

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

SUPERIOR COURT

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JOHN AUFIERO, NEIL F.  
COLLINS, ROBYN L. DEFRANZO,  
DANIEL HYDE, PATRICK J.  
IRVING, THOMAS A. LEYNE,  
JOHN MAHONEY, JOSEPH E.  
MCCAIN, WILLIAM MCCARTHY,  
TIMOTHY MITSAKIS, LOUIS M.  
REMIGIO, SUSAN J. DESOUSA,  
Individually and Next Friend  
of CAMERON A. DESOUSA, JOHN  
DOE AND JANE DOE,  
Plaintiffs

CIVIL ACTION  
NO. 2005-2665

VS

CITY OF SOMERVILLE, JOSEPH  
CURTATONE, as Somerville  
Mayor, DONALD CALIGURI, as  
Former Somerville Police  
Chief, GEORGE MCLEAN, as  
former Somerville Police  
Chief, ROBERT TRAHAN,  
Individually and as former  
Head of Department of Public  
Works, ROBERT BRADLEY, as  
Somerville Police Chief,  
COMMONWEALTH OF  
MASSACHUSETTS, MITT ROMNEY,  
JOAN LANGSAM, as Former City  
Solicitor, PAUL ZIRPOLO, as  
DPW Project Manager, DOROTHY  
KELLY GAY, as former  
Somerville Mayor, ROBERT J.  
PREZIOSO, SIMPSON, GUMPERTZ  
& HEGER, INC., ENVIROTECH,  
VITHAL DESHPANDE, as  
Environmental Protection  
Engineer, and ANGELO R.  
BUONOPANE,  
Defendants

DEPOSITION OF EDWARD LYON  
JANUARY 9, 2007

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DEPOSITION OF EDWARD G. LYON, taken on behalf of the plaintiff pursuant to the Massachusetts Rules of Civil Procedure before Kathleen M. Benoit, Professional Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts at the offices of D'Angelo & Hasham, 6 Beacon Street, Boston, Massachusetts, on Tuesday, January 9, 2006, commencing at 10:08 a.m.

APPEARANCES:

STEPHEN D'ANGELO, ESQ., and JAY M. WOLMAN, ESQ., D'Angelo & Hasham, 6 Beacon Street, Suite 505, Boston, MA 02108, For the plaintiff

CARLY B. GOLDSTEIN, ESQ., Donovan | Hatem, LLP, World Trade Center East, Two Seaport Lane, Boston, MA 02210, For the defendant, Simpson, Gumpertz & Heger, Inc.

MATTHEW BUCKLEY, ESQ., City of Somerville Law Department, 93 Highland Avenue, Somerville, MA 02149, For the defendant, City of Somerville

CYNTHIA J. STEPHENS, ESQ., Governo Law Firm, LLC, 260 Franklin Street, Boston, MA 02110, For the defendant, Envirotech

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1 P R O C E E D I N G S

2 (Exhibit No. 117 marked.)

3 MR. D'ANGELO: The stipulations are ongoing;  
4 the same as always. No changes.

5 EDWARD G. LYON, having been satisfactorily  
6 identified by a Massachusetts Drivers License and duly  
7 sworn by me, a Notary Public in the Commonwealth of  
8 Massachusetts, was examined and testified as follows:

9 DIRECT EXAMINATION

10 Q. (By Mr. D'Angelo) Why don't you state your name for  
11 the record, sir?

12 A. Edward G. Lyon. I'm also commonly known as Ned  
13 Lyon.

14 Q. And your date of birth?

15 A. The 17th of December 1949.

16 Q. And where do you reside?

17 A. Hyde Park, Massachusetts.

18 Q. And who do you work for?

19 A. Simpson, Gumpertz & Heger, Inc., in Waltham.

20 Q. In what capacity do you work for them?

21 A. I'm currently a staff consultant.

22 Q. Before I go any further, just because I forgot to  
23 get into how we run things here, I just want to go through

1 some specific, general rules that we operate under. Have  
2 you been deposed before?

3 A. Yes.

4 Q. So you understand -- you're doing very well, you  
5 answer questions verbally, not with shaking your head or  
6 nodding your head and so forth. If you have a clear  
7 understanding of the question, go ahead and answer it. If  
8 you don't understand a question or you're not sure about  
9 it, don't guess. You know, you can ask for clarification  
10 of any questions that we ask. So with that, we'll  
11 continue. Oh, if you need a break, let us know.

12 A. Okay.

13 Q. We're not torturing you here today.

14 So for how long have you worked for Simpson?

15 A. Since 1989.

16 Q. And before that where did you work?

17 A. I was self-employed for a number of years working  
18 as a small contractor in the City of Boston doing  
19 renovation work, and I worked for five years teaching at  
20 Boston University Theater, teaching technical theater.

21 Q. Technical theater, what's that?

22 A. Building stages, rigging scenery. I'm trained as  
23 an engineer. I did stage machinery, power effects and

1 special effects for stage production.

2 Q. And what is your educational background?

3 A. I have a Bachelor of Arts degree in theater from  
4 Tufts University, a Bachelor of Science in mechanical  
5 engineering, also from Tufts University, and a master of  
6 science in design engineering from Tufts University.

7 Q. So are you -- do you hold any licenses?

8 A. I have a professional engineering license in the  
9 state of Massachusetts.

10 Q. Any other states besides Massachusetts?

11 A. Currently, no.

12 Q. Have you ever sat for any other testing for  
13 licenses in other states?

14 A. No, I haven't.

15 Q. What exactly do you do at Simpson, I'm going to  
16 call it just SGH?

17 A. At SGH I'm an engineer in the building technologies  
18 division of the company. I investigate buildings. I'd say  
19 about a third of my work is investigating problem  
20 buildings, another third deals with design-related issues,  
21 and probably a third deals with litigation-related issues  
22 with building construction. My specialty is moisture in  
23 buildings.

1 Q. Moisture in buildings?

2 A. Yes.

3 Q. So you're familiar with the public safety building  
4 over in Somerville --

5 A. Yes.

6 Q. -- 220 Washington Street?

7 A. I've been to that building, yes.

8 Q. How often, how many times have you been to that  
9 building?

10 A. As an engineer for SGH, once, but before the  
11 building was changed to public safety, I had been to the  
12 building because it was a bus station and it was on a route  
13 that I took when I was at Tufts.

14 Q. Really?

15 A. Yes.

16 Q. Okay. What year was that?

17 A. '67 to 1970 or so.

18 Q. And when you went in, when you were doing your  
19 engineer work for SGH, what differences were in the  
20 building from the time that you saw it back during that  
21 time back in the early '67, '70 time frame until the time  
22 you saw it then?

23 MS. GOLDSTEIN: Objection. You can answer if

1 you know.

2 A. In the seventies, as I recall it was an MBTA bus  
3 barn and bus stop, and when I went back to investigate it,  
4 it had been renovated into police headquarters and fire  
5 station and a garage for the police cars.

6 Q. When you were there working with SGH doing the  
7 investigation, who else was involved in that besides  
8 yourself?

9 A. Vince Cammalleri was with me on site the day that I  
10 was there, and I also had reviewed the project with Peter  
11 Nelson in our office.

12 Q. What did you do specifically in terms of part of  
13 your investigation of that building?

14 A. As part of my investigation, I took samples of  
15 materials for mold analysis and I reviewed the plans for  
16 the mechanical system and did a cursory walk-through to  
17 check existing conditions in the mechanical system.

18 Q. Did you have any conversations with anybody from  
19 the City of Somerville during the time that you were doing  
20 this investigation?

21 A. Well, I recall speaking with somebody in the  
22 building who was letting me in to different rooms. I don't  
23 recall who that was.

1 Q. Other than that person that let you into other  
2 rooms, did you have any other conversations or meetings or  
3 attend any meetings with anybody from the City of  
4 Somerville?

5 A. No, I did not.

6 Q. And how long were you in that building doing your  
7 investigation, was it more than 1 day, more than an hour?

8 A. A day, probably 4 to 6 hours.

9 Q. And when you were in there doing your  
10 investigation, what specifically did you look at?

11 A. I had a walking tour of what I believe is the  
12 firemen's barracks area which had been flooded and was now  
13 vacant. In that area I took some samples of materials for  
14 mold analysis. I also walked through the entire building.  
15 I had a, what's called a smoke pencil with me. It helps  
16 you visualize air flows. So I visualized some air flows at  
17 the lower levels and at some of the upper levels and toured  
18 the mechanical room where all the HVAC, heating and  
19 ventilating equipment were. I think the only place I  
20 didn't go was the 911 Call Center. I had no reason to go  
21 in there.

22 Q. When you took your samples, what kind of samples  
23 did you take?

1           A. I'd have to review the report, but we took 6 or 8  
2 samples. I believe a couple of them were what we called  
3 bulk sample, a sample of the material, and some of them  
4 were swab samples. We take a sterile swab and dust it  
5 across an area to pick up material for testing.

6           Q. Was this strictly down in the lower level or did  
7 you do the samples anywhere else?

8           A. I believe all the sampling was from the lower  
9 level.

10          Q. And was there any specific reason why you just took  
11 the samples at that lower level and not other levels in the  
12 building?

13          A. It's my understanding that we were asked to sample  
14 the material in the flooded area.

15          Q. Who asked you to take those samples?

16          A. It was given to me as a charge for this project. I  
17 don't know who requested it.

18          Q. So somebody from SGH told you to take these  
19 samples?

20          A. Yes.

21          Q. Now, in your background as a person who understands  
22 moisture in buildings, how did you educate yourself at that  
23 time about those kind of issues, or is that part of some

1 kind of curriculum that you took or seminars that you were  
2 involved in?

3 A. Are you asking specifically about my knowledge of  
4 mold?

5 Q. Not necessarily about mold but moisture. You said  
6 earlier that you had knowledge of moisture in buildings.

7 A. When I started in 1989, I was given reference  
8 materials at the time principally by Canadian authors on  
9 moisture in buildings and moisture problems in buildings,  
10 and over the course of different projects that I had at SGH  
11 I learned more about what it looks like to be in buildings  
12 with high moisture-related conditions and read up on mold  
13 and mildew.

14 We had other professionals involved on  
15 projects that I was also involved in who were mold experts  
16 that I learned bits and pieces of knowledge. I'm not  
17 trained as an industrial hygienist or someone with a mold  
18 background. In the year 2000 I did attend a course at  
19 Harvard School of Public Health, a 2 or 3-day seminar which  
20 was, primarily revolved around mold and mold measurements  
21 in buildings and air quality-related issues. And in the  
22 course of other engineering seminars that I've been at,  
23 presented at, I've listened to others speak on mold-related

1 issues.

2 Q. What differentiates you from, as an engineer from  
3 an industrial hygienist? What makes this, you know, you  
4 different from that person?

5 MS. GOLDSTEIN: Objection.

6 A. I have no specific training in health effects  
7 related to workplace and so forth. An industrial hygienist  
8 is normally well-aware of certain regulations and capable  
9 and trained to do a full range of measurements and to  
10 associate certain health responses to certain conditions in  
11 the workplace or certain exposures a person might have had.  
12 I don't have any of that training.

13 Q. Are you familiar with EIFS walls? Is that  
14 stucco-type walls?

15 A. EIFS.

16 Q. You're familiar with that?

17 A. It's pronounced a number of different ways. Yes,  
18 I'm familiar with that.

19 Q. How do you pronounce it?

20 A. It can be pronounced EIFS or EIFS.

21 Q. So you have some familiarity with those types of --

22 A. Yes.

23 Q. Did you identify in the building at 220 Washington

1 Street any such walls?

2 A. I didn't look very much at the building envelope  
3 exterior.

4 Q. So you were there really just to look at the  
5 mechanical systems in the building and take some bulk  
6 samples and that's it?

7 A. That's correct.

8 Q. What does a smoke pencil do with air flows?

9 A. The smoke pencil, we use a device manufactured by a  
10 company called Drager. It's a small glass pen, as it were,  
11 with an air bulb on one side. If you squeeze the air bulb,  
12 there's a chemical reaction that creates a little stream of  
13 smoke.

14 Q. Why were you looking at air flows in the building?

15 A. As part of looking at how the mechanical system was  
16 operating it helps to distinguish which way the air is  
17 moving at different boundaries of the building.

18 Q. Do you recall specifically the areas that you  
19 tested with that pencil?

20 A. I recall testing a door to the fire station and a  
21 door to the garage area.

22 Q. And did you make notes on what you found?

23 A. Yes, I probably did.

1 Q. Do you know what happened to those notes?

2 A. If they're not in the files that we turned over,  
3 they were destroyed.

4 Q. Do you recall any specific information from taking  
5 those about what the air flow told you about that building?

6 A. I know that the air was flowing from both the  
7 garage space and the fire station space into the hallway.

8 Q. There was a report that was prepared in April of  
9 1999. It was our Exhibit No. 29.

10 (Document Perusal.)

11 Q. Are you familiar with that report?

12 A. Yes.

13 Q. Are there any portions of it that you specifically  
14 wrote yourself?

15 A. Yes.

16 Q. Which portions would those be?

17 A. Well, I contributed to the mechanical system plan  
18 review; that's Section 2.1.3.

19 Q. On what page is that?

20 A. Page 4.

21 Q. The mechanical systems?

22 A. Yes. It was a review of the plans. I think in the  
23 Section 2.3 on page 6, the bullet points about dust

1 accumulation in the building, I believe that I was, I  
2 either contributed those or was told at the same time that  
3 Mr. Cammalleri was told about those issues. On page 10,  
4 discussion of 3.7, mechanical systems, that was authored by  
5 myself. Page 11, Section 4, sampling for microbial growth,  
6 I believe I wrote most of that section.

7           On page 19, Section 5.7, biological growth, I  
8 believe that I authored most of that section and the  
9 following section, 5.8, mechanical systems. And then under  
10 Section 6, the summary and conclusions, I contributed to  
11 this section, probably issues that deal with mechanical.  
12 Without reading every one, I can see the second to the last  
13 bullet point on page 21 probably contains information that  
14 I substantially wrote.

15           And then the same is true for the  
16 recommendation section; I believe that I contributed the  
17 recommendation bullet points for retaining the services of  
18 a mechanical engineer and for a certified industrial  
19 hygienist to perform additional testing and that would have  
20 been in conjunction with Mr. Cammalleri. And I believe  
21 that's all.

22       Q. Did you take any photographs at the scene?

23       A. I don't recall. I usually do but I may not have

1 because Mr. Cammalleri was lead.

2 Q. All right, so going back on page 4 of that report,  
3 the mechanical systems, 2.1.3, you wrote that section, and  
4 that section basically describes the air flow within part  
5 of the building?

6 MS. GOLDSTEIN: Objection.

7 A. That section contains observations of the plans of  
8 the building.

9 Q. The plans, okay. And then on page 6 you put  
10 together the bullet points in 2.3?

11 A. I did not put together all of the bullet points in  
12 2.3.

13 Q. Which ones did you do?

14 A. The second to last we were told that during a test  
15 operation of the building's emergency generator fumes  
16 spread through the facility and evacuation was required.

17 Q. When you were doing your evaluation, did you come  
18 across any of this dust that was talked about in the bullet  
19 point above that?

20 A. Yes, I did.

21 Q. And how would you describe that dust?

22 A. Fine, black particulate that I observed on  
23 horizontal surfaces which were typically above the normal

1 viewing height.

2 Q. And what would that encompass, normal viewing  
3 height, what are you talking about?

4 A. Well, for instance, I believe that some of the  
5 windows in this building, the windowsills were up high  
6 above eye level, and in the course of looking at parts of  
7 the mechanical system, I had the opportunity to be up at a  
8 higher level. I believe there's a staircase up even that  
9 you can see down into other areas and you can see  
10 horizontal surfaces that are above your normal eye level if  
11 you're on the floor standing there.

12 Q. Did you take any samples of that to have it tested?

13 A. Not of the dust, no.

14 Q. Was there any reason why you didn't take any  
15 samples of that to take back to find out what it was?

16 A. That was not part of my charge. We were asked to  
17 take samples in the area that had been flooded.

18 Q. Was there any of that fine, black dust in the area  
19 that was flooded on any of these horizontal surfaces?

20 A. I don't recall seeing it specifically in the  
21 flooded area. I did look at the ducts, took off some of  
22 the grills in the flooded area and did observe dust inside  
23 the duct work.

1 Q. Did you take any samples of that dust?

2 A. Not specifically. I did sample some insulation  
3 from inside the duct.

4 Q. So you didn't take any of the fine, black dust that  
5 you observed inside the ventilation system to see if that  
6 was mold or any other kind of contamination?

7 MS. GOLDSTEIN: Objection.

8 A. Other than what was on the sample of insulation  
9 that I took from the duct, no, I did not take specific  
10 samples of the dust.

11 Q. And is there a reason why you didn't take those  
12 samples?

13 MS. GOLDSTEIN: Objection.

14 A. Other than budgetary reasons for the sampling. We  
15 did take 6 or 8 samples. They're between 100 and \$200  
16 apiece to have analyzed. We didn't have a budget to do a  
17 whole sampling test.

18 Q. Well, the samples that you did take, those 6 to 8  
19 swabs and bulk samples, you just mentioned insulation.  
20 Where else did you swab or take bulk samples from?

21 A. I'll have to review that.

22 Q. That was on page 11.

23 A. Page 11. There's a list of 6 sample areas on page

1 11. The first two were bulk samples of Gypsum board. They  
2 were taken from the dormitory area that had been flooded,  
3 and they were specifically taken from Gypsum board near the  
4 high water mark in the room.

5 Q. Well, the last two samples, SS1 and SS2, was that  
6 black dust that you took samples of or is that something  
7 else? It said black discoloration. Do you remember what  
8 that was specifically, the black material that you took  
9 samples of?

10 A. Sample 5, yes, I remember that specifically because  
11 we were asked to take samples of bulk materials low in the  
12 room, in the flood area which were 1 through 4, but while I  
13 was in the room, I saw this spot which appeared to me to be  
14 mold growth and it was at the head of the window, very high  
15 above areas that had been flooded.

16 MR. BUCKLEY: Objection. Go ahead.

17 Q. And the swab sample of black material on the volume  
18 damper blades, was that the black dust that you observed?

19 A. Yes, sample No. 6, the volume damper blades are  
20 part of the supply air system, part of the diffusers. You  
21 don't happen to have one like it in this room, but where  
22 air flows into the room. I took off the grill and sampled  
23 some of the material that was on the back blades of the

1 grill.

2 Q. Okay, I'm going to show you Exhibit No. 31.

3 (Document Perusal.)

4 Q. On this particular report it lists the samples that  
5 were taken, is that correct?

6 A. That's correct, on page 3 of the report, actually  
7 it lists the results. I believe on page 2 they list the  
8 samples with the numbers that I gave them and with their  
9 numbers.

10 Q. And those samples match up to this third page as to  
11 where the locations were and what you found?

12 A. Yes, that's correct. And this is a listing that is  
13 produced by PathCon Lab as part of the analysis of samples  
14 that you send in.

15 Q. And when you sent this report or these samples to  
16 PathCon, did you ask them specifically to test for  
17 something specifically?

18 A. As I recall, they have a submittal list with a  
19 checklist of things that you are requesting that they test  
20 for. For instance, you could test, if you had water from  
21 say a cooling tower on a building that you wanted to test  
22 for Legionella, you wouldn't be testing that for mold  
23 spores, and if you were looking for mold spores, for mold

1 specifically, you would test only for mold, and I don't  
2 recall exactly but I think there are 2 or 3 things that you  
3 can look at.

4 Q. Did anyone tell you over at the public safety  
5 building that somebody had had Legionnaires disease in that  
6 building?

7 A. No.

8 Q. And had you known that, would you have tested your  
9 samples for Legionnaires?

10 MS. GOLDSTEIN: Objection.

11 A. I believe that we have bacteria counts here which  
12 would have covered Legionella, but it's generally  
13 associated with the fine mist from a cooling tower  
14 operation, and there's no central plant for cooling at this  
15 building, so there was no cooling tower.

16 Q. Is that the only association they have for  
17 Legionella disease or whatever --

18 MS. GOLDSTEIN: Objection.

19 Q. -- is that the only time you ever have that?

20 A. It's the one that I'm most aware of, and I was also  
21 there in January, and that's primarily a warm weather kind  
22 of event. It wouldn't have been active in January.

23 Q. Do you have any experience testing for Legionnaires

1 disease?

2 A. Other than to avoid it when I'm doing my other  
3 investigations in buildings, no.

4 Q. This is Exhibit No. 42, the bulk samples request  
5 for testing that you described earlier?

6 A. Yes.

7 Q. Did you fill that report out?

8 A. This doesn't look like my handwriting but I  
9 probably was speaking with Mr. Cammalleri since it lists  
10 the investigator, Vince Cammalleri. Whoever filled this  
11 out, I probably reviewed it with them as to what should be  
12 checked off.

13 Q. So your investigation at that time was strictly  
14 confined to potential types of things related to the  
15 moisture problems that were in the building such as mold?

16 MS. GOLDSTEIN: Objection.

17 A. My specific task was to gather some samples that I  
18 understand we were asked to gather and have evaluated and  
19 to do a preliminary review of the mechanical system.

20 Q. On this report on a couple of samples there were  
21 listed bulk S1 and BS2, fungal hyphae?

22 A. Fungal hyphae.

23 Q. Hyphae?

1 A. Yes.

2 Q. What is that and how does that differentiate from  
3 the regular fungal testing that was requested --

4 MS. GOLDSTEIN: Objection.

5 Q. -- on the checkoff?

6 MS. GOLDSTEIN: Objection.

7 A. An analysis for fungi typically involves using a  
8 growth medium to attempt to grow more from the sample.  
9 That means you have active, healthy spore. An examination  
10 for fungal hyphae, hyphae is the root of an active growing  
11 mold spore. So these two particular samples were the  
12 Gypsum board paper. To see fungal hyphae in the Gypsum  
13 board paper means that there was an active mold growth  
14 going on at that site.

15 Q. So you can differentiate from your training,  
16 background and experience the difference between an active  
17 mold spore and a nonactive mold spore?

18 MS. GOLDSTEIN: Objection.

19 A. No.

20 Q. And that's why you had it tested, because you  
21 couldn't tell the difference?

22 A. When I walk into a building and see a stain, I have  
23 to call it apparent mold growth. Everyone in the industry

1 has to call it apparent mold growth until it's sampled and  
2 tested.

3 Q. To confirm your hypothesis?

4 A. To confirm what it is, yes.

5 Q. Now, getting back to that fine, black dust which is  
6 mentioned a couple of more times in the report, you had a  
7 couple of samples that were taken but you didn't ask  
8 anybody to do additional analysis on what that fine, black  
9 dust was?

10 MS. GOLDSTEIN: Objection.

11 MR. BUCKLEY: Objection.

12 A. I took samples for the mold analysis. The last  
13 swab sample would have contained some of that dust, but it  
14 would have been analyzed for active mold spore, and the  
15 fine, black dust, if it were an inert material, would not  
16 be identified.

17 Q. Well, you observed this fine, black dust on a lot  
18 of horizontal surface areas throughout the building when  
19 you were making observations?

20 MS. GOLDSTEIN: Objection.

21 A. That's correct.

22 Q. Was this just plain ordinary like house dust?

23 MS. GOLDSTEIN: Objection.

1           A.  It could be.  I've lived in downtown Boston.  It  
2  was consistent with what I had been told about having a  
3  generator problem that spewed soot into the building.

4                       MR. BUCKLEY:  Objection.

5           Q.  So it was more of a soot consistency than it was a  
6  dust consistency?

7                       MS. GOLDSTEIN:  Objection.

8                       MR. BUCKLEY:  Objection.

9           A.  I'm not exactly sure how you differentiate between  
10 the two, but it was fine enough to pass through the filters  
11 of the mechanical system.

12          Q.  Did you look at the filters in the mechanical  
13 system?

14          A.  Yes, I did.

15          Q.  And what did you observe on those filters?

16          A.  On the day I was there they appeared clean.

17          Q.  Did that surprise you when you saw the black  
18 dust --

19                       MR. BUCKLEY:  Objection.

20          Q.  -- throughout the ventilation system?

21                       MS. GOLDSTEIN:  Objection.

22          A.  No.

23          Q.  Why didn't it surprise you?

1 MS. GOLDSTEIN: Objection.

2 MR. BUCKLEY: Objection.

3 A. If the mechanical system were well maintained, the  
4 filters would have been changed at some point prior to my  
5 arrival.

6 Q. But you looked inside the ventilation system?

7 MS. GOLDSTEIN: Objection.

8 A. Yes, I did.

9 Q. And what did you observe inside the ventilation  
10 system?

11 A. I saw dust on the intake louvers for the main  
12 mechanical systems.

13 Q. But on the horizontal surface, what did you see?

14 A. I'm sorry, I don't understand what surface.

15 Q. Did you open up and look inside any of the  
16 ventilation systems or just observe on the outside of the  
17 ventilation system?

18 A. I opened up the areas where the filter racks were  
19 to be able to look inside at the coils, yes.

20 Q. And the surface area of the duct work itself, what  
21 did you observe, if anything?

22 A. I don't recall there being a horizontal area of  
23 duct work in the mechanical systems that I looked at.

1 Q. Where exactly did you look at the mechanical  
2 systems?

3 MS. GOLDSTEIN: Objection.

4 A. In the mechanical equipment room.

5 Q. Nowhere else?

6 A. Downstairs in the barracks room I did pull off a  
7 diffuser and look inside.

8 Q. And was that a vertical or horizontal duct that you  
9 looked at?

10 A. It was a short section of horizontal duct.

11 Q. And when you looked inside, did you see anything  
12 inside that duct?

13 A. It wasn't large enough to get my head inside, so my  
14 view was limited to what I could see when I looked up.

15 Q. Did you reach in and, with your hand or some other  
16 device to take any kind of feel for what was in there?

17 A. I may have. I took some samples of the insulation  
18 from the area.

19 Q. From that area?

20 A. Yes, from inside the duct.

21 Q. What did you do with those samples?

22 A. That was one of the insulation samples that we sent  
23 out for testing.

1 Q. And what did you observe besides, well, what did  
2 you observe about that insulation, what normal color is  
3 that insulation?

4 A. I believe its normal color is black.

5 Q. And on that black surface, was there anything loose  
6 on it?

7 A. I don't recall.

8 Q. Did you have any conversations with anybody from  
9 SGH regarding any concerns about maybe that somebody should  
10 test for some other things besides mold in the building?

11 MR. BUCKLEY: Objection.

12 MS. GOLDSTEIN: Objection.

13 A. Well, I did discuss what a scope of a full  
14 investigation would involve with other members of the SGH  
15 team.

16 Q. And what did you discuss with them?

17 MR. BUCKLEY: Objection.

18 MS. GOLDSTEIN: Objection.

19 A. That we needed certified industrial hygienists for  
20 a full evaluation of the building.

21 Q. Why is that, why did you think that that was  
22 necessary?

23 A. I was uncertain if the dust that I saw was a

1 continuous condition or a limited event. Issues of indoor  
2 air quality require more testing than we performed in the  
3 few hours that I was on site. I'm not qualified to do most  
4 of the tests or evaluate complaints that people might have  
5 about health and conditions in the building. Those are not  
6 within my range of expertise.

7 Q. And I turn your attention to page 20 of that report  
8 on Section 5.8, and in the first two sentences of that  
9 report --

10 MR. BUCKLEY: Is this 29 again?

11 MR. D'ANGELO: It's on page 20. Exhibit 29,  
12 yes, the SGH report.

13 MR. BUCKLEY: Yea, no, I figured.

14 Q. It says here "In addition to the potential health  
15 hazards associated with microbial contamination, we have  
16 other indoor air quality concerns that we did not test.  
17 The fine, black dust found throughout the facility suggests  
18 that the mechanical systems may be distributing poor  
19 quality ventilation air." Is that one of the concerns that  
20 you had in your discussions with other members of SGH and  
21 that's why you wrote this in here?

22 MR. BUCKLEY: Objection.

23 MS. GOLDSTEIN: Objection.

1 Q. Well, the first part of the question is is that  
2 part of the conversation that you had with SGH people  
3 besides --

4 MR. BUCKLEY: Objection.

5 A. I don't recall specific conversations with other  
6 SGH people, but I'm sure that I essentially discussed these  
7 findings as part of my opinions at the time with others at  
8 SGH.

9 Q. And is that why you wrote this section of this  
10 report?

11 MS. GOLDSTEIN: Objection.

12 MR. BUCKLEY: Objection.

13 A. I am the mechanical engineer and had more  
14 experience than Mr. Cammalleri at what mechanical systems  
15 are and how to look at them. That's why I wrote this  
16 section of the report on mechanical systems.

17 Q. A little bit further down it says here "the diesel  
18 exhaust fumes then rises to the air intakes for the  
19 building." That's part of that smoke pencil test that you  
20 took --

21 MS. GOLDSTEIN: Objection.

22 Q. -- to determine where the air was flowing?

23 A. No, that was not part of the smoke test.

1 Q. So how did you determine that the diesel exhaust  
2 fumes then rises to the air intakes for the building?

3 MS. GOLDSTEIN: Objection.

4 A. This is something that I first learned about in a  
5 seminar case study that was discussing air quality problems  
6 in a building where the outside air intakes were located on  
7 a loading dock where trucks would idle while they were  
8 unloading, and it was sourced, the problems that the  
9 building was having was partially sourced back to this  
10 location for outside air ventilation.

11 Q. When did you attend that seminar?

12 A. I'm sorry, I can't recall that.

13 Q. Do you know who conducted it?

14 A. I don't recall that either. There are a number of  
15 people that I deal with and had been at presentations and  
16 seminars with who could have relayed that story.

17 Q. Is Joe Lisbeth one of those guys?

18 A. Yes, he's potentially one of them.

19 Q. Is that one of the seminars that you attended where  
20 he described a building in Washington, D.C. with that very  
21 same problem?

22 A. I don't believe I have attended one of those  
23 seminars that Joe gives. I attend his summer camp seminars

1 which are slightly different and involve a number of other  
2 professionals like myself in discussion and information  
3 exchange, but I don't believe that it was Joe that I heard  
4 that particular story from. I think it was another  
5 consultant. I would have remembered if Joe told me the  
6 story.

7 Q. And it goes on to say "we suspect that there are  
8 repeated, but not constant, instances of excessive  
9 particulate and noxious gas contamination that is entrained  
10 into the building ventilation air because of the poor  
11 location of the outside air supply louvers." You wrote  
12 that?

13 A. I wrote that.

14 Q. And how did you draw that conclusion?

15 A. The key word is "suspect."

16 Q. And how did you suspect that?

17 A. Because the outside air intake louvers are right  
18 over the doors to the fire station.

19 Q. So your suspicion was that this fine, black dust  
20 that you spotted in different parts of the building might  
21 have been, could have been coming from the fire trucks from  
22 down below?

23 MS. GOLDSTEIN: Objection.

1           A. The sources could have been partially the fire  
2 trucks. The sources could have been the generator. I was  
3 not present during that event. I have no direct knowledge  
4 of what caused the soot, and in order to evaluate it, it  
5 means further investigation.

6           Q. So it wasn't soot -- it wasn't fine, black dust; it  
7 was soot, that's your conclusion?

8                   MR. BUCKLEY: Objection.

9                   MS. GOLDSTEIN: Objection.

10                  MR. BUCKLEY: He's already testified he can't  
11 tell the difference.

12                  MR. D'ANGELO: He just said it was soot.

13                  MR. BUCKLEY: He described it as dust and  
14 then he said he couldn't tell the difference earlier, so.

15                  MR. D'ANGELO: Are you testifying for him?

16                  MR. BUCKLEY: No.

17                  MR. D'ANGELO: Then be quiet please.

18                  MR. BUCKLEY: I'm objecting.

19                  MR. D'ANGELO: Your objection is noted.

20 Please be quiet.

21           A. I will try to be consistent for you. Define black  
22 dust.

23           Q. Is there any significance or concern that one might

1 have that diesel fumes would be leaking back into the  
2 building?

3 MS. GOLDSTEIN: Objection.

4 MR. BUCKLEY: Objection.

5 MS. GOLDSTEIN: If you know.

6 A. I'm sorry, could you repeat the question?

7 Q. Well, here you specifically, you know, diesel  
8 exhaust fumes then rises to the air intakes for the  
9 building. So I'm asking you, if you know, if there's any  
10 significant concern that one would have that diesel exhaust  
11 fumes would be coming back into the building?

12 MS. GOLDSTEIN: Objection.

13 A. There are a range of effects. Probably the open  
14 window in the room here is letting in a certain amount of  
15 exhaust from the street or a truck that would idle in the  
16 alley and that may or may not be of any consequence to the  
17 occupants, but it has generally an adverse effect or a  
18 potentially adverse effect on indoor air quality.

19 Q. What do you know about diesel exhaust fumes if  
20 anything?

21 A. Other than it carries usually a high particulate  
22 load depending on exactly when the vehicle in question was  
23 manufactured.

1 Q. Do you know anything about diesel fumes, is that  
2 one of the areas of expertise that you have?

3 MS. GOLDSTEIN: Objection.

4 A. Not specifically. It's a combustion by-product.

5 Q. Do you know what's in it, what kind of chemicals  
6 would be in it?

7 A. Other than carbon monoxide, carbon dioxide and some  
8 nitrous oxides, carbon black is usually the dust, and  
9 there's a number of other potential chemical compounds that  
10 I'm not aware of.

11 Q. Well, what do you know about mold? I mean you  
12 wrote a lot here about mold in this building, some of the  
13 mold that you found here on this report - Penicillium,  
14 Aspergillus, are the kind of molds that you found here,  
15 Stachybotrys. Would there be any concerns about these  
16 molds?

17 MS. GOLDSTEIN: Objection.

18 Q. If you know. I mean if you don't know then...

19 A. I know a bit about mold. I know that to get really  
20 sick from it you have to ingest it. There are a number of  
21 events in history that suggest that a contaminated food  
22 source caused a large epidemic. I know that many of these  
23 molds create allergic reactions. I find Cladosporium quite

1 a bit in mechanical systems for some reason or another. It  
2 seems to like that environment. And I've done a lot of  
3 museum investigations and sort of can associate the musty  
4 smell in some museums with probably high Cladosporium in  
5 their mechanical systems.

6 I do know that there's certain strains of  
7 Aspergillus, which are threats to humans especially  
8 immunocompromised people who are in transplant units at  
9 hospitals. It's a very important mold to keep control of  
10 or be aware of because there's one or two strains of  
11 Aspergillus that in fact do kill people who are  
12 immunocompromised.

13 Q. And what about Stachybotrys?

14 MS. GOLDSTEIN: Objection.

15 Q. If you know anything about it.

16 A. Yes, in 2000 when I attended the Harvard Public  
17 Health Seminars, there was a discussion of Stachybotrys  
18 because it had been in the paper as quote unquote killer  
19 mold. It had been associated with the death of babies in  
20 Philadelphia and in Cleveland. But the study that that was  
21 based on was later rescinded as not having enough  
22 scientific evidence, and so, you know, the thing that is of  
23 interest to me about Stachybotrys is it's the kind of mold

1 that takes a lot of moisture, it takes a prolonged, very  
2 wet environment for it to grow, and it tends to be a sticky  
3 material that stays clumped together. It's not as easily  
4 spread around as any of the other molds that are listed  
5 there.

6 Q. On page 19 in 5.7 you wrote some of that section or  
7 all of that section. It continues on to page 20 on the  
8 biological growth?

9 A. Yes.

10 Q. Now, you attended that seminar in Harvard School of  
11 Public Health in 2000. Did you go to the one that was in  
12 2004 as well that they had over there?

13 A. I didn't go to the one in 2004.

14 Q. And prior to 2000, had you been to any other  
15 seminars discussing health consequences involving mold?

16 A. Yes, not by Harvard School of Public Health.

17 Q. What specific seminar did you go to or seminars  
18 that you attended?

19 A. I don't remember specific time or dates, but  
20 typically in a building science seminar environment someone  
21 will speak to mold-related issues, how mold grows, what  
22 surfaces it will grow on, how to identify it.

23 Q. And during that seminar that you attended, who gave

1 that presentation, was it a medical doctor or was it  
2 another engineer?

3 MS. GOLDSTEIN: Objection. Which seminar are  
4 you talking about?

5 MR. D'ANGELO: The one prior to 2000 that he  
6 attended at the Harvard School of Public Health.

7 A. I honestly don't recall. I've heard presentations  
8 by people who study mold and by medical doctors as well,  
9 and at this point in time I can't differentiate easily  
10 which ones I heard when.

11 Q. Well, on page 20, the very first bullet that you  
12 have on page 20 says "The presence of fungi and bacteria on  
13 samples of interior materials should not be considered a  
14 condemnation of those areas." What did you mean by that?

15 A. I could probably find those same mold spores in  
16 this room.

17 Q. In those concentrations that were found in this  
18 report?

19 A. I don't know, sometimes, depends on whether or not  
20 you ever had a leak.

21 Q. So you're saying that there's potential that this  
22 room contains the same levels of concentration of molds  
23 that are in this, on this report?

1           A. I'm saying that it would not be unusual in a  
2 typical room to find similar levels of concentrations of  
3 active mold spore, especially if there were ever a small  
4 leak or a spill and I have a sample at that location.

5           Q. And are we talking about in the air or on the  
6 walls, or what are you talking about in this particular  
7 room here?

8           A. We did not do any air sampling.

9           Q. That's not my question; that's not my question.  
10 You're saying that in this room here exists these same  
11 potential mold spores in these kind of concentrations. Are  
12 you talking about in the air, in the walls or what?

13                   MS. GOLDSTEIN: Objection.

14           A. I said they could potentially exist in those  
15 concentrations and those were bulk samples. These would be  
16 mold spores on surfaces.

17           Q. So when you took your samples, you never did any  
18 air samples at that time?

19                   MS. GOLDSTEIN: Objection.

20           A. No, I'm not trained to do air sampling.

21           Q. So you didn't check to see if there were any mold  
22 spores or microtoxins or anything else that might be lying  
23 around in the air in the particular building?

1 MS. GOLDSTEIN: Objection.

2 A. The testing wouldn't identify microtoxins and I  
3 didn't do air testing, and January wouldn't necessarily be  
4 a good time to try to do air testing.

5 Q. Why is that?

6 A. Well, I attended a seminar which I do recall this  
7 past summer for an ASTM group that deals with collection of  
8 mold, and I listened to a presentation by a certified  
9 industrial hygienist in the Denver area whom I had  
10 previously hired for another project, and basically he led  
11 me to believe that the testing methods which are commonly  
12 employed couldn't reasonably determine whether or not there  
13 was a mold-related problem in a building based on air  
14 sampling.

15 Q. Well, is January a good time to take bulk samples  
16 or swab samples?

17 A. If the mold is on the surface, the mold is on the  
18 surface. The common requirement in doing air sampling is  
19 to compare an air sample with another location; for  
20 instance, comparing indoors to outdoors, but that's  
21 problematic because in a wet spring there's likely to be  
22 much more mold outdoors than there is indoors, and at other  
23 times of the year, dry snowy conditions, you probably

1 wouldn't find much mold spore outside, and interior  
2 conditions will seem relatively higher even though they're  
3 probably the same as they have been for a period of time.  
4 Concentrations could increase if somebody had just been  
5 through to vacuum the carpets versus you come in several  
6 hours after the cleaning crew and do your air sampling and  
7 a lot of variables.

8 Q. So that's why people take air samples with bulk  
9 samples and swab samples?

10 MS. GOLDSTEIN: Objection.

11 MR. BUCKLEY: Objection.

12 A. I don't think that's true necessarily. I take a  
13 lot of bulk samples or swab samples to identify whether or  
14 not I have active mold growth.

15 Q. Well, besides taking these seminars that you've  
16 gone to, your background and training isn't necessarily in  
17 what you described earlier the same as a certified  
18 industrial hygienist, is that correct?

19 A. That's correct.

20 Q. So you're not really an expert in the field of  
21 mold, is that correct?

22 MR. BUCKLEY: Objection.

23 MS. GOLDSTEIN: Objection.

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1 A. The field of mold is a large field.

2 Q. Well, you're not a micrologist?

3 A. No, I'm not.

4 Q. And your primary focus in your work at SGH isn't on  
5 mold?

6 A. No, I would say that mold is more a consequence of  
7 the moisture study work that I do for buildings.

8 Q. And to have mold you have to have basically what,  
9 three ingredients?

10 A. Active mold spore, a source of water and a source  
11 of food.

12 Q. No temperature is required, so it's okay to do it  
13 in January, not June?

14 MS. GOLDSTEIN: Objection.

15 A. There's a range of temperatures that mold will grow  
16 at and there are temperatures which will kill mold, but if  
17 we're talking about sampling indoors, we're looking at  
18 conditions of perhaps a bit cooler than this room was the  
19 first thing this morning, but any conditions that are  
20 comfortable for humans are good enough for mold.

21 Q. And in the last paragraph you basically said  
22 *Stachybotrys* is commonly associated with sick building  
23 syndrome?

1 A. That was true.

2 MS. STEPHENS: What page are you on?

3 MS. GOLDSTEIN: Wait for the question please.

4 MR. D'ANGELO: I did, that was the question.

5 MR. BUCKLEY: You said he said that. That's  
6 why I was wondering what the reference was.

7 Q. The reference is on page 20, the last bullet point.

8 A. Yes.

9 Q. The last sentence of that bullet point on page 20,  
10 it says "Stachybotrys is commonly associated with sick  
11 building syndrome"?

12 A. Yes.

13 Q. Does that contradict your first sentence up here

14 saying "the presence of fungi and bacteria on samples of  
15 interior materials should not be considered a condemnation  
16 of those areas," is that like a contradiction?

17 MS. GOLDSTEIN: Objection.

18 MR. BUCKLEY: Objection.

19 Q. With that last sentence?

20 A. I don't see it as a contradiction because we didn't  
21 do a full evaluation of the building to generate enough  
22 information. With the limited number of samples that I had  
23 taken, that's not enough to condemn the building. The

1 presence of this particular fungi has been associated with  
2 a number of other buildings at the time that had recognized  
3 indoor air quality issues. It is something that I felt  
4 needed further investigation. It wasn't enough information  
5 at the time to condemn the building.

6 MR. D'ANGELO: I'm going to take a break for  
7 a couple of minutes here.

8 (Recess taken.)

9 MR. D'ANGELO: I just want to introduce the  
10 notice of taking your deposition today as Exhibit No. 117.

11 MS. GOLDSTEIN: Could we just go off the  
12 record for one second.

13 MR. D'ANGELO: Absolutely.

14 (Discussion held off the record.)

15 (Exhibit No. 117 marked.)

16 Q. Back on the record again. What we have is --

17 MR. BUCKLEY: What exhibit is this?

18 MR. D'ANGELO: -- Exhibits 32 through 38, and  
19 this is the blueprint map of the footprint of the building.

20 MR. BUCKLEY: Yes, I remember.

21 Q. I just want you to take a quick look at, and the  
22 question we're going to raise on this is where on this map  
23 did you take your samples, if you know, and whether or not

1 you are familiar with these plans?

2 MR. WOLMAN: And any annotations.

3 Q. I'll let you identify where.

4 (Document perusal.)

5 Q. Do you need these two?

6 A. Well, do you need these two?

7 Q. The question --

8 A. Am I familiar, I'm vaguely familiar with the two  
9 drawings of P1 and P2. They show plumbing. I don't think  
10 I've looked extensively at plumbing.

11 Q. Was there anything you needed on P1 or P2 that you  
12 needed to do your part of the investigation?

13 (Document Perusal.)

14 A. I don't believe so.

15 Q. Okay. And moving on to the next exhibit which  
16 is --

17 MS. GOLDSTEIN: 34.

18 Q. -- Exhibit 34, is there anything on this that you  
19 needed to do your investigation?

20 (Document perusal.)

21 Q. Well, let me draw your attention --

22 A. Okay, to do my investigation I reviewed  
23 specifically mechanical drawings for the buildings that

1 showed the system size and so forth. These drawings would  
2 show locations in the building, yes, and I was in certain  
3 locations.

4 Q. Did you review a different set of plans or the same  
5 plans prior to your investigation?

6 A. I've looked at similar plans as part of my  
7 investigation. I don't know if they're exactly the same or  
8 not.

9 Q. So as part of your investigation of when you go  
10 into, just in general terms in setting up a procedural, you  
11 know, the process, what do you normally do before you go  
12 into a building?

13 MS. GOLDSTEIN: Objection.

14 A. It's dependent upon what the particular  
15 investigation is. In this instance a lot of our work was  
16 associated with looking at the walls and identifying wall  
17 sections and locations and so forth within the building.  
18 For my work I only needed to be in the flooded area, and I  
19 looked at mechanical systems to figure out which pieces of  
20 equipment were serving which portions of the building and  
21 how they were put together.

22 Q. So you didn't need to look at a set of plans prior  
23 to going into the building?

1           A. I would typically try to look at a set of  
2 mechanical plans that showed me where the ducts ran, and I  
3 didn't flip all the way back through here.

4                           (Document Perusal.)

5           A. These appear to be all architectural plans. There  
6 are certain elements of them which are notable from my  
7 point of view but they're not mechanical plans which I  
8 would have studied a little bit more to figure out what  
9 systems were serving which areas of the building.

10          Q. On Exhibit No. 34 there is these highlighted  
11 notations here which is SS1, DS3 and so forth, and I  
12 believe those are where the bulk samples and swab samples  
13 were taken?

14          A. That would appear to be correct. I don't believe  
15 that I made the notes that are on this drawing, but for  
16 instance, SS1 is pointing to a window and that's where I  
17 recall looking at a black spot above a window head where I  
18 took a swab sample, yes.

19          Q. So you didn't write those notations on this plan?

20          A. Not that I recall.

21          Q. Did you make notes as to where you took your  
22 samples, was that someplace?

23          A. At the time that we were walking through this area,

1 (indicating) I was with Vince Cammalleri, and it's quite  
2 likely that he took notes on specific area sampling and  
3 notations of what the sample numbers were while I actually  
4 physically took the samples.

5 Q. All right. We'll fold these back up. There's no  
6 other need for these plans at this point.

7 When you were brought into this project, if  
8 I'm wrong in my assessment of this, you were brought in  
9 specifically for the moisture intrusion issues and the  
10 mold-related issues, is that correct?

11 MS. GOLDSTEIN: Objection.

12 A. No, I was brought in to look at the mechanical  
13 systems and to do the mold sampling.

14 Q. And when you get involved with a variety of  
15 different projects, do you normally do mold sampling?

16 MS. GOLDSTEIN: Objection.

17 A. I have, I do less than we started out doing.

18 Q. So you would hire somebody else outside maybe or is  
19 there somebody internally at SGH that does that?

20 MS. GOLDSTEIN: Objection.

21 A. In many instances we hire an outside consultant to  
22 do that kind of work.

23 Q. In the course of your investigations, about how

1 many of these mold investigations have you done?

2 MS. GOLDSTEIN: Objection.

3 A. I'm not sure I could easily define that number.

4 Mold is involved in almost the majority of projects that I  
5 work on in some way, if it's an existing building, but in  
6 terms of sampling mold, not very many, 10 or 20.

7 Q. In the course of events, at what point in your  
8 sampling experience was this particular project, was this  
9 your first time doing it, was it your tenth time doing it,  
10 you know, at what point do you recall, I mean how many had  
11 you done prior to this?

12 MS. GOLDSTEIN: Objection.

13 A. I don't recall exactly. About 8 or 10. I probably  
14 had more experience with sampling than anyone else in the  
15 company at the time.

16 Q. And have you ever sampled for anything else besides  
17 mold?

18 A. I've taken lots of samples of buildings for lots of  
19 different reasons, yes.

20 Q. Well, have you taken samples for heavy metals for  
21 instance?

22 A. We haven't had cause to specifically do that;  
23 however, we have identified the materials, for instance,

1 that are in like a sealant to find out if it has asbestos  
2 fiber for instance. We're not, I believe our lab at one  
3 point was certified to identify those fibers. You have to  
4 be certified to do that kind of investigation, but in terms  
5 of determining material properties, we do that, yes.

6 Q. Well, I'm talking about the ventilation  
7 characteristics. You're dealing with ventilation systems  
8 within buildings, correct?

9 A. I haven't done a full air quality assessment on a  
10 building ventilation system. I've investigated building  
11 odors and complaints of poor indoor air quality, but I  
12 haven't analyzed gases or materials associated with  
13 ventilation systems.

14 Q. Well, how would you go about investigating for poor  
15 odors and, you know, poor air quality in a building, what  
16 would be your procedure for doing that?

17 A. I don't have a defined procedure. I'd have to  
18 write one for a specific building and the specific  
19 complaints that were being generated.

20 Q. Well, one of the reasons why this investigation was  
21 taking place in the first place was because of the  
22 complaints that the air quality wasn't very good in the  
23 building, am I correct?

1 MS. GOLDSTEIN: Objection.

2 MR. BUCKLEY: Objection.

3 MS. GOLDSTEIN: If you know.

4 A. I wasn't told that directly.

5 Q. Indirectly you were told that?

6 A. Indirectly, yes.

7 Q. By who?

8 A. Well, it appears in our reports. I don't recall  
9 specifically. Probably with Vince.

10 Q. So when you get the indirect or direct telling of  
11 you that there is a problem with the air quality within a  
12 particular building, what's your procedure for doing that  
13 investigation?

14 A. Well, the first step is to make a visit to the  
15 building precisely as we did in this instance, take a look  
16 around at conditions that I see on site, gather some  
17 preliminary information from people as to what exactly the  
18 problem is, and then determine a scope of work. And we  
19 performed, as we were asked to, a preliminary investigation  
20 of the mechanical system that identified some issues which  
21 I felt deserved further investigation to clarify.

22 Q. And did anybody tell you that anybody was suffering  
23 from any adverse health effects in the building?

1 MR. BUCKLEY: Objection.

2 MS. GOLDSTEIN: Objection.

3 A. Not that I recall.

4 Q. And in this report you've again observed these  
5 various things, had testing done on the mold and fungal,  
6 which we have the reports on, and you observed this fine,  
7 black dust. Did you do any kind of VOC or nonvolatile type  
8 testing, or would you recommend those type of testing  
9 should be done to find out what might be in the building --

10 MS. GOLDSTEIN: Objection.

11 Q. -- besides mold and fungus?

12 MS. GOLDSTEIN: Objection.

13 MR. BUCKLEY: Objection.

14 A. I didn't perform those tests in the scope of work  
15 for a preliminary investigation. I was there to look at  
16 what conditions were. I didn't make specific  
17 recommendations for further testing. I made a broad  
18 recommendation that an expert be brought in to look at  
19 certain indoor air quality-related issues with both mold  
20 and dust in the building.

21 Q. Have you ever had any experience dealing with heavy  
22 metals at all in terms of any of your investigations like  
23 lead and chromium and things like that?

1           A. We've had projects of course with lead paint where  
2 we had to deal with restoring finishes and so forth.

3           Q. But in terms of actually understanding what the  
4 materials are and having, you know, a test done, have you  
5 ever been involved with doing something like that?

6           A. I haven't been directly involved with testing the  
7 materials. I've taken samples of materials to be tested  
8 for lead paint.

9           Q. I mean are you talking about taking, for lead paint  
10 specifically, but just lead in general, as a by-product of  
11 a particulate matter that might be on a surface area?

12                   MS. GOLDSTEIN: Objection.

13           A. No, I haven't sampled that kind of material. I'm  
14 not trained to do that kind of sampling.

15           Q. And was there anything in this report anywhere that  
16 said after your investigation, you know, that people should  
17 be warned about the health consequences of being exposed to  
18 the things that you found in your report --

19                   MS. GOLDSTEIN: Objection.

20                   MR. BUCKLEY: Objection.

21           Q. -- of these various items?

22                   MS. GOLDSTEIN: Objection.

23           Q. Did you do anything to warn anybody?

1 MS. GOLDSTEIN: Objection.

2 MR. BUCKLEY: Objection.

3 A. I don't have the specific expertise to give a  
4 health warning or recommend an evacuation based on what I  
5 saw at this building. Had I seen something as blatant as a  
6 bad flu that was inducing an exhaust product from a boiler  
7 into the ventilation area, I probably would have been the  
8 first one to pull the fire alarm and get the guys from  
9 downstairs up to shut the system down and identify a hazard  
10 if I was lucky enough to not be overcome by carbon  
11 monoxide, but I had no reason, given the limited scope of  
12 my investigation, to make any assessment of the building as  
13 far as whether it was operational.

14 Q. So the only potential warning that was in this  
15 report was what you have in here saying Stachybotrys is  
16 commonly associated with sick building syndrome; that's the  
17 extent of any warning you had on any of the molds you found  
18 in there?

19 MS. GOLDSTEIN: Objection.

20 MS. STEPHENS: Objection.

21 A. My warning was that you needed a more thorough  
22 investigation of mold conditions or dust conditions.

23 Q. Did you know of any other investigations that had

1 gone on in this building prior to your investigation?

2 MR. BUCKLEY: Objection.

3 MS. GOLDSTEIN: Objection.

4 A. I believe our report mentions something about the  
5 drainage system being previously investigated, but I'm not  
6 aware of any other investigations of the building. I  
7 haven't read any reports or heard about any previous  
8 investigations.

9 Q. And after this report was written, did anybody,  
10 including yourself, from SGH have any contact back with  
11 anyone from the City of Somerville regarding future work  
12 that you might be able to do or future evaluations that  
13 needed to be done as called for in your report?

14 MS. GOLDSTEIN: Objection.

15 MR. BUCKLEY: Objection.

16 A. I specifically didn't speak to, recall speaking to  
17 anyone in the City about further work on this case. That  
18 fell to Vince.

19 Q. And did you have any conversations with anybody at  
20 your company, SGH, about the follow-up to any of these  
21 things that were put in the recommendations of this report?

22 MR. BUCKLEY: Objection.

23 A. Other than asking if they were going to have us

1 follow up on any of our recommendations, no.

2 Q. And were you going to look specifically at certain  
3 recommendations that you would be involved in following up  
4 on?

5 MS. GOLDSTEIN: Objection.

6 MR. BUCKLEY: Objection.

7 Q. In other words, were you looking at any additional  
8 work that you might be able to do for further investigation  
9 of this building?

10 MS. GOLDSTEIN: Objection.

11 MR. BUCKLEY: Objection.

12 A. We had laid out some recommendations for further  
13 investigation, but I wasn't actively doing any work on this  
14 project.

15 Q. So after this report was filled out, that was it,  
16 nothing else further?

17 A. That was the limit of our scope and budget.

18 MR. D'ANGELO: All right, I don't have any  
19 other questions.

20 MS. STEPHENS: I have just like two or three.

21 CROSS-EXAMINATION

22 Q. (By Ms. Stephens) Good morning. My name is Cindy  
23 Stephens and I represent Envirotech in this case. Do you

1 know a person named Dan Greenblatt?

2 A. The name is vaguely familiar but I can't associate  
3 it with anyone.

4 Q. Do you know a company named Envirotech?

5 A. I know of the company, yes.

6 Q. Have you had any experience working on projects  
7 with them?

8 A. SGH may have. I don't specifically recall a  
9 project at the moment that I worked directly with them.

10 Q. I think you testified earlier that you looked at  
11 the filters in the mechanical system, and I'm not quite  
12 sure I have your testimony correct. I think you were  
13 talking about the filters and you said you looked at them  
14 and they were clean. Do you recall that?

15 A. Yes, I recall that I was in the mechanical  
16 equipment room, which is the room behind the louvers over  
17 the fire station doors, and that I opened the equipment up  
18 and looked at the filters that were in place when I was  
19 there.

20 Q. So you're just talking about the filters that were  
21 in the mechanical system -- well, what would you call it,  
22 where were these filters located that you looked at?

23 A. They were part of the mechanical equipment in the

1 mechanical room.

2 Q. Did you observe any filters anywhere else; for  
3 instance, on any intake diffusers or any of the intake  
4 valves or exhaust systems for the air?

5 A. Exhaust systems?

6 Q. The exhaust vents or any vents, were there any  
7 filters anyplace else that you observed?

8 A. The only filters that I'm aware of in a mechanical  
9 system are associated with intake air, recirculated air at  
10 the unit, and sometimes there's a prefilter for outside air  
11 which is very coarse to keep grain and bugs out, but I  
12 don't recall looking at filters located any other place in  
13 the building other than in the equipment room and  
14 specifically the filters that were on the mix of outside  
15 air and return air that was circulating through the  
16 equipment.

17 MS. STEPHENS: I have no further questions.

18 MR. BUCKLEY: I just have a couple.

19 CROSS-EXAMINATION

20 Q. (By Mr. Buckley) This report was written in 1999,  
21 is that correct?

22 A. Yes.

23 Q. The one time you were at the building, that was in

1 early 1999, January of 1999?

2 A. January of 1999.

3 Q. And so you have, you have no idea what the current  
4 condition of the building is relative to any of these  
5 matters you've discussed today, is that accurate?

6 A. That's accurate.

7 Q. And you don't know what was done, after you wrote  
8 this report, to follow up on that report if anything, you  
9 have no idea?

10 A. Well, I don't think we did anything. I'm pretty  
11 sure we did not do any further work beyond this report.

12 Q. You don't know if anyone else did. Certainly there  
13 were other companies that could take this report and follow  
14 up with another company, right?

15 A. That's true. I have no knowledge of anybody else  
16 who worked on this project.

17 Q. Okay. And are you familiar with the Department of  
18 Occupational Safety --

19 A. Yes.

20 Q. -- do you deal with them at all.

21 Okay, now, have you had, in your experience,  
22 have you --

23 A. Back up. Do I deal with them? Typically, not.

1 Q. I usually ask the questions.

2 MS. STEPHENS: But he didn't answer you.

3 A. You sped over. You said am I aware of the  
4 department. Yes, I am aware of the department, and then  
5 you asked about in my dealings with them, and I don't...

6 Q. Okay. Have you had any experience dealing with  
7 them at all?

8 A. Not directly.

9 Q. Okay, in your indirect dealings, have you been  
10 involved in testing and examining buildings that have been

11 subject to DOS scrutiny?

12 A. Not that I'm aware of.

13 MR. BUCKLEY: All right, I have nothing  
14 further.

15 MS. GOLDSTEIN: I have nothing.

16 MR. D'ANGELO: Well, thank you.

17 THE WITNESS: You're welcome.

18 (Whereupon the deposition adjourned at  
19 11:44 a.m.)

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LEAVITT REPORTING, INC.

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WITNESS CERTIFICATE

I, EDWARD G. LYON, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that said transcript is a true and accurate record of said testimony

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_

EDWARD G. LYON

1 COMMONWEALTH OF MASSACHUSETTS

2 I, Kathleen Benoit, a Notary Public in and for the  
3 Commonwealth of Massachusetts, do hereby certify there came  
4 before me on January 9, 2007, the person hereinbefore named  
5 was duly sworn to testify to his knowledge concerning the  
6 matters in controversy in this cause; that he was thereupon  
7 examined upon oath, and that the deposition is a true  
8 record of the testimony given by the witness.

9 I further certify that I am neither attorney nor  
10 counsel for, nor related to or employed by any of the  
11 parties to the action in which this deposition was taken;  
12 and further, that I am not a relative or employee of any  
13 attorney or counsel employed in this case, nor am I  
14 financially interested in this action.

15 IN WITNESS WHEREOF, I have hereunto set my hand and  
16 affixed my seal January 23, 2007.

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Kathleen M. Benoit  
Notary Public

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My commission expires  
May 25, 2012

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