UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIMPSON STRONG-TIE COMPANY, INC.

Petitioner

v.

COLUMBIA INSURANCE COMPANY

Patent Owner

Case PGR2024-00050

Patent 11,920,339

VIDEOCONFERENCE DEPOSITION OF DWIGHT J. DUNCAN

TAKEN ON BEHALF OF THE PETITIONER

JULY 31, 2025

(Starting time of the deposition: 9:00 a.m. MT.)

Simpson Strong-Tie Company EX1053
Simpson v. Columbia
PGR2024-00050

I N D E X

QUESTIONS BY: PAGE

MR. HOWARD 5

E X H I B I T S

EXHIBIT PAGE

Exhibit 2055 Declaration of Dwight Duncan 14

(The exhibit was retained by counsel.)

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIMPSON STRONG-TIE COMPANY, INC.
Petitioner

v.

COLUMBIA INSURANCE COMPANY
Patent Owner

Case PGR2024-00050
Patent 11,920,339

VIDEOCONFERENCE DEPOSITION OF DWIGHT J. DUNCAN, produced, sworn and examined on July 31, 2025, between the hours of nine o'clock MT in the forenoon and twelve o'clock MT of that day, with all attendees via Zoom videoconference, with the Witness physically located in Wyoming, before William L. DeVries, a Certified Court Reporter, Registered Diplomate Reporter, and Certified Realtime Reporter, in a certain cause now pending in the United States Patent and Trademark Office, Before the Patent Trial and Appeal Board, between SIMPSON STRONG-TIE COMPANY, INC., Petitioner, vs. COLUMBIA INSURANCE COMPANY, Patent Owner; on behalf of the Petitioner.

A P P E A R A N C E S

(All appearances via Zoom videoconference.)

For the Petitioner:

Mr. Erick C. Howard
Shartsis Friese
425 Market Street, 11th Floor
San Francisco, California 94105
(415) 421-6500
ehoward@sflaw.com

Ms. Michelle K. Holoubek
Sterne, Kessler, Goldstein & Fox PLLC
1101 K Street, 10th Floor
Washington, D.C. 20005
(202) 371-2600
holoubek@sternekessler.com

For the Patent Owner:

Mr. Timothy D. Krieger
Stinson LLP
7700 Forsyth Boulevard, Suite 1100
St. Louis, Missouri 63105
(314) 863-0800
tim.krieger@stinson.com

Court Reporter:
William L. DeVries, RDR/CRR
Licensed and Certified in:
IL, MO, AR, IA, KS, TN

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the Petitioner and counsel for the Patent Owner that this deposition may be taken in shorthand by William L. DeVries, RDR/CRR, a Certified Court Reporter and Certified Shorthand Reporter, and afterwards transcribed into typewriting; and the signature of the witness is expressly reserved.

* * * * *

DWIGHT J. DUNCAN,

of lawful age, produced, sworn and examined on behalf of the Petitioner, deposes and says:

(Starting time of the deposition: 9:00 a.m. MDT)

COURT REPORTER: Do you swear or affirm that the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes, I do.

EXAMINATION

QUESTIONS BY MR. HOWARD:

Q. Again, good morning, Mr. Duncan. My name is Erick Howard. I'll be taking your deposition today. Can you please state your name for the record?

A. Dwight J., middle initial, Duncan,

D-U-N-C-A-N.

Q. Okay. And you're here today to testify in connection with the post-grant review proceeding challenging the U.S. Patent Number 11,920,339, correct?

A. That's correct.

Q. Okay. And during the deposition I'm going to go ahead and refer to the challenged patent here as the '339 patent; is that all right?

A. I understand.

Q. Now, you've had your deposition taken before, correct?

A. Yes.

Q. How many times?

A. I don't have an exact count, but probably between 200, 250 times.

Q. Okay. So I'm going to skip most of the preliminaries and the -- and the ground rules. I think you probably understand them pretty well. But I will just remind you let's try not to talk over each other during the questioning. Please wait till I finish the question until you begin to answer it and I will try to wait until you've answered a question before I ask another question.

And I think you're familiar enough that

remember that all your answers need to be verbal. And then please let me know if you don't understand a question. If I -- if you -- if I -- if you don't tell me that you don't understand question I'm going to assume that -- that you understand it. Is that okay?

A. You're obviously free to assume whatever you want to assume to the extent I understand. When I don't understand your question I'll definitely let you know.

Q. Great. That's all I ask. Thank you. Is there any reason that you can't testify truthfully today?

A. No, sir.

Q. Okay. Not on any medications or feeling ill or anything like that?

A. That's correct.

Q. Now, what did you do to prepare for the deposition today?

MR. KRIEGER: I'm going to object just to the extent it calls for any attorney-client privileged communications or work product and I'm going to instruct the witness not to answer or reveal any of those communications, but otherwise can answer.

A. I reviewed the declaration that I prepared in this matter and I reviewed some of the underlying data that we used to do the calculations and some of the underlying source documents.

Talked with my staff internally that had worked on the engagement with me. And then had a conversation which I understand I can't discuss the details of, but I had a conversation with Mr. Krieger in preparation for the deposition as well.

Q. (By Mr. Howard) Okay. Did you only meet with Mr. Krieger in terms of meeting with counsel?

A. Yes. And it was a conversation over -- over Zoom. I didn't meet with him physically.

Q. Okay. And how long was that meeting?

A. Probably 45 minutes or so.

Q. And when was that?

A. Two -- I believe Tuesday of this week.

Q. Okay. You said you met with staff who worked with you on preparing your -- your declaration to prepare for the deposition. Who did you meet with?

A. Dr. Vooraart. V-O-O -- V-O-O-R-A-A-R-T, Vooraart.

Q. Okay. And anyone else?
A. No.
Q. For how long did you meet with doctor -- can you say his name again?
A. Vooraart is the easiest way.
Q. Vooraart.
A. Or oftentimes in deposition everyone agrees to call him Dr. Frank, which is easy as well. Probably maybe 30 minutes, 40 minutes, something like that.
Q. Okay. And I'm going to go ahead and call him Dr. Frank for purposes of the deposition. I think that would be the easiest and less embarrassing for me. What did you discuss with -- with Dr. Frank?
A. We just reviewed the declaration and some of the analyses that we had done together in preparing the draft of the declaration.
Q. And what specifically did Dr. Frank do in connection with preparing the declaration?
A. Well, we've been working together for almost 28 years. Probably longer than that. So we work collaboratively on preparing these kinds of analyses. So I don't know that I could delineate what in the declaration I drafted versus he drafted.

We were working together and editing it together. So just going back and reviewing some of the underlying materials and the data that we used to do some of the computations.

Q. So Dr. Frank wrote a portion of your declaration and then you wrote a portion of the declaration; is that correct?

MR. KRIEGER: Form.

A. No, I would say we worked on it collaboratively. I mean, again, he may have written the first pass of a certain paragraph and I did another and then we edited it together, but at the end of the day they're my opinions and I'm the one that signed it.

Q. (By Mr. Howard) Do you recall what portions of the declaration Dr. Frank wrote a portion -- wrote and that you then, you know, confirmed was correct and made changes and so on and so forth?

A. As I sit here, I really couldn't delineate it. It's a collaborative effort from the get-go. So I couldn't say one paragraph or one section was written by him initially or edited. It really is a collaborative effort.

Q. You also said that you discussed with

him I think some of the documents and some of the data that you had -- that you used in drafting the declaration; is that correct?

A. Yes.

Q. Okay. What documents did you review with Dr. Frank to prepare for the deposition today?

A. We looked at Mr. Alley's declaration and some of the underlying conclusions and tables that he had prepared. We looked at Dr. Serwin's report and the underlying data that we used for the computation of the reveal preference portion of my declaration. And I believe we looked with Mr. Nelson at a declaration as well. We looked at that together.

Q. And with respect to Mr. Alley's declaration, what did you discuss with Dr. Frank?

A. Just the content and the conclusions that were presented in his declaration.

Q. Same question for Dr. Serwin's report, what did you talk with Dr. Frank regarding Dr. Serwin's report to prepare for the deposition today?

A. The same, just conclusions that he had reached and more importantly the underlying data that he had presented -- he being Dr. Serwin, in his

report.

Q. Okay. Would the same be true for Dr. Nelson -- Mr. Nelson's declaration?

A. Yeah. Little bit different there because we don't specifically point to his declaration for numerical values or conclusions on the survey. It was really just looking at his declaration and just discussing briefly the information that he had presented.

Q. Okay. And what information did Dr. Nelson have presented that you discussed with Dr. Frank?

A. Really just looked through his declaration and talked about some of the tables where he had done some of his computations on price differentials between the FWH hangers and non-FWH MiTek hangers.

Q. I'm sorry, did you say non-MiTek FWH hangers?

A. Non-FWH MiTek hangers.

Q. Okay.

A. Meaningful for you to switch two of the words.

Q. Okay. Okay. Are those the only documents that you reviewed to prepare for your

deposition today?

A. No. I believe we looked -- I certainly looked at anything that we had referenced in the report, any of the footnotes. There's some of the specific appendices that were attached to Dr. Serwin's report. I looked at those because, again, we had extracted some of the computational information out of there. So in reviewing my declaration, any time there was a reference in a footnote I would have gone back and looked at the underlying source document.

Q. Okay. With respect to any of the documents that you reviewed to prepare for the deposition today, did you have any concerns about the data or the statements made in those documents as concerns your opinions in your declaration?

MR. KRIEGER: Objection, form.

A. No, I found them confirmatory of the opinions that I have expressed in the declaration.

Q. (By Mr. Howard) Mr. Duncan, do you have a clean copy of your declaration there with you?

A. Yes. Mr. Krieger had informed me that you requested that I have a clean copy of it, so I do have a hard copy printout without marginalia or

annotations. Just a printout of the declaration as presented.

(Exhibit 2055, Duncan declaration.)

Q. (By Mr. Howard) Okay. Great. All right. So I'm going to start referring to your declaration now. So I'm going to start showing you what's been marked as Exhibit 2055. And you can confirm that's your declaration, correct?

A. Are you going to share it on the screen or --

Q. No. No. You can refer to the physical document that you have there.

A. Yes. So I don't know anything about Exhibit 55, but --

Q. No, I'm sorry. I'm sorry. Exhibit 2055. So it's been marked as an exhibit already, and it's Exhibit 2055.

A. Two zero -- two, zero, five, five?

Q. 2055, correct, yes.

MR. KRIEGER: Dwight, I'll represent to you that your declaration, the final signed version, is Columbia Exhibit 2055.

THE WITNESS: And just to err on the side of caution here to make sure, again, we're not physically present, it should have -- go through my

CV page 13 of 13 should be the last page of the document just so we're talking about the same thing?

Q. (By Mr. Howard) That is correct.

A. Okay. Then I will accept your annotation reference to Exhibit 2055 as a copy of the declaration that I issued in this matter.

Q. And if you go to the last page of the declaration, that's your signature there, correct?

MR. KRIEGER: Objection, form.

Q. (By Mr. Howard) Of the actual declaration, not of the -- not of the exhibit -- the exhibit. So that would be page -- I believe that's page 18 of 32?

A. Yes.

Q. And that is -- okay. Great. So your declaration makes reference to several other documents in the body of the declaration, also in footnotes. Did you review personally all of the documents, all of those documents in connection with preparing your report?

A. I believe so. We may have to ask more specifically. Some of them I looked at more quickly, like the patent itself, but I'm not a technical expert so I reviewed that fairly quickly. But with respect to the other documents I did review

all of those personally.

Q. Okay. Let me ask you about the patent. So did you review the '339 patent at all?

A. Just very quickly to get context, but not to any technical degree.

Q. Okay. Did you -- did you read the claims of the '339 patent to prepare for your report -- I mean your declaration?

A. I may have read those prior to preparing it, but again, as I'm not a technical expert I'm not relying on it explicitly.

Q. Okay. Do you have an understanding of what the '339 patent covers?

A. Just as a layperson, yes.

Q. Okay. And is it fair to say you get your understanding of what the '339 patent covers from counsel?

MR. KRIEGER: Objection, form. Also to the extent it calls for any attorney-client privileged communications that you did not rely on for the purposes of your report, I will instruct you not to answer. Otherwise, you can answer.

A. Yeah, so there's certain assumptions that I made explicitly and detail in the declaration that -- as to what the '339 patent covers. Some of

those did specifically come from counsel, but also from Richard -- going to try and say his name. I think it's Kaczkowski.

Q. (By Mr. Howard) We spoke before about Mr. Alley's declaration and report. Did you review Mr. Alley's survey that he conducted in May of 2025 in preparing your declaration?

A. I believe so. I believe we had results of that survey, yes.

Q. Okay. And so what form were the results of that survey?

A. I don't recall specifically if we had the underlying data. I seem to think that we do, but definitely looked at the narrative description that he provided in his declaration, which included excerpts specifically from the survey with example questions and lists of, for example, open-ended question responses.

Q. What you're referring to there, are you talking -- are you -- are you referring to what is in his declaration, so excerpts that he took from his declaration -- I'm sorry, excerpts from his survey that he put into his declaration?

A. I certainly reviewed those, but I do have a rough recollection that we saw the actual

responses in total, not just what had been selected and inserted into his declaration.

Q. Okay. Do you remember or can recall what form you saw the actual responses to the survey?

A. I don't --

Q. So for instance -- okay. I'm sorry.

A. I'm sorry. I don't recall specifically as I sit here the form in which that was conveyed, but I do have a rough recollection of seeing more detail than is in the declaration.

Q. Okay. Let me try to sort of push your recollection a little bit. Do you recall reviewing the survey results in Excel spreadsheet format?

A. I don't have a specific recollection. It's possible. We do this kind of work a lot and I reviewed a lot of surveys, so I don't want to misrepresent how this one particularly was conveyed but frequently we do see the Excel output.

Q. Okay. Do you have any recollection of whether or not the data that you saw, that it appeared to be complete or it somehow -- or in some way appeared to be incomplete in terms of information that was -- that was not readable?

MR. KRIEGER: Objection, form,

foundation.

A. I just -- I don't have a specific recollection as I sit here what -- what it looked like. I just have a rough recollection that we had more detail than I read in the declaration.

Q. (By Mr. Howard) Okay. And in preparing your declaration you reviewed Mr. Alley's declaration obviously, correct?

A. Yes.

Q. Did you review the declaration of Mr. Kaczkowski that's dated December 2024 to prepare -- in connection with preparing your declaration?

A. Yes.

Q. And did you prepare -- did you review other materials that were prepared by Mr. Kaczkowski?

A. I don't believe so. I believe we had the declaration. I don't recall anything beyond that.

Q. Did you review a report by Dr. Serwin dated February 2025 to prepare -- in connection with preparing your declaration?

A. I believe so. The date I couldn't tell you specifically, but if it addressed the -- what has been referred to as the '510 patent, then yes.

The timing seems about right, but I couldn't tell you the exact date.

Q. Who if anyone did you speak to regarding -- well, in connection with preparing your -- your declaration outside of your own staff?

A. I'm sorry, the beginning of the question was a little garbled, can you restate that?

Q. I'm sorry. Who if anyone did you speak to in connection with preparing your declaration other than your -- than your own staff?

A. So Mr. Kaczkowski and Mr. Allen. I believe -- I can't remember as I sit here. I think there's one other person inside of MiTek that we spoke to.

Q. And I think you just referred to Mr. Allen. Do you mean Mr. Alley?

A. Yes. Thank you for the correction. Mr. Alley.

Q. Okay. Just wanted to make it clear for the record. Had you worked with Mr. Alley prior -- at any time prior to this engagement?

A. No.

MR. KRIEGER: Objection, relevance, outside the scope of the declaration.

Q. (By Mr. Howard) Did you work with

Mr. Kaczkowski before this engagement at any time?

MR. KRIEGER: Objection, relevance, outside the scope of the declaration.

A. No.

Q. (By Mr. Howard) What did you talk with Mr. Alley about in connection with preparing your declaration?

MR. KRIEGER: Objection. To the extent it calls for any attorney-client privileged or work product communications that Mr. Duncan did not rely on for the purposes of his declaration, I'm going to instruct the witness not to answer. Otherwise, he may answer.

A. The discussions that I relied on with Mr. Alley related to the results of the survey and specifically the numerical representations that he had made about response rates on specific questions.

Q. (By Mr. Howard) And can you recall what response rates you discussed with -- with Mr. Alley?

A. Where he had talked about in his report and I think he said a couple of times that a majority of respondents had responded a certain way. We talked through with him what the numerical value of those responses were. I believe they were all

around 80 or 80 plus percent on questions that we talked to him about. So it was just digging down a bit into the -- into more detail.

Q. How many times did you speak with Mr. Alley in connection with preparing your declaration?

A. As it relates to instances where we relied on information from him, I believe it was only once.

Q. And how long did you talk with him that one time?

A. My best recollection is about an hour, maybe a little bit less.

Q. Did anyone join you for that conversation with Mr. Alley other than counsel?

A. Dr. Vooraart, Dr. Frank would have been on the call as well.

Q. Okay. What did you discuss with Mr. Kaczkowski -- I'll spell that on the record. I keep on saying it. So it's K-A-C-Z-K-O-W-S-K-I.

(Court reporter interruption.)

Q. (By Mr. Howard) So how many -- I'm sorry. What did you speak about with Mr. Kaczkowski in preparing your declaration?

MR. KRIEGER: Again, I want to instruct

the witness not to answer to the extent it calls for any attorney-client privileged communications or work product that he did not rely on in preparation for his report, but otherwise, the witness can answer.

A. So again, the conversation we relied on in preparing for the declaration really focused around the method underlying the patent and how it was utilized and then conceptually how that same method existed in the DG, DGF, and DGT Simpson versions of the product. And those compensations we relied on for purposes of doing our computations.

Q. (By Mr. Howard) And how many times did you talk with Mr. Kaczkowski in connection with preparing your declaration?

A. I believe just once.

Q. And for how long?

A. Best recollection, again, about an hour.

Q. And was Dr. Frank also with you in connection with that conversation?

A. Yes.

Q. You also mentioned that you have a recollection of speaking with somebody within MiTek in connection with preparing your declaration. I

believe you said you don't remember the name of that person; is that correct?

A. Yeah. Let me just look in the -- I think it's in one of the footnotes. Give me just one moment. It's on the paragraph 49. It's Mr. Michael Nelson. We have that in footnote 29 what his position was. It details that we had discussions with Mr. Nelson.

Q. Okay. Okay. All right. So what did you discuss with Mr. Nelson about in preparation of your declaration?

A. Really focused on this notion of the market for two-hour fire-rated firewall hangers and that it was according to those discussions, which were consistent with what we saw in Dr. Serwin's report, it's really just Simpson and MiTek that compete in this space.

Q. Do you recall what Mr. Nelson told you about the market for two-hour --

A. Sorry. Go ahead.

Q. -- two-hour fire-rated other than that only MiTek or Simpson are really in that market?

A. It was really limited to that topic.

Q. And Mr. Frank joined you in that conversation as well?

A. Yes, Dr. Frank was on -- on that phone call as well.

Q. Okay. And about how long did you talk with Mr. Nelson?

A. My recollection is that was pretty brief. Maybe 15 minutes, 20 minutes.

Q. How much time did you spend preparing your declaration?

A. I don't even have a guess. I don't -- I don't keep track of that specifically. I don't commit to memory each -- the time spent on each job.

Q. Okay. Can you give a rough estimate of how much time you spent?

A. I can't. It would just be a guess really. I don't even have an estimate as I sit here.

Q. Did you prepare a first draft of the declaration or was it all collaborative with Mr. Frank?

A. It was all collaborative. It would be up on our survey. Our normal practice is that one or both of us could be editing the document at the same time. So I would characterize it as a collaborative effort from the start to finish between Dr. Frank and myself.

Q. Other than Dr. Frank, was anybody else at -- at EconLit involved in helping prepare the declaration?

A. I don't believe so, no.

Q. Do you have any corrections or changes to be made to your declaration?

A. I believe there's one typo that -- seems like the word mentioning should be instead of monitoring, but I don't know that I can put my finger on it quickly. But no substantive edits. If that one comes up I'll point it out, but it seems like it was maybe motioning and mentioning or something like that.

Q. That is correct. That's at paragraph 35. And so that should be to -- the word motioning should be mentioning in that -- in the second sentence of paragraph 35; is that correct?

A. That's correct.

Q. Okay.

A. That's the only one I'm aware of.

Q. So you are currently employed at EconLit, LLC, correct?

A. Yes.

Q. And you founded EconLit in about 2000; is that right?

A. Correct.
Q. What's your role at EconLit?
A. I'm the managing director of the firm. So oversee all the operations, generate the work. I'm the only testifying expert, and take out the trash and fix clogged toilets, everything up and down the spectrum.
Q. That's a wide variety of things that you're forced to do.
A. Owner of a small business wears many hats.
Q. How many people work at EconLit?
A. I think it's seven FTEs.
Q. Prior to being retained -- strike that.
So prior to being retained to prepare the stated preference and revealed preference analyses discussed in your declaration, had you previously performed similar analyses in connection with construction products, specifically with respect to structural connectors?
MR. KRIEGER: Objection, form, outside the scope of the declaration.
A. Yes. Yeah. So, let me back up to the beginning of the question. We were -- we weren't -- we were not retained specifically to prepare a

stated preference, revealed preference type of analysis.

We were retained to analyze the driver of the commercial success that was observed with the MiTek firewall hanger. So we selected the methodological approach that we brought to bear. So that caveat to the beginning of the question, you were asking whether or not I had used stated preference and revealed preference in the construction materials industry specifically.

And as I sit here, I don't recall, but it's possible. I've done thousands and thousands of cases over the last 30 years. It's possible, but it is a methodological approach that I have utilized in other instances. I just don't recall whether or not it was in the construction materials industry.

Q. (By Mr. Howard) Okay. You said that you were retained to analyze the driver -- drivers of preferences, and there were different analytical approaches and you chose the stated -- stated preference and revealed preference approach; is that -- is that fair?

A. I chose to apply those methodologies.

Q. Okay. What other methodologies were -- strike that.

Were there other methodologies that were available that you could have used to perform that analysis?

A. There -- there are other characterizations. Stated preference and revealed preference are large umbrellas over a whole bunch of different kind of approaches. So there -- there certainly are other approaches within those constructs that one could use. So for example, conjoint analysis could be used as a form of stated preference.

(Court reporter interruption.)

A. Multivariant regression analysis, that would be under a revealed preference umbrella. So there are other approaches available under those two broad methods. But given the facts and circumstances of the data availability in this case, it was my conclusion that the approaches that we utilized under those two broad methodological umbrellas were the most appropriate.

Q. (By Mr. Howard) What methodologies outside of that umbrella were available to be used to conduct an analysis?

MR. KRIEGER: Objection, form.

A. So for clarification, you're asking

what methodologies other than stated preference and revealed preference and everything that is generally classified underneath those, what -- what other ones would exist?

Q. (By Mr. Howard) Yes. Yes.

A. As I sit here, I don't know that I can identify a methodological approach -- an approach that wouldn't fit under one of those two umbrellas, that as I sit here, none come to mind.

Q. And now, within the umbrella of that methodological approach you determined to use the stated preference and the revealed preference analysis, right?

MR. KRIEGER: Objection to form.

A. Yes, I would refer to stated preference and revealed preference as each one of those are broad umbrellas under which there are approaches. So the methodology I would say is that broad concept. Just to differentiate in our conversation here. And approaches are particular analytical techniques that fit under one of those two methodological umbrellas.

Q. (By Mr. Howard) So what is the specific approach that you used for your analysis here?

MR. KRIEGER: Objection, form.

A. So as it relates to the stated preference methodology umbrella, we specifically looked at the survey information that was prepared and gathered by Mr. Alley and we looked at specific e-mail correspondence by the relevant parties in the contemporaneous time period about how they were discussing the method that is evidenced in the '339 patent. I think those are the specific approaches under that stated preference methodology.

Q. (By Mr. Howard) Did you -- I'm sorry. Strike that.

Was Mr. Alley engaged to perform this survey for purposes of you to be able to apply this approach?

MR. KRIEGER: Objection to the extent it calls for any attorney-client privileged or work product information I instruct the witness not to answer. Also objection, form and foundation.

A. Yeah, I didn't retain him so I couldn't tell you what the purposes of his retention were.

Q. (By Mr. Howard) Okay. So it's not the case that you had some conversation with -- with Mr. Alley and you decided that what he should do is conduct this survey in order to try to use the

stated preference approach that you used in your declaration -- in your -- in the discussion in your declaration?

MR. KRIEGER: Objection, form.

A. Yeah, I -- my recollection is that Mr. Alley was in the mix and had been retained before I got involved. So I couldn't tell you what his tasking was with respect to the focus of his survey.

Q. (By Mr. Howard) Okay. And then with respect to the revealed preference analysis, could you just briefly explain the approach that you -- that you used?

A. Really focused and identified on the comparative market success between hangers that practice the method in the '339 patent and those that did not, and we also looked at the price differential between those products.

And third, we looked at the relative success of MiTek against Simpson in the broader structural connector market versus the firewall hanger market, and based on those three analyses we concluded that the commercial success associated with practicing the method identified in the '339 patent was the primary driver of the market

acceptance and commercial success.

Q. Okay. I believe that you testified a little bit earlier that you cannot recall if you have done analyses of the type that we are -- that we have been discussing in connection with construction products; is that right?

MR. KRIEGER: Objection, form. Objection, form.

A. That's correct. I don't recall one way or the other whether or not I've applied it in this particular niche of this particular industry.

Q. (By Mr. Howard) Are there -- strike that.

In what -- in connection with what industries have you applied this approach before, if you can recall?

MR. KRIEGER: Objection to form.

A. Let me try and think of a few here. Milk, dairy products in Hawaii. We applied this approach as it related to the commercial success associated with misrepresentations by one party that their milk came from Hawaii versus milk that was shipped in from the mainland.

I used it in natural resource damages cases. So pollution of the Fox River just south of

Green Bay, we used the same approaches to analyze the harm to the consumers, the recreators that were using fisheries.

We applied it in property value diminution cases involving environmental spills and environmental contamination. Those are three that come to mind as I sit here.

Q. (By Mr. Howard) Have you -- do you recall if you ever used these -- this approach in connection with patented matter?

A. Yes.

MR. KRIEGER: Objection, form.

A. Sorry, Mr. Krieger. Apologies. Yes, we have. I've used it in -- another example, trying to remember the exact subject of the patent, but it had to do with cameras that are utilized to create kind of those surround 360-degree pictures in the real estate realm where people come in and film it. There was some patented technology and we applied the same sort of survey approaches in that case along with revealed preferences.

There's also a case involving I believe it was patented traffic preemption system technologies, where they utilized it to identify emergency vehicles that were coming up on traffic

lights and there's specific technology that would change those -- the signals, preempt the signals so they were red in all directions to allow the emergency vehicles to go through. I believe we applied both stated preference and revealed preference methodologies in that case as well.

There's a couple that come to mind as I sit here in the patent realm.

Q. (By Mr. Howard) Okay. Can you take a look at your declaration at paragraph eight?

A. Okay. I'm there.

Q. Okay. Go ahead and take a moment just to read paragraph eight and just let me know when you're done.

A. Okay. I've read it.

Q. And looking at paragraph eight, this recites your understanding of what the patented method in this case is, correct?

A. I think that's part of it. I would refer to the rest of the report for completeness. There are other paragraphs that talk about the improvement in the recitation specific order of construction. For example, in paragraph seven.

I believe there's also in paragraph nine a discussion of the advanced design allows you

to install hangers before the drywall is attached. So there are other discussions, but I think eight is certainly one of the paragraphs where I discuss my understanding and assumptions regarding the '339 patent.

Q. Okay. And how did you come to this understanding in paragraph eight and the other paragraphs in your declaration?

MR. KRIEGER: Object to form.

A. So if you look at -- sorry, Mr. Krieger. Tried to give you a chance there.

If you look at the footnote one, which is on this entire introduction and background section, it specifically talks about conversations that we had with Mr. Alley and Mr. Kaczkowski and then looking at the legal -- the legal documentations, you know, and other expert opinions like Dr. Serwin, all -- I drew from all of those in summarizing my understanding and assumptions regarding the patent.

Q. (By Mr. Howard) Okay. Let's take a look at the penultimate sentence of paragraph eight. That begins I further understand -- and it reads (quote as read):

I further understand this method is an

improvement over prior construction methods as prior construction methods required installation of gypsum wallboard before the installation of hangers.

So is it your understanding that prior to the claimed invention here there were no construction methods whereby gypsum board could be installed after installation of the hangers?

MR. KRIEGER: Objection, form.

A. So I think that's a technical topic. So I wouldn't render an opinion in that regard, but my understanding is that in order to preserve the fire rating of the wall, the two pieces of five-eighths gypsum board need to be intact and underneath the hanger.

My understanding was -- I don't know if there's -- I would have no basis to say there was no other way to achieve that, but my understanding was that the method that was used prior to the invention had either tried to notch it to fit around the hanger or it -- the sequence was a problem, that you know, you couldn't install the hanger until the gypsum board was there, but you didn't want to have the gypsum board in and exposed to the elements

while you're trying to dry in the building.

So my understanding is that the unique aspect of this particular patent was that it allowed for that, the sequencing that is identified in the surveys, for example, and by Mr. Kaczkowski as highly desirable, but that sequencing is what made the difference.

Q. (By Mr. Howard) Okay. Let's turn to paragraph 11 of your declaration.

A. Okay.

Q. In paragraph 11 the last sentence reads (quote as read):

> Based on my analyses and the totality of evidence reviewed in this matter (including survey results and declarations submitted by construction professions) the invention claimed in the '339 patent represents primary driver of economic demand for products that incorporate the invention claimed in the '339 patent.

And so you describe in that sentence the invention as a primary driver of economic demand. Are there other -- are there other primary drivers of economic demand related to these types of

products?

MR. KRIEGER: Objection, form.

A. There may potentially be other drivers. I did not identify in my research and analysis and investigation anything that was a more significant driver than this particular aspect, but I didn't do the analysis to eliminate every other potential driver of the success, the commercial success.

Q. (By Mr. Howard) Okay. Did you identify any other drivers of commercial success?

MR. KRIEGER: Objection, form.

A. None that I specifically quantified and researched, no.

Q. (By Mr. Howard) Okay. You said none that you specifically quantified and researched. So you -- does that mean that you identified them but you did not quantify them or do further research on them or that you just did not identify any other drivers?

MR. KRIEGER: Objection, form.

A. Well, I think conceptually there certainly could be things like Dr. Serwin identified that the brand reputation might potentially play in here. But because of the overwhelming difference and distinction between those products that practice

the invention and those that don't.

All of those others that -- that he identified and that, you know, just from an intuitive standpoint could potentially matter, were all very insignificant relative to this. So -- and many of them would conceptually work the other way around.

Like if Simpson's brand reputation, brand loyalty, installed customer base, if those really were influencing the performance here, we can observe what happens when that is in place by looking at the price differential and the unit comparisons of sales.

And that's given the existence of those other drivers, which would tend to dampen the commercial success that we observe. So I didn't go out and potentially to -- to quantify any of those other potential factors because in my analysis and estimation they all would either work the other way, so they've already dampened it, or they would be insignificant.

Q. (By Mr. Howard) Do you know if Mr. Alley identified any other potential primary drivers of -- of demand?

MR. KRIEGER: Objection, form,

foundation.

A. I did not observe that he had identified any other ones in his survey work. Is this a good spot to take our first break, maybe just five minutes?

MR. HOWARD: Oh, yeah, that would be perfectly fine.

(WHEREIN, a recess was taken from 9:58 a.m. MDT to 10:08 a.m. MDT.)

Q. (By Mr. Howard) Mr. Duncan, if you had identified any other primary drivers, how, if at all, would that have changed your analysis?

MR. KRIEGER: Objection, form, incomplete hypothetical.

A. I'm not sure how to answer that being what we identified was a primary driver and as I said in my analysis I did not see any other factor that appeared to be more significant.

And as a matter of fact, most of them actually would have served to dampen the commercial success that we observe for the products that are utilized -- utilizing the '339 patent feature.

Q. (By Mr. Howard) Okay. Can you turn to paragraph 18 of your declaration?

A. Okay. I'm there, sir.

Q. Okay. In the first sentence of paragraph 18 you state that you reviewed the findings of a survey conducted by Mr. Alley; is that correct?

A. Yes, sir.

Q. And --

A. I'm not sure if anyone else is hearing it, but your audio is notably lower than it was before the break. I'm not sure -- I can hear you, but just barely.

Q. Hang on.

(WHEREIN, a discussion was held off the record.)

Q. (By Mr. Howard) So let me go back to my question. Did you review Mr. Alley's -- you said you reviewed -- strike that.

In the first sentence you say you reviewed the findings of the survey conducted by Mr. Alley, and reviewing your paragraph 18 here, do you have a better recollection of whether you reviewed the actual survey or just the findings as identified in his declaration?

MR. KRIEGER: Objection, form.

A. Yeah, that doesn't bring any more clarity to what I've testified to previously. I

recall seeing something more than what is in the declaration, but I just don't recall the format in which we received it.

Q. (By Mr. Howard) Okay. Does your declaration have any references to the survey itself versus Mr. Alley's declaration as far as you can tell?

MR. KRIEGER: Objection, form.

A. I would have to --

Q. (By Mr. Howard) Yeah, to clarify, does your declaration contain any citations to the survey, Mr. Alley's survey versus citations to his declaration as far as you can tell?

A. Yeah, as I sit here I only see footnotes referencing the declaration. It's possible. I'd have to go through my declaration more comprehensively to rule it out, but it certainly is the case that I'm referencing the declaration in numerous different instances rather than the underlying survey instrument.

Q. If you had reviewed the underlying survey instrument, do you think you would have included a citation to the instrument -- that instrument itself in your declaration?

MR. KRIEGER: Objection, form.

A. Not -- not necessarily because what I'm relying on, I specifically point to the discussion that he has in his declaration. That -- that is the piece that I'm relying on, each from the footnotes that I --

(Court reporter interruption.)

A. The information that I specifically rely on that I'm pointing to the declaration.

Q. (By Mr. Howard) Can you recall if there was an appendix C to Mr. Alley's declaration?

A. I don't have a recollection of that as I sit here. Certainly possible. Couldn't rule it out.

Q. Okay. I'm going to continue to try to test your recollection here. Let's look at paragraph 20 of your declaration.

A. Okay. I'm there.

Q. Okay. On paragraph 20 you state that the main findings -- you state that the main findings of Mr. Alley's survey are -- or you identified them in the following paragraphs, 20 through 24; is that correct?

MR. KRIEGER: Objection, form.

A. That's correct. I identify the main findings as more detailed in the Alley declaration

key findings sections, paragraphs 22 through 26 of his declaration.

Q. (By Mr. Howard) And then in paragraphs -- in paragraphs 20 through 24 of your declaration are quotations from Mr. Alley's declaration; is that correct?

A. Yes, that is correct.

Q. Does looking at paragraphs 21 through 24 of your declaration help to refresh your recollection at all as to whether or not you looked at Mr. Alley's actual survey?

A. No, this wouldn't tell me one way or the other. Just summarizing the main findings and I'm pointing to the key findings section where Mr. Alley summarized his key findings.

Q. Okay. So let's look at paragraph 24 of your declaration. And that's a quotation from Mr. Alley's -- Mr. Alley's survey, correct?

A. It is. With a correction, yes.

Q. Right. And that paragraph 24 reads, quote (quote as read):

> And six, a majority of construction professionals indicate that they're willing to pay more for (or request/specify at a higher cost) joist

hangers which can be installed prior to drywall installation.

My question is are you aware of whether Mr. Allen asked the same question about factors other than the ability to install the joist hanger prior to drywall installation?

MR. KRIEGER: Objection, foundation.

A. So I may have tainted your -- your reference. It's Mr. Alley. I think you said Allen this time.

Q. (By Mr. Howard) Mr. Alley, yes, that is correct. Sorry.

A. But with that modest correction to the question, I don't know that he asked on a willingness to pay on other attributes. My recollection is he only asked of this particular attribute.

Q. Okay. Let's turn to the next paragraph, paragraph 25 of your declaration.

A. Okay. I'm there.

Q. And there I think the first sentence, you state (quote as read):

As per the Alley survey, 79 percent of survey respondents identified the installation of the FWH hanger before

the drywall as making them more likely to purchase, request to purchase, or specify the FWH.

My question is are you aware of whether the Alley survey asked whether respondents would be more likely to purchase, request to purchase, or specify the FWH hanger because of -- because the penetration through gypsum wallboard will not reduce fire resistant rating of the two-hour wall assembly?

A. I don't recall specifically if he asked that or not.

Q. Assuming that Mr. Alley did ask a question in his survey regarding whether respondents would be more likely to purchase, request to purchase, or specify an FWH hanger due to an attribute other than the ability to install the hanger before the drywall, would that be something that you would want to know in conducting your stated preference analysis?

MR. KRIEGER: Objection, form, incomplete hypothetical.

A. Again, I have a rough recollection that he did ask upon other topics than just the sequencing. I don't recall all of them specifically, but I know he did ask about those.

But again, for our purposes of using stated preference in combination with revealed preference, which is very important to not rely on strictly stated preference, it needs to be augmented with revealed preference data, the totality of that evidence is quite clear that a primary driver is the sequencing.

So it doesn't -- it wouldn't bother me if he did ask what that response would be because we can see that 80 percent nearly, 70 percent of people on the Simpson side, said that that attribute influenced their -- the desirability of the product.

Q. (By Mr. Howard) Okay. Well, on that -- on that point, you just mentioned that later in paragraph 25 the Alley survey says that (quote as read):

> 70 percent of respondents have indicated that they're likely, more likely to purchase, request to purchase, or specify the Simpson product given the sequencing of the drywall installation that was enabled by the product in question.

And my question is are you aware of whether Mr. Allen -- or the Alley survey also asked

whether respondents would be more likely to purchase, request to purchase, or specify products that could be installed with a -- with a power nailer?

A. I don't recall specifically. Again, I do recall there were some other questions that were posed about the importance of likely to purchase. I don't recall what those were specifically. So as I sit here without you putting the survey in front of me I couldn't tell you whether or not that question specifically was asked.

Q. Okay. Let's turn to paragraph 27 of your declaration.

A. Okay. I'm there.

Q. And here I believe you start to discuss Simpson correspondence starting back in 2014; is that correct?

A. I do.

Q. And then I believe in paragraphs 28 through 35 of your declaration you have quoted excerpts from different pieces of Simpson correspondence; is that correct?

A. That is correct.

Q. Is the correspondence that's quoted in paragraphs 28 through 35 the only Simpson

correspondence that you reviewed in forming your opinions?

A. I don't believe so. I believe these were some representative instances that were contemporaneous to the important time period. I believe we did look at other correspondence during that window.

Q. Do you recall what other correspondence you reviewed during that window?

MR. KRIEGER: Objection, form.

A. I don't -- I don't know as I sit here, but it, again, was internal -- internal correspondence is my recollection inside of Simpson.

Q. (By Mr. Howard) Okay. Were you provided just a set of correspondence to look at and you could choose which pieces that you would include or not include in connection with your -- your declaration?

A. I don't recall explicitly how it worked in this case, but our general practice is we're provided access to typically a relativity database, and we can search inside of that relativity database for -- on different terms and apply different filters. My recollection is we did that in this case. We did have access to a broader dataset, and

we applied search terms. That's my rough recollection of this case.

Q. Would Dr. Frank have a -- would you say have a better recollection of how you identified correspondence to use in the declaration?

MR. KRIEGER: Objection, form, foundation.

A. No, I don't believe so. We would have done that together in any event, so I don't think he would -- I certainly don't think his memory is any better than mine. So I don't think he would have any better recollection.

Q. (By Mr. Howard) Now let's talk about some of these pieces of correspondence just for a few minutes. In paragraph 28 you say (quote as read):

It is a November 14 discussion between multiple Simpson employees regarding the benefits of the MiTek firewall hangers over Simpson's own products.

Do you recall who the employees were who were involved in this conversation?

MR. KRIEGER: Objection, form.

A. Not -- not comprehensively, but I believe this is referenced in a Henson deposition,

so I believe that Henson was one of the employees. But I didn't commit to memory who all of those employees were. We referenced the Bates number so that you could identify them. We can certainly pull that up and take a look at who those individuals are if that's helpful.

Q. (By Mr. Howard) Well, do you know who wrote this quote?

MR. KRIEGER: Objection, form, foundation.

A. I didn't commit to memory which verbiage was attributable to which participant in that e-mail chain.

Q. (By Mr. Howard) Did you make any effort to try to confirm in some -- or in any way that what's being discussed here in this paragraph that those events actually occurred?

MR. KRIEGER: Objection, form.

A. I'm sorry, just for clarification you're asking whether or not I did anything to independently verify this was an authentic e-mail correspondence between the parties at that time?

Q. (By Mr. Howard) Well, I think the -- well, let me clarify. Well, for instance, it says (quote as read):

I had a long discussion with the ProBuild MF framing division yesterday, got some pretty good info for USP's new drywall hanger has some major advantages over ours --

(Court reporter interruption.)

Q. (By Mr. Howard) (Quote as read): Got some pretty good info. First, USP's new drywall hanger has some major advantages over ours for the framers. And you've bolded that sentence. So I guess my question is did you do anything to confirm that a conversation with ProBuild MF framing took place?

MR. KRIEGER: Objection, form.

A. No, I assume that the e-mail correspondence contemporaneously between Simpson personnel was authentic and factually accurate. That's my assumption.

Q. (By Mr. Howard) Let's move on to paragraph 30. It says (quote as read): January 16 discussion between several Simpson employees discussing the use of MiTek's FWH hangers instead of Simpson's hangers.

Do you have a recollection of who wrote this e-mail?

MR. KRIEGER: Objection, form. I'm going to object to this line of questioning as harassing. These are quotes from -- or excerpts from documents produced by Simpson, and you're asking him to testify about the documents without having the documents in front of him and I don't think that's fair to the witness.

MR. HOWARD: If he doesn't, that's fine.

MR. KRIEGER: Okay. I just want it on the record that he does not have these in front of him, so that's all. He can answer if he's able to.

A. I think you may have muted yourself. Just before I answer, are you good? Say something, Counsel.

Q. (By Mr. Howard) Okay. Great. Okay?

A. You cut -- you cut out there for a minute. So I don't have a specific recollection of who authored this particular sentence, quote out of an e-mail. But again, it was an exhibit in Henson's deposition, so my assumption was that Henson was in that chain. But again, I did not commit to memory who authored each one of the excerpts.

Q. So the quote says (quote as read):
See below for USP swooping a job due to the FWH. I don't know more details yet, but I have asked Kent to get more details from Mark in how this went down.
So do you have -- strike that.
You did read the entire e-mail when you -- in connection with preparing your declaration, correct?
A. I did.
Q. Okay. And with respect to this particular -- with respect to this particular e-mail, did you have any discussions with anyone at MiTek concerning the quote-unquote USP swooping a job done -- swooping a job due to the FWH?
A. I don't recall specifically asking on that topic in any of my conversations with MiTek people.
Q. Do you recall having any conversations with anyone at MiTek concerning MiTek being able to have a specification moved from the -- from a Simpson specification to an FWH specification on a job, any job?
MR. KRIEGER: I'm going to object to

the extent it calls for any attorney-client privileged communications or work product that he did not rely on for the purposes of this report. I'm going to object to form, and to the extent that the witness can answer I'll allow them. I also want to object that it's not relevant. It's outside the scope of the declaration. Go ahead if you can.

A. I didn't have any conversations with any of the MiTek folks that related to that topic that I relied on for purposes of this declaration.

Q. (By Mr. Howard) So let's move on to paragraph 31 then. Looking at -- this is a February 2016, says further internal communication -- I'm sorry, strike that.

Paragraph 31 says in the introductory paragraph (quote as read):

> February 16. Further internal Simpson discussion about a Simpson customer specifying MiTek's FWH hanger over the then existing Simpson hangers.

And then we have the quotation. So I wanted to just ask you about the sentence that begins (quote as read):

> The fire rating USP has for the FWH has been pretty easy for me to explain away

with engineers and why we don't need one, but it is being used against us in building departments and with contractors who are familiar with how the wall gets its fire rating or haven't had time to think it all the way through. I just wanted to give everyone my two cents.

So this issue of the fire rating related to the Simpson products and the issue that is raised about building departments having issue -- issue with Simpson's fire ratings, that is -- that is not part of the patented feature of the FWH product, right?

MR. KRIEGER: Objection, form.

A. Just so the record is clear, you had one minor misstatement when you read the quote, which I think matters. It was when you said contractors who you said are familiar and the quote is aren't.

Q. (By Mr. Howard) Aren't familiar.

A. So just so that -- trying to keep a clean record here.

Q. Yes.

A. So what you're -- what you're referring

to is this particular aspect on the fire rating, and I would defer to Mr. Kaczkowski on what is all covered by the patent. But my assumption is that it's the method is what the operating understanding we're using in my declaration, not the fire rating specifically. It's just a method of installation. So my understanding and my assumption is that's not part of the '339 method claim.

Q. In connection with preparing your declaration and actually using the approach -- or I'm sorry, the approaches we discussed earlier, did you take into account the -- the geographic locations of where firewall hangers and Simpson's products are being used and being specified?

A. We didn't disaggregate the -- the stated preference data doesn't have the disaggregation, and the revealed preference analysis we did not introduce a segregation down to geography or the relative sales performance. So I would say it's not done at that level of granularity by particular region or city.

Q. Okay. The first sentence in this -- in this quote that you have says in the southeast sequencing is the number one issue.

(Court reporter interruption.)

Q. (By Mr. Howard) The first sentence in the quote on paragraph 31 is (quote as read):

In the southeast sequencing is the number one issue.

My question is after reading that -- that portion of the e-mail, did you consider whether or not you should conduct your analysis based on the geographic locations of where the parts are being specified in use?

A. No. There's nothing in there that says it's not the number one issue or very significant issue in other areas. It just says that in the southeast in particular it's the number one issue.

My understanding from reviewing the survey data is that that sequencing is, if not the number one, a very significant issue, and I wouldn't anticipate that the disaggregation down to regions or cities would have any different implication, so we didn't look at it.

Q. At paragraph 32 of your declaration I'm looking at the -- I'm going to ask you a question about the quotation at the top. I'm sorry, top of the next page, just above 33, it says if engineers -- the quotation reads (quote as read):

If engineers are specifying the USP FWH

hanger on projects that are otherwise Simpson spec, then my concern is it may open the door for them to allow other USP products.

Did you have -- my question is did you have any discussion with MiTek regarding whether or not the FWH hanger product was being spec'd on projects that were otherwise specified to use Simpson products?

MR. KRIEGER: Objection to the extent it calls for any attorney-client privileged communications or work product that he did not rely on for purposes of this report. Otherwise, the witness can answer.

A. Yeah, no conversations that I relied on for the preparation of the declaration.

Q. (By Mr. Howard) Would it have been irrelevant for your analysis if USP products were being specified on projects that were otherwise specified to use Simpson products?

MR. KRIEGER: Objection, form.

A. No, I think it -- I think it could potentially even be additional evidence, confirmatory of my conclusion that consumers were going out of their way to identify and source this

product even though it was outside of the traditional supply chain that they were using.

And it may potentially have impacts on a damages quantification, but here I think it was already obvious that a primary driver was the sequencing method. The fact that they may be being substituted in in instances where the rest of the hanger products or other construction supplies were coming and being sourced from Simpson, that just -- I think just adds -- adds to this -- the conclusion and the implications, but was not necessary.

Q. (By Mr. Howard) Turning to paragraph 36 of the declaration.

A. Okay. I'm there.

Q. Okay. The last sentence of paragraph 36 you state (quote as read):

> Simpson then responded to the commercial success of the FWH hanger by developing a product that also featured the invention of the '339 patent.

What are you basing this statement that they developed a product that also featured the invention claimed in the '339 patent?

A. Based on my conversations with counsel and more particularly with Mr. Kaczkowski. We have

the assumption that I expressly lay out earlier in the report that the DG, DGF, and DGT products all practice the claimed invention. That's a technical conclusion by Mr. Kaczkowski, not an opinion I'm rendering, but an assumption I've made.

Q. Okay. Why don't we turn to section B of your declaration, the application revealed preference analysis to the invention claimed in the '339 patent.

A. Starting at paragraph 45? I'm there.

Q. Correct. Yeah. And let's take a look at paragraph 47. Your first sentence there says (quote as read):

> As set forth in figure one below the commercial success of products that embody the invention claimed in the '339 patent over the product that does not embody the invention claimed in the '339 patent is relevant -- is readily apparent.
>
> And then you have this chart in figure one. And it has the dotted line there in that figure one are sales without the claimed invention and then the solid redline are the sales with the claimed -- with the claimed invention; is that

correct?

A. That is an accurate summary of that figure.

Q. Okay. And so the sales of products with the claimed invention, those include -- does that include -- does that include sales of FWH product and products -- the Simpson products that are asserted to practice the invention? So is that combined?

A. Yes. Yes, to be clear, it's the FWH and then depending on the time period it adds in the DG, the DGF, and the DGT. Those are occurring during -- during different windows, but that line captures across that time period both the FWH and whatever iteration of Simpson's DG product that was being sold at that time.

Q. Did you prepare any figures that showed just sales of the FWH compared to the -- I guess to products that do not practice the patented method?

A. I'm sorry, ask that question again. I lost you in the middle there.

Q. Okay. Sorry about that. Try to clarify.

Did you prepare any figures that would show the sales of the FWH, which supposedly practice

the claimed invention, versus products that do not practice the claimed invention, such as the DU?

A. I did not prepare a chart. Again, for this report I did not prepare a chart that only compared MiTek's application of the '339 against Simpson's product, the DU product that doesn't and has never -- my understanding been alleged to have included the claimed patent. I didn't limit the products using the '339 patent to only MiTek's.

Q. Why did you not do that?

A. Because the purpose of this comparison is to understand the commercial success of products that utilized claimed invention. So to reach that conclusion you need to look at all products that utilize the claimed invention.

Q. Okay. Simpson's practice of the claimed invention is in dispute, correct?

MR. KRIEGER: Objection, form.

A. I think that would depend on which iteration. I think some -- certain of the products, like the DGF product, my understanding was -- or maybe it was the DG, was specifically there was a settlement agreement reached and they pulled it from the market based on the allegation by MiTek that it used the claimed invention. So certain of them I

think are disputed. Others I think are not.

Q. (By Mr. Howard) Why wouldn't -- why wouldn't it have been useful to have a figure that just shows the -- the MiTek product that practices the claimed invention versus a product which is the DU that does not practice the claimed invention since there is no dispute with respect to really -- no dispute with respect to the MiTek product as to whether or not it practices the claimed invention?

MR. KRIEGER: Objection, form.

A. My understanding in the use of this is we're trying to understand what is the commercial success of the claimed invention. So ultimately technical experts or the trier of fact will conclude what products are in -- using that claimed invention and which ones aren't.

But I think it would distort the picture to have sales of products that are alleged to have infringed on the claimed invention, it would distort the FWH because there are other products out there that achieve the same ends that you would be excluding from the -- from the chart.

So I think you would distort the picture. Again, I'm not opining on whether they're in or out, but my assumption is that they are

practicing the claimed invention. So for purposes of determining commercial success in order to not taint that line, you need to include them.

Q. (By Mr. Howard) Okay. Let's turn to paragraph 49. And at paragraph 49, the last sentence of that paragraph states (quote as read):

> The market share of products that embody the invention of the '339 patent increased approximately 53 percent in 2014 to approximately 88 percent in 2020 and then leveled out at approximately 86 percent through 2023.

And then you have a figure two here with the green line showing sales of products that supposedly practice the claimed invention and sales of products that do not practice the claimed invention. And the products that do not practice the claimed invention, the only product that you're showing is the DU, was that correct? Sale of the DU.

A. The Simpson DU product, that's correct.

Q. Okay. And the green line includes both the FWH product and then Simpson products that are alleged to practice the claimed invention, correct?

A. Correct, specifically the DG, DGF, and

DGT depending on the time period are added to the FWH to comprise the line of products with the claimed invention.

Q. And you didn't prepare a figure that shows just the sales of the FWH versus the DU product, correct?

A. Correct. For the same reasons we discussed on figure one.

Q. Do you have some idea what that chart would look like in terms of the -- essentially the sales of those products or just -- just the FWH and just the DU?

MR. KRIEGER: Objection, form.

A. I don't, and again, I think that would not accomplish the objective of understanding the commercial success of the claimed invention. As we discussed before on figure one, all the same caveats here that the trier of fact will conclude.

It's a technical issue. But for my purposes, I'm assuming that that is accurate and that is the basis by which to understand relative success of the claimed invention to products that do not have the claimed invention.

Q. (By Mr. Howard) If the -- if you had a figure that was just the FWH and just the DU and

those green and orange lines were closer in that -- in such a chart, would that tend to indicate potentially that there are other factors that were driving the success of the -- you know, the FWH product versus a DU product?

MR. KRIEGER: Objection to form.

Q. (By Mr. Howard) I'm sorry. I'm sorry. Other than -- other than the patented method?

MR. KRIEGER: Objection, form, incomplete hypothetical. Go ahead.

A. Yeah, so I haven't done that analysis, but that chart, it would -- it would not include another significant player in the market and another item that was being utilized to achieve the same end, the sequencing.

So I don't think it would be informative. I think it would distort what's actually happening in this market. And importantly here we're including what I understand to be all of the relevant products in this market, it's really those offered by MiTek and Simpson based on my conversations with Mr. Nelson. So this is the market.

I think this is informative and meant to elucidate the notion of products that are alleged

to infringe on the claimed '339 patent, how do they perform relative to products that -- no one disputes the DU product does not have any of the claimed patent infringement in it.

So I think this chart is really informative on that notion of a product that clearly doesn't have it compared to all of the other products in the market, which I understand is an allegation, is a technical issue. But my assumption is for purposes of my declaration, my assumption is they all practice the claimed invention other than the DU product.

Q. (By Mr. Howard) Let's move on to paragraph 51 of the report.

A. I'm there.

Q. Okay. So here you have in paragraph 51 you state that (quote as read):

> The analyzed data shows Simpson priced products that practiced the claimed invention in the '339 patent and that they are sold at a relative premium compared to products that do not practice the '339 patent.

And that would be the DU product; is that correct?

A. Correct. This is Simpson's suite of products.

Q. Okay. Did you do any comparison between the price of the Simpson products that allegedly practice the -- the claimed invention and the price of MiTek products that practice the claimed invention?

A. I didn't. For purposes of this declaration it would not have been relevant. I'm not -- I'm not trying to understand the different pricing structure between the two. I'm trying to understand whether or not products of the claimed invention have a premium over those that do not. So I'm not looking intracompany. I'm looking at intra-product.

(Court reporter interruption.)

Q. (By Mr. Howard) Turning to paragraph 52, it says during 2018 to October -- through the October '23 time period it says that (quote as read):

> Simpson's products that practice the claimed invention have approximately a 58 percent market share of the two-hour fire-rated firewall hangers.

How did you arrive at that -- at that

approximation of Simpson's market share?

A. By quantifying Dr. Serwin's data during that time period of Simpson versus MiTek and then the relative proportions. That's average over that time period.

Q. Okay. And then you say in that same sentence (quote as read):

While I understand Simpson's --
Simpson's has a roughly 85 percent market share in structural connectors.
How did you arrive at that 85 percent number?

A. I don't recall if we saw that in a pleading or Dr. Serwin's report. I don't recall where we saw that, but as I say there, that's just my understanding. I didn't do an explicit computation of that 85 percent market share.

Q. Okay. Going back to the 58 percent market share, you attributed it to Dr. Serwin's data. I don't see any reference in your declaration to where you pulled that 58 percent market share from.

MR. KRIEGER: Objection, form.

Q. (By Mr. Howard) Let me ask you a question. Is that correct? Is there a reference in

the declaration that tells us where you got the 58 percent market share?

A. I believe we referenced earlier, we referenced to Dr. Serwin's information in his report as all of the quantifications done in section B that says footnote 28. (Quote as read):

> My analysis in this section, referring to B, the entire section, is based on data relied upon by Dr. Serwin in his February 2025 report.
>
> And then it goes on from there. I specifically referenced that all of the computations in that section are from the data in his report.

Q. So if we look at Dr. Serwin's report we should see the 58 market share in the two-hour firewall -- fire-rated firewall hangers, correct?

A. Again, it's based on his data. I don't know that he does that computation, but it's based on the data that's in his report. So if you look in his appendices and you calculate all of the sales of firewall hangers for the products that we've identified that are DG, DGF, DGT on Simpson's side and FWH on MiTek's side, sum them up, calculate the average percentage of each of their sales across that entire time period, you come up with a

58 percent.

Q. And is the same true regarding the 85 percent total market share in structural connectors?

MR. KRIEGER: Objection, form.

A. No, just -- sorry, Mr. Krieger. As I testified to earlier, that's just based on my understanding, and I don't -- I didn't do a specific computation. I believe I read it or -- in a pleading or -- I just can't remember. But that was specifically demarcated as an understanding, not a computation.

Q. (By Mr. Howard) Okay. So sitting here today right now, you cannot identify where you saw the 85 percent market share number referable to structural connectors; is that correct?

MR. KRIEGER: Objection, form.

A. I don't recall as I sit here where I gained that understanding.

MR. HOWARD: Okay. Let's take a break and come back in about ten minutes.

(WHEREIN, a recess was taken from 11:09 a.m. MDT to 11:19 a.m. MDT.)

Q. (By Mr. Howard) Mr. Alley, during the break -- I'm sorry, Mr. Duncan, during the break did

you talk with anyone about the substance of the deposition?

A. No.

MR. HOWARD: All right. I have no further questions. I pass the witness.

MR. KRIEGER: I don't have any questions and we reserve the right to read and sign.

COURT REPORTER: Counsel, I apologize for the exercise. Mr. Howard, other than receiving the realtime feed and the rough that we will send you, an electronic normal delivery of the final is okay?

MR. HOWARD: I believe that's correct, yes.

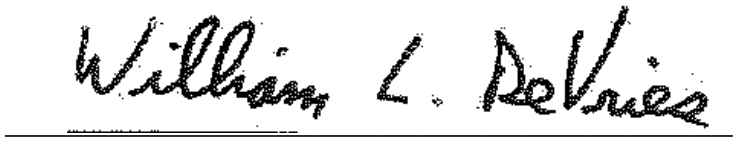
COURT REPORTER: And Mr. Krieger, the realtime feed and electronic delivery of the final. Do you need a rough e-mailed to you after the deposition?

MR. KRIEGER: I don't believe we need a rough e-mailed to us. Thank you.

(Ending time of the deposition: 11:20 a.m. MDT.)

CERTIFICATE OF REPORTER

I, William L. DeVries, a Certified Court Reporter (MO) (AR) (KS), Certified Shorthand Reporter (IL) (IA), licensed in [TN], Registered Diplomate Reporter, and a Certified Realtime Reporter, do hereby certify that the witness whose testimony appears in the foregoing deposition was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



William L. DeVries

Certified and Licensed Court Reporter in

(IL)(MO)(AR)(IA)(KS)(TN)

Errata Sheet

NAME OF CASE: Simpson Strong-Tie Company vs Columbia Ins. - 07-31-25 - Dwight J. Duncan

DATE OF DEPOSITION: 07/31/2025

NAME OF WITNESS: Dwight J. Duncan

Reason Codes:

1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

From _____ to _____

_____

1

10:08
41:9
11
38:9,11
11,920,339
6:4
11:09
73:23
11:19
73:23
11:20
74:21
13
15:1
14
51:17
15
25:6
16
53:22 56:17
18
15:13 41:24
42:2,19

2

20
25:6 44:16,
18,21 45:4
200
6:16
2000
26:24
2014
49:16 66:10
2016
56:13
2018
70:18
2020
66:11
2023
66:12
2024
19:11
2025
17:6 19:21
72:10
2055
14:3,7,16,
17,19,22
15:5
21
45:8
22
45:1
23
70:19
24
44:22 45:4,
9,16,20
25
46:19 48:15
250
6:16
26
45:1
27
49:12
28
9:22 49:19,
25 51:15
72:6
29
24:6

3

30
9:9 28:13
53:21
31
56:12,15
59:2
32
15:13 59:20
33
59:23
339
6:9 16:3,7,
13,16,25
31:8 32:16,
24 36:4
38:18,21
41:22 58:8
61:20,23
62:9,17,19
64:5,9 66:8
69:1,20,23
35
26:15,17
49:20,25
36
61:13,16
360-degree
34:17

4

40
9:9
45
8:17 62:10
47
62:12
49
24:5 66:5

5

51
69:14,16
510
19:25
52
70:18
53
66:9
55
14:14
58
70:23 71:18,
21 72:2,15
73:1

7

70
48:10,17
79
46:23

8

80
22:1 48:10
85
71:9,11,17
73:3,15
86
66:12
88
66:10

9

9:00
5:13
9:58
41:9

A

a.m.
5:13 41:9
73:23 74:21
ability
46:5 47:16
able
31:14 54:14
55:21
above
59:23
accept
15:4
acceptance
33:1
access
50:21,25

accomplish
67:15
account
58:12
accurate
53:18 63:2
67:20
achieve
37:19 65:21
68:14
across
63:14 72:24
actual
15:10 17:25
18:4 42:21
45:11
added
67:1
additional
60:23
addressed
19:24
adds
61:10 63:11
advanced
35:25
advantages
53:5,10
affirm
5:14
afterwards
5:6
age
5:11
AGREED
5:1
agreement
64:23
agrees
9:8
ahead
6:8 9:11
24:20 35:12
56:7 68:10
allegation
64:24 69:9
alleged
64:7 65:18
66:24 68:25
allegedly
70:5
Allen
20:11,16
46:4,9 48:25
Alley
20:16,18,20
21:6,15,20
22:5,15
31:5,13,24
32:6 36:15
40:23 42:3,
19 44:25
45:15 46:9,
11,23 47:5,
12 48:15,25
73:24
Alley's
11:7,15
17:5,6 19:7
42:15 43:6,
12 44:10,20
45:5,11,18
allow
35:3 56:5
60:3
allowed
38:3
allows
35:25
analyses
9:17,24
27:17,18
32:22 33:4
38:13
analysis
28:2 29:3,
10,13,23
30:13,24
32:11 39:4,7
40:18 41:12,
17 47:19
58:17 59:7
60:18 62:8
68:11 72:7
analytical
28:19 30:20
analyze
28:3,18 34:1
analyzed
69:18
annotation
15:5
annotations
14:1
answer
6:22 7:23,25
16:22 21:12,
13 23:1,5
31:19 41:15
54:14,16
56:5 60:14
answered
6:23
answers
7:1
anticipate
59:17
anybody
26:1
anyone
9:1 20:3,8
22:14 42:7
55:14,21
74:1
Apologies
34:13
apologize
74:8
apparent
62:20
appeared
18:22,23
41:18
appendices
13:5 72:20
appendix
44:10
application
62:7 64:5
applied
33:10,15,19
34:4,19 35:5
51:1
apply
28:23 31:14
50:23
approach
28:6,14,21
30:7,11,24
31:15 32:1,
12 33:15,20
34:9 58:10
approaches
28:20 29:7,
8,15,18
30:17,20
31:9 34:1,20
58:11
appropriate
29:20
approximately
66:9,10,12
70:22
approximation
71:1
areas
59:12
around
22:1 23:8
37:21 40:7
arrive
70:25 71:11
asked
46:4,14,16
47:5,10
48:25 49:11
55:4
asking
28:8 29:25
52:20 54:7
55:17
aspect
38:3 39:6
58:1
assembly
47:9
asserted
63:8

associated
32:23 33:21
assume
7:5,7,8
53:16
assuming
47:12 67:20
assumption
53:19 54:23
58:3,7 62:1,
5 65:25
69:9,10
assumptions
16:23 36:4,
19
attached
13:5 36:1
attorney-client
7:21 16:19
21:9 23:2
31:17 56:1
60:11
attributable
52:12
attribute
46:17 47:16
48:11
attributed
71:19
attributes
46:15
audio
42:8
augmented
48:4
authentic
52:21 53:18
authored
54:21,25
availability
29:17
available
29:2,15,22
average
71:4 72:24
aware
26:20 46:3
47:4 48:24

B

back
10:2 13:10
27:23 42:14
49:16 71:18
73:21
background
36:13
barely
42:10
base
40:9
based
32:22 38:13
59:7 61:24
64:24 68:21
72:8,17,18
73:7
basing
61:21
basis
37:18 67:21
Bates
52:3
Bay
34:1
bear
28:6
begin
6:22
beginning
20:6 27:24
28:7
begins
36:23 56:23
behalf
5:12
believe
8:19 11:12
13:2 15:12,
21 17:8
19:17,23
20:12 21:25
22:8 23:16
24:1 26:4,7
33:2 34:22
35:4,24
49:15,19
50:3,6 51:8,
25 52:1 72:3
73:9 74:13,
19
below
55:2 62:14
benefits
51:19
best
22:12 23:18
better
42:20 51:4,
11,12
bit
12:4 18:13
22:3,13 33:3
board
37:8,15,24,
25
body
15:17
bolded
53:11
bother
48:8
brand
39:23 40:8,9
break
41:4 42:9
73:20,25
brief
25:6
briefly
12:8 32:12
bring
42:24
broad
29:16,19
30:17,18
broader
32:20 50:25
brought
28:6
building
38:1 57:3,11
bunch
29:6
business
27:10

C

calculate
72:20,23
calculations
8:3
call
9:8,12 22:17
25:2
calls
7:21 16:19
21:9 23:1
31:17 56:1
60:11
cameras
34:16
captures
63:14
case
29:17 31:23
34:20,22
35:6,18
43:18 50:20,
25 51:2
cases
28:13 33:25
34:5
caution
14:24
caveat
28:7
caveats
67:17
cents
57:8
certain
10:11 16:23
21:23 64:20,

25
certainly
13:2 17:24 29:8 36:3 39:22 43:18 44:12 51:10 52:4
Certified
5:5
chain
52:13 54:24 61:2
challenged
6:8
challenging
6:4
chance
36:11
change
35:2
changed
41:12
changes
10:18 26:5
characterizations
29:5
characterize
25:23
chart
62:21 64:3,4 65:22 67:9 68:2,12 69:5
choose
50:16
chose
28:20,23
circumstances
29:17
citation
43:23
citations
43:11,12
cities
59:18
city
58:21
claim
58:8
claimed
37:7 38:17, 20 61:23 62:3,8,16, 18,23,25 63:5 64:1,2, 8,13,15,17, 25 65:5,6,9, 13,15,19 66:1,15,16, 18,24 67:3, 16,22,23 69:1,3,11,19 70:5,7,12,22
claims
16:7
clarification
29:25 52:19
clarify
43:10 52:24 63:23
clarity
42:25
classified
30:3
clean
13:21,24 57:23
clear
20:19 48:6 57:16 63:10
clearly
69:6
clogged
27:6
closer
68:1
collaborative
10:21,24 25:18,20,24
collaboratively
9:23 10:10
Columbia
14:22
combination
48:2
combined
63:9
come
17:1 30:9 34:7,18 35:7 36:6 72:25 73:21
comes
26:11
commercial
28:4 32:23 33:1,20 39:8,10 40:16 41:20 61:18 62:15 64:12 65:12 66:2 67:16
commit
25:11 52:2, 11 54:24
communication
56:14
communications
7:22,24 16:20 21:10 23:2 56:2 60:12
comparative
32:15
compared
63:18 64:5 69:7,22
comparison
64:11 70:3
comparisons
40:13
compensations
23:11
compete
24:17
complete
18:22
completeness
35:20
comprehensively
43:17 51:24
comprise
67:2
computation
11:11 71:17 72:18 73:9, 12
computational
13:7
computations
10:4 12:15 23:12 72:12
concept
30:19
conceptually
23:9 39:21 40:6
concern
60:2
concerns
13:14,16
conclude
65:14 67:18
concluded
32:23
conclusion
29:18 60:24 61:10 62:4 64:14
conclusions
11:8,17,23 12:6
conduct
29:23 31:25 59:7
conducted
17:6 42:3,18
conducting
47:18
confirm
14:8 52:15 53:12
confirmatory
13:18 60:24

confirmed 10:18
conjoint 29:10
connection 6:3 9:20 15:19 19:12, 21 20:4,9 21:6 22:5 23:14,21,25 27:18 33:5, 14 34:10 50:17 55:9 58:9
connector 32:21
connectors 27:20 71:10 73:4,16
consider 59:6
consistent 24:15
construction 27:19 28:10, 16 33:6 35:23 37:1, 2,8 38:16 45:22 61:8
constructs 29:9
consumers 34:2 60:24
contamination 34:6
contemporaneous 31:7 50:5
contemporaneously 53:17
content 11:17
context 16:4
continue 44:14
contractors 57:4,19
conversation 8:7,8,14 22:15 23:6, 21 24:25 30:19 31:23 51:22 53:13
conversations 36:14 55:18, 20 56:8 60:15 61:24 68:22
conveyed 18:9,18
copy 13:21,24,25 15:5
correct 6:5,6,12 7:17 10:7,18 11:3 14:8,19 15:3,8 19:8 24:2 26:14, 17,18,22 27:1 33:9 35:18 42:4 44:22,24 45:6,7,18 46:12 49:17, 22,23 55:10 62:11 63:1 64:17 66:19, 21,24,25 67:6,7 69:25 70:1 71:25 72:16 73:16 74:13
correction 20:17 45:19 46:13
corrections 26:5
correspondence 31:6 49:16, 22,24 50:1, 6,8,13,15 51:5,14 52:22 53:17
cost 45:25
counsel 5:2 8:13 16:17 17:1 22:15 54:17 61:24 74:8
count 6:15
couple 21:22 35:7
court 5:5,14 22:21 29:12 44:6 53:6 58:25 70:16 74:8, 15
covered 58:3
covers 16:13,16,25
create 34:16
customer 40:9 56:18
cut 54:19
CV 15:1

D

D-U-N-C-A-N 6:1
dairy 33:19
damages 33:24 61:4
dampen 40:15 41:20
dampened 40:20
data 8:3 10:3 11:2,10,24 13:15 17:13 18:21 29:17 48:5 58:16 59:15 69:18 71:2,20 72:9,13,17, 19
database 50:21,22
dataset 50:25
date 19:23 20:2
dated 19:11,21
day 10:13
December 19:11
decided 31:24
declaration 8:1,22 9:16, 18,20,25 10:6,7,16 11:3,7,12, 13,16,18 12:3,6,8,14 13:9,16,19, 21 14:1,3,6, 8,21 15:6,8, 11,16,17 16:8,24 17:5,7,15, 21,22,23 18:2,11 19:5,7,8,10, 12,18,22 20:5,9,24 21:3,7,11 22:6,24 23:7,15,25 24:11 25:8, 18 26:3,6 27:17,22 32:2,3 35:10 36:8 38:9 41:24 42:22

43:2,5,6,11, 13,15,16,19, 24 44:3,8, 10,16,25 45:2,5,6,9, 17 46:19 49:13,20 50:18 51:5 55:10 56:7, 10 58:5,10 59:20 60:16 61:13 62:7 69:10 70:9 71:20 72:1
declarations 38:16
defer 58:2
definitely 7:10 17:14
degree 16:5
delineate 9:24 10:21
delivery 74:11,16
demand 38:19,24,25 40:24
demarcated 73:11
departments 57:3,11
depend 64:19
depending 63:11 67:1
deposes 5:12
deposition 5:3,13,23 6:7,11 7:19 8:9,22 9:7, 12 11:6,21 13:1,14 51:25 54:23 74:2,18,21
describe 38:22
description 17:14
design 35:25
desirability 48:12
desirable 38:6
detail 16:24 18:11 19:5 22:3
detailed 44:25
details 8:8 24:7 55:3,5
determined 30:11
determining 66:2
developed 61:22
developing 61:19
Devries 5:4
DG 23:10 62:2 63:12,15 64:22 66:25 72:22
DGF 23:10 62:2 63:12 64:21 66:25 72:22
DGT 23:10 62:2 63:12 67:1 72:22
difference 38:7 39:24
different 12:4 28:19 29:7 43:19 49:21 50:23 59:18 63:13 70:10
differential 32:18 40:12
differentials 12:16
differentiate 30:19
digging 22:2
diminution 34:5
directions 35:3
director 27:3
disaggregate 58:15
disaggregation 58:17 59:17
discuss 8:7 9:14 11:16 22:18 24:10 36:3 49:15
discussed 10:25 12:11 21:19 27:17 52:16 58:11 67:8,17
discussing 12:8 31:8 33:5 53:23
discussion 32:2 35:25 42:12 44:2 51:17 53:1, 22 56:18 60:6
discussions 21:14 24:8, 14 36:2 55:14
dispute 64:17 65:7,8
disputed 65:1
disputes 69:2
distinction 39:25
distort 65:17,20,23 68:17
division 53:2
doctor 9:4
document 13:11 14:12 15:2 25:22
documentations 36:17
documents 8:4 11:1,5 12:25 13:13, 15 15:17,19, 25 54:6,7,8
doing 23:12
door 60:3
dotted 62:22
draft 9:18 25:17
drafted 9:25
drafting 11:2
drew 36:18
driver 28:3,18 32:25 38:19, 23 39:6,8 41:16 48:6 61:5
drivers 28:18 38:25 39:3,10,19

40:15,24
41:11
driving
68:4
dry
38:1
drywall
36:1 46:2,6
47:1,17
48:22 53:4,9
DU
64:2,6 65:6
66:19,20,21
67:5,12,25
68:5 69:3,
12,24
due
47:15 55:2,
16
Duncan
5:10,21,25
13:20 14:3
21:10 41:10
73:25
Dwight
5:10,25
14:20

E

e-mail
31:6 52:13,
21 53:16
54:2,22
55:8,14 59:6
e-mailed
74:17,20
earlier
33:3 58:11
62:1 72:3
73:7
easiest
9:5,13
easy
9:8 56:25
Econlit
26:2,22,24
27:2,12
economic
38:19,23,25
edited
10:12,23
editing
10:1 25:22
edits
26:10
effort
10:21,24
25:24 52:15
eight
35:10,13,16
36:2,7,22
either
37:21 40:19
electronic
74:11,16
elements
37:25
eliminate
39:7
elucidate
68:25
embarrassing
9:14
embody
62:16,18
66:8
emergency
34:25 35:4
employed
26:21
employees
51:18,21
52:1,3 53:23
enabled
48:22
end
10:13 68:15
ending
74:21
ends
65:21
engaged
31:13
engagement
8:6 20:21
21:1
engineers
57:1 59:24,
25
entire
36:13 55:8
72:8,25
environmental
34:5,6
Erick
5:22
err
14:23
essentially
67:10
estate
34:18
estimate
25:12,15
estimation
40:19
event
51:9
events
52:17
everyone
9:7 57:8
evidence
38:14 48:6
60:23
evidenced
31:8
exact
6:15 20:2
34:15
EXAMINATION
5:19
examined
5:11
Excel
18:14,19
excerpts
17:16,21,22
49:21 54:5,
25
excluding
65:22
exercise
74:9
exhibit
14:3,7,14,
16,17,22
15:5,11,12
54:22
exist
30:4
existed
23:10
existence
40:14
existing
56:20
expert
15:24 16:11
27:5 36:17
experts
65:14
explain
32:12 56:25
explicit
71:16
explicitly
16:11,24
50:19
exposed
37:25
expressed
13:19
expressly
5:8 62:1
extent
7:8,21 16:19
21:8 23:1
31:16 56:1,4
60:10
extracted
13:7

F

fact
41:19 61:6 65:14 67:18
factor
41:17
factors
40:18 46:4 68:3
facts
29:16
factually
53:18
fair
16:15 28:22 54:9
fairly
15:24
familiar
6:25 57:4, 19,21
far
43:6,13
feature
41:22 57:13
featured
61:19,22
February
19:21 56:13, 17 72:10
feed
74:10,16
feeling
7:16
figure
62:14,21,23 63:3 65:3 66:13 67:4, 8,17,25
figures
63:17,24
film
34:18
filters
50:24
final
14:21 74:11, 16
findings
42:3,18,21 44:19,20,25 45:1,13,14, 15
fine
41:7 54:11
finger
26:10
finish
6:22 25:24
fire
37:14 47:9 56:24 57:5, 9,12 58:1,5
fire-rated
24:13,21 70:24 72:16
firewall
24:13 28:5 32:21 51:19 58:13 70:24 72:16,21
firm
27:3
first
10:11 25:17 41:4 42:1,17 46:21 53:8 58:22 59:1 62:12
fisheries
34:3
fit
30:8,21 37:21
five
14:18 41:5
five-eighths
37:15
fix
27:6
focus
32:8
focused
23:7 24:12 32:14
folks
56:9
following
44:21
footnote
13:10 24:6 36:12 72:6
footnotes
13:4 15:18 24:4 43:15 44:4
forced
27:9
form
10:8 13:17 15:9 16:18 17:10 18:4, 9,25 27:21 29:10,24 30:14 31:1, 19 32:4 33:7,8,17 34:12 36:9 37:10 39:2, 11,20 40:25 41:13 42:23 43:8,25 44:23 47:20 50:10 51:6, 23 52:9,18 53:15 54:3 56:4 57:15 60:21 64:18 65:10 67:13 68:6,9 71:23 73:5,17
format
18:14 43:2
forming
50:1
forth
10:19 62:14
found
13:18
foundation
19:1 31:19 41:1 46:7 51:7 52:10
founded
26:24
Fox
33:25
framers
53:10
framing
53:2,13
Frank
9:8,12,15,19 10:5,16 11:6,16,20 12:12 22:16 23:20 24:24 25:1,19,25 26:1 51:3
free
7:7
frequently
18:19
front
49:9 54:8,13
FTES
27:13
FWH
12:16,18 46:25 47:3, 7,15 53:24 55:3,16,23 56:19,24 57:13 59:25 60:7 61:18 63:6,10,14, 18,25 65:20 66:23 67:2, 5,11,25 68:4 72:23

G

gained
73:19

garbled
20:7
gathered
31:5
general
50:20
generally
30:2
generate
27:4
geographic
58:12 59:8
geography
58:18
get-go
10:22
give
5:15 24:4
25:12 36:11
57:7
given
29:16 40:14
48:21
goes
72:11
going
6:8,17 7:4,
20,23 9:11
10:2 14:5,6,
9 17:2 21:11
44:14 54:4
55:25 56:4
59:21 60:25
71:18
good
5:21 41:4
53:3,8 54:16
granularity
58:20
Great
7:11 14:4
15:15 54:18
green
34:1 66:14,
22 68:1
ground
6:18
guess
25:9,14
53:12 63:18
gypsum
37:3,8,15,
24,25 47:8

H

Hang
42:11
hanger
28:5 32:22
37:16,22,23
46:5,25
47:7,15,17
53:4,9 56:19
60:1,7 61:8,
18
hangers
12:16,17,19,
20 24:13
32:15 36:1
37:5,9 46:1
51:20 53:24,
25 56:20
58:13 70:24
72:16,21
happening
68:18
harassing
54:5
hard
13:25
harm
34:2
hats
27:11
Hawaii
33:19,22
hear
42:9
hearing
42:7
held
42:12
help
45:9
helpful
52:6
helping
26:2
Henson
51:25 52:1
54:23
Henson's
54:22
higher
45:25
highly
38:6
hour
22:12 23:19
Howard
5:20,22 8:11
10:15 13:20
14:4 15:3,10
17:4 19:6
20:25 21:5,
18 22:22
23:13 28:17
29:21 30:5,
23 31:11,22
32:10 33:12
34:8 35:9
36:21 38:8
39:9,14
40:22 41:6,
10,23 42:14
43:4,10 44:9
45:3 46:11
48:13 50:14
51:13 52:7,
14,23 53:7,
20 54:10,18
56:11 57:21
59:1 60:17
61:12 65:2
66:4 67:24
68:7 69:13
70:17 71:24
73:13,20,24
74:4,9,13
hypothetical
41:14 47:21
68:10

I

idea
67:9
identified
32:14,24
38:4 39:16,
22 40:3,23
41:3,11,16
42:22 44:21
46:24 51:4
72:22
identify
30:7 34:24
39:4,10,18
44:24 52:4
60:25 73:14
ill
7:16
impacts
61:3
implication
59:18
implications
61:11
importance
49:7
important
48:3 50:5
importantly
11:24 68:18
improvement
35:22 37:1
include
50:16,17
63:5,6 66:3
68:12
included
17:15 43:23
64:8
includes
66:22

including
38:15 68:19
incomplete
18:23 41:14
47:21 68:10
incorporate
38:20
increased
66:9
independently
52:21
indicate
45:23 68:2
indicated
48:18
individuals
52:5
industries
33:15
industry
28:10,16
33:11
influenced
48:12
influencing
40:10
info
53:3,8
information
12:9,10 13:8
18:24 22:8
31:4,18 44:7
72:4
informative
68:17,24
69:6
informed
13:23
infringe
69:1
infringed
65:19
infringement
69:4
initial
5:25
initially
10:23
inserted
18:2
inside
20:13 50:13,
22
insignificant
40:5,21
install
36:1 37:23
46:5 47:16
installation
37:3,4,9
46:2,6,25
48:22 58:6
installed
37:9 40:9
46:1 49:3
instance
18:7 52:24
instances
22:7 28:15
43:19 50:4
61:7
instruct
7:23 16:21
21:12 22:25
31:18
instrument
43:20,22,23,
24
intact
37:15
internal
50:12 56:13,
17
internally
8:5
interruption
22:21 29:12
44:6 53:6
58:25 70:16
intra-product
70:15
intracompany
70:14
introduce
58:18
introduction
36:13
introductory
56:15
intuitive
40:4
invention
37:7,20
38:17,20,23
40:1 61:20,
23 62:3,8,
16,18,23,25
63:5,8 64:1,
2,13,15,17,
25 65:5,6,9,
13,15,19
66:1,8,15,
17,18,24
67:3,16,22,
23 69:11,20
70:5,7,13,22
investigation
39:5
involved
26:2 32:7
51:22
involving
34:5,22
irrelevant
60:18
issue
57:9,10,11,
12 58:24
59:4,11,12,
13,16 67:19
69:9
issued
15:6
item
68:14
iteration
63:15 64:20

J

January
53:22
job
25:11 55:2,
16,24
join
22:14
joined
24:24
joist
45:25 46:5

K

K-A-C-Z-K-O-W-S-K-I
22:20
Kaczkowski
17:3 19:11,
16 20:11
21:1 22:19,
23 23:14
36:15 38:5
58:2 61:25
62:4
keep
22:20 25:10
57:22
Kent
55:4
key
45:1,14,15
kind
18:16 29:7
34:17
kinds
9:23
know
7:2,10 9:24
10:17 14:13
26:9 30:6
35:13 36:17
37:17,23
40:3,22

46:14 47:18, 25 50:11 52:7 55:3 68:4 72:18
Krieger 7:20 8:9,12 10:8 13:17, 23 14:20 15:9 16:18 18:25 20:23 21:2,8 22:25 27:21 29:24 30:14 31:1, 16 32:4 33:7,17 34:12,13 36:9,11 37:10 39:2, 11,20 40:25 41:13 42:23 43:8,25 44:23 46:7 47:20 50:10 51:6,23 52:9,18 53:15 54:3, 12 55:25 57:15 60:10, 21 64:18 65:10 67:13 68:6,9 71:23 73:5,6,17 74:6,15,19

L

large 29:6
lawful 5:11
lay 62:1
layperson 16:14
legal 36:16
level 58:20
leveled 66:11
lights 35:1
limit 64:8
limited 24:23
line 54:4 62:22 63:13 66:3, 14,22 67:2
lines 68:1
lists 17:17
little 12:4 18:13 20:7 22:13 33:3
LLC 26:22
locations 58:13 59:8
long 8:16 9:3 22:10 23:17 25:3 53:1
longer 9:22
look 24:3 35:10 36:10,12,22 44:15 45:16 50:6,15 52:5 59:19 62:11 64:14 67:10 72:14,19
looked 11:7,9,12,13 12:13 13:2, 3,6,10 15:22 17:14 19:3 31:4,5 32:17,19 45:10
looking 12:7 35:16 36:16 40:12 45:8 56:12 59:21 70:14
lost 63:21
lot 18:16,17
lower 42:8
loyalty 40:9

M

made 10:18 13:15 16:24 21:17 26:6 38:6 62:5
main 44:19,24 45:13
mainland 33:23
major 53:4,9
majority 21:23 45:22
make 14:24 20:19 52:14
makes 15:16
making 47:1
managing 27:3
marginalia 13:25
Mark 55:5
marked 14:7,16
market 24:13,19,22 32:15,21,22, 25 64:24 66:7 68:13, 18,20,23 69:8 70:23 71:1,10,17, 19,21 72:2, 15 73:3,15
materials 10:3 19:15 28:10,16
matter 8:2 15:6 34:10 38:14 40:4 41:19
matters 57:18
MDT 5:13 41:9 73:23 74:21
mean 10:10 16:8 20:16 39:16
Meaningful 12:22
meant 68:24
medications 7:15
meet 8:12,15,23 9:3
meeting 8:12,16
memory 25:11 51:10 52:2,11 54:24
mentioned 23:23 48:14
mentioning 26:8,12,16
met 8:20
method 23:8,10 31:8 32:16,24

35:18 36:25 37:20 58:4, 6,8 61:6 63:19 68:8
methodological 28:6,14 29:19 30:7, 11,22
methodologies 28:23,24 29:1,21 30:1 35:6
methodology 30:18 31:3, 10
methods 29:16 37:2,8
MF 53:2,13
Michael 24:6
middle 5:25 63:21
milk 33:19,22
mind 30:9 34:7 35:7
mine 51:11
minor 57:17
minute 54:20
minutes 8:17 9:9 25:6 41:5 51:15 73:21
misrepresent 18:18
misrepresentations 33:21
misstatement 57:17
Mitek 12:17,20 20:13 23:24 24:16,22 28:5 32:20 51:19 55:15, 18,21 56:9 60:6 64:24 65:4,8 68:21 70:6 71:3
Mitek's 53:24 56:19 64:5,9 72:23
mix 32:6
modest 46:13
moment 24:5 35:12
monitoring 26:9
morning 5:21
motioning 26:12,15
move 53:20 56:11 69:13
moved 55:22
multiple 51:18
Multivariant 29:13
muted 54:15

N

nailer 49:4
name 5:22,23 9:4 17:2 24:1
narrative 17:14
natural 33:24
necessarily 44:1
necessary 61:11
need 7:1 37:15 57:1 64:14 66:3 74:17, 19
needs 48:4
Nelson 11:13 12:3, 11 24:6,8, 10,18 25:4 68:22
Nelson's 12:3
never 64:7
niche 33:11
nine 35:25
non-fwh 12:16,20
non-mitek 12:18
normal 25:21 74:11
notably 42:8
notch 37:21
notion 24:12 68:25 69:6
November 51:17
number 6:4 52:3 58:24 59:4, 11,13,16 71:12 73:15
numerical 12:6 21:16, 24
numerous 43:19

O

object 7:20 36:9 54:4 55:25 56:4,6
objection 13:17 15:9 16:18 18:25 20:23 21:2,8 27:21 29:24 30:14 31:1, 16,19 32:4 33:7,8,17 34:12 37:10 39:2,11,20 40:25 41:13 42:23 43:8, 25 44:23 46:7 47:20 50:10 51:6, 23 52:9,18 53:15 54:3 57:15 60:10, 21 64:18 65:10 67:13 68:6,9 71:23 73:5,17
objective 67:15
observe 40:11,16 41:2,21
observed 28:4
obvious 61:5
obviously 7:7 19:8
occurred 52:17

occurring
63:12
October
70:18,19
offered
68:21
oftentimes
9:7
okay
6:2,7,17
7:6,15 8:11,
16,20 9:1,11
11:5 12:2,
10,21,24
13:12 14:4
15:4,15
16:2,6,12,15
17:10 18:3,
7,12,20 19:6
20:19 22:18
24:9 25:3,12
26:19 28:17,
24 31:22
32:10 33:2
35:9,11,12,
15 36:6,21
38:8,10
39:9,14
41:23,25
42:1 43:4
44:14,17,18
45:16 46:18,
20 48:13
49:12,14
50:14 54:12,
18 55:12
58:22 61:14,
15 62:6
63:4,22
64:16 66:4,
22 69:16
70:3 71:6,18
73:13,20
74:12
once
22:9 23:16
one
10:13,22
18:18 20:13
22:11 24:4,5
25:21 26:7,
11,20 29:9
30:8,16,21
33:9,21
36:3,12
45:12 52:1
54:25 57:2,
17 58:24
59:4,11,13,
16 62:14,22,
23 67:8,17
69:2
ones
30:3 41:3
65:16
open
60:3
open-ended
17:17
operating
58:4
operations
27:4
opining
65:24
opinion
37:12 62:4
opinions
10:13 13:16,
19 36:17
50:2
orange
68:1
order
31:25 35:22
37:13 66:2
output
18:19
outside
20:5,24 21:3
27:21 29:22
56:6 61:1
oversee
27:4
overwhelming
39:24
Owner
5:3 27:10

P

page
15:1,7,12,13
59:23
paragraph
10:11,22
24:5 26:14,
17 35:10,13,
16,23,24
36:7,22
38:9,11
41:24 42:2,
19 44:16,18
45:16,20
46:19 48:15
49:12 51:15
52:16 53:21
56:12,15,16
59:2,20
61:12,15
62:10,12
66:5,6
69:14,16
70:17
paragraphs
35:21 36:3,8
44:21 45:1,
4,8 49:19,25
part
35:19 57:13
58:8
participant
52:12
particular
30:20 33:11
38:3 39:6
46:16 54:21
55:13 58:1,
21 59:13
parties
31:6 52:22
parts
59:8
party
33:21
pass
10:11 74:5
patent
5:3 6:4,8,9
15:23 16:2,
3,7,13,16,25
19:25 23:8
31:9 32:16,
25 34:15
35:8 36:5,20
38:3,18,21
41:22 58:3
61:20,23
62:9,17,19
64:8,9 66:8
69:1,4,20,23
patented
34:10,19,23
35:17 57:13
63:19 68:8
pay
45:24 46:15
penetration
47:8
penultimate
36:22
people
27:12 34:18
48:10 55:19
percent
22:1 46:23
48:10,17
66:9,10,12
70:23 71:9,
11,17,18,21
72:2 73:1,3,
15
percentage
72:24
perfectly
41:7
perform
29:2 31:13

69:2
performance
40:10 58:19
performed
27:18
period
31:7 50:5
63:11,14
67:1 70:19
71:3,5 72:25
person
20:13 24:2
personally
15:18 16:1
personnel
53:18
Petitioner
5:2,12
phone
25:1
physical
14:11
physically
8:15 14:25
picture
65:18,24
pictures
34:17
piece
44:4
pieces
37:14 49:21
50:16 51:14
place
40:11 53:14
play
39:23
player
68:13
pleading
71:14 73:10
please
5:23 6:21
7:2
point
12:5 26:11
44:2 48:14
pointing
44:8 45:14
pollution
33:25
portion
10:5,6,17
11:11 59:6
portions
10:16
posed
49:7
position
24:7
possible
18:16 28:12,
13 43:16
44:12
post-grant
6:3
potential
39:7 40:18,
23
potentially
39:3,23
40:4,17
60:23 61:3
68:3
power
49:3
practice
25:21 32:16
39:25 50:20
62:3 63:8,
19,25 64:2,
16 65:6
66:15,16,17,
24 69:11,23
70:5,6,21
practiced
69:19
practices
65:4,9
practicing
32:24 66:1
preempt
35:2
preemption
34:23
preference
11:11 27:16
28:1,9,21
29:5,6,11,14
30:1,2,12,
15,16 31:3,
10 32:1,11
35:5,6 47:19
48:2,3,4,5
58:16,17
62:8
preferences
28:19 34:21
preliminaries
6:18
premium
69:21 70:13
preparation
8:9 23:3
24:10 60:16
prepare
7:18 8:22
11:6,21
12:25 13:13
16:7 19:11,
14,21 25:17
26:2 27:15,
25 63:17,24
64:3,4 67:4
prepared
8:2 11:9
19:15 31:4
preparing
8:21 9:18,
20,23 15:20
16:10 17:7
19:7,12,22
20:4,9 21:6
22:5,24
23:7,15,25
25:7 55:9
58:9
present
14:25
presented
11:18,25
12:9,11 14:2
preserve
37:13
pretty
6:19 25:5
53:3,8 56:25
previously
27:18 42:25
price
12:15 32:17
40:12 70:4,6
priced
69:18
pricing
70:11
primary
32:25 38:18,
23,24 40:23
41:11,16
48:6 61:5
printout
13:25 14:1
prior
16:9 20:20,
21 27:14,15
37:1,2,6,20
46:1,6
privileged
7:22 16:20
21:9 23:2
31:17 56:2
60:11
probably
6:16,19 8:17
9:9,22
problem
37:22
Probuild
53:2,13
proceeding
5:16 6:3
produced
5:11 54:6
product
7:22 21:10
23:3,11
31:18 48:12,

21,23 56:2 57:14 60:7, 12 61:1,19, 22 62:17 63:7,15 64:6,21 65:4,5,8 66:18,21,23 67:6 68:5 69:3,6,12,24
products 27:19 32:18 33:6,19 38:19 39:1, 25 41:21 49:2 51:20 57:10 58:14 60:4,9,18,20 61:8 62:2,15 63:4,7,19 64:1,9,12, 14,20 65:15, 18,20 66:7, 14,16,17,23 67:2,11,22 68:20,25 69:2,8,19,22 70:2,4,6,12, 21 72:21
professionals 45:23
professions 38:17
projects 60:1,8,19
property 34:4
proportions 71:4
provided 17:15 50:15, 21
pull 52:4
pulled 64:23 71:21
purchase 47:2,6,14,15 48:19,20 49:2,7
purpose 64:11
purposes 9:12 16:21 21:11 23:12 31:14,21 48:1 56:3,10 60:13 66:1 67:20 69:10 70:8
push 18:12
put 17:23 26:9
putting 49:9

Q

quantification 61:4
quantifications 72:5
quantified 39:12,15
quantify 39:17 40:17
quantifying 71:2
question 6:22,24 7:3, 4,9 11:19 17:18 20:7 27:24 28:7 42:15 46:3, 4,14 47:4,13 48:23,24 49:10 53:12 59:5,21 60:5 63:20 71:25
questioning 6:21 54:4
questions 5:20 17:17 21:17 22:1 49:6 74:5,7
quickly 15:23,24 16:4 26:10
quite 48:6
quotation 45:17 56:21 59:22,24
quotations 45:5
quote 36:24 38:12 45:21 46:22 48:15 51:15 52:8,25 53:7,21 54:21 55:1 56:16,23 57:17,19 58:23 59:2, 24 61:16 62:13 66:6 69:17 70:19 71:7 72:6
quote-unquote 55:15
quoted 49:20,24
quotes 54:5

R

raised 57:11
rates 21:17,19
rating 37:14 47:9 56:24 57:5,9 58:1,5
ratings 57:12
RDR/CRR 5:4
reach 64:13
reached 11:24 64:23
read 16:6,9 19:5 35:13,15 36:24 38:12 45:21 46:22 48:16 51:16 52:25 53:7, 21 55:1,8 56:16,23 57:17 59:2, 24 61:16 62:13 66:6 69:17 70:20 71:7 72:6 73:9 74:7
readable 18:24
readily 62:19
reading 59:5
reads 36:23 38:11 45:20 59:24
real 34:18
realm 34:18 35:8
realtime 74:10,16
reason 7:12
reasons 67:7
recall 10:15 17:12 18:3,8,13 19:18 21:18 24:18 28:11, 15 33:3,9,16 34:9 43:1,2

44:9 47:10, 24 49:5,6,8 50:8,19 51:21 55:17, 20 71:13,14 73:18
received 43:3
receiving 74:9
recess 41:8 73:22
recitation 35:22
recites 35:17
recollection 17:25 18:10, 13,15,20 19:3,4 22:12 23:18,24 25:5 32:5 42:20 44:11, 15 45:10 46:16 47:22 50:13,24 51:2,4,12 54:1,20
record 5:24 20:20 22:19 42:13 54:13 57:16, 23
recreators 34:2
red 35:3
redline 62:24
reduce 47:8
refer 6:8 14:11 30:15 35:20
referable 73:15
reference 13:9 15:5,16 46:9 71:20, 25
referenced 13:3 51:25 52:3 72:3,4, 12
references 43:5
referencing 43:15,18
referred 19:25 20:15
referring 14:5 17:19, 20 57:25 72:7
refresh 45:9
regard 37:12
regarding 11:20 20:4 36:4,20 47:13 51:18 60:6 73:2
region 58:21
regions 59:17
regression 29:13
related 21:15 33:20 38:25 56:9 57:10
relates 22:7 31:2
relative 32:19 40:5 58:19 67:21 69:2,21 71:4
relativity 50:21,22
relevance 20:23 21:2
relevant 31:6 56:6 62:19 68:20 70:9
relied 21:14 22:8 23:6,12 56:10 60:15 72:9
rely 16:20 21:10 23:3 44:8 48:3 56:3 60:12
relying 16:11 44:2,4
remember 7:1 18:3 20:12 24:1 34:15 73:10
remind 6:20
render 37:12
rendering 62:5
report 11:10,19,21 12:1 13:4,6 15:20 16:8, 21 17:5 19:20 21:21 23:4 24:16 35:20 56:3 60:13 62:2 64:4 69:14 71:14 72:4, 10,13,14,19
reporter 5:5,6,14 22:21 29:12 44:6 53:6 58:25 70:16 74:8,15
represent 14:20
representations 21:16
representative 50:4
represents 38:18
reputation 39:23 40:8
request 47:2,6,14 48:19 49:2
request/specify 45:25
requested 13:24
required 37:3
research 39:4,17
researched 39:13,15
reserve 74:7
reserved 5:8
resistant 47:9
resource 33:24
respect 11:15 13:12 15:25 27:20 32:8,11 55:12,13 65:7,8
responded 21:23 61:17
respondents 21:23 46:24 47:5,13 48:17 49:1
response 21:17,19 48:9

responses
17:18 18:1,4 21:25
rest
35:20 61:7
restate
20:7
results
17:8,11 18:14 21:15 38:15
retain
31:20
retained
27:14,15,25 28:3,18 32:6
retention
31:21
reveal
7:24 11:11
revealed
27:16 28:1, 9,21 29:5,14 30:2,12,16 32:11 34:21 35:5 48:2,5 58:17 62:7
review
6:3 11:5 15:18,25 16:3 17:5 19:10,14,20 42:15
reviewed
8:1,2 9:16 12:25 13:13 15:24 17:24 18:17 19:7 38:14 42:2, 16,18,21 43:21 50:1,9
reviewing
10:2 13:8 18:13 42:19 59:14
Richard
17:2
right
6:9 14:5 20:1 24:9 26:25 30:13 33:6 45:20 57:14 73:14 74:4,7
River
33:25
role
27:2
rough
17:25 18:10 19:4 25:12 47:22 51:1 74:10,17,20
roughly
71:9
rule
43:17 44:12
rules
6:18

S

Sale
66:19
sales
40:13 58:19 62:23,24 63:4,6,18,25 65:18 66:14, 15 67:5,11 72:20,24
saying
22:20
says
5:12 48:15 52:24 53:21 55:1 56:13, 15 58:23 59:10,12,23 62:12 70:18, 19 72:6
scope
20:24 21:3 27:22 56:7
screen
14:9
search
50:22 51:1
second
26:16
section
10:23 36:14 45:14 62:6 72:5,7,8,13
sections
45:1
see
18:19 41:17 43:14 48:10 55:2 71:20 72:15
seeing
18:10 43:1
segregation
58:18
selected
18:1 28:5
send
74:10
sentence
26:17 36:22 38:11,22 42:1,17 46:21 53:11 54:21 56:22 58:22 59:1 61:15 62:12 66:6 71:7
sequence
37:22
sequencing
38:4,6 47:24 48:7,21 58:24 59:3, 15 61:6 68:15
served
41:20
Serwin
11:25 19:20 36:18 39:22 72:9
Serwin's
11:9,19,21 13:6 24:15 71:2,14,19 72:4,14
set
50:15 62:14
settlement
64:23
seven
27:13 35:23
several
15:16 53:22
share
14:9 66:7 70:23 71:1, 10,17,19,21 72:2,15 73:3,15
shipped
33:23
shorthand
5:4,5
show
63:25
showed
63:17
showing
14:6 66:14, 19
shows
65:4 67:5 69:18
side
14:24 48:11 72:22,23
sign
74:7
signals
35:2
signature
5:7 15:8
signed
10:14 14:21
significant
39:5 41:18

59:11,16
68:13
similar
27:18
Simpson
23:10 24:16, 22 32:20 48:11,20 49:16,21,25 50:13 51:18 53:17,23 54:6 55:23 56:17,18,20 57:10 60:2, 9,20 61:9,17 63:7 66:21, 23 68:21 69:18 70:4 71:3
Simpson's
40:8 51:20 53:25 57:12 58:13 63:15 64:6,16 70:1,21 71:1,8,9 72:22
sir
7:14 41:25 42:5
sit
10:20 18:9 19:3 20:12 25:15 28:11 30:6,9 34:7 35:8 43:14 44:12 49:9 50:11 73:18
sitting
73:13
skip
6:17
small
27:10
sold
63:16 69:21
solid
62:24
sort
18:12 34:20
source
8:4 13:11 60:25
sourced
61:9
south
33:25
southeast
58:23 59:3, 13
space
24:17
speak
20:3,8 22:4, 23
speaking
23:24
spec
60:2
spec'd
60:7
specific
13:5 18:15 19:2 21:17 30:24 31:5,9 35:1,22 54:20 73:8
specifically
9:19 12:5 15:22 17:1, 12,16 18:8 19:24 21:16 25:10 27:19, 25 28:10 31:3 36:14 39:12,15 44:2,7 47:10,25 49:5,8,11 55:17 58:6 64:22 66:25 72:12 73:11
specification
55:22,23
specified
58:14 59:9 60:8,19,20
specify
47:3,7,15 48:20 49:2
specifying
56:19 59:25
spectrum
27:7
spell
22:19
spend
25:7
spent
25:11,13
spills
34:5
spoke
17:4 20:14
spot
41:4
spreadsheet
18:14
staff
8:5,20 20:5, 10
standpoint
40:4
start
14:5,6 25:24 49:15
starting
5:13 49:16 62:10
state
5:23 42:2 44:18,19 46:22 61:16 69:17
stated
27:16 28:1, 8,20 29:5,10 30:1,12,15 31:2,10 32:1 35:5 47:19 48:2,4 58:16
statement
61:21
statements
13:15
states
66:6
STIPULATED
5:1
strictly
48:4
strike
27:14 28:25 31:12 33:12 42:16 55:7 56:14
structural
27:20 32:21 71:10 73:3, 16
structure
70:11
subject
34:15
submitted
38:16
substance
74:1
substantive
26:10
substituted
61:7
success
28:4 32:15, 20,23 33:1, 20 39:8,10 40:16 41:21 61:18 62:15 64:12 65:13 66:2 67:16, 22 68:4
suite
70:1
sum
72:23
summarized
45:15

summarizing
36:19 45:13
summary
63:2
supplies
61:8
supply
61:2
supposedly
63:25 66:15
sure
14:24 41:15
42:7,9
surround
34:17
survey
12:7 17:6,9,
11,16,23
18:5,14
21:15 25:21
31:4,14,25
32:9 34:20
38:15 41:3
42:3,18,21
43:5,12,20,
22 44:20
45:11,18
46:23,24
47:5,13
48:15,25
49:9 59:15
surveys
18:17 38:5
swear
5:14
switch
12:22
swooping
55:2,15,16
sworn
5:11
system
34:23

T

tables
11:8 12:14
taint
66:3
tainted
46:8
take
27:5 35:9,12
36:21 41:4
52:5 58:12
62:11 73:20
taken
5:4 6:11
41:8 73:22
taking
5:22
talk
6:20 11:20
21:5 22:10
23:14 25:3
35:21 51:13
74:1
talked
8:5 12:14
21:21,24
22:2
talking
15:2 17:20
talks
36:14
tasking
32:8
technical
15:24 16:5,
10 37:11
62:3 65:14
67:19 69:9
techniques
30:21
technologies
34:24
technology
34:19 35:1
tell
7:4 19:23
20:1 31:21
32:7 43:7,13
45:12 49:10
tells
72:1
ten
73:21
tend
40:15 68:2
terms
8:12 18:23
50:23 51:1
67:10
test
44:15
testified
33:2 42:25
73:7
testify
6:2 7:12
54:7
testifying
27:5
testimony
5:15
Thank
7:11 20:17
74:20
thing
15:2
things
27:8 39:22
think
6:19,25 9:13
11:1 17:3,13
20:12,15
21:22 24:4
27:13 31:9
33:18 35:19
36:2 37:11
39:21 43:22
46:9,21
51:9,10,11
52:23 54:9,
15 57:6,18
60:22 61:4,
10 64:19,20
65:1,17,23
67:14 68:16,
17,24 69:5
third
32:19
thousands
28:12
three
32:22 34:6
till
6:21
time
5:13 13:9
20:21 21:1
22:11 25:7,
11,13,23
31:7 46:10
50:5 52:22
57:6 63:11,
14,16 67:1
70:19 71:3,5
72:25 74:21
times
6:14,16
21:22 22:4
23:13
timing
20:1
today
5:23 6:2
7:13,19
11:6,22
13:1,14
73:14
toilets
27:6
told
24:18
top
59:22
topic
24:23 37:11
55:18 56:9
topics
47:23

total
18:1 73:3
totality
38:13 48:5
track
25:10
traditional
61:2
traffic
34:23,25
transcribed
5:6
trash
27:6
trier
65:14 67:18
true
12:2 73:2
truth
5:16,17
truthfully
7:13
try
6:20,23 17:2 18:12 31:25 33:18 44:14 52:15 63:22
trying
34:14 38:1 57:22 65:12 70:10,11
Tuesday
8:19
turn
38:8 41:23 46:18 49:12 62:6 66:4
Turning
61:12 70:17
two
8:19 12:22 14:18 29:15, 19 30:8,21 37:14 57:8 66:13 70:11
two-hour
24:13,19,21 47:9 70:23 72:15
type
28:1 33:4
types
38:25
typewriting
5:7
typically
50:21
typo
26:7

U

U.S.
6:4
ultimately
65:13
umbrella
29:14,22 30:10 31:3
umbrellas
29:6,20 30:8,17,22
underlying
8:3,4 10:3 11:8,10,24 13:11 17:13 23:8 43:20, 21
underneath
30:3 37:16
understand
6:10,19 7:2, 4,5,9 8:7 36:23,25 64:12 65:12 67:21 68:19 69:8 70:10, 12 71:8
understanding
16:12,16 35:17 36:4, 7,19 37:6, 13,17,19 38:2 58:4,7 59:14 64:7, 21 65:11 67:15 71:16 73:8,11,19
unique
38:2
unit
40:12
USP
55:2,15 56:24 59:25 60:4,18
USP's
53:3,9
utilize
64:15
utilized
23:9 28:14 29:19 34:16, 24 41:22 64:13 68:14
utilizing
41:22

V

V-O-O
8:24
V-O-O-R-A-A-R-T
8:25
value
21:24 34:4
values
12:6
variety
27:8
vehicles
34:25 35:4
verbal
7:1
verbiage
52:12
verify
52:21
version
14:21
versions
23:11
versus
9:25 32:21 33:22 43:6, 12 64:1 65:5 67:5 68:5 71:3
Vooraart
8:24,25 9:5, 6 22:16

W

wait
6:21,23
wall
37:14 47:9 57:5
wallboard
37:4 47:8
want
7:8 18:17 22:25 37:24 47:18 54:12 56:5
wanted
20:19 56:22 57:7
way
9:5 18:23 21:23 33:9 37:19 40:6, 19 45:12 52:15 57:7 60:25
wears
27:10
week
8:19
went
55:5
wide
27:8
William
5:4

willingness
46:15
window
50:7,9
windows
63:13
witness
5:7,18 7:23
14:23 21:12
23:1,4 31:18
54:9 56:5
60:14 74:5
word
26:8,15
words
12:23
work
7:22 9:23
18:16 20:25
21:9 23:3
27:4,12
31:17 40:6,
19 41:3 56:2
60:12
worked
8:6,21 10:9
20:20 50:19
working
9:21 10:1
written
10:10,23
wrote
10:5,6,16,17
52:8 54:1

Y

yeah
12:4 16:23
24:3 27:23
31:20 32:5
41:6 42:24
43:10,14
60:15 62:11
68:11
years
9:22 28:13
yesterday
53:2

Z

zero
14:18
Zoom
8:15