p>15 Q And you understand his observation about</p> <p>16 construction sequencing, meaning that the MiTek solution</p> <p>17 could install the hanger before the drywall is hung up,</p> <p>18 whereas at this time, the current Simpson DU product</p> <p>19 required the drywall to be installed before the hanger;</p> <p>20 correct?</p> <p>21 A Yeah. He's stating that the construction</p> <p>22 sequencing requires our -- the drywall will be installed</p> <p>23 first on ours. Yes.</p> <p>24 Q On January 13th, if you look at the first page</p> <p>25 of the email, 2016. Mr. Evans drafts an email to</p>	<p style="text-align: right;">Page 192</p> <p>1 THE WITNESS: What do you mean by funny?</p> <p>2 BY MR. EIDSON:</p> <p>3 Q Mr. Phillips, in the middle of the first page,</p> <p>4 he says "A BFS truck with white boxes. Ugh."</p> <p>5 If you look on the very first page and then</p> <p>6 you look at the picture of the truck. And it looks like</p> <p>7 there's a Simpson Strong-Tie box on top, and then</p> <p>8 there's some white boxes underneath there. I just</p> <p>9 didn't get the joke.</p> <p>10 A I -- well, I wouldn't necessarily connect</p> <p>11 "ugh" with a joke or funny.</p> <p>12 Q What does he mean by that? What does -- why</p> <p>13 is he saying "ugh" to a BFS truck with white boxes, I</p> <p>14 guess?</p> <p>15 MR. MAUCH: Objection. Calls for</p> <p>16 speculation.</p> <p>17 THE WITNESS: Because it has competitive</p> <p>18 product on the truck.</p> <p>19 BY MR. EIDSON:</p> <p>20 Q Okay. That's what I had assumed, but I didn't</p> <p>21 know. Does Simpson product always come in brown boxes,</p> <p>22 like you see kind of on the top of the white boxes</p> <p>23 there?</p> <p>24 A Our connector products are in brown boxes.</p> <p>25 Our adhesives and other products may be in white boxes,</p>
<p style="text-align: right;">Page 191</p> <p>1 Mr. Phillips, Mr. Kessler, you, and others, that</p> <p>2 essentially summarizes some of the differences between</p> <p>3 the USP or MiTek fire wall hanger, Simpson's DHU hanger,</p> <p>4 and some rebuttal sales points to those differences.</p> <p>5 Do you see that?</p> <p>6 A I do see that.</p> <p>7 Q Have you seen this chart before?</p> <p>8 A I have.</p> <p>9 Q Do you disagree with anything that Mr. Evans</p> <p>10 observed in this chart?</p> <p>11 A I do not.</p> <p>12 Q Mr. Hensen, I've handed you what's marked as</p> <p>13 Hensen Exhibit 23.</p> <p>14 (Hensen Exhibit 23 was marked for</p> <p>15 identification.)</p> <p>16 It's an email string. You're at the top of</p> <p>17 the string with an email from you to Mr. Wert and</p> <p>18 Mr. Evans, and it is Bates labeled SST 20058 through 61.</p> <p>19 You've seen this exhibit before?</p> <p>20 A I have.</p> <p>21 Q Looking at the third page. What's funny about</p> <p>22 the white box on the trailer? Is that the white boxes</p> <p>23 are synonymous with the MiTek product, and Simpson's</p> <p>24 come in brown boxes?</p> <p>25 MR. MAUCH: Objection. Vague.</p>	<p style="text-align: right;">Page 193</p> <p>1 but they're also clearly labeled with the Simpson logo</p> <p>2 on them.</p> <p>3 Q And so these white boxes here, are those MiTek</p> <p>4 products?</p> <p>5 A It's hard to tell, but I would assume that</p> <p>6 it's possible.</p> <p>7 Q That's what you inferred from the context of</p> <p>8 his note here?</p> <p>9 A Yes.</p> <p>10 Q And here, Mr. Richardson says "In Nashville, a</p> <p>11 sale was lost because the MiTek product was specced</p> <p>12 instead of the Simpson product"; correct?</p> <p>13 A That's what Mark states. Yes.</p> <p>14 Q And you don't doubt that that happened; right?</p> <p>15 A I do not.</p> <p>16 Q Do you know which customer this was?</p> <p>17 A It's shown in the picture. You mean the</p> <p>18 framer or the distributor?</p> <p>19 Q Who would buy the product. Yeah. Is Builders</p> <p>20 FirstSource a distributor?</p> <p>21 A Yes.</p> <p>22 Q Okay. But you don't know who the end product,</p> <p>23 I guess, was being sold to at Nashville?</p> <p>24 A I do not.</p> <p>25 MR. EIDSON: I need to get another sheet</p>

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<p style="text-align: right;">Page 194</p> <p>1 there pretty soon, huh?</p> <p>2 THE OFFICER: Yeah.</p> <p>3 MR. EIDSON: I may have lied about the</p> <p>4 20, huh?</p> <p>5 THE OFFICER: That's all right. It's --</p> <p>6 yeah, I figured it was an estimate.</p> <p>7 BY MR. EIDSON:</p> <p>8 Q Mr. Hensen, I've handed you what we have</p> <p>9 marked as Hensen Exhibit 24.</p> <p>10 (Hensen Exhibit 24 was marked for</p> <p>11 identification.)</p> <p>12 It's a document Bates labeled SST 21195. The</p> <p>13 top is an email from you to Mr. Benton and Mr. Evans</p> <p>14 forwarding a string. And then you've got some</p> <p>15 communications within the string as well on March 11th.</p> <p>16 You recognize having seen Exhibit 24; correct?</p> <p>17 A I do.</p> <p>18 Q Who's Troy Monier -- or "Monier"?</p> <p>19 A "Mone-yay."</p> <p>20 Q Monier. Okay.</p> <p>21 A At the time -- he's no longer with our</p> <p>22 company, but at the time, he was sales manager in the</p> <p>23 Northwest.</p> <p>24 Q And he says to you "I've been out in the field</p> <p>25 a lot and I want to share with you what I'm hearing over</p>	<p style="text-align: right;">Page 196</p> <p>1 A I have no idea.</p> <p>2 Q I just didn't get the joke.</p> <p>3 A I -- I don't clearly understand it either.</p> <p>4 Q Okay.</p> <p>5 MR. MAUCH: I've never heard that</p> <p>6 expression in my life.</p> <p>7 BY MR. EIDSON:</p> <p>8 Q And then you respond to his message on March</p> <p>9 11th and you say "Thank you for the feedback, Troy.</p> <p>10 Even though our DHU hangers are up 50 percent and on</p> <p>11 pace to hit over a million in sales, I'm hearing from</p> <p>12 multiple sources what you just stated." Do you see</p> <p>13 that?</p> <p>14 A I do.</p> <p>15 Q What sources were you hearing from?</p> <p>16 A I don't recall specifically. Sales, our sales</p> <p>17 staff, which you've already showed many examples of</p> <p>18 those. And so I could have been referring to sales from</p> <p>19 all over the -- the regions.</p> <p>20 Q Anything else you can recall?</p> <p>21 A I don't.</p> <p>22 Q And you were hearing from multiple sources</p> <p>23 what Tom -- Troy, excuse me, just stated. And what were</p> <p>24 the sources telling you?</p> <p>25 A That they wanted a product that could be</p>
<p style="text-align: right;">Page 195</p> <p>1 and over and" -- dot, dot, dot. "USP has found they're</p> <p>2 in with engineers with the FWH. They're getting</p> <p>3 specifications in many market and now have a reason to</p> <p>4 go work with engineers." Do you see that?</p> <p>5 A I do.</p> <p>6 Q You don't doubt that he was hearing over and</p> <p>7 over and over that the MiTek product was getting</p> <p>8 traction in his territory; do you?</p> <p>9 A I don't.</p> <p>10 Q Do you know which markets he's referring to</p> <p>11 where he says they are getting specifications in many</p> <p>12 markets?</p> <p>13 A Troy was over the Northwest region for us. So</p> <p>14 states in those areas. I don't know specifically which</p> <p>15 ones, though.</p> <p>16 Q Northwest. What was that region?</p> <p>17 A Oregon, Washington, California, Nevada, Utah.</p> <p>18 Q He says "Camel has poked its head in the</p> <p>19 tent." Do you see that?</p> <p>20 A I do see that.</p> <p>21 Q What does that mean?</p> <p>22 MR. MAUCH: Objection. Calls for</p> <p>23 speculation.</p> <p>24 BY MR. EIDSON:</p> <p>25 Q What did you understand it to mean?</p>	<p style="text-align: right;">Page 197</p> <p>1 installed prior to the drywall.</p> <p>2 Q And then you observe that "I really think it</p> <p>3 has major possibilities that would overtake the USP</p> <p>4 product easily." Do you see that?</p> <p>5 A I do.</p> <p>6 Q And you're talking about the development of a</p> <p>7 product that could be installed before the drywall;</p> <p>8 correct?</p> <p>9 A Yeah. That eventually became the DG product.</p> <p>10 Q But those are the features and the</p> <p>11 possibilities that you're talking about when you refer</p> <p>12 to the major possibilities that would overtake the USP</p> <p>13 product easily; correct?</p> <p>14 MR. MAUCH: Objection. Vague.</p> <p>15 THE WITNESS: Can you repeat the</p> <p>16 question?</p> <p>17 BY MR. EIDSON:</p> <p>18 Q Sure. You say "I really think it has major</p> <p>19 possibilities that would overtake the USP product</p> <p>20 easily." Do you see that?</p> <p>21 A I do see that.</p> <p>22 Q Okay. The product you're referring to is the</p> <p>23 product that could be installed before sheet rock;</p> <p>24 right?</p> <p>25 A Correct.</p>

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<p style="text-align: right;">Page 198</p> <p>1 Q Who's Nate Johnson?</p> <p>2 A At the time, he was our sales manager in the</p> <p>3 Southwest office in the Southern California market.</p> <p>4 Q You forwarded this note to Mr. Johnson and he</p> <p>5 responds same thing. "Most of our major multifamily</p> <p>6 framers are already using it." And you understood that</p> <p>7 to mean that the major multi framers in the Southwest</p> <p>8 are already using the MiTek FWH product?</p> <p>9 A I do.</p> <p>10 Q You don't doubt the accuracy of his statement;</p> <p>11 do you, at the time?</p> <p>12 A I did not.</p> <p>13 Q Mr. Hensen, I've handed you what we have</p> <p>14 marked as Hensen Exhibit 25.</p> <p>15 (Hensen Exhibit 25 was marked for</p> <p>16 identification.)</p> <p>17 It's a document Bates labeled SST 80098</p> <p>18 through 99. Email string with Simpson personnel, with</p> <p>19 the first email on the string is from Greg Ruhl at</p> <p>20 timberfieldrooftruss.com to Marvin Wight on March 7,</p> <p>21 2017. I do not believe you are on this email. Have you</p> <p>22 seen this Exhibit 25 before?</p> <p>23 A It seems like I've seen this in my last</p> <p>24 deposition.</p> <p>25 Q So you recognize this Exhibit 25?</p>	<p style="text-align: right;">Page 200</p> <p>1 Q Because the DG line of products didn't launch</p> <p>2 until July of 2017; right?</p> <p>3 A Correct.</p> <p>4 Q All right. And Mr. Ruhl further lets the</p> <p>5 Simpson team know that New York State has a new fire</p> <p>6 code that just came into effect, and he's seen the USP</p> <p>7 hanger specified on numerous plans. Do you see that?</p> <p>8 A I do see that.</p> <p>9 Q Are you familiar with the changes in the New</p> <p>10 York State Fire Code that led to the specification of</p> <p>11 the MiTek or USP fire wall hanger on numerous occasions?</p> <p>12 A I'm not aware.</p> <p>13 Q And who's Mr. Williams?</p> <p>14 A He's retired. And at the time, he was the</p> <p>15 branch manager or regional general manager of the</p> <p>16 northeast territory.</p> <p>17 Q And he sends a note to Mr. Dankel forwarding</p> <p>18 the discussion from below, the USP fire walls, and he</p> <p>19 tells Mr. Dankel "Last year, Shelter Systems and</p> <p>20 ModuTech bought 1.1 million from USP all for their</p> <p>21 drywall hanger." I assume he means the fire wall</p> <p>22 hanger; is that fair to say?</p> <p>23 A I believe so.</p> <p>24 Q He says "I know we're working on it, but as an</p> <p>25 old friend said, this is a dollar waiting on a dime."</p>
<p style="text-align: right;">Page 199</p> <p>1 A I do.</p> <p>2 Q Okay. You recognize it as an email string</p> <p>3 between certain Simpson Strong-Tie personnel and</p> <p>4 Mr. Ruhl at Timberfield Roof Truss?</p> <p>5 A Yes.</p> <p>6 Q And is Timberfield Roof Truss a customer of</p> <p>7 Simpson?</p> <p>8 A Yes.</p> <p>9 Q And you see in March 7, 2017, he has the</p> <p>10 subject USP fire wall hanger, FWH series, and he asks</p> <p>11 Mr. Wight "Does Simpson have an equivalent to this</p> <p>12 hanger?" Do you see that?</p> <p>13 A I do see that.</p> <p>14 Q Who's Mr. Wight?</p> <p>15 A Marvin Wight -- is or was one of our sales</p> <p>16 reps in the northeast territory.</p> <p>17 Q And who's Mr. Brent Bunting?</p> <p>18 A Brent was our engineering manager in Canada.</p> <p>19 Q And Mr. Bunting responds "The only thing we</p> <p>20 have at this time is the DHU" -- or "the DU line of</p> <p>21 drywall hangers," and he attaches some pages. Do you</p> <p>22 see that?</p> <p>23 A I do see that.</p> <p>24 Q And that was accurate at the time; correct?</p> <p>25 A That's correct.</p>	<p style="text-align: right;">Page 201</p> <p>1 And he says "I sent this to Sam and he knows, but any</p> <p>2 continual push would be appreciated."</p> <p>3 Was there some sort of -- well, first of all,</p> <p>4 do you doubt his statement that Shelter Systems and</p> <p>5 ModuTech bought 1.1 million from MiTek for the</p> <p>6 drywall -- for the fire wall hanger?</p> <p>7 A I don't doubt it.</p> <p>8 Q Were those potential customers of Simpson</p> <p>9 Strong-Tie for fire aligners?</p> <p>10 A They were.</p> <p>11 Q Were they existing Simpson Strong-Tie</p> <p>12 customers for other structural connector products?</p> <p>13 A They were.</p> <p>14 Q Did they switch the entirety of their</p> <p>15 purchasing over to MiTek or just purchasing for the fire</p> <p>16 wall hanger product?</p> <p>17 A I don't have that information.</p> <p>18 Q And here, Mr. Williams thinks that perhaps</p> <p>19 Mr. Dankel needs to give you a push. Do you know why he</p> <p>20 would say such a thing?</p> <p>21 A Because he managed all the salespeople in that</p> <p>22 territory and wanted to satisfy the needs that he was</p> <p>23 hearing.</p> <p>24 Q Mr. Hensen, we're going to -- we'll pause with</p> <p>25 documents for a minute and I want to jump back to your</p>

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<p style="text-align: right;">Page 202</p> <p>1 disclosure; okay?</p> <p>2 A Okay.</p> <p>3 Q Hopefully, we can take care a few of these in</p> <p>4 short order. I'm going to skip to the very last thing</p> <p>5 in your disclosure. And it says "Mr. Hensen may also</p> <p>6 testify regarding, responding to, and rebutting the</p> <p>7 testimony of others in his field of expertise, including</p> <p>8 any other party's experts." Do you see that?</p> <p>9 A I do see that.</p> <p>10 Q As you sit here today, what rebuttal opinions</p> <p>11 do you have of any of the other party's experts?</p> <p>12 A I -- I do not have any.</p> <p>13 Q Do you have any other responsive or rebuttal</p> <p>14 testimony to others in your field of expertise as you</p> <p>15 sit here today, other than what we've already discussed?</p> <p>16 A I do not.</p> <p>17 Q And I may have asked you this before and I</p> <p>18 apologize if I've done this twice now. Have you read</p> <p>19 any of the expert reports in this case?</p> <p>20 A I think I saw a paragraph of one of the</p> <p>21 reports when I was communicating with our legal counsel,</p> <p>22 but I can't recall all the details of the paragraph that</p> <p>23 I read.</p> <p>24 Q Do you know whose report it was?</p> <p>25 A It was one of the experts listed here in the</p>	<p style="text-align: right;">Page 204</p> <p>1 skill in the art?</p> <p>2 A Can you repeat that question?</p> <p>3 Q Sure. Other than what we've talked about,</p> <p>4 which is your agreement with the general qualifications</p> <p>5 of a person of ordinary skill in the art, what other</p> <p>6 opinions do you have about that person of ordinary skill</p> <p>7 in the art?</p> <p>8 A I don't have any other opinions.</p> <p>9 Q What problems were encountered in the art by</p> <p>10 persons of ordinary skill in the art, other than what</p> <p>11 we've already talked about?</p> <p>12 A Related to fire wall hanger designs? Nothing</p> <p>13 more than what we talked about.</p> <p>14 Q Are you familiar with the prior art solutions</p> <p>15 to this problem?</p> <p>16 A I have seen some prior art, but mostly that</p> <p>17 was handled by our legal counsel.</p> <p>18 Q So I think one of them that you'd seen was</p> <p>19 Tsukamoto. Do you recall that reference?</p> <p>20 A I do recall that.</p> <p>21 Q Okay. If I took out the prior art and put it</p> <p>22 in front of you, would you be able to articulate</p> <p>23 the specific problem that each piece of prior art was</p> <p>24 trying to solve and point to the support in the prior</p> <p>25 art?</p>
<p style="text-align: right;">Page 203</p> <p>1 report. But again, I can't recall which one.</p> <p>2 Q It was one of Simpson's experts, not MiTek's?</p> <p>3 A Right. That's -- that's right.</p> <p>4 Q One of the items that you are designated to</p> <p>5 offer expert testimony are facts relating to Simpson's</p> <p>6 understanding of the level of technical knowledge,</p> <p>7 schooling, experience, training, and expertise of a</p> <p>8 person having an ordinary skill in the art of the</p> <p>9 subject matter of that claim and the factual basis for</p> <p>10 that contention.</p> <p>11 Do you know what the definition of "one of</p> <p>12 ordinary skill in the art" that the parties have agreed</p> <p>13 to in this case is?</p> <p>14 A I believe so.</p> <p>15 Q What is it?</p> <p>16 A That the person must have schooling in</p> <p>17 mechanical or structural engineering and/or equivalent</p> <p>18 experience, and experience, I believe four years or</p> <p>19 more, of connector design.</p> <p>20 Q Do you have any opinions about that definition</p> <p>21 or do you just know the definition?</p> <p>22 A I believe that that definition is correct.</p> <p>23 Q What other opinions do you have related to the</p> <p>24 level of technical knowledge, schooling, experience,</p> <p>25 training, and expertise of a person having ordinary</p>	<p style="text-align: right;">Page 205</p> <p>1 A And I think I could work my way through it,</p> <p>2 but it would take a little bit of time to.</p> <p>3 Q As you sit here today, do you have any</p> <p>4 opinions along those lines?</p> <p>5 A I do not.</p> <p>6 Q Do you plan to offer any opinions along those</p> <p>7 lines?</p> <p>8 A No.</p> <p>9 Q I should have led with that.</p> <p>10 A Oh, thank you.</p> <p>11 MR. MAUCH: I was going to offer that in</p> <p>12 a moment if you --</p> <p>13 BY MR. EIDSON:</p> <p>14 Q What opinions do you have about the rapidity</p> <p>15 with which inventions are made?</p> <p>16 A What opinions do I have on how rapid</p> <p>17 inventions are developed? I mean, inventions take time,</p> <p>18 effort, resources, iterative, and are often, you know,</p> <p>19 challenging to work through.</p> <p>20 Q Other than that, do you have any opinions</p> <p>21 about the speed with which inventions are made?</p> <p>22 A With -- I mean, with specifics to joist</p> <p>23 hangers, my experience over the last 10, 15 years is</p> <p>24 that it generally takes 18 to 24 months to develop a</p> <p>25 product.</p>

<p style="text-align: right;">Page 206</p> <p>1 Q Do you have any other opinions about the</p> <p>2 rapidity with which inventions are made?</p> <p>3 A I do not.</p> <p>4 Q What opinions do you have about the</p> <p>5 sophistication of the technology at issue in this case?</p> <p>6 A I think in general, it's lower on the</p> <p>7 technology standard. There's a lot of computer</p> <p>8 modeling, a lot of testing, a lot of prior art, a lot of</p> <p>9 hangers out there that support joist hangers. There's a</p> <p>10 lot of knowledge in this area, so --</p> <p>11 Q So you would say it's a lower sophistication</p> <p>12 technology?</p> <p>13 A I would.</p> <p>14 Q What other opinions do you have about the</p> <p>15 sophistication of the technology?</p> <p>16 A I don't have any others.</p> <p>17 Q What opinions do you have about the</p> <p>18 educational level of active workers in the field?</p> <p>19 A The requirements that they would need to be</p> <p>20 able to do this work? Or -- I don't understand your</p> <p>21 question.</p> <p>22 Q That's a great question, so I'll try to break</p> <p>23 it down for you. One of the things you've been</p> <p>24 designated for is your understanding of the educational</p> <p>25 level of active workers in the field.</p>	<p style="text-align: right;">Page 208</p> <p>1 A I do not.</p> <p>2 Q The last one is comparing and contrasting the</p> <p>3 DU, DG, DGF, and DGT series and MiTek's FWH. I think</p> <p>4 that's related to what we did earlier.</p> <p>5 A Feels like we've done that ad nauseam.</p> <p>6 Q I'm about to say that. Other than what we've</p> <p>7 talked about, do you have any additional opinions or</p> <p>8 observations on that point?</p> <p>9 A I do not.</p> <p>10 Q And when you reached your opinions that are in</p> <p>11 this disclosure, what documents did you review in</p> <p>12 forming your opinions?</p> <p>13 A Test reports, installation instructions,</p> <p>14 calculations code, building code.</p> <p>15 THE OFFICER: Did you say billing or</p> <p>16 building?</p> <p>17 THE WITNESS: Building code. Yeah.</p> <p>18 BY MR. EIDSON:</p> <p>19 Q What else?</p> <p>20 A I can't recall.</p> <p>21 Q Did you review any patents?</p> <p>22 A Briefly.</p> <p>23 Q The 510 patent?</p> <p>24 A Yes.</p> <p>25 Q Any others?</p>
<p style="text-align: right;">Page 207</p> <p>1 Do you mean to offer opinions about one of</p> <p>2 ordinary skill in the art and their expertise, which you</p> <p>3 have just done? Do you mean to offer opinions about the</p> <p>4 people that are on the ground installing fire wall</p> <p>5 hangers and what their level of experience is?</p> <p>6 It's tough for me to tell from the disclosure</p> <p>7 you've got in front of you there, so I'm just trying to</p> <p>8 figure out what your opinion is, if you have one, if you</p> <p>9 don't.</p> <p>10 MR. MAUCH: To the extent it helps, we're</p> <p>11 only going to offer Mr. Hensen, if at all, to provide</p> <p>12 testimony regarding the first thing, which is the level</p> <p>13 of knowledge and education of a person from skill in the</p> <p>14 art.</p> <p>15 MR. EIDSON: So education level of</p> <p>16 workers in the field, whether that's people installing</p> <p>17 drywall or framing up, there's no testimony coming about</p> <p>18 that?</p> <p>19 MR. MAUCH: I mean, I don't believe so,</p> <p>20 no.</p> <p>21 BY MR. EIDSON:</p> <p>22 Q Looking at that bullet point in your exhibit</p> <p>23 there where we've kind of run through all of those</p> <p>24 things, do you have any other opinions related to this</p> <p>25 particular topic that we haven't discussed?</p>	<p style="text-align: right;">Page 209</p> <p>1 A I can't recall.</p> <p>2 Q Did you review any internal communications and</p> <p>3 emails when you were preparing your opinions in this</p> <p>4 matter?</p> <p>5 A Other than the ones that you've already shown</p> <p>6 us. I mean, that -- I have emails that were exhibits.</p> <p>7 Q But I'm talking about before today. I know</p> <p>8 you looked at them today. But before today, when you</p> <p>9 were formulating what your expert opinions would be in</p> <p>10 this matter, did you review any emails or anything like</p> <p>11 that?</p> <p>12 A I did not.</p> <p>13 Q Can we take a three-minute break? Does that</p> <p>14 work for you, Mr. Hensen?</p> <p>15 A Sure.</p> <p>16 Q Five minutes if you want to get up and walk</p> <p>17 around?</p> <p>18 A I'm okay.</p> <p>19 MR. EIDSON: Okay. Very good.</p> <p>20 THE VIDEOGRAPHER: Off the record.</p> <p>21 MR. EIDSON: Yes.</p> <p>22 THE VIDEOGRAPHER: The time is 4:23.</p> <p>23 (Off the record.)</p> <p>24 THE VIDEOGRAPHER: We're back on the</p> <p>25 record. The time is 4:29.</p>

53 (Pages 206 - 209)

<p style="text-align: right;">Page 210</p> <p>1 BY MR. EIDSON:</p> <p>2 Q Mr. Hensen, there's a piece of prior art that</p> <p>3 you recently produced in this litigation, Simpson. It's</p> <p>4 called Arch Record Magazine prior art. Are you familiar</p> <p>5 with this?</p> <p>6 A I am.</p> <p>7 Q Okay. Are you planning on offering testimony</p> <p>8 as to what is disclosed in the Arch Record prior art?</p> <p>9 A I'm familiar with it.</p> <p>10 Q Are you planning on offering expert testimony</p> <p>11 about what's disclosed in it?</p> <p>12 MR. MAUCH: Objection. Vague.</p> <p>13 THE WITNESS: If required.</p> <p>14 BY MR. EIDSON:</p> <p>15 Q Okay. Let's dig in. And I guess I should ask</p> <p>16 before we -- well, sorry. Before we jump in,</p> <p>17 Mr. Hensen, prior to today, has Simpson designated you</p> <p>18 to provide expert testimony about the Arch Record prior</p> <p>19 art?</p> <p>20 MR. MAUCH: Objection. Vague.</p> <p>21 THE WITNESS: I -- I don't know.</p> <p>22 MR. EIDSON: Mr. Mauch, is this witness</p> <p>23 going to provide expert testimony related to this piece</p> <p>24 of prior art?</p> <p>25 MR. MAUCH: Well, to the extent it</p>	<p style="text-align: right;">Page 212</p> <p>1 THE WITNESS: It's shown right on the</p> <p>2 detail here on the right-hand side.</p> <p>3 BY MR. EIDSON:</p> <p>4 Q And so how is that done?</p> <p>5 A The top plates of the wood truss are doubled,</p> <p>6 so it strengthens the top member of the floor truss.</p> <p>7 And those stick out longer than the end of the truss and</p> <p>8 bare on top of the fire resistive wall assembly. And</p> <p>9 they will install blocks on top of the wall between the</p> <p>10 floor trusses to fill the gap.</p> <p>11 And then the two layers of drywall would</p> <p>12 continue up to the top of those blocks and then be</p> <p>13 notched around the top cord trusses.</p> <p>14 Q Was the drywall installed before or after the</p> <p>15 truss was hung?</p> <p>16 A The drywall was installed after the truss was</p> <p>17 hung. And this was a direct reflection of what Mark</p> <p>18 Shepard was working on and has patents for this type of</p> <p>19 framing.</p> <p>20 Q And so this was the Shepard technology; is</p> <p>21 that fair to say?</p> <p>22 A I would agree with that.</p> <p>23 Q Okay. And where in this disclosure does it</p> <p>24 talk about the drywall being installed after the truss</p> <p>25 is hung?</p>
<p style="text-align: right;">Page 211</p> <p>1 relates to one of the categories. Particularly the, I</p> <p>2 guess, the first.</p> <p>3 MR. EIDSON: State of technology?</p> <p>4 MR. MAUCH: Correct.</p> <p>5 BY MR. EIDSON:</p> <p>6 Q Okay. Let's -- so, Mr. Hensen, I've handed</p> <p>7 you what we have marked Hensen as Exhibit 26.</p> <p>8 (Hensen Exhibit 26 was marked for</p> <p>9 identification.)</p> <p>10 It is Bates labeled SST 0105220 through 228.</p> <p>11 You recognize this as I think what the parties are</p> <p>12 calling the Arch Record prior art?</p> <p>13 A I've seen that, yes.</p> <p>14 Q And on page 6 of the exhibit, or page 105225,</p> <p>15 there are some pictures on the bottom. Do you see that?</p> <p>16 A I do see that.</p> <p>17 Q Are you familiar with what those pictures</p> <p>18 represent?</p> <p>19 A I am.</p> <p>20 Q Okay. And jumping back to your opinion about</p> <p>21 the state of technology at the time, which is in your</p> <p>22 disclosure, how would someone connect a truss to the</p> <p>23 wall frame without a structural connector that was going</p> <p>24 to be needed for -- that needed fire wall protection?</p> <p>25 MR. MAUCH: Objection. Vague.</p>	<p style="text-align: right;">Page 213</p> <p>1 A I don't know that it specifically states that.</p> <p>2 Q So there's nowhere in this Exhibit 26 that you</p> <p>3 can point to where the exhibit teaches installing the</p> <p>4 drywall after the truss is hung; correct?</p> <p>5 A I believe that the bottom cord of the truss</p> <p>6 that's shown provides a pretty significant gap from the</p> <p>7 end of the bottom cord of the wall, and clearly showing</p> <p>8 that the drywall extends up and could be installed prior</p> <p>9 to or after the truss was installed.</p> <p>10 It just -- on the left-hand side where the</p> <p>11 hanger is installed in that photo, which -- or that</p> <p>12 image which shows the Simpson LBV hanger installed over</p> <p>13 the drywall, that would have to be installed after the</p> <p>14 drywall's installed.</p> <p>15 So I think you can certainly make the</p> <p>16 statement that the drywall could be installed before or</p> <p>17 after on the right-hand image.</p> <p>18 Q So you're inferring it from looking at the</p> <p>19 image?</p> <p>20 A I'm saying that it's possible, yes.</p> <p>21 Q Is there anywhere else, written or otherwise,</p> <p>22 in this disclosure that you're familiar with that</p> <p>23 teaches installing the drywall after the hanger is hung</p> <p>24 or the truss is hung?</p> <p>25 A I mean, if we have the time for me to read</p>

<p style="text-align: right;">Page 214</p> <p>1 through the whole thing and see. 2 Q Well, you've analyzed it before; correct? 3 A I -- I know, but I don't recall. 4 Q As you recall from your analysis, the only 5 thing you can point to without rereading the whole thing 6 is the picture that is option B? You say that that 7 teaches installing the drywall after the truss is hung 8 from that top plate? 9 A What I'm saying is that you can -- you can 10 gather that that could happen. It's just not possible 11 with the image on the left at all. 12 Q But you're inferring that it is possible from 13 the image on the right; is that fair to say? 14 A Yes. 15 Q Is there anything else in this document that 16 you recall that lets you make that inference? 17 A Not that I can recall. 18 Q Have you ever heard of specifiers prior to the 19 DU or FWH specify two wall assemblies whenever trying to 20 meet the requirements for multifamily multilevel wood 21 frame construction? 22 MR. MAUCH: Objection. Vague. 23 THE WITNESS: Can you clarify that? What 24 do you mean by two wall assemblies? 25 //</p>	<p style="text-align: right;">Page 216</p> <p>1 EXAMINATION 2 BY MR. MAUCH: 3 Q I do have just a couple clarifying questions. 4 It shouldn't take too long, Mr. Hensen. 5 Actually, first, starting with Exhibit 26, 6 that Architectural Record article that you were just 7 looking at, if you could turn to the page with the Bates 8 stamp that ends 225? 9 A Okay. I see it. 10 Q And this has those two figures that you were 11 looking at earlier and that Mr. Hensen asked you some 12 questions about -- Mr. Eidson asked you some questions 13 about; right? 14 A That's correct. 15 Q And looking at the figure on the right-hand 16 side, in blue there along the wall, there's -- what is 17 indicated in -- what is the blue element on the 18 right-hand figure? 19 A That's the five-eighths gypsum board. 20 Q And is it your understanding that this 21 figure's indicating two sheets that are vertical on the 22 wall, two sheets of the five-eighths type X gypsum 23 board? 24 A That's correct. 25 Q And then there's also an element that's blue</p>
<p style="text-align: right;">Page 215</p> <p>1 BY MR. EIDSON: 2 Q Sure. It would be, for instance, one for 3 bearing the trusses and one wall with uninterrupted 4 sheets of drywall for the fire barrier. Have you ever 5 seen anything like that? 6 A Yeah, I believe so. In -- in multistory 7 units, often they'll have a fire wall or a demising wall 8 that would be separate from a bearing wall. 9 Q Was that solution accepted by the industry for 10 providing a two-hour fire wall barrier? 11 MR. MAUCH: Objection. Vague. 12 THE WITNESS: Yeah. Those wall 13 assemblies provided a separation between the units and 14 provided a two-hour fire rating. 15 BY MR. EIDSON: 16 Q Mr. Hensen, other than what we've talked about 17 here today, do you have any other opinions that you plan 18 to express at trial, expert opinions, that we have not 19 talked about in either this deposition or your prior 20 deposition? 21 A Not that I can think of. 22 MR. EIDSON: With that, I don't have any 23 further questions. Appreciate your time. Thank you. 24 // 25 //</p>	<p style="text-align: right;">Page 217</p> <p>1 that's under the bottom cord of the truss; is that 2 correct? 3 A That's correct. 4 Q And what's your understanding of what that is? 5 A That's the ceiling of the -- the room below. 6 Q And what is that ceiling element made of? 7 A It's also five-eighths gypsum board. 8 Q Okay. Could that horizontal sheet of type 9 five-eight X gypsum board have been installed prior to 10 the truss? 11 A No. 12 Q Would that even be possible? 13 A Not at all. 14 Q Okay. So if a drywaller installed that sheet, 15 it would have to be done after the truss was installed; 16 correct? 17 A That's correct. 18 Q Does that in any way affect your earlier 19 testimony regarding what can be inferred from this 20 bottom-right figure on this page of this article? 21 A I -- I think it clarifies a little more that 22 the drywall can be installed after -- or should be 23 installed after the floor truss is installed. 24 Q That's my only questions regarding Exhibit 26. 25 At the very beginning of the day today, Mr. Hensen,</p>

55 (Pages 214 - 217)

<p style="text-align: right;">Page 218</p> <p>1 Mr. Eidson asked you some questions regarding the IBC 2 code. Do you recall that? 3 A I do. 4 Q Are you familiar with the term "model code"? 5 A I am. 6 Q What's your understanding of that term? 7 A That that's the standard that the building 8 code is created from. 9 Q And is it your understanding that the IBC is a 10 model code? 11 A Yes, it is. And the model code is developed 12 by the International Code Counsel, but then has to be 13 adopted by the jurisdictions or the building officials 14 for it to become a building code that is enforced in the 15 given market. 16 Q So the IBC itself, is the IBC itself enforced 17 in any jurisdiction in the United States? 18 A The IBC has to be adopted by the building 19 officials for it to be enforced. And then there's -- 20 it -- it's up to the -- the given jurisdiction or the 21 building department what model building code year 22 they're going to approve for their jurisdiction. 23 So we do have jurisdictions all over the US 24 that are on varying years of the model building code. 25 Q And do you have any understanding from your</p>	<p style="text-align: right;">Page 220</p> <p>1 A I do recall those questions. 2 Q Was it your understanding that what Simpson 3 was doing in terms of pursuing those options and that 4 testing of those options at that time was that it was 5 trying to solve the problem of sequencing? 6 A That Simpson was trying to solve that problem 7 of sequencing? 8 Q Correct. 9 A No, we were definitely focused on providing a 10 solution for attaching floor joist to a fire resistant 11 wall system, and it could have been either way. 12 Sequencing wasn't necessarily our initial idea for 13 coming up with a solution. 14 Q Was it your understanding at the time and your 15 involvement in that work that the need that Simpson was 16 attempting to address was a need related to the 17 sequencing of whether to install the hanger before or 18 after the drywall? Do you understand my question, 19 Mr. Hensen? 20 A No. Can you repeat it? 21 Q Sure. I'm just trying to understand, at that 22 time, when you were -- when Simpson was working on 23 developing and testing options for a hanger that 24 ultimately became the DU series hanger, did Simpson 25 understand -- did you understand that the need that</p>
<p style="text-align: right;">Page 219</p> <p>1 experience in the industry typically how long it takes 2 for a jurisdiction to adopt a model code such as the IBC 3 as the enforced code in its jurisdiction? 4 A My experience is first, you know, it -- it's a 5 three-year cycle that the code is on. So every three 6 years the code is -- the model code is being updated. 7 And then it's really up to the jurisdiction which model 8 code they're going to adopt or continue to adopt or move 9 to a new code. And it may not align with the code 10 cycle. 11 So if the code comes out every third year, 12 those jurisdictions may be, you know, a year or two away 13 from adopting another model code into their 14 jurisdiction. And it could take anywhere from one to 15 three or more years depending on if they want to make 16 the change. 17 Q Another set of questions. Mr. Eidson earlier 18 today asked you a series of questions about the options 19 that Simpson was considering prior to ultimately 20 releasing the DU series. Do you recall those questions? 21 A I do. 22 Q And at one point, Mr. Eidson asked you if 23 those options were considered to solve the problem of 24 sequencing. Do you recall Mr. Eidson asking you a 25 question or questions along those lines?</p>	<p style="text-align: right;">Page 221</p> <p>1 Simpson was trying to address was a need related to the 2 sequencing of installation of the hanger before the 3 drywall or vice versa? 4 MR. EIDSON: Objection. Compound. 5 THE WITNESS: Well, we certainly tested 6 multiple concepts which allowed for the installation 7 before drywall and after drywall, which I've already 8 attested to. 9 And we've -- you know, we had field 10 installers come in and provide their feedback, and we 11 felt that the need was inconclusive and we moved forward 12 with our DU style hanger. 13 BY MR. MAUCH: 14 Q Another line of questions. Earlier today, 15 Mr. Eidson was showing you the Simpson catalog from 16 2019. Do you recall that? 17 A I do recall that. 18 Q And he asked you some questions about the 19 section of the catalog that's entitled "fire wall 20 hangers." Do you recall that? 21 A I do. 22 Q I'm referring in particular to what's been 23 marked as Exhibit 7 earlier today. 24 And at one point, Mr. Eidson asked you if you 25 were aware of -- and I'm not sure exactly how it was</p>

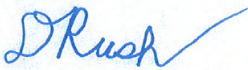
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<p style="text-align: right;">Page 222</p> <p>1 phrased, but essentially that Mr. Eidson asked you if 2 there was any hanger that could be used with a two-hour 3 fire resistive wall assembly that was not in that 4 section entitled "fire wall hangers." 5 Do you recall that line of questioning? 6 A I do recall that. 7 Q Can the Simpson HUTF 43 hanger, is that a 8 hanger that can be used in a two-hour fire wall 9 assembly? 10 A It is, and that's what I testified to earlier 11 this morning. 12 Q Is that hanger found in the 2019 catalog in 13 the section titled "fire wall hangers"? 14 A It is not. 15 Q Are you aware of prior to the release of the 16 DU series hangers that another method sometimes utilized 17 by engineers for attaching a floor assembly with a 18 two-hour rated wall was to create some kind of ledger or 19 rim board to which a hanger could be attached to then 20 hang the floor assembly to that -- off that ledger or 21 rim board? 22 A I am aware of that application. I mean, I 23 think earlier, the questions were, am I aware of any 24 other hangers that are installed in a fire wall 25 assembly? But there were other applications where a</p>	<p style="text-align: right;">Page 224</p> <p>1 MR. EIDSON: I've got a couple 2 follow-ups. 3 EXAMINATION 4 BY MR. EIDSON: 5 Q Mr. Hensen. We'll go in reverse order. You 6 mentioned the ledger or rim board method that could be 7 used to take a -- in construction that could be used to 8 apply a standard joist hanger for fire wall purposes; 9 correct? 10 A That's correct. 11 Q Okay. Tell me a little bit how you would 12 create this ledger or rim board? 13 A During framing stages, they would attach a 14 non-combustible ledger board to the side of the wall 15 with fasteners. And then that would allow for a 16 connector or standard connector to be used to attach the 17 floor joist to that ledger, and then the drywall would 18 butt up to the bottom of that ledger board. 19 Q And what would the ledger board be made of? 20 A It could be lumber, but it would be possibly 21 treated with a fire-rated chemical or something like 22 that. 23 Q And so under that construction method, any 24 number of Simpson joist hangers could be used for fire 25 wall purposes; correct?</p>
<p style="text-align: right;">Page 223</p> <p>1 ledger could be installed to accept a standard hanger. 2 Q And in that situation, could a hanger that was 3 not contained in the section entitled "fire wall 4 hangers" be used to construct a two-hour fire wall 5 assembly? 6 A In that case over a ledger, then standard 7 connectors could be used. 8 Q And my last question or questions relate to 9 Exhibit 12. If you could look at Exhibit 12. 10 A Sorry, I didn't keep them in order yet. 11 Q That's okay. It has the photo on the front. 12 A Yeah, yeah. I remember. There it is. 13 Q Okay. And Exhibit 12 was the email string 14 that had as an attachment the letter drafted by Dustin 15 Muhn; right? 16 A That's correct. 17 Q And are you aware whether this letter was ever 18 sent outside of Simpson? 19 A I am not aware that it was ever sent outside 20 of Simpson. 21 Q Mr. Hensen, did I preview or discuss in any 22 way any of the questions I've just asked with you prior 23 to asking them now? 24 A No, you did not. 25 MR. MAUCH: Okay. No further questions.</p>	<p style="text-align: right;">Page 225</p> <p>1 A Correct. That would open the door for any of 2 our products to be used. 3 Q I mean, not just not just one, five, but it 4 could be twenty, thirty different products could be 5 used; right? 6 A Potentially. 7 Q Are there any other construction methods that 8 were around at the time that could have been used for 9 fire wall purposes? 10 A Other than what we talked about? 11 Q Yes, sir. 12 A Not that I'm aware of. 13 Q Let's go back and talk about the Arch Record 14 Exhibit 26. And I want you to look at the diagram that 15 Mr. Mauch pointed you to on page 6. Simpson SST 105225. 16 And he kind of walked you through the gypsum board 17 there. The two pieces, the one piece on the ceiling. 18 Do you see that? 19 A I do see that. 20 Q Remember that testimony? 21 A I do. 22 Q Okay. So let's walk through the installation. 23 The wall frame is up; right? That happens first; 24 correct? 25 A Correct.</p>

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<p style="text-align: right;">Page 226</p> <p>1 Q All right. Then one of two things happens 2 next. Either the truss is hung or the two layers of 3 gypsum board goes up; correct? 4 A I mean, it could be one or the other, but 5 generally, the -- the drywallers aren't on site during 6 that time. The framing crew is there with the floor 7 trusses that need to crane them over the wall assemblies 8 and put them in place. 9 Q Okay. So but my question is, the wall 10 assembly's up and then one of two things happens next. 11 Obviously, the ceiling drywall isn't going up next; 12 right? Because you don't have a truss to hang it to; 13 fair? 14 A That's fair. 15 Q Okay. So it's either the truss is going up or 16 the fire wall's going up; right? 17 A Yeah. The truss would have to come next 18 because if you put the fire wall up and then the truss 19 and then the drywaller had to come back to put the 20 ceiling up, now you have the drywaller coming out 21 multiple times, which is even worse than doing it 22 another way. 23 Q But that happened all the time in standard 24 construction practices back in the day; right? 25 MR. MAUCH: Objection. Vague. Lacks</p>	<p style="text-align: right;">Page 228</p> <p>1 image that tells you that the truss goes up before the 2 fire barrier or the fire barrier goes up before the 3 truss? 4 A I agree that the image doesn't specifically 5 state that. 6 MR. EIDSON: That's all I've got, 7 Mr. Hensen. Thank you. 8 MR. MAUCH: Nothing more for me. 9 THE OFFICER: Okay. And then before we 10 go off the record, would you like to order a copy of the 11 transcript? 12 MR. MAUCH: Yes. 13 THE OFFICER: And will there be a review 14 of the transcript? 15 MR. MAUCH: Yes. 16 THE OFFICER: And will that go directly 17 to you or to Mr. Hensen? 18 MR. MAUCH: It can go to -- 19 THE OFFICER: Okay. All right. 20 THE VIDEOGRAPHER: Do you need the video? 21 I have your order, but do you need it? 22 MR. MAUCH: Ultimately, yes. 23 THE VIDEOGRAPHER: Okay. Do you want to 24 a synced copy or no? Or unsynced? 25 MR. MAUCH: Synced, please.</p>
<p style="text-align: right;">Page 227</p> <p>1 foundation. Assumes facts not in evidence. 2 THE WITNESS: Back -- back in the day, 3 the floor truss would sit on the bottom cord on top of 4 the wall and they would continue framing until they were 5 done framing, and then the drywallers would come in and 6 drywall. 7 BY MR. EIDSON: 8 Q So what tells you then that it goes truss, 9 fire wall, ceiling, drywall? Why can't it go fire wall, 10 truss, ceiling, drywall? 11 A Because there would be no need for the 12 drywaller to come out at the time of their -- them doing 13 framing stages. 14 Q So your assumption is not necessarily based on 15 the picture, it's based on your understanding of 16 traditional construction practices? 17 A I mean, that's correct. They want to do 18 platform framing if they could, which means that the 19 truss would bear on top of the wall. They would frame 20 entirely the building and then have the drywallers come 21 out and install the drywall. 22 With this image on the right-hand side, this 23 allows them to frame the entire building just like they 24 like to do and come in and do the drywall afterwards. 25 Q But you agree that there's nothing in the</p>	<p style="text-align: right;">Page 229</p> <p>1 THE VIDEOGRAPHER: Okay. Great. We are 2 off the record at 4:58 p.m., and this concludes today's 3 testimony given by Sam Hensen. The total number of 4 media used was four and will be retained by Veritext 5 Legal Solutions. 6 (Signature reserved.) 7 (Whereupon, at 4:58 p.m., the proceeding 8 was concluded.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: right;">Page 230</p> <p>1 CERTIFICATE OF DEPOSITION OFFICER 2 I, ARIANA CRISAFULLI, the officer before whom 3 the foregoing proceedings were taken, do hereby certify 4 that any witness(es) in the foregoing proceedings, prior 5 to testifying, were duly sworn; that the proceedings 6 were recorded by me and thereafter reduced to 7 typewriting by a qualified transcriptionist; that said 8 digital audio recording of said proceedings are a true 9 and accurate record to the best of my knowledge, skills, 10 and ability; that I am neither counsel for, related to, 11 nor employed by any of the parties to the action in 12 which this was taken; and, further, that I am not a 13 relative or employee of any counsel or attorney employed 14 by the parties hereto, nor financially or otherwise 15 interested in the outcome of this action. 16 <p style="text-align: center;"><i>Ariana Crisafulli</i></p> <p style="text-align: center;">ARIANA CRISAFULLI Notary Public in and for the State of California</p> <p>21 [X] Review of the transcript was requested. 22 23 24 25</p> </p>	<p style="text-align: right;">Page 232</p> <p>1 Veritext Legal Solutions 1100 Superior Ave 2 Suite 1820 Cleveland, Ohio 44114 3 Phone: 216-523-1313 4 5 April 1, 2025 6 7 To: JOSEPH V. MAUCH, ESQUIRE 8 9 Case Name: Columbia Insurance Company, Et Al. v. Simpson Strong-Tie Company, Inc. 10 Veritext Reference Number: 7228490 11 Witness: Sam Hensen Deposition Date: 3/17/2025 12 13 Dear Sir/Madam: 14 15 Enclosed please find a deposition transcript. Please have the witness 16 review the transcript and note any changes or corrections on the 17 included errata sheet, indicating the page, line number, change, and 18 the reason for the change. Have the witness' signature notarized and 19 forward the completed page(s) back to us at the Production address 20 shown 21 above, or email to production-midwest@veritext.com. 22 23 If the errata is not returned within thirty days of your receipt of 24 this letter, the reading and signing will be deemed waived. 25 26 Sincerely, 27 28 Production Department 29 30 NO NOTARY REQUIRED IN CA</p>
<p style="text-align: right;">Page 231</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, DONOVAN RUSH, do hereby certify that this 3 transcript was prepared from the digital audio recording 4 of the foregoing proceeding, that said transcript is a 5 true and accurate record of the proceedings to the best 6 of my knowledge, skills, and ability; that I am neither 7 counsel for, related to, nor employed by any of the 8 parties to the action in which this was taken; and, 9 further, that I am not a relative or employee of any 10 counsel or attorney employed by the parties hereto, nor 11 financially or otherwise interested in the outcome of 12 this action. 13 14 <p style="text-align: center;"> DONOVAN RUSH</p> 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 233</p> <p>1 DEPOSITION REVIEW CERTIFICATION OF WITNESS 2 3 ASSIGNMENT REFERENCE NO: 7228490 CASE NAME: Columbia Insurance Company, Et Al. v. Simpson Strong-Tie Company, Inc. 4 DATE OF DEPOSITION: 3/17/2025 WITNESS' NAME: Sam Hensen 5 In accordance with the Rules of Civil 6 Procedure, I have read the entire transcript of my testimony or it has been read to me. 7 I have made no changes to the testimony as transcribed by the court reporter. 8 9 _____ Date Sam Hensen 10 Sworn to and subscribed before me, a Notary Public in and for the State and County, 11 the referenced witness did personally appear and acknowledge that: 12 13 They have read the transcript; They signed the foregoing Sworn Statement; and 14 Their execution of this Statement is of their free act and deed. 15 16 I have affixed my name and official seal this _____ day of _____, 20____. 17 18 _____ Notary Public 19 _____ Commission Expiration Date 20 21 22 23 24 25</p>

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<div style="text-align: right; margin-bottom: 10px;">Page 234</div> <div style="margin-bottom: 10px;"> 1 DEPOSITION REVIEW 2 CERTIFICATION OF WITNESS </div> <div style="margin-bottom: 10px;"> 3 ASSIGNMENT REFERENCE NO: 7228490 4 CASE NAME: Columbia Insurance Company, Et Al. v. Simpson 5 Strong-Tie Company, Inc. 6 DATE OF DEPOSITION: 3/17/2025 7 WITNESS' NAME: Sam Hensen 8 In accordance with the Rules of Civil 9 Procedure, I have read the entire transcript of 10 my testimony or it has been read to me. 11 I have listed my changes on the attached 12 Errata Sheet, listing page and line numbers as 13 well as the reason(s) for the change(s). 14 I request that these changes be entered 15 as part of the record of my testimony. 16 17 I have executed the Errata Sheet, as well 18 as this Certificate, and request and authorize 19 that both be appended to the transcript of my 20 testimony and be incorporated therein. 21 Date Sam Hensen </div> <div style="margin-bottom: 10px;"> 22 Sworn to and subscribed before me, a 23 Notary Public in and for the State and County, 24 the referenced witness did personally appear 25 and acknowledge that: 26 They have read the transcript; 27 They have listed all of their corrections 28 in the appended Errata Sheet; 29 They signed the foregoing Sworn 30 Statement; and 31 Their execution of this Statement is of 32 their free act and deed. 33 I have affixed my name and official seal 34 this _____ day of _____, 20____. 35 _____ 36 Notary Public </div> <div style="margin-bottom: 10px;"> 37 _____ 38 Commission Expiration Date </div>	
<div style="text-align: right; margin-bottom: 10px;">Page 235</div> <div style="margin-bottom: 10px;"> 1 ERRATA SHEET 2 VERITEXT LEGAL SOLUTIONS MIDWEST 3 ASSIGNMENT NO: 7228490 4 PAGE/LINE(S) / CHANGE /REASON </div> <div style="margin-bottom: 10px;"> 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ </div> <div style="margin-bottom: 10px;"> 20 Date Sam Hensen 21 SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ 22 DAY OF _____, 20____. 23 _____ 24 Notary Public </div> <div style="margin-bottom: 10px;"> 25 _____ 26 Commission Expiration Date </div>	

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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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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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