

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

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In the Matter of

Ms. Dessie L. Brumfield,
d/b/a Brumfield Properties, LLC,
Respondent.

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PROTECTION AGENCY

Docket No. TSCA-05-2010-0014

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HEARING BEFORE ALJ M. LISA BUSCHMANN

TAKEN AT: Federal Courthouse
LOCATED AT: 517 East Wisconsin Avenue
Milwaukee, WI

August 7, 2012
9:52 a.m. to 4:31 p.m.
REPORTED BY ANITA K. FOSS
REGISTERED PROFESSIONAL REPORTER

* * * * *

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1 APPEARANCES

2 UNITED STATES ENVIRONMENTAL

3 PROTECTION AGENCY, by

4 Mr. Jeffery M. Trevino and

5 Mr. John P. Stekete

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10 Appearing on behalf of the Complainant.

11 I N D E X

12 WITNESS: James O'Neil

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1 COURT'S

2 Page

3 Exhibit No. Identified

4 Exhibit 1. 262

5

6 R E Q U E S T S

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8 (There were no requests made.)

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1 WITNESS: Dessie Brumfield

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18 RESPONDENT'S

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20 Exhibit No. Identified

21 Exhibit 3. 243

22 Exhibit 6. 243

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25 Exhibit 9. 237

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1 TRANSCRIPT OF PROCEEDINGS

2 THE COURT: Go on the record. The

3 case before me today is in the matter of

4 Ms. Dessie L. Brumfield, doing business as

5 Brumfield Properties, LLC, docket number

6 TSCA-05-2010-0014.

7 Counsel for EPA, please identify yourself

8 for the record.

9 MR. TREVINO: Thank you, Your Honor.

10 My name is Jeffery M. Trevino, associate

11 regional counsel for US EPA, region five.

12 MR. STEKETEE: And I'm John P.

13 Stekete, associate regional counsel for EPA

14 region five.

15 THE COURT: Ms. Brumfield, if you

16 could just please state your name and spell it

17 for the record.

18 MS. BRUMFIELD: My name is Dessie

19 Brumfield. The first name is spelled D as in

20 David, E-S-S-I-E. The last name is Brumfield.

21 B as in boy, R-U-M, F as in frank, I-E-L-D.

22 And I am the property owner.

23 THE COURT: Okay. You may be seated.

24 I understand that Ms. Brumfield brought a

25 number of documents with her today that I

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1 understand were not in a prehearing exchange.
 2 The only documents that I'm aware of that were
 3 in the prehearing exchange were a couple of
 4 bank statements and some deposit slips. Copies
 5 of deposit slips. My concern with the large
 6 number of documents that we've not seen is that
 7 some may have some settlement information in
 8 them.
 9 Mr. Trevino, did you get a chance to look
 10 at the respondent's proposed exhibits or
 11 documents?
 12 MR. TREVINO: Yes, I did, Your Honor.
 13 THE COURT: My staff attorney had
 14 mentioned that no documents with any settlement
 15 information should be included in anything
 16 that's offered today. Have you reviewed them
 17 to see if there's any documents that should not
 18 be in there?
 19 MR. TREVINO: I have, Your Honor. I
 20 do believe there's one document dated April 23,
 21 2012 from Mrs. Brumfield's former attorney
 22 which may contain information regarding
 23 settlement.
 24 THE COURT: Okay. So I want to make
 25 sure that that's removed from any exhibits --

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1 any copies of exhibits that are given out
 2 today. Okay. As far as the documents not
 3 having been in the prehearing exchange, at this
 4 time do you have any statement as to whether
 5 you're going to object to any of them?
 6 MR. TREVINO: Your Honor, don't hold
 7 me to these exact percentages --
 8 THE COURT: Okay.
 9 MR. TREVINO: -- but I think
 10 approximately half of the documents would be
 11 fine simply because they're in our prehearing
 12 exchange. They entail documents like answers
 13 and letters that I believe both complainant and
 14 respondent have seen on a number of occasions,
 15 and even refer to.
 16 There are probably another 25 percent of
 17 the documents which appear never to have been
 18 provided before. Or I should say the second
 19 half have never been provided before. And we
 20 would probably object simply because we think
 21 they're untimely. Some are rather lengthy, and
 22 we didn't have time to read them all line for
 23 line.
 24 Second, I sense that a number of those
 25 documents are probably irrelevant. We could

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1 object to them now or we could simply object to
 2 them one at a time as they are entered, if you
 3 decide to allow them in to begin with.
 4 THE COURT: At this point are there
 5 any that you would stipulate as to
 6 admissibility, can you say, at this point?
 7 MR. TREVINO: Yes. If you would like
 8 to go through them one by one, I would be -- I
 9 think we would be happy to stipulate to a
 10 number of them.
 11 THE COURT: Okay.
 12 MR. TREVINO: All right. The first
 13 document is dated May 13, 2009. It's a letter
 14 from Mrs. Brumfield -- I'm sorry, a letter from
 15 EPA to Ms. Brumfield regarding the upcoming
 16 inspection. There is a second document from
 17 EPA to Ms. Dessie Brumfield dated December 14,
 18 2009 regarding a notice of intent to file
 19 administrative complaint. And attached to that
 20 document is a document, EPA document entitled
 21 US EPA Financial Statement for Individuals.
 22 Next is a document which is a cover letter
 23 that was attached to the answer that
 24 Ms. Brumfield filed when she filed her answer.
 25 The answer was filed approximately September

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1 25, 2011. The next document is the --
 2 THE COURT: Are these numbered or
 3 pages numbered?
 4 MR. TREVINO: I apologize, they're
 5 not.
 6 THE COURT: Yeah.
 7 MR. TREVINO: I could correspond them
 8 with ours and try and get that to you quickly.
 9 THE COURT: Why don't we -- yeah,
 10 it's going to take a little bit of time.
 11 Although --
 12 MR. TREVINO: I think my
 13 description's not bad.
 14 THE COURT: Yeah, I think you're
 15 fine. Let's just keep going.
 16 MR. TREVINO: The next document is
 17 the answer itself. There are also some
 18 documents, I believe, that are simply some of
 19 the points Ms. Brumfield is going to make. And
 20 I think we probably don't have a problem with
 21 that at this stage. One of them just seems to
 22 be a large-print document making some factual
 23 statements.
 24 The next document is from the City of
 25 Milwaukee dated October 24, 2006, to Dessie

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1 Brumfield, regarding property located at 2428
 2 West Brown Street. We could stipulate to that.
 3 The next document appears to be a reduced
 4 version of a Protect Your Family From Lead In
 5 Your Home pamphlet from EPA. We could
 6 stipulate to that.
 7 The next document is a lead disclosure
 8 form. We can stipulate to that. The next
 9 document is a blank disclosure of information
 10 on lead-based paint and a lead-based paint
 11 hazards form, uncompleted. We could stipulate
 12 to that document.
 13 The next document appear to be notes from
 14 Ms. Brumfield. We could stipulate to that.
 15 It's a page that begins, "I prepare my leases
 16 early so that the tenants would have time to
 17 look it over."
 18 The next document I haven't seen before,
 19 so -- there's some handwriting at the top
 20 entitled Sign and Return. So I would leave
 21 that open for the moment. The next document is
 22 a TSCA lead disclosure form signed by
 23 Ms. Brumfield and Tiffany Carter. We can
 24 stipulate to that document.
 25 The next document is a TSCA lead

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1 disclosure form completed by Ms. Brumfield and
 2 a person by the first name of DeShawna. I'm
 3 not sure if I've seen that before. I
 4 apologize. So I would not stipulate to that at
 5 the moment. The next document is a TSCA lead
 6 disclosure form completed by Ms. Brumfield and
 7 a person with the first name of, I think it
 8 says April. And yes, we could stipulate to
 9 that.
 10 The next document is from the law firm of
 11 cone law firm, SC, dated September 8, 2011. We
 12 cannot stipulate to that. In fact, we would
 13 probably object to that document. We believe
 14 that it may go to ability to pay.
 15 The next document is from the City of
 16 Milwaukee Violations Bureau dated March 16,
 17 2011 to Dessie Brumfield. We would object to
 18 that document for the same two reasons.
 19 The next document is from the Professional
 20 Account Management, LLC company dated -- how
 21 about with the date issued date of June 7,
 22 2011. We would object to that for the same two
 23 reasons.
 24 Next is a City of Milwaukee Department of
 25 Neighborhood Services document to Brumfield

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1 Properties, LLC dated January 26, 2012. We
 2 would object to this as being irrelevant. The
 3 next document is a summons and complaint from
 4 Milwaukee Court, City of Milwaukee, dated
 5 February 29, 2012. We would object to this
 6 document as being irrelevant.
 7 The next document is an answer from
 8 Brumfield Properties, LLC to the City of
 9 Milwaukee, State of Wisconsin, dated
 10 February 29, 2011. We would object to that as
 11 being irrelevant. The next document is a State
 12 of Wisconsin Circuit Court, Milwaukee County
 13 summons and complaint in, apparently, small
 14 claims court, dated October 4, 2011. We would
 15 object to that as being irrelevant for this
 16 proceeding.
 17 Next is a complaint from plaintiff cone
 18 law firm, SC, on behalf of the City of
 19 Milwaukee against Dessie L. Brumfield dated
 20 approximately October 4, 2011. We would object
 21 to this as being irrelevant to the proceeding,
 22 and also argue that it might be provided to
 23 demonstrate ability to pay, which has already
 24 been struck. That is approximately a
 25 three-page document.

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1 And finally we have a letter written by
 2 Dessie Brumfield to attorney Jonathan Safran
 3 dated January 18, 2011. We would object to
 4 this document because we believe it is
 5 irrelevant.
 6 THE COURT: Okay. Is that all the
 7 documents that are in that binder?
 8 MR. TREVINO: Yes, that is all the
 9 documents in this binder.
 10 THE COURT: At some point we need to
 11 number those. Ms. Brumfield, have you taken a
 12 look at the proposed exhibits of EPA? Have you
 13 looked at their binder of exhibits?
 14 MS. BRUMFIELD: Yes, I have.
 15 THE COURT: They're not in a binder.
 16 MS. BRUMFIELD: No, no.
 17 THE COURT: They're numbered, though.
 18 Yes, just keep them as a separate stack. Are
 19 you just looking at them for the first time
 20 today?
 21 MS. BRUMFIELD: Well, last night was
 22 the first time because they just dropped these
 23 off at my house a couple days ago. This thing
 24 here. No, I ain't seen it.
 25 THE COURT: Okay. Well, we'll

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1 probably just go through those, have the EPA
2 lay a foundation for them. There's eleven of
3 them. You have a copy of eleven. Do you have
4 eleven tabs, one through eleven?
5 MS. BRUMFIELD: Yes, I do.
6 THE COURT: Okay, once we have
7 respondent's exhibits numbered, then I can work
8 on admitting those into the record that were
9 stipulated to. Okay.
10 Ms. Brumfield, I just want to tell you
11 briefly about this hearing today. EPA has the
12 burden of proof to establish a violation by a
13 preponderance of the evidence, meaning it's
14 more likely than not. The issues to be
15 presented at this hearing are those relevant to
16 liability for each of the 32 violations alleged
17 in the complaint, that is, whether a violation
18 occurred for each of those 32 counts of
19 violation in the complaint, and issues relevant
20 to my determination of a penalty.
21 The liability here means whether
22 Ms. Brumfield was in violation -- or Brumfield
23 Properties, in violation of the regulations at
24 40 CFR 745.113, under title four of the toxic
25 substances control act, we refer to that as

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1 TSCA, is the acronym. Title four is known as
2 the residential lead-based paint hazard
3 reduction act as alleged in the complaint.
4 Ms. Brumfield, are you familiar with those
5 regulations that are referred to in the
6 complaint.
7 MS. BRUMFIELD: Really not familiar
8 with the regulations. The only thing I know is
9 that I should be given out the lead-based paint
10 booklet and with the with a form and a tenants
11 saying that they received it. Basically as
12 simple as that. That's what I know. And
13 that's what I've done.
14 THE COURT: Would you like me to read
15 sort of briefly the pertinent points in the
16 regulations so that you understand what the
17 regulations are the EPA is referring to?
18 MS. BRUMFIELD: I would like that,
19 yes.
20 THE COURT: Okay. The regulations
21 are located in 40 code of federal regulations,
22 section 745.113B. And it says, "Each contract
23 to lease target housing shall include as an
24 attachment, or within the contract, the
25 following elements: A lead warning statement."

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1 And it has certain language that's supposed to
2 be in there.
3 "Number two, a statement by the lessor
4 disclosing the presence of known lead-based
5 paint and/or lead-based paint hazards in the
6 target housing being leased, or indicating no
7 knowledge of the presence of lead-based paint
8 and/or lead-based paint hazards."
9 There's also other language in there, but
10 I think that's going to be too much to absorb
11 at once. But that's the main part of that
12 paragraph.
13 MS. BRUMFIELD: Right. And I
14 understand that.
15 THE COURT: Third, "A list of any
16 records or reports available to the lessor
17 pertaining to lead-based paint and/or
18 lead-based paint hazards in the housing that's
19 been provided to the lessee. And if no such
20 records or reports are available, the lessor
21 shall so indicate."
22 Number four, "A statement by the lessee
23 affirming receipt of the information" set out
24 in the paragraphs I just mentioned above, that
25 is, the list of records or reports and a

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1 statement disclosing the presence of known
2 lead-based paint or lead-based paint hazards,
3 and the lead hazard information pamphlet.
4 And, number six, the signatures of the
5 lessors and lessees certifying to the accuracy
6 of their statements to the best of their
7 knowledge, along with the dates of signature.
8 Okay. Under TSCA, the factors that I may
9 consider in determining the amount of penalty
10 includes the nature, circumstances, extent and
11 gravity of the violation; the violator's
12 ability to pay; effect on ability to do
13 business; degree of culpability, any history of
14 prior similar violations, and such other
15 matters as justice may require. That's set out
16 in the statute.
17 Mr. Trevino will present his witnesses
18 first, and after each one testifies, as we call
19 direct examination, Ms. Brumfield, you have the
20 opportunity to cross-examine. That is, that
21 you may ask the witness questions that are
22 relevant to the direct examination. Then
23 Mr. Trevino may ask questions in what we call
24 redirect examination to follow up on your
25 questions. And then, Ms. Brumfield, you have

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1 an opportunity to ask any follow-up questions
2 to those questions.
3 Then I may ask the witness questions,
4 after which the parties have an opportunity to
5 ask any questions that are following up on my
6 questions. Then, after EPA's finished
7 presenting its witnesses, Ms. Brumfield, you
8 may testify. And Mr. Trevino then may ask
9 questions in cross-examination, then you may
10 make a statement relevant to those questions.
11 Now, when you testify, you can just
12 testify as a statement. And I can give you
13 just some basic parameters of what to testify
14 to. Then Mr. Trevino, as I said, will ask you
15 questions in cross-examination if he wishes,
16 and then you may make any statement that's
17 relevant to those questions after he asks his
18 questions. Then Mr. Trevino has an opportunity
19 to ask you any questions that follow up on
20 those, and then I may ask any questions, after
21 which Mr. Trevino may ask any follow-up
22 questions.
23 I know that's a lot to absorb, but did you
24 get the basic understanding of how it goes?
25 MS. BRUMFIELD: Yes, I did.

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1 THE COURT: An opening statement is
2 not required, but Mr. Trevino would you like to
3 make an opening statement.
4 MR. TREVINO: No, Your Honor. I
5 guess I would just reiterate that our basic
6 allegation is in this proceeding is that from
7 approximately March 1, 2007 to January 1, 2009,
8 Dessie Brumfield, doing business as Brumfield
9 Properties, LLC, was the owner of housing
10 constructed previous to 1978; that she was a
11 lessor and entered into seven leases with
12 lessees, but failed to provide those lessees
13 with a completed TSCA lead disclosure form, or
14 any disclosure form at all, in violation of 40
15 CFR part 745, subpart F, and 42 USC, section --
16 one moment -- 4852DB5.
17 We have alleged a total of 32 violations,
18 and we propose a civil penalty of \$58,060.
19 Thank you.
20 THE COURT: Okay. Thank you.
21 Ms. Brumfield, would you like to make a
22 statement generally about your case? It's not
23 your testimony, not the details, but just a
24 very brief summary of what your testimony will
25 show, what your evidence will show, and what

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1 you think I should decide in the case. Would
2 you like to make a statement?
3 MS. BRUMFIELD: Well, yeah.
4 THE COURT: Okay. Would you stand
5 up, if you can.
6 MS. BRUMFIELD: What I want to say is
7 each and every one of my tenants get the
8 lead-based paint booklet, the brochure -- the
9 booklet and the form where they have to sign
10 that they received it. I prepare my lease
11 early, I give the tenant the booklet, I give
12 the tenant the form that they need to initial
13 and sign.
14 My only mistake, and it's very minor, is
15 that I did not check to make sure that they
16 initialed in a certain spot. And really, I did
17 catch that after a couple got by me. So what I
18 did, the next form that I printed, I put an X
19 there so that I would tell the tenant be sure
20 to read by the X and follow the instructions,
21 'cause I'm not the one to go home with them to
22 read over the book.
23 'Cause some of my tenants that come to me
24 can't read, and I should not be penalized for
25 that. And you should rule in my favor because

Page 21

1 I have no control over tenants. My
2 responsibility is provide a lease, oral or
3 written, provide them with a booklet, provide
4 them with the form. And if you see on some of
5 the exhibits here, I've done that. Their only
6 concern is that I did not make sure that they
7 initialed in a certain spot.
8 But you will see some exhibits that have
9 the X there, showing that I was aware of that
10 and I paid attention to that and I direct a
11 tenant to that. And I think it's really
12 astronomically disgusting that they going to
13 put \$5,000 on something as simple as saying
14 well Ms. Brumfield, you need to go back to your
15 tenants and make that correction and straighten
16 that out from here on. Common sense. Not
17 legal sense. That's my statement.
18 THE COURT: Okay. Thank you,
19 Ms. Brumfield. Mr. Trevino, you ready to call
20 your first witness?
21 MR. TREVINO: Yes, Your Honor.
22 MR. STEKETEE: May it please the
23 Court, John Stekete on behalf of the United
24 States Environmental Protection Agency. We'd
25 like to call our first witness, James O'Neill.

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1 THE COURT: You can remain standing
 2 and raise your right hand. Madam Court
 3 Reporter, if you could please swear the
 4 witness.
 5 JAMES O'NEIL, called as a witness
 6 herein, having been first duly sworn on oath,
 7 was examined and testified as follows:
 8 THE COURT: You may be seated.
 9 EXAMINATION
 10 BY MR. STEKETEE:
 11 Q Mr. O'Neill, could you state and spell your
 12 full name for the benefit of the court
 13 reporter?
 14 A James O'Neil. J-A-M-E-S, O-'-N-E-I-L.
 15 Q Thank you. Who's your current employer?
 16 A I work for SSAI.
 17 Q What does SSAI stand for?
 18 A Senior Service America, Incorporated.
 19 Q Where are they located?
 20 A In Blue Springs, Maryland.
 21 Q What do they do?
 22 A They are a private, nonprofit organization for
 23 senior citizens over 55 years of age.
 24 Q So do you work in Maryland?
 25 A I do not.

Page 23

1 Q Where do you work?
 2 A I work at the EPA region five offices in
 3 Chicago.
 4 Q Are you a contractor then for EPA?
 5 A I'm not a contractor.
 6 Q Well, what's the relationship between SSAI and
 7 EPA?
 8 A The EPA and SSAI have a cooperative agreement
 9 under which senior employees provide
 10 talents -- their talents to -- provide talents
 11 to assist the EPA.
 12 Q Okay. So what part of EPA do you work for?
 13 A I work for the land and chemicals division,
 14 chemicals management, the branch, toxic -- the
 15 pesticide side and toxic section.
 16 Q What is your title?
 17 A Lead inspector.
 18 Q Just very briefly can you explain to the Court
 19 what you do as a lead inspector?
 20 A Well, I do lead inspections. I develop
 21 inspection targets and I do compliance
 22 investigations.
 23 Q For how many years have you been a lead
 24 investigator for EPA?
 25 A 11 years.

Page 24

1 Q At this time I'd like to discuss your
 2 employment history, starting with your current
 3 job working background. And please just focus
 4 on jobs that relate to your duties as an EPA
 5 lead inspector.
 6 A Okay. Well, since 2001 I've been a lead
 7 inspector for the US EPA. Prior to that I
 8 worked for a company called America Resource
 9 Recovery. That was -- I was a marketing and
 10 sales manager.
 11 Q Where is that company located?
 12 A They're located in Maywood, Illinois.
 13 Q What's their line of business?
 14 A American Resource was a reuse, recycling
 15 company. Recycling/reuse services.
 16 Q When did you start working there?
 17 A I started working there in 19 -- 1994.
 18 Q And then prior to 1994?
 19 A I worked for Craft Chemical in Melrose Park,
 20 Illinois.
 21 Q What was your title there?
 22 A I was materials manager.
 23 Q And what type of business is Craft involved in?
 24 A They were top 50 chemical distributor.
 25 Q What types of chemicals did they distribute?

Page 25

1 A They worked in agriculture industries, food
 2 industries, maintenance industries, metal
 3 processing industry.
 4 Q Could you speak up a little bit? And that
 5 was -- when did you start there, at Craft?
 6 A That was in 1990 to 1994.
 7 Q So then prior to 1990, where did you work?
 8 A I worked in -- for a company called Omnitech
 9 International in Thibodaux, Louisiana.
 10 Q And what was your title there?
 11 A I was director of manufacturing.
 12 Q What type of business was Omnitech?
 13 A They manufactured and distributed household
 14 products, automotive products, industrial and
 15 institutional products.
 16 Q And prior to that?
 17 A Prior to that, 1981 to 19 -- excuse me. 1981
 18 to 1987 I was general manager for high part
 19 services in Baton Rouge.
 20 Q And what was their business?
 21 A They were a manufacturer/processor of
 22 chemicals, household chemicals, agricultural
 23 chemicals, automotive chemicals.
 24 Q Thank you. At this time could you briefly
 25 describe your educational background for the

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1 Court.

2 A I have a BS in marketing from the University of

3 Illinois, 1968.

4 Q How about any training that you've had at EPA

5 that relate to your duties as an EPA inspector.

6 A In 2001 I went to Philadelphia and took the

7 lead inspector's training course. 2003, I

8 took -- that was the EPA, of course. In 2003,

9 I took the EPA basic inspector course. 2004, I

10 took the EPA case development course. 2005, I

11 took the lead-based paint renovation and repair

12 painting course training. And then 2006, I

13 took the quality -- EPA quality assurance

14 overview course.

15 Q Okay. Thank you. At this time could you go

16 into a little bit more detail about your duties

17 as a lead inspector, where you conduct your

18 inspections, how do you conduct them? Just

19 very brief.

20 A I conduct my inspections in region five,

21 throughout region five, six states. And I do

22 inspections for -- compliance inspections for

23 the renovation and repair and painting rule and

24 the lead-based paint disclosure rule.

25 Q Do you conduct these on our own or do you work

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1 with a team of other people? How do you --

2 A Sometimes I work on -- by myself. Most

3 recently we've been teaming up. Mostly, last

4 two or three years, we've been doing it with

5 teams.

6 Q With a colleague?

7 A Yes.

8 Q Have you conducted any other type of

9 inspections on behalf of EPA other than the

10 lead-based disclosure rule inspections?

11 A Yes, I've done some asbestos inspection in

12 schools under the AHERA program, which is the

13 asbestos hazardous emergency response act.

14 Q So roughly how many inspections have you

15 performed on behalf of EPA?

16 A At least 200.

17 Q When you're going to inspect properties or

18 landlords, how do you identify which properties

19 or landlords you're going to go inspect?

20 A Well, we use various techniques. We do

21 the -- when I'm doing, let's say, targeting for

22 lead-based paint disclosure, we work closely

23 with the health departments. And the health

24 departments provide information regarding where

25 they've done an inspection, the addresses of

Page 28

1 the inspections, and any open orders they may

2 have.

3 Q Open orders. Could you explain what that

4 means?

5 A Well, lot of times they'll do an inspection,

6 and if they find lead, a lead hazard, they'll

7 issue an open abatement order or a mitigation

8 notice, and then if those are not cleared or

9 taken care of, they remain open orders on the

10 records -- on the list.

11 Q This might be obvious, but what is the purpose

12 of an abatement order?

13 A To remove -- take care of the lead, reduce the

14 hazard of lead-based paint that they found.

15 Q Who is it typically issued to?

16 A It would be the property owner, or the land

17 owner.

18 Q So how do you go about getting this information

19 from the local health departments?

20 A Sometimes we go directly to the health

21 department. Sometimes we use databases, public

22 databases that are available to us and we put

23 together a list of targets for inspections.

24 Q Do you use any other criteria than just being

25 on a database for a health department to

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1 identify your inspection targets?

2 A Well, we do, you know, pre-1978 properties in

3 urban areas. We're looking for older

4 properties.

5 Q Why pre-78? What's the significance of that?

6 A Well, that's in the regulation. Buildings

7 built prior to 1978. And that's when they

8 banned lead-based paint. Lead-based paint in

9 the United States.

10 Q Continue. Any other criteria? You said health

11 department -- on a health department list,

12 pre-78 properties. Is there anything else you

13 look at?

14 A Rural areas, their inventory. We're looking at

15 tenants or landlords that have large

16 inventories and tenants that have open orders.

17 Q So when you conduct your inspection, what type

18 of issues do you typically run across that

19 landlords or the owners have or have not done?

20 A Well, the first situation would be that there

21 would be no disclosure statement, that they're

22 not giving out the disclosure statement. The

23 worst case scenario would be that they're not

24 giving out any disclosure to any of the

25 tenants.

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1 Q Why is that the worst case scenario?
2 A Well, tenants aren't being provided with the
3 information that they should be.
4 Q Why is that important?
5 A Well, so that they can make an intelligent
6 decision as to whether they want to move into
7 that apartment prior to going into a contract.
8 Q So that's the worse case scenario. What are
9 some other issues that you run across?
10 A Well, in the lead-based paint disclosure
11 statement, there's the warning statement,
12 warning on the lead-based paint, there's -- a
13 property owner makes a statement regarding his
14 knowledge of lead-based paint, if he has any,
15 records, provides your family on lead pamphlet
16 to them, which they have to sign and they have
17 to acknowledge that, and acknowledge receipt of
18 that lead-based paint disclosure document. And
19 that's part of the records that we're looking
20 for.
21 Q Okay. Thank you. When you conduct your
22 inspections, is there anything you do to insure
23 consistency in the way you conduct them?
24 A Well, we use an outline of questions.
25 Q Could you describe that in more detail, please?

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1 A Well, there's some general background questions
2 that we ask. You know, if the company is
3 operating under any other names; if they act as
4 a manager for or manage any other properties
5 that they don't own. Some places actually
6 manage properties with other people as well as
7 their own. Just general background questions.
8 Then we ask questions about the target
9 housing. And just -- it's just general
10 questions about, you know, whether they do
11 their leases, whether they, you know, contract
12 their business.
13 MS. BRUMFIELD: Could you speak up,
14 please?
15 THE WITNESS: Okay. Where they
16 contract their business. I think that's -- and
17 then -- so general conclusion, where we explain
18 to them at the end that we're going to get
19 together at the end of the inspection.
20 BY MR. STEKETEE:
21 Q Is this something you do routinely in your
22 inspections, is use this outline?
23 A Yes.
24 Q Do you gather information either -- do you
25 gather documents when you conduct one of these

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1 inspections?
2 A Yes, we do.
3 Q What do you typically gather?
4 A We gather the notice of inspection, which is
5 notifying the landlord or management company
6 that this is an inspection for compliance with
7 the lead-based paint disclosure rule. And
8 that's the compliance -- it's a consensual
9 inspection. It's a voluntary inspection.
10 Q You want to take a break and have a little bit
11 of water?
12 A I'm losing my voice. It's not loud to begin
13 with.
14 Q So that's the notice of inspection; is that
15 correct?
16 A Yeah, that's pretty much it. They sign that
17 notice. We keep the original, they get a copy.
18 Q Anything else?
19 A There's a confidential business information
20 notification. We provide notification of their
21 right to make a confidential business
22 information if they -- declaration if they feel
23 they have any proprietary secret information in
24 the leases that would be provided, they sign
25 that again, we keep the original, they keep a

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1 copy.
2 Q Do you gather anything else?
3 A Well, when we leave, we make copies of the
4 leases that we're going to review, and then we
5 give them a receipt for those copies.
6 Q How do you decide what leases you copy or how
7 many you copy?
8 A Well, that depends. Our rule of thumb is to do
9 ten percent of the leases. But if -- we would
10 like to get a minimum of 25. So if they have
11 less than 25, we gather all the leases. If
12 they have 300, we take 30. Maximum we'll take
13 is 50. 50 leases.
14 Q What do you do with those documents when you've
15 completed your inspection?
16 A Well, we have copies of those documents, and we
17 bring them to the EPA offices in Chicago and
18 write a report.
19 Q How often do you write a report?
20 A We write a report every time.
21 Q What do you do with that report once you've
22 completed it?
23 A We give it to the -- usually the lead team
24 leader, and that lead team leader assigns it to
25 case development officer.

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1 Q Okay. Thank you. Is there ever an occasion
2 where you would meet with a landlord or an
3 owner of a target properties at their home?
4 A Yes.
5 Q And why would that happen?
6 A Well, that happens when they're operating their
7 business in the home and the leases are at that
8 property. So if the leases are there, and
9 that's what we'd like to review, and they're
10 operating out of their home, we arrange to do
11 the inspection at that home.
12 Q Is there a requirement that you meet at their
13 home, or is that optional?
14 A That's optional. We've done it a lot of other
15 places.
16 Q So no one needs to meet at their home if they
17 do not want to?
18 A No. Other government offices we've done them
19 at -- or I've done them at government offices,
20 I've done them at libraries, I've done them at
21 accountant offices or accounting firms.
22 Wherever they, you know, would like. If they
23 object to doing it at the home, we will find an
24 alternate site location.
25 Q Okay. Thank you. Mr. O'Neil, at this time I'd

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1 like to turn your attention to the case at hand
2 in the matter of Ms. Dessie L. Brumfield doing
3 business as Brumfield Properties, LLC, docket
4 number TSCA 052011-14. Are you familiar with
5 this case?
6 A Yes, I am.
7 Q When did you first become involved in this
8 matter?
9 A In March of 2009.
10 Q How did you become involved?
11 A The chief of the section requested that I put
12 together some targets for the Milwaukee area
13 and do inspections at a later time.
14 Q Who was that, the chief?
15 A Tom Crossetto.
16 THE COURT: Can you spell that? Do
17 you know what the spelling is?
18 THE WITNESS: Oh, man, you're going
19 to put me -- I believe it's C-R-O-S-S-E-T-T-O.
20 One S or two.
21 THE COURT: Thank you.
22 BY MR. STEKETEE:
23 Q Okay. So what did you do per that directive
24 from Mr. Crossetto?
25 A I cited the -- well, Scott Cooper was the lead

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1 team leader, and we had received information
2 from a list regarding -- from the Chicago
3 public -- Chicago -- the Milwaukee Public
4 Health Department had a list of inspections,
5 open orders and mitigation notices. And that
6 went to scoot Cooper. And Scott gave it to me
7 to put together a list of targets.
8 Q So what did you do with this list that you
9 received from Mr. Cooper?
10 A We looked at the list; we looked at, you know,
11 the inspections that -- open orders, and then
12 we took that list and we went to another
13 database. We saw there were open orders. We
14 found out what inventory or how large of an
15 inventory of pre-78 housing they had and we
16 prioritized that particular list.
17 Q So what was the result of that prioritizing of
18 the list?
19 A We started out with 17 different companies and
20 we wound up with a list of six targets.
21 Q Was Brumfield Properties, LLC on that list?
22 A Dessie Brumfield was.
23 Q Had you ever met or heard of Ms. Brumfield or
24 Brumfield Properties, LLC prior to creating
25 this list?

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1 A No, I had not. No.
2 Q Had any person or entity identified
3 Ms. Brumfield or Brumfield Properties, LLC to
4 you --
5 A No.
6 Q -- prior to creating the list?
7 A No.
8 Q Did anybody from the State of Wisconsin or City
9 of Milwaukee ever bring Ms. Brumfield or
10 Brumfield Properties, LLC to your attention --
11 A No.
12 Q -- prior to creating the list?
13 A No.
14 Q So with regard to Ms. Brumfield, how did you go
15 about contacting her?
16 A Well, we had looked up a telephone number, and
17 I know I attempted to phone her because the
18 lead-based paint --
19 MS. BRUMFIELD: I can't hear you.
20 THE WITNESS: Okay. The lead-based
21 paint inspections are announced inspections.
22 And I attempted to contact Ms. Brumfield by
23 phone, but I did not have a good number. So I
24 wrote Ms. Brumfield a letter requesting an
25 inspection and suggesting a date and a time for

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1 that inspection.
2 BY MR. STEKETEE:
3 Q What was the date of the letter, do you
4 remember?
5 A May 11, 2009.
6 Q Mr. O'Neil, at this time I would like you to
7 turn to what has been marked as complainant's
8 Exhibit No. 1 in the complainant's notebook in
9 front of you. And it's Bates numbers 15
10 through 17. And once you've found it, could
11 you just take a brief moment of time to look
12 at -- review the exhibit. Are you ready?
13 A Yep.
14 Q Do you recognize these documents?
15 A Yes, I do.
16 Q What are they?
17 A The first document there is a -- well, it's a
18 letter to Ms. Brumfield sent certified mail
19 requesting an inspection for compliance with
20 the lead-based paint disclosure rule.
21 Q What's the second document? It's all part of
22 Exhibit 1, but the -- at Bates 17?
23 A Right. Okay, that's the certified mail receipt
24 for the certified mail, one going to the post
25 office, one coming back. Which we call a green

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1 card with a signature.
2 Q Are these originals or copies?
3 A These are copies.
4 Q Who's your May 11, 2009 letter addressed to?
5 A Dessie Brumfield.
6 Q And who's it from?
7 A It's from me.
8 Q And did you prepare this letter?
9 A Yes, I did.
10 Q Could you turn to page two of the letter at
11 Bates number 16?
12 A Yes.
13 Q Is that your signature at the end of the
14 letter?
15 A Yes, it is.
16 Q With regard to the notations on page 1 and 2 of
17 the letter, are those your notations?
18 A Yes, they are.
19 Q That's your handwriting?
20 A Yes, it is.
21 Q Other than the notations, does this copy of
22 your letter appear to have been altered in any
23 way since you created it?
24 A No, it has not.
25 Q Could you turn to the third page, page No. 17?

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1 A Yes.
2 Q Who prepared the top certified mail receipt?
3 A That is my handwriting. That's me.
4 Q And who was responsible for mailing the letter?
5 A I mailed the letter.
6 Q Is that standard procedure, EPA procedure, for
7 you to mail your own letters?
8 A When they -- there are very few that go out
9 under my signature. So yes, I mail my own
10 letters.
11 Q With regard to the certified mail receipt at
12 the bottom, what you call the green card, was
13 this returned to you.
14 A Yes, it was.
15 Q Was it returned to you by the respondent,
16 Ms. Brumfield?
17 A That appears to be her signature on the green
18 card.
19 Q Do the copies of the certified mail receipt and
20 the green card appear to have been altered in
21 any way since you either created them or
22 received them?
23 A No, they have not.
24 Q So were these documents created, executed,
25 mailed, per the regular course of EPA business?

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1 A Yes, they were.
2 Q So in sum, complainant's Exhibit 1 before you
3 appear to be a true and accurate copy of your
4 May 11, 2009 letter and the accompanying
5 certified mail receipts?
6 A Yes.
7 MR. STEKETEE: At this time, Your
8 Honor, the plaintiff requests that a copy of
9 Exhibit 1 and the attached certified mail
10 receipt to be entered into evidence.
11 THE COURT: Ms. Brumfield, do you
12 have any questions about this letter?
13 MS. BRUMFIELD: I'm not certain which
14 one they're talking about. May 13, 2009?
15 MR. STEKETEE: No, it's the May 11th.
16 It's right before that. The May 11, 2009.
17 THE COURT: Should be at tab number
18 one.
19 MS. BRUMFIELD: I will not object to
20 that, even though I'm not familiar with this
21 letter.
22 THE COURT: Okay. Complainant's
23 Exhibit 1 is admitted into evidence.
24 MR. STEKETEE: Thank you, Your Honor.
25 BY MR. STEKETEE:

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1 Q So Mr. O'Neil, did Ms. Brumfield respond to
2 your May 11, 2009 letter?
3 A Yes, she did.
4 Q How did she respond?
5 A She called me on May 13, 2009 regarding the
6 request.
7 Q Did you document this telephone call?
8 A Yes, I did.
9 Q How did you go about doing that?
10 A Well, I have a log sheet or a -- that I use
11 when I make arrangements for telephone calls.
12 And I indicated on that log sheet that I made
13 contact with Dessie Brumfield. It's also an
14 outline of things that, you know, when I make
15 arrangements, that I would discuss what the
16 person is making arrangements for an
17 inspection.
18 Q Did you -- did Ms. Brumfield agree to the
19 inspection?
20 A Yes, she did.
21 Q And did you confirm this agreement in writing?
22 A Yes, I did.
23 Q Mr. O'Neil, at this time I'd like you to turn
24 to what has been marked as complainant's
25 Exhibit 2 at 19 and 21. Bates numbers 19 and

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1 21. And just take a brief moment to look
2 through those documents. Do you recognize
3 these documents?
4 A Yes, I do.
5 Q And what are they?
6 A The first document is my letter confirming our
7 conversation of May 13th regarding her
8 agreement to have an inspection on her house at
9 3936 North 18th Street on May 21st at 9:30 p.m.
10 Or 9:30 a.m.
11 Q And what is the second page of the exhibit?
12 A That's a copy of my log sheet and outline.
13 When I contact and make arrangements for
14 lead-based paint instructions, it's an internal
15 document that I use for my own records.
16 Q Okay. And are these the originals or copies?
17 A These are copies.
18 Q With regard to the May 13, 2009 letter, who's
19 that letter from?
20 A That letter is from me.
21 Q Did you prepare it?
22 A Yes, I did.
23 Q Is that your signature at the bottom of the
24 letter?
25 A Yes, it is.

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1 Q And who mailed the letter?
2 A I mailed the letter.
3 Q This one wasn't mailed by certified mail. Why
4 is that?
5 A I didn't mail that certified because I had
6 talked to Ms. Brumfield about the inspection
7 and I believe she requested that I do send a
8 confirming letter to her regarding the
9 inspection.
10 Q Does the letter appear to have been altered in
11 any way since you created it?
12 A No, it does not appear to be altered.
13 Q With regard to your telephone request log sheet
14 at Bates 21, did you create this document?
15 A Yes, I did.
16 Q Do you routinely create this type of document?
17 A Yes, I do.
18 Q Is that your handwriting on the document?
19 A Yes, it is.
20 Q Does this copy of your telephone log appear to
21 have been altered in any way since you created
22 it?
23 A No, it has not.
24 Q Was it created per the regular course of EPA
25 business?

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1 A Yes, it is.
2 Q So in sum, does complainant's Exhibit 2 before
3 you appear to be true and accurate copies of
4 your May 13, 2009 letter and the associated
5 telephone request sheet?
6 A Yes.
7 Q Okay.
8 MR. STEKETEE: Your Honor, at this
9 time complainant requests that complainant's
10 Exhibit No. 2, a copy of Mr. O'Neil's May 13,
11 2009 letter to Ms. Brumfield and Mr. O'Neil's
12 associated telephone request sheet be entered
13 into evidence.
14 I would note that this -- the letter, the
15 first part of the exhibit, is the same letter
16 that was stipulated to by the parties in
17 Ms. Brumfield's documents, with the exception
18 that she's attached the United States postal
19 service delivery receipt to her copy of the
20 letter.
21 THE COURT: Okay. Ms. Brumfield, do
22 you have any question or objection to that
23 document?
24 MS. BRUMFIELD: Not to that document,
25 no.

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1 THE COURT: Okay. Complainant's
 2 Exhibit 2 is admitted into evidence.
 3 MR. STEKETEE: Thank you.
 4 BY MR. STEKETEE:
 5 Q So Mr. O'Neil, did you participate in an
 6 inspection for this matter?
 7 A Yes, I did.
 8 Q And did you conduct that on your own or with a
 9 colleague?
 10 A Yeah, a colleague.
 11 Q Who was your colleague that you conducted the
 12 inspection with?
 13 A Ed Pilny, P-I-L-N-Y.
 14 Q Who is Mr. Pilny?
 15 A Mr. Pilny is another inspector.
 16 Q At EPA?
 17 A Yes, he's an inspector just like me.
 18 Q And who was the lead on the inspection?
 19 A Pardon?
 20 Q Who was --
 21 A Ed was the lead on this inspection. We take
 22 turns.
 23 Q So what was your role?
 24 A My role was to assist the inspection.
 25 Q Okay. At this time could you walk the Court

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1 through the inspection, starting from the very
 2 beginning and, you know, how it occurred and
 3 what occurred during the inspection? And take
 4 your time.
 5 A Well, approximately 9:30 a.m. on May 21, 2009,
 6 we arrived at Ms. Brumfield's home. We knocked
 7 on the door, rang the doorbell. Ms. Brumfield
 8 came to the door. Ed asked if she was
 9 Ms. Brumfield; she acknowledged that she was.
 10 We showed her our credentials. She invited us
 11 in.
 12 We went to the dining room table and Ed
 13 briefly explained what would be involved in the
 14 inspection, that we would ask some questions,
 15 review documents, ask her to make copies of the
 16 documents, and then we would get back together
 17 at a later time and review the whole thing.
 18 Q Okay. Did you present anything to her as part
 19 of this?
 20 A Well, yes. Ed presented the notice of
 21 inspection, a copy of the actual business
 22 information documents at that time, and then
 23 before we left we gave her a receipt. And we
 24 also give her outreach material.
 25 Q Did she sign the notice of inspection?

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1 A Yeah, she signed all three items.
 2 Q So after you sat down at the dining room table,
 3 what happened? And after you presented those
 4 documents, then what happened?
 5 A Well, we sat down at the dining room table. Ed
 6 used the outline; he went through the various.
 7 MS. BRUMFIELD: Can you speak up?
 8 THE WITNESS: Okay. After the notice
 9 of inspection, CBI, we sat down at the dining
 10 room table, Ed went through his outline of
 11 questions. We finished those questions, Ed
 12 asked to review the lease documents that she
 13 had and brought out the documents. Ed reviewed
 14 them at the table. We asked to make copies of
 15 those documents. She had a fax machine in the
 16 other room. She took the documents to the
 17 other room, made us copies.
 18 BY MR. STEKETEE:
 19 Q What happened after you made the copies of the
 20 leases, or Ms. Brumfield made copies of the
 21 leases?
 22 A Well, we sat down with Ms. Brumfield and
 23 explained to her that we were going to take the
 24 leases to EPA offices in Chicago and they were
 25 going to be reviewed. We were not going to

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1 make a determination of violations at that
 2 point. We gave her outreach material.
 3 Q You said outreach material?
 4 A Yes.
 5 Q What do you mean by that?
 6 A Copy of the regulations, interpretive guidance,
 7 flyers, brief flyers, copy of a sample of the
 8 lead-based paint disclosure statement from the
 9 EPA from both sales and leases, and a copy of
 10 the protective agreement from.
 11 Q And then after that, what happened?
 12 A Like I said, we gave her a receipt for the
 13 thing and we left.
 14 Q Approximately how long did the entire
 15 inspection take?
 16 A Little over an hour.
 17 Q And did Ms. Brumfield have any questions for
 18 you or Mr. Pilny during the inspection?
 19 A I -- no, not that I'm aware of.
 20 Q What was her demeanor during the inspection?
 21 A She was very cooperative, professional, you
 22 know, congenial.
 23 Q Did she ever question your authority --
 24 A No.
 25 Q -- to be there?

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1 A No.
2 Q Did she ever ask you to leave?
3 A No.
4 Q Was she -- did she act in a professional manner
5 during the inspection?
6 A Yes.
7 Q Is there anything else that you want to draw to
8 the Court's attention concerning the
9 inspection?
10 A We were in the dining room. She had all these
11 dolls that she collected. And, you know, I
12 couldn't help but notice. It had nothing to do
13 with the inspection, but I did ask her about
14 the dolls that she collected. And she told me
15 that she, you know, bought and sold the dolls.
16 It was kind of like a business. But it had
17 nothing to do with the inspection.
18 Q Okay. And then after you and Mr. Pilny left,
19 what happened? Was that -- did you come back
20 to Chicago or --
21 A Yeah, we went back to Chicago.
22 Q What did you do with all the information you
23 gathered, the documents that you had gathered?
24 A Well, Ed wrote a report. And the documents
25 were, you know, locked up in his files and --

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1 Q Who wrote the report?
2 A Ed.
3 Q Ed?
4 A Ed Pilny wrote the report. He was the lead
5 inspector. And the leases and the copies of
6 the lease documents were attached to that
7 report. And then later we got some information
8 from the health department regarding the actual
9 inspection reports, and that was attached to
10 the --
11 MS. BRUMFIELD: I can't hear you.
12 I'm losing you.
13 THE WITNESS: Later on, Ed had
14 obtained from the health department the actual
15 inspection reports themselves as opposed to a
16 list at several of the properties.
17 MR. STEKETEE: Okay. Thank you.
18 Your Honor, at this time could I have a brief
19 moment?
20 THE COURT: Sure.
21 MR. STEKETEE: Your Honor,
22 complainant at this time has no further
23 questions for this witness.
24 THE COURT: Ms. Brumfield, do you
25 want to take a very short break or would you

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1 like to ask some questions?
2 THE WITNESS: I would like to get
3 this over with. I'll ask questions now. It's
4 going to be brief.
5 THE COURT: Okay.
6 EXAMINATION
7 BY MS. BRUMFIELD:
8 Q Mr. O'Neil, how did I -- how were you aware of
9 me to come to my house?
10 A How was I aware of you?
11 Q Yeah. What happened that made you decide to
12 come to my house?
13 A You were on a list from the Milwaukee Health
14 Department showing that an inspection was done
15 at one of your rental properties and you still
16 had an open order, or abatement order.
17 Q Do you have a copy of that open order? Did you
18 present me with a copy of the open order? You
19 made my knowledge your word, because if
20 you -- this is your business and you find an
21 open order, isn't it fair you should have
22 contacted me and made me aware of an open
23 order? I'm not aware of an open order.
24 A I believe it's in one of the -- one of the
25 documents that's in the file here.

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1 Q I would like to see that document. When you
2 came to my house, what was your demeanor? How
3 was you dressed? Are you an EPA agent?
4 A An -- I work --
5 Q You work for EPA. Are you an EPA agent?
6 A I work under the direction of the EPA.
7 Q Are you a uniform officer?
8 A No, I'm not.
9 Q Did you come to my house with uniform and
10 badge?
11 A No. But I did come with credentials. We have
12 EPA credentials.
13 Q Did Ed Riley come to my house with a uniform
14 and badge? Did you present a badge to me
15 identifying yourself?
16 A No, we did not.
17 MS. BRUMFIELD: Can I say he did?
18 THE COURT: That will be for your
19 testimony. You're just going to ask him
20 questions.
21 MS. BRUMFIELD: Okay.
22 BY MS. BRUMFIELD:
23 Q From what I've been hearing, you are a lead
24 paint inspector, physical lead paint inspector?
25 You go out and inspect the homes for lead-based

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1 paint?
2 A No, I do not.
3 Q You don't do that? Not my home, any home.
4 A No.
5 Q Well, what do you do?
6 A We do inspections with lead-based paint
7 disclosure rule, which is a review of
8 documents.
9 Q But I --
10 A A document review.
11 Q I thought I heard you say that you go out and
12 inspect the homes for lead-based paint. You
13 get a work order, you find out about it, and
14 you did that type of work. I mean, you spoke
15 so low that -- did you say that or did you not
16 say that?
17 A No, I never did say that.
18 Q You didn't say that you were a lead-based paint
19 inspector?
20 A I said I am a lead inspector for the US EPA
21 region five, yes, but I --
22 Q But you --
23 A -- but the inspection -- I believe I explained
24 that to you what would be involved in the
25 inspection was review of your lease documents

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1 for compliance.
2 Q What would you be involved -- or what you did
3 do? I mean, we don't want to know what would
4 be involved, we want to know what you did. I
5 mean what you physically did. Okay, let's put
6 it this way. Did you ever inspect any of my
7 properties for lead-based paint?
8 A No, I did not.
9 Q Did you find lead-based paint orders where work
10 should have been done and I didn't do?
11 A We had records that the Milwaukee Health
12 Department did an inspection at one of your
13 rental properties, they found lead-based paint,
14 and they issued an abatement order to you.
15 Q Do you know which property that was?
16 A I believe that property was on 13th Street. I
17 don't know the exact address.
18 Q Did you -- was there anyone in there -- did
19 your records show that any tenant, anyone ever
20 filed a complaint against me for a lead-based
21 paint?
22 A No.
23 Q You didn't find that?
24 A No.
25 Q Did you, when going through those files from

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1 the City, did you notice any of those files
2 where Ms. Brumfield called and volunteered to
3 have all her properties inspected even when she
4 paid 50 percent of the inspection fee just to
5 clear her property of lead-based paint? This
6 is prior to the tenant now.
7 A Okay. I did not review -- Mr. Pilny was the
8 lead inspector, and I did not personally review
9 your lease documents.
10 Q Don't you think it would have been good for the
11 lead inspector to be here?
12 A He is here.
13 Q Where is he?
14 THE COURT: Okay, Ms. Brumfield, he's
15 another person that will testify later.
16 MS. BRUMFIELD: I'm sorry.
17 THE COURT: One witness at a time.
18 MS. BRUMFIELD: Right. But anyway,
19 I'm kind of concerned with Mr. O'Neil that he
20 did all of this work on these properties, or
21 supposedly -- or had work orders and did all
22 this investigation, he did not find anywhere
23 where, in his search, that I was a willing
24 participant --
25 THE COURT: Okay. Are you asking him

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1 a question? Now's the time just to ask
2 questions, okay, not for your statement.
3 MS. BRUMFIELD: Okay, okay.
4 BY MS. BRUMFIELD:
5 Q Did you find anyplace in your search for my
6 records where I refused to cooperate with the
7 lead-based paint that the City advanced [sic]
8 that I do?
9 A I'm not sure I understand the question.
10 Q Okay. Let me rephrase it.
11 A Okay.
12 Q In your search of my records, of my property,
13 and you have a list of them, to see if there
14 were lead-based paint orders on my property,
15 were there any lead-based paint orders that was
16 outstanding that I didn't fulfill that order as
17 ordered by the City of Milwaukee?
18 A Yes, we did find records.
19 Q You found records or did you find where I --
20 A We didn't physically go out and --
21 Q So you never --
22 A -- do the clearance, because that -- the
23 clearance would have been done by the health
24 department. According to the health department
25 records that we received, they never did a

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1 clearance. They gave you an abatement order,
2 or they did a lead hazard paint inspection for
3 your property, but they never came out and did
4 a clearance. So they had it as an open order.
5 Q Did you find any of the certificates that were
6 issued to me on file?
7 A Any what?
8 Q Any lead-based paint certificates that the City
9 issued to me saying that the work was
10 completed. Did you find any of those?
11 A I believe that's in one of the documents.
12 Q Well, how many --
13 A That was sent --
14 Q For how many houses?
15 A I don't know. Okay. I'm aware of one, okay,
16 in the documents I've seen.
17 Q And --
18 A One of the properties where they came out and
19 they did a --
20 Q And in the documents, the lead-based paint
21 documents that you viewed at my property, other
22 than missing an initial, what else did you
23 find?
24 A I said I didn't personally review those
25 documents. I think you would need to talk to

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1 Mr. Pilny, who reviewed it and wrote the
2 report, okay? What else did I find? I don't
3 know. I'm not sure.
4 Q I don't know if I'm hearing you or not.
5 THE COURT: I think he answered your
6 question. You want to move on to the next
7 question?
8 MS. BRUMFIELD: I'm sorry.
9 BY MS. BRUMFIELD:
10 Q You kind of phase -- you know, you talk start
11 up and you go down. But anyway, he answered
12 pretty much, so I'm going to leave it with
13 that, other than to say that -- to ask him that
14 he repeated what Ed Riley said to me. How do
15 you know what he said to me? You was in the
16 bathroom a lot. How do you know what he said
17 to me?
18 A I never recall going to the bathroom while I
19 was in your house. Okay. Now, what is your
20 question in regards --
21 Q I mean, you said you stated that Mr. Riley --
22 A It's Mr. Pilny, was the other inspector.
23 Q Well, the paper said Ed Riley, so I call him
24 Riley. On my paper. So -- but he is the one
25 that signed the documents. You was there. I

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1 recognized you right away when I saw your cane,
2 but I didn't know your name at the time. But
3 Ed Riley was the one that signed the papers
4 that I was there, that I signed. At least
5 that's the name on the document, Ed Riley.
6 A No, it's Ed Pilny.
7 Q I can present that to the court.
8 A But he did sign the notice of an inspection,
9 the confidential business information and the
10 receipt for documents.
11 Q You stated that you never called me on the
12 phone before May 9th. You only sent me a
13 letter, then I called you.
14 A Yes.
15 Q You never called me. When you called me, did
16 you explain to me the gravity of what you guys
17 were -- was reviewing my leases for, the
18 seriousness of it?
19 A Well, I -- well, number one, regarding the -- I
20 attempted to call you; I didn't reach you, and
21 that's the reason I wrote you the letter. You
22 responded. You called me regarding that
23 letter. And at that time I explained to you
24 what would be involved in the inspection, that
25 there was a compliance inspection for the

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1 lead-based paint disclosure rule and we would
2 review your lease documents.
3 Q Do you think if I would have known --
4 MR. STEKETEE: Objection, Your Honor.
5 THE COURT: Sustained. Go to the
6 next question.
7 MS. BRUMFIELD: I wish I would have
8 known the day before with this long -- but -- I
9 lost my train of thought. But I'm going to
10 close it right now, 'cause I got a headache and
11 I'm diabetic and I need to eat another piece of
12 candy and drink some more water.
13 THE COURT: Do you need to take a
14 break?
15 MS. BRUMFIELD: No, I want this over
16 with, because it's two-and-a-half years and
17 it's killing me.
18 THE COURT: I just wanted to make
19 sure you get the chance to ask the questions
20 you need to. Mr. Steketee, you want to do any
21 redirect?
22 MR. STEKETEE: Yes.
23 EXAMINATION
24 BY MR. STEKETEE:
25 Q Mr. O'Neil, as an EPA inspector do you have any

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1 responsibility for lead abatement within the
2 City of Milwaukee as far as compliance with the
3 actual abatement, the cleaning up of the
4 lead-based paint hazard?
5 A I do not.
6 Q So what are your duties as an EPA inspector
7 from the federal perspective with regard to
8 issues in Milwaukee?
9 A Could you -- what are my --
10 Q What are your responsibilities as an EPA
11 inspector? Could you just reiterate what they
12 are?
13 A Again, to do inspections for compliance with
14 the lead-based paint disclosure rule, do
15 compliance investigations and involve targets
16 for 1018 inspections.
17 Q With regard to the lead-based paint disclosure
18 rule of compliance, that's a paperwork rule, a
19 recordkeeping rule?
20 A Yes, it is.
21 Q Are there any federal regulations with regard
22 to the actual abatement of lead paint, cleaning
23 up of lead paint?
24 A Well, there's a renovation, repair and painting
25 rule which our regulations regarding work

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1 provide procedures for doing that work. The
2 State has the authority to -- if there's an
3 abatement order issued, the State has the
4 authority for that abatement.
5 Q With regard to the order, the open order that
6 was issued, and I don't know whether it was
7 complied with or not, but was that your
8 responsibility to determine whether the order
9 was complied with or take any action with
10 regard to that order?
11 A No, that is not my responsibility.
12 Q Are you required to wear a uniform when you
13 conduct your inspections?
14 A No, I'm not.
15 Q So what do you -- what are you presenting when
16 you appear at an inspection? How do you
17 identify yourself?
18 A We have credentials which we provide, they're
19 working credentials signed by the -- signed
20 credentials saying that we are -- that we have
21 the authority to do the inspection.
22 Q And Ms. Brumfield knew you were coming;
23 correct? You had spoken to her on the
24 telephone and sent two letters?
25 A Yes.

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1 Q Okay. And you had stated the purpose of your
2 inspection in your letters?
3 A Yes.
4 MR. STEKETEE: Your Honor, could I
5 have a moment, please?
6 THE COURT: Yes.
7 MR. STEKETEE: I think those are all
8 the questions complainant has for this witness
9 at this time.
10 THE COURT: Okay. Thank you.
11 Ms. Brumfield, any follow-up questions?
12 MS. BRUMFIELD: I'm done.
13 THE COURT: Okay. Mr. O'Neil, I just
14 have a couple of questions for you. During
15 your inspection, or during phone calls,
16 conversations that you had with Ms. Brumfield,
17 were you able to observe whether she was aware
18 or knowledgeable about the requirements of the
19 lead-based paint disclosure rule?
20 THE WITNESS: Yes, she -- I believe
21 she was knowledgeable. She indicated she had
22 knowledge of the lead-based paint disclosure
23 rule.
24 BY THE COURT:
25 Q Did she know specifics about it or she just

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1 knew of the --
2 A In the conversations, we didn't get into the
3 specifics.
4 Q During the inspection did you ask her to send
5 you -- or did you ask her whether she had any
6 other leases or documents regarding the leases
7 either at her home or any other location?
8 A I was not the lead inspector, so -- that is a
9 normal, routine question for an inspector to
10 ask when we do the inspection, are all the
11 leases and documents at this location for all
12 the properties that you own.
13 Q Did you ask Ms. Brumfield to send you any
14 additional lease forms or documents concerning
15 the leases after the inspection if she were to
16 find any?
17 A No, I did not.
18 Q During the inspection, did Ms. Brumfield ever
19 refer to the lead-based paint hazard pamphlets
20 specifically? Did she refer to those
21 pamphlets, do you recall?
22 A Again, I was not the -- but I believe she did.
23 And I believe she indicated that she did
24 provide pamphlets to her tenants.
25 Q Did she -- do you recall whether she mentioned

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1 whether she informed her tenants about
2 lead-based paint?
3 A Yes, I believe she did.
4 THE COURT: That's all the questions
5 I have. Mr. Steketee, any follow-up?
6 MR. STEKETEE: No.
7 THE COURT: Ms. Brumfield, any
8 follow-up to my questions?
9 MS. BRUMFIELD: No.
10 THE COURT: Okay. Mr. Steketee, do
11 you intend to call him back possibly on
12 rebuttal?
13 MR. STEKETEE: I do not believe so.
14 THE COURT: Okay. Thank you. You
15 are free to go. Please do not discuss your
16 testimony with anyone until this hearing is
17 completed. Yes, Ms. Brumfield, do you have
18 something?
19 MS. BRUMFIELD: I think I am going to
20 take a 15-minute break if that's okay, if
21 that's proper. Appropriate.
22 THE COURT: I'm just considering the
23 time. Would ten minutes or five minutes be
24 okay?
25 MS. BRUMFIELD: Yeah, five minutes

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1 would be okay.
2 THE COURT: Five minutes. Okay we'll
3 take a five-minute break and be back in five
4 minutes.
5 MR. STEKETEE: Thank you.
6 (Break taken.)
7 THE COURT: Back on the record.
8 Mr. Steketee or Mr. Trevino, are you ready to
9 call your next witness?
10 MR. TREVINO: Yes, we are, Your
11 Honor. We would like to call to the stand
12 Mr. Ed Pilny.
13 THE COURT: Remain standing and raise
14 your right hand. Madam Reporter, could you
15 please swear the witness.
16 ED PILNY, called as a witness herein,
17 having been first duly sworn on oath, was
18 examined and testified as follows:
19 EXAMINATION
20 THE COURT: Be seated.
21 BY MR. TREVINO:
22 Q Morning, Mr. Pilny. How are you?
23 A Fine.
24 Q Mr. Pilny, could you please provide the court
25 with your full name?

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1 A My full name is Edward Richard Pilny.
2 Q Could you spell your last name for the court?
3 A P, as in Peter, I-L-N-Y.
4 Q Thank you. Are you currently employed,
5 Mr. Pilny?
6 A Yes, I am.
7 Q Can you tell me your title and your office?
8 A I am a multi-program inspector for the
9 pesticides and toxic compliance section, which
10 is part of the chemical management branch,
11 which is the part of the land and chemical
12 division of the United States Environmental
13 Protection Agency, region five.
14 Q Where is your office located?
15 A It's located at 77 West Jackson Boulevard,
16 Chicago, Illinois.
17 Q Could you provide the Court with your
18 educational background?
19 A 1971 graduate of the Chicago Technical College.
20 I have a bachelor of science degree in civil
21 engineering.
22 Q Mr. Pilny, tell me a little bit about your
23 employment history. Where did your employment
24 begin?
25 A My employment began with people's Gas Lite and

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1 Coal Company in Chicago. I started out in 1960
2 as a laborer, worked my way up into technician.
3 Upon graduating from school in 1971, I became a
4 junior engineer and worked my way up to a
5 regular engineer, a senior engineer, mostly in
6 the embezzlements of commercial and industrial
7 customs. And about 1992 I became a supervisory
8 engineer, and then in 1995 I took an early
9 retirement from People's Gas.
10 Q What type of work did you complete for People's
11 Gas, Light, Coal Company?
12 A Most of my work was done in regards to
13 commercial and industrial customers in regards
14 to measuring of gas provided from our facility
15 to customers in regards to the amount of gas
16 they were using in various buildings.
17 Q You testified you're a multi-program inspector
18 for EPA. When did that position begin?
19 A 1997.
20 Q What do you do as a multi-program inspector for
21 the EPA?
22 A For the agency, I enforce the toxic substance
23 control act.
24 Q What do you mean when you say you enforce the
25 toxic substance control act for the agency?

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1 A Well, I enforce the, what we call the toxic
2 AHERA program, and also the toxic lead
3 disclosure rule.
4 Q Can you tell us what the AHERA program is?
5 A Yes. The AHERA program is an acronym for
6 Asbestos Hazardous Emergency Response Act. It
7 has to do with asbestos.
8 Q And what does -- what do you do under AHERA for
9 the agency?
10 A I do for AHERA, in regards to I inspect various
11 schools and school districts in regards to how
12 the schools are complying with the maintenance
13 of their asbestos building materials in any
14 particular schools.
15 Q What does the AHERA rule require schools to do?
16 A They have to maintain and make sure that the
17 asbestos materials is not being -- becoming
18 detrimental to the children by breaking down
19 and becoming fibrous and then hurting the
20 children, as well as the staff in the school.
21 Q Well, when you go to a school to inspect for
22 AHERA asbestos issues, what specifically are
23 you looking for?
24 A We're generally looking at the management plan,
25 which tells us that the school is complying

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1 with all the rules that are built into the
2 management plan, stating that there are certain
3 things that they have to do to maintain the
4 asbestos material, and if it becomes a problem,
5 they have to learn how to make arrangements to
6 abate the various amounts of asbestos that
7 might be abated.
8 Q What do you mean when you say the asbestos
9 might become a problem?
10 A Well, in regards to asbestos becomes old and it
11 becomes fibrous and then it becomes a detriment
12 to children. The particles of asbestos fibers
13 becomes -- is a problem with the health
14 conditions of the staff as well as children.
15 Q What else do you help the agency do as a
16 multi-program inspector?
17 A I also make sure that the inspections in
18 regards to the lead disclosure rule is in
19 compliance.
20 Q What is the TSCA lead disclosure rule?
21 A The TSCA lead rule is in regards to lessor
22 provide certain information to the lessees in
23 regards to renting properties. They have to
24 provide certain information.
25 Q What do you specifically do then under the TSCA

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1 lead disclosure rule for the agency?
2 A What I generally do is I set up an inspection
3 of a facility in regards to a lessor to find
4 out if he or she is complying with the
5 disclosure rule.
6 Q Approximately how many TSCA inspections,
7 generally, have you completed for the agency?
8 A Between hundred, 150.
9 Q How many do you complete a year?
10 A Could run up to hundred, 150 at times. It
11 depends on what we're doing, who else is
12 involved here, how many they want us to do
13 periodically.
14 Q After you complete a TSCA inspection for the
15 agency, what do you do?
16 A What I do is I -- after I inspect the facility,
17 I generally write a complete official report
18 that goes with the inspection.
19 Q Do you always do that?
20 A Yes, sir.
21 Q Why?
22 A Because every inspection has to have a report
23 stating exactly what we did at the site when we
24 talk to the individuals in regards to the
25 documents we were taking.

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1 Q Okay, let's talk a little bit about the TSCA
2 disclosure rule. What does TSCA regulate?
3 A Regulates the lead. Toxic lead.
4 Q Does it regulate anything else?
5 A No, sir.
6 Q Why does TSCA regulate lead?
7 A Because it could be poisonous to people,
8 including children, as well as pregnant women.
9 Q Are you familiar with the TSCA lead disclosure
10 rule?
11 A Yes, I am.
12 Q Tell me what the TSCA lead disclosure rule
13 requires.
14 A Requires that the lessor provide certain
15 information. One of the pieces would be a
16 warning statement to the lessee stating that
17 because this a pre-1978 building, there's a
18 possibility of lead-based paint. And the
19 second one would be, if there's any records or
20 reports that the lessor has from any other
21 agency, including the health department, they
22 have to provide those records and reports to
23 the lessee.
24 Another statement would be to the best of
25 their knowledge, if they have any knowledge or

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1 have lack of knowledge in regards to the
 2 property in regards to any lead issues that
 3 might be there. Also it has to provide a
 4 certain amount of information in regards to
 5 a -- getting a statement back from the lessee
 6 stating that they received all these
 7 information. And also all the signatures and
 8 dates have to -- make sure to be proper, make
 9 sure that the document is good.

10 Q Who is -- who is supposed to provide the
 11 information to whom?

12 A The lessor has to provide this information to
 13 the lessee.

14 Q When?

15 A Before they actually -- before they start
 16 renting that particular property.

17 Q And once that information has been provided,
 18 what proof is there that that information has
 19 been provided?

20 A Well, there should be a form, what we call a
 21 disclosure form, that should be somehow
 22 attached, and/or it could be built in the
 23 lessee's lease, showing exactly what transpired
 24 between the lessor and the lessee in regards to
 25 the disclosure in regards to any problems with

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1 lead and what the knowledge was.

2 Q Can you describe this lead disclosure form for
 3 me?

4 A The lead disclosure form is a very simple
 5 document, generally a one-page. It says that
 6 to the best of their knowledge, they have some
 7 idea of, because it's a pre-1978 building,
 8 there's a possibility that at one time or
 9 another, lead paint might have been used. And
 10 there's a warning that -- statement that says
 11 because this building is a pre-1978 building,
 12 there's a possibility that it could have
 13 lead-based paint. And then if there's any
 14 other reports that the lessor may have in
 15 regards to a lead issue that they have found
 16 out in regards to maybe the health department,
 17 that they have to provide those records or
 18 reports to the lessee. And also, like I say,
 19 the names and the dates of the signatures have
 20 to be properly set up and signed on this
 21 document.

22 Q What's the value of this form to a lessee?

23 A This document is necessary to the lessee to
 24 make a judgment call, because they have all the
 25 understanding of what this apartment or this

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1 house or this property in regards to the amount
 2 of lead or lack of lead. It gives them a
 3 chance to make a necessary decision if they
 4 want to continue to make the rent on this
 5 particular property.

6 Q Okay. Well, suppose I get one of these TSCA
 7 lead disclosure forms and I learn that there
 8 may very well be lead paint there. Suppose
 9 there's a statement that says yeah, there's
 10 lead here. What value is that form if I rent
 11 it?

12 A If the lessee has children or something that
 13 they feel it might be detrimental to those
 14 children in regards to possibly getting lead
 15 poisoning, they may have to make a judgment
 16 call if they want to possibly continue renting
 17 on this property or not.

18 Q If they do rent, what's the value of that
 19 information?

20 A They know exactly what they're getting involved
 21 in in regards to this property. And then they
 22 have nothing to -- to understand what they
 23 received from the lessor.

24 Q How does that help them?

25 A Well, it makes -- it gives them an opportunity

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1 to see what exactly is in this particular
 2 property. And they have to make a judgment
 3 call. Because if there are some records
 4 stating there is a lead issue there, then they
 5 can make a judgment call and say they don't
 6 want to rent it after all.

7 Q Okay. What else does the TSCA lead disclosure
 8 rule require the lessor to provide the lessee?

9 A Nothing else.

10 Q Does it require any lead abatement?

11 A No, sir.

12 Q Okay. Mr. Pilny, let's move on to the matter
 13 before the Court today. Are you familiar with
 14 this action against Dessie L. Brumfield doing
 15 business as Brumfield Properties, LLC?

16 A Yes, I am.

17 Q Can you tell me why you're familiar with this
 18 action?

19 A Well, Ms. Brumfield, LLC was provided -- her
 20 name and her company was provided to us by the
 21 Milwaukee Health Department to a list of
 22 various lessors that were in the city of
 23 Milwaukee that were having various lead issues.
 24 And we looked at this list and then started
 25 making phone calls, setting up inspection dates

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1 and times.
2 Q Do you recall approximately when you received
3 this information from the City of Milwaukee?
4 A I think at the time it was the early part of
5 May when we received that information, of 2009.
6 Q And this information did you receive from the
7 City of Milwaukee?
8 A Basically I think it was just a list of various
9 lessors in the Milwaukee area that were having
10 various lead issues.
11 Q Do you recall approximately how many lessors
12 were identified on that list?
13 A I'm not sure what the number was.
14 Q Was it more than five?
15 A I'm sure it was more than five, yes, sir, the
16 amount of calls we made.
17 Q More than ten?
18 A Could have been up to at least a dozen or more.
19 Q What did these documents from the City of
20 Milwaukee represent? What were they?
21 A Well, these documents, which we didn't actually
22 receive documents at that time, we received the
23 list, the documents came later on, but the list
24 that we received stated there are certain
25 lessors in this city of Milwaukee that have

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1 various lead issues. Some of the issues could
2 be that there were possibly EPL children, which
3 means that there are some lead-poisoned
4 children that were involved in some of these
5 properties. Also, there was some abatement
6 work that was told to be done by the health
7 department, and possibly that the lessee did
8 not complete that part of it.
9 Q Do you recall any of the names cited in these
10 documents?
11 A Not at this time, I don't remember that, other
12 than Ms. Brumfield, LLC -- Properties, LLC.
13 Q Others were identified, though; correct?
14 A Yes, they were.
15 Q Once you reviewed that information, what did
16 you do with it?
17 A Well, again, we started making telephone calls,
18 starting at the beginning of the list, calling
19 up various lessors to find out if we could set
20 a time and date for an inspection of their
21 facility in regards to finding out what their
22 compliance is in regards to the disclosure
23 rule.
24 Q Who made those calls?
25 A Myself, Mr. James O'Neil, and one or two other

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1 gentlemen.
2 Q Do you recall how many calls you made?
3 A I figure I made at least four or five.
4 Q Do you recall how many calls Mr. O'Neil made?
5 A Probably made the same amount.
6 Q Do you recall how many calls your third unnamed
7 colleague made?
8 A I'm not sure what numbers they had.
9 Q At what point in time did someone decide that
10 Brumfield Properties, LLC was going to be
11 inspected?
12 A Mr. James O'Neil actually set the time and date
13 for that inspection. He in turn spoke to
14 Brumfield Properties, LLC and set the date and
15 time for that inspection.
16 Q What did you do to prepare for the inspection?
17 A There are certain things we have to fill out.
18 There are basically some forms. There are
19 basically what we call the notice of inspection
20 form, and then there's also a confidential
21 business notice. And then we also have a
22 receipt for documents. And then we also have a
23 questionnaire that we use at the site, asking
24 various questions in regards to the documents
25 we want to review.

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1 Q Are you required to use all of these documents?
2 A Yes, we are.
3 Q Do you always use these documents?
4 A Yes, sir, we do.
5 Q Are those official records?
6 A Yes, they are.
7 Q What did you do with those forms?
8 A Well, I started filling out partly the parts of
9 the form, putting down the name of the
10 individual we were going to inspect, the
11 facility where the documents were going to be
12 at, and the date and time. And then upon
13 finishing up that, we put it into a folder.
14 When we got to the site, we finished the
15 inspection documents then.
16 Q What else did you do to prepare for the
17 upcoming inspection?
18 A Well, there is a -- Milwaukee has a website
19 that is available to the public in regards to
20 finding out what properties certain lessors and
21 land owners own in regards to the city of
22 Milwaukee, and so we actually went into that
23 website and found Brumfield Properties, LLC to
24 find out how many pre-1978 properties Brumfield
25 Properties, LLC had at this time. We found

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1 that they had approximately eleven properties.
2 Q How do you have access to this particular
3 website?
4 A We were given that access to it. It's a public
5 domain. We can get into it.
6 Q So anybody in the courtroom would be able to
7 access this website?
8 A They should be.
9 Q Do you recall some of the specific information
10 you found on that website?
11 A Yes. We went, in particular, to find out how
12 many properties that Brumfield Properties, LLC
13 or how many properties were pre-1978, at which
14 time we found out there was approximately
15 eleven properties that were pre-1978.
16 Q You say pre-1978. Pre-1978 what?
17 A In regards to construction of the property.
18 Q Thank you. Do you recall approximately how
19 many buildings the website represented
20 Ms. Brumfield owned?
21 A It didn't indicate, other than what we were
22 looking for -- we were looking for the
23 pre-1978. And the only thing we came up with
24 was the eleven properties that were pre-78.
25 Q Thank you. Okay. Do you recall the date you

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1 completed the inspection of Brumfield
2 Properties, LLC?
3 A Yes, I do.
4 Q What was that date?
5 A May 21, 2009.
6 Q Who went on the inspection?
7 A Myself and Mr. James O'Neil.
8 Q Do you recall the address you drove to?
9 A Yes, I do.
10 Q What was that address?
11 A 3936 North 18th Street, Milwaukee, Wisconsin.
12 Q What was the point of that inspection?
13 A Again, to find out if Brumfield Properties, LLC
14 was complying with the lead disclosure rule.
15 Q And how were you going to make that
16 determination for your inspection?
17 A We were going to review her leases and find out
18 if she had disclosure forms attached to or
19 built into the lease stating exactly what she
20 provided the lessees.
21 Q You testified the address you drove to was 3936
22 North 18th Street. In which city was that?
23 A It's in Milwaukee, Wisconsin.
24 Q Can you describe that address for us? What
25 kind of structure is at that address?

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1 A It's a brick bungalow. Very nicely constructed
2 building.
3 Q Can you describe the neighborhood for us?
4 A It's --
5 MS. BRUMFIELD: Can I object to that?
6 That's not relevant to the lead-based paint,
7 when they came to my house, what my address
8 looked like, or what my house looked like, or
9 what my neighborhood looked like. Is that
10 relevant?
11 THE COURT: Do you have a response to
12 that?
13 MR. STEKETEE: Yes, Your Honor.
14 We're basically asking for several reasons.
15 One, to demonstrate that they were at the right
16 place and do recall it fairly well; and second,
17 to perhaps demonstrate issues regarding one's
18 ability to pay.
19 THE COURT: Okay, overruled. Go
20 ahead.
21 MR. TREVINO: I'm sorry, could you
22 read back the last question?
23 COURT REPORTER: "Can you describe
24 the neighborhood for us?"
25 THE WITNESS: Yes, the neighborhood

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1 was a very nice neighborhood. All the homes
2 looked like they were all in great condition.
3 BY MR. TREVINO:
4 Q Thank you. Can you tell me, how did your
5 inspection begin?
6 A Well, we proceeded up the stairs and knocked on
7 the door.
8 Q What happened next?
9 A The door opened and Ms. Brumfield came to the
10 door and we identified ourselves, who we were
11 there for, and we showed her our IDs. In
12 regards to identification, official
13 identification, to who we were in regards to
14 the US EPA. And then I asked her if she was
15 Ms. Brumfield. She said she was.
16 Q What type of identification did you provide
17 Ms. Brumfield?
18 A We have our official identification pictures in
19 regards to a regular ID.
20 Q Did she review it?
21 A She looked at them.
22 Q What did she say?
23 A She had nothing -- no comment.
24 Q Any objections?
25 A Nothing, no.

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1 Q How did your inspection continue?
2 A I again asked her in regards to did she
3 understand what this inspection was about. And
4 she said she did. And I asked her then, did
5 you use the disclosure form. At that time she
6 said she did. At that time she did.
7 Q I'm sorry, what did -- can you elaborate on
8 your point that you came into the house and you
9 explained why you were there and what you were
10 going to do?
11 A We were standing in the -- in the foyer of the
12 house at this time. And I asked her if she
13 understood in regards to the disclosure
14 inspection. She said she did. And I asked her
15 if she used the disclosure form, and she said
16 at that time, she used them sometimes.
17 Q Sometimes. Are you sure she understood your
18 question?
19 A I would say so, yes.
20 Q Did she seem confused?
21 A No, sir.
22 Q Did she ask you any questions?
23 A Not at that time, no.
24 Q Okay. What happened next?
25 A She told us to step into her dining room area,

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1 and we proceeded to go. And she told us sit
2 at the dining room table.
3 Q What happened next?
4 A Then I asked her in regards -- where all the
5 leases for the pre-1978 buildings, were they at
6 this facility. And she said they were.
7 Q Did you ask for any other documents?
8 A No, because we were dealing with pre-1978
9 buildings, and we wanted to make sure that all
10 the leases for those pre-1978 buildings were
11 there. And she said they were.
12 Q What else did she say?
13 A Nothing at that time. I told her I had to have
14 some forms filled out.
15 Q What types of forms did you need completed?
16 A I took out the notice of inspection form. I
17 continued to fill out the rest of that form. I
18 proceeded to ask Ms. Brumfield to review the
19 form and if she had any questions, if not,
20 could she please sign and date it. At which
21 time she looked it over, didn't have any
22 questions for me, signed and dated that form.
23 Q You testified earlier that you began completing
24 that form --
25 A Yes.

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1 Q -- before the inspection --
2 A Yes.
3 Q -- in preparation for the inspection?
4 A That's correct.
5 Q What did you need to complete on this form at
6 her home?
7 A There are certain things that have to be noted
8 that you could be looking at leases and any
9 other documents that might be pertaining to the
10 disclosure form in regards to our inspection.
11 Q How did your -- I'm sorry, did she review the
12 document?
13 A Yes, she did.
14 Q What questions did she ask?
15 A She had no questions.
16 Q What objections did she have?
17 A She had no objections.
18 Q Did she sign it?
19 A Yes, she did. Signed it and dated it.
20 Q Where did this signing and dating occur?
21 A Right there at the dining room table.
22 Q You witnessed this?
23 A Yes, I did.
24 Q Who else witnessed it?
25 A Mr. James O'Neil.

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1 Q What happened next?
2 A I then took out what we call the confidential
3 business notice. I filled that -- finished
4 filling that out. And I explained to her if
5 there was anything confidential about her
6 leases and documents that she was going to
7 provide us, if she had any objections or
8 anything that she would consider confidential.
9 I asked her to review the documents. At which
10 time she did. I said do you have any
11 questions. She said no. And she proceeded to
12 sign her name and date it.
13 Q Did she have any questions?
14 A Not at that time.
15 Q What were her objections?
16 A She had no objections.
17 Q Where did she sign and date the document?
18 A There at the dining room table.
19 Q Did anybody else witness that signing and
20 dating of the documents?
21 A Yes, sir, Mr. James O'Neil.
22 Q What happened next?
23 A I then asked her to please provide us the
24 leases and documents that she had for those
25 pre-1978 buildings, at which time she went to

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1 the next room and proceeded to get the
2 documents and brought them to the table.
3 Q Which specific documents did you request?
4 A In regards to the pre-1978 buildings, in
5 regards to all the leases that pertained to
6 those 1978 buildings, which we said was about
7 eleven of them.
8 Q How do you know she understood you?
9 A Well, she had no objections. She had
10 understood what I said. I said is this all of
11 your pre-1978 properties and these are all the
12 leases for those properties. She said yes.
13 Q What questions did she ask about this
14 particular request?
15 A She had no questions at that time.
16 Q What happened next?
17 A I then pulled out my sheet in regards to
18 questions we were going to ask about the
19 documents. And then upon reviewing -- myself
20 and Mr. O'Neil reviewing -- I was asking the
21 various questions for my question list that I
22 had in regards to -- again, I asked her did she
23 provide disclosure forms to lessees. And she
24 said yes, she did. And I asked -- also asked
25 her if she was providing the lead hazard

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1 pamphlet to the lessees, and she said she did
2 that too. And I said how long you been in
3 regards to doing this, and she said
4 approximately 2003 to the present time.
5 Q Okay, Mr. Pilny, let's take a step back. Can
6 you take a look at a document before you in
7 your white notebook. It's going to be
8 complainant -- it's going to be what's been
9 marked as complainant Exhibit No. 7. And more
10 specifically it is the page Bates stamped 49.
11 Take a moment and review that document. What
12 is this document?
13 A This is our official list of questions that we
14 ask various lessors in regards to the
15 inspection site in regards to the documents
16 that we're going to be taking.
17 Q Are these the questions you were asking
18 Ms. Brumfield at that time in your inspection?
19 A Yes, it was.
20 Q Earlier in your testimony you testified that
21 you asked Ms. Brumfield if she was familiar
22 with the TSCA lead disclosure rule, and you
23 stated she said she was. You asked her if she
24 used the TSCA lead disclosure form, and you
25 testified she said at times. You've now

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1 testified that you asked her from this
2 questionnaire whether she uses the TSCA
3 disclosure form, and you said she said always.
4 A Yes.
5 Q Which was it?
6 A She actually used both statements.
7 Q Okay. Are you sure she wasn't -- how do you
8 know she wasn't confused when you asked her the
9 second time?
10 A She didn't look confused, and she answered
11 immediately.
12 Q How did your inspection continue?
13 A I then continued asking various questions in
14 regards to the documents. Again, I asked her
15 if this was all the leases, and then I start
16 the review myself, and Mr. James O'Neil,
17 reviewing the documents. And upon looking at
18 the documents, we see that there was only like
19 three disclosure forms. And I asked her again,
20 is this everything. She said yes. And then I
21 proceeded to tell her that we're going to --
22 asked her if she could possibly make copies of
23 these leases, at which time she said she could.
24 Q Do you recall about how many leases she brought
25 to you?

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1 A It was approximately eleven leases, yes.
2 Q You had specifically asked her only for leases?
3 A Leases and disclosure forms, we asked for.
4 Q Did it strike you as odd that you asked for all
5 of her leases and there were only eleven?
6 A Well, again, I took it upon that was all the
7 leases she had for those pre-1978 properties.
8 She said that was it. She didn't provide us
9 anymore.
10 Q Did she offer any explanation about what these
11 represented or didn't represent?
12 A No, sir.
13 Q Okay. Mr. Pilny, could you please take a look
14 at complainant Exhibit No. 16, and essentially
15 the documents Bates stamped numbers 55 through
16 116.
17 A 55? Yes, sir.
18 Q Let's -- strike that. And make that
19 approximately 61 --
20 A Okay.
21 Q -- through approximately 116. What are those
22 documents, generally?
23 A Number 55 is an order to correct the condition
24 of premises by the city health department in
25 regards to a property that Brumfield Property,

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1 LLC --

2 Q I apologize. Starting with the documents Bates

3 stamped 61.

4 A Sorry. 61. This is a month-to-month rental

5 agreement.

6 Q Just generally, are these documents what was

7 provided to you by Ms. Brumfield on the date of

8 your inspection?

9 A Yes, they are.

10 Q They appear to have been altered in any way?

11 A Not that I can see, no. No, sir.

12 Q How do you know Ms. Brumfield didn't have more

13 leases?

14 A She never stated that there was anymore. She

15 just stated these were the leases for pre-1978

16 buildings that she owned.

17 Q How long had Ms. Brumfield known about the TSCA

18 lead disclosure rule?

19 A She stated that from 2003 to present time, that

20 she knew about the disclosure.

21 Q Did you ever have any reason to believe that

22 any of the leases she provided you were not

23 accurate?

24 A No, sir.

25 Q Did you notice any other documents perhaps

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1 missing from the documents she provided to you?

2 A No, sir.

3 Q How did your inspection continue?

4 A Again, I asked Ms. Brumfield if it was possible

5 for us to make copies of these leases.

6 Q What did she say?

7 A She said she had a copy machine in the next

8 room and it was available for us to get copies

9 made by that machine.

10 Q How did the inspection continue?

11 A She went into the next room and proceeded to

12 make copies for us.

13 Q How did your inspection continue?

14 A She then brought the copies to us, laid them on

15 the table. We looked them over to make sure

16 that it was the same amount as the originals.

17 And then I proceeded to fill out a receipt for

18 documents taken, which I filled out the various

19 addresses in regards to the documents that we

20 were going to take.

21 I asked Ms. Brumfield if she had any

22 questions at this time in regards to those

23 documents we were going to take. She reviewed

24 the documents, she had no problem with it, she

25 signed and dated it, and I proceeded to take

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1 those documents and put them in her file.

2 Q Who kept the originals of the leases that

3 Ms. Brumfield provided?

4 A Ms. Brumfield kept the originals.

5 Q Who kept the copies?

6 A I did, sir.

7 Q You're positive that the copies you received

8 were accurate copies of the original leases

9 provided?

10 A Yes, they were.

11 Q What happened next?

12 A At that time we took all the leases, put them

13 all in a file, and I gave her some idea of what

14 might transpire after the inspection was done,

15 that an official report will be made, and then

16 if -- in regards to possibly what might happen,

17 if there's no problem with her leases and

18 disclosure forms, that she would probably not

19 even get a call from us.

20 And then the second thing, if there was

21 some minor problems, our case development

22 office would review our report, and if there

23 was any minor problems, she would probably get

24 a call from the case development office telling

25 her what the problems were. And then if she

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1 had a major problem with the disclosures in

2 regards to the documents that we took, that she

3 would now going to talk to your case officer

4 and possibly even one of our attorneys.

5 Q Did she have any questions?

6 A Not at that time.

7 Q How do you know she understood everything you

8 offered?

9 A She didn't look confused, and she had no

10 questions for me.

11 Q You testified earlier you made copy of some of

12 the forms and documents you completed: the

13 notice of inspection, the form for the

14 confidentiality of documents. I apologize.

15 Did you make copy of those?

16 A I proceeded to ask Ms. Brumfield to make copies

17 for herself. I kept the originals and gave her

18 copies of those three items.

19 Q Now that you have all these documents, copies

20 of leases and your official forms, what did you

21 do with those?

22 A We proceeded to take the documents and put it

23 in her file, the file that said Brumfield

24 Property, LLC, to separate them from any other

25 inspections that we would do.

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1 Q Whose file is it?

2 A Ms. Brumfield and Brumfield Property, LLC.

3 Q Okay. But is that your file or her file?

4 A My file. Strictly my file. Sorry.

5 Q Okay. What happened next?

6 A I asked her if she had any questions in regards

7 to the inspection. She said she had none. And

8 then I told her the inspection was actually

9 physically over, and then we proceeded to

10 leave.

11 Q Do you have any reason to believe that

12 Ms. Brumfield did not understand the nature of

13 the inspection?

14 A She did not look confused and she had no

15 questions of myself or Mr. O'Neil at that time,

16 so --

17 Q Was this, for you, a typical inspection?

18 A Yes, it is.

19 Q How long did it last?

20 A Probably an hour. Little over an hour,

21 probably.

22 Q Is that about how long they last?

23 A Generally. Depends on how big the lessor's

24 properties are.

25 Q How did your inspection continue?

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1 A Upon asking her if she had any questions, and

2 she said she did not, and I told her the

3 inspection was actually over, then Mr. O'Neil

4 and I proceeded to leave the property.

5 Q What did you do next?

6 A I proceeded to -- Mr. O'Neil and I proceeded

7 down the steps, got into our car, and went to

8 our next inspection site.

9 Q How many more inspections did you complete that

10 day?

11 A I would say somewhere between three to five

12 more inspections.

13 Q In one day?

14 A Yeah.

15 Q Were these inspections completed based upon

16 that documentation we discussed earlier from

17 the City of Milwaukee?

18 A Yes, it is.

19 Q Mr. Pilny, could you turn to the front of the

20 document we have marked as complainant Exhibit

21 No. 7?

22 A Yes, sir.

23 Q What did you do after your last inspection of

24 the day?

25 A We finished up our inspection. We proceeded to

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1 make arrangements to go back to the city of

2 Chicago, to our office, to officially write out

3 all of the various reports that had to be

4 filled out in regards to the inspections that

5 we conducted in the field.

6 Q So how did your work with -- your matter with

7 Ms. Brumfield Properties, LLC continue?

8 A I got back to my office and I started filling

9 out my official reports about Ms. Dessie

10 Brumfield and Brumfield Property, LLC.

11 Q What do you mean by your "official" report?

12 A There's a report that has to be filled out for

13 every inspection we do, and there's a certain

14 formality of what we have to put into the

15 document. It's called an inspection report.

16 Q Have you ever written TSCA lead disclosure

17 inspection reports before?

18 A Yes, I have.

19 Q How many have you written?

20 A As many inspections as I've done, I've had to

21 write a report for each one.

22 Q Off the top of your head --

23 A 100 to 150.

24 Q Thank you. Did you do that for this particular

25 matter?

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1 A Yes, I did.

2 Q Okay. Mr. Pilny, please take a look at what we

3 have marked as complainant Exhibit No. 7. Take

4 your time and look through that entire

5 document, please.

6 A Yes, sir.

7 Q Just for the record, that is a document with

8 Bates stamp numbers 43 through 132. Have you

9 had a moment to review that document,

10 Mr. Pilny?

11 A Yes, sir.

12 Q Do you recognize that document?

13 A Yes, sir.

14 Q Can you tell the Court, what is that document?

15 A This is my complete official report I wrote in

16 regards to Brumfield Property, LLC and the

17 inspection conducted on May 21, 2009.

18 Q Is this report based upon the observations you

19 made during your inspection?

20 A Yes, it is.

21 Q Tell me again the date of your inspection.

22 A May 21, 2009.

23 Q When did you write the report?

24 A I wrote that report on June 9, 2009.

25 Q Obviously you were very familiar with the

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1 document when you wrote it?
 2 A Yes, I am.
 3 Q Does this document appear to be in the same
 4 shape as when you first wrote it?
 5 A Yes, it is.
 6 Q Is this an original or a copy?
 7 A This is a copy, sir.
 8 Q Is it a fair and accurate representation of the
 9 original?
 10 A Yes.
 11 Q Is this an official report or a record of EPA?
 12 A Yes, it is.
 13 Q Who has been the custodian of this document
 14 since its completion?
 15 A I was for a while, then I put it into the case
 16 file, and the case officer could review.
 17 Q Was this inspection report made as part of your
 18 regular office activity?
 19 A Yes, it is.
 20 Q You've kept it as part of your regular business
 21 activity?
 22 A Yes, I did.
 23 Q I want you to take a look at this document one
 24 more time and tell me if it is your complete
 25 report or if there are any documents missing.

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1 A Well, I think there are two documents in
 2 regards to what Mr. James O'Neil did in regards
 3 to setting up this. There were two letters
 4 that Mr. James O'Neil sent to Ms. Brumfield in
 5 regards to setting up the date and time for the
 6 inspection.
 7 Q Can you take a look at what has been marked as
 8 complainant Exhibit No. 1?
 9 A Yes, sir.
 10 Q Is that one of those documents?
 11 A Yes, it is.
 12 Q What is that document, Mr. Pilny?
 13 A This is an inspection of compliance in regards
 14 to our -- setting up our inspection with
 15 Ms. Brumfield Properties that Mr. James O'Neil
 16 filled out and sent to Brumfield Property, LLC
 17 setting up the date and time for the
 18 inspection.
 19 Q This was part of your original inspection
 20 report?
 21 A Yes, it is.
 22 Q Do you happen to know how it came to be
 23 separated from your inspection report?
 24 A I'm not sure.
 25 Q Can you take a look at the document that has

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1 been marked and entered into the record as
 2 complainant Exhibit No. 2?
 3 A Yes, sir.
 4 Q Do you recognize that document?
 5 A Yes. Again, it's a copy of the confirming
 6 phone conversation with Mr. James O'Neil and
 7 Brumfield Property, LLC in regards to setting
 8 the date and time for the inspection.
 9 Q Thank you. Was this a part of your inspection
 10 report?
 11 A Yes, it is.
 12 Q Do you know how this document came to be
 13 separated from your inspection report?
 14 A No, sir, I don't know how it got separated.
 15 Q So complainant Exhibit No. 7 should also
 16 include what has been marked as complainant
 17 Exhibit No. 1 and 2?
 18 A Yes.
 19 Q Thank you.
 20 MR. TREVINO: Your Honor, based upon
 21 the questions we've asked Mr. Pilny about his
 22 inspection report, I would like to ask that his
 23 inspection report be entered into the record as
 24 complainant Exhibit No -- I'd like to stick
 25 with seven, but if you want to go with three,

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1 we could.
 2 THE COURT: We'll go with 7.
 3 Ms. Brumfield, do you have any questions or
 4 objections to the exhibit?
 5 MS. BRUMFIELD: I'm sorry.
 6 THE COURT: Do you have any
 7 objections to the exhibit marked as No. 7 in
 8 the complainant's exhibit as the inspection
 9 report Mr. Pilny's just been testifying to?
 10 MS. BRUMFIELD: Well, yes, because I
 11 think that that was an improper place. I mean
 12 he's talking about pulling it out of one place
 13 and putting it in this here. Why they
 14 separate --
 15 THE COURT: In other words, those two
 16 documents would be, should be, but for reasons
 17 of arranging the documents for ease of use
 18 during the hearing, those would be part of
 19 Exhibit 7. Any other questions regarding --
 20 MS. BRUMFIELD: No, I won't object to
 21 that because that goes to show how small errors
 22 can occur. I had to throw that in there.
 23 THE COURT: Government's Exhibit 7
 24 admitted into evidence.
 25 BY MR. TREVINO:

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1 Q Mr. Pilny, could you please turn to the
 2 document in complainant Exhibit No. 7 Bates
 3 stamped 49?
 4 A Yes, sir.
 5 MR. TREVINO: Your Honor, let me ask
 6 a question, please. And obviously of
 7 Ms. Brumfield as well. When we enter Exhibit
 8 No. 7, is that including all of the attachments
 9 or would you like me to lay a more specific
 10 foundation and address potential hearsay
 11 objections regarding each individual
 12 attachment? I'd be happy to do either.
 13 THE COURT: Why don't we --
 14 Ms. Brumfield, if you could just leaf through
 15 these leases, the attachments to the inspection
 16 report, and see if you -- do you recognize
 17 those, do they seem like the leases you had
 18 provided. See if you have any questions.
 19 MS. BRUMFIELD: I have gone through
 20 the leases, the physical leases themselves.
 21 And they are correct. But this letter here, I
 22 don't remember ever receiving this one.
 23 THE COURT: Which letter is that?
 24 MS. BRUMFIELD: That is one --
 25 THE COURT: Is that in Exhibit 1?

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1 MS. BRUMFIELD: Yeah, I don't
 2 remember.
 3 THE COURT: That's already been
 4 admitted into evidence.
 5 MS. BRUMFIELD: I -- I don't object.
 6 I don't object.
 7 THE COURT: Okay. Thank you. The
 8 entire exhibit that is included as the
 9 inspection report in Government's Exhibit 7 is
 10 admitted into evidence, with all the
 11 attachments.
 12 MR. TREVINO: Okay. Your Honor,
 13 could you give me just a moment?
 14 (Break taken.)
 15 MR. TREVINO: No further questions,
 16 Your Honor.
 17 THE COURT: At this point it's after
 18 noon. Would you like to take a lunch break?
 19 MS. BRUMFIELD: Yeah, we could.
 20 THE COURT: Okay. I don't know about
 21 any areas to get lunch as far as cafeteria or
 22 restaurants or whatever. Do you think half an
 23 hour would be sufficient, or should we go for
 24 45 minutes?
 25 MS. BRUMFIELD: Half an hour.

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1 THE COURT: Half an hour. Do you
 2 think that will be sufficient?
 3 MR. TREVINO: We'll do our best.
 4 THE COURT: Well, we've got to settle
 5 on something here.
 6 MR. STEKETEE: Yes.
 7 THE COURT: It is now 12:15 on my
 8 clock, and at quarter of one we'll begin again
 9 and go off the record.
 10 MR. TREVINO: Thank you.
 11 (Break taken.)
 12 BY THE COURT: On the record.
 13 Continuing with the testimony of Mr. Pilny.
 14 Counsel, do you have anymore questions for
 15 Mr. Pilny?
 16 MR. TREVINO: I do not, Your Honor.
 17 THE COURT: Ms. Brumfield, do you
 18 have questions for Mr. Pilny?
 19 MS. BRUMFIELD: Well, yeah, I have a
 20 couple questions.
 21 THE COURT: Okay.
 22 EXAMINATION
 23 BY MS. BRUMFIELD:
 24 Q I'm sorry, say your name.
 25 A My name is Edward Pilny.

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1 Q Oh, okay. I want to apologize for destroying
 2 your name as Riley.
 3 A That's okay.
 4 Q Sorry about that. But what I wanted to know,
 5 when you do your search or whatever you do to
 6 obtain names or properties of property owners
 7 that you go out, do you run a thorough check to
 8 see how many properties they have, or you
 9 just --
 10 A We check the website to see what is available
 11 to us in regards to -- your properties came up
 12 in regards to pre-1978 properties, we only had
 13 eleven properties showed up.
 14 Q And those properties, did you check to see if
 15 there were any violations?
 16 A It doesn't show that when you go to that
 17 website.
 18 Q So you didn't go for in your --
 19 A Well, again, we originally got documents in
 20 regards to a list from the health department
 21 that told us about the various lead issues.
 22 Q Do you remember which one it was?
 23 A In regards to -- we only received the list of
 24 lessors.
 25 Q I mean the one that you had concerns about that

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1 caused you to come to me.
2 A We didn't come to you because of a particular
3 address, 'cause I didn't know the address
4 because we didn't receive the documents yet.
5 All we had was names of various individuals
6 that had lead issues in regards to their
7 properties. That's what we went on, on that
8 list of names.
9 Q With the lead issues, the property that had
10 lead issues, did you do anything to see if
11 those issues were resolved, or you just went
12 out and did what you do?
13 A We were looking to see if you, whoever we were
14 investigating -- inspecting, I should say, if
15 they can provide us certain document that would
16 state that they knew about the lead issues, if
17 they could prove by giving us those documents,
18 those would be the records and reports in
19 regards to whatever you were supposed to be
20 giving to the lessee anyway.
21 Q What did I say that lead you to believe that I
22 knew which one of my properties was before
23 1978?
24 A I asked you in regards can you tell me -- do
25 you have all the leases in regards to all your

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1 pre-1978 properties, and you said you had all
2 your leases for your pre-1978 properties.
3 Q And I actually said 1978 properties?
4 A Yes, because that's what we always did.
5 Q Was there ever a time when you might have
6 worded it incorrectly or --
7 A No, ma'am.
8 Q -- or different time or whatever?
9 A No, generally ask the same thing. We ask for
10 the leases for pre-1978 properties.
11 Q And were you the one that called me on the
12 phone to set up the appointment?
13 A No, ma'am.
14 Q Okay. Before I ate, I had a lot of questions
15 to ask. I think you said something about you
16 reviewed 150 properties. Did you say 150
17 properties?
18 A No.
19 Q You had a list of them. How did that go?
20 A No, I said our lawyer asked me how many
21 inspections we did in the year's time, and I
22 said I did -- I do anywhere from hundred to 150
23 inspections for the year.
24 Q And you did 150. That's for what, the state of
25 Wisconsin or city of Milwaukee?

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1 A It's for region five, which takes in the
2 various states, Ohio, Michigan. And we do
3 inspections everywhere.
4 Q Did that include Wisconsin and all the other
5 states you're --
6 A In regards to all the states, right, in regards
7 to all the various lessors in regards to
8 disclosures.
9 Q Did you consider the few hundred that have been
10 a large number to be concerned about as far as
11 being aware of my history as far as handling
12 abatement problems?
13 A No. Again, we didn't have no information in
14 regards to those properties. The only thing I
15 was looking at is what you were going to
16 provide us, if you had those documents that you
17 were going to provide us, then I would have
18 known. But you didn't provide any documents.
19 Q And exactly what did you ask me for?
20 A I asked you for all the leases for all your
21 pre-1978 properties, including your disclosure
22 forms.
23 MS. BRUMFIELD: Okay. Okay, that's
24 all I'm going to ask him.
25 THE COURT: Okay. Any redirect?

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1 MR. TREVINO: No, Your Honor.
2 BY THE COURT:
3 Q I just have a couple questions, Mr. Pilny.
4 Would you describe Ms. Brumfield's
5 attitude/demeanor during the inspection?
6 A She had a very good attitude. Didn't seem like
7 she had any problems with what we were doing.
8 She was very helpful to us.
9 Q Would you say she was cooperative?
10 A Yes, she was.
11 Q Did she seem upset at all?
12 A No, Your Honor, she did not.
13 Q Did you happen to ask, during the inspection or
14 at any conversations after the inspection, did
15 you ever ask her to send any additional lease
16 forms or lead-based paint disclosure forms that
17 she would find -- that she might happen to find
18 after the inspection?
19 A No, because I originally asked her is this all
20 the leases in regards to these pre-1978. She
21 told me at that time she had them all. So
22 there was no reason for me to ask her.
23 Q Do you recall, during the inspection, whether
24 you asked her to elaborate what she meant by
25 providing the disclosure forms at times or

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1 sometimes?

2 A No. She just made that statement and didn't

3 elaborate one way or the other about it.

4 Q Did you ask her to elaborate?

5 A No, I did not.

6 Q Did she indicate that the leases she provided

7 to you were all the leases that she had for all

8 of the properties that she owned?

9 A No. Because again, I asked her for the

10 pre-1978 properties, and that's the leases she

11 provided.

12 Q And did she indicate that those were all of the

13 leases that she had for the --

14 A That's what she stated, yes.

15 Q Did you ask her whether she might have any

16 leases in any other location?

17 A No, ma'am.

18 Q And did she say that she might have some in any

19 other location?

20 A No, she didn't indicate nothing like that.

21 THE COURT: That's all the questions

22 that I have. Counsel, do you have any

23 questions to follow-up mine?

24 MR. TREVINO: No, I do not.

25 THE COURT: Ms. Brumfield?

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1 MS. BRUMFIELD: No.

2 THE COURT: Do you anticipate calling

3 Mr. Pilny again as a rebuttal witness?

4 MR. TREVINO: No, I do not.

5 THE COURT: Please do not discuss

6 your testimony with anyone else until this

7 hearing is finished. I thank you for your

8 testimony, and you're free to go.

9 MR. TREVINO: Your Honor, could I

10 just have 60 seconds?

11 THE COURT: Sure.

12 (Break taken.)

13 MR. TREVINO: Your Honor, I just to

14 want to reiterate for the Court and Ms.

15 Brumfield that they will then probably leave

16 the building about one hour and be on a

17 three o'clock train to Chicago. So we are

18 finished with them, and we just want the Court

19 and respondent to know that they really will be

20 leaving so we will not be able to bring them

21 back after about 2:00 p.m.

22 THE COURT: Okay.

23 MR. TREVINO: Thank you.

24 THE COURT: You're going to call your

25 next witness?

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1 MR. TREVINO: Yes.

2 MR. STEKETEE: Your Honor, at this

3 time complainant calls its next witness,

4 Ms. Maureen O'Neil.

5 THE COURT: Ms. O'Neil, you may come

6 up and come to the witness stand. Remain

7 standing and raise your right hand.

8 MAUREEN O'NEILL, called as a witness

9 herein, having been first duly sworn on oath,

10 was examined and testified as follows:

11 THE COURT: You may be seated.

12 EXAMINATION

13 BY MR. STEKETEE:

14 Q Ms. O'Neill, could you please state and spell

15 your full name for the benefit of the court

16 reporter?

17 A Sure. It's Maureen O'Neill. It's

18 M-A-U-R-E-E-N, O'-N-E-I-L-L.

19 Q Where are you currently employed?

20 A I'm currently employed with the US EPA in

21 Chicago with the office of regional counsel.

22 Q What's your current position?

23 A I am a civil investigator.

24 Q At this time I'd like you to very briefly

25 describe your employment history, starting with

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1 your most recent job and working backwards.

2 And just focus on jobs that are relevant to

3 your duties as an EPA civil investigator.

4 A I joined the US EPA in Chicago in December of

5 2008. And prior to that I was a special agent

6 in charge with the US Office of Personnel

7 Management. I joined that organization in -- I

8 guess I should backtrack. It changed names.

9 So it was originally Defense Security Service.

10 I joined in 1998 and then OPM took it over in

11 2005, so --

12 Q So what was your original title and then did

13 you have a different title when it --

14 A I did.

15 Q -- changed names?

16 A Originally I was a special agent in 1998. And

17 then in 2004 I became a special agent in

18 charge. And then in 2005, OPM took us over.

19 Q Thank you. In total, how many years have you

20 worked as an investigator for the federal

21 government?

22 A Approximately 14.

23 Q Could you very briefly explain your educational

24 background?

25 MS. BRUMFIELD: I accept -- I won't

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1 challenge her background. I accept her
2 background for what it is.
3 THE COURT: You can continue with the
4 background if you'd like.
5 MR. STEKETEE: I was going to talk
6 about her training, but I think I'll just skip
7 that as well.
8 BY MR. STEKETEE:
9 Q And very briefly could you explain to the Court
10 what you do as an EPA civil investigator?
11 A Certainly. I usually receive a request from a
12 staff member, an attorney, asking for
13 investigative assistance. And depending on
14 what they need, I would conduct an
15 investigation to assist them with their case.
16 So in that respect I would do records
17 research, asset searches; I would do site
18 visits, take photographs, interview individuals
19 and prepare written reports.
20 Q What percentage of your investigation --
21 investigations involve financial
22 investigations?
23 A I'd say probably about 90 percent.
24 Q Why is that?
25 A Most of the time the respondents raise ability

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1 to pay issue, and so then it's my job to go and
2 see if they have any assets.
3 Q Roughly how many civil investigations have you
4 performed on behalf of EPA?
5 A I would say on behalf of EPA, probably about
6 85.
7 Q And is it your custom, after you've performed
8 an investigation, to prepare a written report?
9 A I would say 99 percent of the time it is. It
10 depends on the request. Sometimes it's a small
11 request that doesn't require a report. But
12 generally that's my practice.
13 Q And what type of information -- just -- we'll
14 get into more detail about this in a little
15 bit, but in general what do you put in your
16 civil investigative report?
17 A Typically, I put in what the request was, and
18 then I'll have a summarization, where I
19 summarize what is in the report so that the
20 attorney can read it and not have to go through
21 all of the attachments. And then I'll go
22 through what the assets were I found,
23 corporations, any relevant documents, and then
24 I usually have a conclusion.
25 Q Do you attach documents to that report?

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1 A I do. I attach documents.
2 Q Typically how soon after you complete your
3 investigation do you create your report?
4 A Usually right away, because I'm usually just
5 working on one investigation at a time. But
6 every once in a while there is a delay if
7 something might come up that has a higher
8 priority.
9 Q Could you walk the Court through how you start
10 your investigation and how you proceed with it?
11 A Sure. Typically I do a records search in
12 LexisNexis, which is the fee-based public
13 records repository. And that will usually give
14 me a base to start from. It'll usually list
15 identifying information about the subject of
16 the investigation, property that they may own,
17 corporations they may be associated with,
18 whether they have a criminal record, UCC
19 filings, judgments, bankruptcy. And that's
20 usually where I start.
21 And then from there I go to public
22 records. I'll usually go to online Internet
23 sources. A lot of courthouses and other
24 agencies have federal records or state records
25 online. And then if that doesn't solve my

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1 problem, then I usually go out for a personal
2 visit to a courthouse or to a record holder.
3 And then if I have to go out and interview
4 individuals or take photographs, then I will
5 actually go out to the field and do that. And
6 then when I come back, I type my report.
7 Q Could you just very briefly describe how, when
8 you go to a local municipal to find records,
9 how that process works?
10 A Well, if I use an example, like here in
11 Milwaukee I went to the Register of Deed's
12 office. And they have a subscription-based
13 service that you can access their records
14 online, or you can go to the courthouse and
15 actually look the records up yourself. It's
16 called la raid owe, and you can do searches by
17 name, by pin number for property, by address or
18 by the legal description, and you can search
19 for deeds, mortgages, all kinds of things that
20 way. And then you can request a copy, ask for
21 it to be certified, and pay. And that's
22 usually how I obtain my reports.
23 Q Is this for individuals or corporations or --
24 A Anybody. Anybody that's a property owner.
25 Q Does an investigation of a corporation differ

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1 from that of an individual?

2 A It does, because it's usually a little bit more
3 complicated. Normally for a corporation you
4 would go to the secretary of state's office and
5 obtain, you know, corporation documents, who
6 the registered agent is, and that kind of
7 information. And then usually you request a
8 Dunn & Bradstreet report to see what their
9 assets were, or their yearly sales, things of
10 that. Those reports would give you that
11 information.

12 Q Okay. Are you ever required to search or look
13 for non-public records?

14 A I am, yeah. Lexis-Nexis has a couple of
15 non-public record searches that you can do.
16 You can search for driver's license information
17 and vehicle registrations. So those are
18 something that I couldn't go to a courthouse
19 and get.

20 Q Okay. When you end up producing those
21 documents, is there any private information in
22 them?

23 A There is usually a social security number
24 attached to it, but the last four digits are
25 X'd out.

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1 Q What other type of private records would
2 you -- non-public records would you look for or
3 try to gather?

4 A That's pretty much it. I mean, D&B, the Dunn &
5 Bradstreet reports, are a fee-based report, so
6 you have to pay for those. They're not a
7 public record. But other than that, that's
8 usually it. I mean, if something comes along
9 that we definitely need, I can request the
10 funds for it and try and get it. But those are
11 usually what nonpublic records I usually get.

12 Q Does the agency ever ask a response for
13 non-public records?

14 A Most of the time, it's my understanding.

15 Q And what circumstance would the agency do that?

16 A If they had made an ability to pay issue, then
17 we ask for financial documents, financial bank
18 statements, IRAs, anything that would
19 demonstrate their inability to pay.

20 Q And for how many years would the agency
21 typically ask for?

22 A I don't do the requesting, but I think it's at
23 least two or three years. Because one year can
24 be an anomaly, so you want to at least get a
25 little bit of a history.

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1 Q What can you learn from doing those type of
2 records?

3 A Well, you can learn their yearly earnings and
4 depreciation values. It'll say if you're --
5 you know in this case, when you own rental
6 property, you can see what the rents are, what
7 the mortgage payments are, what's being written
8 off, what the bottom line is, what the
9 respondent would actually keep in their pocket
10 or, you know, what they pay out, what their tax
11 rate is, things of that nature.

12 Q Would the EPA typically have access to that
13 type of information?

14 A No.

15 Q Why not?

16 A Well, it has to be provided by the respondent
17 or the respondent has to sign a 4506T and then
18 we can get the records from the IRS. But it's
19 not something that we have access to.

20 Q So you need permission?

21 A Right.

22 Q Do you know if EPA requested that type of
23 information in this case?

24 A It did.

25 Q Do you know whether it was provided?

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1 A I don't believe so. I was never given any tax
2 returns to look at or any other financial
3 documents.

4 Q At this time I'd like to go in a little bit
5 more detail about how you create your civil
6 investigative report. Could you just explain
7 the process by which you create the report and
8 put it together and what -- how you handle the
9 records that you attached to your report?

10 A Say that again.

11 Q Just walk the Court through the process of how
12 you create --

13 A After I've gathered everything up?

14 Q Yeah.

15 A So I gather all the documents that I need for
16 the report. And then as far as the format that
17 I put it in?

18 Q Yes.

19 A Then I would normally -- usually I have the
20 identification of the subject, and then I would
21 have any kind of any other professional
22 licenses that they may have, any real estate
23 that they may own, I usually try to put that in
24 a table. Any real estate that they may have
25 sold, whether they have a criminal record,

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1 bankruptcy, UCC filings. All of those things
 2 would be detailed. If they're associated with
 3 any kind of a corporation, then I would -- I
 4 would type, you know, what I found on
 5 Lexis-Nexis, what I found with the secretary of
 6 state, what I found with Dunn & Bradstreet, any
 7 other extraneous information that might be
 8 relevant. And then I do a conclusion based on
 9 what I had found.

10 Q And what type of records do you typically
 11 attach to your report?

12 A It could be anything. Depends on the type of
 13 investigation. In this instance it would be
 14 like deeds from the courthouse, photographs of
 15 the property. If I had to interview anybody,
 16 it would be my interview notes from the
 17 conversation that I had with an individual. It
 18 just depends.

19 Q Okay. Thanks. Just one more question before
 20 we get in this case. Have you ever
 21 testified --

22 A I have.

23 Q -- before? On how many occasions?

24 A Two separate occasions.

25 Q And what was the type of proceeding you

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1 testified in?

2 A I testified in two appeal hearings for the
 3 Department of Defense when I was an agent. If
 4 someone was denied a security clearance and
 5 they had the right of appeal, and you would
 6 have to go and defend your investigation. So I
 7 had to testify on two different occasions with
 8 the Department of Hearing and Appeals, which is
 9 AI do had a.

10 Q Okay. Mrs. O'Neill, at this time I'd like to
 11 turn your attention to the case at hand in the
 12 matter of Dessie L. Brumfield, doing business
 13 as Brumfield Properties, LLC, docket No.
 14 TSCA052010014. Are you familiar with this
 15 case?

16 A I am.

17 Q Could you explain how you became involved with
 18 this matter?

19 A I was originally asked to look for assets in
 20 March of this year by Mr. Trevino. And so I
 21 just did that, you know, preliminary search and
 22 found some properties and gave him that
 23 information. I didn't type up a formal report
 24 at that time because it wasn't really a formal
 25 request.

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1 And then I believe it was in May or June
 2 of this year that I was officially asked to do
 3 an investigation and find assets for the
 4 corporation and other corporate documents.

5 Q Did you perform an investigation?

6 A I did. I also -- I traveled up here to
 7 Milwaukee and took photographs of the
 8 properties as well.

9 Q Can you just very briefly describe what you did
 10 in this case, your investigation?

11 A Well, like I said before, I started in Lexis
 12 and did a name search on Ms. Brumfield, made
 13 sure that I had the correct subject by
 14 verifying address, social security number, that
 15 kind of thing. And from there got a list of
 16 properties that I felt fairly certain that she
 17 owned. And tried -- well, then I went to
 18 websites, the assessor's office for Milwaukee
 19 County and Register of Deed's office. I was
 20 able to get the tax records online, but the
 21 Register of Deed's office was a fee-based
 22 service called the had a laid row, so I
 23 actually had to travel up here on two occasions
 24 and get the deeds that I needed. Deeds and
 25 mortgages.

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1 When I was up here, I went around to some
 2 of the properties that she owns and took
 3 photographs and then returned to Chicago and
 4 prepared my report.

5 Q And with any records that you gathered, were
 6 those always in your custody?

7 A They were.

8 Q And where did you typically keep them?

9 A In my office.

10 Q In your office?

11 A Uh-huh.

12 Q Okay. Did you interview any witnesses as part
 13 of your investigation?

14 A I did not.

15 Q Why not?

16 A There was no need to.

17 Q So what time period did you conduct your
 18 investigation?

19 A It was in the beginning of June. So I would
 20 say the first week of June. First and second
 21 week of June of this year.

22 Q When did you complete your report?

23 A I believe I started typing it the last week of
 24 June, first week of July.

25 Q Was your knowledge of your investigation fresh

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1 in your mind when you completed your report?

2 A It was.

3 Q Does your report accurately document the

4 findings of your investigation?

5 A It does.

6 Q Was it prepared in accordance with your regular

7 civil investigative practice?

8 A Yes.

9 Q During your investigation did either

10 Mr. Trevino or I ever ask you to reach a

11 particular conclusion?

12 A No.

13 Q Okay. Did we ever try to influence you in your

14 investigation in any way?

15 A No.

16 Q Ms. O'Neill, at this time I would like you to

17 open up the complainant's exhibit book and turn

18 to what's been marked as complainant's Exhibit

19 No. 11. And that's Bates number 181 through

20 369. Do you recognize this document?

21 A I do.

22 Q What is it?

23 A It's my report.

24 Q Is it an original or a copy?

25 A It's a copy.

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1 Q Is this an official agency record?

2 A I'm sorry?

3 Q Is this an official agency record?

4 A I'm not sure I understand what you mean by

5 that.

6 Q Your report, is it an official record of the

7 agency?

8 A Something that -- yes. Yes. I'm sorry.

9 Q It was created per the regular business

10 practices of the agency?

11 A Yes.

12 Q I know it's a long report, but could you just

13 take a few minutes to page through it and just

14 make sure it's complete?

15 A Just the report part or --

16 Q If you could look at -- just briefly look at

17 the attachments.

18 THE COURT: Counsel, are you going to

19 go through each of these attachments or --

20 MR. STEKETEE: I was thinking of

21 having Ms. O'Neill summarize the report and

22 then talk about categories of attachments. Or

23 if Ms. Brumfield wants to stipulate --

24 MS. BRUMFIELD: I'll stipulate to

25 whatever she going to say. I don't know

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1 anything about what she's talking about. I

2 never heard of her before. So whatever her

3 report is apparently she did. So I stipulate

4 to all of that so we can move on for the sake

5 of time.

6 THE COURT: There's lot of documents

7 concerning properties that you might own,

8 bought, or sold. Do you have any objection to

9 any of those documents?

10 MS. BRUMFIELD: That I never saw

11 before.

12 THE COURT: Exhibit 11 in the white

13 binder.

14 MR. STEKETEE: I could have

15 Ms. O'Neill go through the list of attachments

16 just to describe them.

17 THE COURT: That might help everyone

18 follow along, just to make it more efficient.

19 MR. STEKETEE: Why don't we do that.

20 BY MR. STEKETEE:

21 Q Please turn to Bates 187, which lists the seven

22 attachments to your report. If you could just

23 describe what each set of attachments is.

24 A There are seven attachments. Attachment one is

25 the respondent's Wisconsin driver's license

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1 record and a private detective license.

2 Attachment two are real property records and a

3 photo log. Attachment three are real property

4 records of properties no longer owned by the

5 respondent. Attachment four are judgments and

6 a judgment lien filing. Attachment five are

7 vehicle records of the respondent. Attachment

8 six are corporate documents regarding Brumfield

9 Property, LLC. And attachment seven is a

10 universal commercial code filing for Brumfield

11 Properties, LLC.

12 Q Thank you.

13 MS. BRUMFIELD: One through seven is

14 what we're talking about?

15 THE WITNESS: Yes, ma'am.

16 MS. BRUMFIELD: Okay.

17 THE COURT: Ms. Brumfield, would it

18 help if we go maybe property by property, for

19 example. On the second top --

20 MS. BRUMFIELD: Well the last column,

21 which is North 7th Street, North 24th, 6116,

22 33, 32 North 18th, those properties I no longer

23 have. They've been gone for a year. And a

24 property at 5067 North 37th, that's not my

25 property.

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1 MR. STEKETEE: Ms. O'Neill could
 2 explain the difference between that listing and
 3 the one above it.
 4 THE COURT: Why don't we do that. If
 5 you could go by categories of what she owns,
 6 what she doesn't own anymore --
 7 MR. STEKETEE: How about I have
 8 Ms. O'Neill summarize her report and then go
 9 through the attachments by category.
 10 THE COURT: Okay, yeah. Whatever is
 11 most efficient.
 12 BY MR. STEKETEE:
 13 Q Could you please summarize your report?
 14 A Summarize my report.
 15 Q If you want to turn to page 191, that is a
 16 written summary of your report.
 17 A Basically, the summary just shows what websites
 18 that I used to obtain the records, or where I
 19 went to obtain the records. My research found
 20 that the respondent owned at least 13 parcels
 21 of property, with a fair market value -- or
 22 yeah, a fair market value of \$697,300. The
 23 deeds and the mortgages are attached, whatever
 24 was available. That her home was marketed at
 25 47,900. That she owned two vehicles with a

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1 fair market value of approximately \$8,000, and
 2 that she was associated with one corporation,
 3 Brumfield Properties, LLC.
 4 MS. BRUMFIELD: Do I wait till she
 5 get finished? Do I tell her that I don't own
 6 two vehicles.
 7 THE COURT: Yeah, let her finish her
 8 response, and then if you could note down those
 9 things that you'd like to question about.
 10 THE WITNESS: And that a D&B report
 11 showed that her corporation had yearly sales,
 12 or earnings, of \$240,000.
 13 BY MR. STEKETEE:
 14 Q Did you come to a conclusion?
 15 A My conclusion was that she had tangible assets
 16 that she could pay a fine from. That she
 17 seemed to have income and assets.
 18 Q With regard to the real property, could you
 19 turn to Bates 195? Can you describe the
 20 details of your investigation with regard to
 21 her real property?
 22 A Sure. Researching in LexisNexis and at the
 23 local courthouse here in Milwaukee, with the
 24 register of deed's office, I found 13 parcels
 25 of property that were in her name or in the

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1 corporation's name. So this chart is a list of
 2 those properties.
 3 Q Okay. And what's the Bates 197? There's a
 4 separate chart at the bottom. What is that?
 5 A The separate chart were just a few of the
 6 properties I found that she had owned in the
 7 past and had sold, or that they'd been owned by
 8 someone that is associated with her that she
 9 also appears on the deeds with. So I just
 10 included that information as far as possible
 11 income in the past. If you were just relying
 12 on rental income, that's one thing, but if
 13 you're also buying/selling property, making a
 14 profit from that, that's also potential income.
 15 So I just included it because I had the
 16 records. It wasn't necessary, but I gave it to
 17 you anyway.
 18 Q Okay. And then very briefly, could you just
 19 describe the categories of attachments and how
 20 you gathered that information?
 21 A As far as the deeds go?
 22 Q No, no. Let's start with attachment one.
 23 A Oh, attachment one. Attachment one is just a
 24 LexisNexis printout of a copy of her driver's
 25 license, the respondent's driver's license

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1 record.
 2 Q What's the Bates numbers?
 3 A I'm sorry. Bates number 205.
 4 Q Okay.
 5 A And it just shows her partial Social Security
 6 number, date of birth, that she is a female,
 7 and what class of driver's license she has.
 8 And her car. Well, might not be a current
 9 address.
 10 Q The next document?
 11 A So Bates 207 is a Wisconsin professional
 12 license that I was able to locate showing that
 13 Ms. Brumfield had, in the past, a private
 14 detective license was issued in November of
 15 1993 and expired in August of 2004.
 16 Q Let's move on to attachment two. Just
 17 summarize the entire attachment. You don't
 18 need to go through each property.
 19 A Attachment two are the records that I obtained
 20 for each of the properties that are listed in
 21 the report. Basically what they have are a
 22 printout from the Milwaukee County assessor's
 23 office that shows details about the property.
 24 The printout from the assessor's office as well
 25 as the county tax bill. There's a photograph

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1 of the property, and then a deed for the
2 property. So most of them have that. Some of
3 them don't have photographs because when you
4 initially gave me the investigation, you asked
5 for photographs of the specific amount of
6 properties. I went and got those photographs.
7 And then we found more properties later. So
8 for those, I don't have photographs.
9 Q Did you take these photographs yourself or did
10 you witness them being taken?
11 A I did.
12 Q Let's move on to attachment number three,
13 please. That's at Bates 313.
14 A These are just four properties --
15 Q I'm sorry. Yeah, go ahead.
16 A They're four properties that the respondent was
17 associated with in the past and she either sold
18 or may have been a partner of hers sold.
19 Q Are those the properties that appear in that
20 second --
21 A In that second chart, right.
22 Q Let's move on to attachment five. Actually,
23 attachment four. I'm getting off my numbers.
24 Bates 347?
25 A This is just a copy of a Wisconsin judgment and

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1 lien filing. And it was concerning a court
2 case that was filed in Milwaukee Circuit Court
3 against the respondent by the City of
4 Milwaukee. It was filed in October of 2011.
5 Q Let's move on to attachment five.
6 A Attachment five are two current motor vehicle
7 registrations for the respondent.
8 Q And that starts at Bates 351?
9 A Bates 351 through 357.
10 Q And attachment six?
11 A Attachment six is a LexisNexis printout from
12 the Wisconsin Department of Financial
13 Institutions. It gives information on
14 Brumfield Properties, LLC: date of
15 incorporation, the registered agent, and
16 historical registered agents.
17 Q With regard to all these -- oh, let's go to
18 attachment seven. I'm sorry. Bates 367.
19 A 367 are two UCC filings. The debtor is
20 Brumfield Property, LLC. And they were filed
21 by Legacy Bank in May of 2008.
22 Q And did you personally obtain copies of all
23 these attachments?
24 A I did.
25 Q What was your purpose in obtaining the copies

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1 of these attachments?
2 A Just to get a better financial picture of the
3 respondent, to see what her liabilities were,
4 what her assets were.
5 Q And are the attachments copies or originals?
6 A These are copies.
7 Q Does your report appear to be complete?
8 A It does.
9 Q Is it missing any pages?
10 A Not that I can see, no.
11 Q Other than the Bates numbers in the left-hand
12 corner, upper left-hand corner, have any of the
13 pages in your report been altered in any way?
14 A They don't appear so, no.
15 Q So in sum, with regard to the report itself and
16 all the attachments, was this created during
17 the ordinary course of business at the agency?
18 A Yes.
19 Q Does complainant's Exhibit 11 before you appear
20 to be a true and accurate representation of
21 your July 1, 2012 civil investigative report?
22 A Yes, it does.
23 MR. STEKETEE: At this time, Your
24 Honor, complainant requests that complainant's
25 Exhibit 11, including all the documents

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1 attached to the report, be entered into
2 evidence.
3 THE COURT: Ms. Brumfield, do you
4 have any objection to these?
5 MS. BRUMFIELD: No, I don't. Oh, I
6 object to -- I don't know if I can do that
7 now -- the fact that she said I had two vehicle
8 in total. I only have one vehicle, and worth
9 about \$3,000.
10 THE COURT: Okay. We'll let you
11 testify about that. But did you have two
12 vehicles at some time?
13 MS. BRUMFIELD: Well, I really didn't
14 have two vehicles. I gave my sister one of my
15 vehicles. And she couldn't get it registered
16 in her name, so it's stuck in my name for a
17 while while I was paying her tickets. That's
18 how that came about. She finally got her
19 issues resolved --
20 THE COURT: But at some time you had
21 two vehicles?
22 MS. BRUMFIELD: Yes.
23 THE COURT: Government's Exhibit 11
24 is admitted into evidence.
25 MR. STEKETEE: Thank you, Your Honor.

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1 BY MR. STEKETEE:
2 Q Ms. O'Neill, after you completed your financial
3 investigation and you completed your report,
4 did you receive any additional documents
5 related to Ms. Brumfield or Brumfield Property,
6 LLC?
7 A I did receive a four-page bank statement with
8 deposit slips on it.
9 Q Did you review those documents?
10 A I did.
11 Q Could you just describe what you -- what was in
12 those documents?
13 A It was two statements, one for April of this
14 year, and May, I believe. And I'm sorry, I
15 don't recall the bank off the top of my head.
16 And then there was another page of looked like
17 deposit slips, but they weren't stamped by a
18 bank, like weren't actually deposited and made.
19 There were hand notations on them for the
20 mortgage amounts, I assume. And then there was
21 one, though, that did have a stamp on it like
22 you had actually made a deposit at the bank,
23 but I couldn't read it.
24 Q And did this additional information lead you to
25 alter your conclusion in your July 1st report?

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1 A It really is incomplete information, so it
2 really didn't change my opinion at all because
3 it didn't tell me anything. I mean, it
4 was -- the bank statements were entitled
5 Brumfield Property, LLC was the owner of the
6 account, but there appeared kind of a
7 commingling of personal funds in there,
8 so -- and so to me, it didn't seem like a
9 business account, where you would have deposits
10 going in and debits going out. It just seemed
11 like a personal account to me.
12 Q So were you provided any information that you
13 believe would require you to amend or refine
14 your July 1st financial investigation?
15 A The only way that I could amend it is if I were
16 provided tax returns by the respondent that you
17 could actually take a look at and see what the
18 corporation was actually bringing in and what
19 it was paying out.
20 But because we didn't receive those, we
21 can't really make a -- we can't say what the
22 corporation's earning or paying out. So I
23 wasn't able to do that. I didn't see any tax
24 returns, so -- and that does tell a lot of
25 information about how a corporation is run.

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1 So without that information, I just have
2 to base it on what I can find publicly
3 available. Whether it's right or wrong, it is
4 what it is, you know. It's a public record. I
5 mean, you have to draw your conclusion from it,
6 or from them.
7 Q Just a few more questions. With regard to
8 the value of a piece of property, is there a
9 way -- is there a formula that you could use,
10 based on the records that you gather, to
11 determine the approximate fair market value of
12 a piece of property?
13 A Well, the assessed value placed on the property
14 by, like, say in the city of Milwaukee, is
15 based on square footage, lot size, amount of
16 bedrooms, bathrooms, those kinds of things that
17 a house would have. Fair market value is a
18 little bit different. It's what the property
19 could actually sell for.
20 My understanding, the way the City of
21 Milwaukee does it, is they do it based on
22 comparable sales, and that that figure has to
23 be within ten percent of what the assessed
24 value is. And as long as it is, then they go
25 with the assessed value of the property. And

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1 that's the value they declare it to be.
2 Q Can you tell from a tax record then, or a deed,
3 how -- or any other record from the City of
4 Milwaukee, how much a property is worth just
5 based on the information in those documents.
6 A I can tell what it sold for. Because on the
7 deed itself will be a transfer tax. And for,
8 like, the city of Milwaukee, the transfer tax
9 is 3000 per 1000. So for every thousand
10 dollars that the property sold for, there's a
11 \$3 tax. So the tax is on there. You just
12 divide it by three and add three zeroes and
13 that's what the property sold for.
14 MR. STEKETEE: Can I have a moment,
15 Your Honor?
16 THE COURT: Yes, you may.
17 MR. STEKETEE: I think those are --
18 at this time, those are all the questions we
19 have for this witness.
20 THE COURT: Ms. Brumfield, are you
21 ready to ask questions or do you have any
22 questions?
23 MS. BRUMFIELD: Yes, I am.
24 THE COURT: Okay.
25 EXAMINATION

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1 BY MS. BRUMFIELD:
 2 Q When you checked out my vehicle, you state that
 3 it still showed ownership in my name. What
 4 year the time that you checked that showed that
 5 I still owned that vehicle?
 6 A I ran the record in either March or June of
 7 this year. I'd have to look at it and see.
 8 According to the state of Wisconsin, on either
 9 of those dates it still was registered in your
 10 name. Let me find it.
 11 Q Could it be that you getting information
 12 from -- inaccurate information from other
 13 sources?
 14 A Well, the way the repository works is the
 15 information comes directly from the State of
 16 Wisconsin. So wherever they register vehicles
 17 with the State of Wisconsin feeds into this
 18 database that I have access to. So if the
 19 registration changed at a later time, they
 20 might not have updated it when I pulled the
 21 records. So it's quite possible you didn't own
 22 the vehicle at the time that I pulled the
 23 record if you had changed the registration.
 24 But it had not updated in the file.
 25 Q Okay. With the state of affairs right now with

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1 the market breakdown and the banks and -- is
 2 there a formula that you can use that will tell
 3 you or show you that what the value is worth is
 4 a lot less? That I owe more than what it's
 5 worth?
 6 A So if you're underwater on your mortgage?
 7 Q Yes.
 8 A I wouldn't know that without knowing what your
 9 mortgage is. And the value of the property is
 10 placed on it by the City of Milwaukee. So
 11 whatever they say it's worth -- and that might
 12 not be what it's worth, but that's what they
 13 say it's worth based on the attributes of the
 14 piece of property.
 15 Q So you would have had to talk to me personally
 16 to find out what I owe on that to see if I'm
 17 underwater?
 18 A You would have had to provide that information
 19 to us, yes. But without knowing your mortgage
 20 amounts, there's no way to know that. You
 21 would have to provide that information to us,
 22 and you didn't, so we didn't have any way to go
 23 by you -- any information to go by on that.
 24 MS. BRUMFIELD: Okay. That's it.
 25 THE COURT: Any redirect?

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1 MR. STEKETEE: No, Your Honor.
 2 THE COURT: Ms. O'Neill, do you have
 3 any general information about the housing
 4 market in the city of Milwaukee currently.
 5 A As far as sales or --
 6 Q Yeah.
 7 A I don't.
 8 Q Do you know if any of the properties which
 9 are -- which you have information in here,
 10 whether any improvements were made in the
 11 properties?
 12 A The only way I can tell that is from the
 13 assessments, if something was added to the
 14 building or improved, and they would reassess
 15 and increase the value.
 16 Q Do you know whether Ms. Brumfield's properties
 17 have increased or decreased in value generally?
 18 A I don't.
 19 MS. BRUMFIELD: Judge, could I ask
 20 something to that?
 21 THE COURT: Sure.
 22 THE WITNESS: I do notice, though,
 23 that the assessments from the year before were
 24 higher. So the city did lower their
 25 assessments on the property. And I assume

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1 because of the market.
 2 THE COURT: Okay. That's all I have.
 3 Any further questions to follow up?
 4 MR. STEKETEE: No.
 5 THE COURT: Ms. Brumfield?
 6 MS. BRUMFIELD: No.
 7 THE COURT: Do you expect to bring
 8 her back on rebuttal?
 9 MR. STEKETEE: Ms. O'Neill? It's
 10 possible.
 11 MR. TREVINO: It's possible depending
 12 upon what occurs.
 13 MS. BRUMFIELD: Excuse me, I want to
 14 ask one more question. I want to ask
 15 Ms. O'Neil is she related to Mr. O'Neil.
 16 THE WITNESS: I'm not.
 17 MS. BRUMFIELD: Okay. Thank you.
 18 THE COURT: If you could, please,
 19 don't discuss your testimony with anyone until
 20 the hearing is finished. And you can step
 21 down. Ready to call your next witness?
 22 MR. STEKETEE: We just want to
 23 reiterate that we may be calling Ms. O'Neill
 24 back based upon the testimony of Ms. Brumfield
 25 later.

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1 THE COURT: Okay.

2 MR. TREVINO: Our next and final

3 witness will be Ms. Pam Grace. And she'll be

4 here in just a moment. Your Honor, could I

5 take a three-minute break?

6 THE COURT: Yes, you may. We'll be

7 in recess for five minutes.

8 (Break taken.)

9 THE COURT: Back on the record. Call

10 your next witness.

11 MR. TREVINO: Thank you, Your Honor.

12 First a small question. Is Maureen O'Neil

13 kneel allowed to be back in the courtroom now

14 that she has testified or would you prefer

15 she --

16 THE COURT: She's sort of a fact

17 witness or expert witness, I'm not sure which.

18 MR. TREVINO: Fact.

19 THE COURT: She needs to stay out

20 then if she's going to possibly testify on

21 rebuttal.

22 MS. BRUMFIELD: Right.

23 MR. TREVINO: Okay. Another

24 question, and I apologize. Is she going to be

25 allowed to hear Ms. Brumfield's testimony?

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1 Because based upon what that testimony is --

2 THE COURT: Yeah.

3 MR. TREVINO: -- she might be able to

4 provide us information that me want might want

5 to ask on cross.

6 THE COURT: Let me see. If she's

7 going to have to testify with regard to the

8 testimony that Ms. Brumfield might provide,

9 then we'll have to have her in here. Yeah.

10 Are you going to have any other rebuttal

11 witnesses?

12 MR. TREVINO: I don't think so. I

13 don't know anybody else who would be here to

14 rebut anything else.

15 THE COURT: Okay. Then that's fine.

16 MR. TREVINO: So Ms. O'Neill can come

17 back in or --

18 THE COURT: Yes, she can, if there's

19 no other rebuttal witnesses.

20 MR. TREVINO: Okay. Thank you, Your

21 Honor. Our next and final witness for our case

22 in chief is Ms. Pamela Grace.

23 THE COURT: Remain standing and raise

24 your right hand, please. Swear the witness.

25 PAMELA GRACE, called as a witness

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1 herein, having been first duly sworn on oath,

2 was examined and testified as follows:

3 EXAMINATION

4 THE COURT: Be seated.

5 BY MR. TREVINO:

6 Q Good afternoon, Ms. Grace. How are you?

7 A I'm good.

8 Q Comfortable?

9 A Yes.

10 Q Ms. Grace, could you please provide the court

11 with your full name?

12 A My name is Pamela Grace.

13 Q Are you currently employed?

14 A Yes, I am.

15 Q Can you provide the court with your title and

16 your office?

17 A I'm an environmental protection specialist with

18 the US EPA region five land and chemicals

19 division and the chemical management branch.

20 Q Where is your office located, Ms. Grace?

21 A It's located in Chicago, Illinois.

22 Q How long have you been an environmental

23 protection specialist for EPA?

24 A I assumed the position in 1995.

25 Q What do you do as an environmental protection

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1 specialist for the agency?

2 A As a specialist, I am an enforcement officer

3 and a case developer.

4 Q What do you enforce?

5 A I enforce currently two regulations, first

6 being TSCA, and second being AHERA.

7 Q Can you tell the court what TSCA stands for?

8 A Yes. It is the Toxic Substances Control Act.

9 Q Can you tell the court what AHERA represents?

10 A AHERA is the Asbestos Hazardous Emergency

11 Response Act.

12 Q And how do you help the agency enforce these

13 laws and these regulations?

14 A By conducting inspections and providing case

15 development.

16 Q Do you help the agency enforce any other

17 regulations under TSCA?

18 A I enforce currently the lead disclosure rule.

19 Q How do you help them enforce these various TSCA

20 regulations?

21 A Again, by conducting inspections and case

22 development. And I proceed with enforcing, if

23 necessary.

24 Q Do you know approximately how many AHERA

25 inspections you've completed?

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1 A Yes. I've completed approximately 40 AHERA
 2 inspections.
 3 Q Can you tell me why you complete AHERA
 4 inspections for the agency?
 5 A AHERA, under that act there is a requirement
 6 that asbestos -- I'm sorry, that schools
 7 maintain the asbestos-containing materials
 8 within their schools. They have to ensure that
 9 the asbestos does not pose a potential hazard
 10 or risk to its occupants.
 11 Q How does the agency enforce the TSCA lead
 12 disclosure rule?
 13 A We enforce that rule by conducting inspections
 14 at places of business to determine the level of
 15 compliance.
 16 Q What does the TSCA lead disclosure rule
 17 require?
 18 A The TSCA lead rule requires that lessors who
 19 own or lease properties built prior to 1978
 20 provide information regarding lead-based paint
 21 to prospective tenants in their homes.
 22 Q Have you completed TSCA inspections for the
 23 agency?
 24 A Yes, I have.
 25 Q How many?

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1 A Approximately 60 inspections.
 2 Q When you complete these toxic lead disclosure
 3 inspections, why are you completing them?
 4 A You are completing the inspections to determine
 5 the level of compliance with the lead
 6 disclosure rule.
 7 Q Whose compliance?
 8 A Level of compliance of the lessor.
 9 Q Have you -- how many lead inspections have you
 10 completed?
 11 A I've completed approximately 60.
 12 Q What do you do after the inspection?
 13 A Once we complete the inspections, we return to
 14 the office and we then write an inspection
 15 report.
 16 Q Always?
 17 A Always.
 18 Q Why?
 19 A The inspection report documents everything that
 20 was actually done during the inspection. It is
 21 a requirement. That is, once we get back, we
 22 have to make sure that we document all of that
 23 and put it in the record.
 24 Q What do you do as a case developer?
 25 A As a case developer, I review cases and

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1 determine the level of compliance. And if
 2 necessary, I issue enforcement actions.
 3 Q Approximately how many cases have you
 4 developed?
 5 A Maybe a hundred or so, or more.
 6 Q And when you say case developed, what do you
 7 mean by that?
 8 A By that, I mean I review the inspection
 9 report, I determine the level of compliance
 10 beginning -- starting with the notice of
 11 noncompliance, all the way up to a civil
 12 complaint.
 13 Q What did you do before you were an
 14 environmental protection specialist?
 15 A Before I was a specialist I was an
 16 environmental protection assistant.
 17 Q What did you do as an environmental protection
 18 assistant?
 19 A As an assistant, my primary duty was to enforce
 20 FIFRA.
 21 Q Can you tell me what FIFRA represents?
 22 A Yes, I can. Sorry. FIFRA is the Federal
 23 Insecticide Fungicide Rodenticide Act.
 24 Q What did you do to help the agency with FIFRA?
 25 A I enforced section seven of FIFRA, and that is

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1 a requirement that companies that produce and
 2 re-package pesticides, they must be registered
 3 and they must report on the types and amounts
 4 of products that they produce throughout the
 5 year.
 6 Q How long did you perform that function for the
 7 agency?
 8 A Approximately five years, I believe.
 9 Q And what did your reviews lead to?
 10 A My reviews would lead to enforcement actions.
 11 Q What type of enforcement actions?
 12 A Enforcement actions, depending on the level of
 13 noncompliance, ranging from a notice of
 14 noncompliance to a civil complaint.
 15 Q Can you tell me again what TSCA represents?
 16 A Yes. TSCA is Toxic Substances Control Act.
 17 And it regulates many toxic substances,
 18 including lead.
 19 Q What's wrong with lead?
 20 A Lead is very hazardous to your health. Lead
 21 has been known to cause multiple problems,
 22 specifically in pregnant woman and children.
 23 It can cause problems to the brain, the liver,
 24 the blood. It can cause behavioral problems,
 25 hyper activity, learning disabilities. And in

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1 severe cases, it can cause death.

2 Q How does a lead disclosure rule try and address

3 lead?

4 A The requirement of the lead disclosure rule

5 is -- again, is for the lessor to provide vital

6 information regarding lead-based paint hazards

7 in the units that they are about to lease so

8 that the occupant, or the prospective

9 occupants, can make an informed decision as to

10 whether or not they want to continue with the

11 course of leasing the property.

12 Q Whose responsibility is it to inform whom?

13 A It is the lessors, or the landlord's,

14 responsibility, to inform the prospective

15 tenants of any information regarding lead-based

16 paint.

17 Q Can you tell me what types of information a

18 lead disclosure rule requires lessors to

19 provide lessees?

20 A Yes. The lessor is required to provide a lead

21 warning statement; the lessor is required to

22 provide a statement of any information that he

23 or she may have regarding lead-based paint in

24 that unit; the lessor is required to provide

25 reports that they may have regarding lead-based

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1 paint hazards in that units; the lessor is

2 required to get an acknowledgment of receipt

3 from the lessee as to the receipt of the

4 information, and they are required to obtain

5 dates and signatures as to the certification

6 and accuracy of those statements.

7 Q How does a lessor need to complete all of these

8 responsibilities?

9 A There is a lead disclosure form that is

10 available.

11 Q When does it need to be provided and completed?

12 A It has to be provided prior to the lessee's

13 obligation to rent the unit.

14 Q How complicated is that form?

15 A It's a one-page form. All of the information

16 is contained on one page. All the information

17 that's needed to be addressed is on one page.

18 Q What's the point of the rule?

19 A Well, the point of the rule is just to inform a

20 prospective tenant about lead-based paint

21 hazards so they can make an informed decision

22 as to whether or not they want to rent that

23 property. They can either choose to move

24 on, or they can actually choose to continue

25 with the transaction, but they will have the

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1 knowledge of lead-based paint when they are

2 actually living in the property.

3 Q What's the value of that? If I'm going to rent

4 an apartment, what's the value, to me, in

5 getting that information before I sign the

6 lease? Why does it matter?

7 A Well, the value is that you will have the

8 knowledge and you can make an informed decision

9 and you can -- you can weigh the risk of moving

10 into a unit that has known lead-based paint

11 hazards.

12 Q What if I learn that it may in fact have lead

13 issues and I decide to rent anyway? How has

14 this information helped?

15 A Because by you knowing that there are

16 lead-based paint hazards in that property and

17 by knowing where those lead-based paint hazards

18 are, you can take precautions necessary to

19 minimize your risk.

20 Q Like what?

21 A You can clean the property in a safe manner,

22 you can mop the floor in a safe manner. You

23 can use a damp cloth, even, to just remove the

24 lead-based paint hazards.

25 Q So conversely, what's the problem if I'm not

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1 given this information before I rent?

2 A The problem is you don't know and you can very

3 well go into that property and you can actually

4 make the hazards even worse.

5 Q Worse for whom?

6 A Worse for the tenant, and particularly if that

7 tenant has small children and/or if a pregnant

8 woman is in the home.

9 Q Does the rule require the lessor to provide the

10 lessee anything else?

11 A No, other than the information regarding the

12 potential lead-based paint and its warning

13 statement.

14 Q Does the lead disclosure rule require the

15 lessor to complete any lead-based paint or

16 lead-based paint hazard abatement or repair?

17 A No, that is not a requirement.

18 Q Ms. Grace, are you familiar with the statutory

19 civil penalty factors under TSCA?

20 A Yes, I am.

21 Q Can you tell me, what are the statutory civil

22 penalty factors under TSCA?

23 A Those factors are the size of business of the

24 respondent; we would consider the ability of

25 the respondent to continuing business as well

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1 as the gravity of the violation.
2 Q How did you, as the case developer, use those
3 factors to determine appropriate civil penalty?
4 A We use our lead disclosure rule enforcement
5 response and penalty policy to determine the
6 factors to determine the penalties.
7 Q Are you familiar with that policy?
8 A Yes, I am.
9 Q Did you use that policy in the past?
10 A Yes. We have to use that policy in all of our
11 cases.
12 Q And again, how does that provide you any better
13 way of determining a proposed civil penalty?
14 A Well, what the ERP does is provide a framework
15 for the case developer to review the
16 violations, to propose a civil penalty, and
17 then to adjust that civil penalty.
18 Q Can you kind of tell me generally how the
19 penalty policy helps you to calculate a
20 proposed civil penalty?
21 A Yes. We start by, within the policy, looking
22 at the nature of the violation.
23 Q Can you tell me what you mean by the "nature of
24 a violation"?
25 A Yeah. This is more or less the circumstance of

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1 the violation, which is --
2 Q What do you mean by the "circumstance of a
3 violation"?
4 A The circumstance of the violation is the
5 probability of harm that can be caused by
6 omitting this information. By the lessor
7 omitting this information.
8 Q And what else do you do to determine the -- or
9 to calculate proposed civil penalty?
10 A We must look at the extent of a violation,
11 which is a potential for harm to a pregnant
12 woman or small child.
13 Q Okay. What do you do after you calculate
14 proposed civil penalty?
15 A Once the penalty is calculated, then we look at
16 the adjustment factors.
17 Q What sorts of factors would lead you to adjust
18 a calculated civil penalty?
19 A We would look at the respondent's ability to
20 pay that civil penalty. We would also look at
21 the degree of culpability. We would look at
22 prior history of any violations under the rule,
23 and we would also look at -- we would also
24 consider the respondent's attitude.
25 Q Thank you, Ms. Grace. Are you familiar with

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1 this matter today before the Court entitled
2 Dessie L. Brumfield doing business as Brumfield
3 Properties, LLC?
4 A Yes, I am.
5 Q Can you tell me why you are familiar with this
6 action?
7 A This action was actually reassigned to me. It
8 was originally assigned to my co-worker, who's
9 no longer in the program.
10 Q Okay. Is it typical that you would be assigned
11 a case that somebody else had been working on
12 prior to you?
13 A No, it's not difficult, because we adhere to
14 the enforcement response policy very closely.
15 So it's easy to pick up on the potential
16 violations and review them.
17 Q I apologize, I may have misspoken. What I
18 meant to ask you was, is it typical for cases
19 to be reassigned within your program?
20 A No, it's not, unless a co-worker is reassigned
21 to another program.
22 Q Do you recall approximately when this matter
23 was reassigned to you specifically?
24 A Yeah, it was reassigned to me in December of
25 last year, I believe. Yeah.

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1 Q Okay. So someone else has been working on a
2 case, it gets reassigned to you. How do you do
3 that?
4 A Well, it's a new case to me, so I have to start
5 from the very beginning by reviewing the
6 inspection report and all of the -- and the
7 entire document, in other words.
8 Q Did you do that?
9 A Yes, I did.
10 Q So you've reviewed the entire file?
11 A Yes.
12 Q Are you comfortable with the way in which your
13 former colleague reviewed the file and
14 developed the complaint without you?
15 A Yes, I am.
16 Q Okay. Did you ever have any questions for her
17 about how she found certain things or arrived
18 at certain decisions?
19 A No, I did not.
20 Q Okay. Thank you. Ms. Grace, you have before
21 you a white notebook filled with exhibits.
22 Could you please turn to the page Bates stamped
23 No. 67 through 72. This is one of the leases
24 at issue in this matter. Specifically, 3072
25 North 28th Street, Milwaukee, Wisconsin. The

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1 date on it is January 1, 2009.
2 A I'm sorry, did you say Bates stamp 67?
3 Q Bates stamp 67; correct.
4 A Okay.
5 Q Are you there?
6 A Yes, I am.
7 Q Please take a moment and review that document.
8 Have you seen that document before?
9 A Yes. This is part of the file that I reviewed.
10 Q Can you tell me what it is?
11 A This is a lease agreement between Dessie
12 Brumfield -- I'm sorry, Brumfield Property, LLC
13 and a prospective tenant.
14 Q Have you reviewed it before?
15 A Yes.
16 Q Can you tell me, did you find any particular
17 problems with this document?
18 A Yes, I did.
19 Q Can you tell me what problems you found with
20 this document?
21 A With this particular document, there were
22 actually two violations that were found and
23 assessed.
24 Q Can you tell me what those violations are?
25 A Yeah. The first violation was failure to

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1 provide an accurate statement regarding
2 lead-based paint hazards in the property.
3 Q Can you tell me specifically, factually, why
4 you believe that type of violation has occurred
5 looking at this particular list?
6 A Yeah, because on -- I'm sorry. There was an
7 actual disclosure form attached to this
8 particular document, and what was inaccurate on
9 that disclosure form was the -- there was an
10 actual statement on the disclosure form about
11 lead-based paint hazards in that particular
12 unit, however, it was marked that the
13 respondent had no knowledge about lead-based
14 paint.
15 Q What's confusing about that?
16 A Because again, the respondent is not -- I'm
17 sorry, the potential tenant would not have
18 gotten dependable, accurate information
19 regarding lead-based paint hazards in that unit
20 and therefore would not be able to take the
21 necessary steps to reduce harm.
22 Q Okay. Can you tell me perhaps a little bit --
23 MS. BRUMFIELD: Excuse me, what
24 address -- what property was that?
25 MR. TREVINO: For the record -- one

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1 moment. For the record, we're talking about
2 the lease for 3072 North 28th Street,
3 Milwaukee, Wisconsin.
4 MS. BRUMFIELD: Okay, I got it.
5 MR. TREVINO: That's the lease dated
6 January 1, 2009.
7 BY MR. TREVINO:
8 Q Looking at that lease, Ms. Grace, tell me again
9 what's confusing about it.
10 A What's, again, confusing is that on the
11 attached disclosure form, there is a statement
12 regarding the landlord's knowledge about
13 lead-based paint in the unit; however, it was
14 documented that there is no knowledge.
15 Q Thank you. Was there a second issue with the
16 document?
17 A Yeah, the second issue was a failure to date
18 the disclosure form.
19 Q And why is that a problem?
20 A Which goes to we don't know if this was
21 actually done prior to the lessee's obligation
22 to lease the property, or after.
23 Q And why is that a problem?
24 A The requirement of the rule is to provide this
25 information prior to the lessee's obligation to

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1 lease the property.
2 Q Why?
3 A Again, having the knowledge so they can make an
4 informed decision as to whether or not to rent
5 that property.
6 Q I guess my question is, to some extent, so
7 what? How is that particular individual hurt
8 by these two alleged violations?
9 A Because by not having the proper information,
10 they may not be able to take the necessary
11 precautions to minimize any risks that may be
12 in that unit just by not having the knowledge.
13 Q Can you tell me if you calculated the civil
14 penalty for this one lease?
15 A My former colleague, Christine Anderson, did
16 calculate that penalty. And I agreed with the
17 penalty that was calculated, yes.
18 Q All right. Thank you. Just to clarify, who
19 originally calculated the proposed civil
20 penalty?
21 A Christine Anderson.
22 Q Christine Anderson?
23 A Yes.
24 Q And you then reviewed that calculation?
25 A Yes, I reviewed the calculation, yes.

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1 Q How did you calculate the civil penalty for
2 this lease?
3 A We calculate civil penalties -- all of the
4 civil penalties by looking at the circumstance
5 of violation, the circumstance level of the
6 violation. And in this particular case, the
7 circumstance level was at level three, and the
8 extent was minor. I'm sorry, for the first
9 violation, which was a failure to provide the
10 lead warning statement, the circumstance level
11 is a level three and the extent was minor.
12 Q Why was the extent minor?
13 A The extent is minor because we don't have proof
14 that a child or pregnant woman was actually
15 going to rent the apartments at the unit.
16 Q How did you calculate the proposed civil
17 penalty for the second alleged violation?
18 A For the second violation we calculate the
19 penalty at a circumstance level six. And that
20 is failure to provide accurate dates as to the
21 certification and accuracy. And again, the
22 extent level is minor because there are no
23 pregnant woman or children. We couldn't prove
24 there were pregnant woman or children.
25 Q Okay. Thank you, Ms. Grace. Could you please

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1 turn next to a second lease, which is for
2 address 3463 North 15th Street, Milwaukee,
3 Wisconsin, dated December 1, 2008. The Bates
4 stamped numbers are 73 through 81.
5 A Okay.
6 Q Are you familiar with this document?
7 A Uh-huh. Yes, I am.
8 Q Why are you familiar with this document?
9 A Again, this is part of the file that I
10 reviewed.
11 Q Take a moment, please review the document.
12 A Okay.
13 Q Thank you. What problems did you find with
14 this document?
15 A The problem with this particular document was,
16 again, it was a lease transaction between
17 Dessie Brumfield as owner and as an occupant.
18 And the problem with this document, it did have
19 a disclosure form attached, however, the date
20 of lease was December 1, 2008, but the date of
21 disclosure was December 2, 2008. So the lessee
22 did not obtain any information regarding
23 lead-based paint hazards or any of the other
24 documents required prior to the obligation to
25 lease their property.

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1 Q And tell me, again, why is that a problem?
2 A Not having the knowledge to -- regarding the
3 lead paint hazards in the home, they can
4 actually pose more harm than by not having that
5 knowledge.
6 Q Ms. Grace, do you notice on the page Bates
7 stamp 81, the line which says "Landlord's
8 disclosure. City of Milwaukee has set a date
9 of 11/3/06 for cleaning the house of lead
10 paint"?
11 A Yes, I do.
12 Q Where have we seen that line before?
13 A Yeah, it actually appears to be similar to the
14 statement that was on the previous disclosure
15 form.
16 Q So I have -- do you have a similar problem with
17 this lease?
18 A Yes, again, by the -- by the tenant actually
19 signing this lease the day after, there was
20 actually no information provided. And again,
21 with this particular disclosure, the respondent
22 does acknowledge that she is aware that there
23 are lead paint hazards in the home but she is
24 stating that she has no knowledge. So there is
25 a contradiction.

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1 Q Okay. Even if this particular document had
2 been completed timely, presented timely, are
3 there other potential issues with it?
4 A Well, even if it were done in a timely manner,
5 there are still a couple of other issues that
6 were noted. The tenant's acknowledgment for
7 one. And again, just the fact that it was done
8 late. The tenant did not acknowledge receipt
9 of the above information, would not have
10 acknowledged receipt of the above information,
11 and even still has not in this case.
12 Q Next could you turn to the lease for 2230 North
13 Teutonia Road, Milwaukee, Wisconsin, dated
14 May 15, 2008. It is Bates stamped 61 through
15 64.
16 A Okay.
17 Q Please take a moment to review that document.
18 A Okay.
19 Q Are you familiar with this document?
20 A Yes, I am.
21 Q Why are you familiar with this document?
22 A It was part of the file that I received.
23 Q And you've reviewed this particular document,
24 this lease?
25 A Yes, I have.

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1 Q Okay. Can you tell me the problems you found
 2 with this lease?
 3 A There was no disclosure form attached, nor was
 4 there any language regarding lead-based paint
 5 disclosure within the body of the document.
 6 Q Why is that a problem?
 7 A Because the prospective tenant had no knowledge
 8 regarding lead-based paint hazards within the
 9 home prior to her obligation to lease.
 10 Q Could you please turn to a document, a lease,
 11 4908 North 40th Street, Milwaukee, Wisconsin,
 12 dated January 1, 2008. And it is Bates stamped
 13 number 90. Nine-zero.
 14 A Okay.
 15 Q Have you seen this document before?
 16 A Yes, I have.
 17 Q Why have you seen this document before today?
 18 A It's part of the file that I reviewed.
 19 Q What is this document?
 20 A This document is a rent certificate. It is a
 21 document from Wisconsin Department of Revenue
 22 document, and it is a rent certificate that
 23 documents that there was a transaction to lease
 24 a particular unit during the time frame. And
 25 the respondent did receive rent. And it was

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1 signed by Dessie Brumfield.
 2 Q And what's the particular problem with this
 3 document?
 4 A This document is considered to be a lease
 5 transaction, and there is no disclosure form
 6 attached to, or within -- within the lease.
 7 Q And why is that a problem?
 8 A Again, because it appears that the prospective
 9 tenant did not have any knowledge about
 10 lead-based paint hazards prior to the
 11 obligation to lease the property.
 12 Q Can you please turn to the lease for 2230 North
 13 Teutonia Road, Milwaukee, Wisconsin dated
 14 March 1, 2007? And it is Bates stamped 65
 15 through 66.
 16 A Okay.
 17 Q Do you know this document?
 18 A Yes, I do.
 19 Q Why do you know this document?
 20 A It's part of the file that I reviewed.
 21 Q You reviewed this document specifically?
 22 A I reviewed this document specifically, yes.
 23 Q What problem did you find with this particular
 24 lease?
 25 A Again, this is a rent certificate, as I

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1 described before. It's a lease transaction
 2 between Ms. Brumfield and the tenant. And it
 3 documents the time frame that the property was
 4 occupied and rents received. And it did not
 5 indicate a disclosure form attached to or
 6 within the body of the lease.
 7 Q How many violations is that?
 8 A This would be, for this particular transaction,
 9 five violations.
 10 Q Ms. Grace, did you calculate a civil penalty
 11 for these four leases we've just covered?
 12 A Christine Anderson calculated the penalty, and
 13 I reviewed it and I agreed with her
 14 calculation.
 15 Q Can you tell me how you and Ms. Anderson
 16 calculated the civil penalty for these four
 17 leases?
 18 A The -- all of these leases had -- all of them
 19 had the same violations. There were five
 20 violations. There was failure to provide a
 21 lead warning statement to each of the
 22 prospective tenants, failure to provide any
 23 knowledge about lead-based paint in that
 24 particular unit, failure to provide reports to
 25 the lessee, failure to obtain receipt of

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1 stating that the lessee did receive this
 2 information, and failure to date and sign and
 3 certify to the accuracy of the information.
 4 Q And how did you calculate a specific dollar
 5 figure for these five violations in these four
 6 leases?
 7 A For all of these four leases, the circumstance
 8 level and the extent levels were the same. The
 9 circumstance level for the first violation,
 10 failure to provide the lead warning statement,
 11 was a circumstance level two. The second
 12 violation, failure to provide any information
 13 regarding lead-based paint hazards in the home
 14 was a circumstance level three. The third
 15 violation is failure to provide any reports
 16 that the lessor may have, was a circumstance
 17 level five. Failure to provide -- I'm sorry,
 18 failure to obtain acknowledgment of receipt
 19 from the lessee, circumstance level four. And
 20 failure to obtain signatures and dates as to
 21 the certification and accuracy was a
 22 circumstance level six. And all of these
 23 leases, we were not able to show that there
 24 were children or pregnant women in the units,
 25 so we assigned a circumstance -- I'm

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1 sorry -- extent level minor for all four.
2 Q Thank you. Can you please turn to the lease
3 for 4908 North 40th Street Milwaukee,
4 Wisconsin, dated January 1, 2009. And it is
5 Bates stamped numbers 83 through 88. And if
6 you could take a moment to review that
7 document. Have you seen this document before,
8 Ms. Grace?
9 A Yes, I have.
10 Q Did you note problems with this particular
11 lease?
12 A Yes. For this lease transaction, again, there
13 was -- there's a transaction, however, there
14 was no disclosure form provided to the lessee.
15 Q Tell me, again, why is that a problem?
16 A Because, again, the lessee has no knowledge
17 about lead-based paint hazards and is not able
18 to make an informed decision as to whether or
19 not they want to continue with the leasing
20 transaction.
21 Q If they'd had the information and decided to
22 rent anyway, how does this help them?
23 A If you have the information and you know that
24 there are lead-based paint hazards in the
25 units, you can take the necessary precautions

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1 to minimize your potential exposure?
2 Q Exposure to whom?
3 A Exposure to children and pregnant women.
4 Q So the lessor's failure to provide this to the
5 lessee means what?
6 A It means that they're not giving the lessee the
7 opportunity to make an informed decision to
8 proceed with renting this property, knowing
9 that there may be hazards.
10 Q Did you calculate a civil penalty for this
11 lease?
12 A Yes. Christine calculated the penalty and I
13 agreed with the penalty calculation, yes.
14 Q Can you tell me how you completed that
15 calculation?
16 A Like the previous four leases, we looked at the
17 circumstance level as well as the extent for
18 the five violations. Again, failure to provide
19 warning statement was a circumstance level two.
20 Failure to provide any knowledge about
21 lead-based paint hazards is a circumstance
22 level three. Failure to provide reports is a
23 circumstance level five. Failure to
24 provide -- obtain the lessee's signatures to
25 his or her receipt of that information is a

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1 circumstance level four, and failure to obtain
2 signatures and dates as to the certification
3 and accuracy is a circumstance level six.
4 However, in this lease transaction we did
5 have proof that there was a minor child there,
6 so there was an extent factor of major.
7 Q I'm sorry, why did the extent now jump from
8 minor to major?
9 A The extent factor jumped because we did have
10 proof that there was a small child living in
11 this unit.
12 Q Can you tell me where in this document you find
13 proof that there is a child occupant?
14 A It's not found in the lease document, it's
15 found in the attached applications for lease,
16 where most applications ask you to list the
17 occupants as well as their age.
18 Q Could you please turn to our final lease, which
19 is for 2428 West Brown Street, Milwaukee,
20 Wisconsin, dated April 15, 2008. And it is
21 Bates stamped numbers 95 through 102. Can you
22 please take a moment and review that document,
23 Ms. Grace?
24 A Yes, I've reviewed it.
25 Q Have you seen this document before?

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1 A Yes. This document was also part of the
2 original file that I received.
3 Q Can you tell me which problems you found with
4 this particular lease?
5 A This particular lease, there was no disclosure
6 form attached to or within the body of the
7 lease. There were five violations found.
8 Q And can you just briefly tell me which five
9 violations those were again?
10 A Yes. Failure to provide a lead warning
11 statement; failure to provide any information
12 regarding lead-based paint hazards in the home;
13 failure to provide reports; failure to obtain
14 lessee's signatures or to receive information,
15 and -- slow down -- failure to provide the
16 certification and accuracy and dates to the
17 lease transaction. And in this case, again,
18 there was no disclosure form attached.
19 Q Did you calculate a civil penalty for this
20 particular lease?
21 A Yes, Christine did calculate a civil penalty
22 for this transaction.
23 Q Can you tell me how that calculation was
24 completed?
25 A Yes. Again, by starting with the circumstance

1 level. Failure to provide for lead warning
2 statement, circumstance level two. Failure to
3 provide the reports was a circumstance level
4 three. Failure to -- I'm sorry, go back.
5 Failure to provide the statement of any
6 knowledge about lead-based paint hazards is a
7 circumstance level three.

8 And failure to provide any reports to the
9 lessee is a circumstance level five. Failure
10 to obtain any information -- failure to obtain
11 the lessee's acknowledgment of receipt of this
12 information, circumstance level four. And
13 failure to obtain dates and signatures as to
14 the certification and accuracy is a level six.

15 Q And what particular extent level did you find
16 or this lease?

17 A This particular lease was assigned -- assessed,
18 rather, a significant level, meaning an
19 occupant between the ages of 7 and 18 lived
20 there. However, upon closer look, it could
21 have been -- or should have been assigned a
22 major extent because there was a small child
23 there under the age of six.

24 Q Okay. Thank you. Did you adjust the civil
25 penalty for any of these seven leases?

1 A No, I did not.

2 Q Why not?

3 A I did not have any information that I could
4 consider to adjust the penalty.

5 Q One moment. Mrs. Grace, could you please turn
6 to the document which is complainant Exhibit
7 No. 8? Do you recognize that document?

8 A Yes.

9 Q Can you tell me what this is?

10 A Yes. This is the enforcement response and
11 penalty policy that all case developers use
12 when assessing civil penalties in lead cases,
13 lead disclosure cases.

14 Q Did you use this document -- did you or
15 Ms. Anderson use this document to calculate and
16 adjust the proposed civil penalty for this
17 matter?

18 A Yes.

19 Q Did you always use this document?

20 A Yes.

21 Q Is this an original or a copy?

22 A This is a copy.

23 Q Could you just take a quick look at it and tell
24 me if it's a fair and accurate representation
25 of the original document?

1 A Yes, it is.

2 MR. TREVINO: Your Honor, I would
3 move to enter into the record complainant
4 Exhibit No. 8, the EPA section 1018 disclosure
5 rule, enforcement response, and penalty policy.

6 THE COURT: Ms. Brumfield, any
7 objection to those?

8 MS. BRUMFIELD: No, I don't.

9 THE COURT: Okay. They were Exhibits
10 8 and 9, or Exhibit 8?

11 MR. TREVINO: Just Exhibit 8 for the
12 time being. But thank you.

13 THE COURT: Complainant's Exhibit 8
14 is admitted into the record.

15 BY MR. TREVINO:

16 Q Okay. Ms. Grace, could you please turn to the
17 document that has been marked as complainant
18 Exhibit No. 9? I'm sorry, it's Bates stamped
19 number 171. Can you tell me what this document
20 is?

21 A This is a penalty calculation spreadsheet that
22 was actually done by Ms. Christine Anderson.

23 Q Have you had a chance to review it?

24 A Yes.

25 Q Do you agree with it?

1 A Yes.

2 Q Is this the original or a copy?

3 A This is a copy.

4 Q Is it a fair and accurate representation of the
5 original?

6 A Yes, it is.

7 Q And this is the penalty calculation for the
8 action before the Court today?

9 A Correct.

10 MR. TREVINO: Your Honor, I would
11 like to ask that we enter into the record
12 complainant's Exhibit No. 9, the essentially
13 spreadsheet, written penalty calculation, for
14 the agency's matter against Dessie L. Brumfield
15 doing business as Brumfield Property, LLC.

16 THE COURT: Ms. Brumfield, any
17 objections?

18 MS. BRUMFIELD: (Shakes head.)

19 THE COURT: Okay. Complainant's
20 Exhibit 9 is admitted into the record.

21 BY MR. TREVINO:

22 Q Ms. Grace, could you please turn to the exhibit
23 marked complainant Exhibit No. 10? Do you
24 recognize this document?

25 A Yes.

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1 Q Can you tell me what this document is?
2 A Yes. This is a notice of intent to file an
3 administrative complaint against Ms. Dessie L.
4 Brumfield dated December 14, 2009.
5 Q Have you seen this document before?
6 A Yes.
7 Q Can you tell me, whose document is this?
8 A This document was originated by Christine
9 Anderson.
10 Q Who signs the document?
11 A The branch chief of the compliance monitoring
12 branch signs these prefiling notices.
13 Q Can you provide the court with her name?
14 A Her name is Marti Creft (phonetic). In this
15 case I do believe that the person who was
16 acting in her place actually signed this
17 document. And his name is Tony Marty.
18 Q What is this document?
19 A This is a prefiling notice that we must issue
20 to potential respondents prior to filing a
21 civil complaint.
22 Q Why?
23 A Because it gives -- actually it informs them
24 that we may issue a civil complaint based on
25 the facts that we have; however, it gives them

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1 the opportunity to inform us of any information
2 that we may have gotten incorrect or any
3 information that they want us to know that they
4 can provide additional information or
5 information about their financial status.
6 Q What's the date of the letter?
7 A December 14, 2009.
8 Q In these letters, is it typical to provide the
9 receiver with notice of who they could contact
10 if they have any questions?
11 A Yes, it gives them the contact information. In
12 most cases, it is the case developer. It also
13 provides them with information regarding
14 violations to be alleged, as well as the
15 proposed penalty.
16 Q Can you continue on to the page Bates stamped
17 177, 178, 179. Can you tell me what those are?
18 A This is an address label with Christine
19 Anderson's address. She was, again, was the
20 case developer at the time.
21 Q And what does the document on the page Bates
22 stamped 179 represent?
23 A 179. We send all of our -- I mean all of our
24 prefiling notices by certified mail, return
25 receipt. And this is the receipt that the

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1 respondent actually signed and was returned
2 back to the EPA to show receipt of the
3 prefiling notice.
4 MR. TREVINO: Okay. One moment, Your
5 Honor.
6 THE COURT: Yes.
7 MR. TREVINO: Your Honor, I would ask
8 that the Court enter into the record the
9 document that has been identified as
10 complainant Exhibit No. 10.
11 THE COURT: Ms. Brumfield, any
12 objection?
13 MS. BRUMFIELD: (Shakes head.)
14 THE COURT: It appears to be the same
15 as the second document in her set of exhibits.
16 Complainant's Exhibit 10 is admitted into the
17 record.
18 MR. TREVINO: Thank you. One more
19 moment.
20 BY MR. TREVINO:
21 Q Ms. Grace, do you happen to know if your
22 predecessor, Christine Anderson, reviewed
23 Ms. Brumfield's ability to pay or Brumfield
24 Property, LLC's ability to pay the proposed
25 civil penalty in her calculations?

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1 A To my knowledge, she did not have any
2 information regarding her ability to pay.
3 MR. TREVINO: Okay. Your Honor, I
4 have no further questions at this time. Thank
5 you.
6 THE COURT: Ms. Brumfield, do you
7 want to take a moment or do you want to ask --
8 MS. BRUMFIELD: Well, no, I don't
9 want to take a moment. Can I sit here? Can I
10 do it sitting here?
11 THE COURT: If that helps you, you
12 can do it there.
13 EXAMINATION
14 BY MS. BRUMFIELD:
15 Q How long you been at the position you were
16 at -- you're in right now?
17 A I've been at the position since 1995.
18 Q And you said that you only had about 60 cases?
19 A I've done 60 inspections. 60 lead inspections
20 with the lead disclosure rule. I've done
21 inspections.
22 Q And to your knowledge, with the complexity of
23 EPA and all the rules and regulations, you got
24 that in 60 days -- in 60 inspections?
25 A I've been with the agency --

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1 Q Yeah, but in this position where you have to
2 review --
3 A I'm sorry, could you repeat the question? I
4 don't understand.
5 Q I said in 60 inspections in this area, dealing
6 with the complexity of EPA and all their rules
7 and regulations and guidelines and dots and
8 dashes, you got that already?
9 A Yeah. Not only do you do inspections, you do
10 day-to-day case development and casework as
11 well.
12 Q And you did case development on me?
13 A I did not do the initial case development with
14 your case. It was reassigned to me when
15 Ms. Christine Anderson --
16 Q Do you know why she left? Have any idea why
17 she would reassign my case to you?
18 A Well, she doesn't reassign it. When she took
19 another position in another program --
20 Q Okay, that's all I need to know. Can you tell
21 me if there is a business running out of one of
22 your homes that you rent out, where my
23 requirements lie with that business?
24 A It doesn't matter where the business is run
25 from. We conduct -- you know, we know people

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1 run businesses from their homes. And in many
2 instances it doesn't matter where you run your
3 business from, it's the fact that you are a
4 lessor. That is why you have to --
5 Q Okay, let's say where do -- where do my
6 responsibilities stop when I provide the tenant
7 with the necessary information and she refuse,
8 stating that she has a daycare there, she got
9 all this information already from the State,
10 she said she don't need anymore paperwork.
11 Where was I supposed to go with that? This is
12 2428 West Brown. What do I do now? Do I say
13 well, I can't rent that to you?
14 A Well, in some cases, if you try to attempt to
15 obtain this information from the lessee, you
16 can actually document that, stating that you
17 attempted to provide this information to her.
18 And that will be something that we would
19 definitely take into consideration for.
20 Q And your development, when you run across
21 unsuspecting landlords that's not aware of a
22 system, did you contact that person and try to
23 get them some insight or training or knowledge
24 to make them aware of what's going on, what you
25 doing, and why you doing it and how you gonna

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1 approve it. Do you ever contact the landlord
2 and say that?
3 A Well, the rule was enacted in '96. And we did
4 outreach and education for three years before
5 we started.
6 Q That's for the entire United States, three
7 years?
8 A Well, for my region, we did, you know, just for
9 the six states. But generally for -- yeah,
10 for -- each region has several states that they
11 actually oversee. So each region was -- you
12 know, had to conduct outreach and education
13 within their area.
14 Q During your search did you find where a tenant
15 filed claim against me for lead-based poisoning
16 of their kids or children?
17 A I'm not aware of any of that.
18 Q Wouldn't you know that if you did an inspection
19 of me? I mean if you go out and just really
20 dig up on me, you should know that.
21 A But that is not what we are looking for. We're
22 just strictly looking for the disclosure rule
23 compliance with the disclosure rule and not --
24 Q Well, yeah, but you said that the risk factor.
25 I mean, wouldn't you want to know if it's a

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1 major or a minor, you need to know that to sign
2 it a major or minor. I mean, what constitute a
3 major or minor, just someone forgetting to dot
4 an I or cross a T, or shift papers in the wrong
5 place? Is that a major or a minor?
6 A The major or minor extent is simply based on
7 the age of the children or a pregnant woman in
8 the home.
9 Q And how do you know that there are pregnant
10 women in the house? Or just because the rental
11 application says that a tenant kid is somewhere
12 else, but she put it on there just in case that
13 kid come home -- I do know I'm still required
14 to give her those papers, because that's what
15 my responsibilities are. But what I'm trying
16 to establish is when I do what I supposed to
17 do, where do my responsibilities stop?
18 A Well, when you provide disclosures to your
19 prospective -- and in some cases you're stating
20 that you can't get them to sign. And if you
21 make a record of your attempt, you keep that
22 record for a minimum of three years, and then
23 that way you can prove that you were in
24 compliance with the regulation.
25 Q You know, then Environmental Protection Agency

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1 that's going after landlords and tenants for
 2 this, you don't think that the care of the
 3 children would be worth you contacting that
 4 landlord and say I'm an inspector on your case
 5 and I see this and I see that, then he can tell
 6 you -- you can suggest things to do.
 7 MR. TREVINO: Your Honor, I'm going
 8 to object to this question.
 9 MS. BRUMFIELD: I know. Forget it.
 10 Forget it. But anyway --
 11 THE COURT: Next question.
 12 MS. BRUMFIELD: I'm sorry. But it
 13 just pisses me -- I'm sorry.
 14 THE COURT: Next question.
 15 BY MS. BRUMFIELD:
 16 Q But to your knowledge, I haven't caused any
 17 harm anywhere other than on paper.
 18 A Well, the lead disclosure rule --
 19 Q Just tell me yes or no.
 20 A To my knowledge, no, you have not.
 21 MS. BRUMFIELD: That's all I need to
 22 know. Thank you.
 23 THE COURT: Redirect?
 24 EXAMINATION
 25 BY MR. TREVINO:

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1 Q Ms. Grace, tell me again, what's the problem
 2 with Ms. Brumfield's alleged failure to provide
 3 this lead disclosure form information to
 4 lessees before they begin renting these
 5 apartments?
 6 A The failure is just simply to -- by not
 7 providing this information, the tenant is not
 8 able to weigh the risk of any potential
 9 lead-based paint hazards that may be in the
 10 unit.
 11 MS. BRUMFIELD: Allegedly not
 12 provided this information, because you don't
 13 know for a fact.
 14 BY MR. TREVINO:
 15 Q Let me ask again. And what's wrong with that,
 16 Ms. Grace?
 17 A By not providing, just simple -- you know, just
 18 information regarding potential lead-based
 19 paint hazards or, in specifically, a lead
 20 warning statement to your prospective tenants,
 21 you are not giving him or her the information
 22 they need to make an informed decision as to
 23 whether or not to continue with the lease and
 24 transaction.
 25 Q Does that strike you as trivial?

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1 A No, it's not trivial at all. Again, we've
 2 noted the hazards and harms that can be caused
 3 by lead-based paint. And again, this rule is
 4 not stating that you have to know about any
 5 potential lead-based paint hazards, it's just
 6 informing tenants that because your properties
 7 are built prior to 1978, there is a potential
 8 for harm. And you're just making the tenant
 9 aware of that. We're not requiring that you
 10 know for a fact.
 11 Q If a lessor isn't required to provide that
 12 information to a lessee, where is a lessee
 13 supposed to get that information?
 14 A There is no other area, to my knowledge, that
 15 the lessee can obtain this information
 16 regarding a particular unit that is owned by
 17 someone else.
 18 Q So in a sense, is this the only shot they've
 19 got at any information?
 20 A Yes, yes.
 21 MR. TREVINO: Thank you. No further
 22 questions, Your Honor.
 23 THE COURT: Any further questions or
 24 follow-up, Ms. Brumfield?
 25 EXAMINATION

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1 BY MS. BRUMFIELD:
 2 Q What happens to me that -- other than penalty?
 3 Is there a law or rule that said you gotta do
 4 this or this is going to happen to you? Is
 5 there mandatory, or is it something that I'm
 6 just supposed to do and if I get caught, that's
 7 it?
 8 A It is a regulatory requirement to --
 9 Q I mean is there any jail time, any sentence, or
 10 just that if certain organization catch you
 11 without your proper paperwork, they fine you
 12 and that's it?
 13 A I guess I can't answer that question.
 14 MS. BRUMFIELD: Okay. I'm done.
 15 THE COURT: Okay.
 16 EXAMINATION
 17 BY THE COURT:
 18 Q Ms. Grace, under the penalty policy, what would
 19 be the circumstance level for a failure to
 20 maintain copies of leases under section
 21 745113C1? Do you happen to know that?
 22 A For the -- I'm sorry, for the --
 23 Q Failure to maintain copies of leases.
 24 A Failure for the lessor --
 25 Q Lessor --

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1 A -- to maintain copies of the leases?
 2 Q Right.
 3 A It would be a circumstance level six.
 4 THE COURT: Any follow-up questions
 5 to mine? Okay.
 6 MR. TREVINO: I'm sorry, if I could
 7 ask one.
 8 THE COURT: Okay.
 9 EXAMINATION
 10 BY MR. TREVINO:
 11 Q Ms. Grace, is there any particular reason why
 12 you didn't assess more penalties in this
 13 action?
 14 A Well, the -- in the one circumstance that I
 15 mentioned, it was -- it maybe was an oversight,
 16 I'm not sure, but it was assessed a significant
 17 penalty. However, when I took a second look, I
 18 took a look at the file, I noticed that there
 19 was a small child there. But at this point the
 20 penalty had been calculated. It could have
 21 been assessed a higher penalty, but we just
 22 decided to leave it the way it was.
 23 Q Well, for a number of penalties couldn't you
 24 also have assessed a penalty for failure to
 25 keep records?

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1 A Yeah, there is a three-year record retention
 2 period that was not assessed as well. We
 3 could, because it goes to showing proof that
 4 you did -- that the respondent, sorry, did
 5 comply with the regulation. So that is a
 6 penalty that could have been assessed as well,
 7 but we did not.
 8 Q Why did you choose not to assess it?
 9 A Well, again, I wasn't the original case
 10 developer, so I can't -- I don't know the
 11 mind-set as to why it was not actually
 12 assessed. But yeah, it is a penalty that we
 13 could definitely assess.
 14 MR. TREVINO: Okay. Thank you. I
 15 have no more questions, Your Honor.
 16 THE COURT: Okay. Do you intend to
 17 call this witness to testify in rebuttal?
 18 MR. TREVINO: Not at the moment.
 19 THE COURT: Okay. Ms. Grace, please
 20 do not discuss your testimony with anyone until
 21 this hearing is finished.
 22 Mr. Trevino, you've completed presenting
 23 all your witnesses?
 24 MR. TREVINO: Yes, I have, Your
 25 Honor. Thank you.

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1 THE COURT: Okay. Ms. Brumfield,
 2 it's your turn to testify. Would you like to
 3 take a break before you testify?
 4 MS. BRUMFIELD: No.
 5 THE COURT: Okay. You ready?
 6 MS. BRUMFIELD: Yes.
 7 THE COURT: You're going to come up
 8 to the witness box, if you could. You can
 9 bring whatever you'd like to with you. Set
 10 your things down, remain standing, and raise
 11 your right hand.
 12 DESSIE BRUMFIELD, called as a witness
 13 herein, having been first duly sworn on oath,
 14 was examined and testified as follows:
 15 EXAMINATION
 16 THE COURT: Take a seat.
 17 MS. BRUMFIELD: I would like to start
 18 out by saying that when I learned of the
 19 lead-based paint booklet, I saw it on TV. It
 20 was a case on TV. I might get emotional,
 21 so -- I done held out as long as I could.
 22 THE COURT: You can take a moment.
 23 THE WITNESS: But this landlord was
 24 sued only because he failed to give out the
 25 booklet and have it signed. I saw that, the

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1 very next day, I went and got that stuff. And
 2 I distribute that stuff from that point on. To
 3 every tenant.
 4 When -- when he called me that morning
 5 early, in 19 -- in 2009, I answered the phone
 6 and the caller said who he was, from the EPA,
 7 we are reviewing leases in the city of
 8 Milwaukee. Your name was pulled at random.
 9 And if you go through my file, you see that
 10 they consistent, because the truth you can tell
 11 one way, but a lie you can switch it any way
 12 you wanna.
 13 He never mentioned lead-based paint.
 14 Never. Never mentioned that that's what he was
 15 out there for. So I'm thinking well great, I'm
 16 always trying to find a better way to improve,
 17 make things better. And he asked me would I
 18 set up an appointment to come out. Sure. I'm
 19 thinking I'm going through a training session,
 20 you know. Yes, I helped him out.
 21 If he would have -- he said I want to see
 22 your leases. He said I want to see the leases
 23 of -- not your current leases, he said, I want
 24 to see past leases. And that's what I went in
 25 there and got. Past leases. He never

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1 mentioned 1978. What landlord that you know
2 that you will know what year they property were
3 before or after? I don't. I don't even know
4 the one where I live at.
5 So, you know, they came out. They were
6 both dressed in a blue outfit with their badges
7 and their uniform, and it was just as they
8 stated. You know, I felt a little bit
9 uncomfortable, because here I'm by myself and
10 I'm inviting these two strangers in my house
11 and they presenting uniform and badges and
12 flashing that.
13 And I went to the back and I opened up the
14 door 'cause my neighbor was home. And I left
15 the back door standing open. So we sitting at
16 the table, and he asked me where were my
17 leases. So I hadn't gotten them up. 'Cause
18 them papers were in the file, you know. You at
19 home, you file when you get ready. So I went
20 in there and dugged up the leases, and I dugged
21 up the folders. And when he got the folders he
22 knowed -- then he started talking about the
23 lead-based paint.
24 Plus I had got a letter after our
25 conversation. If you notice on the letter,

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1 which I'm not even got, the letter was July
2 10th but the phone conversation was 2009.
3 That's a certified mail. See, that's after the
4 fact. 'Cause there's no way that I would
5 invite these two people in my house and
6 accommodate them the way I did knowing that
7 they there to pull me down. I would not
8 have -- I mean, I'm old, but I ain't stupid.
9 No way.
10 From that point on, every time a tenant
11 move in, I would go in that property, since now
12 I know what to do, I raise up the window sill,
13 I cleaned it out, I scraping up paint. Every
14 one of my properties I do that before the
15 tenant move in there.
16 And speaking of the property on 13th
17 Street, the reason that lease and the dates
18 don't match is I had that property open for
19 rent and I was doing repairs. I showed it to
20 this one couple that I really liked; they were
21 being booted out of their house because of
22 foreclosures. I come back the next day, they
23 done moved their family up in my house. They
24 in there sleeping on the floor with nowhere to
25 go. So I decided to leave them there.

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1 So then when I drew up the paperwork, I
2 backdated to the time when they moved, because
3 if I would have had my choice, I would not have
4 rented to them, but they was in distress. So I
5 allowed them to stay there. Which was -- they
6 was bad, bad tenants and -- but I did allow
7 them to stay there.
8 And the property on 28th Street, when you
9 move into a house you don't look into the city
10 if there's an existing lead-based paint order.
11 I put that there to protect the tenant because
12 I didn't know. It's embarrassing for me to say
13 I don't know and not tell them anything, to
14 give them the opportunity still to make their
15 decision. I wasn't aware of lead-based paint
16 was down on 28th. As a matter of fact, as soon
17 as I made more money, that was going to be the
18 next house that I called the City to do.
19 That's on 28th Street.
20 And on Brown Street was because it was a
21 daycare there. This lady took care of all the
22 responsibility. The daycare been there. And
23 that was Brown Street -- 13th Street -- 28th
24 Street. And some of the paperwork, the
25 lead-based order that was signed, you know,

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1 after he left, I started digging in my file. I
2 found more that they just wasn't filed. They
3 wasn't together because I wouldn't have had no
4 knowledge of that that's what they was coming
5 for, 'cause I would have put it aside, allowing
6 them to give a chance. And I probably would
7 have found some tenants, you know, to be honest
8 with you, to straighten it out. But I didn't.
9 But that's why they wanted tenants that
10 leasing, all the tenants -- all leases. They
11 wouldn't have given me an opportunity to fix
12 them. That was my understanding. That's what
13 I felt. Not that it's fact.
14 I've always -- I shouldn't be penalized
15 just for money. I should not be penalized just
16 for my -- sometime life get in the way. Just
17 like their paperwork wasn't in order. Should
18 they be penalized? My paperwork wasn't in
19 order. Why should I have to be \$5,000,
20 \$38,000, my paperwork wasn't in order.
21 But -- and you EPA, federal government.
22 You got more help than I do. So your stuff
23 should have been tight. But it wasn't.
24 Because life gets in the way. You can't
25 regulate and watch and monitor everything. I'm

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1 managing my property by myself. I was able to
 2 hold onto my properties because I do my own
 3 work. I do my drywalling, I do my plumbing,
 4 otherwise I would have went under with the rest
 5 of them.

6 I'm barely holding on by a thread. And
 7 what I should have asked the young lady with
 8 the money, she checked my bank account, did she
 9 find out where my money was when the bank
 10 closed down and the other bank took it over? I
 11 went from two months reserve in my account to
 12 negative \$200. I'm trying to --

13 MR. TREVINO: Your Honor, I don't
 14 know if this is cross-examination of prior
 15 witnesses or if it's --

16 THE COURT: Ms. Brumfield, let's try
 17 to stay on track of the violations alleged. If
 18 you want to I can --

19 THE WITNESS: No, that's okay. I'm
 20 kind of at a point now that, whatever. Because
 21 two-and-a-half years is --

22 THE COURT: Okay. Is there anything
 23 else that you'd like to mention about
 24 your -- how you got started in leasing
 25 properties? Would you like to give any

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1 background on --

2 MS. BRUMFIELD: Well, yeah. The
 3 first house I bought, I bought from my mother.
 4 And I got there and I didn't like it and I
 5 couldn't sell it, so I moved and rented it.
 6 The second house I bought for my mother and I,
 7 all the kids came home, so I started rents and
 8 moved her to a senior home and I left her.

9 And then a dear friend of mine called me,
 10 says I know where a house at that's real cheap
 11 and your credit is pretty good. If I were you,
 12 I would get it to prepare for your retirement.
 13 I did it. And then his mother passed, and he
 14 needed money, so credit was good, I took out a
 15 loan, I bought the house so he can have money,
 16 plus I got some too. I'm not gonna lie.
 17 That's how I got that house. And that was the
 18 one on 13th Street. Supporting him, which in
 19 turn supported me.

20 And then my bank -- I had a line of credit
 21 at the bank, and my personal banker called me
 22 and said well, Ms. Brumfield, he said there are
 23 houses that are available that you should be
 24 thinking of retirement. You know, we can get
 25 you a line of credit. Okay. I got them. I

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1 put blood, sweat, and tears in them, built them
 2 up, and rent them out.

3 Financially speaking, if that's what this
 4 is really all about, I got family members in my
 5 house lost their job. Do I put them out?

6 THE COURT: How long have you been
 7 leasing properties? When did you first start?

8 THE WITNESS: I first started leasing
 9 property probably when I moved out. I got to
 10 think of it 1979, maybe, 1980.

11 THE COURT: Do you have any other
 12 statements that you'd like to make or any other
 13 facts that you'd like me to consider as to why
 14 you believe that you didn't violate any one of
 15 those regulations that are alleged in the
 16 complaint or why the penalty should be reduced?

17 THE WITNESS: The penalty should be
 18 reduced because my acts were based on the
 19 knowledge that I acquired through outside
 20 sources and I act on. I kept my property up, I
 21 maintain it, I work with tenants that I
 22 shouldn't have, paid for that. But ask me that
 23 again. I'm sorry.

24 THE COURT: Okay. I'm just giving
 25 you sort of open questions so it jogs your

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1 memory as to anything that you'd like to tell
 2 me about why you think you should be not
 3 liable, why you did not violate regulations as
 4 alleged in the complaints. You've told me some
 5 things already. But if there's anything else
 6 that you can remember --

7 THE WITNESS: Well, all five houses I
 8 have is underwater. I owe more than they're
 9 worth. I'm struggling to keep up. Had I would
 10 have known exactly what was going on in this
 11 case -- and I didn't have money to get an
 12 attorney. So they can say that I decided not
 13 to get an attorney. I didn't decide not to; I
 14 couldn't afford to get an attorney. So I got
 15 whatever came by.

16 I don't have the finances. And like I
 17 told the attorney when I had him, you need to
 18 do what you do. I can't make no settlement
 19 because I don't have nothing to give you. I
 20 mean I'm not going to drum up \$58,000 in
 21 attorney's fees just to keep from having a
 22 \$58,000 loan on my property. It don't make
 23 sense.

24 I don't have it. It's as simple as that.
 25 I have not violated -- I have not knowingly

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1 violated the rules. I have followed protocol,
2 but not to the T. Some of the information, the
3 leases and the foreclosures statement I had,
4 some of those statements, they're in my file,
5 but they're not accurate because I have a
6 tenant that moved from property to property.
7 And when they move from property to property,
8 they carried their same paperwork. So you will
9 find that missing.

10 That might have been a mistake on my part,
11 but it's understandable because I gave you a
12 lead-based paint booklet, you got it in your
13 file, it go from property to property. And
14 that's what happened before Brown Street. This
15 tenant went from Brown Street to 28th Street to
16 10th Street. She stayed with me. So she
17 went -- so I don't feel that I should be
18 penalized for mistakes or oversight to the tune
19 of \$58,000, which is ridiculous. I have a lot
20 more to say, but I'm not, because it's
21 time-consuming and I'm ready to go. And I
22 could say a lot --

23 THE COURT: Well, I want to make sure
24 that you say everything you want to tell me
25 today so that you don't regret that you didn't

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1 tell me.

2 THE WITNESS: You know, the
3 businesses, I had three of my properties
4 daycare centers. The State gave them all of
5 those forms. They didn't want them. The State
6 inspect their property to a T. Three of the
7 property I paid and I called the City to come
8 out when I learned that -- 'cause they had a
9 program. I called. That's why the work was
10 done. So what more can you ask for?
11 I feel -- can I say what I feel? I feel
12 this case is a training case. They using me as
13 a scape goat. And I also feel it's tied in
14 with the city. That's why --

15 MR. TREVINO: Your Honor, I'm going
16 to object to this line of questioning.

17 THE WITNESS: I know. I don't say
18 nothing about the city. But it is an issue.
19 I'm sorry.

20 THE COURT: Any other reasons why the
21 penalty should be reduced, in your opinion, on
22 the basis of culpability or --

23 THE WITNESS: It should be reduced
24 because I got -- I didn't get accurate
25 information on this beginning. I really

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1 personally felt the way they came after me in a
2 sneaky way, that I feel that this was a scam.
3 I was afraid to give them my, what did they
4 want, three-year mortgage, three-year income
5 tax, personal financial statement, all my
6 mortgage payments, all my bank statement. I'm
7 thinking they try to steal my life.

8 So there was a fear there. And no one at
9 the EPA office could dispel that fear. Because
10 otherwise I would have been free to open up to
11 them and say here's my financial statement,
12 here's my mortgage statement, here's my houses
13 down. But based on what I was going through,
14 through things I'm not allowed to mention, I
15 felt that that was a part of it. And that's
16 why they refused. And if EPA specialists,
17 other than the one I've been dealing with all
18 the time, would have called me and talked to
19 me, Ms. Brumfield we need this here, can you
20 provide that, and made me understood, I would
21 have provided that.

22 The lack of cooperation and the lack of
23 honesty on their side put me to where I am
24 right now. That's what I want you to see. And
25 that's why I want you to either throw the case

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1 out, reduce it, or whatever, because that's it.

2 THE COURT: Okay. Any
3 cross-examination?

4 EXAMINATION

5 BY MR. TREVINO:

6 Q Ms. Brumfield, approximately how old is
7 Brumfield Properties, LLC?
8 A I think I got that in 2000 -- I'm not
9 particularly certain about the date. Maybe
10 2002, maybe -- I'm not really sure. It's just
11 something I did. And I had it for a long time
12 and just didn't look at it, really.

13 Q Who completed the incorporation papers --
14 A I did myself.

15 Q -- for the State? Isn't it true that you're
16 the registered agent and the sole principal for
17 Brumfield Properties, LLC?
18 A Yes, I am.

19 Q Are you the manager and operator --
20 A Yes, I am.

21 Q -- of Brumfield Properties, LLC?
22 A Yes.

23 Q You own property as Brumfield Property, LLC?
24 A One.

25 Q You currently only own one property?

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1 A Right. Under the Brumfield Properties. And I
 2 think that is -- I think that's the either
 3 Teutonia or 28th Street. Only one. Only one.
 4 Q You've been a lessor?
 5 A Yeah.
 6 Q You review documents?
 7 A What type of documents?
 8 Q Well, you collect leases, you collect rent
 9 checks?
 10 A Well, yeah, I collect rent, money orders.
 11 Q Do you repair property?
 12 A Yeah, I do.
 13 Q Do you file tax returns?
 14 A Yeah, I do.
 15 Q Who does them for you?
 16 A Me.
 17 Q All by yourself?
 18 A Yes.
 19 Q State income tax returns?
 20 A Yeah. And that's why I'm messed up with that
 21 now, 'cause now I'm getting a professional.
 22 Yeah.
 23 Q US income tax returns?
 24 A Yes.
 25 Q You're essentially the chief manager and

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1 accountant for Brumfield Properties, LLC?
 2 A When you can't pay, you do it yourself.
 3 Q And you've been doing it pretty well.
 4 A Thank you.
 5 Q Yes or no?
 6 A Yes. Except for 2011, I went and got some
 7 assistance from -- because 2011 I got helped
 8 because I wasn't doing that good, really.
 9 Q What other documents have you had to file in
 10 order to maintain your business properly?
 11 A Other than the LLC, that's it.
 12 Q Okay. Are you the only person who's really
 13 involved with Brumfield Properties, LLC?
 14 A I got a handyman, I moved in in one of my
 15 properties to help me with some things I can't
 16 do, which is plumbing and minor electrical. I
 17 got -- he does that. And I got my brother
 18 keeping the yard up. That's it. I was doing
 19 that.
 20 Q Well, Ms. Brumfield, you can do all of these
 21 things, yet to this date you've not provided
 22 this agency with a copy of one TSCA lead
 23 disclosure form that's been completed properly,
 24 have you?
 25 A I have in my eyes, put it that way. The way I

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1 see it, yes. You have some that I have where
 2 they have -- and I base -- I've gave you based
 3 on my ability and my knowledge. Did I have
 4 professional knowledge on that? No, but I --
 5 Q You testified earlier that you now give every
 6 tenant what you're supposed to that you now do
 7 that.
 8 A Yes, I do.
 9 Q What do you mean when you say you now do that?
 10 A I now provide them with a lead-based paint
 11 booklet, which I didn't know until I saw it on
 12 TV. I give them a lead-based paint booklet, I
 13 give them their form, the lead-based --
 14 whatever that form is. And I did notice on
 15 some of my papers coming back, once I gave a
 16 tenant the lease and the form, that they
 17 overlooked something. So what I did, I put an
 18 X on all that. So when I gave the new tenant
 19 coming up the form, all I had to say was go
 20 over the lease, notice at the X on the
 21 lead-based paint, and follow the instruction.
 22 That's all I had to do. And if you look at my
 23 documents, they have the X in it. You need to
 24 see that?
 25 THE COURT: I got it.

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1 THE WITNESS: I did that. And I felt
 2 at that point, my job was over. If I failed
 3 to, when I got it back, to have it -- look and
 4 see if they actually did that, yes, I'm guilty
 5 of that.
 6 BY MR. TREVINO:
 7 Q Ms. Brumfield, you've testified today what
 8 Mr. Pilny could have done, you've testified
 9 today as to what Mr. O'Neil should have done,
 10 you've testified today to what Ms. Pamela Grace
 11 should have done --
 12 A Yes.
 13 Q -- you've even kind of suggested what perhaps I
 14 or my colleague John Steketee should have done.
 15 A Yes.
 16 Q Why haven't you articulated perhaps what you're
 17 supposed to do, and why you haven't done it?
 18 A I have. And I tell you what I should have done
 19 too. I should have when they did the --
 20 nothing I can do when I got it back, I
 21 initialed that. I should have looked at it by
 22 the X, like I told them, and said initial here.
 23 I have shortcomings just like everybody else,
 24 yes, yes, and yes.
 25 Q Isn't it true you believe you were in complete

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1 compliance with the TSCA lead disclosure --
2 A Yes, I do.
3 Q -- rule and you have been for some time?
4 A Yes, I do.
5 Q You've done nothing wrong?
6 A I don't believe I've done nothing wrong. What
7 I believe I have done, I have not been
8 thorough. And I don't consider that wrong.
9 Unfortunately the EPA see that differently.
10 But I don't consider that wrong. I see that I
11 haven't been as thorough as I should have been.
12 Which is life. And you know it.
13 Q And it's your testimony that not providing this
14 information, as required by law, hasn't really
15 harmed anybody?
16 A To this point, I hope -- I'm glad that it
17 hasn't. But believe me, once I got EPA on my
18 tail about this, I went online and found the
19 EPA list with all that built in. I use that
20 now.
21 Q When did that occur? When did you find that
22 information?
23 A I found that out when you guys send me that
24 letter saying we gonna sue you.
25 Q Are you talking about the prefilng letter?

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1 Ms. Brumfield, are you talking about our
2 prefilng letter, which is complainant Exhibit
3 No. 10 dated December 14, 2009? It's in the
4 booklet in front of you.
5 A If that's the one that says that we have
6 decided to file a civil claim against you,
7 please fill out the personal financial
8 statement and send it back, that's when I
9 decided.
10 Q When you decided what?
11 A To -- whatever you asked. What did you ask me?
12 Q Begin providing TSCA disclosure forms to
13 lessees.
14 A Well, I have done that way before then. You
15 lost me. I had started doing it before then.
16 Q Ms. Brumfield, I'm going to ask you one more
17 time to help me. I don't have a single record
18 in which we're able to demonstrate that you
19 ever completed, timely, a TSCA lead disclosure
20 form. And in most of our evidence, there isn't
21 even a TSCA lead disclosure form.
22 So my question remains: When were you
23 doing this correctly, when did you decide you
24 may not be doing this correctly, and when did
25 you start doing this correctly?

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1 A I started doing it correctly in 2003. What I
2 had started doing, to answer your question,
3 when I got that letter from EPA talking about
4 financial statements, that's when I went online
5 and found an EPA list and started using that.
6 'Cause prior to that I was using a lease from
7 the state of Wisconsin. I was downloading that
8 lead-based paint form.
9 Q But Ms. Brumfield, even though you apparently
10 made this change, you have failed or refused to
11 provide the agency with a single copy of a
12 single lease with a proper and completed TSCA
13 lead disclosure form and timely completed. We
14 have no such documentation.
15 A Well, that's what you say. I have one with the
16 signed and initial and everything. I gotten
17 here. One or two.
18 Q But isn't it true until today you've offered no
19 such documentation to the Court?
20 A Well, no. You know why? 'Cause I'm just an
21 ordinary person. I'm not a legal mind. You
22 are. So I'm doing the best I can based on my
23 knowledge, not your knowledge. You can say a
24 lot 'cause you got federal government behind
25 you. You can do that.

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1 And you could have said, Ms. Brumfield, we
2 reviewed your leases, there's a problem here,
3 why don't we come out and discuss those. I
4 mean, you saying what I should have said. I'm
5 just asking if it was in my shoes, that's what
6 I would do. I mean to -- yeah, I'm saying
7 that. And I believe that wholeheartedly. And
8 I'm still staying that.
9 Yes, you guys did dog me out, and you
10 still are. And I'm not ashamed of saying that.
11 And it's true a hundred percent.
12 Q So isn't it true you have never provided the
13 government with a copy of a properly
14 completed --
15 A Yes, I have.
16 Q -- TSCA disclosure form?
17 A I have.
18 Q You've never provided a copy of that document
19 to the government; isn't that true?
20 A Yes, I have, when your guy came out.
21 Q Ms. Brumfield, then again, you don't think
22 you're in violation of the law?
23 A I am not in violation --
24 THE COURT: Mr. Trevino, let's go to
25 the next question.

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1 MS. BRUMFIELD: Yeah.

2 MR. TREVINO: Has that question been

3 answered, Your Honor? Because I wasn't sure if

4 it has been.

5 THE COURT: I think the documents

6 speak for themselves.

7 MR. TREVINO: Okay. Thank you. Your

8 Honor, can I just approach the witness and

9 provide her a copy of this document?

10 THE COURT: What is that document?

11 MR. TREVINO: It's not been

12 officially entered into the record, but this is

13 a document that was provided I believe by her

14 former opposing counsel, and I believe -- I

15 apologize, I don't have the document she gave

16 me this morning.

17 THE COURT: For exhibits?

18 MR. STEKETEE: I don't think she

19 provided it as one of the exhibits.

20 MR. TREVINO: Okay. Hold on. Just

21 one moment, Your Honor.

22 BY MR. TREVINO:

23 Q Ms. Brumfield, could you please take a look at

24 this document for me? Thank you.

25 MR. TREVINO: Do you have a copy of

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1 the document?

2 THE COURT: I do. Is it the two bank

3 statements from April and May of this year?

4 MR. TREVINO: Yes.

5 MR. STEKETEE: Yes.

6 THE COURT: Just the two bank

7 statements, or is there --

8 MR. TREVINO: April and March. And

9 then there's also one page of what appear to be

10 some -- I'm not sure --

11 THE COURT: Deposit slips?

12 MR. TREVINO: I believe so.

13 THE COURT: Okay, I have it.

14 MR. TREVINO: Okay. We also have a

15 couple extra copies.

16 BY MR. TREVINO:

17 Q Ms. Brumfield, can you tell me, what is this

18 document?

19 A This document is my bank statement.

20 Q Have you had a chance to review it?

21 A Yes, I believe that I have.

22 Q Is it an accurate statement?

23 A Yes, it's accurate.

24 Q Whose bank account does this represent?

25 A Myself and Brumfield Properties, 'cause they're

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1 all in one.

2 Q What do you mean?

3 A My name and my LLC is all one account. My

4 personal LLC is all one account.

5 Q Okay. Can you please tell me what the lines in

6 here which read, "Potawatomi Bingo, electronic

7 check," represent?

8 A It represent my trip to the casino. I deserve

9 something. I go to the casino. Yes, I do.

10 Q So those represent your costs or expenses --

11 A Yeah.

12 Q -- for gambling?

13 A Right. I'm not ashamed of that.

14 Q Can I ask, there's another -- the second page

15 of that document, under Credits is a line dated

16 4/25, reads "Pre-authorized credit U.S.

17 Treasury." Can you tell me what that line

18 represents?

19 A Did you say 4/25?

20 Q Under the heading Credits, on the bottom of the

21 page, date 04/25, pre-authorized credit.

22 A Right.

23 Q Can you tell me what that line represents?

24 A That line represent my retirement paper coming

25 into the account.

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1 Q Where is that money from?

2 A Social Security.

3 Q So this is essentially your payment for Social

4 Security?

5 A Coming in, right.

6 Q You're retired?

7 A Right.

8 Q Can you please tell me what the next line

9 represents? The date is 04-30, "Pre-authorized

10 credit, Milwaukee Company Employee R payments."

11 A That's my retirement check from the County.

12 Q Is that your personal money or --

13 A That's my personal money. No, that's personal.

14 Q And these are deposits going into an account

15 for Brumfield Properties, LLC?

16 A Right. My -- if you don't mind me explaining,

17 this bank here just took over Legacy Bank.

18 Legacy Bank is Brumfield Properties. That's

19 the Brumfield Properties. But when Seaway took

20 it over, they set it up like this. So it still

21 the same. That's the difference.

22 MR. TREVINO: I'm sorry, could I have

23 the court reporter read back that answer,

24 please?

25 THE COURT: Okay. Please read back

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1 the answer.

2 COURT REPORTER: "Right. My -- if

3 you don't mind me explaining, this bank here

4 just took over Legacy Bank. Legacy Bank is

5 Brumfield Properties. That's the Brumfield

6 Properties. But when Seaway took it over, they

7 set it up like this. So it's still the same.

8 That's the difference."

9 BY MR. TREVINO:

10 Q Could you explain to me what you meant when you

11 said, "it's still that way, same difference"?

12 A No. I still deposit under my name and

13 Brumfield Properties, same as I did when it was

14 Legacy Bank, even though Seaway only have my

15 business name there.

16 Q So Ms. Brumfield, you've had a corporate

17 account paying for personal expenses?

18 A I what?

19 Q Have you had a corporate account paying for

20 personal expenses?

21 A No. This is what I got. What you see, this is

22 it. This is it.

23 Q What you've provided is exactly how it

24 operates, correct?

25 A Right.

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1 MR. TREVINO: No further questions,

2 Your Honor.

3 THE COURT: Ms. Brumfield, this is

4 kind of an odd time to bring this up, but you

5 had brought with you some exhibits that we

6 talked about towards the beginning of the

7 hearing. And I think my staff attorney has

8 helped to label them with numbers so that we

9 could refer to them here at the hearing.

10 Do you have those with you? The booklet

11 of documents that you brought with you today at

12 the hearing.

13 THE WITNESS: It's on the table.

14 THE COURT: Would you like me to

15 consider any of those exhibits in making my

16 decision?

17 THE WITNESS: The one May 13, 2009,

18 which show -- and this came from him,

19 Mr. O'Neil, that they sent this certified mail

20 to me, show that it came after we had talked.

21 So consider that.

22 THE COURT: Okay. Now, it arrived --

23 you signed that on what day?

24 THE WITNESS: I'm not sure when I

25 signed it.

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1 THE COURT: It doesn't have a date on

2 it?

3 THE WITNESS: Right, doesn't have a

4 date on there.

5 THE COURT: But your testimony is

6 that you received that after the inspection?

7 THE WITNESS: After the phone

8 conversation, not the inspection.

9 THE COURT: After the phone

10 conversation?

11 THE WITNESS: Because I was aware

12 after he arrived there what it was all about,

13 and it was too late for -- to do anything about

14 it.

15 THE COURT: Okay. And that's, I

16 think marked number one. Is that what's marked

17 with a one, Exhibit 1?

18 THE WITNESS: Yes.

19 THE COURT: That's the May 13th

20 letter, which I think is already in evidence as

21 complainant's --

22 MR. TREVINO: Well, Your Honor, the

23 letter is in evidence with the -- one moment,

24 please.

25 MR. STEKETEE: Without this copy of

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1 the United States postal service receipt on it.

2 It's in evidence without that already.

3 MR. TREVINO: The document is

4 currently complainant Exhibit No. 2. What we

5 are concerned about is it has a --

6 Ms. Brumfield's copy has a document from the US

7 postal service. And it's very difficult to --

8 MR. STEKETEE: Well, it's dated

9 7/12/10, and the letter's dated May 13, 2009.

10 So it's not clear that this postal service

11 receipt is associated with this particular

12 letter.

13 MR. TREVINO: Well, Your Honor, I

14 would also take issue with the fact that the

15 receipt specifically refers to an article

16 number, but I'm not certain that that article

17 number has anything to do with the letter.

18 THE COURT: Okay. Before we

19 continue, I need a booklet. I don't have the

20 set of exhibits. And I wanted to make sure

21 that there's no settlement information in the

22 booklet before I look at it.

23 MR. TREVINO: You mean this booklet?

24 THE COURT: Ms. Brumfield's exhibits.

25 MR. TREVINO: You can use this.

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1 THE COURT: This one does not have
2 any settlement information?
3 MR. STEKETEE: That's ours. We took
4 it out.
5 THE COURT: I don't want to look at
6 your notes or anything. I think if we can
7 figure out where in the other booklet that
8 paper might be, because I need to flip through
9 this too. Is there another set?
10 MR. STEKETEE: There was only one
11 letter.
12 THE COURT: Would it help --
13 MR. TREVINO: I can certainly say the
14 document is easily identifiable, because the
15 letterhead is from Thomas J. McClure in pretty
16 large letters at the top.
17 MS. BRUMFIELD: I didn't make a copy
18 of that in there. This came in a bunch of
19 paperwork that came from them, not me.
20 THE COURT: Them -- "the paperwork"
21 meaning this booklet?
22 THE WITNESS: No, I'm talking about
23 this letter with the -- this affidavit with
24 this certificate on there was mailed to me with
25 a bunch of papers that I got. I pulled them

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1 out of the stack.
2 MR. TREVINO: It is not in here.
3 THE COURT: Okay, good. So I can
4 have that copy? Thanks. All right. The
5 letter that's marked 1 for identification,
6 dated May 13, 2009, there seems to be a postal
7 service sticky note, I guess affixed to it,
8 with the date of July 12th. So we're talking
9 about the article number on there as --
10 MR. STEKETEE: Also it's 2010 versus
11 the letter's 2009.
12 THE COURT: Right.
13 MR. TREVINO: Our concern, Your
14 Honor, is we just aren't sure we can fail to
15 object to the fact that we're not sure we see
16 the connection between the May 13, 2009 letter
17 and this particular USPS receipt. And we --
18 THE COURT: Do you have any
19 explanation for that, Ms. Brumfield? Do you
20 know how that receipt got on there?
21 MS. BRUMFIELD: No, I really don't,
22 because it came with a batch of papers. And I
23 pulled stuff out of stuff that my attorney sent
24 me.
25 THE COURT: Well, we don't know what

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1 that's all about, so we're not going to admit
2 respondent's Exhibit 1. Okay. If you can look
3 through the others and see if there are any
4 documents in this booklet that you would like
5 me to consider in making my decision. Now that
6 they've been numbered in the top right corner,
7 you can refer to them by that number.
8 THE WITNESS: Yeah, number three and
9 number six.
10 THE COURT: Okay, wait. Slow down.
11 Number three?
12 THE WITNESS: Right.
13 THE COURT: Number three. Can you
14 tell me what that is?
15 THE WITNESS: That is when I received
16 the letter from EPA letting me know what they
17 were going to do because they said my
18 lead-based paint was improper. I addressed
19 each issue in a letter and sent it to them and
20 let them know exactly where I were or how this
21 information came to me. And basically that's
22 all they got.
23 THE COURT: Do you have any objection
24 to that letter?
25 MR. TREVINO: No, Your Honor. My

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1 understanding is that this was a cover letter
2 she attached to the answer which was filed with
3 the regional hearing clerk.
4 THE COURT: So it's already in the
5 record anyway, so --
6 MR. TREVINO: Correct.
7 THE COURT: We'll admit respondent's
8 three.
9 THE WITNESS: And my answer, which
10 was basically dealing with some of the same
11 issues as that cover letter. I'm sorry, that's
12 a number -- I'm sorry. I'm sorry.
13 THE COURT: Give me a number first.
14 THE WITNESS: Yeah, okay. That's
15 number six.
16 THE COURT: Okay. So number six, the
17 answer. Okay, that is in the record?
18 MR. TREVINO: Correct, Your Honor.
19 THE COURT: So --
20 MR. TREVINO: No objection.
21 THE COURT: Yeah, we'll just leave
22 that as respondent's six.
23 MS. BRUMFIELD: And number seven.
24 THE COURT: Any objection to
25 respondent's Exhibit 7?

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1 MR. TREVINO: One moment, Your Honor.
 2 I just want to compare it with -- almost the
 3 last page. No objection, Your Honor. That
 4 also happens -- in general, it's the same
 5 document as complainant Exhibit 7, Bates stamp
 6 number 105. The only difference is it has a
 7 notation handwritten in pen at the top.
 8 THE COURT: Okay.
 9 MS. BRUMFIELD: Yeah, that's --
 10 THE COURT: So you'd like to offer
 11 that into evidence?
 12 MS. BRUMFIELD: Right, right.
 13 THE COURT: I'll admit respondent's
 14 Exhibit 7 into evidence. Okay. Number eight.
 15 Can you tell me about that one?
 16 MS. BRUMFIELD: Oh, number eight is a
 17 lead-based paint booklet indicating that what I
 18 give the tenant when they come. But not this
 19 small.
 20 THE COURT: Yes. Any objection?
 21 MR. TREVINO: May I ask a question
 22 about this document, Your Honor?
 23 THE COURT: Sure.
 24 MR. TREVINO: Ms. Brumfield, is this
 25 a document you already had, or is this a

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1 document you were given by EPA during the
 2 inspection?
 3 THE WITNESS: What document?
 4 MR. TREVINO: What you have marked as
 5 number eight.
 6 MS. BRUMFIELD: No, number eight,
 7 whenever you have the City do -- the City come
 8 out and do a lead-based paint analysis and the
 9 work is done and everything is clear, they give
 10 me this to give to my tenant. That's what this
 11 is. And I gave that to the tenant to let them
 12 know that number eight -- number eight, right?
 13 I'm on the wrong one. You said number eight or
 14 number seven?
 15 THE COURT: Number eight.
 16 MR. TREVINO: Eight.
 17 MS. BRUMFIELD: Okay, number eight.
 18 Okay, I'm sorry, what is your question?
 19 MR. TREVINO: My question is, where
 20 did you get this document?
 21 MS. BRUMFIELD: Online.
 22 MR. TREVINO: Okay. You got it
 23 yourself online?
 24 MS. BRUMFIELD: Yeah.
 25 MR. TREVINO: That's fine, Your

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1 Honor.
 2 THE COURT: Okay. Respondent's
 3 Exhibit 8 is admitted into evidence. Okay.
 4 Any others that you'd like to offer into
 5 evidence?
 6 MS. BRUMFIELD: Number seven and
 7 number ten.
 8 THE COURT: Seven is in.
 9 MS. BRUMFIELD: Yeah, that's a
 10 comparison, the difference between the
 11 lead-based paint brochures. And I filled in
 12 just an example showing the comparison. They
 13 got the similar --
 14 THE COURT: Which number are we
 15 talking about now?
 16 MS. BRUMFIELD: Number seven is the
 17 one that I give. It's not filled out.
 18 THE COURT: I'm not sure we're on the
 19 same page.
 20 MS. BRUMFIELD: Number seven. I'm
 21 sorry. I can't see good. Number nine.
 22 THE COURT: Number nine. Okay.
 23 MS. BRUMFIELD: Yeah.
 24 THE COURT: Number nine.
 25 THE WITNESS: The one that I give

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1 out. And the number ten is the one that EPA --
 2 THE COURT: Let's just work on number
 3 nine for now.
 4 MR. TREVINO: I apologize, I just
 5 want to see if we already have it in evidence.
 6 THE COURT: It's an unsigned form.
 7 Disclosure form.
 8 MR. TREVINO: No objection, Your
 9 Honor. This also appears to be complainant
 10 Exhibit No. 7, page Bates stamped 115.
 11 THE COURT: Okay. Respondent's
 12 Exhibit 9 is admitted into evidence. Okay.
 13 Any others?
 14 MS. BRUMFIELD: Number 11. That
 15 just --
 16 THE COURT: Okay. Let me just back
 17 up. Do you have -- are you just going through
 18 the ones that you want to offer into evidence
 19 and the ones that you're not interested in
 20 offering, you're skipping over?
 21 MS. BRUMFIELD: Right.
 22 THE COURT: So after nine, the next
 23 one would be number 11?
 24 MS. BRUMFIELD: And number 12.
 25 THE COURT: Now let's just go one at

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1 a time. Number 11, that's where the font is
 2 rather large. And that looks like a statement.
 3 MS. BRUMFIELD: Yeah, that's a --
 4 just a statement.
 5 THE COURT: And can you tell me about
 6 that statement?
 7 MS. BRUMFIELD: Pretty much what I've
 8 been saying all along, that -- some of the
 9 problems with daycare and I was treated
 10 differently based on my knowledge and the State
 11 giving forms out already and how I put the X in
 12 the box so to draw the -- to the tenant
 13 attention. That's all that is.
 14 THE COURT: Okay. Any objection to
 15 this coming in?
 16 MR. TREVINO: That's fine.
 17 THE COURT: Okay. Respondent's
 18 eleven is admitted.
 19 MR. TREVINO: Your Honor, if -- I
 20 apologize. If I can just ask. Ms. Brumfield
 21 has stated that that last document is in fact
 22 her statement; correct?
 23 THE COURT: It is a statement that
 24 she is making.
 25 MR. TREVINO: Okay.

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1 MS. BRUMFIELD: It is an opinion.
 2 MR. TREVINO: All right. That's
 3 fine. Thank you.
 4 MS. BRUMFIELD: And then number 14,
 5 and that's it for me. The rest of them are
 6 basically the same.
 7 THE COURT: Okay, number 14. Number
 8 14 is a disclosure form?
 9 MS. BRUMFIELD: Right.
 10 THE COURT: It looks like it has your
 11 signature on the bottom and a name DeShawna
 12 Bennett?
 13 THE WITNESS: Right.
 14 THE COURT: Do you know what property
 15 that is in regard to?
 16 MS. BRUMFIELD: That's on Teutonia.
 17 2228 North Teutonia. And that one, I took it
 18 back to her and she initialed and gave it to
 19 me. That's it.
 20 MR. TREVINO: Your Honor, we might
 21 object to this. I don't know to which lease
 22 this pertains off the top of my head. But if
 23 you can give me a minute, I might be able to
 24 help.
 25 I guess my question is, what particular --

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1 is there a particular lease to which this TSCA
 2 lead disclosure form belongs?
 3 MS. BRUMFIELD: 2228 North Teutonia.
 4 MR. TREVINO: How do we know that?
 5 THE WITNESS: Because it's DeShawna
 6 Bennett and the lease should say DeShawna
 7 Bennett. Whichever one say DeShawna Bennett.
 8 MR. TREVINO: I'm sorry,
 9 Ms. Brumfield, the address again is?
 10 THE WITNESS: 2228 North Teutonia.
 11 The tenant is DeShawna Bennett.
 12 MR. TREVINO: Okay.
 13 THE COURT: I don't see that listed
 14 as one of the properties at issue in the
 15 complaint.
 16 MR. TREVINO: Right.
 17 THE COURT: Is there any reason that
 18 you'd like the Court to consider that even
 19 though it doesn't seem to be for any of the
 20 properties that are referenced in the case?
 21 MS. BRUMFIELD: That's not in there?
 22 Maybe she got everything right then.
 23 THE COURT: What would you like to
 24 do? You still have an objection. She's saying
 25 she's offering this for the purpose -- for the

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1 purpose that she did something right this time.
 2 That she did it right this time.
 3 MR. TREVINO: Your Honor, I guess my
 4 question is, does Ms. Brumfield have a copy of
 5 the lease? And, could I ask, we may very well
 6 have that lease.
 7 THE COURT: There's no date as to
 8 when the lease was signed.
 9 MR. TREVINO: Your Honor, I'll object
 10 to this exhibit only because I don't know to
 11 which lease it belongs. So it's difficult to
 12 tell if it was provided timely.
 13 THE COURT: Okay. We're not going to
 14 accept respondent's 14. Okay. Any others?
 15 MS. BRUMFIELD: No. 2228 North
 16 Teutonia is listed, so they should have that on
 17 there.
 18 THE COURT: 2228 is listed in
 19 complainant's exhibits?
 20 MS. BRUMFIELD: Yeah.
 21 THE COURT: Can you tell me which
 22 exhibit or which page, Bates stamp page?
 23 MS. BRUMFIELD: It's not in their
 24 book, so --
 25 THE COURT: I see on Bates stamped 91

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1 there is a -- refers to 2228 North Teutonia.
2 That refers to a lease with Daniel Charleston.
3 But that's one of the leases that's referenced
4 as --
5 MR. TREVINO: But I don't think it's
6 the same name either, Your Honor.
7 THE COURT: It's a different name.
8 And it's also not one of the ones that's been
9 subject to any violation of complaint; is that
10 correct?
11 MR. TREVINO: That's correct.
12 MS. BRUMFIELD: Okay. I won't fight
13 that.
14 THE COURT: Okay. So that's all the
15 exhibits then?
16 MS. BRUMFIELD: Yes.
17 THE COURT: Okay.
18 MR. TREVINO: Your Honor, if I could
19 ask a small favor?
20 THE COURT: Okay.
21 MR. TREVINO: Can we go over these
22 documents again and agree to which of those is
23 entered into the record formally?
24 THE COURT: Sure.
25 MR. TREVINO: Okay.

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1 THE COURT: You're talking about
2 respondent's exhibits?
3 MR. TREVINO: Yes. I believe -- or
4 would you like to proceed?
5 THE COURT: I can do that, yes. I
6 have respondent's Exhibit 3. It is a memo
7 addressed to Christine Anderson signed -- or
8 well -- from Ms. Brumfield. I have
9 respondent's Exhibit 6. That's the answer.
10 Respondent's Exhibit 7 from the City of
11 Milwaukee dated October 24, 2006.
12 MR. TREVINO: Okay, agreed.
13 THE COURT: I have Exhibit 8. That
14 is the booklet.
15 MR. TREVINO: Protect Your Family
16 From Lead In Your Home.
17 THE COURT: Yes. And respondent's
18 nine.
19 MR. TREVINO: Agreed.
20 THE COURT: Okay. That's the
21 disclosure form. Unsigned blank form. And I
22 have eleven. That's in the large font,
23 statement by Ms. Brumfield.
24 MR. TREVINO: Agreed.
25 THE COURT: Ms. Brumfield, you agree

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1 those are the ones you wanted to offer into
2 evidence?
3 MS. BRUMFIELD: (Nodding.)
4 THE COURT: Okay. You want to resume
5 your cross-examination?
6 MR. TREVINO: No, Your Honor. We're
7 done.
8 THE COURT: You're done. Okay.
9 EXAMINATION
10 BY THE COURT:
11 Q I have just a few questions -- well, more than
12 a few, but it shouldn't take too long. Do you
13 want to take a brief --
14 MS. BRUMFIELD: No, no, no.
15 BY THE COURT:
16 Q You want to keep going? Okay. In your answer
17 you stated something to the effect that tenant
18 took over existing business of a family member
19 and it was in relation to the 2428 West Brown
20 Street address.
21 A Right.
22 Q Can you tell me more about that, what you meant
23 by that?
24 A I had a young lady that opened up a daycare
25 center there. And when she got there, she

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1 realized that the neighborhood wasn't what she
2 wanted to be because of the violence, and she
3 left. She brought in a sister, and her sister
4 stayed there when she left. That's what I mean
5 by that.
6 Q Do you remember what the name of the tenant
7 was? Garrison?
8 A Crystal Garrison is the one -- the sister that
9 stayed and --
10 Q Was Crystal Garrison the person that was
11 initially the tenant or she was the sister that
12 stayed?
13 A She was the sister that stayed. Ms. Browley.
14 Ms. Browley. B-R-O-W-L-E-Y. Ms. Browley. She
15 was the one that had the daycare and the
16 sister. She left, and the sister stayed there
17 with the daycare.
18 Q Do you have a routine -- when you have tenants
19 sign a lease, do you have a certain routine
20 that you go over, or is it different for each
21 tenant? Do you handle them differently?
22 A It's basically different for each tenant,
23 depending on what's going on in that tenant
24 life. Because I'm not trying to be Miss Goody
25 Two-Shoes. And sometimes I work with a tenant

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1 in the first property that I'm fittin' to rent
 2 out. I work with a tenant when they come in no
 3 security deposit, I reduce their rent just to
 4 have the place occupied because I can't rent
 5 it. So it all depend on the tenant
 6 individually. But I can tell you the way I
 7 would like it.
 8 Q Where do they normally sign the lease? Do they
 9 sign it at your home or at the unit that
 10 they're leasing?
 11 A No, I give them the lease and they take it.
 12 Because some of the tenants that I have can't
 13 read, so I give them the lease and they take it
 14 with them so that they can have someone go over
 15 it. And then they bring it back to me. I sign
 16 it first and I give it to them so when it comes
 17 back, it's all said and done.
 18 Q Can you tell me a little bit more about, in
 19 particular, the properties that are the subject
 20 of the complaint? Do you remember anything
 21 about how they signed the lease, different ways
 22 that you might have dealt with them in signing
 23 the lease?
 24 A You mean -- how you talking about? How I
 25 should have did it?

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1 Q No, no. How it happened that you had them sign
 2 the lease. Were any of those tenants that are
 3 referenced in the complaints, were any of those
 4 unable to read, or did you have to handle them
 5 in a different way?
 6 A Well, yeah, most of the time the tenant don't
 7 let you know they can't read. You kind of
 8 deduce that from conversation and what
 9 they -- what they're saying. So what I
 10 basically do to avoid that scene, I will type
 11 up the lease, sometimes a couple days or a week
 12 or so early -- as you see some of my leases are
 13 dated way before the lease is signed. But it
 14 says effective date is on the first. I would
 15 give the tenant the lease, 'cause sometimes I
 16 would give them enough time so that if
 17 they -- if they don't come up with the money,
 18 they got time to change their mind. I will
 19 give them the lease, they take it with them.
 20 And I usually -- not all of them, I usually
 21 tell them well, if you change your mind within
 22 seven days, I'll let you out of it. So
 23 everybody is treated differently based on
 24 circumstances. But if I thought I had a good
 25 tenant, I want to lock them in of course. I

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1 would do that.
 2 Q When you give those disclosure forms to your
 3 tenants, do they ever ask you questions about
 4 lead-based paint?
 5 A No, they don't. I just -- the booklet or the
 6 disclosure?
 7 Q Whenever you have them sign a lease, do they
 8 ever ask questions about lead-based paint?
 9 A No, no. Most of them tell me well, I've never
 10 seen this before, what is this all about. Then
 11 I'll tell them I am required to provide that to
 12 you so you can be aware of any lead in the
 13 house. I will do that if one say that to me.
 14 If they don't say that to me, I don't.
 15 Q Of the properties that are referenced in the
 16 complaint, are they all now occupied by
 17 tenants? Are any of them vacant?
 18 A As of --
 19 Q Right now.
 20 A Not right now, no.
 21 Q So you have tenants in all the ones that we've
 22 been talking about today?
 23 A Are we talking about I'm fittin' to evict or --
 24 Q Well, I'll just say the North 28th Street,
 25 North 13th Street, West Brown Street, North

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1 Teutonia Road, that's 2230; 4908 North 40th
 2 Street.
 3 A So 20 -- 2230 North Teutonia. That's on there.
 4 That's -- it's vacant.
 5 Q That's vacant. And unit 4908 at North 40th
 6 Street, that occupied or vacant?
 7 A By a family member, yeah.
 8 Q Is the family member paying rent?
 9 A Ha. Well, she got a job now, so that's kind of
 10 a -- she start October.
 11 Q The other properties that you own, are they all
 12 occupied with tenants now?
 13 A Paying tenants or family?
 14 Q Both. If you could tell me whether pay tenants
 15 or not.
 16 A Well, I don't live in my house. All three of
 17 my kids lost their jobs, so I'm taking care of
 18 them now. They living in my property. One
 19 just got a job. The other one fittin' to move
 20 out of the state. So things are fine.
 21 Q Of the properties that we didn't mention,
 22 they're not mentioned in the complaint, are any
 23 of those vacant?
 24 A That's the one I am telling you at 3936 North
 25 18th Street, that's the one my kids live in.

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1 'Cause when they moved in with me, I moved in
2 with a friend of mine.
3 Q Have you sold any of your properties in the
4 past five years?
5 A No.
6 Q Any of the properties -- have you sold any
7 properties at all in the past five years?
8 A No.
9 Q Have you ever tried to sell any of your
10 properties?
11 A Yes, yes, and yes. They're not worth the paper
12 it's printed on. In 2008, I drew up flyers on
13 the market. I was going to move out of town
14 and the market failed. Nothing.
15 Q Do you remember when you, during the
16 inspection, did Mr. Pilny say that if there
17 were any major problems with the forms, your
18 forms that you gave, that you would get a call
19 from an attorney and a case development
20 officer?
21 A No, he didn't tell me. He -- this is what he
22 said to me. Ms. Brumfield -- I asked
23 him -- they was getting ready to leave. I
24 said, when would you guys get back to me? When
25 will I know? And he said well, we got a lot of

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1 other ones besides you. And then they are
2 going to be reviewed by a officer.
3 And when -- yeah, he did say that they
4 going be reviewed by an officer. Now I'm not
5 looking at problems, he said. We will get back
6 to you and let you know what our findings are.
7 That's how he put that.
8 Q On the day of the inspection, did you have
9 copies of all of the disclosure forms for all
10 of the leases that are referenced in the
11 complaint?
12 A Not all of them, because I know I found some
13 after he left, and I mailed it to him, being
14 helpful. And I don't remember which one of
15 them. But I did go through my file, I did find
16 some extra ones that I didn't find when he was
17 there, because -- not the lease with the
18 lead-based paint. The leases I gave him, when
19 I realized the lead-based paint, after what we
20 were saying, I looked through and found some
21 that wasn't found, and I mailed it to him.
22 Q Do you remember about when you mailed it to
23 him, about how soon after the inspection?
24 A Probably, and I can't be for sure, probably
25 when I got my second notice. First one they

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1 were letting me know of their intent. And the
2 other one, a stack -- I found this thing with
3 all the rules and regulations and guidelines,
4 and that's when I sent that to them. Probably
5 about -- about a month after.
6 Q Do you remember about how many properties these
7 forms were for? Was it for one property that
8 you found the form, or how many properties do
9 you recall?
10 A I think it was one or two. But I want to say
11 one, to be on the safe side. But I kind of
12 think it was two. But I do know one.
13 THE COURT: I have a document here
14 that was attached to your answer, I believe.
15 And it's not an entire lease, but it shows a
16 signature. I'm going to just have
17 Mr. Kulschinsky show that to counsel and to
18 Ms. Brumfield and ask if anyone recognizes that
19 document.
20 MR. TREVINO: Okay. I apologize, I'm
21 just not recalling it at the moment.
22 THE COURT: If you could just show
23 that to Ms. Brumfield.
24 BY THE COURT:
25 Q Ms. Brumfield, do you know anything about that

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1 document? Do you remember, did you attach that
2 to your answer, or do you remember working with
3 your attorney to -- no, you didn't have an
4 attorney at that time. Did you include that
5 with your answer?
6 A No, I did this all last night. I think that's
7 part of the lead-based paint form that kind of
8 got out of order. That's all that is.
9 Q I think that was -- that was attached to the
10 answer. So it's in the record --
11 A Well, she had -- I only got back that. That's
12 all.
13 Q Do you remember whether that was given to the
14 inspector at the time during the inspection?
15 A I'm not a hundred percent certain, 'cause like
16 I say, I found some -- once I learned what was
17 going on, I did a search and found some. I'm
18 not a hundred percent certain on that.
19 Q Okay. Actually, why don't you give that back
20 to her and just have her describe what that is.
21 Whose signature -- can you just tell me what
22 that document looks like, what signature is on
23 that document, and what date is on that
24 document?
25 A It might be Lindsay. Kind of look like Denise

1 Lindsay. That was the one we talked about,
2 'cause I had her do two after they complained.
3 She had an old one in my file. She still a
4 tenant of mine. This was in the old file. And
5 she done moved to three of my properties. So
6 what I did was I took the other ones of hers
7 that have her initials, 'cause she had signed
8 them and didn't initial. But this is 2007.
9 That's how long she's been with me.
10 Q Okay.
11 A So I gave her another one. I pulled out the
12 newest one, which she did not initial. But she
13 signed -- I had her initial and sign that she
14 got it. That's the one you said was not part
15 of the property and couldn't use it because of
16 couldn't verify the dates or something.
17 Q Okay. I just wanted you to identify that, see
18 if you could remember what that was.
19 A That's what this was.
20 Q All right.
21 THE COURT: Counsel, did you find a
22 copy of that in your records?
23 MR. STEKETEE: Yeah.
24 MR. TREVINO: I have two responses.
25 The first one is that, yes, there are documents

1 that she filed with her answer. There were
2 probably about, you know, 12, 13, 14 pages
3 attached to her answer which was filed with the
4 regional hearing clerk.
5 My concern would simply be that she hasn't
6 explained why this information wasn't provided
7 in a prehearing exchange, wasn't provided
8 perhaps at any meeting, and wasn't provided
9 formally to the Court or to us for her
10 arguments before today.
11 So it's -- we're being caught off guard
12 here. We're trying to complete a lot of
13 document review in a very short period of time,
14 and I'm starting to get a little nervous about
15 it.
16 THE COURT: If you want to ask her
17 further questions after mine, that's fine.
18 MR. TREVINO: Your Honor, I just -- I
19 do have just a couple of questions.
20 Ms. Brumfield, you just testified that the way
21 you provided your TSCA lead disclosure form --
22 THE COURT: Wait a minute. Just a
23 moment. I'm not finished with my questions.
24 If you just wanted to ask a question about this
25 form --

1 MR. TREVINO: I'm sorry. I
2 apologize.
3 THE COURT: -- you can ask about
4 that. Okay.
5 BY THE COURT:
6 Q Ms. Brumfield, could you tell me about cars
7 that you own? There is a document in here that
8 showed that you own two cars. Can you tell me
9 about your car ownership?
10 A I got a 2003 van that I paid for \$4,000 for on
11 a credit card. That's all I own.
12 Q But you had -- there's a document that shows
13 that you had two cars at one time. Can you
14 tell me why that shows that you had two cars?
15 A The reason it showed that I have two cars,
16 'cause one of -- that 2004 Cappella, or
17 whatever that is, I gave it to my sister and
18 filled out the title and signed it for her to
19 go to register. She went to register. Because
20 her name matches somebody else name that had a
21 record, they wouldn't allow her to sign until
22 she cleared that up. In the meantime, I'm
23 stuck with her running tickets up in my name.
24 That's how that came about. She had to go to
25 court, to Madison, to clear that up.

1 THE COURT: Okay, that's all I have.
2 Counsel, if you'd like to follow up with any
3 questions?
4 MR. TREVINO: Just a couple
5 questions, Your Honor. Thank you.
6 EXAMINATION
7 BY MR. TREVINO:
8 Q Ms. Brumfield, you just testified that how you
9 provided your TSCA lead disclosure form
10 historically varied from lessee to lessee; is
11 that correct?
12 A No, the lease varied. Not the form. There's
13 always -- I attached -- I handed them the
14 booklet when they come, when I know they're a
15 tenant. When they sign the lease, I will give
16 them -- I will draw up the lease. I always
17 attach this form here. Matter of fact, I
18 reduce it so it fit in the lease. Always
19 provide them with this form, with the lease,
20 when they take it with them.
21 When they come back with it signed,
22 they're going to rent the place, then I give
23 them the booklet. When they come back, now I
24 know that they want -- I don't give them the
25 lead-based paint booklet, whatever, at the same

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1 time. That's how I do that.

2 And the only time it varies if I get a

3 tenant that I know that cannot read, and I'm

4 sure that I'm going to take this tenant, I will

5 give them everything so that they can go and do

6 that.

7 Q Ms. Brumfield, do you recall filing an answer

8 to the -- your answer to the complaint in this

9 matter?

10 A Yeah, I do.

11 Q Was it accurate?

12 A To my knowledge. To my understanding.

13 Q Would you like an opportunity to review it?

14 Approximately -- have you found the document

15 entitled Answer?

16 A Cancer?

17 Q Answer.

18 A Oh, yes.

19 Q Can you tell me what date you see on the

20 document?

21 A September 20, 2011.

22 Q Is that about when you submitted your answer to

23 the agency?

24 A That's when they received this. That's what

25 you said, when I received it. I don't remember

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1 when I signed it.

2 Q Can you please turn to page -- there's a page

3 that includes the bold printed language,

4 "Respondent deny all allegations charge, as

5 well as count one through 39 in this action."

6 A Yes.

7 Q Could you just read to me that first paragraph

8 that starts with, "Respondent denied violating

9 EPA status"?

10 A Well, no, I can't read that. My sight is bad.

11 Q Can I read --

12 A Yeah, you can read it.

13 MR. TREVINO: I'd like to ask the

14 Court if I could read it to her.

15 THE COURT: Yes.

16 BY THE COURT:

17 Q It says, "Respondent denied violating EPA

18 status on rental agreement for property located

19 at 4908A North 40th, upper. Respondent denied

20 allowing tenant to take occupancy of unit

21 before receiving checklist, lead paint

22 disclosure, and booklet. In this case, tenant

23 did read, but chose to put a check in box

24 instead of initial.

25 "The respondent's practice is, and always

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1 has been, to provide the tenant with the lease

2 after payment, along with the above-mentioned

3 document, and is given a seven-day grace period

4 if they change their mind about the lease?"

5 A That's true.

6 Q Is that in fact how you handled the lead paint

7 disclosure form and the book and the leases?

8 A Every tenant is different. Every tenant is

9 different, like I stated. Yes, that's how I do

10 that. If you got one that got a checkmark

11 there and is hand printed, tenant. If it's

12 checked by -- a typed, it's me.

13 Q Ms. Brumfield, I've got to apologize, but I'm

14 completely baffled. Because what you said in

15 your testimony a moment ago was that how you

16 handled the lead paint disclosure form and

17 booklets and leases varies from tenant to

18 tenant.

19 A Yes.

20 Q Historically that's how you've done it.

21 A Yes.

22 Q But you have a statement here in your answer

23 that you repeat in your answer five times,

24 which says, "The respondent's practice is and

25 always has been to provide the tenant with the

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1 lease after payment, along with the

2 above-mentioned document, and is given a

3 seven-day grace period if they change their

4 mind about the lease."

5 Now, is the answer in your answer correct,

6 that your respondent practice is always to do

7 it this way, or is your answer now that you're

8 testifying to, that it varies from tenant to

9 tenant?

10 A Varies from tenant to tenant.

11 Q So when you wrote this answer, you were

12 providing a misrepresentation five times to the

13 Court?

14 A No, I wasn't. I was giving you the best of my

15 knowledge at that time, in which I always --

16 maybe worded wrong, but I always gave my

17 tenants the lease, the lead paint form. Once

18 they decided that they want the place, then I

19 give them the booklet. Because I'm not going

20 to give out the booklet if they decide that

21 they don't want it. If they decide within

22 seven days that they don't want it, I'm not

23 giving them the booklet. Because at that time

24 I was picking up the booklets up. I didn't

25 know I could download them on the computer.

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1 MR. TREVINO: No further questions.
2 THE COURT: Okay. Anything further,
3 Ms. Brumfield?
4 MS. BRUMFIELD: No, I'm fine.
5 THE COURT: Just for ease of
6 reference, I'm going to mark this document,
7 which is attached to the answer, as Court's
8 Exhibit 1. This is what appears to have the
9 signature of Denise Lindsay and a date of
10 3/1/07. It starts with Tenant's
11 Acknowledgment. It's the third to last page
12 from the last page in the answer. That's going
13 to be Court's Exhibit 1. Okay. Anything
14 further for Ms. Brumfield?
15 MS. BRUMFIELD: No, other than I take
16 care of my mother.
17 THE COURT: All right. You can step
18 down. Thank you very much for your testimony.
19 MS. BRUMFIELD: Okay. Thank you.
20 THE COURT: Yes. You're done.
21 MS. BRUMFIELD: Can I just leave or
22 do I have --
23 THE COURT: You probably want to stay
24 until we're finished. Any rebuttal?
25 MR. TREVINO: Well, I would just ask

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1 Ms. Brumfield that you testified on a number of
2 occasions that you had this additional --
3 THE COURT: She's done testifying,
4 right?
5 MS. BRUMFIELD: Yes.
6 MR. TREVINO: Oh, I'm sorry.
7 THE COURT: Did you have a further
8 question for her?
9 MR. TREVINO: About her testimony?
10 THE COURT: If you need her to
11 testify some more to follow up on my questions?
12 MR. TREVINO: We're finished, Your
13 Honor.
14 THE COURT: Okay.
15 MR. STEKETEE: And no rebuttal.
16 THE COURT: Okay. Does any party
17 have any further evidence to offer? I want to
18 go over the exhibits to make sure that we've
19 got them admitted, all the exhibits that you
20 wish to have admitted into evidence. For
21 complainant's exhibits, I have Exhibit 1, 2, 7,
22 8, 9, 10, and 11.
23 MR. TREVINO: Correct.
24 THE COURT: Okay. For respondents I
25 have Exhibits 3, 6, 7, 8, 9, and 11.

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1 Ms. Brumfield, I think we went over that. Does
2 that sound right to you?
3 MS. BRUMFIELD: Yeah, it sounds good.
4 THE COURT: All right. I wanted to
5 mention about post-hearing briefs.
6 Post-hearing briefs are very important. It's
7 your chance to present arguments to me as to
8 whether EPA has proven the alleged violations,
9 and if so, what the penalty should be.
10 You then have an opportunity to respond to
11 the other party's brief if you wish. That's
12 called a reply brief. If you wish, you may
13 include proposed findings of fact and
14 conclusions of law with supporting reasons.
15 You're not required to include proposed
16 findings of fact and conclusions of law.
17 So I need to schedule the post-hearing
18 briefs. The regulations provide that the
19 initial briefs are to be filed at least 30 days
20 after the receipt of the transcript, or 45 days
21 after the parties are notified by the regional
22 hearing clerk of availability of the
23 transcript.
24 I can schedule EPA to file their brief
25 first, and then respondents, and then the reply

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1 of EPA. I prefer to do that when the
2 respondent is pro se. I think I understand,
3 Mr. Trevino, you had some -- you'd like some
4 extra time?
5 MR. TREVINO: Yes, Your Honor.
6 THE COURT: Can you tell me when you
7 would like to file your post-hearing brief?
8 Let's just say the soonest that you would be --
9 MR. TREVINO: I would really
10 appreciate it if I could -- I know this is a
11 little late, but until approximately
12 mid-October. My chief reason for asking,
13 twofold. The first one is I will be on annual
14 leave for approximately three of the next four
15 weeks. And also I may very well have an
16 additional hearing coming up in late September
17 which will unfortunately take a great deal of
18 my time. But after September, I'm pretty open.
19 THE COURT: Okay. That would be like
20 60 days.
21 MR. TREVINO: I know. I apologize.
22 MR. STEKETEE: It's also the end of
23 the fiscal year October.
24 MS. BRUMFIELD: Yeah, I'm okay with
25 that.

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1 THE COURT: You don't have a problem
 2 with that? 'Cause I'll give you time after
 3 that to file yours. Did you say October 9th?
 4 MR. TREVINO: I was thinking
 5 October 15th, if possible.
 6 THE COURT: October 15th.
 7 MR. TREVINO: Thank you, Your Honor.
 8 I really appreciate it.
 9 THE COURT: We don't have to do it
 10 from date of receipt of transcript.
 11 MR. TREVINO: I am assuming that I
 12 will actually get that transcript probably in
 13 the next week or two. Okay.
 14 THE COURT: Okay. And Ms. Brumfield,
 15 how much time do you think you need after they
 16 file theirs? They're going to file theirs by
 17 October 15th. Would you like to -- would you
 18 like 30 days after that?
 19 MS. BRUMFIELD: Yeah.
 20 THE COURT: Okay. How about
 21 November 15th?
 22 MS. BRUMFIELD: Sounds good.
 23 THE COURT: Okay. And reply briefs,
 24 I'll set that two weeks after.
 25 MR. TREVINO: That's fine.

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1 THE COURT: Is that okay? I'll say
 2 November 30th for the reply.
 3 MS. BRUMFIELD: Are we going to get
 4 that in writing or --
 5 THE COURT: Yes. I will send out an
 6 order that will confirm that.
 7 MS. BRUMFIELD: Thank you.
 8 THE COURT: Okay. I will issue a
 9 written decision as soon as reasonably possible
 10 after I have received the post-hearing briefs.
 11 Ms. Brumfield, if after you receive the reply
 12 brief from the complainant, if you feel that
 13 you need to file something in response, please
 14 let us know as soon as possible, okay, so that
 15 we know when we can start issuing the decision.
 16 MS. BRUMFIELD: Okay.
 17 THE COURT: So if you don't wish to
 18 file any reply, just let us know one way or the
 19 other. If you could e-mail Mr. Kulschinsky,
 20 that would be helpful. Just let our office
 21 know whether you intend to or not. And I can
 22 set a due date or -- we'll know that's it.
 23 MS. BRUMFIELD: So as soon as I
 24 receive there's, then I make a decision.
 25 THE COURT: Okay. Okay. Anything

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1 further before we go off the record?
 2 MR. TREVINO: No, Your Honor.
 3 THE COURT: Okay. This hearing is
 4 closed, and we'll go off the record.
 5 (Hearing concluded at 4:31 p.m.)
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1 STATE OF WISCONSIN)
) ss.
 2 COUNTY OF MILWAUKEE)
 3 I, ANITA KORNBURGER-FOSS, Registered
 4 Professional Reporter and Notary Public in and
 5 for the State of Wisconsin, do hereby certify
 6 that the preceding hearing was recorded by me
 7 and reduced to writing under my personal
 8 direction.
 9 I further certify that said hearing
 10 was taken at 517 East Wisconsin Avenue,
 11 Milwaukee, Wisconsin, on August 7, 2012,
 12 commencing at 9:52 a.m. and concluding
 13 at 4:31 p.m.
 14 I further certify that I am not a
 15 relative or employee or attorney or counsel of
 16 any of the parties, or a relative or employee
 17 of such attorney or counsel, or financially
 18 interested directly or indirectly in this
 19 action.
 20 In witness whereof, I have hereunto
 21 set my hand and affixed my seal of office at
 22 Milwaukee, Wisconsin, this 21st day of August,
 23 2012.
 24 _____
 ANITA KORNBURGER-FOSS, RPR - Notary Public
 25
 My commission expires June 23, 2013.

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