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1 IN THE MATTER OF ARBITRATION BETWEEN:

2

3 LACLEDE GAS COMPANY,

4

5 COMPANY,

6

7 and

8

9 UNITED STEEL WORKERS, LOCAL 11-6,

10

11 UNION.

12

13

14

15 GRIEVANT: LOUIS JACKSON

16 ARBITRATION PROCEEDINGS

17

18 March 24, 2006

19

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21 -----

22 -----

23 GORE PERRY GATEWAY & LIPA REPORTING COMPANY

24 515 Olive St. Louis, Missouri

25 1-800-878-6750 (314) 241-6750

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12

13 BE IT REMEMBERED that on the 24th day of

14 March, 2006, the above-entitled matter came on for

15 hearing at the Radisson Hotel & Suites, 200 North

16 Fourth, in the City of St. Louis, State of Missouri,

17 before the Arbitration, Joseph J. Nitka.

18

19 AND THE FOLLOWING PROCEEDINGS WERE HAD:

20

21

22

23

24

25

3

1 APPEARANCES

2

3 THE ARBITRATOR:

4 Mr. Joseph J. Nitka

5 1856 Ironstone Road

6 St. Louis, Missouri 63131

7 (314) 822-8511

8

9 FOR THE COMPANY:

10 Ms. Judith L. Garner

11 Laclede Gas Company

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13 St. Louis, Missouri 63101

14 (314) 342-0609

15

16 FOR THE UNION:

17 Mr. Ronald J. Wilkey

18 PACE International Union

19 10523 Glen Oaks Drive

20 Festus, Missouri 63028

21 (636) 931-7262

22

23 - - - - -

24

25

4

1 I N D E X

2 PAGE LINE

3 WITNESS: WALTER A. REITZ:

4

5 Examination by MS. GARNER 18 13

6 Examination by MR. WILKEY 47 25

7 Examination by MS. GARNER 63 20

8 Examination by MR. WILKEY 64 22

9

10 WITNESS: JOSEPH J. WILLIAMS:

11

12 Examination by MS. GARNER 66 4

13 Examination by MR. WILKEY 88 12

14 Examination by MS. GARNER 114 5

15

16 WITNESS: MIKE SISAK

17

18 Examination by MS. GARNER 119 19

19 Examination by MR. WILKEY 178 13

20 Examination by MS. GARNER 206 23

21 Examination by MR. WILKEY 211 19

22 Examination by MS. GARNER 213 5

23

24 WITNESS: STEPHEN FERRIS

25

5

1 Examination by MS. GARNER 214 24

2 Examination by MR. WILKEY 230 1

3 Examination by MS. GARNER 246 13

4 Examination by MR. WILKEY 247 13

5 Examination by MS. GARNER 248 9

6

7 WITNESS: MARK BOYLE

8

9 Examination by MR. WILKEY 249 9

10 Examination by MS. GARNER 274 23

11 Examination by MR. WILKEY 277 10

12 Examination by MS. GARNER 279 17

13

14 WITNESS: LOUIS JACKSON

15

16 Examination by MR. WILKEY 280 13

17 Examination by MS. GARNER 305 18

18 Examination by MR. WILKEY 314 25

19 Examination by MS. GARNER 318 4

20

21 WITNESS: WALTER A. REITZ:

22

23 Examination by MS. GARNER 321 12

24 Examination by MR. WILKEY 324 5

25

6

1 EXHIBITS PAGE RECEIVED

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3 Joint Exhibit 1 11 11

4 Labor Agreement

5

6 Joint Exhibit 2 31 31

7 Grievant's CIS Tickets

8 for 3-3-05

9

10 Joint Exhibit 3 115 115

11 Grievance protesting termination

12

13 Joint Exhibit 4 21 21

14 Donnelly/Jaudes letters

15

16 Joint Exhibit 5 11 11

17 Group exhibit containing arbitration

18 decisions

19

20 Joint Exhibit 6 11 11

21 Group exhibit of congratulatory

22 memos for Mr. Jackson

23

24 Joint Exhibit 7 37 37

25 Group exhibit of EFMs for

1 Grievant 10-29-01 & 10-16-03

2

3 Joint Exhibit 8 132 132

4 Overhead view of 8021 Titus

5

6 Joint Exhibit 9 139 139

7 Overhead View of 8735 Trumbell

8

9 Joint Exhibit 10 79 79

10 CGI without attachments

11

12 Joint Exhibit 11 79 79

13 CGI with goose neck attachment

14

15 Joint Exhibit 12 79 79

16 CGI with wand attachment

17

18 Joint Exhibit 13 69 69

19 CGI

20

21 Company Exhibit 1 26 26

22 Grievant's Contract Employee

23 Induction - Orientation Checklist

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1 Company Exhibit 2 41 41

2 Settlement Agreement 4-24-02

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4 Company Exhibit 3 39 39

5 Group exhibit, In Re: Customer

6 Complaint

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8 Company Exhibit 4 45 45

9 ACME card for Grievant

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11 Company Exhibit 5 78 78

12 General Tool Information

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14 Company Exhibit 6 135 135

15 Close up of 8021 Titus

16

17 Company Exhibit 7 140 140

18 Close up of 8735 Trumbell

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20 Company Exhibit 8 154 154

21 Rich Bruno's Route Sheet

22 3-3-05

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24 Company Exhibit 9 168 168

25 General Information Section 1-5
9

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2 Company Exhibit 10 170 170

3 General Information Section 1-6

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5 Company Exhibit 11 82 82

6 Annual SAID Qualification

7 Job Performance

8

9 Company Exhibit 12 170 170

10 Group of SAID Route Sheets

11 for the Grievant

12

13 Company Exhibit 13 76 76

14 Short Guide for Gas-Ranger Detectors

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17 Company Exhibit 14 76 76

18 Daily Operational Checks

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20 Company Exhibit 15 311 311

21 2005 Annual Training Attendance

22 Roster

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24 Company Exhibit 16 311 311

25 SAID Annual Training 2005
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1 Union Exhibit 1 253 253

2 Times and Temperature Info

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4 Union Exhibit 2 260 260

5 Video

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7 Union Exhibit 3 263 263

8 Photograph

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10 Union Exhibit 4 264 264

11 Photograph

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13 Union Exhibit 5 267 267

14 Photograph

15

16 Union Exhibit 6 270 270

17 Photograph

18

19 Union Exhibit 7

20 Photograph

21

22

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11

1 (Hearing commenced at 9:25 A.M.)

2

3 THE ARBITRATOR: For the record, I have in

4 front of me Joint Exhibits 1 through 12, and Company

5 Exhibits 1 through 14.

6 MS. GARNER: And...

7 THE ARBITRATOR: And we have a

8 stipulation. That's great.

9 MS. GARNER: We try to do what we can.

10 THE ARBITRATOR: It certainly helps.

11 MS. GARNER: How do you want to handle the

12 stipulation on the record? Do you want to enter it

13 in line by line or just refer to it and attach it?

14 What's your preference?

15 MR. WILKEY: It doesn't make me any

16 difference whatever.

17 THE ARBITRATOR: We'll enter it right now

18 just as a stipulation. That's all.

19 MS. GARNER: Okay.

20 THE ARBITRATOR: We'll go from there,

21 okay? Let me read this.

22 (Discussion off the Record.)

23 THE ARBITRATOR: Okay. All right. I have

24 a few questions.

25 MS. GARNER: Are we on the record?

12

1 THE ARBITRATOR: Yeah. You want the

2 witnesses sworn this morning?

3 MS. GARNER: Yes, sir.

4 MR. WILKEY: Yes.

5 THE ARBITRATOR: Will you do that?

6 MR. WILKEY: Also, would like to sequester
7 the witnesses?

8 THE ARBITRATOR: Sequester? Oh, I don't
9 have a problem with that. Do you?

10 MS. GARNER: No problem.

11 THE ARBITRATOR: Good. All right.
12 Witnesses to be sworn. We got that right. Briefs
13 to be filed?

14 MS. GARNER: We usually do briefs 30 days
15 after receipt of transcript.

16 MR. WILKEY: We have to see when we get
17 the transcript and we'll get a date.

18 THE ARBITRATOR: Let's put it 30 days and
19 you two work it out. If you need more time, either
20 one of you, contact the other one.

21 MR. WILKEY: All right.

22 THE ARBITRATOR: And just let me know so
23 that I can keep my schedules straightened out, okay?

24 MS. GARNER: Okay.

25 MR. WILKEY: Okay.

1 THE ARBITRATOR: All right. Copies of the
2 award of the Company?

3 MS. GARNER: Company just one, to me.

4 MR. WILKEY: One is fine to me.

5 THE ARBITRATOR: Thank you very much.

6 Okay. That takes care of the junk. Now let's get
7 down to business.

8 We have a discharge, so we'll allow the
9 Company the privilege and the pleasure of proceeding
10 with its witnesses, or if we can try to agree to a
11 stipulation of the issue?

12 MS. GARNER: Okay. I'm just checking
13 something in the contract, Mr. Arbitrator.

14 The Company would propose the statement of
15 the issue is did Laclede Gas have just cause as
16 provided in Article VIII, Section 15 of the Labor
17 Agreement to discharge Louis Jackson on April 21st,
18 2005. If not, what should the remedy be? Without
19 leaving out the Union's statement only, it's our
20 preference to call it a labor agreement, and also
21 for failure to follow Company procedures because
22 that's not a full and complete statement.

23 THE ARBITRATOR: Okay. How about that?

24 MR. WILKEY: I think that's fair.

25 THE ARBITRATOR: Okay. Fine. Thank you

14

1 very, very much. All right. Now we'll give the

2 Company the pleasure and privilege of proceeding

3 with its opening statement, if you so desire, or

4 just go ahead with your case.

5 MS. GARNER: Thank you. I would like to

6 make an opening.

7 THE ARBITRATOR: Okay.

8 MS. GARNER: Opening with witnesses?

9 THE ARBITRATOR: Opening statement or

10 what?

11 MS. GARNER: I mean, with witnesses

12 present or you want to swear witnesses?

13 THE ARBITRATOR: Everybody, get out.

14 MS. GARNER: You want to swear witnesses

15 first or one by one?

16 THE ARBITRATOR: Tell your people to get

17 out of here.

18 MR. WILKEY: Actually, Mark is my helper

19 and Louis is the Grievant. Those three folks at the
20 end, Kevin, Pat, and Joe, are not going to testify.

21 THE ARBITRATOR: Okay.

22 MS. GARNER: And I want to make clear not
23 even in rebuttal because if they stay, then I'm
24 going to object to any testimony on rebuttal.

25 MR. WILKEY: That's fine.

15

1 THE ARBITRATOR: We understand. Uh-huh.

2 MS. GARNER: Okay.

3 (Discussion off the Record.)

4 MS. GARNER: Mr. Arbitrator, my name is
5 Judy Garner, and I'm the labor counsel for the
6 Laclede Gas Company, and I'm representing Laclede
7 Gas Company in this arbitration of the discharge of
8 Louis Jackson.

9 This is a case about safety, credibility
10 and trust. The Grievant, Louis Jackson, was
11 discharged from Laclede Gas Company because he
12 failed to perform a required safety test, falsified
13 company documents and as far as his overall work
14 record. The Union and Company have stipulated that
15 the work that Grievant was supposed to do that day

16 was, required by the procedures of Laclede, was
17 safety related, and that failure to do that work
18 would lead to discharge. So what does that leave?
19 Did the Grievant do the work?

20 You will hear the testimony of several
21 witnesses today concerning the events of March 3rd,
22 2005. Laclede has two eyewitnesses, two Service &
23 Installation Department foremen, Mr. Sisak and
24 Mr. Ferris, who will testify that Grievant did not
25 perform the required safety tests. The Union will

16

1 attack the credibility of the foremen, but the
2 foremen are credible. Their testimony today is
3 consistent with everything they have said since
4 March 3rd, 2005. Grievant could not have done the
5 required safety tests because he did not take in the
6 piece of equipment that he needed to do the test,
7 the combustible gas indicator or called a CGI.
8 And then he falsified company records to indicate
9 that he did do the required test, which leads to the
10 trust issue.

11 Laclede should not be required to employ

12 an employee it cannot trust. Based on the events
13 here and Mr. Jackson's overall work record,
14 Mr. Jackson cannot be trusted. Mr. Jackson was
15 discharged from employment at Laclede once before.
16 He was discharged for theft of company property and
17 tampering with the gas meter. Mr. Jackson was
18 reinstated by a grievance between the Union and the
19 Company, signed by Mr. Jackson also, with a 60-day
20 suspension. He was reinstated only because the
21 primary witnesses in the case no longer wanted to
22 cooperate.

23 The settlement agreement signed by
24 Mr. Jackson is clear. He admitted to theft of
25 company property and tampering with a gas meter. He

17

1 accepted the discipline and agreed that the
2 discipline could be used in any future disciplinary
3 matter. In addition, Mr. Jackson falsified records
4 in this case and was previously disciplined for
5 falsification of records in another matter at
6 Laclede.

7 Mr. Jackson is not a credible witness. As
8 stated above, based on his prior record, he cannot

9 be trusted. It will be apparent that his
10 story changes as necessary to suit his needs. The
11 Union will ask you to believe that the foremen are
12 lying, but it is Mr. Jackson who has motivation to
13 lie.

14 Again, this case is about safety and
15 trust. Jackson violated clear safety policy of
16 Laclede and Jackson cannot be trusted to do the work
17 that he was assigned to do in a safe manner.
18 Jackson cannot be trusted to abide by Laclede rules
19 or work unsupervised on his assigned route. The
20 grievance should be denied.

21 THE ARBITRATOR: Okay. Union want to make
22 a statement?

23 MR. WILKEY: I'll reserve mine.

24 THE ARBITRATOR: Reserve, sure. Okay.

25 MS. GARNER: Company first witness -- call

18

1 my first witness?

2 THE ARBITRATOR: You bet.

3 MS. GARNER: Mr. Reitz, please, Wally

4 Reitz.

5 WALTER A. REITZ

6

7 of lawful age, having been first duly sworn to
8 testify the truth, the whole truth, and nothing but
9 the truth in the case aforesaid, testifies and says
10 in reply to oral interrogatories propounded as
11 follows, to-wit:

12

13 EXAMINATION

14 QUESTIONS BY MS. GARNER:

15 Q. Please state your name and spell it for
16 the record?

17 A. It's Walter A. Reitz, R-e-i-t-z.

18 Q. And how long have you been employed by
19 Laclede Gas Company?

20 A. 28 years.

21 Q. What's your current title at Laclede Gas?

22 A. Manager of labor relations.

23 Q. And what's your role as manager of labor
24 relations?

25 A. I represent the Company in many dealings
19
1 with the Union, including contract negotiations,

2 grievances and other matters.

3 Q. How many employees are employed by Laclede?

4 A. Approximately 1400.

5 Q. And how many of those are represented by

6 the local here, Local 11-6?

7 A. I believe they have just approximately, I

8 guess, about 1100.

9 Q. Please describe briefly the nature of

10 Laclede's business.

11 A. Laclede is a local distribution company.

12 We supply natural gas to approximately 600,000

13 customers in the metropolitan area.

14 Q. Is it a regulated business?

15 A. Yes, it is.

16 Q. And who is it regulated by?

17 A. Missouri Public Service Commission.

18 Q. Are there public safety issues related to

19 Grievant's position?

20 A. Yes, there are.

21 Q. And what are they?

22 A. The Grievant works with natural gas. His

23 job is -- there's inherent danger with natural gas
24 that requires the work to be performed safely
25 because of the nature of gas and the fact that gas
20
1 can leak and migrate and cause fires and explosions,
2 things like that.

3 Q. Does Laclede have any duty with regard to
4 providing safe and adequate service?

5 A. Yes, we do.

6 Q. And where is that duty?

7 A. There's a Missouri statute that requires it.

8 MS. GARNER: I would ask that the
9 Arbitrator take judicial notice of Section 393.13 of
10 the Missouri Revised Statutes.

11 Q. What is the potential for danger in
12 performing Grievant's position?

13 A. There could be exposure to gas leaks,
14 fires, explosions, carbon monoxide poisoning.

15 Q. Why was Grievant discharged by Laclede Gas
16 Company?

17 A. He failed to go into two homes with the
18 required CGI in order to perform the safety-related
19 test, and then he falsified the documentations

20 claiming that he performed those tests, and his
21 overall record.

22 Q. And those are all bases for his discharge?

23 A. That was the basis for his discharge,
24 correct.

25 Q. You understand that the Union has
21
1 stipulated that the work the Grievant was doing that
2 day was safety tests?

3 A. That's correct.

4 Q. I'm handing you what's been marked Joint
5 Exhibit 4. Can you please identify all four pages
6 of that exhibit?

7 A. This is a series of three letters written
8 by Robert Jaudes and William Donnelly.
9 Mr. Donnelly, I believe, wrote two of the letters
10 and Mr. Jaudes wrote one of them. They're all
11 related to safety and the consequence -- and their
12 -- first one was dated in 1987, March 2nd, written
13 by Mr. Donnelly. This was based on a number of
14 incidents we had that related to safety that
15 Mr. Donnelly felt that he needed to post a company

16 notice telling employees the severe disciplinary
17 action, including discharge, could result if an
18 employee didn't perform safety-related work
19 properly.

20 Then the next letter was written on
21 March -- May 3rd, 1991 by Mr. Jaudes, because even
22 Mr. Donnelly wrote a letter, we experienced another
23 safety-related incident with our employees prompting
24 Mr. Jaudes to write a stronger letter. The most
25 important language in that May 3rd letter is the

22

1 last paragraph which says: "Job performance in a
2 prudent and conscientious manner is the
3 responsibility of every employee. Company rules,
4 policies, and procedures must be followed.
5 Deviation from these provisions will not be
6 tolerated and will result in severe disciplinary
7 action. Failure of an employee to properly
8 implement practices and procedures related to safety
9 will subject that employee to immediate discharge.

10 After that letter was written, we had
11 another incident involving three employees who were
12 all discharged for failing to perform safety-related

13 work. After a series of meetings with the Company,
14 it was agreed to reduce those discharges to
15 suspensions, and Mr. Donnelly was going to publish
16 what is now the July 1st, 1991 letter, and the Union
17 agreed to publish in their unit newsletter a warning
18 to employees that the Company was taking safety
19 seriously, and Mr. Donnelly's 1991 letter, on the
20 second page, he listed the specific types of conduct
21 which could result in discharge. Those are listed A
22 through D.

23 MS. GARNER: Can we go off the record for
24 a minute?

25 (Discussion off the Record.)

23

1 BY MS. GARNER:

2 Q. Go ahead.

3 A. After he listed the types of violations,
4 then he went on to say that although certain conduct
5 in violation of safety rules and regulations may
6 have subjected individuals to lesser discipline in
7 the past, safety violations such as those referred
8 above will now subject an employee to discharge for

9 a first offense. Other safety infractions will
10 result in more severe disciplinary action than in
11 the past.

12 So basically even though we hadn't
13 discharged employees prior to this, or if we did, we
14 reduced them to suspensions, he was putting them on
15 notice that we're no longer going to tolerate that
16 and employees could be discharged for first offense.

17 Q. Who do these letters apply to?

18 A. These are to all operating departments,
19 personnel.

20 Q. And is Mr. Jackson one of those employees?

21 A. Yes, he was.

22 Q. And why -- I'm sorry. And was the purpose
23 of the 1991 Donnelly letter in July to reiterate the
24 discharge provisions of the Jaudes letter in 1991?

25 A. Yes, it was. And also it was to warn

24

1 everybody that although he hadn't been discharged in
2 the past for some of these offenses, they would be
3 subjected to discharge for a first offense from this
4 point forward.

5 Q. Looking specifically at the letter dated

6 July 1, 1991, the two-page letter, what sections of
7 that letter apply to the conduct of Grievant -- I'm
8 sorry, what paragraphs?

9 A. Paragraph A, failure to require the
10 required gas leak test.

11 Q. I'm sorry, failure to?

12 A. To conduct required gas leak test with the
13 assigned detection equipment. The detection
14 equipment is the CGI.

15 B, failure to conduct prescribed
16 inspections of company facilities, which was the
17 turn off turn on procedure that he was out there to
18 do on those two homes.

19 And then D when he falsified the CIS
20 ticket which documents the readings he claimed to
21 have taken, that he falsified those records, which
22 would be the other item D.

23 Q. How was Grievant made aware of the contents
24 of these letters?

25 A. These letters are -- they're posted
25

1 throughout the Company. Mr. Jackson worked from

2 1988 to 2002, I believe October.

3 Q. I'm sorry, 19 --

4 A. '88 to 2000 -- I think October, 2002, in
5 Construction and Maintenance North and SAID Central,
6 those notices are posted on the bulletin boards that
7 are enclosed in glass. All three notices are
8 posted, and he also worked in the SAID North
9 District, and they only have the 1991 Mr. Jaudes
10 letter from May 3rd, 1991 posted up there.

11 Q. You mentioned SAID. Can you tell the
12 Arbitrator what SAID stands for?

13 A. Yeah. Mr. Jackson was a member of the
14 Service and Installation Department, which is what
15 we commonly call SAID.

16 Q. Was there any other way the Grievant was
17 made aware of the safety letters?

18 A. Well, he was working in the Central
19 District of the SAID in 2001 when another employee,
20 another service technician, was discharged by the
21 name of Stanley Betts for failure to perform safety
22 tests as required in the Donnelly/Jaudes letters.

23 Q. So at the time Mr. Betts was discharged,

24 Mr. Jackson was working in the same district doing
25 the same job?

26

1 A. That's correct.

2 Q. And is there any other way that Mr. Jackson
3 would know about these letters?

4 A. Well, Mr. Jaudes' letter from 1991 was
5 presented to Mr. Jackson in his orientation in
6 Construction & Maintenance. It's also commonly
7 known throughout the company that employees can be
8 discharged because we've had a number of discharges
9 related to this work, and normally after an incident
10 like that, and even periodically, the supervisors
11 will remind employees of the importance of doing
12 safety-related work and the consequences.

13 Q. I'm handing you what's been marked as
14 Company Exhibit 1.

15 A. This is --

16 Q. Can you identify this, please?

17 A. This is Louis Jackson's contract employee
18 induction orientation checklist from the
19 Construction & Maintenance Department signed by

20 Mr. Donnelly and Mr. Jackson.

21 Q. And does it indicate on there anywhere that

22 Mr. Jackson received the safety letter?

23 A. Yes. Item 35 is the safety regulation

24 letter from Mr. Jaudes that I referred to.

25 Q. And is this document signed by Mr. Jackson?

27

1 A. Yes, it is.

2 Q. And is this kept in his employment file in

3 the regular course of business?

4 A. Yes, it is.

5 MS. GARNER: Ron, are we going to have our

6 regular agreement where as long as there's no

7 objection, we'll admit documents without so stating?

8 MR. WILKEY: Yes. That's fine.

9 MS. GARNER: Is that all right with you,

10 Mr. Nitka?

11 THE ARBITRATOR: Absolutely.

12 MS. GARNER: So I wouldn't have to go

13 through to move to admit.

14 Q. How many employees have been discharged

15 under the Donnelly/Jaudes letters?

16 A. We've had seven.

17 Q. And who are they?

18 A. We had James Cochran, Mr. Cochran from
19 Construction & Maintenance. We had Mark West from
20 Service and Installation Department, North District.
21 Stanley Betts, who I spoke about previously in SAID
22 Central. We had Monroe Harrison, Construction &
23 Maintenance North; Mark Mensio, Construction &
24 Maintenance North, Don Mraz, Construction &
25 Maintenance South and Max Kroner, who was SAID
28
1 South.

2 Q. Okay. With respect to the -- five of those
3 cases have been arbitrated; is that correct?

4 A. Yes, ma'am.

5 Q. And I'm just going to go ahead and name
6 Cochran, West, Betts, Harrison and Mensio were
7 arbitrated?

8 A. That's correct.

9 MS. GARNER: Mr. Arbitrator, you'll see in
10 the stipulations that we attached those decisions.

11 Q. Now, Mr. Mraz was discharged for the
12 Donnelly/Jaude's letters?

13 A. Yes, he was.

14 Q. Can you explain the facts of the case?

15 A. Yes. Mr. Mraz was required to do what's

16 called an anode inspection, which is a required

17 inspection under the Donnelly/Jaude's letters because

18 it's the same inspections that Mr. Mensio and

19 Mr. Harrison were also required to do. Mr. Marz was

20 caught at a friend's home, an acquaintance's home.

21 He had falsified all the documents related to his

22 inspections, and we discharged him, and the Union

23 grieved it, and withdrew the grievance after the

24 third step meeting.

25 Q. And what about Mr. Kroner? He is a more
29

1 recent discharge who's not worked his way through

2 the grievance procedure; is that correct?

3 A. That's correct. We've had -- Mr. Kroner

4 was discharged for failing to perform required CGI

5 test in a customer's home on a leak call and

6 falsification of records related to that, that leak

7 call. He was discharged. We had a third step

8 meeting. The Union has requested arbitration, so

9 it's still pending.

10 Q. The five cases that were arbitrated, what
11 were the decisions in those five cases?

12 A. All five cases of discharges were upheld.

13 Q. Were you involved in the investigation of
14 Grievant that led to his discharge?

15 A. Yes, I was.

16 Q. And how did you become involved?

17 A. I received a call on the morning, maybe
18 around midday of March the 3rd, 2005 from J.J.
19 Williams.

20 Q. What did Mr. Williams tell you?

21 A. He informed me that two supervisors were
22 out in the field, and they observed Mr. Louis
23 Jackson performing two -- what's called a TFTO,
24 which is turn on turn off. In both instances,
25 Mr. Williams told me that the supervisors told him
30

1 that Mr. Jackson did not take the CGI into the
2 house, nor did he take any tools with him. He just
3 went in with a flashlight and a CIS ticket for that
4 residence.

5 Q. Were you at the third step meeting

6 concerning the Grievant's discharge?

7 A. Yes, I was. That was on March 18th.

8 Q. And actually at that time, he had not yet
9 been discharged. It was the third step meeting
10 concerning his indefinite suspension?

11 A. He was indefinitely suspended for failing
12 to perform safety-related work as required by
13 company procedures, falsification of records and
14 loafing.

15 Q. And you just kind of preempted my next
16 question. Is that what Grievant was told were the
17 nature of the charges?

18 A. That's what I stated as I opened the third
19 step meeting.

20 Q. So it was failure to follow company
21 procedures on a safety matter, falsification of
22 company documents and loafing?

23 A. Correct.

24 Q. And were the Donnelly/Jaudes letters
25 discussed at that third step meeting?

31

1 A. Yes. We discussed those in detail.

2 Q. And did Grievant or anyone on his behalf

3 ever raise the issue whether Grievant had knowledge
4 of the Donnelly/Jaudes letters?

5 A. No. That was not an issue.

6 Q. You stated that the reason for discharge
7 was also falsification of company documents. What
8 documents did Grievant falsify?

9 A. There's -- there was a CIS ticket required
10 for each TFTO; one on Trumbell and one -- Trumbell
11 and one on -- I can't think of the name of the
12 street, but I'll get it in a second.

13 Q. Let me hand you this joint exhibit. Maybe
14 this will refresh your memory as to the names.
15 Joint Exhibit 2, can you identify what that packet
16 is?

17 A. This is the CIS tickets for Mr. Jackson for
18 his work on March 3rd.

19 Q. Now, that would be all the stops he made on
20 that day?

21 A. Correct. That's his entire route.

22 Q. Okay. Does that refresh your memory as to
23 the name of the two streets --

24 A. Yes.

25 Q. -- on which he went that day?

32

1 A. The other one was Titus. I just forgot.

2 Q. So it's Titus and Trumbell?

3 A. Right. That's correct.

4 Q. And what was the -- if you could locate the

5 CIS and tell us what page it is for Titus?

6 A. The sixth page is 8021 Titus.

7 Q. Can you indicate to the Arbitrator where

8 you find it on the sheet?

9 A. The address is right here, sir

10 (indicating).

11 Q. So the CIS ticket, which is the customer

12 information system ticket for Titus, where is that

13 falsified?

14 A. This is the document that Mr. Jackson was

15 presented at the beginning of his shift. On the

16 back of the document, on the left-hand side of the

17 page just above the middle, there's an entry for

18 service entrance inspection, and you're supposed to

19 take readings where you're required to take them,

20 and this particular job required him to take a

21 reading inside. Mr. Jackson recorded zero percent
22 reading, and then in his comments at the bottom of
23 the page, he states read meter, made CGI and then
24 other comments about other conversation he had with
25 the customer. So he documented that he made a CGI
33
1 in his remarks and in the service inspection entry.

2 Q. Can you show the Arbitrator, please, where
3 that information is found on the CIS?

4 A. On the back side of the service, and then
5 it's comments on the bottom.

6 THE ARBITRATOR: Okay.

7 THE WITNESS: And --

8 BY MS. GARNER:

9 Q. And why is that a falsification?

10 A. Based on the testimony that was given by
11 the Company supervisors, Mr. Jackson entered the
12 premise without a CGI, so, therefore, he could not
13 have taken these readings that he claimed he took.

14 Q. This is a CGI?

15 A. Correct.

16 Q. This is the instruments that he's required

17 to take in order to take those readings on the mark

18 on the CIS ticket?

19 A. That's correct.

20 THE ARBITRATOR: Could you read into the

21 record his remarks? I can't read it.

22 MS. GARNER: Wally, could you, please?

23 THE WITNESS: It says read meter. Made

24 CGI --

25 MR. WILKEY: I'll object. That's not CGI.

34

1 That's GSI.

2 THE WITNESS: Oh, I'm sorry. He said made

3 gas safe inspection, I'm sorry, which is what the

4 SEI is, service entrance inspection is. Customer

5 asked about space heater. Called meter desk. Space

6 heater not inspected. Called Sisak, that's his

7 foreman, and he said to charge an inspection on

8 space heater. Customer -- something about call

9 agent to find out why leak not -- why leak not

10 inspected. I'm trying to read his writing.

11 THE ARBITRATOR: Why don't we have the

12 Grievant read it?

13 MR. WILKEY: That's what we were talking

14 about. Nobody can read my writing I know.

15 THE WITNESS: I got most of it.

16 MR. JACKSON: Read meter. Made GSI, and

17 customer asked about space heater. Called meter

18 desk -- space heater not inspected. Called Sisak.

19 He said to charge for inspection on space heater.

20 Customer will call agent to find out why heater was

21 not inspected.

22 THE WITNESS: That's correct.

23 THE ARBITRATOR: Okay. I'm sorry, go

24 ahead.

25 MS. GARNER: You were close, Wally.

35

1 BY MS. GARNER:

2 Q. And could you go to the CIS ticket for

3 Trumbell, please?

4 A. Okay. It's three pages back from the

5 Titus, should be the 9th page.

6 Q. Farther back?

7 A. Farther back towards the end of the day.

8 THE ARBITRATOR: Three pages you say? I

9 got a Mallard on the third page.

10 THE WITNESS: Yeah. That's the name. The

11 address is below it.

12 THE ARBITRATOR: Oh, okay. All right.

13 THE WITNESS: You had it.

14 THE ARBITRATOR: There you go.

15 MS. GARNER: Need to give lessons on how

16 to read our documents.

17 THE WITNESS: Should have highlighted them

18 for you.

19 BY MS. GARNER:

20 Q. Before we go to Trumbell, can you explain

21 what an SEI, service entrance inspection, is?

22 A. Service entrance inspection is required

23 when a TFTO is performed, and they check for the

24 presence of migrating gas when they're in the home.

25 Actually, any time a service technician enters the

36

1 home, they take -- they make sure the home is gas

2 safe. The purpose of the TFTO is to create a final

3 bill for the previous customer and start a new

4 account for this customer. While they're in the

5 home, they do the CGI check and they do a personal

6 inspection of the appliances and things like that.

7 Q. Back to the CIS ticket for Trumbell, can
8 you indicate the portion of the ticket that was
9 falsified?

10 A. That would also be on the back of the form.
11 On this particular job, again the supervisor told me
12 that Mr. Jackson did not enter the premises with the
13 CGI so, therefore, the zero percent reading at the
14 SEI at the top of the page is falsified.

15 They did observe him later at the end of
16 that job go to his van and get a CGI, come out to
17 the curb and do the outside bar -- the outside zero
18 percent is accurate, and the comments where it says
19 read meter, make gas safe inspection, which is the
20 CGI portion of it, all okay, so he claimed he did it
21 again on the remarks.

22 Q. On the CIS tickets, does Mr. Jackson sign
23 these tickets?

24 A. They are signed on the front.

25 MR. WILKEY: That's GSI again, not CGI.

37

1 THE WITNESS: I said GSI. I said he made
2 a CSI -- CGI to perform.

3 MR. WILKEY: Okay.

4 BY MS. GARNER:

5 Q. Finally, you said the Grievant was also
6 discharged on the basis of his overall record?

7 A. That's correct. We discussed that in the
8 third step meeting as well. Talked about his
9 overall work record in that it was a very poor work
10 record.

11 Q. Can you tell me about Grievant's overall
12 prior record?

13 A. He had a couple of -- he had a minor
14 suspension for, I believe, one day and a couple of
15 hours for falsification of records and loafing, and
16 then in 2002 --

17 Q. Let me hand you Joint Exhibit 7. Can you
18 identify that exhibit, please?

19 A. Yeah. This is the suspension that was
20 spoke of previously on October 29, 2001.

21 Q. And why was he suspended in October of
22 2001?

23 A. He was suspended for 9.3 hours in the
24 middle of the document, statement says Mr. Jackson

25 was suspended for 9.3 hours for loafing, falsifying
38
1 company documents and failure to follow company
2 policies.

3 Q. Can you describe the circumstances of this
4 discipline?

5 A. Yeah. When the service -- at this
6 particular time, he was working instead of the route
7 like he had there with the service orders, he was
8 working off a dispatching board where you clear a
9 job and then they give you another job, and the
10 procedure requires the technicians to clear, when
11 they're finished, to contact the dispatcher in case
12 there's another job pending. Mr. Jackson was
13 observed for 45 minutes sitting in his van prior to
14 clearing the job, so that -- so he falsified his
15 route sheet in order to cover that time and he was
16 loafing instead of taking another job. That's what
17 this is about.

18 Q. And you said the resulting discipline was
19 one day and three hours suspension?

20 A. That's correct.

21 Q. Was this an issue of dishonesty?

22 A. Yes, it is. Falsification of company

23 documents is dishonesty.

24 Q. And how is it dishonest in this instance?

25 A. Well, he prepared -- first of all, he

39

1 was -- he was not working when he claimed to be

2 working, and he -- in order to cover that up, he had

3 to falsify the route sheet in order to make his

4 times come out.

5 Q. Looking again at Joint Exhibit 7, is there

6 additional discipline reflected there?

7 A. Yes. There's a second employee file

8 memorandum for October, 2003.

9 Q. And what was that for?

10 A. This was a warning. We do home sale

11 inspections when homes are purchased, and apparently

12 in this particular instance, Mr. Jackson failed to

13 notice some cracks in a faceplate of a furnace, and

14 so he was warned that if it occurred again, he would

15 be subject to progressive discipline.

16 Q. Okay. I'm handing you what's been marked

17 Company Exhibit 3, can you identify these two pages,

18 please?

19 A. First page is dated May 10th, 2004 from
20 Angelo Shaw, who is a supervisor in our Customer
21 Relations Department, and it documents a complaint
22 that we received from a customer.

23 MR. WILKEY: Mr. Arbitrator, I'm going to
24 object to this evidence. It actually is the
25 customer complaint. Unless the Company's going to
40
1 have the customer come in and testify to this, I
2 don't believe it's relevant to this issue.

3 MS. GARNER: It's part of his overall
4 record, Your Honor, and he was discharged on the
5 basis of his overall record. The testimony will
6 show that we did receive a complaint. Although no
7 discipline was issued, this is what we find in the
8 file as part of his record.

9 THE ARBITRATOR: Was the Grievant given a
10 copy of this?

11 MS. GARNER: Grievant explained it. If
12 you look at page 2, he called the supervisor to
13 explain because he knew these people were

14 complaining about him, so he was aware of it. He
15 was spoken to about it. I cannot say whether or not
16 he was given a copy of the top page of the document.

17 THE ARBITRATOR: Well, let's take it from
18 the basis that there was a complaint.

19 MS. GARNER: That's our only point.

20 THE ARBITRATOR: We don't need to go into
21 the specifics.

22 MR. WILKEY: Some of the stuff she just
23 said we don't agree with.

24 THE ARBITRATOR: Right. I understand.

25 MS. GARNER: So we would enter Company 3
41

1 for the purpose of showing that as part of his file,
2 we received a customer complaint about Mr. Jackson
3 on a customer's premise.

4 THE ARBITRATOR: That's fine. Thank you.

5 BY MS. GARNER:

6 Q. Okay. What's the remaining part of his
7 overall record that was considered in his decision
8 to discharge in this instance?

9 A. The previous discharge that occurred.

10 Q. I'm handing what's been marked Company

11 Exhibit 2. Can you identify that document, please?

12 A. This is a settlement agreement dated April
13 24, 2002 signed by Mr. Gery Gorla, director of labor
14 relations, Tom Scheibelhut, who was the business
15 manager of Local 6 at the time, and Louis Jackson
16 reinstating him after a 60-day suspension.

17 Q. And what was the date he was indefinitely
18 suspended?

19 A. He was indefinitely suspended on January
20 29th, 2002.

21 Q. And what was the reason for the suspension?

22 A. He was indefinitely suspended for alleged
23 theft of company property and tampering with a gas
24 meter.

25 Q. And was he discharged?

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1 A. He was discharged on February 26, 2002.

2 Q. And what date was he returned to work?

3 A. He returned to work on April 24th, 2002.

4 Q. And what's the date on the agreement?

5 A. It's dated April 24, 2002 as well.

6 Q. What was the nature of the theft of company

7 property?

8 A. We received a call from a customer,
9 identified himself as Steve Yoder, who was an
10 acquaintance of Mr. Jackson.

11 MR. WILKEY: Again, I want to object to
12 the line of questioning as calls for hearsay
13 basically what a customer -- if the customer, unless
14 they're going to testify, the Grievant is not going
15 to have any ability to confront their accuser or the
16 Union cross examine.

17 MS. GARNER: I would state that
18 Mr. Jackson signed this agreement agreeing with a
19 60-day suspension, a working day suspension, and
20 that in itself is an admission to some wrongdoing
21 and misconduct. If he wants to dispute the nature
22 of what that misconduct was, he's more than happy to
23 do so on direct, but the agreement stands. It's a
24 60-day suspension for this alleged misconduct.

25 MR. WILKEY: The agreement actually says
43
1 alleged theft and tampering with the gas meter. The
2 Grievant never admitted to theft or tampering. The
3 Grievant was in a no-win situation without a job for

4 over 60 days, close to financial --

5 MS. GARNER: I'll object to Mr. Wilkey

6 testifying about the no-win situation.

7 MR. WILKEY: He had no choice in this

8 matter.

9 MS. GARNER: It's clear and understood --

10 THE ARBITRATOR: This is entered as

11 evidence of another situation.

12 MS. GARNER: Of another situation.

13 THE ARBITRATOR: That's fine. Let's leave

14 it at that. Got a 60-day -- two months?

15 MS. GARNER: 60 working days, which is

16 more like a three-month suspension.

17 THE ARBITRATOR: All right. Okay.

18 MS. GARNER: But this document is

19 acceptable as admitted, sir, over Mr. Wilkey's

20 objection?

21 THE ARBITRATOR: Yeah. Yeah. Right. For

22 the purpose that I stated.

23 BY MS. GARNER:

24 Q. And what does this document state with

25 respect to the use of discipline in any future

44

1 proceedings?

2 A. That this could not be used as a precedent

3 for any other case except that of Mr. Jackson's.

4 Q. But does it say that it can be used with

5 respect to Mr. Jackson?

6 A. Yes, it does.

7 Q. Can you specify where it says that?

8 A. Point number 3: The Company and Union

9 agree that this settlement is not a precedent in any

10 past, present or future case, and shall not be

11 referred to by either party as to any past, present

12 or future case, except as provided herein with

13 respect to a case involving Louis L. Jackson.

14 Q. Now the end of paragraph 1, can you read

15 the last sentence of that paragraph?

16 A. This suspension shall remain in his record

17 and may be used in any further case involving Louis

18 L. Jackson.

19 Q. And actually that's supposed to be Louis G.

20 Jackson.

21 A. Sorry.

22 Q. Again was this a case of dishonesty on the
23 part of the Grievant?

24 A. Yes, it was.

25 Q. I'm handing you what's been marked as
45
1 Company Exhibit 4. Please identify this exhibit,
2 please?

3 A. This is a Wage Rate Record, which is
4 commonly referred to at Laclede as an ACME card,
5 which indicates all the jobs that an employee held
6 and the rate of pay throughout their career.

7 Q. And when was the Grievant first hired?

8 A. That's at the top of the page, 11-12-98 as
9 a helper.

10 Q. And how many years of experience did
11 Grievant have at the time of his termination with
12 Laclede at his discharge?

13 A. He was here just over seven years.

14 Q. And does the ACME card accurately reflect
15 the employee's dates of employment?

16 A. Yes, it does.

17 Q. On that ACME card, it reflects that he was

18 employed in SAID at the same time Mr. Betts was
19 discharged?

20 A. That Mr. Betts was discharged in March of
21 2001 and Mr. Jackson, if you look at the entry on
22 the second page, the lower page if you want to call
23 it, 10-4-99, it says he was -- let's see. I'm
24 trying to find his transfer. Where it says -- okay
25 -- from October 30th of 2000 that number 37

46

1 represents SAID Central, that's the department
2 number, through 4-16-01 when he went from 37 to 48,
3 so he transferred to Construction & Maintenance, so
4 from October of 2000 through April of 2001, he was
5 working in the Service and Installation Department
6 in Central District, which is at the time that this
7 incident with Mr. Betts occurred.

8 Q. Does the Grievant have a good work record?

9 A. No, he does not.

10 Q. And in your estimation, is the Grievant
11 credible?

12 MR. WILKEY: Calls for -- I object. Calls
13 for speculation.

14 MS. GARNER: Mr. Reitz was involved in the

15 decision-making process on whether or not to
16 terminate. Credibility was a decision.

17 THE ARBITRATOR: You can go into the
18 details.

19 MS. GARNER: I'm sorry?

20 THE ARBITRATOR: You better go into
21 details if you want. That's his opinion.

22 MS. GARNER: It is his opinion but he's
23 one of the decision makers of this matter.

24 THE ARBITRATOR: He's a decision maker and
25 one of the reasons for his discharge was?

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1 THE WITNESS: We didn't trust Mr. Jackson.

2 We didn't believe that he was honest with us.

3 THE ARBITRATOR: That's fine.

4 BY MS. GARNER:

5 Q. Does Laclede trust the Grievant to go out
6 and do his job as service technician?

7 A. We did not trust Mr. Jackson to work
8 independently with intermittent supervision in the
9 performance of his work according to our procedures
10 and accurately record the information based on his

11 previous disciplinary problems.

12 Q. And did you make the recommendation to
13 discharge the Grievant?

14 A. Yes, I did.

15 Q. And on what basis?

16 A. On the basis of his failure to follow
17 company procedures related to safety, falsification
18 of company documents and his overall work record.

19 Q. And the company's procedure is what he
20 didn't follow was related to safety?

21 A. I believe I said that, yes. That's
22 correct.

23 MS. GARNER: I have nothing further.

24 THE ARBITRATOR: Cross examination?

25 EXAMINATION

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1 QUESTIONS BY MR. WILKEY:

2 Q. Yes, just a few things here, quite a few
3 things actually. Start off with Joint Exhibit
4 Number 2, Wally -- first of all, grab that.

5 A. I got it.

6 Q. Did you personally observe Mr. Jackson on
7 3-3-05?

8 MS. GARNER: I object. There was never
9 any testimony that Mr. Reitz did personally observe.

10 THE WITNESS: No. I said I based that on
11 information that I got from Sisak and Mr. Ferris.

12 MR. WILKEY: Based on what they observed
13 that day?

14 A. Yes.

15 Q. Based on what they say they saw that day?

16 A. That's correct.

17 Q. Looking at Joint Exhibit 2, it says that
18 part of the falsification is where Mr. Jackson wrote
19 in on the back side of the first -- is it the first
20 page -- turn to Titus is what I'm looking for, first
21 of all?

22 A. I've got it.

23 Q. On Titus, that's where Mr. Sisak and
24 Mr. Ferris observed Mr. Jackson on March 3rd; is
25 that correct?

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1 A. That's one of the two jobs, correct.

2 Q. Okay. And on the back, you testified that
3 he falsified the document by entering a zero on the

4 inside read; is that correct?

5 A. That's correct.

6 Q. Okay. Had Mr. Ferris and Mr. Sisak been

7 mistaken and Mr. Jackson did have the Ranger, or the

8 CGI equipment, and wrote that in there, he would not

9 be falsifying this document then, would he?

10 A. Not if he had the CGI inside, no.

11 Q. And turn to Trumbell. The same question

12 there. When you turn to the back, you said that

13 his falsification of this document was the zero

14 percent on the inside read. Had the two supervisors

15 been mistaken and Mr. Jackson did carry in his CGI

16 equipment and put that down, would he be falsifying

17 this document then?

18 A. Not if he performed a test with the

19 equipment, no.

20 Q. Okay. And what is the importance of

21 getting that read? I believe those jobs were --

22 let's look at them again. I believe Titus was a

23 turn off turn on; is that correct?

24 A. I believe they both were.

25 Q. Okay. And what's the significance if

1 Mr. Jackson did not get that read?

2 A. Any time -- our procedures require any time
3 we enter a customer's home to obtain a CGI reading,
4 to do a gas safety inspection, so once we go in to
5 obtain the meter read, we're required to perform the
6 inspection.

7 Q. Okay. And what's the reason for performing
8 that inspection and getting the read on the inside
9 of the house?

10 A. Because whenever -- whenever a service
11 technician is in the customer's home, they need to
12 make sure that the customer's home is safe from --
13 is gas safe.

14 Q. Just to make sure that there's no gas
15 inside the house?

16 A. That's correct.

17 Q. Is that right?

18 A. Yeah.

19 Q. That's the same way with Trumbell also?

20 A. Yes, it is.

21 Q. You stated that you did not witness but yet

22 you're going on the belief of what the two

23 supervisors observed that day; is that correct?

24 A. That's correct.

25 Q. Okay. And you stated that, your final

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1 testimony there, that the reason you terminated

2 Mr. Jackson was because he was not, he was not a

3 trusted individual and you didn't believe him; is

4 that correct?

5 A. That's correct.

6 Q. Okay. Do you believe Mr. Ferris?

7 A. Ferris?

8 Q. Ferris, I'm sorry. Did you believe

9 Mr. Ferris then?

10 A. I spoke to both Mr. Ferris and Mr. Sisak

11 and found their stories to be credible.

12 THE ARBITRATOR: Excuse me. Were they

13 together?

14 THE WITNESS: They were together in the

15 same vehicle.

16 BY MR. WILKEY:

17 Q. So you would say that Mr. Sisak and

18 Mr. Ferris are more credible witnesses -- or more

19 credible individuals than Mr. Jackson is, is that
20 your testimony?

21 A. That's what I believe.

22 Q. And you based the -- Company based its
23 decision solely on what those two folks observed
24 that day?

25 A. Correct.

52

1 Q. Okay. And who made the decision to
2 terminate Mr. Jackson?

3 A. I made the recommendation.

4 Q. You made the recommendation based on --

5 A. Based on the information conducted in the
6 investigation and what was said at the third step
7 meeting.

8 Q. Okay. Are you aware that the Company made
9 a tape that simulated the occurrences that
10 Mr. Ferris and Mr. Sisak went out and made some two
11 weeks later of what allegedly Mr. Jackson had done
12 that day on those two jobs?

13 A. Yes, I am.

14 Q. Did you review that tape?

15 A. Yes, I did.

16 Q. Was that tape used in part of your --

17 A. We -- no. We didn't feel it was -- didn't

18 make a difference either way. It just didn't help

19 us, didn't hurt us. It just showed two supervisors

20 wearing -- demonstrating what Mr. Jackson was doing,

21 once with a jacket on and once without a jacket on,

22 which was a point of contention at the third step

23 meeting because Mr. Jackson claimed he had his

24 jacket on and that's why we couldn't see his CGI.

25 Both supervisors state -- or will state that he did

53

1 not have a coat on that day and it was clear that he

2 did not have the instrument around his neck as he

3 claimed.

4 So we felt that from the spots where they

5 were parked two weeks prior just to demonstrate what

6 it did or didn't, you know -- how easily you could

7 tell, we just felt like it didn't make any

8 difference. The tape was, you know -- it is what it

9 is so we didn't include it.

10 THE ARBITRATOR: That's why we're here,

11 isn't it?

12 THE WITNESS: Yeah.

13 BY MR. WILKEY:

14 Q. But you sent that as discovery to the

15 Union; is that not correct?

16 A. Yeah. We were considering whether or not

17 it was going to make -- it was worth putting on in

18 our case.

19 Q. And did you review the tape?

20 A. Yes, we reviewed the tape.

21 Q. So you're comfortable believing that

22 Mr. Ferris and Mr. Sisak was at the addresses they

23 claim they were at and observed Mr. Jackson?

24 A. Yes.

25 MS. GARNER: I'll object because he's

54

1 going to have Sisak and Ferris to ask about whether

2 or not they were at the right addresses.

3 MR. WILKEY: Just asked him if he believed

4 him.

5 THE ARBITRATOR: He's the gentlemen that

6 listened to the story and made a decision. Go

7 ahead.

8 THE WITNESS: I believe they were where

9 they said they were.

10 BY MR. WILKEY:

11 Q. Okay. And in Company Exhibit Number 2,

12 were you involved in that settlement agreement?

13 A. Yes, I was.

14 Q. And were you at the meeting where that

15 agreement was signed?

16 A. Yes, I was.

17 Q. Okay. Did Mr. Jackson ever admit theft or

18 tampering with the gas meter?

19 A. Mr. Jackson denied it.

20 Q. So that answer is yes then?

21 A. Did he ever? The answer would be no.

22 Q. I'm sorry.

23 MS. GARNER: We'll take that answer.

24 THE WITNESS: He did not admit it, no.

25 BY MR. WILKEY:

55

1 Q. He never admitted that he was tampering

2 with the gas meter that he's -- theft of company

3 property?

4 THE ARBITRATOR: Was there a grievance

5 filed over this?

6 THE WITNESS: Yes. We had a third step
7 grievance meeting.

8 THE ARBITRATOR: It was dropped?

9 THE WITNESS: And it was withdrawn.

10 BY MR. WILKEY:

11 Q. Okay. And when -- I don't think you need
12 to look at them, Wally, but the cases, the Cochran,
13 the Betts, Mensio, West and Harrison, you're
14 familiar with those cases, right?

15 A. Yes, I was.

16 Q. And there's a difference between those
17 cases and Mr. Jackson's case, isn't there?

18 A. Well, they're all related to safety-related
19 work according to company procedures, but they're --
20 they're all different. There's a different twist on
21 every one of them as far as their inspections.

22 Q. Right. And with taking Cochran out of it
23 for right now and just talking about the Betts,
24 Mensio, West and Harrison, wasn't there physical
25 evidence that those individuals did not perform the

1 safety inspection?

2 A. Well, that -- I don't agree with you on
3 Betts because we had a supervisor who observed
4 Mr. Betts not perform his CGI check outside on a
5 building, which was the prominent reason why he was
6 discharged.

7 Q. But wasn't some of the -- didn't the
8 Company talk to the customer in that incident
9 because the customer had called in and complained?

10 A. Actually, the customer called in and
11 complained on the previous job, and that's why
12 Mr. Mehringer, the supervisor, went to his next job
13 and waited for him around the corner, and he was
14 supposed to do a CGI test -- this was a leak call,
15 so he was supposed to go inside, and then it was a
16 corner house, so he had to do the CGI check on both
17 sides of the corner, both sides -- the side street
18 and the house, the street the house was addressed
19 on. He did not do the adjoining street check.
20 Supervisor observed him, and he was indefinitely
21 suspended for failing to perform the proper
22 safety-related test, and he was discharged and it

23 was upheld.

24 Q. Wasn't Betts also part of the proof there

25 was no bar hole at the riser?

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1 A. There was -- I'd have to look -- I can't

2 remember to that extent. I know the primary reason

3 was he didn't put the extra bar hole down on the

4 side of the house.

5 Q. But there was some physical evidence that

6 you based your decision on; isn't that correct?

7 A. It was based on observation. I don't

8 remember testifying about the bar hole. Is that --

9 was that on Oakland you're talking about? It was on

10 Oakland too.

11 Q. I don't know what street.

12 A. There were two addresses that he was

13 involved in that day. The second one was Oakland.

14 That's where the bar hole was not performed on the

15 second street.

16 Q. And you went out and looked for a bar hole,

17 is that correct, and you didn't find one?

18 A. Right. We didn't find one, but --

19 Q. So there was some physical evidence. Did

20 you ever talk --

21 MS. GARNER: Ron, let him finish.

22 THE WITNESS: There was no physical

23 evidence. There was lack of physical evidence,

24 there was no bar hole, but it was based on what

25 Mehringer testified that he watched him and he

58

1 watched him the entire time. He could see him in

2 his truck, and he never came around the side of the

3 house.

4 BY MR. WILKEY:

5 Q. Did the Company ever talk to the customer

6 in this instance?

7 A. On Titus and Trumbell?

8 Q. No. No. No. On the Betts, wasn't the

9 customer --

10 A. We did talk to the customer on the previous

11 job because it was a no gas, and there was problems.

12 They had a heating contractor out there and all

13 that. That's how we got involved. I don't remember

14 talking to a customer on Oakland.

15 Q. But you did talk to one of the customers

16 though?

17 A. On the first job, which is how -- when a
18 customer called -- after he left and he didn't do
19 the job properly, they called the board back and
20 they called the foreman on duty, which was
21 Mehringer, and said we just had a guy out here and
22 we have no gas, so he started investigating.

23 Q. Through your investigation, you had
24 conversation with the customer?

25 A. On the first job, correct.

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1 Q. And in the Mensio and the Harrison case,
2 didn't that deal with inspections of valves in the
3 street and in the yards?

4 A. They were, yes. That's correct.

5 Q. And wasn't some of the Company's evidence
6 based on physical evidence, if not all?

7 A. It was -- yes, it was all physical evidence
8 because we did not --

9 Q. No supervisor observed them?

10 A. No.

11 Q. Okay. And in the Cochran case, there was

12 also some physical evidence in that also, wasn't

13 there?

14 A. That's correct.

15 Q. And do you recall what that physical

16 evidence was?

17 A. That's the only case that I wasn't in the

18 department for. I read the award. I know that

19 there was some anodes that were covered over and had

20 not been -- the curb box wasn't exposed.

21 Q. So there was no way he could have made --

22 A. He couldn't have done the inspection

23 because he never exposed the box.

24 Q. Now, on the Trumbell address, isn't it true

25 that Mr. Jackson did bar hole the outside of that

60

1 job?

2 A. Yes. That's correct.

3 Q. And on the Titus, he wasn't required to do

4 an outside bar hole?

5 A. No. It wasn't required. It depended on

6 the material that's in the service going into the

7 house, the gas line, whether or not you have to

8 check outside.

9 Q. In your decision on the loafing part that
10 was based on the supervisors, what they told you,
11 the two supervisors?

12 A. Talking about Mr. Jackson now?

13 Q. Yes.

14 A. Yes.

15 Q. Okay. And did you do anything in the part
16 of this investigation -- were you part of the
17 investigation for the Company?

18 A. I was contacted by Mr. Williams while it
19 was still going on in the field, and I instructed
20 them to continue to follow Mr. Jackson for the rest
21 of the day to see if there was any more misconduct.

22 Mr. Williams also told me that he sent
23 somebody back to do the CGI checks that Mr. Jackson
24 didn't do at the two previous residences. So, yes,
25 I was involved as it was ongoing.

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1 Q. And the reason they sent them back was
2 because of needing to get a read inside to make sure
3 there was no gas there; is that correct?

4 A. That's correct.

5 Q. Okay. And you testified that you -- you
6 did -- you were involved in the investigation
7 personally?

8 A. I did not go in the residences, but I was
9 involved from the perspective I was notified as it
10 was ongoing and I interviewed all the parties
11 involved and looked at the information that is in
12 Company Exhibit 2, correct.

13 Q. But you made the recommendation to
14 discharge?

15 A. Yes, I did.

16 Q. Did you ever talk to the customer at any
17 one of those addresses, the Trumbell or Titus?

18 MS. GARNER: I'll object, because talking
19 to a customer in this instance is not going to help.
20 They are not going to know what a CGI is or whether
21 or not he had it. And I'll also add that they're
22 not bringing the customers in, so it's not relevant
23 to anything we're talking about here.

24 MR. WILKEY: I would say, number one, the
25 Company has the burden of proof, and,

1 Mr. Arbitrator, all we're trying to show is that the

2 Company did not investigate this fully.

3 MS. GARNER: What's the relevance of
4 talking to customers in this case?

5 MR. WILKEY: Well, there's a discrepancy
6 between if he had it or didn't have it, and the
7 customers certainly would have been someone the
8 Company should have talked to find out if the
9 customer recalled or not whether he had the
10 equipment inside the house. That piece of equipment
11 would be very obvious to a customer.

12 MS. GARNER: Mr. Arbitrator, I would
13 submit that a customer doesn't know what a CGI is or
14 what it's used for --

15 THE ARBITRATOR: That makes two of us.

16 MS. GARNER: We're going to help you out
17 on that.

18 MR. WILKEY: But I'd have to say in
19 response to that that if you look at that piece of
20 equipment, the customer, if they see that on a
21 person, sitting on a floor, sitting on a coffee
22 table, wherever it's at, they're going to remember

23 that. That's -- that's not a common piece of
24 equipment.

25 THE ARBITRATOR: Let's face it, the
63

1 Company is relying totally on the testimony that's
2 going to come forth from the two individuals who
3 were at the premise at the same time as the
4 Grievant, and you're not going to be able to get any
5 more than that. I understand what you're saying to
6 me. What I'm saying to you they have their
7 inspection as limited as it might have been. That's
8 an argument, you know. You can go ahead and argue
9 that case.

10 MR. WILKEY: I was just wanting to know
11 whether he contacted the customer.

12 THE ARBITRATOR: He said he didn't.

13 MS. GARNER: Asked and answered.

14 THE WITNESS: I was not out there.

15 BY MR. WILKEY:

16 Q. Okay.

17 A. I did not talk to them.

18 MR. WILKEY: That's all I have at this
19 time.

20 EXAMINATION

21 QUESTIONS BY MS. GARNER:

22 Q. Mr. Reitz, do you think it would have been

23 useful to talk to the customers in this matter?

24 A. In my opinion, it wouldn't be. A TFTO is

25 performed -- the meter is in the basement in these

64

1 homes, and oftentimes customers don't even go with

2 you. I mean, you let them in the door and they go

3 inside and they read your meter and do a couple of

4 checks and leave. It's kind of technical so I'm not

5 sure they would really understand what was going on.

6 MS. GARNER: I have nothing further.

7 THE ARBITRATOR: Thank you.

8 MR. WILKEY: Let me just make sure that I

9 have nothing further.

10 THE ARBITRATOR: I have a question. Did

11 the Grievant ever have the opportunity to be present

12 when the two supervisors were giving their statement

13 as to what occurred that day?

14 THE WITNESS: That was in the third step

15 meeting.

16 THE ARBITRATOR: What?

17 THE WITNESS: In the third step meeting,
18 he was present with both supervisors.

19 THE ARBITRATOR: I wanted to make sure.

20 All right.

21 THE WITNESS: Yes, sir.

22 EXAMINATION

23 QUESTIONS BY MR. WILKEY:

24 Q. Just one other question, Wally. You may
25 not know. How many jobs did the Company send a
65

1 serviceman back on to get the inside read that they
2 claim that Mr. Jackson didn't get?

3 A. You mean on that day?

4 Q. Uh-huh.

5 A. Well, I know they sent him back to those
6 two. I don't know if they were sent back to any
7 other one or not.

8 Q. Didn't send them back to any other jobs?

9 A. They may have. Mr. Williams would probably
10 know that possibly.

11 Q. Okay.

12 MR. WILKEY: That's all I have.

13 MS. GARNER: I have nothing further.

14 THE ARBITRATOR: Thank you.

15 (Witness excused)

16 THE ARBITRATOR: You want to take a break?

17 MR. WILKEY: I would like to take a short
18 break.

19 THE ARBITRATOR: Short break, yes.

20 (Recess)

21 JOSEPH J. WILLIAMS

22

23 of lawful age, having been first duly sworn to

24 testify the truth, the whole truth, and nothing but

25 the truth in the case aforesaid, testifies and says

66

1 in reply to oral interrogatories propounded as

2 follows, to-wit:

3

4 EXAMINATION

5 QUESTIONS BY MS. GARNER:

6 Q. Please state your name and spell it for the

7 record?

8 A. Joseph J. Williams, J-o-s-e-p-h,

9 W-i-l-l-i-a-m-s.

10 Q. And are you currently employed by Laclede
11 Gas Company?

12 A. Yes.

13 Q. And how long have you been employed by
14 Laclede Gas Company?

15 A. 23 years.

16 Q. How long?

17 A. 23 years.

18 Q. What's your current position with Laclede
19 Gas Company?

20 A. General foreman, Central District.

21 Q. In the Service and Installation Department?

22 A. In the Service and Installation Department,
23 yes.

24 Q. And in March of 2005, what was your
25 position at Laclede Gas Company?

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1 A. General foreman in North District, SAID.

2 Q. In your duties as general foreman, are you
3 responsible for the supervision of service
4 technicians employed by Laclede Gas Company?

5 A. Indirectly. As foreman are directly

6 responsible for the service technicians.

7 Q. And do you supervise the foreman?

8 A. I supervise the foreman, yes.

9 Q. Describe briefly how a service technician
10 with routed work, not working the dispatch board,
11 goes about his work?

12 A. In the mornings, service technicians come
13 in, they get jobs that's assigned to a route that's
14 assigned to them. They are to go out and do these
15 jobs, record their times on the route sheet,
16 document on the back of the -- and they also prepare
17 CIS form for billing purposes.

18 Q. And are service technicians closely
19 supervised in their work?

20 A. No.

21 Q. Why not?

22 A. The foremen are assigned approximately --
23 they have to supervise approximately 15 to 20
24 service technicians, so the service technicians are
25 basically supposed to go out and do the work

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1 independently by themselves, and that's about it.

2 Q. And if the service technician has a
3 question or an issue on the job, he can contact his
4 foreman by telephone and inquire about how he should
5 proceed; is that correct?

6 A. Correct.

7 Q. And with respect to -- strike that.

8 Before we get into the facts of this case,
9 would you please explain a few terms for the benefit
10 of the Arbitrator and the record? What's the
11 procedure required for an inside turn off turn on?

12 A. Inside turn off turn on, the service
13 technician is required to do gas safe inspection.
14 Gas safe inspection includes a cursory inspection of
15 the customer's gas appliances, check to make sure if
16 that they're operating safely and properly. Also to
17 take combustible gas reading at the inside service
18 entrance.

19 Q. Tell me what an inside service entrance is.

20 A. That's the Laclede Gas pipe that enters the
21 building.

22 Q. And you said they're supposed to take a CGI
23 reading?

24 A. Yes.

25 Q. What's a CGI?

69

1 A. Combustible gas indicator.

2 Q. And I'm pointing to what's been marked

3 Joint Exhibit 13. Can you tell me what this is?

4 A. That's a Gas Ranger is what we call it, a

5 combustible gas indicator.

6 Q. And what does it have attached to it?

7 A. That's the wand, the --

8 Q. You want me to give you a word here?

9 A. Yeah.

10 Q. This is the goose neck?

11 A. That's the goose neck.

12 THE ARBITRATOR: What?

13 THE WITNESS: It's called a goose neck,

14 I'm sorry. It's called a goose neck because it's

15 flexible.

16 BY MS. GARNER:

17 Q. And you said the wand?

18 A. That's the wand.

19 Q. And what's attached to the wand?

20 A. The filter and the hose.

21 Q. Can you show me where the filter is?

22 A. This is the filter here (indicating).

23 Q. And does the goose neck also have a filter

24 on it?

25 A. Yes, it does.

70

1 Q. Where's the filter? You need to turn it?

2 A. This is the filter (indicating).

3 Q. Does the CGI have a filter on it without

4 either the goose neck or the hose and the wand?

5 A. No.

6 Q. So the CGI is both the reading that we take

7 and sometimes what we call the machine when we take

8 it?

9 A. Yes.

10 Q. Why is it important to do an inside service

11 entrance CGI on an inside meter?

12 A. Because you have to make -- you have to

13 make sure that the gas service entering the building

14 is not leaking, and that there is no migrating gas

15 from other sources outside entering the building

16 that can accumulate.

17 Q. When you take a CGI into a building, can
18 you demonstrate how you would use the CGI? Let's
19 pretend that the water pitcher is a meter --

20 A. Yes.

21 Q. -- with the service entrance coming in
22 where the handle is.

23 A. Yes.

24 Q. Can you demonstrate, please, what you would
25 use this for?

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1 A. Yes.

2 Q. Turn it on.

3 A. (Witness complied.) Turn the device on.

4 Percent of gas.

5 Q. What do you use this device for?

6 A. This pulls -- it's got a pump on it, as you
7 can hear the pump. It has a pump. Draws in a
8 sample of gas air, sends it through a filter into
9 the pump, and then it gives you a reading here, and
10 the way it's supposed to be used, it would go in.
11 If this is a meter, they would take -- they would
12 check it around the point of entry. This is where

13 the service is entering the building. They would
14 check it here to make sure that no gas is coming
15 through the wall.

16 Q. Do they also check around the meter?

17 A. They check around the meter, make sure
18 there's gas leakage at the meter. They check the
19 point of entry.

20 Q. Are the service entrance where the pipe
21 comes in and the meter is company facilities?

22 A. Yes, it is.

23 Q. Everything else on the other side of the
24 meter --

25 A. Is the customer's.
72

1 Q. -- is the customer's. So we check the
2 company facility on the premises?

3 A. Correct.

4 THE ARBITRATOR: What is that other thing
5 for?

6 THE WITNESS: This, sir?

7 BY MS. GARNER:

8 Q. Go ahead.

9 A. This, sir, it's the wand. What this is

10 used for is an outside reading bar hole underground.

11 What this does, it attaches to the machine. It's

12 turned on to percent of gas again. The service

13 technician has an Impacto rod we call it. What this

14 device does is heavy at one end, and this -- little

15 bit thicker than this, has a ball on the end. They

16 punch it in the ground, make an opening, a hole.

17 They drop this wand in, and then it takes a sample

18 underground and ensure that there's no gas leaking.

19 THE ARBITRATOR: And that's outside?

20 THE WITNESS: This is outside, yes, sir.

21 BY MS. GARNER:

22 Q. Do some servicemen use this inside?

23 A. Yes. What they do with these, if they want

24 to use them inside, what we allow them to do is they

25 can cut this off (indicating) because you can't use

73

1 it inside to check for leaks because as you can see,

2 it's got close -- a plug in the end and it takes the

3 sample through the side of the hose.

4 THE ARBITRATOR: I see.

5 THE WITNESS: So what we do we allow them

6 to cut this off and they can use this to check the

7 point of entry also.

8 THE ARBITRATOR: Okay.

9 BY MS. GARNER:

10 Q. But then they wouldn't be able to use that

11 same cutoff to do the outside?

12 A. No. They normally have two of them. One

13 they cut off and one they use outside.

14 Q. Can this device be used to do an inside CGI

15 without any attachments?

16 A. No. You can't.

17 Q. Why not?

18 A. Because it has to have a filter attached to

19 it. This is the filter. It has to have a filter

20 attached to it.

21 Q. And why is that?

22 A. Because if the filter is not attached, it

23 ruins the pump. As you can hear, the pump is

24 running. If dust or dirt gets inside here, it runs

25 the pump. Then the machine has to be sent in for

74

1 repair. So it tells they have to use it with a

2 filter.

3 THE ARBITRATOR: Okay. That has a filter
4 too you said?

5 THE WITNESS: Yes. This actually has two
6 filters. It has one here and one at the end
7 (indicating).

8 THE ARBITRATOR: Okay.

9 BY MS. GARNER:

10 Q. This has a filter?

11 A. This has a filter here (indicating).

12 THE ARBITRATOR: Okay. Do I get to take
13 that home with me?

14 MS. GARNER: We were hoping that you would
15 be satisfied with the pictures.

16 THE ARBITRATOR: The greatest exhibit
17 anybody ever had was Tom Erbs. He came back from an
18 arbitration case and he had a quart of old Jack
19 Daniels.

20 MS. GARNER: Did he have to save it as an
21 exhibit?

22 THE WITNESS: 905 case.

23 (Discussion off the Record.)

24 BY MS. GARNER:

25 Q. Okay. Let's see. Aside from checking for
75

1 leaks in the company facilities, the service
2 entrance and the meter, are there any other reasons
3 why we would check or why we do a CGI inside a
4 house?

5 A. For migrating gas. To ensure there's no
6 migrating gas migrating from the outside.

7 Q. Can you explain migrating gas?

8 A. Migrating gas is outside underground leak,
9 and the gas will take the path of the least
10 resistance, which means it will travel down the side
11 of the pipe, the gas service entry, the water pipe,
12 or the sewer line, it can actually migrate in around
13 those pipes and accumulate on the inside of the
14 building.

15 Q. And in this case, the use of the outside
16 CGI is not at issue; is that correct?

17 A. Yes.

18 Q. Just the inside CGI?

19 A. Yes.

20 Q. I think I already asked you this, but are

21 you supposed to use the CGI without any attachment?

22 A. No.

23 Q. I did. Okay. And are service technicians

24 trained to use it only with an attachment?

25 A. Yes, they are.

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1 Q. And, in fact, the Union stipulated that the

2 Grievant was properly trained in the use of the CGI

3 equipment. I'm handing you what's been marked

4 Company Exhibit 13 and 14.

5 Mr. Arbitrator, 13 is actually a laminated

6 card for you. We just have copies for us.

7 BY MS. GARNER:

8 Q. Can you tell me what those documents are?

9 A. This is a short guide for the Ranger

10 detector for CGI equipment. What this does is gives

11 them a brief overview of how it operates, the checks

12 that they need to do in the mornings and the

13 maintenance that has to be done on them.

14 Q. And besides the laminated, there was also a

15 sheet of paper, and what is that?

16 A. This is a daily operational check. And --

17 Q. And -- go ahead, I'm sorry.

18 A. It's basically longer -- upscale version of
19 the laminated card.

20 Q. And are these documents given to service
21 technicians?

22 A. The laminated card is.

23 Q. Is given to the service technician?

24 A. Yes, it is.

25 Q. And when was that given to the service
77
1 technicians?

2 A. These cards are normally -- are placed in
3 the case that the Ranger comes in. When they go
4 into the training facility with the Bascom-Turner
5 representative, he comes in, he shows them how to
6 use the machine, all the checks they need to do on
7 the machine, how it operates and everything, and
8 when we get -- when they leave there, they have
9 their Ranger, their case, and this laminated card is
10 at the top of the case, or inside the case
11 somewhere.

12 Q. And on that laminated card, does it address
13 the use of a filter anywhere?

14 A. Yes, it does.

15 Q. And can you point out to the Arbitrator

16 where that's addressed?

17 A. The laminated card on the side where it

18 says "Operation and Maintenance," under

19 "Maintenance," it has batteries and filter check,

20 and up under "Filter Check" there's a warning sign.

21 It says do not use a detector without proper filter.

22 Q. And on the attached sheet, the daily

23 operational checks --

24 A. Yes.

25 Q. -- does it address the filter on that

78

1 sheet?

2 A. Yes, it does, and that would be --

3 Q. It's Company 14.

4 A. It would also be under "Filter Check," and

5 it says the same thing, "Warning: Do not use the

6 detector without a proper filter."

7 Q. So these cards were given to the service

8 techs when they got the Rangers?

9 A. Yes. The laminated card was given to them.

10 Q. And it was part of the training when the
11 manufacturer came out and trained our people on how
12 to do this?

13 A. Yes, it was.

14 Q. Aside from the CGI, what else does the
15 service technician's supposed to take into a job
16 with him?

17 A. His bucket with the tools in it. The tool
18 bucket and the tools.

19 Q. I'm handing you what I say has been marked
20 Company Exhibit 5.

21 MS. GARNER: If I may, I'm going
22 backwards for a minute, Mr. Arbitrator. Since we
23 aren't going to be able to give you our CGI and
24 attachments, if you can please note Joint Exhibit
25 10, 11 and 12 are pictures of the device with the

79

1 attachments.

2 THE ARBITRATOR: I understand.

3 MS. GARNER: Okay.

4 BY MS. GARNER:

5 Q. You have Company 5? There's Company 5.
6 Can you identify this, please?

7 A. Yes. This is a list of tools taken out of
8 the Service and Installation Service Manual.

9 Q. And is the service technicians supposed to
10 take all these tools in when he does a job?

11 A. Yes.

12 Q. Okay. For demonstration purposes only,
13 what does he carry his tools in?

14 A. This bucket (indicating).

15 Q. So he's supposed to take the CGI and the
16 bucket?

17 A. Yes.

18 Q. And the tools are in the bucket?

19 A. Yes.

20 Q. Can the CGI also go in the bucket?

21 A. It can.

22 Q. It can. But the bucket, CGI are both in
23 the bucket, they're all supposed to go in?

24 A. Exactly, yes.

25 THE ARBITRATOR: Why does he need all
80

1 those tools?

2 THE WITNESS: Well, sir, these are --

3 these are the bare minimum. I can go down the line.

4 Basically a leak detector, that's a spray bottle

5 that you check the leaks with.

6 BY MS. GARNER:

7 Q. You need to explain how you see a leak with

8 a spray bottle.

9 A. Oh. A spray bottle is soapy water. It

10 has soapy water in it. You spray it on the joints

11 on the customer fuel run to see if there's any

12 leaks.

13 THE ARBITRATOR: You're going down the

14 company's --

15 THE WITNESS: No. What happens is that if

16 they do -- if they get there and they smell gas on

17 the inside or they --

18 THE ARBITRATOR: Okay.

19 THE WITNESS: If the customer is for

20 something other than a TFTO, then they can use that

21 soap detector to find leaks on a customer's fuel

22 run.

23 BY MS. GARNER:

24 Q. If he's there on a TFTO and he smells gas,

25 he's going to use his spray bottle in attempt to
81

1 locate it?

2 A. Exactly.

3 MS. GARNER: You want me to go down the
4 list?

5 THE ARBITRATOR: No. No. I just
6 wondered does he need all of these every time he
7 goes in?

8 THE WITNESS: This looks like a long list,
9 sir, but --

10 THE ARBITRATOR: Just tell me do they all
11 take all these tools in?

12 THE WITNESS: Yes.

13 THE ARBITRATOR: All right.

14 BY MS. GARNER:

15 Q. And do we issue them the bucket and the
16 tool area, yes?

17 A. Yes.

18 THE ARBITRATOR: Let me see the inside of
19 that.

20 THE WITNESS: (indicating).

21 THE ARBITRATOR: I see.

22 BY MS. GARNER:

23 Q. And do we require them to take these, this

24 bucket of tools in, in the event they encounter

25 something unexpected so they would have whatever

82

1 tool they would need?

2 A. Yes.

3 Q. And Company Exhibit 5, the list of tools

4 comes out of the service manual; is that correct?

5 A. Yes.

6 Q. Do all employees -- all service technicians

7 have a copy of that service manual?

8 A. Yes.

9 Q. Where do they keep that?

10 A. In their trucks.

11 Q. I'm going to be handing you a copy of an

12 annual review that was performed with Mr. Jackson,

13 Company Exhibit 11. Are you familiar with that

14 document?

15 A. Yes, I am.

16 Q. And what is it?

17 A. It's an annual SAID qualification

18 evaluation.

19 Q. And does that evaluation indicate anywhere
20 on it the possession of a service manual?

21 A. Yes. It should.

22 MR. WILKEY: We'll stipulate to that,
23 Mr. Arbitrator. There's no question.

24 THE WITNESS: Yes.

25 MS. GARNER: No question he had the
83
1 manual? You're not going to --

2 MR. WILKEY: He had the manual.

3 MS. GARNER: He had the manual, so we
4 don't have to go through the proof of the contents
5 that he had notice?

6 MR. WILKEY: I just said no.

7 MS. GARNER: Okay.

8 BY MS. GARNER:

9 Q. As part of your responsibilities as general
10 foreman, North District, were you involved in the
11 investigation of conduct of Mr. Jackson on March
12 3rd, 2005?

13 A. Yes.

14 Q. What was your involvement?

15 A. That morning, Mr. Sisak came to me and told
16 me that he was having problems with a service
17 technician, Louis Jackson.

18 Q. Who is Mr. Sisak?

19 A. Mr. Sisak is a foreman that worked in the
20 North District for me at the time. He was
21 Mr. Jackson's supervisor, and he came to me, said he
22 was having problems with Mr. Jackson, and that he
23 wanted to follow him to see why he couldn't -- why
24 he was working through lunch all the time.

25 Q. And what did you tell Mr. Sisak?

84

1 A. I told Mr. Sisak to take Mr. Steve Ferris
2 with him to follow Mr. Jackson that day.

3 Q. Follow him on his route?

4 A. On his route, correct.

5 Q. And what was your next involvement in the
6 investigation?

7 A. I got a call from Mr. Sisak, and he stated
8 that they had followed Mr. Jackson on two of his
9 jobs, and they indicated that he didn't do an inside
10 CGI check, get a reading on the inside.

11 Q. On one or both of those jobs?

12 A. On both of the jobs, on both.

13 Q. And what did you tell Mr. Sisak?

14 A. I told Mr. Sisak to have another

15 serviceman, service technician, go back to that

16 address and perform an inside CGI.

17 Q. On each of those two addresses?

18 A. On each of those two addresses, correct.

19 Q. And what else did you tell Mr. Sisak?

20 A. I told Mr. Sisak to then come in and write

21 up a report.

22 Q. And a report about?

23 A. About the two jobs that he had noticed that

24 he seen Mr. Jackson not performing the CGI.

25 Q. What did Mr. Sisak tell you about what he
85

1 saw?

2 A. Mr. Sisak stated that he didn't see

3 Mr. Jackson take his CGI equipment in on the jobs.

4 Q. On either one of those two jobs?

5 MR. WILKEY: I'm going to object to the

6 line of questioning. I'm sure those supervisors are

7 going to testify.

8 THE ARBITRATOR: They're going to come in.

9 Let him -- I don't know what his part is in the

10 actual discipline of the Grievant. All he's doing

11 is reiterating what they have said. I assume he can

12 only tell your people what he heard from them.

13 MS. GARNER: Correct. I'm just showing

14 his involvement that they came back and conferred --

15 THE ARBITRATOR: Sure.

16 MS. GARNER: -- with their general foreman

17 while conducting the investigation.

18 THE ARBITRATOR: Right.

19 BY MS. GARNER:

20 Q. Why did you tell Mr. Sisak to send another

21 service technician out to those two homes?

22 A. Because our policy requires us to do an

23 inside CGI reading, and we knew that Mr. Jackson

24 hadn't performed one on either one of those jobs,

25 and this is -- it's a safety matter, and we take it

86

1 very seriously, so we made sure we sent somebody

2 back to check it.

3 Q. After Sisak and Ferris wrote up their

4 notes, what did you do?

5 A. I sent them back out to continue to follow

6 Mr. Ferris for the rest of his route.

7 Q. Okay. What happened next?

8 A. I got a call from Mr. Sisak the end of the

9 day. He stated that Mr. Ferris had went to his last

10 job, and after that, he was headed towards

11 St. Charles County.

12 At that time, I called the dispatching

13 board to find out, and they said they had sent him

14 on a job in St. Charles County. I told them to take

15 the job and give it to a service technician in

16 St. Charles and send Mr. Jackson into the Berkley

17 office.

18 Q. Did -- and what happened -- I'm sorry, when

19 you say Berkley office, is that the reporting

20 location?

21 A. That's the reporting location for the North

22 District.

23 Q. And what happened when the Grievant

24 returned to Berkley?

25 A. When Mr. Jackson got into Berkley,

87

1 Mr. Sisak took his CIS forms and his route sheet and

2 reviewed them and brought them in to me.

3 Q. And why did he bring them to you?

4 A. Because he noticed that Mr. Jackson had

5 falsified his CIS forms.

6 Q. And how were they falsified?

7 A. He had put on the back that he had took a

8 CGI reading on the inside of Titus and Trumbell.

9 Q. And what happened next?

10 A. Mr. Jackson was still standing at the

11 counter. I went out -- after reviewing the CIS

12 route sheet, I went out and I informed Mr. Jackson

13 that he was indefinitely suspended for falsification

14 for not following company safety procedures and

15 loafing.

16 Q. Okay. Were you present at the third step

17 meeting with respect to this matter?

18 A. Yes, I was.

19 Q. Were the Donnelly/Jaudes letters discussed

20 at that meeting?

21 A. Yes, they were.

22 Q. Did the Grievant or his Union claim they
23 were not aware of the Donnelly/Jaude's letters?

24 A. No, they didn't.

25 Q. Are there public safety issues related to
88
1 Grievant's position?

2 A. Yes, there is.

3 Q. And what's the potential for danger in
4 performing Grievant's position?

5 A. The danger is that he -- Mr. Jackson was to
6 leave a leak or didn't perform a CGI and there was
7 gas migrating into the building and it accumulated
8 that there could be loss of life or property.

9 MS. GARNER: Nothing further on this
10 witness.

11 THE ARBITRATOR: Cross examination.

12 EXAMINATION

13 QUESTIONS BY MR. WILKEY:

14 Q. Yes, if you would, Mr. Williams, would you
15 look at Joint Exhibit Number 3 real quick? I don't
16 think you have it with you. This is the route sheet
17 of March 3rd.

18 Can you identify which two jobs that you
19 sent a serviceman back out on to get a read that
20 your supervisors claim that Mr. Jackson did not get?

21 MS. GARNER: If I could, he didn't send
22 somebody back out. He instructed Mr. Sisak to send
23 somebody back out.

24 BY MR. WILKEY:

25 Q. Okay. Do you know which two jobs that the
89
1 individual went back on?

2 A. 8021 Titus and 8735 Trumbell.

3 Q. Okay. Now, did you instruct Mr. -- or did
4 you instruct the supervisor to send them back on
5 those two jobs?

6 A. Yes, I did.

7 Q. Now, if your claim that Mr. Jackson was not
8 performing safety inspections, did you send those
9 supervisors out on any other jobs?

10 A. No, I didn't.

11 Q. Mr. Jackson had jobs after those two jobs,
12 didn't he?

13 A. Yes, he did.

14 Q. And weren't you concerned about the

15 customers' houses in those events that if
16 Mr. Jackson didn't get the required safety
17 inspection, that could be the same safety issue?

18 A. Yes. I would have, but Mr. -- when
19 Mr. Sisak and Mr. Ferris called up with Mr. Jackson
20 -- with Mr. Jackson again, Mr. Jackson had been --
21 we assume Mr. Jackson had been informed right after
22 we sent someone out, they sent someone out to the
23 Trumbell and Titus job because Mr. Jackson at that
24 point was getting out of his truck, getting his
25 bucket, getting his CGI, and he made sure that they
90
1 were in plain sight as he was going in on the jobs,
2 so we assumed that somebody had warned him that we
3 were out looking, and so he had started doing his
4 jobs correctly.

5 Q. Again you assume that, you have no basis to
6 really know that, right?

7 A. Correct.

8 Q. And so you never sent him out on any other
9 jobs prior to Titus and Trumbell either then?

10 A. No.

11 Q. Under your testimony, if he had been
12 warned, it was after the Titus and Trumbell job, he
13 wouldn't have been warned before those jobs, could
14 he?

15 A. Correct.

16 Q. So he would have been doing what he was
17 doing all day long more than likely; isn't that
18 correct?

19 A. Say that again.

20 Q. He would have been doing the same thing --
21 he could have been doing what you claimed all day
22 long?

23 A. Yes, he could have.

24 Q. But yet you didn't send out servicemen to
25 check those jobs?

91

1 A. No. We seen him on Titus and Trumbell,
2 and those are the ones we went back and checked.

3 Q. You didn't send him out on Engler Avenue
4 there, one of the first jobs that day out there that
5 was a turn on; is that correct?

6 A. No, we didn't.

7 Q. Did you ever send a serviceman out to check

8 that job --

9 A. No.

10 Q. -- for the inside? Was an inside read
11 required on that job?

12 A. I'm not sure. I don't have the CIS in
13 front of me.

14 Q. Okay. What about --

15 A. According to the route sheet, he didn't --
16 it was not -- it was none required on the outside.

17 Q. I'm talking about the inside read.

18 A. I don't have the route sheet in front of
19 me.

20 MS. GARNER: CIS.

21 THE WITNESS: CIS.

22 BY MR. WILKEY:

23 Q. How about on, what is it, McNulty Avenue?

24 MS. GARNER: If I could hand Mr. Williams
25 the Joint Group 2 which are the CISs, I think that

92

1 will help.

2 THE WITNESS: Okay.

3 BY MR. WILKEY:

4 Q. If you would look at 7442 Wayne. Now, was
5 that after Titus?

6 A. Yes, it was. Wayne was an outside meter.
7 There was no inside required.

8 Q. Okay. Would you look at Alvin -- Aubin --
9 I'm sorry, Albin Avenue, was it an inside check
10 required there?

11 A. Yes, it was.

12 Q. And did you send anyone out on that job?

13 A. No, I didn't.

14 Q. And what about 8704 Crocus Lane, Apartment
15 1?

16 A. No, I didn't.

17 Q. Mr. Williams, why wouldn't you have sent
18 someone out on those jobs?

19 A. Because, as I said earlier, when Mr. Sisak
20 and Mr. Ferris returned to Mr. Jackson's route to
21 start following him again, Mr. Jackson made it
22 perfectly clear to the supervisors that he was
23 carrying everything with him. He had his bucket,
24 and if I'm not mistaken, he had his Ranger in his
25 hand carrying it, and he -- and they seen him with

1 his Ranger and his bucket, and Mr. Sisak and
2 Mr. Ferris advised me that, they called me and told
3 me that somebody -- someone had to have called him
4 and told him he was being watched.

5 Q. But you don't know that for a fact?

6 A. No, I don't.

7 Q. All of a sudden, he started carrying his
8 CGI equipment and his bucket.

9 Q. Mr. Williams, how can you say that? Did
10 you witness him in the morning at all? You don't
11 know what he was doing in the morning, do you?

12 A. When he came into the shop?

13 Q. No. When he left the shop and started on
14 his route, do you know what he was -- do you know if
15 he carried his bucket in? Do you know if he carried
16 his CGI in?

17 A. I wasn't out there.

18 Q. No. So you don't know what he was doing in
19 the morning; is that correct?

20 A. No.

21 Q. You don't know what he was doing on any job

22 other than the two the supervisors say they

23 witnessed; isn't that correct?

24 A. That's correct.

25 Q. Mr. Williams, you've testified in other
94

1 arbitration cases, hadn't you?

2 A. Yes.

3 Q. And do you recall which cases those were?

4 A. I've only been on one.

5 Q. One? Which case was that?

6 A. Steve Smith.

7 Q. You testified that you were quite an able

8 service man in your day; is that correct?

9 A. Yes.

10 Q. You put on hundreds of valves in some cases?

11 A. I've did my fair service work, yes.

12 Q. The fact that you had ran a business for

13 some time?

14 A. I've never told you I run a business. I

15 worked for Laclede Gas.

16 Q. You don't have any business on the side?

17 A. I do not have a licensed business on the

18 side, no.

19 Q. You don't have a licensed business on the
20 side, sir?

21 A. No.

22 MS. GARNER: I'll object. I don't know
23 what the relevance of any of this is whether or not
24 he has a business on the side.

25 MR. WILKEY: It goes directly to the
95
1 witness' credibility.

2 BY MR. WILKEY:

3 Q. Mr. Jackson, if I was to get on the
4 Internet -- let me ask does J.J. Heating & Cooling
5 ring a bell to you?

6 A. Say that again.

7 Q. Does J & J Heating & Cooling ring a bell to
8 you?

9 A. Yes.

10 Q. And what is that?

11 A. It's a business card.

12 Q. And whose business is that?

13 A. It's not my business.

14 Q. And is your name Joseph J. Williams?

15 A. Yes, it is.

16 Q. Okay. And do you have a P.O. Box 2542 in
17 Florissant, Missouri?

18 A. Yes, I do.

19 Q. You do? Okay. And are you familiar with
20 the Goodman line of air conditioning, heating and
21 cooling?

22 A. Yes, I am.

23 Q. Okay. Do you realize that there's a
24 business by the name of J.J. Heating listed as a
25 dealer for Goodman Heating & Cooling Equipment?

96

1 A. Yes, I do.

2 Q. Do you know who owns that?

3 A. Yes, I do.

4 Q. Who owns it?

5 A. The number that's on that card owns it.

6 Q. Do you own it, sir?

7 A. No, I don't.

8 Q. And is your name Joseph J. Williams?

9 A. Yes, it is.

10 Q. And do you recall or do you know -- let me
11 ask -- 314-750-4594, does that number ring a bell to

12 you?

13 A. No, it don't.

14 Q. It doesn't?

15 A. But I have seen that number in that Goodman

16 Web site.

17 Q. So it's just a coincidence that J.J.

18 Williams --

19 A. Sir, call the number and find out who it

20 belongs to.

21 Q. What is 1933 Spring Beauty Drive?

22 A. It's an address.

23 Q. Okay. Are you familiar with that address?

24 A. Yes, I am.

25 Q. Where is that address at?

97

1 A. It's in Florissant.

2 Q. Okay. Florissant, Missouri, 63033?

3 A. If you say so.

4 Q. How are you familiar with it?

5 A. Because I used to live on that street.

6 Q. You used to live on that street?

7 A. Yes, I do.

8 Q. Do you still live on that street?

9 A. No, I don't.

10 Q. Where do you live now?

11 A. I live in St. Charles.

12 Q. St. Charles. I wonder why would Goodman

13 Heating & Cooling have J.J. Heating & Cooling listed

14 as a dealer on 1933 Spring Beauty Drive? Do you

15 have any idea?

16 A. Yes, I do.

17 Q. Can you tell me what that is?

18 A. I let a friend of mine use it.

19 Q. You let a friend of yours use it?

20 A. Yes, I did.

21 Q. You have no connection with this business

22 whatsoever?

23 A. No, I don't.

24 Q. You don't?

25 A. (Witness shook head.)

98

1 Q. And you know that if you were to testify

2 that you had a business, that that would be in

3 conflict of a policy Laclede Gas has?

4 A. No.

5 MS. GARNER: I object. That is not
6 necessarily the case. You're interpreting a company
7 policy that's not in evidence.

8 THE ARBITRATOR: He said no.

9 BY MR. WILKEY:

10 Q. So it's just a coincidence that the contact
11 person is J.J. Williams; is that correct?

12 A. No, it's not a coincidence.

13 Q. Why is it not a coincidence?

14 A. Because I know the gentleman.

15 Q. You know the gentleman. And do you have
16 the occasion to send faxes from Laclede Gas with
17 this gentleman's bid for a possible job?

18 A. Yes, I did.

19 Q. You did?

20 A. Yes, I did.

21 Q. Do you do that often?

22 A. I did it that one time.

23 Q. Just one time?

24 A. Yes, I did.

25 Q. That's the only time, one time?

1 A. I did it that one time.

2 Q. Okay. And why did you do it that one time?

3 A. Because that house on Ethelon, I think

4 that's the house you're talking about, me --

5 Q. How would you know what house I'm talking
6 about?

7 A. Because I sent the fax.

8 Q. Okay.

9 A. And I'm going to tell you why I sent the
10 fax.

11 Q. We would be interested to hear.

12 A. I was in the process of buying rental
13 property. That was a foreclosure. If you check
14 Laclede's record, we hadn't been out to that house
15 in three or four years. I was in the process of
16 trying to bid on that house to buy the house.
17 Okay? I needed -- I needed invoice, I needed a bid
18 so I can get money so I can get the money so I can
19 rehab the house. I got over -- I got underbidded on
20 the house, so I didn't -- that fax I sent was to a
21 friend of mine so he can get the bids together and
22 take them in.

23 THE ARBITRATOR: Take what?

24 THE WITNESS: I was in the process of

25 buying --

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1 THE ARBITRATOR: The last part you said.

2 THE WITNESS: I faxed the bid to a friend

3 that was taking it in, that was going to take the

4 paperwork in to the bank that we were trying to get

5 the loan on. That's all it was.

6 BY MR. WILKEY:

7 Q. Let me ask you another question. The

8 telephone number 314-565-5966, does that ring a bell

9 to you?

10 A. That's my number.

11 Q. That's your number where?

12 A. My cell phone number.

13 Q. That's your cell phone number? So why

14 would that number be listed on the fax, sir?

15 A. Because that's the number I wanted them to

16 contact.

17 Q. So it's just a coincidence that your name

18 is listed on all these items? You don't have a

19 business; is that correct?

20 A. Sir, that is not -- that is not a licensed

21 business, and the friend of mine, the friend that's

22 in that business with me, we both use that.

23 Q. He's in the business with you, so then

24 you're in the business; isn't that correct?

25 A. We buy property together.

101

1 Q. You're in the business together, didn't you

2 just testify to that?

3 A. We are in the business of buying rental

4 property.

5 Q. You're also in the business of installing

6 and working on furnaces, aren't you?

7 A. I do install furnaces and I do work on

8 them, but basically they're my own.

9 Q. You don't do that for Laclede Gas , do you?

10 A. No.

11 Q. What is the friend's name you're in

12 business with?

13 A. I'm not bringing his name up.

14 Q. Oh, you're not?

15 A. No.

16 Q. Maybe there's not a friend?

17 A. His name is John Banks.

18 Q. John Banks. That's not J & J, is it?

19 That's J & B, isn't it?

20 A. His name is John Banks.

21 MS. GARNER: That would be W & B, or

22 Joseph and John.

23 MR. WILKEY: It wouldn't be J & J?

24 MS. GARNER: It wouldn't be Joseph and

25 John?

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1 BY MR. WILKEY:

2 Q. Well, what is your first name, sir?

3 A. My first name is Joseph.

4 Q. Okay. What's your middle name?

5 A. J.

6 Q. Stands for what?

7 A. J-a-y.

8 Q. And your last name is William; is that

9 correct?

10 A. Yes.

11 Q. So as part of those initials part of your

12 name, J & J?

13 A. Could be.

14 Q. Could be? It's a pretty simple question,

15 sir. You're trying to avoid the answer. Is part of

16 that your initial?

17 A. Yes.

18 THE ARBITRATOR: Again, you're going to be

19 listening to the people who said they observed the

20 Grievant doing what he did or didn't do. He wasn't

21 there. The only thing that he got from them was

22 reporting what they saw and he then reported what

23 they saw to somebody else.

24 MR. WILKEY: Right.

25 THE ARBITRATOR: I don't care about his
103

1 credibility.

2 MR. WILKEY: I'm not --

3 THE ARBITRATOR: His testimony is really

4 not --

5 MR. WILKEY: I think that his credibility

6 would be an issue as I ask further questions.

7 THE ARBITRATOR: Okay.

8 MR. WILKEY: I think --

9 THE ARBITRATOR: Ask your further
10 questions. He obviously denies that he's in
11 business.

12 BY MR. WILKEY:

13 Q. So to your knowledge of what happened on
14 the day March 3rd is solely based on what Mr. Sisak
15 and Mr. Ferris told you; is that correct?

16 A. Yes, sir.

17 Q. Earlier you mentioned on a TFTO, that
18 there's a cursory inspection; is that correct?

19 A. That's correct.

20 Q. What does "cursory" mean?

21 A. To go in and do a visual check to make sure
22 everything is operating properly and safely.

23 Q. And when looking at the -- I'm going to
24 call it a Ranger. I think it's a CGI but I refer to
25 it as a Ranger. Will that piece of equipment work

104

1 without a filter attached to it on a wand?

2 A. Will it work? Yes, it will work.

3 Q. And will it work properly?

4 A. I wouldn't know.

5 Q. Why would you say it wouldn't work properly?

6 A. Well, because you need the -- depending on
7 where you are at, if it's not, if -- you can get a
8 false reading because they also have charcoal
9 filters that go on there and they have these filters
10 that go on there. If you don't have a charcoal
11 filter on there and you take a reading and you could
12 think that it's natural gas, and it could be
13 gasoline. That's why they say you should always
14 have a filter on the machine.

15 Q. I understand, but whenever you go inside,
16 that charcoal filter is not always on there, is it?

17 A. If the service technician goes in and
18 smells anything other than natural gas, or if he
19 thinks he smells gasoline, he's instructed to put
20 the charcoal filter on.

21 Q. Okay. But now if he doesn't smell any of
22 those things, you don't have to use a charcoal
23 filter, do you?

24 A. No.

25 Q. Okay. So my question is if you walk inside
105

1 and there's no gas present, that machine, without an

2 attachment on it, does that work properly?

3 A. It will work, yes.

4 Q. Okay. And is it also true that there's an

5 inside filter on that machine?

6 A. That is not an inside filter.

7 Q. What is that?

8 A. It's not an inside filter.

9 Q. There's no filter on the inside of that

10 machine?

11 A. That is not considered a filter.

12 Q. Well, do you know what it is?

13 A. It's a piece of metal, corrugated metal,

14 that's in there, and it's -- and ask me what it's

15 for, I don't know, but it's not referred to as a

16 filter.

17 THE ARBITRATOR: Didn't you say before

18 that if dust or whatever gets in there, you're going

19 to have a bad reading?

20 THE WITNESS: Exactly.

21 THE ARBITRATOR: Or ruins the machine?

22 THE WITNESS: Ruins the machine, exactly,

23 sir. That's why you need the filter on the outside.

24 That's why the paper says do not use it without a

25 filter.

106

1 BY MR. WILKEY:

2 Q. And to your knowledge, do other servicemen

3 use the Ranger without the wands attached?

4 A. I'm not in a position to notice that.

5 Q. So you're not aware of that either then?

6 Are you aware of some servicemen who might have used

7 that without a filter?

8 A. No. I'm not aware of any servicemen that

9 used it without a filter.

10 Q. Now, did you ever recommend to anyone that

11 Mr. Jackson be terminated?

12 A. No.

13 Q. Didn't make any recommendation?

14 THE ARBITRATOR: That he become what?

15 MR. WILKEY: That he be terminated, the

16 recommendation that Mr. Jackson be terminated.

17 THE WITNESS: No. That's not my job.

18 BY MR. WILKEY:

19 Q. Okay. Who did you report to directly in

20 this instance?

21 A. I think I reported to my supervisor.

22 Q. And who would that be?

23 A. At the time, it was Mr. Taylor.

24 Q. Jeff Taylor, that's who you reported to?

25 A. It's been awhile. I'm not sure. Could
107

1 have been industrial relations, or it could have

2 been to Mr. Taylor.

3 Q. Did you ever report anything to Mr. Wally

4 Reitz?

5 A. I always talk to Wally in these instances.

6 Q. You talked to Wally?

7 A. Either Wally or Mr. Peebles.

8 Q. So you talked to Wally in this instance?

9 A. I could have.

10 Q. About Mr. Jackson not --

11 A. I could have. I don't know. It could have

12 been Wally. It could have been Will. I'm not sure.

13 It's been awhile.

14 Q. Now --

15 A. But I know I didn't keep it to myself. I

16 passed it up the line.

17 Q. Okay. Using a Ranger without a filter, is
18 that an offense which would be a terminable offense
19 on the first offense? Is that something so serious
20 that a person would be discharged for?

21 A. I don't know.

22 Q. What's your assumption on that?

23 A. I don't want to give my assumption.

24 Q. I'm asking for you to give an assumption.

25 It's not a matter whether you want to give it. I
108

1 want it.

2 MS. GARNER: I object. If Mr. Williams
3 doesn't know, he doesn't --

4 MR. WILKEY: He didn't say he doesn't
5 know.

6 MS. GARNER: If Mr. Williams doesn't
7 know -- he says he doesn't know. He doesn't want to
8 assume.

9 THE WITNESS: I don't think he gets into
10 that area, does he?

11 THE WITNESS: No, sir, I don't.

12 BY MR. WILKEY:

13 Q. Okay. Why don't you look at two things
14 that you gave us this morning, Judy, Company Exhibit
15 Number 13 and Company Exhibit Number 14.

16 Mr. Williams, is there anywhere on either
17 of these exhibits that states that if the person
18 doesn't use the Ranger or the CGI in accordance with
19 these documents, that they will be disciplined?

20 A. On what exhibit?

21 Q. 13 or 14, Company 13 or 14, do you have
22 those?

23 A. Yes. This is from the Gas Ranger people.
24 This is not from Laclede.

25 Q. I understand, but is there anything -- you
109
1 give this to employees; isn't that correct?

2 A. Sure.

3 Q. Is there anything on here that states that
4 an individual be disciplined?

5 A. No.

6 Q. So you've never disciplined anyone for
7 using a Ranger without a wand then, isn't that
8 correct, or know of anyone who was disciplined?

9 A. Sir, I repeat what I said before. I'm not
10 in a position to notice that because my job keeps me
11 in the office.

12 Q. And is the bucket the same way, the bucket
13 of tools, is that the same answer you would give,
14 the same question, about your knowledge of
15 servicemen not carrying the buckets?

16 A. Exactly. My job, I work in the office.
17 I'm not on the street.

18 Q. Now, you also talked about a tool pouch
19 that the servicemen have, isn't that correct, other
20 than the pouch that you show there with the bucket?

21 A. No. I don't remember nobody mentioning
22 about a pouch.

23 Q. Is that -- the tool pouch that you show in
24 that bucket, is that issued today as we -- as you
25 testify here, is that a Laclede issued item?

110

1 A. Yes, it is.

2 Q. It is? Are you sure about that?

3 A. Well, when I was on the street, we took
4 them out of the storeroom.

5 Q. How long were you on the street?

6 A. About ten years ago.

7 Q. Okay.

8 A. So it may not be the same color, the one.

9 I don't know what color they are now. I don't req
10 them out. We're supposed to stock these in the
11 storeroom.

12 Q. Your testimony is they do supply them now?

13 A. They do supply them. As far as I know,
14 they do.

15 Q. Would you please look at Company Number 5?

16 A. Okay.

17 Q. Your testimony is that you don't discipline
18 people; is that correct?

19 A. That I don't.

20 Q. That you don't discipline -- you don't get
21 involved in the discipline?

22 A. Oh, I get involved in it, but I get my
23 instructions from either my supervisor or industrial
24 relations. I don't make -- I don't make that
25 determination.

111

1 Q. But you do hand out the discipline?

2 A. Yes. When they tell me to, yes, I do.

3 Q. If you look at Company Number 5, is there
4 anything on that document that says if you don't
5 carry in one or all of these tools, that you may be
6 subject to discipline or discharge?

7 A. Yes.

8 Q. And where is that at?

9 A. At the top.

10 Q. That just says disciplinary action, doesn't
11 it?

12 A. Yes.

13 Q. That doesn't say up to and including
14 discharge, does it?

15 A. No.

16 Q. About what time of day did you find out
17 that Mr. Jackson allegedly was observed by the
18 supervisors not carrying in the CGI equipment?

19 A. I don't know. I have to -- it's been
20 awhile. I really don't -- I don't know. I know it
21 was during -- I know it was during -- I know it was
22 probably in the morning.

23 Q. It was morning, about what time in the

24 morning?

25 MS. GARNER: I'll object. He's already
112

1 said he doesn't know.

2 THE WITNESS: I don't know. I don't
3 remember.

4 MR. WILKEY: Early in the morning he said.

5 MS. GARNER: No, Ron. He did not say in
6 the early morning. I object to you testifying for
7 the record when he didn't say early in the morning.

8 MR. WILKEY: I think the record will speak
9 for itself.

10 Q. Did you immediately have your supervisors
11 confront Mr. Jackson with the fact that at least he
12 was alleged not to be performing safety inspections
13 properly?

14 A. No.

15 Q. Then why didn't you do that?

16 A. Because Mr. Jackson had been given -- he
17 had been giving Mr. Sisak problems and I told
18 Mr. Sisak to follow him.

19 Q. Oh, he had been giving Mr. Sisak problems,

20 and that's why you had Mr. Sisak follow him then?

21 A. He was working through lunch all the time,

22 and Mike had been telling him not to.

23 Q. He was giving -- what kind of problems was

24 he giving?

25 A. He was working through lunch.

113

1 Q. Was he questioning him about overtime? Was

2 he questioning him about overtime to the

3 supervisors, do you know?

4 A. I don't know that.

5 Q. Did you have any part in the investigation

6 into the alleged infractions by Mr. Jackson?

7 A. When you say "investigation," what do you

8 mean?

9 Q. Did you --

10 A. Did I go out on the street and do anything?

11 Q. Did you do any investigation whatsoever?

12 A. No.

13 Q. You never contacted the customers at those

14 two addresses?

15 A. Me, personally? No.

16 Q. Are you aware that there was -- or did you

17 instruct the two supervisors to make a simulated
18 reenaction of the events that they witnessed on
19 March 3rd, 2003?

20 A. Did I instruct them to do it?

21 Q. Yes. To make a videotape?

22 A. I may have.

23 Q. Okay. Did you watch that videotape?

24 A. Yes.

25 Q. You did. Did that tape appear to be

114

1 accurate, sir?

2 A. Yes.

3 MR. WILKEY: That's all the questions I

4 have at this time.

5 EXAMINATION

6 QUESTIONS BY MS. GARNER:

7 Q. Mr. Williams?

8 A. Yes.

9 Q. When you were a serviceman, service

10 technician, did you take your tool bucket in with

11 you?

12 A. All the time.

13 Q. And did it include the tools on the sheet?

14 A. Yes, it did.

15 Q. And when you were a foreman in the SAID and

16 you did directly supervise service technicians, did

17 they take their tool bucket in?

18 A. Yes, they did.

19 Q. With the tools that are listed?

20 A. Yes, ma'am.

21 Q. And if they didn't take the tool bucket in,

22 what did you do?

23 A. I made sure I addressed the issue. I

24 warned them, and if it continued to happen, they

25 would have gotten wrote up.

115

1 Q. And with respect to this tool bucket and

2 this tool belt insert, tool insert, do you know if

3 that's exactly what they're giving out today?

4 A. No, I don't.

5 Q. But you know they give out a bucket that's

6 that size?

7 A. Yes.

8 Q. With something to help hold the tools?

9 A. Yes.

10 Q. Okay. If you would look, please, I think
11 you have it as Joint Exhibit 3, it's the route sheet?

12 A. Yes.

13 Q. If you look at the times on Titus and
14 Trumbell, does that refresh your memory as to what
15 time Mr. Sisak likely called you?

16 A. Yes.

17 Q. And more or less, and you've already stated
18 you don't know the exact time, but more or less when
19 do you think Mr. Sisak probably called you?

20 A. Somewhere probably between 12, between 12
21 and 12:30, maybe 12:40.

22 Q. And on what do you base that answer?

23 A. Because I know Mr. Sisak, I know Mr. Sisak
24 called me after -- after Titus, and he may have been
25 on Trumbell when he called me, or just leaving

116

1 Trumbell, but I know it was in between. It was
2 around that time, if I'm looking at the route sheet.

3 Q. As far as when you were first contacted
4 after Sisak and Ferris left the office, it was what
5 time, more or less?

6 A. Probably around 12:30.

7 Q. I want to look at a few of the CIS tickets

8 that are in Joint Exhibit 2. Okay. On the first

9 address on Engler that Mr. Wilkey mentioned --

10 A. Yes.

11 Q. -- was there a requirement to do an inside

12 CGI at the service entrance?

13 A. No.

14 Q. Why not?

15 A. Because there was an outside meter.

16 Q. And on Harold, does Mr. Jackson indicate

17 that he did an inside CGI?

18 A. On Harold?

19 Q. Uh-huh.

20 A. No.

21 Q. And why not?

22 A. Oh, he didn't get -- he didn't gain access

23 to the building. He didn't have access to the

24 building.

25 Q. And what about on McNulty?

117

1 THE ARBITRATOR: Where?

2 MS. GARNER: McNulty. I'm going in order.

3 A. McNulty, he didn't do one, and the job was
4 -- looks like it was closed and tag. No one was at
5 home.

6 Q. So that was a no access?

7 A. Right.

8 Q. And what about Sherwood?

9 A. Sherwood was an outside meter. There's no
10 inside requirement.

11 THE ARBITRATOR: You missed Crocus, didn't
12 you?

13 MS. GARNER: Mr. Wilkey covered that one.
14 I'm covering the ones he didn't cover.

15 THE ARBITRATOR: Okay.

16 BY MS. GARNER:

17 Q. And Titus we've talked about, and
18 Mr. Wilkey covered Wayne, but on Wayne, would an
19 inside SEI be required?

20 A. No.

21 Q. And why not?

22 A. It's an outside meter.

23 Q. And the next one is Madison. If you look

24 at Joint 3, look at the route sheet, what happened

25 at Madison?

118

1 A. That job was given away to another service

2 technician. He never went to that job.

3 Q. And so after Titus, which is the first

4 place we saw him not doing an inside SEI --

5 A. Correct.

6 Q. -- it wasn't required on Wayne, correct?

7 A. Correct.

8 Q. And Madison was given away?

9 A. Correct.

10 Q. And Trumbell was the next place we saw him?

11 A. Correct.

12 Q. And we didn't see him do it there either?

13 A. Correct.

14 Q. Is it against company policies to install

15 new furnace equipment?

16 A. No.

17 Q. And so long as you don't solicit work, is

18 it against company policy to do repair work?

19 A. No.

20 MS. GARNER: I have nothing.

21 MR. WILKEY: No further questions.

22 THE ARBITRATOR: Thank you.

23 (Witness excused)

24 MS. GARNER: Next witness I expect to be a
25 long witness.

119

1 THE ARBITRATOR: You want to take a break?

2 MS. GARNER: We can take a break if we're
3 going to work through lunch. That would be great.

4 THE ARBITRATOR: Yeah, we're going to work
5 through lunch.

6 (Discussion off the Record.)

7 (Recess)

8 THE ARBITRATOR: Okay. Let's go.

9 MS. GARNER: Are you ready? Mr. Sisak,
10 please.

11 MIKE SISAK

12
13 of lawful age, having been first duly sworn to
14 testify the truth, the whole truth, and nothing but
15 the truth in the case aforesaid, testifies and says
16 in reply to oral interrogatories propounded as

17 follows, to-wit:

18

19 EXAMINATION

20 QUESTIONS BY MS. GARNER:

21 Q. Okay. Please state your name and spell it
22 for the record?

23 A. Mike Sisak, S-i-s-a-k.

24 Q. And what's your current position at Laclede
25 Gas Company?

120

1 A. Foreman, SAID.

2 Q. And in what district?

3 A. North District.

4 Q. How long have you been an SAID foreman in
5 the North District?

6 A. Almost three years.

7 Q. Please describe briefly the work that you
8 do for Laclede?

9 A. Distribute the routes in the morning, field
10 phone calls from the service techs, collect their
11 routes in the evening and observe their work.

12 Q. And do you at times go out on a service
13 tech's route and observe them on their route?

14 A. Yes.

15 Q. How long have you been employed by Laclede
16 Gas Company?

17 A. Almost 26 years.

18 Q. You said the last three years you've been
19 in management?

20 A. Yes.

21 Q. What did you do for the first 23 years?

22 A. I was in the Service Department, service
23 tech.

24 Q. And were you ever disciplined when you were
25 in the Service Department as a service tech?

121

1 A. No.

2 Q. And is your record of employment at Laclede
3 good?

4 A. Yes.

5 Q. What was your position at Laclede -- oops,
6 sorry. Do you know the Grievant here, Louis Jackson?

7 A. Yes.

8 Q. How do you know him?

9 A. I supervised him.

10 Q. Were you his direct supervisor?

11 A. Yes.

12 Q. When?

13 A. From September of 2003 till March, 2003.

14 Q. Until March, I'm sorry, what year?

15 A. 2003.

16 Q. When was Mr. Jackson --

17 A. No.

18 Q. When was --

19 A. March 2005, excuse me.

20 THE ARBITRATOR: I was going to say what
21 you are doing here?

22 MS. GARNER: Wrong guy.

23 A. Time warp.

24 Q. What happened on March 3rd, 2005?

25 A. I went out to check a job that Mr. Jackson

122

1 had done the previous day. My general foreman told

2 me to take another supervisor in his car, go out and

3 check the job, and we did, and we followed him and

4 went to his job, went to another job of his then

5 after that.

6 Q. Mr. Sisak, are you nervous?

7 A. Little bit.

8 Q. Have you ever given testimony in an
9 arbitration before?

10 A. No.

11 Q. No?

12 THE ARBITRATOR: Don't worry about it. I
13 won't bite you.

14 BY MS. GARNER:

15 Q. I couldn't say it quite as well as that.

16 A. Right.

17 Q. Just calm down.

18 THE ARBITRATOR: Any time you need to get
19 up and walk around, just get up and walk around.

20 THE WITNESS: Go right out the door.

21 THE ARBITRATOR: Not out the door.

22 MS. GARNER: No, please. Please don't.

23 THE ARBITRATOR: You would be in real
24 trouble.

25 BY MS. GARNER:

123

1 Q. Why did you want to -- why did you decide
2 to follow Mr. Jackson on his route that day?

3 A. We had an issue the last four, five days
4 about working through lunch without permission, and
5 I noticed on that particular day, his route from the
6 day before on the 2nd, that he found a street leak
7 that just so happened to let him work through lunch
8 that day, past 2:00.

9 Q. And why is working through lunch an issue?

10 A. There are certain times of the year when
11 our department, the work's not there, we cut back on
12 overtime, departmental budget concerns, and we're
13 asked to manage the overtime.

14 Q. And was this that time of year?

15 A. Yes.

16 Q. So in March, there's really no overtime
17 available?

18 A. Okay -- yes.

19 Q. And when an employee works through lunch
20 and they work through the end of the day, is he
21 going to end up working overtime?

22 A. Normally he would get off at 4:00 then.

23 Q. But if he works through to 5:00, he's going
24 to get an hour of overtime?

25 A. Yes.

124

1 Q. Before you went out and followed

2 Mr. Jackson, did you speak with your general foreman?

3 A. Yes.

4 Q. And did he say it was okay for you to go

5 and follow Mr. Jackson?

6 A. Yes.

7 Q. And then what did he tell you?

8 A. He told me to take Steve Ferris with me and

9 go out and observe Mr. Jackson.

10 Q. On his route?

11 A. On his route.

12 Q. And whose car did you take?

13 A. Steve Ferris' rental car.

14 Q. And why did you take a rental car as

15 opposed to taking your company car?

16 A. It would be less obvious.

17 Q. Are the service technicians familiar with

18 the company cars?

19 A. Yes.

20 Q. But they weren't familiar with Mr. Ferris'

21 rental car?

22 A. Yes.

23 Q. Do you know why Mr. Ferris had a rental car?

24 A. He hadn't received his company car yet.

25 That's the reason.

125

1 Q. Was that because he was a new foreman?

2 A. He was new, yes.

3 Q. Did you arrive -- I'm sorry. Let me hand

4 you so you have it available, Joint Exhibit 3, which

5 is the route sheet for Mr. Jackson that day. What

6 was the first stop you watched Mr. Jackson on?

7 A. 8021 Titus.

8 Q. Did you arrive before or after Mr. Jackson?

9 A. Before.

10 Q. Were you already in position before he

11 arrived?

12 A. Yes.

13 Q. And what was the route at work? What work

14 was he supposed to do at 8021 Titus?

15 A. An inside meter turn off turn on.

16 Q. What was Mr. Jackson wearing that day?

17 A. A light green, long-sleeved Laclede Gas

18 work shirt.

19 Q. And did he have a jacket on?

20 A. No.

21 Q. How was the weather that day?

22 A. Relatively warm for early March.

23 Q. And were you wearing a jacket that day?

24 A. No.

25 Q. What did you see at 8021 Titus?

126

1 A. I saw Mr. Jackson pull up into the driveway

2 at 8021 Titus, get out of his van with a flashlight

3 and his paperwork, and no tool bucket or CGI

4 equipment, and entered the house.

5 Q. Do you see next to you on the floor a tool

6 bucket?

7 A. Yes, ma'am.

8 Q. Is that just generally -- not exactly but

9 generally the type of bucket set up that a service

10 technician will take in with him?

11 A. Yes.

12 Q. Are service techs required to take their

13 service bucket in?

14 A. Yes.

15 Q. And they're required to take their tools in?

16 A. Yes.

17 Q. And they're required to take their CGI in?

18 A. Yes.

19 Q. Why is he required to take his CGI in?

20 A. To check for gas at the service entrance

21 and piping and meter on an inside wall.

22 Q. I'm handing you what's been marked Joint

23 Exhibit 13, and let me -- there you go. What is

24 that?

25 A. This is a CGI.

127

1 Q. We also call that a Gas Ranger?

2 A. Yes.

3 THE ARBITRATOR: Where is it? I don't

4 have a joint.

5 MS. GARNER: It's the machine.

6 MR. WILKEY: That's what I was looking for

7 the picture.

8 THE ARBITRATOR: I was never going to find

9 it.

10 MS. GARNER: We didn't even put a sticker

11 on it, but Ron's agreed that's our joint, the
12 machine.

13 THE ARBITRATOR: Okay.

14 BY MS. GARNER:

15 Q. Okay. Is this the machine that Grievant
16 should have had with him?

17 A. Yes.

18 Q. And is there more than one part to the CGI?

19 A. Yes.

20 Q. What are the two parts that you have there?

21 A. The CGI itself and the goose neck device
22 that attaches to it.

23 Q. And in what situations do you use the goose
24 neck?

25 A. When you go inside to check around the
128
1 inside piping and the meter.

2 Q. And is there another attachment that also
3 goes with the CGI?

4 A. Yes.

5 Q. And what's that?

6 A. The hose and the wand.

7 Q. And this is the hose and wand (indicating)?

8 A. Yes.

9 Q. Okay. Can you use the CGI without either

10 the hose and the wand or the goose neck?

11 A. No.

12 Q. Why not?

13 A. Because it doesn't have a filter on it.

14 Q. And does the CGI have to have a filter?

15 A. Yes.

16 Q. Why?

17 A. It will ruin the machine if you don't have

18 it on there.

19 Q. It will ruin the machine?

20 A. Yes.

21 Q. Is that an expensive machine?

22 A. Oh, yeah. Yes. Sorry.

23 Q. Do service techs use anything else to do an

24 inside CGI?

25 A. No.

129

1 Q. Do they ever cut down the wand?

2 A. Sometimes.

3 Q. So they can use a cut-down wand to do the

4 CGI or they can use the goose neck?

5 A. Yes.

6 Q. Have you ever seen a service tech go in and
7 just use the CGI without the goose neck or the wand?

8 A. Yes.

9 Q. Who was that?

10 A. Steve Phony.

11 Q. And what did you do?

12 A. Advised him he needed to go back out to his
13 truck and get the wand put on there.

14 Q. Get the wand or get the goose neck?

15 A. Right.

16 Q. But have an attachment?

17 A. Yes.

18 Q. And did he do that?

19 A. Yes.

20 Q. And have you ever observed anyone else go
21 out and use just the CGI?

22 A. No.

23 Q. You've been a supervisor for three years?

24 A. Yes, ma'am.

25 Q. You testified earlier that the service

130

1 techs are required to take the bucket of tools in

2 also?

3 A. Yes.

4 Q. And in your experience as a foreman, do the

5 servicemen take that bucket of tools in?

6 A. Yes.

7 Q. And what do you do if they don't take the

8 bucket of tools in?

9 A. I advise them that they need to take their

10 tools in on every job.

11 Q. And have you ever seen a serviceman go in

12 without his bucket of tools?

13 A. No.

14 Q. No?

15 THE ARBITRATOR: Other than the Grievant?

16 THE WITNESS: Other than the Grievant.

17 MS. GARNER: We were going to get to that.

18 Thank you.

19 THE ARBITRATOR: Okay.

20 BY MS. GARNER:

21 Q. I'm handing you what's been marked Company

22 Exhibit 13 and 14. You can put that CGI back. Can
23 you identify those documents, and be aware that the
24 top page is usually a laminate.

25 A. Yes. I can identify these.

131

1 Q. And what are those?

2 A. These are the pieces of paper that come
3 with the CGI equipment when it's issued to the
4 service tech.

5 Q. And does it state on there anywhere whether
6 or not a filter is required?

7 A. Yes.

8 Q. And what does it say?

9 A. It says warning, do not use a detector
10 without a proper filter.

11 Q. And looking at 14, Company 14, is there any
12 statement with respect to the warning there?

13 A. Yes.

14 Q. What does it say?

15 A. It says warning, do not use the detector
16 without a proper filter.

17 Q. You can hand those back. And are these

18 given to the service techs when they receive their

19 Gas Ranger?

20 A. Yes.

21 Q. Is performing a CGI, an inside CGI, a

22 safety inspection?

23 A. Yes.

24 Q. And are you inspecting company facilities?

25 A. Yes.

132

1 Q. I'm handing you what's been marked as Joint

2 Exhibit 8. Take a minute and look at that, please.

3 A. (Witness complied.)

4 MS. GARNER: Mr. Arbitrator, we're going

5 to have Mr. Sisak mark on this exhibit, and then

6 we'll give the sole marked version to you --

7 THE ARBITRATOR: Okay.

8 MS. GARNER: -- to take with you.

9 THE ARBITRATOR: I'll trade.

10 MS. GARNER: You'll trade him. That's

11 right.

12 MR. WILKEY: On 8?

13 MS. GARNER: On 8.

14 BY MS. GARNER:

15 Q. Can you identify this document?

16 A. It's an overhead view of the job at 8021

17 Titus.

18 Q. And was that the first stop where you saw

19 Mr. Jackson that day?

20 A. Yes.

21 Q. If you could step up to the table and use

22 this pen, make it plenty dark, would you please

23 circle 8021 Titus?

24 A. (Witness complied.) I've got that.

25 Q. 8021 Titus --

133

1 A. Yes.

2 Q. -- circled?

3 A. Yes.

4 Q. Please indicate where the Grievant parked

5 his van with an X.

6 A. (Witness complied.)

7 MR. WILKEY: Can you describe where that's

8 at?

9 THE WITNESS: In the driveway at 8021.

10 MR. WILKEY: Would that be as we're

11 looking at the picture to the left side then?

12 THE WITNESS: To the left side of the

13 house, yes.

14 MR. WILKEY: Okay.

15 BY MS. GARNER:

16 Q. And how close to the street was he parked?

17 A. His back bumper was at the street.

18 Q. Was that the street, so he pulled far

19 enough to be in the driveway?

20 A. Yes.

21 Q. And can you indicate where you and

22 Mr. Ferris were parked with two Xs?

23 A. Yes. (Witness complied.)

24 Q. And what is the house number where you were

25 parked?

134

1 A. Just to the south of 1988 Driftway.

2 Q. And where in relation to the driveway at

3 1988 Driftway?

4 A. Approximately ten feet to the south.

5 Q. It appears on this overhead that there's a

6 tree between where you're parked on Driftway and

7 8021 Titus, do you see that?

8 A. Yes.

9 Q. Is there an island there?

10 A. Yes.

11 Q. And a tree?

12 A. Yes.

13 Q. Does that tree obstruct your vision at all?

14 A. No.

15 Q. Why not?

16 A. Because the branches are approximately nine

17 to ten feet off the ground. It's a large cedar

18 tree.

19 Q. So you could see under the branches and

20 through to 8021?

21 A. Yes.

22 Q. Tell me what you saw at 8021.

23 A. I saw Mr. Jackson get out of his van

24 without his tool bucket or his Ranger, CGI

25 equipment, walk up the driveway to the right and

135

1 knock on the door in front of the house and then

2 enter the house.

3 Q. Did you have a good view of the Grievant?

4 A. Yes.

5 Q. Okay. I'm going to hand you what's been
6 marked Company Exhibit 6. Can you identify this
7 picture, please?

8 A. A close-up view of 8021.

9 MR. WILKEY: Do you mind marking them on
10 both of them?

11 MS. GARNER: We can mark them at the end.

12 MR. WILKEY: Can't mark them now?

13 MS. GARNER: No. We're not going to
14 disrupt the flow of his testimony to mark all of the
15 copies at once.

16 Q. So, I'm sorry, you identified this as a
17 closer --

18 A. More close-up view of overhead of 8021.

19 Q. Okay. Mark again with two Xs where the
20 van --

21 MR. WILKEY: Mr. Arbitrator, I'm going to
22 object to that evidence. There's a scale on there.
23 Apparently they've blown this up with a copier and
24 I'm not sure that that scale is correct. I mean, I
25 don't know.

1 MS. GARNER: Ron, you're incorrect. This
2 wasn't blown up with the copier. It's the same as
3 the other picture.

4 MR. WILKEY: Same scale?

5 MS. GARNER: It's not the same scale
6 because it's closer in.

7 MR. WILKEY: You're saying the scale is
8 correct?

9 MS. GARNER: Yes. This one shows one inch
10 is 30 feet, and the Joint Exhibit I think it's 8 --

11 MR. WILKEY: Yeah. The scale is built into
12 it.

13 MS. GARNER: Joint Exhibit 8 says that one
14 inch is 78.35 feet. So I think, you know, the
15 scale, it was not copied. It was generated just the
16 way the other one was.

17 MR. WILKEY: Okay.

18 MS. GARNER: You withdraw your objection,
19 Ron?

20 MR. WILKEY: Yes.

21 MS. GARNER: Thank you.

22 BY MS. GARNER:

23 Q. So at the close-up on Company Exhibit 6,
24 again did you draw the van in?

25 A. No.

137

1 Q. Can you draw the van in please with two Xs?

2 A. Two Xs.

3 Q. Two Xs for the van, service van, and using
4 this picture, please draw the route to the door that
5 the Grievant took.

6 A. (Witness complied.)

7 Q. Did the Grievant have a CGI with him?

8 A. No.

9 Q. Is there any doubt in your mind whether or
10 not he had the CGI?

11 A. No.

12 Q. He did not?

13 A. He did not have it.

14 Q. Okay. Using Company 6, describe for the
15 Arbitrator the Grievant's movements at 8021 Titus.

16 A. Okay. He exited the driver's door of the
17 van, went up the driveway, across the walkway, went
18 in the front door, came out the front door, across

19 the front -- the walkway, down the side of the
20 house, back from the side of the house, back to the
21 front of the door, or back across the walkway into
22 the house, and then he exited the house, crossed the
23 driveway, got back in his van.

24 Q. At any point did he call you --

25 A. Yes.

138

1 Q. -- while he was at Titus?

2 A. Yes.

3 Q. And why did he call you?

4 A. There was some kind of a problem with a
5 fuel run to a room heater there.

6 Q. And did he know you were sitting outside
7 when he called you?

8 A. No.

9 Q. Did you advise him what to do about the
10 fuel run to the space heater?

11 A. Yes.

12 Q. When he came back and got in his van, what
13 did he do?

14 A. Sat there for ten to fifteen minutes.

15 Q. How many opportunities did you have to see

16 Grievant at Titus?

17 A. Four times.

18 Q. And can you explain those four times?

19 A. Out of the van, into the house, out of the

20 house, around the side, around the side back into

21 the house, out of the house and back into the van.

22 Q. So each time he came across the front of

23 the house and in the door and out the door, you had

24 a good view of him?

25 A. Absolutely.

139

1 Q. What did you do when you left Titus?

2 A. We went to another job on his route sheet.

3 Q. Why don't you pick up the route sheet and

4 you can sit down for a minute. Not long.

5 Can you tell me where you went?

6 A. He went to 8735 Trumbell.

7 Q. And did you arrive before or after Grievant?

8 A. Before.

9 Q. Were you already in position when he

10 arrived?

11 A. Yes.

12 Q. See, I told you it wasn't going to be long.

13 I'm going to hand you Joint Exhibit 9. Can you

14 identify that, please?

15 A. This is an overhead view of the house at

16 8735 Trumbell.

17 Q. Can you please circle 8725 Trumbell?

18 A. 8735.

19 Q. I'm sorry, 8735. Keep me in line here.

20 Please indicate with an X where Grievant parked his

21 van.

22 A. (Witness complied.)

23 Q. And indicate with two Xs where you and

24 Mr. Ferris were parked on the street.

25 A. (Witness complied.)

140

1 Q. Did you see the Grievant enter 8735

2 Trumbell?

3 A. Yes.

4 Q. And did he have a CGI with him when he

5 entered 8735 Trumbell?

6 A. No.

7 Q. I'm going to hand you what's been marked as

8 Company Exhibit 7. Actually, Nancy is going to hand
9 it to you.

10 Can you identify that, please?

11 A. Same thing. Overhead view expanded or
12 closer up of 8735 Trumbell.

13 Q. And again, can you mark the service van,
14 Mr. Jackson's service van?

15 A. (Witness complied.) One or two Xs?

16 Q. One X, please.

17 A. (Witness complied.)

18 Q. I'm sorry. I was just informed that I had
19 you to do two Xs on the van, so let's be consistent
20 and make it two Xs on the van for the close up.

21 Can you draw the route that the Grievant
22 took to the door at 8735?

23 A. Exited the van up the driveway, across the
24 walk, up the steps and into the house.

25 Q. Okay. And did you have a clear view of the
141

1 Grievant?

2 A. Yes.

3 Q. And did he have his CGI with him?

4 A. No.

5 Q. Did he have his tool bucket with him?

6 A. No.

7 Q. Describe the Grievant's movements at 8735

8 again using Company 7.

9 A. He exited the van, up the driveway, across

10 the walkway into the house, and he came out of the

11 house, crossed the walkway into the side doors of

12 his van, got his CGI equipment out of there, out of

13 the van, cut across the yard, did a CGI check here,

14 came down the yard, made a CGI check here and made a

15 CGI check here underground, walked --

16 Q. When you say "here," the first "here" is up

17 by the house?

18 A. The foundation wall.

19 Q. The second "here"?

20 A. At the curb.

21 Q. In the yard at 8735?

22 A. Yes, ma'am.

23 Q. And the third here?

24 A. And the third is across the street at the

25 curb.

1 Q. So he did three outside bar holes?

2 A. Yes.

3 Q. And if I can just clarify for the record,
4 when you say he did a CGI, that would be the device
5 with the hose and the wand?

6 A. Yes.

7 Q. And then after he did the bar holes, what
8 did he do?

9 A. He crossed back across the street, up the
10 curb, put the equipment back in his van, walked
11 around the back of the van and got into the
12 passenger door.

13 Q. You mean the driver's door?

14 A. Or the driver's door, excuse me.

15 Q. What did he have in his hands when he got
16 out of the driver's door the first time?

17 A. Paperwork and a flashlight, service ticket
18 and a flashlight.

19 Q. Before he entered the house, did he go to
20 the side of the van and get any other equipment?

21 A. No.

22 Q. When he came out of the house, what did he

23 get out of the van?

24 A. His CGI and his Impacto rod.

25 Q. To do the outside bar holes?

143

1 A. Yes.

2 Q. Now, when he's at that other, that side of

3 the van where he gets in the side doors to get his

4 tools --

5 A. Mm-hmm.

6 Q. -- from where you were sitting, are you

7 actually on the opposite side of the van?

8 A. Yes.

9 Q. So you can't see him at the doors?

10 A. No.

11 Q. You can only see what he has when he goes

12 and what he has when he comes?

13 A. Yes.

14 Q. If you could mark on the joint exhibit, the

15 wider view, if you could mark the outside bar holes

16 -- no, on the other one, on the other one in

17 relation to where you were sitting, where did he do

18 those bar holes?

19 A. On 8021?

20 Q. No, I'm sorry. It's Joint 9 on Trumbell.

21 A. I don't think I have it.

22 Q. You marked where you were parked?

23 A. Wait a minute.

24 Q. I'm sorry.

25 A. They're stuck together.

144

1 Q. They're all stuck together?

2 A. Yes.

3 Q. Okay. I believe you marked where you were

4 parked but I don't believe I asked what address

5 were you in front of?

6 A. 8750.

7 Q. And when you were parked on Trumbell, if

8 you look at that overhead, you can see a walkway at

9 8750 and a driveway at 8750?

10 A. Yes.

11 Q. Where were you parked in relation to that

12 walkway and driveway?

13 A. Between the two.

14 Q. Between the two?

15 A. Mm-hmm.

16 Q. And there appears there's a large evergreen
17 tree of some sort there?

18 A. Yes.

19 Q. Were you parked in front of or behind that
20 evergreen tree, as you're looking at 8735?

21 A. It was kind of (indicating), little bit
22 behind us.

23 Q. So the entry was behind you?

24 A. Right.

25 Q. So you were parked between that tree and
145
1 8735?

2 A. Yes.

3 Q. I think what I asked you to do was to, in
4 relation to where you were parked, can you please
5 show where he did the bar holes on this one so we
6 can see it in relation to where you were parked?

7 A. Okay. Here, here and here (indicating).

8 Q. Okay. So he was right in front of you when
9 he came across the street and did that bar hole?

10 A. Yes.

11 Q. Did he ever notice that you were there?

12 A. No.

13 Q. I believe you testified that when he went

14 to the van, he not only got his outside CGI

15 equipment but also an Impacto rod?

16 A. Yes.

17 Q. Yes. What does that Impacto rod do?

18 A. It's a device we use to hammer into the

19 ground to make a hole in order to insert the wand.

20 Q. On Trumbell, how many opportunities did you

21 have to see Grievant with or without his CGI?

22 A. Six times.

23 Q. Tell us what they are.

24 A. Out of the van.

25 Q. Is this on your side of the van?

146

1 A. Yes. Out of the driver's door, up the

2 driveway, across the walk, into the house.

3 Q. And I can't recall if I asked on this

4 address or prior address, but on either one of these

5 addresses, after he got out of the van, did he go to

6 the side of his -- to the side where the side doors

7 are where his equipment is between the time he got

8 out of the van and the time he went to the front

9 door?

10 A. No.

11 Q. Not on either one?

12 A. Neither one.

13 Q. I'm sorry I interrupted you on the counting.

14 A. Okay. Out of the driver's door, up the

15 driveway and into the house. Out of the house,

16 across the walkway to the side of the van. From the

17 side of the van to the house -- up to the house at

18 the foundation, and down the yard to the curb, and

19 then across the street to the curb, back across the

20 street. I lost him when he went to the side of the

21 van and when he came around the van and back to the

22 driver's door.

23 Q. Okay. And you could see him clearly at

24 each of those points?

25 A. Absolutely.

147

1 THE ARBITRATOR: How far were you away

2 would you estimate?

3 THE WITNESS: I would say about 170 feet

4 approximately.

5 THE ARBITRATOR: What, twice as long,

6 three times as long as this room?

7 MR. WILKEY: What was the --

8 THE WITNESS: 30, it's 30 feet, the

9 doorway here, so...

10 THE ARBITRATOR: So it would be more than

11 that.

12 THE WITNESS: Little bit more than that,

13 right.

14 BY MS. GARNER:

15 Q. Are you accustomed to watching servicemen

16 with their equipment?

17 A. Yes.

18 Q. Are you accustomed to notice whether or not

19 they have their CGI with them?

20 A. Oh, yes.

21 Q. And as a foreman, what's one of the first

22 things you notice when a serviceman is going to a

23 job?

24 A. What he takes out of his truck, his

25 equipment, his CGI equipment, and his tool bucket.

148

1 Q. Whether he carries it out of the driver's

2 side or whether he gets out and goes around the

3 side, you notice what equipment he has with him?

4 A. Yes.

5 Q. And as he entered and exited the home, did

6 you have a clear view?

7 A. Absolutely.

8 Q. And did he have his CGI with him?

9 A. No.

10 Q. What was the purpose of the stop at 8735

11 Trumbell?

12 A. Inside meter turn off turn on.

13 Q. I'm sorry, was Grievant required to do an

14 inside CGI on Trumbell?

15 A. Yes.

16 Q. And did he do an inside CGI on Trumbell?

17 A. No.

18 Q. How do you know?

19 A. Because he didn't take his CGI equipment in

20 the house.

21 Q. Is that the same answer for Titus?

22 A. Yes.

23 Q. You know he didn't do one on Titus because
24 he didn't have his equipment with him?

25 A. Yes.

149

1 THE ARBITRATOR: Let me ask a question
2 while we're there. When he then went back to the
3 truck, got his equipment out supposedly, you say,
4 and went back to the corner of the house, would he
5 be checking the gas line at the corner of the house,
6 the same place it would be on the inside of the
7 house?

8 THE WITNESS: Yes. Yes. The service line
9 would run -- I don't know if it goes under the
10 street here or not, but that's one of the
11 requirements, across the street and at the curb.
12 The service line normally runs into the side of the
13 house opposite the driveway.

14 THE ARBITRATOR: Right. Oh, my question,
15 I guess, is if he did it on the outside of the
16 house, why would he have to do it on the inside of
17 the house?

18 THE WITNESS: To check for gas coming
19 through the wall of the inside.

20 THE ARBITRATOR: If he checked it outside,
21 how -- wouldn't he know if there was gas going into
22 the inside of the house?

23 THE WITNESS: If he found gas outside,
24 yes, but that wouldn't necessarily find gas outside
25 of the house. It could be entering at another
150
1 point.

2 THE ARBITRATOR: In other words -- okay.

3 THE WITNESS: If there's more than one
4 check at the inside wall.

5 THE ARBITRATOR: Okay.

6 THE WITNESS: That wouldn't tell him if
7 the equipment was also leaking on the inside like a
8 meter and exposed piping.

9 THE ARBITRATOR: Okay. I wanted to make
10 that clear.

11 BY MS. GARNER:

12 Q. Mr. Sisak, do some jobs require both an
13 inside and outside?

14 A. Yes.

15 Q. This job required both an inside and

16 outside?

17 A. This job required both an inside and an
18 outside.

19 THE ARBITRATOR: Not the previous one?

20 THE WITNESS: The previous one did not.

21 Only required an inside on the previous one.

22 BY MS. GARNER:

23 Q. And as you stand there, do you know why it
24 required an outside -- well, you know what, let me
25 withdraw that.

151

1 Let me hand you the CIS, which is part of
2 Joint Exhibit, 2 and can you tell me why this job
3 required an outside SEI?

4 A. Because it is marked special SEI on it.

5 Q. Why is it a special SEI?

6 A. Because it's a copper service.

7 Q. And when we have copper service, is Laclede
8 required then to do an outside CGI?

9 A. Yes. We're required by the Missouri Public
10 Service Commission to perform that test.

11 Q. And why is it required to do that on copper
12 but not on other types of services?

13 A. Because we're in the copper replacement
14 program now. I believe the Public Service
15 Commission ruled that Laclede has so many years to
16 remove all copper underground service lines.

17 Q. Do you know why we're removing the service
18 lines?

19 A. Because they leak.

20 Q. And the copper is more likely to corrode
21 and leak than the plastic that we have in the ground
22 or the steel that we have in the ground?

23 A. Yes.

24 Q. So we are more careful about doing our
25 service entrance inspections when we have a copper
152
1 service?

2 A. Yes.

3 Q. And we're required to do the outside one?

4 A. Yes.

5 Q. Just to be clear, let me hand you Titus.

6 What kind of service does Titus have?

7 A. Titus has a plastic service.

8 Q. So we're not required to do an outside test

9 there?

10 A. No.

11 Q. And I think you've already said this, but
12 aside from the migrating gas, what other type of gas
13 are we looking for when we're doing the inside SEI?

14 A. We're also looking for any type of
15 migrating gas that could come through a crack in the
16 foundation where the gas pipe enters the house, the
17 meter and the related piping around the meter.

18 Q. So if it's the meter or the related piping
19 around the meter, that wouldn't necessarily show on
20 an outside SEI?

21 A. No.

22 Q. Okay. Thanks.

23 THE ARBITRATOR: One more question. Why
24 was this being done as a result of a customer
25 calling in about a complaint or why that house I
153
1 guess I'm asking?

2 THE WITNESS: Why were we there at that
3 house?

4 THE ARBITRATOR: Yes.

5 MS. GARNER: You can sit down now.

6 THE WITNESS: Okay. A turn off turn on is
7 normally when a new party is moving out and a new
8 party is moving in --

9 THE ARBITRATOR: All right.

10 THE WITNESS: -- and we're required on
11 inside meter sets to check at the entrance and the
12 surrounding piping when we're there because it may
13 be several years before we get back there again. We
14 don't go check every house every year on that
15 situation.

16 THE ARBITRATOR: I don't think I've had a
17 gas man in my house in 20 years.

18 THE WITNESS: When you sell your house and
19 move out, sir, we'll be there, with a Ranger
20 hopefully.

21 MS. GARNER: You know to look for one.

22 BY MS. GARNER:

23 Q. Did he do an inside CGI at 8735 Trumbell?

24 A. No.

25 Q. What did you do after Trumbell?

154

1 A. I called my general foreman, Joseph

2 Williams. He told us to come back to the shop and
3 write up a report. After we wrote the report -- and
4 he also told me to have another serviceman come out
5 and CGI, make the appropriate CGI checks at those
6 two addresses, and to come back to the office, write
7 the report, and that's what we did.

8 Q. And did you send another service technician
9 to check the two homes?

10 A. Yes.

11 Q. And do inside CGIs?

12 A. Yes.

13 Q. Who did you send?

14 A. Richard Bruno.

15 Q. I'm handing you what's been marked as
16 Company Exhibit 8. Can you identify that, please?

17 A. This is Rich Bruno's route sheet from March
18 the 3rd, 2005.

19 Q. And what time did Mr. Bruno arrive at --

20 MR. WILKEY: Excuse me. I don't have a
21 Company 8, unless they're out of order.

22 MS. GARNER: It's a single page.

23 MR. WILKEY: I don't have it.

24 THE ARBITRATOR: Looks like this.

25 MR. WILKEY: I don't have it as a Company
155
1 exhibit in this stack.

2 MS. GARNER: Do you have yours?

3 THE ARBITRATOR: I got it.

4 MR. WILKEY: Here it is.

5 BY MS. GARNER:

6 Q. Company 8? I'm sorry, can you go ahead and
7 identify that again, please?

8 A. This is the route sheet from Rich Bruno on
9 March 3rd, 2005.

10 Q. What does it reflect with respect to Titus
11 and Trumbell?

12 A. That he arrived to do his CGI check at
13 Titus at 1:30, 1330 military time, and at 1405,
14 2:05, on Trumbell, 8735 Trumbell.

15 Q. And did he do the required CGI?

16 A. Yes.

17 Q. And why did you send him back to do the CGI?

18 A. Because Mr. Jackson failed to do an inside
19 CGI check, and we had to check company facilities

20 there for safety checks.

21 Q. And we knew he didn't do it because we knew
22 he didn't have his equipment?

23 A. Right. Yes.

24 Q. What was the next stop where you saw the
25 Grievant? You might want the other route sheet. It
156
1 might help you.

2 A. After we wrote our report, we went --
3 Mr. Williams sent us back to follow the Grievant on
4 his route, and we picked him up at 1948 Driftway.

5 THE ARBITRATOR: What exhibit are we on
6 now?

7 MS. GARNER: If you look at Joint 3, which
8 is the route sheet. I gave it to him to allow him
9 to refamiliarize himself with the route.

10 THE ARBITRATOR: That's all right. Okay.

11 BY MS. GARNER:

12 Q. So you went to Driftway?

13 A. 1948 Driftway, yes.

14 Q. And what did you see?

15 A. I saw Mr. Jackson get out. We were there
16 prior to him arriving. We saw Mr. Jackson exit his

17 van, go around to the side door, retrieve his tool

18 bucket and his CGI equipment, walk up the driveway

19 to the door, knocked on the door.

20 Q. And how did he carry his CGI and his tool

21 bucket?

22 A. He had his tool bucket in his right hand

23 and his CGI equipment in his left hand.

24 Q. And did the CGI have an attachment on it?

25 A. Yes, it did.

157

1 Q. And what did it have?

2 A. It had the wand.

3 Q. The wand?

4 A. The wand -- no, the goose neck.

5 Q. The goose neck?

6 A. The goose neck.

7 Q. The goose neck?

8 A. Yes.

9 Q. Okay. But he didn't gain entry to that

10 house?

11 A. No. That job was closed.

12 Q. Did you notice anything else on the

13 Driftway?

14 A. Yes.

15 Q. What?

16 A. That he was very prominent in displaying
17 that he had his tool bucket and his CGI at that
18 time.

19 Q. He was positive to make sure that anyone
20 was watching him in the van?

21 A. Yes.

22 Q. In your opinion, why did Grievant take the
23 tool bucket and CGI to the door at Driftway when he
24 did not --

25 MR. WILKEY: Object. It calls for
158
1 speculation.

2 THE ARBITRATOR: Wait a minute.

3 MS. GARNER: This will go to, if you will,
4 the belief of the Company that Mr. Jackson was
5 warned after Mr. Bruno was sent out after him, and
6 there's a specific reason other than just simple
7 conjecture that we know it happens, that Mr. Sisak
8 believes it happened in this instance, that he had
9 been warned and that's why he started doing what he

10 knew he was supposed to be doing all along.

11 THE ARBITRATOR: Okay. Go ahead.

12 BY MS. GARNER:

13 Q. Okay. In your opinion, why did Grievant

14 take the tool bucket and the CGI to the door at

15 Driftway when he did not do so at either Titus or

16 Trumbell?

17 A. Because he had been warned that we were out

18 looking for him.

19 Q. Why do you think he was warned? All right.

20 I'm sorry. How do you think he was warned?

21 A. Over his Nextel telephone.

22 Q. And we can't track a Nextel, can we?

23 A. No.

24 Q. How do we think that warning system works?

25 A. Rich Bruno, I believe, called Brad Fierling
159

1 in the office. Brad is an employee who has the copy

2 of the route sheets for the district in front of

3 him, and I think Brad looked up the addresses and to

4 look and see what route number they were on. The

5 route number is indicated in the top left corner,

6 and then went to the communication sheets where I
7 had Mr. Jackson's name and his daily assignment was
8 Route 610, and then I believe either Rich Bruno or
9 Brad Fierling contacted Mark Boyle and let him know
10 that I was out looking at him.

11 Q. And do we know for certain whether Bruno
12 called Fierling or someone else or whether Fierling
13 called Boyle or Bruno called Boyle, we don't know
14 exactly who called whom?

15 A. Right.

16 Q. But we know that there's communication
17 through the Nextel that we can't track?

18 A. Yes.

19 Q. Is there any other reason on this
20 particular day why you believe Jackson was warned?

21 A. While we were sitting at Driftway waiting
22 for Jackson to arrive, Mark Boyle called me on my
23 Nextel phone and said hey, Mike, what's going on
24 with Jackson, you got him scared shitless, and I
25 said Mark, I can't talk about it right now, it's

160

1 under investigation.

2 Q. So --

3 A. And that was the end of the conversation.

4 Q. So as you're watching him on Driftway
5 before he even arrives at Driftway, you know that

6 Mr. Boyle knows --

7 A. Right.

8 Q. -- that someone's watching Jackson?

9 A. That Jackson has been tipped off, yes.

10 THE ARBITRATOR: Hell of a communication
11 system there.

12 BY MS. GARNER:

13 Q. Mr. Sisak, if they call on the cell phone,
14 a regular telephone call, can we track that?

15 A. Yes.

16 Q. But if they call on the Nextel, which is
17 the walkie-talkie feature, can we track that?

18 A. No.

19 Q. No. We can see when someone is on the
20 phone?

21 A. Yes.

22 Q. But we can't tell who they're talking to?

23 A. Absolutely.

24 Q. Now, when Mr. Boyle called you, did he call

25 you on the phone part or did he call you on the

161

1 Nextel?

2 A. On the Nextel.

3 Q. The walkie-talkie?

4 A. Yes.

5 Q. That we can't track?

6 A. Yes.

7 Q. What did you do when you left Driftway?

8 A. We followed -- we followed Mr. Jackson to

9 his next job at 9028 Trefore.

10 Q. And what did you see at 9028 Trefore?

11 A. We observed Mr. Jackson doing outside meter

12 change.

13 Q. And that's a different type of a call --

14 A. Yes.

15 Q. -- from what TFTO that we've been talking

16 about?

17 A. Yes. It was an outside meter change there.

18 Q. And how did he perform on the outside meter

19 change?

20 A. He did -- he did the required work that was

21 necessary for the job and including the CGI check

22 outside. It did take a long time though.

23 Q. Longer than you would have estimated for

24 that type of job?

25 A. Yes.

162

1 Q. Okay. What did you do next -- or what

2 happened next?

3 A. We observed -- another serviceman called me

4 and asked for a job. I gave him the job off of

5 Mr. Jackson's route at 3856 Brown Road, dispatched

6 that to him. We then observed Mr. Jackson sit in

7 his truck for about 15 minutes and then drive off,

8 and we followed him then.

9 Q. As far as you know though, he didn't have

10 another stop?

11 A. That's correct.

12 Q. So you don't know where he's going when you

13 were following him?

14 A. No. We assumed he was going back to the

15 shop since he was out of work.

16 Q. And what did he, in fact, do?

17 A. He called the dispatching board, and they

18 gave him a gas odor job out in St. Charles.

19 Q. And what time was that?

20 A. At 1615.

21 Q. Which for those of us who aren't

22 military --

23 A. 4:15.

24 Q. And has the afternoon shift already been

25 sent out on their routes at that point?

163

1 A. Yes. The 4:00 shift would be starting out

2 on their routes.

3 Q. So is he likely to be able to get a job if

4 he calls at that point?

5 A. Yes.

6 Q. But did he have approval to call and get a

7 job that would take him into overtime?

8 A. No.

9 Q. On 4:15 on this particular day, why would

10 he be on overtime?

11 A. I don't know. Well, he worked through

12 lunch.

13 Q. Because he worked through lunch?

14 A. Right.

15 Q. And did he have approval to work through
16 lunch?

17 A. No.

18 Q. And did he have approval to do overtime?

19 A. No.

20 Q. Okay. So as you're following him, what
21 happens?

22 A. I called my general -- we thought he was
23 going back to the shop, and I called my general
24 foreman, Mr. Williams, and told him that Louis was
25 getting on the highway, and at that point, we still
164

1 didn't know what he was doing, and Mr. Williams
2 called the dispatching board and found out that he
3 had received a job from the dispatchers. At that
4 point, Mr. Williams took -- instructed the
5 dispatchers to take that job back from Mr. Jackson
6 and tell him to come into the office.

7 Q. And then did you all go back to the office
8 at Berkley?

9 A. Yes.

10 Q. Once you arrived at Berkley, what did you
11 do?

12 A. I -- Mr. Jackson handed me his route sheet
13 and his CIS tickets. I checked his route sheet and
14 his CIS tickets.

15 Q. And what did you note?

16 A. I noticed that he had falsified company
17 records by indicating that he did a CGI check at the
18 inside wall for the two addresses at Trumbell and
19 Titus.

20 Q. Okay. I'm handing you Joint Exhibit 2,
21 which is the group exhibit of all the CIS tickets
22 for the route sheet. Can you locate the CIS ticket
23 for Titus, please?

24 A. Yes.

25 Q. And how is that falsified?

165

1 A. On the inside service inspection -- on the
2 service entrance inspection report on the back, he,
3 on the left-hand corner, he wrote inside inspection
4 zero percent.

5 Q. And that would indicate that he did an
6 inside test?

7 A. Yes.

8 Q. Did he do an inside test?

9 A. No.

10 Q. And is the same true for Trumbell?

11 A. Yes.

12 Q. Did he indicate that he did an inside test?

13 A. Yes, he does indicate that he did an inside
14 test.

15 Q. And did he do an inside test?

16 A. No, he did not.

17 Q. What else did you do concerning Mr. Jackson
18 once you were at Berkley?

19 A. I handed the falsified CIS tickets to my
20 general foreman, J.J. Williams.

21 Q. And then what?

22 A. He looked at them and he at that point
23 advised Mr. Jackson that he was indefinitely
24 suspended for falsifying company records, failure to
25 make proper CGI checks.

166

1 Q. Did he also tell him it was because of
2 loafing?

3 A. Loafing was another one.

4 Q. And was there anything else? I'm sorry, I

5 may have missed it. Did you already say

6 falsification?

7 A. Yes. Falsification --

8 Q. I'm sorry, I missed --

9 A. -- of the records, falsification of company

10 records, failure to perform proper safety checks and

11 loafing.

12 Q. Okay. Is there any doubt in your mind

13 whether the Grievant had a CGI with him at the homes

14 at Titus and Trumbell?

15 A. None whatsoever.

16 Q. And he did not have it?

17 A. He did not have it.

18 Q. Were you at the third step meeting?

19 A. Yes.

20 Q. What did Grievant say about having a CGI?

21 A. He said that he had his CGI around his neck.

22 Q. You testified earlier that at Driftway when

23 he did take the CGI to the door, that he had it in

24 his hand?

25 A. Yes.

167

1 Q. But you stated at the third step meeting
2 that he had it around his neck earlier in the day?

3 A. Yes.

4 Q. Is that inconsistent?

5 A. Yes.

6 Q. Would you have seen the CGI if it was
7 around his neck?

8 A. Yes.

9 Q. Did he have the CGI around his neck?

10 A. No.

11 Q. Why were you watching Grievant on his route
12 that day?

13 A. Because the other -- because he continued
14 to work through lunch without permission, and every
15 day I reminded him of it, he had some kind of an
16 excuse. The day before, he had, he had worked
17 through lunch without permission on the street leak,
18 and it just so happened to take him past the lunch
19 hour period. Therefore, he was entitled to work
20 through lunch and get off at four, and I wanted to

21 go back out and see if he had actually made those

22 checks that he claimed he had.

23 THE ARBITRATOR: So if he works through

24 his lunch, he gets off half hour early?

25 THE WITNESS: Hour early.

168

1 THE ARBITRATOR: Hour early?

2 MS. GARNER: One hour lunch period. You

3 didn't by chance do the lunch hour arbitration, did

4 you?

5 THE ARBITRATOR: Huh?

6 (Discussion off the Record.)

7 BY MS. GARNER:

8 Q. All right. I'm going to hand you what's

9 been marked Company Exhibit 9. Can you identify

10 this, please?

11 A. This is the page out of the technical

12 manual for the Service Department.

13 Q. And if you look at the bottom, what does

14 that address?

15 A. Section 1.5 of the manual. It addresses

16 lunch breaks.

17 Q. And what does it say about lunch breaks?

18 A. Routed or routed technician must take a one
19 hour lunch break. Working through the lunch break
20 may only be done with the permission of the
21 immediate supervisor.

22 Q. Okay. Was Mr. Jackson a routed technician
23 that day?

24 A. Yes.

25 Q. A routed technician means when he leaves
169

1 the office in the morning, he has a sheet of
2 addresses he's going to go to?

3 A. Yes.

4 Q. And that's what he was doing that day?

5 A. Yes.

6 Q. Did Mr. Jackson -- oh, I'm sorry. Are
7 there any exceptions to the rule that a service
8 technician called before he work through the lunch
9 hour?

10 A. If he's working in a high crime area at
11 lunchtime or if he asked permission prior to his
12 start if he needs to get off early.

13 Q. But he's asked permission in that instance?

14 A. Right.

15 Q. Even though he hasn't called you at
16 lunchtime?

17 A. That's correct.

18 Q. And is there another exception to working
19 through lunch only with permission? I think you
20 already testified to it, if the job takes you past
21 2:00?

22 A. Yes, if the job takes you past 2:00.

23 Q. I'm going to hand you what's been marked
24 Company Exhibit 10. Can you identify that, please?

25 A. This is the next page of the service
170

1 manual, Section 1-6.

2 Q. Go down to the middle of the page more or
3 less. What does it say about working overtime?

4 A. It's highlighted, underlined: An employee
5 must obtain permission to work overtime.

6 Q. And if I could just for clarification, if
7 you go to the top of that page where it says working
8 through lunch?

9 A. Working through lunch.

10 Q. This section doesn't apply to Mr. Jackson

11 on this day because he was not working the
12 dispatching board; is that correct?

13 A. That's correct.

14 Q. So working through lunch at the top of 1-6
15 is not relevant to what we're talking about today?

16 A. No.

17 Q. Okay. We've already established the
18 Grievant had a copy of the service manual.

19 A. Okay.

20 Q. Okay. I'm going to hand you Company 12,
21 which is a group exhibit of several route sheets
22 starting with February 24th?

23 A. Yes.

24 Q. Are these the route sheets for the dates
25 indicated for the week prior on Mr. Jackson?

171

1 A. Yes.

2 Q. On the five days in question here -- and
3 this also includes, this exhibit includes March 3rd,
4 the day we're talking about, but for the five days
5 prior to that, did Grievant call you and get
6 approval to work through lunch on any of these days?

7 A. No.

8 Q. Did he work through lunch on each and every
9 one of these days?

10 A. Yes, he did.

11 Q. Was he working in a high crime area during
12 the lunch hour between 11 and 2 on any of these days?

13 A. No.

14 Q. In fact, he was in a high crime area on
15 March 2nd; is that correct?

16 A. Yes, he was in the morning.

17 Q. But it didn't carry him through his lunch
18 hour?

19 A. No.

20 Q. Did Grievant have a job that required him
21 to work the entire time between 11 and 2 on any of
22 those days?

23 A. No.

24 Q. I think you previously testified that the
25 day before the day at issue here, the day of issue

172

1 is March 3rd so on March 2nd, he found a leak that
2 carried him through lunch, but did that leak carry
3 him through the entire lunch period?

4 A. That leak carried him through past 2:00.

5 Q. So what time did it start?

6 A. 1:25.

7 Q. And then if you go --

8 A. He actually began the job there at 12:55.

9 Q. So he could have eaten between 11 and 1

10 that day?

11 A. Yes.

12 Q. Okay. What's the usual lunch time for

13 service technicians?

14 A. Between 11 and 2.

15 Q. Okay. Looking at the route sheet for

16 2-24-05, which would be the top sheet --

17 A. Mm-hmm.

18 Q. -- what time should he have gone to lunch

19 on that day?

20 A. Going down the sheet, he could have went at

21 12:25, 1:30, 11:00.

22 Q. Is that 12:25 or 12:35?

23 A. 12:35.

24 Q. Okay.

25 A. 12:35, 1:30, 11:00.

173

1 Q. And then let's turn to the next sheet.

2 A. Okay.

3 Q. On 2-25, when could he have gone to lunch

4 on that day?

5 A. 11:15, 1:05, 12:25, 1:40, 11:45, 12:00,

6 12:40 or actually 1355, or 1:55.

7 Q. And if we go through each of the days on

8 the remainder of this week, if you could quickly

9 review them, are there times on each of these days

10 he could have taken a lunch?

11 A. Yes.

12 Q. And on each of these days, did he get

13 overtime?

14 A. Yes.

15 Q. And is this why you followed him?

16 A. Yes.

17 Q. Had you talked to him about working through

18 lunch?

19 A. Yes.

20 Q. Had you talked to him about getting

21 overtime by working through lunch?

22 A. Yes.

23 Q. Had you told him not to do it any longer?

24 A. Yes.

25 Q. And he didn't stop?

174

1 A. He did not stop.

2 Q. Why did you follow him?

3 A. Because he wouldn't -- I wanted him to call

4 me and get permission to work through lunch, and he

5 just refused to do it.

6 Q. He refused to comply with the requirements

7 of the service manual?

8 A. That's correct.

9 Q. He refused to comply with your direct order

10 that he call you if he's going to work through lunch?

11 A. Yes.

12 Q. During this week from 2-24 up to the date

13 of his discharge, did you ever speak with Grievant

14 during that week about working through lunch and

15 getting overtime?

16 A. Yes.

17 Q. How often?

18 A. Every day.

19 Q. Every day?

20 A. Every day.

21 Q. And he still did it?

22 A. Yes, ma'am.

23 Q. And what did he say?

24 A. He said pull so and so's route sheet, he

25 worked through lunch that day, how come you're not
175

1 questioning him, and I told him, well, I said first

2 off, that gentleman doesn't work in my area so I

3 don't know if he asked his foreman for permission to

4 work through lunch on that day or not. This is a

5 time of the year when all the guys are fighting for

6 overtime because there is none.

7 Q. Was he manufacturing overtime by working

8 through lunch and staying on jobs?

9 A. Yes.

10 Q. That's your opinion?

11 A. Yes.

12 Q. Okay. And when you spoke to him, did he

13 always have an excuse for why he was working through?

14 A. Yes.

15 Q. But the fact of the matter is he never
16 called you?

17 A. That's correct.

18 MR. WILKEY: That's awful lengthy
19 testimony on this. The issue is -- the issue is not
20 whether or not they had the right to follow him.
21 We're not claiming that they didn't have a right to
22 follow him. They're blowing this way out of
23 context.

24 MS. GARNER: Well, I would differ with
25 Mr. Wilkey because it was hotly contested at the
176
1 third step. Why were we following them, what reason
2 did we have. The fact of the matter is we don't
3 need a reason to follow him, but we had a really
4 good reason to follow him that time, and we did, and
5 that's why we're putting in this testimony because
6 the Union argued about it at the third step.

7 THE ARBITRATOR: Are you going to argue
8 about it?

9 MS. GARNER: Did we have a good reason to
10 follow him?

11 MR. WILKEY: I mean, the Company has the
12 right to follow someone.

13 THE ARBITRATOR: Absolutely.

14 MR. WILKEY: I mean, I don't think there's
15 any argument there.

16 MS. GARNER: Great.

17 THE ARBITRATOR: Reason or no reason,
18 correct?

19 MR. WILKEY: Well, I guess, yeah.

20 MS. GARNER: All right. We're in
21 agreement.

22 MR. WILKEY: I should have said that a
23 long time ago, shouldn't I?

24 THE ARBITRATOR: Yes, you should have.

25 MR. WILKEY: I thought it would be quick
177

1 but...

2 MS. GARNER: I actually made it quicker
3 than it was. I was going to go through each and
4 every day.

5 BY MS. GARNER:

6 Q. Did you talk to anyone else? And this is
7 important. This is not -- this is another issue,

8 specific issue, that was raised at the third step,
9 but did you talk to anyone else besides the Grievant
10 about the Grievant working through lunch?

11 A. Yes, I did.

12 Q. Who did you talk to?

13 A. Mark Boyle.

14 Q. And what did you say to Mr. Boyle?

15 A. I said listen, Mark, Louis is coming up and
16 he's telling me he wants to pull route sheets and
17 find out why so and so worked overtime this day, why
18 he worked overtime that day and why he worked
19 overtime this day, and I told Mark that my general
20 foreman, if he heard those conversations, that he
21 would more than likely pull those route sheets and
22 somebody may be in trouble.

23 Q. And what did Mr. Boyle say?

24 A. Mark said that he would talk to him about
25 it.

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1 THE ARBITRATOR: When was this, what day?

2 THE WITNESS: It was one of the days in
3 question here, between the 24th and the 5th.

4 BY MS. GARNER:

5 Q. You don't recall specifically which day?

6 A. No, I don't.

7 MS. GARNER: That's all I have.

8 THE ARBITRATOR: Let's take a break

9 because I think this is going to be long.

10 (Recess)

11 THE ARBITRATOR: Let's go. Ron, your

12 turn.

13 EXAMINATION

14 QUESTIONS BY MS. WILKEY:

15 Q. Mr. Sisak, I want to congratulate you.

16 You've got a very remarkable memory for something

17 that happened almost a year ago.

18 A. Thank you.

19 Q. Was your memory of the events of that day

20 even better several weeks beyond the event than it

21 is today?

22 A. No.

23 Q. Wouldn't have been any better?

24 A. No.

25 Q. Wouldn't have been any worse?

1 A. No.

2 Q. Now, you testified you talked to Mark Boyle
3 about Mr. Jackson working overtime. Why did you
4 talk to Mr. Boyle?

5 A. I was, I was concerned that the general
6 foreman or the superintendent would overhear
7 Mr. Jackson saying those things at the countertop,
8 and they would react to it and possibly somebody
9 else could get in trouble.

10 Q. Did you go to Mr. Boyle because he's
11 something with the union?

12 A. Yes.

13 Q. What's your knowledge of his union
14 position?

15 A. He's a shop steward that works for me in
16 Area 3.

17 Q. Now, Mr. Boyle also works for you?

18 A. Yes.

19 Q. So you were concerned enough to go to
20 Mr. Boyle to make him aware of the situation?

21 A. Yes.

22 Q. And you said that he talked to Mr. Jackson,
23 I guess, on several occasions about the overtime; is
24 that correct?

25 A. Yes.

180

1 Q. And did you document that you talked to
2 Mr. Jackson about working through lunch after he was
3 being insubordinate and working through lunch even
4 though you had told him to stop?

5 A. No.

6 Q. You didn't document those?

7 A. No.

8 Q. Didn't warn him that if he didn't stop,
9 that there may be some discipline?

10 A. Verbal warning.

11 Q. But you didn't put anything in writing?

12 A. Verbal warning.

13 Q. And you -- let's look at Company Exhibit
14 whatever -- Company Exhibit Number 12. Do you have
15 that, sir?

16 MS. GARNER: Company 12.

17 MR. WILKEY: It's the route sheet, big
18 pile of route sheets.

19 MS. GARNER: Starting on 2-24.

20 BY MR. WILKEY:

21 Q. I'm going to make this short.

22 A. Okay.

23 Q. If you turn to the last page, do you see --

24 how many A.M. jobs does Mr. Jackson have that day?

25 A. Six.

181

1 Q. Six? Is that uncommon to have that many

2 A.M. jobs?

3 A. No.

4 Q. It's not? Is it possible for servicemen to

5 get to that many A.M. jobs prior to lunchtime?

6 A. Depending on what the jobs are, yes.

7 Q. If the jobs are turn on, TFTO, TFTO, turn

8 on, TFTO, turn off, and that's a lot of work to do

9 prior to your lunchtime, isn't it?

10 A. No.

11 Q. It's not? Why do you say that?

12 A. Well, I'm looking at it, and I see one, two

13 actual turn ons, and I see three turn offs, or turn

14 on turn offs that were dated for A.M.

15 Q. Okay. Now, if you look at the grid code

16 147, that's on the first four jobs; is that correct?

17 A. Yes.

18 Q. Now, even though the second two jobs don't

19 have A.M. in front of it, wouldn't it make sense

20 that if you're in the area close that you go ahead

21 and get those jobs while you're there?

22 A. Not necessarily.

23 Q. You don't want your servicemen out wasting

24 time, do you?

25 A. I want my serviceman to get the A.M. work

182

1 done first.

2 Q. You want him to jump from one grid code to

3 another grid code that might be miles away?

4 A. If he's running late and he doesn't think

5 that he can get all the A.M. work, yes, I do want

6 him to jump in.

7 Q. Now, service employees get quite a bit of

8 overtime, don't they?

9 A. Some do and some don't.

10 Q. But the ones that want to, they get quite

11 bit of overtime, don't they?

12 A. Some do and some don't.

13 Q. My question is the ones that do work the

14 overtime, they get quite a bit of overtime, don't

15 they?

16 A. Everyone works a little overtime now and

17 then.

18 Q. But the ones that really want to work the

19 overtime, they can work the overtime, can't they,

20 quite a bit of it?

21 A. Depending on what time of the season we're

22 in, our budget for the department.

23 Q. At any time during whatever season it is,

24 if the person wants overtime, they have the

25 availability to work quite a bit of overtime, don't

183

1 they?

2 A. No.

3 Q. And why do you say that?

4 A. Because it doesn't. You said regardless of

5 the season, and that's not true.

6 Q. Okay. Well, if it's in the heating season,

7 they get quite a bit of overtime?

8 A. No.

9 MS. GARNER: If you could define "heating
10 season," what's "heating season"?

11 MR. WILKEY: I think the heating season is
12 probably the same time of year that you do
13 collections.

14 MS. GARNER: Give me a month.

15 MR. WILKEY: November through April.

16 MS. GARNER: November through April.

17 THE WITNESS: You would be incorrect in
18 assuming that then, sir.

19 BY MR. WILKEY:

20 Q. But there could be quite a bit of overtime
21 worked in those periods, couldn't there?

22 A. No, there could not.

23 Q. Why do you say there could not be?

24 A. Because during the months of February,
25 March and the beginning of April, first two weeks in
184

1 April, there is no work in our department that would
2 constitute working overtime.

3 Q. Now, when employees work overtime, do they
4 always call and get your permission that you

5 directly supervise?

6 A. Yes.

7 Q. Every single time?

8 A. Every time.

9 Q. Now, if they're assigned for overtime, do
10 they have to call you to work the overtime?

11 A. Yes.

12 Q. They still have to call you?

13 A. Yes.

14 Q. Look at Company Number 10. It says day
15 shift on there. If a employee wishes to be
16 considered for overtime, overtime sheet must be
17 signed at the beginning of the shift for each new
18 working day?

19 A. Yes.

20 Q. What does that mean?

21 A. If an employee wishes to be considered for
22 overtime, he signs the daily manpower sheet, he
23 initials it that he'd like to be considered for
24 working overtime.

25 Q. Did Louis sign that sheet, do you know?

1 A. He probably did. I don't recall it

2 specifically, no.

3 Q. It's a good possibility; isn't that

4 correct, sir?

5 A. Good possibility.

6 Q. I want you to look at Joint Exhibit 9 and

7 also Company Exhibit Number 7. I'm going to walk

8 over, sir, to you. Do you recall this -- it's the

9 satellite photos?

10 A. Which one.

11 Q. Joint 9 and Company number 7.

12 A. Joint 9 and Company 7. Yes, I have them

13 here.

14 Q. Yes. Okay looking at Company number 9, you

15 said you were parked in front of 8750; is that

16 correct?

17 A. Yes, sir.

18 Q. Okay. And the house was -- can't read --

19 8735; isn't that correct?

20 A. That's correct.

21 Q. Do you recall the contour of that road at

22 all?

23 A. Yes.

24 Q. And what was the contour of that road?

25 A. There's a slight grade downhill from where
186

1 we were parked.

2 Q. There's a crown in the road, isn't there?

3 A. Right.

4 Q. A hill more or less?

5 A. Behind 8750 back here (indicating), there's

6 a crown.

7 Q. Behind -- it's behind where you were parked?

8 A. Yes.

9 Q. The crown -- it wasn't in front of where

10 you were parked?

11 A. No. We were on the downhill side of the

12 crown.

13 Q. And you were 170 feet away from that?

14 A. Approximately.

15 Q. Did you measure that?

16 A. I think we did at the time, yeah.

17 Q. At the time, okay. Let me -- does 8786

18 Trumbell, do you recognize that house? Kind of hard

19 from the air, isn't it?

20 A. It's not even here on this one.

21 Q. (Indicating).

22 A. Okay. Right.

23 Q. Do you recognize that house at all?

24 A. No.

25 Q. Okay. Now, who told you to go out and
187

1 check on Mr. Jackson? You can sit down.

2 A. General foreman.

3 Q. Who's that?

4 A. Mr. Williams.

5 Q. And what exactly did he tell you?

6 MS. GARNER: I'll object to the

7 characterization of who told who. I believe the

8 testimony of both Mr. Williams and Mr. Sisak is that

9 Mr. Sisak went to Mr. Williams, not the other way

10 around.

11 MR. WILKEY: I asked the question.

12 MS. GARNER: I think it's already been

13 asked and answered. That's my point.

14 MR. WILKEY: Not sure.

15 THE ARBITRATOR: Go ahead. Answer it.

16 THE WITNESS: Would you repeat the
17 question, please?

18 BY MR. WILKEY:

19 Q. Who instructed you to follow Mr. Jackson on
20 March 3rd?

21 A. Mr. Williams did after I approached him.

22 Q. Now, did you have any part in an
23 investigation into the alleged incident on March 3rd?

24 A. Yes.

25 Q. Okay. What all did you do in your
188
1 investigation?

2 A. Went out and watched Mr. Jackson work that
3 day.

4 Q. Okay. Is that all you did in your
5 investigation?

6 A. Wrote a letter on it.

7 Q. Wrote a letter. Is that all you did?

8 A. On that day, yeah.

9 Q. Okay. Did you do anything else after that
10 day? Don't look at Miss Garner. She's not going to
11 help you.

12 A. Yes.

13 Q. Okay. What else did you do?

14 A. Went out and made a facsimile video of the
15 day.

16 Q. A fax -- what do you mean by a facsimile
17 video? I never heard of that term.

18 A. Well, it was a generalization of what we
19 saw and observed that day.

20 Q. Would it maybe have been called an
21 reenactment, is that possible?

22 A. I don't know. What does it say on it?

23 Q. I don't know. It says Louis Jackson
24 Reenactment. You want to look at this and see if
25 you've seen this before?

189

1 MS. GARNER: I'm not even sure he put that
2 on there.

3 THE WITNESS: I didn't put that on there.

4 BY MR. WILKEY:

5 Q. And did you make a videotape?

6 A. VHSC tape of it, yes.

7 Q. Something that looks like this?

8 A. It was smaller.

9 Q. Smaller?

10 A. Mm-hmm.

11 Q. And when you went to make the reenactment,

12 what addresses did you go to?

13 A. The addresses in question; 8021 Titus and

14 8735 Trumbell.

15 Q. You went to both those addresses?

16 A. Yes, sir.

17 Q. What if I were to tell you you were at the

18 wrong address, would you believe that?

19 A. No.

20 Q. You wouldn't believe that?

21 A. No. Not a bit.

22 Q. What if your video showed you was on the

23 wrong address, wouldn't believe that either?

24 A. No.

25 Q. You think the video would be lying? Do you

190

1 know for a fact, Mr. Sisak, that the actual house

2 that you videotaped and the Company sent to the

3 Union in discovery was actually the house that I

4 asked you if you recognized, which was 8677? Would

5 that be possible?

6 A. No.

7 Q. So you're saying the tape wouldn't show

8 that?

9 A. I don't believe it would.

10 Q. There's no way -- I mean, your memory is so

11 good you wouldn't -- couldn't remember things so

12 well today and then three weeks later have a mistake

13 on the address, could you?

14 MS. GARNER: Mr. Arbitrator, badgering.

15 THE WITNESS: No.

16 BY MR. WILKEY:

17 Q. There's no way you could have done that, is

18 there? Or at least that's your testimony; is that

19 correct?

20 THE ARBITRATOR: You have to answer his

21 question.

22 THE WITNESS: Yes.

23 BY MR. WILKEY:

24 Q. Let me ask you another question. How well

25 did you know Mr. Jackson?

191

1 A. Personally or -- I didn't know him at all.

2 Q. You didn't know him at all?

3 A. No.

4 Q. Didn't confide in him at all?

5 A. No.

6 Q. You also testified, I believe you
7 testified, correct me if I'm wrong, that you didn't
8 trust Mr. Jackson, is that correct, because he was
9 insubordinate?

10 A. I don't recall saying that I didn't trust
11 him.

12 Q. Is it possible you could have said that?

13 A. It's possible.

14 Q. Do you trust Mr. Jackson?

15 A. No.

16 Q. Do you recall having a conversation with
17 Mr. Jackson asking him to fill out and sign another
18 employee's name for an evaluation of that employee?

19 A. Yes.

20 Q. You want to tell us a little bit about that?

21 A. I asked him to sign the employee's name and
22 he did. I got back in my car and thought that --

23 that was a stupid move, tore up the evaluation and

24 didn't submit it.

25 Q. But you asked him to do it, didn't you?

192

1 A. And he did it.

2 Q. And he did it, but you knew that was

3 dishonest, didn't you?

4 A. At the time, it slipped my mind.

5 Q. It slipped your mind that asking someone to

6 sign someone else's name to a document, that just

7 happened to slip your mind?

8 A. Yes.

9 Q. For a man that's got a very good memory,

10 that seems odd. You were supposed to ride with that

11 employee, weren't you, that he signed a name for?

12 You were supposed to do an evaluation on that

13 employee and ride with that employee?

14 A. No, that's not correct.

15 Q. You were supposed to go out on his job

16 sites then; isn't that correct?

17 A. That is correct.

18 Q. Did you go out on his job site?

19 A. Yes, I did.

20 Q. Well, why didn't you ask the employee to
21 sign the documents?

22 A. I forgot.

23 Q. Forgot, so that gives you an excuse to ask
24 someone to falsify a document?

25 A. It was a mistake.
193

1 Q. But you did it nevertheless, didn't you?
2 Was there another time that you asked Mr. Jackson to
3 falsify a document?

4 A. No.

5 Q. No other time?

6 A. No.

7 Q. Never asked Mr. Jackson to sign a
8 customer's name on a form that you went out and
9 talked to the customer?

10 A. No.

11 Q. Never ever?

12 A. Never ever.

13 Q. So the only time that you asked Mr. Jackson
14 to do anything dishonest was the time that you asked
15 him to sign the employee's name; is that correct?

16 A. Yes.

17 MR. WILKEY: Let me go over my questions.

18 I need to see if there's anything else.

19 Q. To your knowledge, on the CGI, is there an
20 inside filter in that piece of equipment?

21 A. No.

22 Q. There's not -- if you take, if you take the
23 metal piece off of that wand that's attached to, is
24 there not a filter on the inside?

25 A. No.

194

1 Q. No filter whatsoever?

2 A. No.

3 Q. Mr. Williams testified there was. Was he
4 mistaken?

5 THE ARBITRATOR: No, he didn't. He
6 testified --

7 MR. WILKEY: He testified there's a filter.

8 THE ARBITRATOR: There was a metal piece
9 in there. He didn't say it was a filter.

10 MS. GARNER: He said it was a piece of
11 corrugated metal.

12 BY MR. WILKEY:

13 Q. Is that what's inside it?

14 A. I don't know.

15 Q. Have you ever looked inside it?

16 A. No.

17 Q. Now, you're alleging that Mr. Jackson did
18 not carry a CGI in on two homes that you witnessed,
19 allegedly witnessed. Did you have Mr. -- did you
20 have any other serviceman go out and check any of
21 the other jobs that Mr. Jackson did that day?

22 A. Just those two jobs.

23 Q. Just those two. Did you ever talk to the
24 customer at those two addresses?

25 A. No.

195

1 Q. Isn't it true that whenever you're going to
2 do an outside read on a house, that you have to have
3 the wand, the clear wand that's shown on the table
4 there? That's to get an outside -- to get a bar
5 hole read where you're actually probing in the
6 ground?

7 A. Yes.

8 Q. That's the apparatus that he used?

9 A. Yes.

10 Q. You testified that you had saw someone had
11 carried just the CGI in without an attachment and
12 you warned them in that case; isn't that correct?

13 A. Yes.

14 Q. You saw an employee just carrying the CGI
15 without an attachment on it?

16 A. Yes.

17 Q. You warned that employee?

18 A. Yes.

19 Q. What would you do if you saw an employee
20 that did not carry his bucket of tools in to a job?

21 What would you do in that instance?

22 A. Same thing.

23 Q. Warn him?

24 A. Yes.

25 Q. Wouldn't be a discharge, would there?

196

1 A. For not having tools?

2 Q. Yes.

3 A. No.

4 Q. Wouldn't be a discharge if he used the CGI
5 without the wand on it, would it?

6 A. Inside?

7 Q. If he used -- yes, inside?

8 A. You lost me. Sorry, repeat the question.

9 Q. If he used the CGI piece of equipment

10 without a wand on to get a read inside a house, that

11 would not be a dischargeable offense, would it? It

12 would be a warning like you warned the other

13 gentleman, wouldn't it?

14 A. Yeah.

15 Q. In looking at Company's 13 and 14 --

16 MS. GARNER: He doesn't have it yet.

17 MR. WILKEY: I'm sorry.

18 MS. GARNER: It's right here.

19 BY MR. WILKEY:

20 Q. You described, it says to use a proper

21 filter on this document, it said -- do you recall --

22 A. Which one?

23 Q. Either 13 or 14, you identified them both,

24 whichever one you want to do first, sir.

25 A. What was the question? 14 first, what was
197

1 the question?

2 Q. Either one you want. Where does it say a

3 proper filter, that you must use a proper filter?

4 A. Under "Filter Check."

5 Q. Okay. And it says do not use the detector

6 without a proper filter; is that correct?

7 A. That's correct.

8 Q. What is a proper filter? Is it defined

9 anywhere in this document?

10 A. It's not defined in this document.

11 Q. Okay. Is it defined in Company Number 13

12 anywhere, to your knowledge? You can look at it all

13 you need to, sir.

14 A. I don't see anything on here right offhand.

15 Q. Okay. So it's probably not in there, is

16 it, sir?

17 A. That's correct.

18 Q. Now, you said on one of the jobs that you

19 witnessed Mr. Jackson walk inside and come out of

20 the house, saw him approximately four times. Would

21 that have been at 8021 is that Titus?

22 A. Yes.

23 Q. Now, did you ever witness him walk out with

24 the customer?

25 A. Yes.

198

1 Q. Did he have his CGI at that point?

2 A. No.

3 Q. Is it possible you didn't see it because he
4 might have left the CGI inside?

5 A. No.

6 Q. It's not possible he could have left the
7 CGI inside?

8 A. No.

9 Q. Now, the only way Mr. Jackson falsified his
10 time tickets was by putting zero percent on the two
11 addresses in the CGI column; isn't that correct, as
12 far as you allege?

13 MS. GARNER: Sorry, his time ticket?

14 MR. WILKEY: His CIS order, I'm sorry.

15 A. Can I look at them again?

16 Q. Sure. You got copies of Joint --

17 THE ARBITRATOR: Joint 2.

18 MR. WILKEY: Joint 2. CISes, yes.

19 (Discussion off the Record.)

20 THE WITNESS: All right.

21 BY MR. WILKEY:

22 Q. Okay.

23 A. Repeat the question.

24 Q. Look at 8021 Titus Road.

25 A. Okay.

199

1 Q. Now, if you were mistaken, Mr. Jackson did

2 have his CGI in the house and he recorded a zero,

3 isn't it true that he wouldn't have been falsifying

4 a document then? I know what --

5 A. Excuse me, you lost me.

6 Q. I'm saying if for some reason that you were

7 mistaken and he had carried the CGI into the house

8 and put down a zero on the inside read, that would

9 not be falsification of company documents, would it?

10 A. Repeat that one more time. I'm sorry,

11 you're losing me.

12 Q. Okay. That's fine. I want to make sure

13 you clearly understand this. If Mr. Jackson had

14 carried the CGI into the house, even though you're

15 claiming he didn't, you may have mistakenly not seen

16 it or whatever, but if he had had it inside the

17 house and put that zero down, that wouldn't be

18 falsifying a document, would it?

19 A. If he didn't? If he took --

20 Q. If the CGI --

21 A. If he took the CGI inside the house and did

22 not --

23 Q. And took the read --

24 A. And took the read.

25 Q. -- and got zero that's not falsifying the
200

1 CIS order, is it? That's not falsifying a document,

2 is it?

3 A. No.

4 Q. That's the same way on Trumbell too,

5 wouldn't that be correct? If he took the CGI in and

6 put zero down on the inside read and in fact took

7 the read inside, that would not be falsifying the

8 document either, would it?

9 A. If he had, in fact, took it inside with

10 him.

11 Q. Okay. Now, were you in the house with

12 Mr. Jackson? At any time did you go in the house?

13 A. No.

14 Q. Look at Company Exhibit Number 8 real
15 quick.

16 A. Got it.

17 MR. WILKEY: Are you still looking for
18 number 8?

19 THE ARBITRATOR: That's right. That's
20 right. All right.

21 MS. GARNER: Is there one in front of you?

22 (Discussion off the Record.)

23 BY MR. WILKEY:

24 Q. Is that your signature on the bottom of the
25 page?

201

1 A. Yes, it is.

2 Q. How many hours of overtime did Mr. Bruno
3 work that day?

4 A. Two.

5 Q. Two hours of overtime?

6 A. Yes.

7 Q. I thought you said there was no overtime at
8 that time of the year.

9 A. It was a necessary evil to have him go back

10 and check those two jobs.

11 Q. Is that what caused the overtime?

12 A. Yes.

13 Q. How long did Mr. Bruno spend on those two
14 jobs?

15 A. From -- total on both jobs?

16 Q. Uh-huh.

17 A. 65 minutes.

18 Q. On both jobs?

19 A. Mm-hmm.

20 Q. 65 minutes, that's just a little over an
21 hour, isn't it?

22 A. Yes.

23 Q. But he worked two hours; is that correct?

24 Yes or no?

25 A. That's correct.

202

1 Q. Okay.

2 A. Actually he had to leave that job and go
3 back to the job that he was on, so you could add
4 another ten minutes on to that, make it 75.

5 Q. Okay. 75 minutes.

6 A. Hour and 15 minutes.

7 Q. He worked two hours. Now, you testified

8 that Mr. Jackson actually called you on the

9 telephone on one of the jobs; is that correct?

10 A. Yes.

11 Q. And which job was that on, do you recall?

12 A. 8021 Titus.

13 Q. And how long did that conversation last?

14 A. 25 seconds.

15 Q. And were you aware that Mr. Jackson had the

16 conversations with other folks on that job also?

17 A. No.

18 Q. You never asked him if he had? Wasn't that

19 the issue with the fuel runs?

20 A. Something about a fuel run.

21 Q. And you weren't aware that he had to call

22 the dispatching desk to find out if the home sale

23 inspection had included the check of the space

24 heater?

25 A. No.

203

1 Q. Okay. Have you talked to Mr. Boyle about

2 this arbitration case prior to today?

3 A. No.

4 Q. Do you recall that March -- do you recall

5 March 16th of '06?

6 A. Not right offhand, no.

7 Q. Sir, so that would have been approximately

8 eight days ago, a week, a week ago yesterday?

9 A. Not -- nothing specific, no.

10 Q. Okay. Do you recall being called downtown

11 and asked questions about this arbitration hearing

12 by Miss Garner?

13 MS. GARNER: I'll object to anything he

14 was asked because it would be attorney client

15 privilege.

16 MR. WILKEY: I'm not going to ask him the

17 exact. I just asked him if he recalled.

18 MS. GARNER: I'm just putting it out

19 there, Ron.

20 THE WITNESS: When was the 16th?

21 BY MR. WILKEY:

22 Q. Would have been week ago yesterday, on a

23 Thursday.

24 A. A week ago Thursday. No, I didn't come

25 down here then.

204

1 Q. Would it possibly have been a Wednesday?

2 With when did you go downtown to prepare for this

3 case?

4 A. March the 22nd.

5 Q. March 22nd?

6 A. A Wednesday, a Wednesday of this week.

7 Q. That's the first time you went anywhere to

8 prepare for this case?

9 A. Yes.

10 Q. Do you recall having a conversation with

11 Mr. Mark Boyle about the forms that came up in the

12 conversations about having him fill out another

13 employee's name when you requested him to do that?

14 Do you recall having that conversation with

15 Mr. Boyle?

16 A. No.

17 Q. Never had that conversation with Mr. Boyle?

18 A. No.

19 Q. Did you ever make a statement to Mr. Boyle

20 in the bullpen that -- did you ever make a statement

21 to anybody in the bullpen that Mr. Jackson should
22 not get his job back?

23 A. No.

24 MR. WILKEY: That's all the questions I
25 have at this time.

205

1 MS. GARNER: Can we have two minutes so we
2 can confer?

3 THE ARBITRATOR: Yes.

4 MR. WILKEY: I do have one other question.

5 (Discussion off the Record.)

6 THE ARBITRATOR: Go ahead. He has one
7 more question.

8 MR. WILKEY: You want me to ask it now?

9 THE ARBITRATOR: Sure. Go ahead.

10 BY MR. WILKEY:

11 Q. Mr. Sisak, you said that you wouldn't --

12 MS. GARNER: Whoa. Whoa. Whoa.

13 MR. WILKEY: He just told me to go ahead.

14 THE ARBITRATOR: I told him to go ahead.

15 MS. GARNER: I'm sorry. I didn't know he
16 was going ahead. I was conferring over here.

17 THE ARBITRATOR: All right. Well, go

18 ahead and you can confer.

19 BY MR. WILKEY:

20 Q. You testified that you saw the Grievant,

21 Mr. Jackson, walk into the two jobs without the CGI

22 on; isn't that correct?

23 A. Without -- he did not have the CGI when he

24 went into the two houses.

25 Q. And that's what you based your decision on
206

1 that he did not get a read and that he falsified a

2 document; is that correct?

3 A. Yes.

4 Q. Why wouldn't you have confronted him after

5 the first incident?

6 A. That was more than one question.

7 THE ARBITRATOR: I told you.

8 (Discussion off the Record.)

9 BY MR. WILKEY:

10 Q. Why didn't you confront him when you first

11 saw him walk into the house and walk out of the

12 house without a CGI on? Why didn't you confront him

13 then?

14 A. I don't know.

15 Q. Isn't that a serious offense?

16 A. Yes.

17 Q. You continued to let him work, didn't you?

18 A. Yes. We followed him to his next job.

19 Q. You have no reason that you can say here

20 today why you didn't confront with him immediately?

21 A. No.

22 MR. WILKEY: That's all.

23 EXAMINATION

24 QUESTIONS BY MS. GARNER:

25 Q. Okay. Just because an employee signs to
207

1 work for overtime, does that mean he's automatically

2 going to get overtime?

3 A. No.

4 Q. It just means that he wants it if it's

5 available?

6 A. He wants to be considered.

7 Q. If there's overtime that day?

8 A. Yes.

9 Q. And do some routes, are they longer so that

10 they will likely include overtime?

11 A. Yes.

12 Q. And who do you give those routes to?

13 A. Just random. Just -- I look at the work in

14 the morning and distribute it.

15 Q. But you only give it to guys who signed to

16 work overtime? The routes that are likely to result

17 in overtime are given to the guys who signed for

18 overtime?

19 A. No. Because I don't know who's going to

20 sign for overtime until after -- they're handed

21 their work first and then they indicate whether

22 they'd work overtime or not.

23 Q. And is that overtime list also used to

24 dispatch leaks and do board work people who want the

25 overtime?

208

1 A. Yes.

2 Q. And if you're working a route, are you

3 required to get permission to work overtime?

4 A. Yes.

5 Q. Mr. Wilkey asked you about why you didn't

6 stop Mr. Jackson on Titus when you saw him without

7 his CGI, were you in contact with your general
8 foreman?

9 A. At that point, yes.

10 Q. And did your general foreman instruct you
11 to stay out on the route with him?

12 A. Yes.

13 Q. So it wasn't really your decision whether
14 or not you were going to confront him immediately or
15 stay on the route?

16 A. No.

17 Q. On the goose neck, is there a filter
18 attached to the goose neck?

19 A. Yes.

20 Q. If you could just indicate for the
21 Arbitrator where the filter in the goose neck is?

22 A. Right here (indicating).

23 Q. So the filter, the proper filter that's
24 referred to in those exhibits are the filters that
25 are on the attachments?

209

1 A. Yes.

2 Q. And are the employees told the filters are

3 on these attachments?

4 A. Yes.

5 Q. So they know the proper filter is the

6 filter on the attachment?

7 A. Yes.

8 Q. And what about on the wand?

9 A. Here (indicating).

10 Q. Same thing?

11 A. Same thing.

12 Q. With respect to why you only sent Mr. Bruno

13 back on two jobs, why was that?

14 A. Because those are the only two jobs that I

15 observed Mr. Jackson violate company policy.

16 Q. Were you instructed by anyone to send

17 Mr. Bruno out on those two jobs?

18 A. Yes.

19 Q. And who was that?

20 A. Mr. Williams.

21 Q. Mr. Wilkey asked whether or not it was

22 possible that Mr. Jackson had left the CGI inside on

23 Titus, do you remember that?

24 A. Yes.

25 Q. And you said it wasn't possible?

210

1 A. Yes.

2 Q. Why wasn't it possible that he left it

3 inside?

4 A. Because he didn't take it in.

5 Q. With respect to Mr. Wilkey's questions

6 concerning any conversation you had with Mark Boyle

7 on signing other people's names to documents, you

8 indicated you had no specific conversation with

9 Mr. Boyle, do you recall that?

10 A. Yes.

11 Q. Was there discussion at the third step

12 about service techs signing other people's names to

13 forms?

14 A. Yes.

15 Q. Was Mr. Boyle involved in that discussion?

16 A. Yes.

17 Q. And you were there?

18 A. Yes.

19 Q. But you didn't have an individual

20 discussion with him on that topic?

21 A. No.

22 Q. As an officer of the court, I do have an
23 obligation, Mr. Sisak, I did have a meeting prior to
24 this week that he may not recall but we met last
25 Wednesday at 1:30. You don't remember that?

211

1 A. I do now. Yeah.

2 Q. So I do have an obligation to bring that
3 forward since I was party to the meeting, but we did
4 meet last Wednesday at 1:30. Do you recall that
5 now?

6 A. Yeah.

7 MS. GARNER: Okay. And, Ron, I know
8 you're going to follow up on that, but...

9 MR. WILKEY: That pretty much says he
10 remembers a year ago but not a week ago.

11 BY MS. GARNER:

12 Q. You just forget that we met?

13 A. Yes. Because I was downtown for a meeting
14 with supervisor training.

15 Q. You came in for that?

16 A. I came and saw her after the meeting.

17 MS. GARNER: That's all I have.

18 THE ARBITRATOR: Thank you.

19 EXAMINATION

20 QUESTIONS BY MR. WILKEY:

21 Q. Just a few follow-ups. It's your
22 testimony that Wednesday, after Miss Garner just
23 testified that was the day you were down there, on
24 that day, you never went back into the workplace?

25 A. I think that I did go back into the
212
1 workplace that day.

2 Q. You went back in the workplace that day?

3 A. Yes.

4 Q. And then were you back in the work force on
5 Thursday morning?

6 A. Yes.

7 Q. Back on the job?

8 A. Yes.

9 Q. Okay. And your testimony is you didn't
10 talk to Mark Boyle about those forms that you had
11 Mr. Jackson falsify that day; is that your testimony?

12 A. Yes.

13 Q. Okay. And is it your testimony that no

14 employee works overtime without your permission?

15 A. Yes.

16 Q. Has Mr. Boyle ever worked through lunch

17 without your permission?

18 A. Not on routed work.

19 Q. Not on route -- what type of work would

20 that be that he worked overtime without your

21 permission?

22 A. When he was on the dispatching board.

23 Q. Is it fair to say that Mr. Boyle works

24 through lunch every day, to your knowledge?

25 A. Yeah. He does, yes.

213

1 Q. And you reviewed his time tickets; isn't

2 that correct?

3 A. Yes.

4 MR. WILKEY: That's all I have.

5 EXAMINATION

6 QUESTIONS BY MS. GARNER:

7 Q. And does Mr. Boyle work through the lunch a

8 lot because he works the dispatch board a lot?

9 A. Yes.

10 Q. When you work the dispatch board, the

11 supervisor doesn't have control over the lunch hour;

12 is that correct?

13 A. That's correct.

14 Q. And the dispatch board controls the lunch

15 hour?

16 A. That's correct.

17 MS. GARNER: One second.

18 Q. In fact, if you look at Company 10, which

19 is Section 1-6, general information --

20 A. Yes.

21 Q. -- where I previously clarified that the

22 working through lunch, the top of 1-6, didn't apply

23 to Grievant, does that apply to Mr. Boyle?

24 A. Yes.

25 Q. So that's the difference, he's comparing

214

1 apples and oranges?

2 A. Yes.

3 Q. Dispatch board versus routed work?

4 A. Yes.

5 MS. GARNER: That's all I have.

6 MR. WILKEY: That's it. No lie.

7 THE ARBITRATOR: You're off the hot seat,

8 sir.

9 (Witness excused)

10 MS. GARNER: All right, I have one more

11 witness.

12 MR. WILKEY: Is this a long one or short

13 one?

14 MS. GARNER: As long as this.

15 (Discussion off the Record.)

16 STEPHEN FERRIS

17

18 of lawful age, having been first duly sworn to

19 testify the truth, the whole truth, and nothing but

20 the truth in the case aforesaid, testifies and says

21 in reply to oral interrogatories propounded as

22 follows, to-wit:

23

24 EXAMINATION

25 QUESTIONS BY MS. GARNER:

215

1 Q. Can you please state your name and spell it

2 for the record?

3 A. Stephen Ferris, S-t-e-p-h-e-n, F-e-r-r-i-s.

4 Q. And what is your current title at Laclede

5 Gas Company?

6 A. Foreman.

7 Q. In what department?

8 A. SAID.

9 Q. And what district?

10 A. North -- Central right now.

11 Q. Where were you on -- what district were you

12 on March 3rd of 2005?

13 A. North District.

14 Q. You just recently got moved to Central?

15 A. Yes.

16 Q. How long have you been an SAID foreman?

17 A. About 13 and a half months.

18 Q. So at the time March 3rd of '05, you were a

19 foreman?

20 A. Yes.

21 Q. Describe briefly the work that you do for

22 Laclede.

23 A. I supervise service technicians.

24 Q. And how long have you been employed by

25 Laclede Gas Company?

216

1 A. 14 and a half years.

2 Q. What was your position at Laclede prior to

3 becoming a SAID foreman?

4 A. I was a service technician.

5 Q. How well do you know the Grievant,

6 Mr. Jackson?

7 A. Not well.

8 Q. Do you know him at all?

9 A. Just from, just from here and seeing him in

10 the bullpen area. That's when the men get their

11 work.

12 Q. You saw him in the bullpen prior to March

13 3rd of '05?

14 A. That's correct.

15 Q. Have you ever directly supervised

16 Mr. Jackson?

17 A. Maybe once or twice.

18 Q. But never on a regular basis?

19 A. No.

20 Q. What happened on March 3rd, 2005?

21 A. I was told by Mike Sisak you're going to

22 come with me.

23 Q. And where were you going to go with Mike

24 Sisak?

25 A. We were going to follow somebody.

217

1 Q. Did he even tell you who at that point?

2 A. No.

3 Q. And what did you do?

4 A. I just cleared up my desk and waited for

5 him to say let's go.

6 Q. And when he said it was time to go, what

7 did you do?

8 A. We went -- we got in my car and -- because

9 I had a rental car and so it was not obvious, and so

10 we went out to his first job, and then we went to

11 the job, to the job, his first job that we watched

12 him.

13 Q. Okay. I'm going to hand you the route

14 sheet that Mr. Jackson had that day, which is Joint

15 3. What was the first stop where you and Mr. Sisak

16 observed Mr. Jackson?

17 A. The first stop was 8021 Titus.

18 Q. And did you arrive before or after

19 Mr. Jackson?

20 A. Before.

21 Q. Were you already in position when he

22 arrived?

23 A. Yes.

24 Q. And what was the route at work for 8021

25 Titus?

218

1 A. I think it was TFTO.

2 Q. What was the Grievant wearing?

3 A. Just a long-sleeved, green, light-colored

4 green shirt and blue jeans.

5 Q. And did he have a jacket on?

6 A. No, he did not.

7 Q. What did you see at 8021 Titus?

8 A. We saw Mr. Jackson get out of his van with

9 just his paperwork and a flashlight, walk in, walk

10 into the house, walk back out of the house to the

11 rear of the house, back in, back in front of the

12 house, back into the house, back out of the house

13 and into his van.

14 Q. Okay. What did he have in his van when he

15 got out of the van?

16 A. Just his flashlight and paperwork.

17 Q. And what is he required to take into the

18 home with him on a TFTO?

19 A. A tool bucket and his TFTO had an inside

20 meter set, and he's required to bring in a CGI.

21 Q. Did he have his tool bucket with him?

22 A. No.

23 Q. And did he have his CGI with him?

24 A. No.

25 Q. Why does an inside meter TFTO turn off turn
219

1 on require the CGI reading?

2 A. Because every inside meter set requires a

3 CGI reading at the point of entry where the gas

4 enters the building.

5 Q. And what else do you test in the area

6 besides the service entry?

7 A. I test the pipes, the meter set all the way

8 up to the meter.

9 Q. And you're looking for leaks in either the

10 service entrance where the pipe comes in or the

11 meter?

12 A. That's correct.

13 Q. Are the service entrance and the meter

14 considered company facilities?

15 A. Yes.

16 Q. Okay. I'm handing you what's -- this,

17 which is the CGI. Just come over and pick it up for

18 me.

19 A. (Witness complied.)

20 Q. Does that CGI have anything attached to it?

21 A. Yes.

22 Q. And is this what Grievant should have had

23 with him when he went inside?

24 A. Yes.

25 Q. What are the two parts to this CGI?

220

1 A. You've got the -- this is called the goose

2 neck and this goose neck, you have a filter here and

3 you have a filter here (indicating).

4 Q. Okay. There's the actual device itself?

5 A. And then your actual device itself.

6 Q. Okay. Is there another attachment that can

7 be made to the CGI?

8 A. Yeah. That would be the wand and the
9 plastic hose.

10 Q. Okay. Rather than make you get up, is
11 there a filter on here anywhere?

12 A. Yes.

13 Q. Can you tell me where and I'll indicate?

14 A. It's the round, black piece next -- no --
15 yes, right there.

16 Q. That's the filter?

17 A. That is the filter.

18 Q. And this is also an appropriate attachment
19 for the CGI?

20 A. Yes.

21 Q. Can you use a hose and wand to do an inside
22 CGI?

23 A. Yes.

24 Q. And how do they do that?

25 A. They would put the tip of the wand up to
221

1 the point of entry, that's where the gas service
2 comes through the foundation of the wall.

3 Q. For clarification, the tip of this wand is

4 plugged. Do they use a regular wand or do they

5 alter the wand?

6 A. Some people have altered them.

7 Q. And how do they alter it?

8 A. They just cut them in half.

9 Q. Cut them off?

10 A. Yes.

11 Q. You use this like a nozzle --

12 A. Yes.

13 Q. -- to see if there's any leaks up there?

14 A. Yes.

15 Q. When you're doing an inside -- I'm sorry.

16 When you do an inside CGI, can you use just the

17 device without any attachment?

18 A. No.

19 Q. Why not?

20 A. Because the device has to be filtered,

21 so -- it has to be filtered.

22 Q. And if you don't use an attachment, then

23 there's not a filter on there?

24 A. That's correct.

25 Q. Have you ever seen a service technician

1 enter a home with just a device and no goose neck or
2 hose and wand?

3 A. No.

4 Q. What would you do if you did see that?

5 A. I would tell them to put one on.

6 Q. Put one of the devices on?

7 A. Put one of the devices.

8 Q. Have you ever seen a service tech enter a
9 home without his tool bucket?

10 A. No.

11 Q. And if you did see a serviceman enter his,
12 a home without his tool bucket, what would you do?

13 A. I would tell him hey, we need to bring
14 tools in.

15 Q. Is the performance of the CGI a safety
16 inspection?

17 A. Yes.

18 Q. And are you inspecting company facilities?

19 A. Yes.

20 Q. Okay. You're going to have to stand for
21 part of this. I'm going to have you -- hand you

22 Joint Exhibit 8. I'm going to have him do the same
23 thing that I had Mr. Sisak do. I can go through it
24 all again and have them remarked if that's what you
25 want.

223

1 MR. WILKEY: I mean, I expected their
2 testimony is going to be pretty consistent.

3 THE ARBITRATOR: I think it's going to be
4 identical, wouldn't you?

5 MR. WILKEY: I would think so.

6 THE ARBITRATOR: Let's not go through all
7 that again. We don't have to go through all that
8 again.

9 MS. GARNER: Can we just stipulate for the
10 record that, in fact, if I had him go through the
11 same exercise of marking, it would be the same as
12 what Mr. Sisak did?

13 THE ARBITRATOR: Exactly, and we'll allow
14 counsel for the Union to cross examine and bring
15 those exhibits in if he feels that he hasn't had a
16 fair shake.

17 MS. GARNER: All right.

18 THE ARBITRATOR: Okay?

19 MR. WILKEY: Proof of that.

20 MS. GARNER: You can sit down then for the
21 record then. We'll be using the exhibits as marked
22 by Mr. Sisak rather than remarking with Mr. Ferris;
23 however, Mr. Ferris will be subject to cross examine
24 with proper explanation of the markings as we go.

25 MR. WILKEY: What if I tell you I won't
224
1 ask him anything about that, about the markings?

2 MS. GARNER: The markings?

3 MR. WILKEY: Yeah.

4 MS. GARNER: Perfect.

5 BY MS. GARNER:

6 Q. That's going to shorten this up quite a
7 bit. Hold on.

8 Describe, please, the movements of
9 Grievant at 8021 Titus on March 3rd?

10 A. He got out of his van, walked up to the
11 front of the house with just his flashlight and
12 paperwork, went into the house, came back out of the
13 house, to the back of the house, came around the
14 front, back into the house, and back out to his van.

15 Q. And how many opportunities did you have to
16 see him?

17 A. That would be four.

18 Q. Four opportunities? As he went to the
19 house and came back from the house?

20 A. And went to the house that's one, to the
21 back of the house was two, back into the house is
22 three, and back out to his van was four.

23 Q. And in any of those four opportunities you
24 had to see him, did he have his CGI with him?

25 A. No.

225

1 Q. Now, there's been testimony that at the
2 third step, he stated he had the CGI around his
3 neck. Would you have been able to see if he had his
4 CGI around his neck?

5 A. Yes, I would have.

6 Q. And did he have it around his neck?

7 A. No.

8 Q. While at Titus, did Grievant ever go to the
9 side doors of his van on the passenger side?

10 A. No.

11 Q. What did you do when you left Titus?

12 A. After we left Titus, we went to 8735

13 Trumbell.

14 Q. Did you arrive before or after the

15 Grievant?

16 A. We arrived before.

17 MS. GARNER: Same stipulation as to Joint

18 Exhibit 9, which is the wide-angle picture and

19 Company Exhibit 7, which is the close-up picture on

20 Trumbell.

21 Q. Describe the Grievant's movement at

22 Trumbell.

23 A. We had a clear view of him exiting his van,

24 walking up to the house, coming out of the house to

25 the side of his van where he then retrieved his

226

1 Impacto rod and CGI and went back up to the house.

2 He was in our sight again, and we saw that he had

3 his CGI with him and the Impacto rod, and he poked a

4 hole at the foundation, outside foundation, at the

5 curb and across the street where he was clearly in

6 our sights.

7 And then we watched him walk back to the

8 side of his van, put his Impacto rod away and his

9 CGI because when you walk back around, we watched

10 him get back into his van, he did not have his

11 Ranger present.

12 THE ARBITRATOR: Is there a compartment in

13 the truck that is on the right-hand side that you're

14 sitting in the driver's seat where he put the stuff

15 in?

16 BY MS. GARNER:

17 Q. Could you describe the doors on the service

18 van?

19 A. You have a driver's side door, you have a

20 passenger's door in the front and then behind the

21 passenger's door, you have two double doors.

22 THE ARBITRATOR: Okay. Behind the

23 passenger's door?

24 THE WITNESS: Behind the passenger's door.

25 BY MS. GARNER:

227

1 Q. And when you talk about him going to the

2 side of his van getting his tools, are you talking

3 about the passenger side seat or talking about the

4 passenger side doors?

5 A. No. The two double doors behind the
6 passenger, front passenger door.

7 Q. How many opportunities did you have to see
8 Mr. Jackson at Trumbell, whether or not he had his
9 CGI?

10 A. Getting out of his van going inside is one,
11 coming back out of the house to the side of his van
12 was two, then going back up to the front of the
13 house would be three, and then poking the holes at
14 the curb and across the street and then back to his
15 van to put it away, and then he gets out or he goes
16 around and gets back into his van.

17 Q. And in some of those instances, you can see
18 that he clearly has his CGI?

19 A. Yes.

20 Q. And on the other instances, you can see
21 that he does not have the CGI?

22 A. Yes.

23 Q. Did he take a CGI into the house on
24 Trumbell?

25 A. No, he did not.

1 Q. And as he entered and exited the home, did

2 you have a clear view?

3 A. Yes, we did.

4 Q. What was the purpose of the stop at 8735

5 Trumbell?

6 A. That was a TFTO with an inside meter set.

7 Q. And was he required to do an inside CGI on

8 Trumbell?

9 A. Yes.

10 Q. And did he do an inside CGI?

11 A. No.

12 Q. Why not -- or how do you know?

13 A. Well, his CGI was not, not in his

14 possession when he went inside.

15 Q. What did you do after Trumbell?

16 A. After Trumbell, we went to -- on Driftway,

17 1948 Driftway, and watched him there perform his job

18 the way he was supposed to do it.

19 Q. Did you do anything else between Trumbell

20 and Driftway?

21 A. We went back to the office and wrote up

22 some paperwork, and we were instructed to go ahead

23 and follow him for the rest of the day.

24 Q. Okay. Back to 1948 Driftway, what did you
25 see at that address?

229

1 A. We saw that he did his job properly. We
2 saw that he had his tool bucket with him and -- in
3 one hand, and he had his Ranger with him in his
4 other hand, and he did his job the way it was
5 supposed to be done, according to the book.

6 Q. What did you do when you left Driftway?

7 A. After Driftway, we went to 928 Trefore and
8 observed him on the meter change.

9 Q. And what did you see there?

10 A. We saw him doing his job properly.

11 Q. And then what did you do next?

12 A. Then we followed him over to, into the
13 St. Charles area, and because he had gotten a leak
14 from the dispatching board and the dispatching board
15 called him off the job, and he went back to the
16 shop, and we went back to the shop.

17 Q. Were you wearing a jacket that day?

18 A. Was I? No.

19 Q. Why not?

20 A. It was a very nice day, sun was shining.

21 THE ARBITRATOR: We don't have any of
22 those in this March.

23 MS. GARNER: One moment.

24 That's all I have.

25 THE ARBITRATOR: Cross examination.

230

1 EXAMINATION

2 QUESTIONS BY MR. WILKEY:

3 Q. Okay. You just testified that it was a
4 very nice day that day and you didn't have a coat
5 on. What do you mean by "nice day"? Can you
6 describe that a little better?

7 A. Sun was shining.

8 Q. I mean what time of day did you first
9 observe Mr. Jackson?

10 A. It was late morning.

11 Q. Okay. So same -- what do you feel the
12 temperature was then?

13 A. It was probably in the low 50s.

14 Q. Low 50s?

15 A. Possibly.

16 Q. Do you recall making a statement in the
17 third step meeting that it was in the 70s?

18 A. No.

19 Q. You never made that statement?

20 A. I never made that statement.

21 Q. Did somebody else make that statement?

22 A. I don't, I don't recall.

23 Q. Didn't Mr. Sisak make that statement?

24 MS. GARNER: I'll object. Mr. Sisak was
25 available and could have been asked.

231

1 MR. WILKEY: He was in the third step
2 meeting.

3 MS. GARNER: Your best estimate is for
4 Mr. Sisak.

5 THE ARBITRATOR: He can testify to what he
6 heard.

7 BY MR. WILKEY:

8 Q. Did Mr. Sisak say it was in the warm 70s?

9 A. If he did, I don't recall him saying that.

10 Q. Okay. Are you saying when it's 50 degrees,
11 you don't wear a coat?

12 A. I'm saying that it was a nice day. I
13 didn't wear a coat that day. My coat was in the
14 back seat.

15 Q. If I were to tell you that the high that
16 day was 50, would you believe that?

17 A. I would believe that.

18 Q. Okay. Would you believe that the
19 temperature at 9:51 was 34 degrees, would you
20 believe that?

21 MS. GARNER: I'm sorry, at what time?

22 MR. WILKEY: 9:51.

23 MS. GARNER: I'll object to the relevance
24 of 9:51.

25 BY MR. WILKEY:

232

1 Q. You can answer my question. What time did
2 you get out on the job?

3 A. We got there -- we probably sat there for
4 at least a half hour before Mr. Jackson arrived.

5 Q. Okay. So what time would that have been?

6 A. I would have -- I'd have to look in my --

7 MS. GARNER: Look at the route sheet and
8 see.

9 THE WITNESS: So we must have got there
10 about -- got there 11:00, so we were there every bit
11 of 10:30, 25 to 11, every bit of it.

12 BY MR. WILKEY:

13 Q. Now, didn't you put 9:53 in a letter that
14 you wrote is what time you arrived at the job site?

15 A. I said every bit of a half an hour.

16 Q. Okay.

17 A. So that could have been more.

18 Q. So when you arrived, is it possible that
19 the temperature could have been 34 degrees?

20 A. The sun was shining. It was very nice. It
21 was a very nice day.

22 Q. Is 34 degrees very nice?

23 A. Yeah. 34 degrees.

24 Q. Do you wear a coat when it's 34 degrees,
25 sir?

233

1 A. If -- it depends on the day.

2 Q. Do you normally when it's 34 degrees wear a
3 coat?

4 A. Usually not.

5 Q. Usually not. So I guess then if I were to
6 tell you at 10:51 it was 37.9 degrees, you wouldn't
7 wear a coat then either, would you?

8 A. Repeat the question.

9 Q. If I told you at 10:51 it was 37.9 degrees,
10 you wouldn't wear a coat either, would you?

11 A. Probably not.

12 Q. And at 11:51 if it was 41 degrees, you
13 wouldn't wear a coat then, would you?

14 A. No, I wouldn't.

15 Q. Do you dispute any of those temperatures?

16 A. I'm not here to dispute temperatures.

17 Q. I'm asking in your judgment. You said it
18 was 50s. I'm telling you that I'm looking at
19 statistics here that said the temperatures were
20 lower. Do you dispute that?

21 A. I'm not disputing temperatures.

22 Q. Well, I am. I'm just asking you the
23 question. Do you dispute that the temperatures I
24 just gave you are not correct?

25 A. I'm not disputing temperatures here.

234

1 MR. WILKEY: Tell him to answer yes or no.

2 THE ARBITRATOR: He said he's not
3 disputing temperatures. That's an answer.

4 MR. WILKEY: I don't like the answer.

5 BY MR. WILKEY:

6 Q. You're agreeing with us on the temperatures
7 then? Sir? Are you agreeing with us on the
8 temperatures?

9 A. If that's what you're saying, I'm not going
10 to dispute it. I'm not going to argue with you.

11 Q. I'm not actually looking for an argument,
12 sir. Now, were you involved in the investigation of
13 the incident with Mr. Jackson?

14 A. Yes.

15 Q. And what was your involvement in the
16 investigation?

17 A. I was the driver.

18 Q. The driver. What else did you do in the
19 investigation?

20 A. I just watched.

21 Q. You just watched?

22 A. (Witness nodded.)

23 Q. What did you do after that day of March

24 3rd, did you do any further investigation?

25 A. I went back and observed the sites.

235

1 Q. Went back and observed the sites. Is that

2 all you did was observe the sites?

3 A. We made a film clip.

4 Q. Made a film clip, maybe a video?

5 A. Yes, sir.

6 Q. Who made that video?

7 A. Mike Sisak and myself.

8 Q. Okay. And what day did you make that video?

9 A. It was cold out that day, I remember. I

10 don't remember the exact --

11 Q. 50, 30? Do you recall if you had your

12 jacket on that day?

13 A. I don't recall if I had my jacket on that

14 day. I do remember I had the jacket on in the

15 video, and I left, I have a jacket on and I had the

16 jacket off.

17 Q. Okay. Do you recall what addresses you

18 went to to make this reenactment?

19 A. Yes. We went to 8021 Titus and 8735

20 Trumbell.

21 Q. Those are the two addresses you went to to

22 make the --

23 A. That's correct.

24 Q. -- the reenactment?

25 A. Yes.

236

1 Q. Didn't go to any other address?

2 A. No.

3 Q. Did you watch the video after you made it?

4 A. No.

5 Q. If I told you that on Trumbell Lane that

6 you actually videoed 8677 that that would be

7 correct, that you videoed the wrong address?

8 A. No.

9 Q. There's no way you could have videoed the

10 wrong address?

11 A. No.

12 Q. So I'm telling you a story then, right?

13 A. Yes.

14 Q. Okay. And the turn off turn on, TFTO we

15 talked about, what's the reason for getting that

16 inside read?

17 A. To see if there's any gas coming through,
18 if that service is leaking any gas coming through
19 the foundation of the house.

20 Q. So it's a safety concern?

21 A. Yes.

22 Q. If there's gas inside and we don't get in
23 to check, there could be a fire? If there's gas
24 present, there could be a fire, yes or no?

25 A. Not necessarily a fire.

237

1 Q. Potential fire?

2 A. Potential explosion.

3 Q. Okay. And when you observed Mr. Jackson,
4 how many, how many feet were you away from him?

5 MS. GARNER: At which location, please?

6 MR. WILKEY: At either one, both of them?

7 A. On Titus, we were, you know, approximately
8 about 171; 170, 171 feet away.

9 Q. Okay. Did you measure that?

10 A. I think we stepped it off.

11 Q. Who stepped it off?

12 A. I think we both did.

13 Q. Both stepped it off?

14 A. Yes.

15 Q. Okay. How far away were you on Trumbell?

16 A. On Trumbell -- no, wait a minute. On

17 Trumbell, we were about 171 feet away. We were

18 about the same distance on -- at both locations.

19 Q. Is it possible you were 1 -- you earlier in

20 the third step meeting, you said you were 175 feet

21 away, is that possible?

22 A. We're talking approximate figure, you know,

23 couple two or three feet.

24 Q. At any time did you say you were a hundred

25 feet away?

238

1 A. No.

2 Q. And on either of the jobs, did Mr. Jackson

3 ever walk outside with the customer?

4 A. I don't recall.

5 Q. You don't recall him walking out with the

6 customer? Would you recall if he walked out with

7 three customers, or three folks?

8 A. I don't recall.

9 Q. Specifically on Titus Avenue?

10 A. I don't recall.

11 Q. Did you get a phone call from Mr. Jackson

12 at any time during that day while he was at the

13 Titus address?

14 A. I didn't but Mr. Sisak did.

15 Q. And how long did that phone call last?

16 A. Maybe a minute.

17 Q. And did Mr. Sisak tell you what that phone

18 call, conversation, was about?

19 A. Yes.

20 Q. And what did he tell you?

21 A. It was about a space heater.

22 Q. And do you recall where that space heater

23 was at?

24 A. It was in the back room in the back of the

25 house.

239

1 Q. Was that a space heater that had to be

2 accessed from the outside of the house through a

3 crawl space?

4 A. Yeah, because that's possibly -- I remember

5 it's very possible, I think it was just in a room

6 addition.

7 Q. Wasn't there a question about a fuel run
8 whether it had been inspected in an earlier home
9 inspection?

10 A. Yeah. There was a fuel run in question.

11 Q. And the conversation that Mr. Sisak had
12 that you would need to charge the customer if you
13 investigated it any further; is that correct?

14 A. Yes.

15 Q. You're saying that you never saw the
16 customer walk outside, or customers walk outside
17 with Mr. Jackson that day?

18 A. I don't recall.

19 Q. Okay. Did you ever talk to the customers
20 at either of those two addresses on Titus and
21 Trumbell?

22 A. Yes.

23 Q. And when did you talk to them?

24 A. I guess, I don't know if it was the next
25 day, just -- or the next day, just a few days later
240

1 I went back and looked at each job.

2 Q. Would it have been the day you made the

3 video?

4 A. No.

5 Q. And who did you take out -- did you take

6 anybody with you when you went back out to check the

7 addresses again?

8 A. No.

9 Q. And what conversation did you have with the

10 customer?

11 A. I just said we do random, random survey,

12 courtesy surveys, and asked to, you know, look at,

13 you know, just look at the house, you know, see what

14 he did.

15 Q. Did you also witness Mr. Jackson do

16 anything else besides your alleged not carrying in

17 the CGI on March 3rd?

18 A. I don't understand the question.

19 Q. Did you -- was Mr. Jackson guilty of any

20 other infractions other than, as you allege, not

21 carrying in the CGI equipment on the two jobs that

22 afternoon, on March 3rd? Did you witness him with

23 any other infractions?

24 A. We believe that on the meter change on
25 Trefore, we observed that he spent an excessive
241
1 amount of time for the job that was performed there.

2 Q. And where did he spend that time, sir?

3 A. Just sitting by the house out of our sight.

4 Q. In the truck?

5 A. No. He was up at the meter.

6 Q. Is it possible that he could have been
7 talking with another individual and given orders
8 away during that time? Did you actually witness him
9 loafing, sir?

10 A. We saw -- he was not in our sight. We had
11 a clear view of his van and he was not in our sight.

12 Q. But you didn't actually witness him
13 loafing, did you, then?

14 A. He was not in our sight and we, after -- we
15 inspected that meter site, and there was just a
16 meter for meter, no rust, it was nice, black painted
17 meter set, so it was just a meter for meter change,
18 and he was out of our sight for quite awhile.

19 Q. So he was out of your sight, so there's no

20 way you would know whether he was loafing or not;

21 isn't that correct?

22 A. I'm not going to say he's loafing.

23 Q. It's not an I can't say. It's a yes-or-no

24 answer, sir.

25 A. I'm saying he was out of our sight for an

242

1 extended period of time.

2 Q. So if someone's out of your sight for an

3 extended period of time, is that considered loafing

4 in your opinion? If I walk out this door, you don't

5 know what I'm doing, am I loafing?

6 A. I've done -- I've changed plenty meters and

7 I know --

8 Q. I'm not asking you, sir. I don't want -- I

9 want a yes-or-no answer.

10 A. I know how long it takes to change a meter.

11 Q. No. I'm not asking that question. If I

12 walk out that door and you don't see what I'm doing,

13 can you accuse me of loafing?

14 A. I know how long it takes to change a meter.

15 Q. Sir --

16 MR. WILKEY: Mr. Arbitrator, would you

17 direct this witness to answer this question?

18 THE ARBITRATOR: Answer his question. He

19 went out the door, do you know if he's loafing or

20 not?

21 THE WITNESS: No, I don't.

22 THE ARBITRATOR: That's right.

23 BY MR. WILKEY:

24 Q. Now, if I walked behind a house, do you

25 know if I'm loafing? You got to see me loafing,
243

1 don't you?

2 A. Well, usually when you're out of sight...

3 Q. What?

4 A. It doesn't take that long to drop a meter.

5 Q. Sir, that's not the question.

6 A. Put the meter back up and he was out of

7 sight.

8 Q. Did you see him loafing when he was behind

9 the house?

10 A. He was not in our sight.

11 Q. Okay. Did he loaf at any other point

12 during your observation?

13 A. At which job?

14 Q. Either job?

15 A. We saw him spend a considerable amount of
16 time at the job on Titus for how long he sat in the
17 van for how long. Doesn't take that long to fill
18 out the paperwork.

19 Q. Did you ever confront Mr. Jackson at that
20 point what he was doing?

21 A. No.

22 Q. You don't know what he was doing, do you?
23 Could he have been doing paperwork?

24 A. I've -- I felt --

25 Q. Could he have been doing paperwork, yes or
244

1 no?

2 MS. GARNER: Ron, let him answer.

3 MR. WILKEY: I want an answer. I want a
4 yes-or-no answer.

5 MS. GARNER: He was trying to answer. You
6 cut him off.

7 MR. WILKEY: Well, I'm going to cut him
8 off every time he tries to give an explanation. I
9 want a yes-or-no answer. I want to make this short

10 and sweet.

11 THE WITNESS: It doesn't take long to fill

12 out paperwork.

13 BY MR. WILKEY:

14 Q. Did you walk up to see what he was doing?

15 A. No, we didn't.

16 Q. So he could have been filling out

17 paperwork, couldn't he?

18 A. We were there to follow him. We weren't

19 there to, you know -- we were there to observe.

20 Q. He could have also been on a break,

21 couldn't he?

22 A. Yeah, he could have been on a break.

23 Q. Why don't you look at the routes, Joint

24 Exhibit Number 3?

25 A. Mike Sisak also made --

245

1 Q. I don't want to know what Mike Sisak -- we

2 already questioned Mike Sisak. I want to know what

3 you got to say. If I --

4 A. Mike Sisak said you've been on this job for

5 an awful long time.

6 Q. Who did he say that to?

7 A. He told that to Mr. Jackson.

8 Q. And you heard him say that?

9 A. That's correct.

10 Q. Okay. What did Mr. Jackson say?

11 A. And so that's why Mr. Jackson threw in to
12 shorten the amount of time that he was on that job
13 on Titus, that's why he threw the coffee break in
14 there so that TFTO wouldn't have looked as long.

15 Q. Did you ask Mr. Jackson that question?

16 A. No. I haven't spoken with Mr. Jackson.

17 Q. So you're just saying that's your belief,
18 you don't know that for a fact?

19 A. That's not my belief. That is what
20 happened.

21 Q. So did you look at the time ticket and see
22 Mr. Jackson's break and what time it was on Joint
23 Exhibit 3?

24 A. Mm-hmm. 11:35 to 11:50.

25 Q. Okay. And did you ever confront
246

1 Mr. Jackson that that wasn't his break?

2 A. I, I was just there to observe. I didn't

3 do anything.

4 Q. So you didn't really know what he was
5 doing. He was on his break. His time ticket tells
6 it right there; isn't that correct, sir?

7 A. It looks like he was.

8 Q. Do you --

9 A. You know... It states right here he was on
10 break from 11:35 to 11:50.

11 MR. WILKEY: That's all the questions I've
12 got at this point.

13 EXAMINATION

14 QUESTIONS BY MS. GARNER:

15 Q. Mr. Ferris, would you like to complete your
16 answer with respect to the meter change?

17 A. Yeah. He was out of our sight for quite
18 awhile. For a meter to meter change, for -- just to
19 loosen up two meter nuts, drop the meter, put a new
20 meter up, tighten the nuts for the amount of time
21 that he was -- even spot that meter, watch the dial
22 in case -- to see if it's moving, he was out of our
23 sight for a very long time.

24 Q. So you're saying compared to the nature of
25 the work that was done, it took him an excessive
247
1 amount of time, in your opinion, to complete that
2 job?

3 A. That's correct.

4 Q. And you weren't Mr. Jackson's immediate
5 supervisor?

6 A. No.

7 MS. GARNER: I have nothing further.

8 THE ARBITRATOR: Marvelous.

9 MR. WILKEY: Just one question. I'm not
10 lying.

11 THE ARBITRATOR: I bet you a quarter. Go
12 ahead.

13 EXAMINATION

14 QUESTIONS BY MR. WILKEY:

15 Q. Does every job take the same amount of
16 time?

17 A. No.

18 Q. Some jobs take longer than others?

19 THE ARBITRATOR: See, that's two
20 questions.

21 MR. WILKEY: Okay. Caught me again.

22 BY MR. WILKEY:

23 Q. Jobs take different amount of times, don't

24 they, sir?

25 A. They sure do.

248

1 MR. WILKEY: All right. Thank you.

2 That's all I have.

3 THE ARBITRATOR: Thank you.

4 MS. GARNER: I'm dying to ask another

5 question but I'll let it go.

6 THE ARBITRATOR: Go ahead. I bet you a

7 quarter.

8 (Discussion off the Record.)

9 EXAMINATION

10 QUESTIONS BY MS. GARNER:

11 Q. Does Laclede have benchmarking where they

12 say how long a particular job ought to take?

13 A. No.

14 Q. No? So you're not comparing this to how

15 long you think this job ought to take?

16 A. No.

17 MS. GARNER: Okay. That's it.

18 MR. WILKEY: Amazing. That's all I have.

19 THE ARBITRATOR: Thank you.

20 MS. GARNER: Company rests.

21 THE ARBITRATOR: You want to take a few
22 minutes?

23 MR. WILKEY: Yes.

24 (Recess)

25 MR. WILKEY: First witness is Mark.
249

1 MARK BOYLE

2

3 of lawful age, having been first duly sworn to
4 testify the truth, the whole truth, and nothing but
5 the truth in the case aforesaid, testifies and says
6 in reply to oral interrogatories propounded as
7 follows, to-wit:

8

9 EXAMINATION

10 QUESTIONS BY MR. WILKEY:

11 Q. Please state your name for the record?

12 A. Mark Boyle.

13 Q. Who are you employed by?

14 A. Laclede Gas Company.

15 Q. And how long have you been employed by

16 Laclede Gas?

17 A. Since 1992, it would be 14, approximately

18 14 years.

19 Q. Okay. And what position do you hold at

20 Laclede Gas?

21 A. The entire time at Laclede, I've been in

22 the service, SAID department, which is the Service

23 Department.

24 Q. So you've been a serviceman to fit -- or

25 went up the ranks but the whole time basically as a
250

1 serviceman?

2 A. Right. Yes.

3 Q. For that whole entire length of time in the

4 SAID department?

5 A. Yes.

6 Q. And do you hold any position in the union?

7 A. Yes, I do.

8 Q. And what position do you hold?

9 A. I'm a -- I'm the shop steward for the North

10 District Berkley SAID department, and I'm also the
11 executive board member for the executive board for
12 the SAID department also.

13 Q. Okay. And how long have you been in those
14 positions?

15 A. Two years.

16 Q. For both of them?

17 A. Yes.

18 Q. And did you prepare for this arbitration
19 case today?

20 A. Yes.

21 Q. And just briefly explain to us what you did
22 to prep -- to prepare for this case.

23 A. Well, I guess I'll go back to the
24 beginning. I'm the shop steward for the North
25 District so I represented Mr. Jackson in the second

251

1 and third step meetings, as long as with the other
2 union officials, and I was given the duties to check
3 into his discharge.

4 What -- how I did it was is I went over
5 the discovery that the Company had sent to the Union
6 and went over all the paperwork, and then I also

7 specifically went over the reenactment tape that
8 they produced.

9 Q. The reenactment tape you're talking about,
10 is that a tape that the Company sent through
11 discovery to the Union?

12 A. Yes.

13 Q. And how many total meetings were you
14 involved in with the Company over Mr. Jackson's
15 indefinite suspension and discharge?

16 A. Second step, third step and this one.

17 Q. Okay.

18 A. Three.

19 Q. Let's go back to the second step meeting.

20 Do you recall anything relevant to this case today
21 that happened in the second step meeting?

22 A. Well, there was statements made by
23 Mr. Williams and Mr. Sisak in that meeting.

24 Mr. Ferris wasn't in the second step, but there were
25 statements made concerning how warm it was, whether

252

1 he had his jacket on or not, and the distance they
2 were at the addresses.

3 Q. What would be relevant here today at this

4 hearing of what they said in those areas?

5 A. Well, on the second shift, Mr. Williams

6 said it was a very, very warm day and Mr. Sisak said

7 it was in the 60s and 70s.

8 Q. Okay. Did they say anything else?

9 A. Mr. Sisak stated he was a hundred feet away

10 on both addresses.

11 Q. Is that in direct conflict with what the

12 testimony was today?

13 MS. GARNER: I'll object. Mr. Sisak

14 didn't testify as to that Mr. Ferris did.

15 THE ARBITRATOR: I don't think so. I

16 think he testified to it also.

17 MR. WILKEY: Yeah, he did.

18 MS. GARNER: To the a hundred feet away?

19 THE ARBITRATOR: 160 or 70.

20 MS. GARNER: His question was did

21 Mr. Sisak say he was a hundred feet away.

22 THE ARBITRATOR: Right. But that was --

23 go ahead.

24 THE WITNESS: In the second step -- excuse

25 me, in the second step, Mr. Sisak said a hundred.

253

1 THE ARBITRATOR: All right. Today he said

2 differently, didn't he?

3 THE WITNESS: You know, I know Mr. Ferris

4 said the distances.

5 BY MR. WILKEY:

6 Q. What do you recall about the third step

7 meeting then?

8 A. The third step meeting, the Union was

9 there, the Company was there. There was a lot going

10 on. Specifically what I just said about the

11 weather, it was stated by Mr. Sisak in the third

12 step meeting it was in the high 70s. They still

13 said that he didn't have his coat on, and at that

14 point that the distance never came up in the third

15 step.

16 Q. Okay. I want to hand you what's been

17 marked as Union Exhibit Number 1. Would you please

18 identify that for us?

19 MS. GARNER: Ron, we'll stipulate to this

20 exhibit.

21 MR. WILKEY: You'll stipulate to it?

22 MS. GARNER: We don't need to go through

23 this.

24 MR. WILKEY: Okay.

25 MS. GARNER: It's an agreement with the
254

1 same information we obtained.

2 MR. WILKEY: Okay. Stipulate to Union

3 Exhibit Number 1 then?

4 MS. GARNER: Only as to the temperatures

5 and the times.

6 MR. WILKEY: Right.

7 MS. GARNER: I mean, that's all we're

8 looking at, right? So the rest of this stuff is

9 extraneous stuff?

10 MR. WILKEY: Community and everything else

11 is not at issue.

12 MS. GARNER: Right.

13 MR. WILKEY: Okay. Thank you.

14 BY MR. WILKEY:

15 Q. And in your position, do you carry a Ranger

16 or CGI device?

17 A. Yes.

18 Q. And does it look like what's sitting on the
19 table there and what's in Joint Exhibits whatever
20 they are?

21 THE ARBITRATOR: 13 I believe it is.

22 MR. WILKEY: 13?

23 THE ARBITRATOR: Uh-huh.

24 MR. WILKEY: Is that --

25 THE WITNESS: Yes.

255

1 Q. Okay. Have you been trained on a Ranger?

2 A. Yes.

3 Q. And how were you trained on a Ranger?

4 A. I was sent to the training facility at
5 Forest Park. I was sent to the training facility at
6 Forest Park and the manufacturer sent out a
7 representative and went over every detail of that.
8 I was there with about 15 other people.

9 Q. Okay. And in that, did you have to sign
10 any type of attendance sheet?

11 A. It's three years ago. I'm assuming I
12 signed -- we're supposed to. We sign things all the
13 time, so probably.

14 THE ARBITRATOR: Is that a relatively new

15 machine?

16 THE WITNESS: I think I got my in '03.

17 MR. WILKEY: Okay.

18 A. And it was probably one of the first ones

19 out.

20 Q. Now, have you ever used -- or do you use

21 the Ranger with the attachments?

22 A. Yes.

23 Q. Okay. And do you use the Ranger without

24 the attachments?

25 A. Yes.

256

1 Q. And explain how you use that without the

2 attachments.

3 A. Can I use this?

4 Q. Yes.

5 MS. GARNER: Absolutely.

6 THE WITNESS: Okay. Well, with this, I'll

7 go over my -- the way I do it, I don't cut nothing

8 off. When they were talking about cutting something

9 off, what they do is when outside leaks or piping

10 sometimes they're way up in there, they cut that

11 off, they got another little rubber thing that they
12 put on there. That way they can isolate the leak to
13 try to find it easier.

14 This is what we would use when we bar hole
15 to go into the ground. There's also a couple other
16 filters. We got a water filter that's supposed to
17 be in here that goes in between these two. This is
18 a separate piece here that clogs up constantly, and
19 you got to knock it out (indicating), and the O
20 rings are out, whatever. We got extensive training
21 on this.

22 Like I say, there's another piece on this.
23 Plus there's like two or three other charcoal
24 filters or gasoline and high temperatures for flu
25 gas.

257

1 BY MR. WILKEY:

2 Q. And --

3 A. And on this one -- I might be going too
4 much on this one, but this one, this is what we use
5 for leaks. This is, this is a filter on the end of
6 this. This pops off (indicating). That's a filter.

7 And this pops off. Unscrew this. This is what we
8 used to find leaks with. Pop it back on, and I use
9 it like this (indicating).

10 Q. Now, is there a filter on that now?

11 A. Yes, there is.

12 Q. And where's that filter?

13 A. Right here (indicating). It's got the
14 little rubber piece. If the rubber piece is gone,
15 you got to get a new one.

16 Q. Okay. You've heard the testimony there's
17 not a filter on the inside?

18 A. I'm not an expert on the machine, but I was
19 told that there was a, I don't know what kind of
20 filter on it, I don't know whether it's metal
21 because it's inside.

22 Q. When were you told that?

23 THE ARBITRATOR: You don't use the machine
24 then in effect without -- you use it without that
25 but you still have a filter?

258

1 THE WITNESS: Oh, absolutely.

2 THE ARBITRATOR: All right.

3 THE WITNESS: Yeah, because in the morning

4 you turn it on, you zero it out, and you check for
5 blockage.

6 BY MR. WILKEY:

7 Q. But in the training, do you recall being
8 told that there was also a filter on the inside of
9 the machine but that you were supposed to use an
10 outside filter?

11 A. Yes.

12 Q. And what was the reasoning for that?

13 A. Well, the more filters, the better, I would
14 assume.

15 Q. Have you ever witnessed other servicemen
16 using the Ranger similar to that without the
17 attachments on?

18 A. Yes.

19 Q. And did you know whether or not they had a
20 filter?

21 A. Excuse me?

22 Q. Did you know whether or not they had a
23 filter on it?

24 A. I really never paid attention.

25 Q. You just see them using it without the
259

1 attachments?

2 A. Yeah. You mean these attachments? Yeah.

3 We use it all the time.

4 Q. To be specific, the attachments shown in
5 Joint Exhibit 12 and Joint Exhibit 11?

6 A. What's the question?

7 Q. The question, you've witnessed servicemen
8 using the Ranger without either one of the
9 attachments on in the pictures in 10 and 11?

10 A. Yes.

11 Q. So it would be a picture similar to Joint
12 10 other than the fact it has a filter on it?

13 A. Yes.

14 Q. Okay. Were you ever instructed that you
15 cannot use the Ranger without the attachments?

16 A. No. The water stop. The water stop,
17 you're supposed to have a water stop on all the
18 time. They don't have a water stop here.

19 Q. That's if you're checking in the ground?

20 A. That's in the ground.

21 Q. But on an inside leak or atmosphere check?

22 A. Oh, no, you don't have to have your water
23 stop.

24 Q. And would that be considered to be the
25 proper filter then for that machine, to your
260
1 knowledge?

2 A. It was this morning.

3 Q. Okay. I want to hand you what's been
4 marked as Union Exhibit 2.

5 MS. WILKEY: Judy, you have a copy of
6 this. We don't have another copy. We can get
7 copies made.

8 MS. GARNER: I have extras.

9 (Discussion off the Record.)

10 MR. WILKEY: Is there any argument that I
11 need to have him identify it for the record?

12 MS. GARNER: What do you mean?

13 MR. WILKEY: Well, just that he got it --

14 THE ARBITRATOR: It's their film, isn't
15 it?

16 MR. WILKEY: All right.

17 MS. GARNER: Got it through discovery.

18 BY MR. WILKEY:

19 Q. Is that the tape you got from discovery
20 through the Company?

21 A. Yes.

22 Q. Is that the tape that you watched?

23 A. Yes.

24 Q. And did you physically go out and visit the
25 sites that are specifically in this tape?

261

1 A. Yes.

2 Q. Okay.

3 MS. GARNER: Okay. Mr. Arbitrator, I'm
4 going to object to the use of the tape. I'm going
5 to object based on that this is not -- he was not
6 there that day. He was not an eyewitness. He can't
7 verify the location. He can't verify anything about
8 how this tape was made or who made it or where it
9 was made from. It's a reenactment. It is not a
10 tape of the actual day in issue. It's not relevant
11 because it's just not probative. The eyewitness
12 testimony is probative testimony. The tape is not.

13 MR. WILKEY: Mr. Arbitrator, it's not a
14 court of law. The Company sent us this tape through

15 discovery. Both witnesses here testified who made
16 the tape said there's no way in heck they were at
17 the wrong address when they made the reenactment.
18 This tape is going to show they were at the wrong
19 address, clearly at the wrong address, a matter of
20 three weeks after the March 3rd date.

21 THE ARBITRATOR: Okay. You want to
22 stipulate to that?

23 MS. GARNER: What, that it's inaccurate?
24 Absolutely not. They were in the right place at the
25 right time.

262

1 THE ARBITRATOR: He said they are in the
2 right place at the wrong time, you disagree.

3 MR. WILKEY: Just roll the tape.

4 THE WITNESS: Do you want me to explain it?

5 BY MR. WILKEY:

6 Q. If you would.

7 A. This is the job on Titus, and this was
8 their reenactment tape. It might have been the same
9 service van that Mr. Jackson drove that day, but
10 that's in the correct position, and here's

11 Mr. Ferris walking with the CGI around going up to

12 the --

13 Q. That's the reenactment?

14 A. This is the reenactment.

15 Q. It's not saying the way Mr. Jackson

16 actually carried it?

17 A. No. This is their reenactment on Titus.

18 (Tape played)

19 BY MR. WILKEY:

20 Q. Is this the correct address through your

21 investigation?

22 A. On Titus, yes. This is the correct address.

23 (Tape played)

24 BY MR. WILKEY:

25 Q. Through your investigation, did you

263

1 discover that Mr. Jackson walked behind that house

2 or not?

3 A. When he was on that job? Yes. The space

4 heater fuel run, he took the customers around and

5 showed it to them.

6 (Tape played)

7 BY MR. WILKEY:

8 Q. This goes into the second -- the second
9 address is what?

10 A. Trumbell. Same truck.

11 (Tape played)

12 BY MR. WILKEY:

13 Q. Do you notice anything on the front porch
14 of that house?

15 A. On the front, there's a chair.

16 Q. Let's stop it right there.

17 I want to hand you what's been marked
18 Union Exhibit Number 3 and have you identify that
19 for us.

20 A. This is the house that they're at on
21 Trumbell, Mr. Ferris is walking up to it.

22 Q. This is the house on Trumbell?

23 A. Same one on the tape, right.

24 Q. And when did you take this picture?

25 A. March 21st.

264

1 Q. Okay. That chair was still sitting on the
2 porch that's in the picture there?

3 A. Yes.

4 Q. Okay. Now, did you also take a blown-up
5 picture of that house?

6 A. Yes.

7 Q. Okay. I want to hand you what's been
8 marked Union Exhibit Number 4. Is that the same
9 house in Union Exhibit 3?

10 MS. GARNER: Mr. Arbitrator?

11 THE ARBITRATOR: Yes.

12 MS. GARNER: I'm going to state just for
13 the record that the Union only provided these to the
14 Company last night. We've not had any opportunity
15 to investigate what these are pictures of, what
16 addresses they are, or what they purport to be
17 because we didn't get them until 3:00 yesterday.

18 MR. WILKEY: Mr. Arbitrator, they gave me
19 two pieces of Company evidence, the plastic placard
20 on the Ranger device, today.

21 MS. GARNER: Ron, how many pictures did
22 you send me yesterday? Plenty pictures.

23 MR. WILKEY: A kazillion.

24 MS. GARNER: Pictures of several different
25 homes on both streets and unidentified by address or

1 location.

2 MR. WILKEY: Yes, they were.

3 THE ARBITRATOR: This one has an address

4 on it.

5 MS. GARNER: This does not have an address

6 on it. The picture I got yesterday didn't give me

7 any opportunity to look. We could not tell at that

8 time what these addresses were.

9 MR. WILKEY: You want to take time to look

10 at them?

11 MS. GARNER: I can't -- it's not going to

12 help me to look at them today.

13 MR. WILKEY: Well, I mean we ran into this

14 issue many times, Judy.

15 MS. GARNER: Not with 20 pictures at 3:00

16 the day before.

17 MR. WILKEY: We disclosed the pictures to

18 you. You gave me documents today. As I told you

19 yesterday --

20 MS. GARNER: I gave you --

21 MR. WILKEY: We worked until late last

22 night.

23 MS. GARNER: There aren't any documents

24 today on an issue that you raised on Wednesday.

25 This is a case that's been out there since last

266

1 March.

2 MR. WILKEY: You've had an opportunity to

3 look at these houses for a year, Judy. You need

4 more time?

5 MS. GARNER: Mr. Arbitrator, I would like

6 to reserve the right to ask for additional time at

7 the end of the day depending on what the rest of

8 their evidence shows.

9 THE ARBITRATOR: No problem.

10 MS. GARNER: Thank you.

11 BY MR. WILKEY:

12 Q. Okay. Would you look at Union Exhibit

13 Number 4? What does that show?

14 A. It shows the same home with the address in

15 it.

16 Q. And what's that address, for the record?

17 A. 8677.

18 Q. Is that the same house that's in the

19 video? Let's play that again. Can you show that
20 that's the same house and why?

21 A. Yes. The same house.

22 (Tape played)

23 BY MR. WILKEY:

24 Q. It's got an A frame?

25 A. Two white posts in the front, 8677 Trumbell.
267

1 Q. Okay. Just rewind it a little bit.

2 A. A fire -- the fire hydrant -- if you want

3 to go back? There's a fire hydrant on this other

4 side.

5 Q. We can stop it.

6 A. It's the same fire hydrant.

7 Q. Move it back just a little bit.

8 Now, I want to hand you Union Exhibit

9 Number 5. Can you please identify that photo for us?

10 A. Well, I know I should know this address. I

11 think this is the house on Trumbell that has been in

12 question all day.

13 Q. Is that the house that Mr. Jackson actually

14 was on the TFTO on?

15 A. Yes.

16 Q. Is that the house that earlier today

17 Mr. Sisak and Mr. Ferris testified that they were at

18 when they made this reenactment?

19 A. Yes.

20 Q. I want to show you what's been marked Union

21 Exhibit Number 6. Can you please identify that for

22 the record?

23 A. That's a close-up of this house with this

24 address and it's 8 -- I'm sorry. It's the close up

25 of the house.

268

1 Q. Okay. What's the address on that house?

2 A. 8735.

3 Q. Is that -- what's the street?

4 A. Trumbell, 8735 Trumbell. This is where

5 Louis Jackson did the TFTO at.

6 Q. Now, anywhere -- you watch the tape some

7 more, but anywhere on this tape is this house shown?

8 A. What house shown?

9 Q. 8735?

10 A. Not that I seen.

11 Q. Okay. And you heard the witnesses testify

12 today there's no way that they could have done this

13 reenactment and been at the wrong address; isn't

14 that correct?

15 A. That's what they said.

16 Q. Were they at the wrong address in this tape

17 clearly?

18 A. Yes.

19 Q. Go ahead and play it the rest of the way.

20 A. May I say one more time? Actually they're

21 sitting right in front of the address.

22 Q. When they made this video, they were

23 sitting in front of the right address?

24 A. Yeah.

25 THE ARBITRATOR: The right address was
269

1 across the street?

2 THE WITNESS: No, it was on the same side,

3 four houses up this way.

4 THE ARBITRATOR: Okay.

5 THE WITNESS: And they're sitting

6 videotaping in front of 8735.

7 (Tape played)

8 BY MR. WILKEY:

9 Q. Why did this catch your curiosity?

10 A. They were at the wrong home.

11 Q. What's the date shown on that?

12 A. Oh, well, the date was March 24th was
13 right after -- it was about a week after our third
14 step meeting and --

15 Q. And what was the date he was suspended?

16 A. The 3rd.

17 Q. Okay. So that would have been eleven days
18 after the 3rd that they made this reenactment video?

19 A. 21 days.

20 Q. I'm sorry, 21 days, can't add. Three
21 weeks. Actually, that's -- I mean, that's all we
22 were wanting to show that their investigation was
23 flawed.

24 MR. WILKEY: There's one other picture I
25 want you to -- if you want to continue to watch
270

1 this, Mr. Arbitrator, we can, but that's basically
2 the substance.

3 THE ARBITRATOR: No. I'll look at what
4 you feel I should look at.

5 MR. WILKEY: We'll give you a copy.

6 That's the -- it's been marked Union Exhibit Number

7 7. Can you identify that?

8 A. Yeah. That's the home that Louis Jackson
9 did the job in on the day in question.

10 Q. Okay. Did you take that picture?

11 MS. GARNER: I'm sorry, there's several
12 homes pictured.

13 MR. WILKEY: We're going to mark them.

14 BY MR. WILKEY:

15 Q. Did you take this picture?

16 A. Yes.

17 Q. And at what point did you take this picture
18 from?

19 A. I measured off -- I believe Mr. Ferris
20 wrote on a memorandum that we got in discovery that
21 he was 171 or 175 feet west of the west driveway of
22 8735 Trumbell, and I measured that off with a tape
23 measure and took this picture.

24 Q. Okay. And what's significant about this
25 picture, and I also want you to show where the house

1 is that is 8735 in Union Exhibit Number 6? You want

2 to mark it on the Arbitrator's?

3 A. What do I do?

4 Q. Just mark it.

5 A. Here's the house right here (indicating).

6 Q. Okay. Just circle.

7 MS. GARNER: Just one second.

8 THE ARBITRATOR: The closest one right

9 here with the two windows?

10 MR. WILKEY: No.

11 THE WITNESS: You want me to mark it for

12 you?

13 MR. WILKEY: Yes.

14 A. It's the one behind the bush and the for

15 sale sign. Is it that one right there? It's the

16 one behind the bush and the for sale sign.

17 MS. GARNER: Is this the one you're

18 talking about?

19 THE WITNESS: This one right here

20 (indicating).

21 MS. GARNER: Okay.

22 BY MR. WILKEY:

23 Q. And did you actually measure that off with
24 a tape measure?

25 A. Yes.

272

1 Q. Okay. And you also looked at it with the
2 naked eye; isn't that correct?

3 A. Yes.

4 Q. And did you roughly see the same objects in
5 the way?

6 A. Yes.

7 Q. So even if Mr. Sisak and Mr. Ferris
8 observed them as they testified today, there's no
9 way they could have seen what they testified to that
10 they saw, is there?

11 A. Not from my view point, it wasn't on this
12 street. It -- also, there was a hill. There's the
13 crest. The crest of the hill was actually about the
14 sign there, the Gundacker for sale sign, crested
15 there and started going down. I stood up. I wasn't
16 in a vehicle when I took this. I was standing up
17 when I took this, and it was kind of a crest of a
18 hill. If this is whatever supposed to be and they

19 were watching him, it was on the crest of a hill.

20 This doesn't really articulate too well, but...

21 Q. Is it actually harder to see than what it

22 shows in the picture or easier?

23 A. I felt so.

24 Q. Okay. Okay. And prior to the arbitration,

25 did anyone from the Company come to you and have a
273

1 conversation which pertained to this case today?

2 A. Yes.

3 Q. And who was that?

4 A. Mike Sisak.

5 Q. And do you recall when that was?

6 A. A week ago yesterday.

7 Q. Week ago. What time would that have been?

8 A. It was -- I had a meeting with my general

9 foreman. I got out. It was 8:30 A.M. in the yard

10 next to my truck.

11 Q. And what was the substance of that

12 conversation?

13 A. Well, I'm going to have to speak for Mike

14 Sisak what he said.

15 Q. Well, what did he tell you?

16 A. Well, we were talking, and he said this

17 Louis Jackson's thing's all messed up, and I said

18 yeah, what are you talking about? He goes well, I

19 went down yesterday and talked to Judy Garner. I

20 said yeah. He said are you guys going to use those

21 memorandums that I had him sign? I said what are

22 you talking about, Mike? He goes you know those

23 file memorandums I had him sign, I threw them away.

24 Q. Are you talking about the documents that he

25 asked Mr. Jackson to falsify?

274

1 A. Yes.

2 Q. That he testified to today?

3 A. Yes. And I looked at him, and I said Mike,

4 I don't know what we're going to use. I said I

5 really can't tell you that anyways. I said you know

6 what, you got your job to do and I got my job to do

7 and there's nothing going to be personal about it,

8 and that's how it ended.

9 Q. Did he tell you what he was concerned about

10 or anything?

11 A. No.

12 Q. Okay.

13 THE ARBITRATOR: Those maps --

14 MR. WILKEY: That's all the questions I

15 have at this time.

16 THE ARBITRATOR: -- that you're going to

17 reproduce and send to us, those would be very

18 important.

19 MS. GARNER: Yes.

20 THE ARBITRATOR: I need to have those

21 because I'm going to take a ride, if I feel it's

22 necessary. I don't know.

23 EXAMINATION

24 QUESTIONS BY MS. GARNER:

25 Q. Back to the CGI without the goose neck,
275

1 how do you check a hard-to-reach place?

2 A. Excuse me?

3 Q. Without the goose neck, if you're just

4 going to put that filter attachment without the

5 goose neck, how do you check a hard-to-reach place,

6 behind pipes, next to the wall?

7 A. I don't check hard-to-reach places without

8 this. I use this when I go to point of entry at the

9 inside meter.

10 Q. But aren't you also supposed to be checking

11 the piping around the meter?

12 A. It's right there in front of me.

13 Q. Can you get behind the piping --

14 A. Absolutely.

15 Q. -- next to the wall?

16 A. This thing takes a CGI air sample from the

17 surrounding area. It just doesn't pin point one

18 little spot. This air pump pumps up, it's doing

19 this whole area, so when we put this on, it starts

20 pumping -- when I put this on, it's sucking air in.

21 Q. All right. Aren't meters sometimes in

22 closets?

23 A. Oh, yeah.

24 Q. Aren't they behind paneling?

25 A. Sure.

276

1 Q. So wouldn't you need the goose neck?

2 A. No. You stick it in there.

3 Q. You can get in behind the paneling?

4 A. Yes.

5 Q. In every instance, you never had a problem

6 with it?

7 A. If I have a problem with it, I put the

8 goose neck on it.

9 Q. And where do you have your goose neck?

10 A. In my truck.

11 Q. In your truck?

12 A. Mm-hmm.

13 Q. So you have to go back outside, get the

14 goose neck and come back in rather than just carry

15 it in with the CGI?

16 A. That's correct. If it's needed.

17 Q. The other filters you talk about aren't

18 relevant in this matter for an inside CGI, right?

19 You talk about the water stop and some other

20 filters?

21 A. Well, no, they're not relevant, but I don't

22 take mine off.

23 Q. That's fine.

24 A. I don't take mine off. I leave it on all

25 the time.

277

1 Q. And you never use it without a filter?

2 A. No.

3 Q. That was your testimony?

4 A. Yes.

5 Q. You always make sure you have at least a
6 filter on it?

7 A. At least one.

8 MS. GARNER: That's it.

9 THE ARBITRATOR: Thank you. Ron?

10 EXAMINATION

11 QUESTIONS BY MR. WILKEY:

12 Q. You heard earlier testimony about
13 servicemen can't work through lunch without
14 permission?

15 MS. GARNER: I'm sorry, this is beyond the
16 scope. I understand you're going to allow him to do
17 it, but it's beyond the scope. This was already
18 done on direct or cross.

19 BY MR. WILKEY:

20 Q. Have you worked through lunch before
21 without permission?

22 A. Yes.

23 Q. Just because you were on the board?

24 A. No.

25 Q. In other situations besides what they
278

1 testified to about working the board?

2 A. Yes. Every time I get a route, I work

3 through lunch and get off at four without

4 permission.

5 Q. And did anybody, supervisor or someone

6 else, come to you prior to Mr. Jackson's indefinite

7 suspension with a concern about Mr. Jackson?

8 A. Yes.

9 Q. And what would that have been?

10 A. Mr. Sisak came to me the day before I

11 followed them.

12 Q. And that bucket -- where did it go?

13 A. I put it over there.

14 Q. Put it out of the way. Is the surrounding

15 around the bucket, is that available to you from the

16 stockroom at this time?

17 A. No, it's not.

18 Q. And how long has that been not available to

19 servicemen?

20 A. I -- I've got a real, real old one when
21 they first came out. I tried to get another one, I
22 can't remember the exact time, it's been at least
23 five years since this. The buckets we use, they
24 give us buckets, but this, you can't get this out of
25 the storeroom anymore.

279

1 Q. So if you tried to req that, you couldn't
2 get it?

3 A. They don't have them.

4 Q. Is there a number in the req to still req
5 them?

6 A. I think there might -- no. Actually, I
7 don't know if there's a number or not. When I went
8 to req one, they told me they don't have them
9 anymore. They don't stock them in the storeroom.

10 Q. You want to take that one with you?

11 THE ARBITRATOR: Oh, no, you don't.

12 THE WITNESS: You get the Ranger.

13 (Discussion off the Record.)

14 MR. WILKEY: That's all the questions I
15 have.

16 THE ARBITRATOR: Thank you.

17 EXAMINATION

18 QUESTIONS BY MS. GARNER:

19 Q. When you worked through lunch, you did
20 state though that you do leave an hour early?

21 A. Right.

22 Q. You don't stay and work overtime without
23 permission?

24 A. No.

25 MS. GARNER: That's all I have.
280

1 THE ARBITRATOR: Thank you.

2 MR. WILKEY: Thank you, Mark. Union call

3 Mr. Jackson. Louis Jackson.

4 (Discussion off the Record.)

5 LOUIS JACKSON

6

7 of lawful age, having been first duly sworn to
8 testify the truth, the whole truth, and nothing but
9 the truth in the case aforesaid, testifies and says
10 in reply to oral interrogatories propounded as
11 follows, to-wit:

12

13 EXAMINATION

14 QUESTIONS BY MR. WILKEY:

15 Q. Would you please state your name for the

16 record, Mr. Jackson?

17 A. Louis Jackson.

18 Q. And have you ever been employed for Laclede

19 Gas?

20 A. Yes.

21 Q. And do you currently work for Laclede Gas?

22 A. No.

23 Q. And do you know why you no longer are

24 employed by Laclede Gas?

25 A. I was terminated.

281

1 Q. And do you know what you were terminated

2 for? Do I need to get the termination letter?

3 A. Failure to follow procedure and loafing,

4 falsifying documents.

5 Q. Okay. How long were you employed by

6 Laclede Gas?

7 A. A little over seven years.

8 Q. What positions did you hold?

9 A. I started out in the Service Department and
10 worked my way up to fitter and transferred to C & M
11 in the summer.

12 Q. Okay. But you were in actually the SAID
13 department the whole seven years?

14 A. Yes.

15 Q. Other than the times you went back to C & M
16 just for the summers?

17 A. Yes.

18 Q. How many times did that occur?

19 A. Three or four.

20 Q. And you were requested to do that by
21 Laclede Gas?

22 A. It was a volunteer basis all but once.
23 There was one time that they inversed everybody out
24 there the first of the year.

25 Q. Okay. And what has Laclede Gas
282
1 specifically accused you of doing?

2 A. Not taking my Gas Ranger into two different
3 locations.

4 Q. And how did they know this?

5 A. They say they observed me.

6 Q. Now, just ask you a question. Did you
7 carry your CGI equipment into those two houses?

8 A. Yes.

9 Q. On Titus and Trumbell?

10 A. Yes.

11 Q. No doubt in your mind whatsoever?

12 A. No doubt.

13 Q. So the supervisors must be mistaken?

14 A. They must.

15 Q. I want to hand you the exhibits that are
16 marked Ranger, I think it's 9, 10 and 11, Joint 9,
17 10 and 11. Now, would you please identify which
18 exhibit is closely, more closely resembles what you
19 carried into the two houses that day?

20 A. Exhibit 10.

21 Q. Exhibit 10. Is there anything different in
22 Exhibit 10 from the way you carried it that day?

23 A. I had the filter on the inlet.

24 Q. Filter that Mr. Boyle just earlier
25 testified to?

283

1 A. Yes.

2 Q. Would you please look at Joint Number 3?

3 It should be over there.

4 (Discussion off the Record.)

5 BY MR. WILKEY:

6 Q. When you first look at Titus Road, and tell

7 us what you recall about that job.

8 A. 8021 Titus, the job was a TFTO, and I

9 pulled into the driveway, grabbed my Gas Ranger off

10 the seat, threw it around my neck, went on into the

11 house and did my gas safe inspection, checked my

12 meter set and my point of entry and checked all the

13 appliances. At that point, I went back upstairs,

14 and the customer had asked me about a space heater,

15 and at that point, I questioned them on it, you

16 know, where it was located.

17 Q. Now, had you carried your CGI into the

18 house?

19 A. Yes.

20 Q. Okay. I'm sorry. Go ahead.

21 A. Customer said they just bought the house,

22 and when I located the space heater, the fuel run

23 had been turned off to it and it went into a false

24 ceiling where you couldn't see where it went.

25 I asked for their information on their
284

1 house sale to see if their forms had stated whether
2 or not it had been inspected, yes or no, and they
3 didn't have these forms. So I proceeded to call the
4 meter desk and ask them to pull the file to see if
5 our paperwork said why we did or did not inspect it.
6 They said that when I called, they pulled the file,
7 there was nothing on the file that mentioned a space
8 heater at all.

9 At that point, I called my foreman and
10 explained that, you know, these people over here
11 they wanted their space heater turned on.

12 Q. What foreman did you call?

13 A. Mr. Sisak.

14 Q. Mr. Sisak?

15 A. Yes. And explained to him that they just
16 bought the house, that, you know, I was not really
17 sure why we didn't inspect it, there's no paperwork
18 that says yes or no why we didn't, and that, you
19 know, they wanted it turned on, and he informed me

20 that if they wanted to turn it on, I would have to
21 charge them. I mean, they were standing there and
22 heard the whole conversation. It was on the
23 walkie-talkie, and, you know, they weren't real
24 excited just buying a house and then saying they're
25 going to get charged for turning something on, and I
285
1 explained to them I didn't have a choice, I couldn't
2 be there any longer, and then they wanted, they
3 expressed a concern on what the issue was with not
4 turning it on. And I tried to explain to him it was
5 a hidden fuel run, with it going into a false
6 ceiling in the basement. I really didn't know if it
7 was passing through a wall, if it was passing
8 through wood, copper. If it passes through anything
9 that's concrete, the line will eat through the
10 copper and create a corrosion problem where it would
11 start leaking, so I explained to them that without
12 knowing exactly where it goes, you really weren't
13 sure without pressure checking it.

14 Then they kind of had asked me where it
15 was going, how it was going, and I said let's go
16 outside. We walked around the back of the house,

17 and there was a crawl space that you could look into
18 and you could see where it was coming through the
19 foundation and running under the crawl space.

20 Q. Did you take your CGI with you at that time
21 back outside?

22 A. No. There was no need to have it out there.

23 Q. What did you do with your CGI?

24 A. Just left it inside with the ticket. I
25 mean, at the time this happened, I was ready to have
286
1 my ticket signed.

2 Q. Okay. Continue on. How many customers
3 walked outside with you?

4 A. There was two or three that followed me out
5 there because they all expressed concern on wanting
6 to know where this fuel run was, and, you know, what
7 their problems could be, you know. And I explained
8 to them that they would either have to -- their
9 first step would be to take it up with their
10 realtor. They should have received these house sale
11 forms when they bought the house. They didn't get
12 them. The realtor should have given it to them.

13 So their first step, I said, you know, I
14 don't want to charge you for this, you need to get
15 with the realtor and find out why this stuff wasn't
16 inspected and take it from there.

17 Q. So did this job normally take you longer to
18 do the conversation you had with the customer?

19 A. Exactly.

20 Q. That took some time to explain that to them?

21 A. Yes. Yes.

22 Q. There's no way you could have relit that
23 appliance if you wanted to, is there?

24 A. Not safely, no.

25 Q. I want you to look at Joint Group Number 2,
287
1 it's your CIS orders from that day.

2 A. Where do I get them?

3 (Discussion off the Record.)

4 BY MR. WILKEY:

5 Q. Is that your signature on the bottom of the
6 page there?

7 A. Yes, it is.

8 Q. Okay. And you've already read into the
9 record your remarks on the back. Got a question.

10 At the bottom, you've got time complete 11:35. It

11 looks like that's been -- can you explain that?

12 A. You mean why it was scratched out?

13 Q. Yes. Why was it --

14 A. When I got back out to my van, I called my
15 boss to let him know what had happened, you know,
16 because the last thing he had told me was charge the
17 customer. At that point when I got back out to the
18 van, I called him to tell him that they had chose
19 not to be charged for this and that they were going
20 to contact their realtor and pursue it that way.

21 Q. Okay.

22 A. And at that time, you know, he said, you
23 know, you've been there an awful long time, you need
24 to pick this up. I said well, I'll tell you what,
25 I'll write my break in now to make this job look
288
1 better. That way, you know, when it's reviewed
2 later, it shows that the job was 15 minutes less
3 than it really was.

4 Q. So who did you tell that to?

5 A. Mr. Sisak.

6 Q. Did he have any problems with that?

7 A. No. He just said carry on.

8 Q. And on the reverse side, zero percent, why

9 did you put the zero percent on the inside?

10 A. That was the reading that I obtained.

11 Q. Obtained from your CGI?

12 A. Yes.

13 Q. And would you turn to Trumbell? And is

14 that your signature on the bottom of that?

15 A. Yes, it is.

16 Q. And when you look on the back, again why

17 did you write zero percent on the inside read?

18 A. Because that's the reading that I got with

19 my Ranger.

20 Q. Now, did you have any problems with this

21 job at all?

22 A. No, I didn't.

23 Q. Why did you also do the outside wall? I

24 mean, this was basically the same job as TFTO,

25 wasn't it?

289

1 A. Yes.

2 Q. And why did you do the outside wall and the

3 other zeros up there?

4 A. It was a special SCI. I mean, it's
5 required, and on a special SCI, you're required to
6 take a reading at the outside wall where the point
7 of entry would be, and then you have to read your
8 service and information to determine whether or not
9 it's a long or a short service. A long service
10 would be that the gas main would be across the
11 street from the location, and if that's the case,
12 then you would poke a hole at your near curb and
13 even go across the street and poke a hole over the
14 main and take readings.

15 Q. Okay. Would you please turn to 9028
16 Trefore on the back?

17 THE ARBITRATOR: 9028 what?

18 MR. WILKEY: Trefore. It's the
19 second-to-last page.

20 THE ARBITRATOR: Okay.

21 BY MR. WILKEY:

22 Q. Is that your signature on the bottom of the
23 page?

24 A. Yes, it is.

25 Q. What's the special SCI, what's that stand
290
1 for?

2 A. I just explained that. I mean --

3 Q. Same thing?

4 A. Yes. Yes. You check point of entry and
5 then either near curb or far curb, depending where
6 the main is.

7 Q. Does that take longer to do all those jobs?

8 A. Yes. Takes a little longer because you
9 have to, you know, decide -- you have to read your
10 directions and find out, you know, east, west,
11 north, south which side of the street the main's on,
12 and then locate your service and march it off.

13 Q. Did anything else happen while you were on
14 this job?

15 A. Trefore was a meter change. Yeah. I
16 received a call from another serviceman that said
17 that he had been told to call me, get a job from me,
18 the board did not have any work.

19 Q. And when looking at your time ticket, what
20 job are you talking about there?

21 A. That was a job at 3856 Brown Road.

22 Q. Okay. So 3856 Brown Road shows on your
23 time ticket you gave to Wilson?

24 A. Yes, sir.

25 Q. And did you give any other work away that
291
1 day?

2 A. Yes. Earlier that day, I gave a job 7833
3 Madison, gave that to Thompson.

4 Q. Okay. And how did that occur?

5 A. Same. I mean, it was -- it's common. You
6 get a call from the serviceman that says I was told
7 to call you, I need to get a job from you, give me a
8 job.

9 Q. So you had to give him the information over
10 the phone?

11 A. Yes. Normally, if you call -- a lot of
12 times when you call, if -- usually these guys are
13 dispatching board guys so they are doing emergency
14 calls, and if they call and there's nothing for them
15 to do, they tell them to call their foreman. If you
16 call your foreman, he's got copies of these route

17 sheets and he may look down and say okay, call
18 Jackson and tell him to give you the job on Brown
19 Road. Well, that's all he really knows it's the
20 TFTO on Brown Road, so when they call you, then you
21 have to give them the order number, the account
22 number, meter number, the required inspections. You
23 give them all that information over the phone, and
24 then they basically duplicate the ticket you have
25 verbally.

292

1 Q. You have to give them the meter number?

2 A. Yes.

3 Q. You have to give them the grid code to show
4 where it's at on the maps?

5 A. Yes.

6 Q. You have to give the name and the address?

7 A. Yes.

8 Q. Special instructions?

9 A. Yes.

10 Q. You got to go through curb box whether
11 there's copper there?

12 A. Mm-hmm.

13 Q. Does that take quite awhile --

14 A. Yeah, it can.

15 Q. -- to give that information while the

16 individual is trying to write?

17 A. Exactly. I mean, you have to read through

18 all this, and, you know, sometimes you may get a

19 call from a guy, he'll call and say -- you may be in

20 the house, and you say okay, well, I'll call you

21 right back when I get back to the van. And then

22 when you get back to the van, you may try to call

23 him and you may get a busy signal and you have to

24 key him a few times until you get through because he

25 may be back on the phone trying to -- you know,

293

1 sometimes you get ahold of these guys and the board

2 has already called them and said hey, we just had a

3 job pop up, you know, did you get a job yet, and he

4 may say well, no, and then they say well, okay, I

5 got a leak, take this. And then when you do get

6 them on the phone, they will say well, I don't need

7 that job now, I got one.

8 Q. When you look down, is there a job on there

9 that you were given that caused you to go into

10 overtime?

11 A. Yes.

12 Q. And what job was that?

13 A. That was 1106 Jung Station Road.

14 Q. Who gave you that job?

15 A. Dispatcher Doug.

16 Q. So that puts you into overtime then?

17 A. Yes.

18 Q. Now, you heard testimony earlier that the

19 bucket that's here, that you weren't carrying a

20 bucket?

21 A. Yes.

22 Q. Did you carry a bucket in that day?

23 A. To which job?

24 Q. To either job?

25 A. The jobs in question?

294

1 Q. Trumbell or Titus?

2 A. No, I didn't.

3 Q. And why didn't you?

4 A. I didn't feel having my tools with me would

5 endanger the customer, and, I mean, I had my Ranger

6 with me. The gas was already on. I didn't have to

7 turn anything on or off. I basically went in there
8 to check the appliances and make sure they turned on
9 turned off okay and to get a gas reading from inside
10 the house. Normally, you don't need any tools for
11 that.

12 Q. Okay. If we could, what I would like to do
13 would you demonstrate for the Arbitrator how you
14 normally carry the Ranger?

15 A. Yes. (Witness complied.)

16 Q. And did you have a coat on or off that day?

17 A. I had my coat on.

18 Q. Was it -- can you describe that day
19 temperature-wise, do you recall?

20 A. Oh, it was -- it started off, you know, in
21 the 20s that morning and was cool all day.

22 Q. When you say "cool," what do you mean by
23 cool?

24 A. Well, it never really got much above the
25 40s, high 40s.

295

1 Q. Was it cold enough that you felt you needed
2 your coat?

3 A. Yes. I mean, I -- a lot of guys wear ball
4 caps. You go in a lot of these older houses,
5 there's cobwebs everywhere, and you're walking down
6 in the basement and getting into the furnace area,
7 or it might be in a utility area, lot of guys wear
8 ball caps to keep the cobwebs out of their hair, and
9 I normally wear my jacket as much as I can so I can
10 pull my hood up because I don't wear a ball cap.

11 Q. Is this the coat that you were wearing that
12 day?

13 A. Yes.

14 MS. GARNER: May I see it before you put
15 it on?

16 THE WITNESS: Sure.

17 MS. GARNER: Okay.

18 THE ARBITRATOR: What color shirt were you
19 wearing that day?

20 THE WITNESS: Green. Green shirt, long
21 sleeve.

22 BY MR. WILKEY:

23 Q. Is that a gas company issued shirt?

24 A. Yes.

25 Q. And it's a green shirt?

296

1 A. Yes. It's kind of a mint green.

2 Q. Would you demonstrate to the Arbitrator how

3 you...

4 A. (Witness complied.)

5 MS. GARNER: May I see, please?

6 BY MR. WILKEY:

7 Q. Okay. Why don't you walk back a little

8 further and see?

9 And that's from 30 feet.

10 MR. WILKEY: Can we go out in the hall

11 just a second and let him get down to the end and

12 walk back and forth and stand at the opposite end?

13 I don't know if it's 170 feet, but it's a lot

14 shorter.

15 MS. GARNER: Different condition entirely.

16 MR. WILKEY: Well, it would give him some

17 idea. Lighting is certainly a lot better in here

18 than out there it was that day in question.

19 THE ARBITRATOR: I'll go.

20 (Discussion off the Record.)

21 MR. WILKEY: The stipulation is that the
22 distance that we just viewed was approximately 130
23 feet as measured by Mark Boyle.

24 BY MR. WILKEY:

25 Q. Mr. Jackson, any time that day, did you
297
1 loaf?

2 A. No.

3 Q. I want to hand you --

4 (Discussion off the Record.)

5 BY MR. WILKEY:

6 Q. Joint 7. I'm going to hand you what's been
7 marked Joint Exhibit Number 7. Do you recall that?

8 A. Yes.

9 Q. Okay. And what do you recall about that?

10 A. I was loafing. I took a break after a job
11 that wasn't legitimate, and my foreman caught me
12 doing it and I basically took my medicine. I mean,
13 I did wrong.

14 Q. Did you meet with the Company over this?

15 A. Yes, I did.

16 Q. So you had a one-day, 1.3 hour suspension?

17 A. I think that's what it was. Yes.

18 Q. It wasn't a one-day, three-hour suspension
19 as testified to by the Company witnesses earlier?

20 A. No. It was 9.3 hours it says here.

21 Q. I want to hand you the settlement
22 agreement. I believe it's Company Number 8, if I'm
23 not mistaken. I got to find it.

24 MS. GARNER: Company 2.

25 MR. WILKEY: Company 2. That's why I
298
1 can't find it.

2 BY MR. WILKEY:

3 Q. I hand you Company 2. Oh, you've got it.
4 I'm sorry, do you have it?

5 (Discussion off the Record.)

6 BY MR. WILKEY:

7 Q. Company Number 2, do you recall this
8 document?

9 A. Yes, I do.

10 Q. And does it say you were indefinitely
11 suspended on January 29th, 2002 for alleged theft of
12 gas company property and tampering with a gas meter?

13 A. Yes, it does.

14 Q. Now, did you sign that document at the

15 bottom?

16 A. Yes, I did.

17 Q. Why don't you explain to us your reasoning

18 for signing that document?

19 A. Well, I mean, at this point, I had already

20 been off work for three months, and when we went to

21 start arbitration hearing, the Company's witness

22 refused to show up, so I was told, and they said

23 they were going to have to subpoena them to a court

24 of law. I mean, at that point, I mean nobody really

25 knew how long it was going to take, and honestly, I

299

1 had to get back to work. I mean, at the time I was

2 strapped for money, and I lived alone, didn't have a

3 second income, and started selling assets. I mean,

4 I actually was worried about losing what I did have.

5 Q. Do you remember the Company actually had a

6 video deposition scheduled at the Lake of the Ozarks

7 for the customers to show up and they failed to

8 show, are you aware of that?

9 A. Yes. I was there.

10 Q. Did you question the Union about how much

11 longer this would take to get possibly to the end of
12 it?

13 A. Yes, I did.

14 Q. And do you recall what you were told?

15 A. I was told that, you know, they'd have to
16 follow the way the law works. They would have to
17 subpoena them to a court of law, and if they got a
18 lawyer and fought it, that it could take quite
19 awhile.

20 Q. And was there anything told to you in terms
21 of months or days or weeks?

22 A. They said it could be two, three, four
23 months. I mean, you hear about stuff -- you know,
24 you watch on TV all the time where stuff gets drug
25 out for years sometimes, and I just didn't want to
300

1 take that long. Didn't have a choice.

2 Q. Did you admit guilt when you signed that?

3 A. No, I didn't.

4 Q. Did you ever admit any guilt of theft?

5 A. No, I didn't.

6 Q. Or tampering with the meter?

7 A. No, I didn't.

8 Q. And why did you sign that?

9 A. I wanted to go back to work. I mean, I

10 needed a paycheck every week.

11 Q. Did you have a choice?

12 A. I don't feel that I did.

13 Q. And why do you say that?

14 A. Well, I mean, I was financially obligated
15 to pay bills, and without a job, you can't pay them.

16 Q. And you thought this was the best bet at
17 the time even though you weren't admitting guilt?

18 A. Yes, I did.

19 Q. Now, I know you watched the video many
20 times and it showed the Company witnesses in the
21 simulation carrying the piece of equipment in front
22 of them on their belly. Did you ever carry your
23 piece of equipment like that?

24 A. No. Not on my belly. I mean, it's going
25 to be uncomfortable. The only time it would sit on
301

1 my belly would be like while I was bar holing
2 because normally we try to use both hands instead of
3 just doing it with just one, so if you're in a

4 position like doing a leak investigation where
5 you're doing lots of bar holing and checking
6 different addresses is you let it hang to the front
7 to be out of the way while you're moving your arms.

8 Q. And did you in the manner that you
9 exhibited, is that normally the way you carried the
10 Ranger?

11 A. Yeah. For the most part, yeah.

12 Q. And in the movie where you, the Company
13 reenacts you walking around outside the house and
14 going back to the house, is that the part where the
15 customers were with you?

16 A. Yes.

17 Q. And did you carry your CGI out there then?

18 A. No, I didn't.

19 Q. And how were you trained on the CGI?

20 A. You mean as far as did I take a class or
21 anything?

22 Q. Yes.

23 A. No. I never had any training as far as a
24 representative of the Company that gave them to us.

25 Q. But was it your -- to your knowledge, you
302

1 could use the CGI without the attachments on it?

2 A. Mm-hmm. Yes.

3 Q. And did you do that frequently or --

4 A. Yes.

5 Q. Do you recall when about you got your

6 Ranger?

7 A. It was some point earlier in that year. I

8 mean, I remember having it during the summer when we

9 were doing copper surveys, but I don't remember

10 exactly when it was given to me, no.

11 Q. And do you recall Mr. Sisak testifying that

12 you signed some documents which he asked you to sign

13 another employee's name; is that correct?

14 A. Yes.

15 Q. Can you just tell us what happened there?

16 A. Yes. I went -- I'm trying to think. I

17 went to a job where Bruno was to get some work from

18 him.

19 Q. Bruno, is that the Bruno they talked about?

20 A. Yes. He was at an Imo's over on Olive.

21 They were opening a new Imo's restaurant, and they

22 were hooking up the meter set for that, and I went
23 there to get some work from him that he wasn't going
24 to be able to get to. Mr. Sisak was on that job
25 when I got there.

303

1 When I got there, he'd asked me what my
2 previous job was, and I told him it had been a house
3 sale, and he said well, I want to do an evaluation
4 on you, and he asked the address and the grid and so
5 on, so forth. I gave him all that information.
6 Then he asked me to fill out the back where he's
7 supposed to go in and see the customer and customer
8 supposed to make comments was the man courteous, you
9 know, was he -- you know, did he do his job, are you
10 happy with him. I filled all that out and put the
11 customer's name on there. I told him the house was
12 vacant. There was nobody there.

13 At that point once we got that one done,
14 he then pulled out two evaluations for two other
15 servicemen, which was Nick Thompson and John
16 Fitzmaurice. These men were working nights at the
17 time, and they were doing copper relights, a thing

18 where they brought in an outside contractor in to
19 replace copper gas lines, but the outside contractor
20 did not relight the houses, we did, and they would
21 put teams of men out there to do these houses. As
22 people came home from work, they'd go in and relight
23 them. And that I don't remember the exact address,
24 but it was a house that -- it was the same address
25 on both of them, and he asked me to sign their names
304
1 on the back of those evaluations.

2 Q. Did he tell you why he wanted you to do
3 that?

4 A. No, he didn't.

5 Q. Did you ask him?

6 A. No.

7 Q. And did you know that that was dishonest?

8 A. Yes.

9 Q. Why did you do it?

10 A. You know, your boss asks you to do
11 something, normally you're going to do it. If you
12 cross him, you make him mad at you, then it's not
13 going to benefit you. I mean, I didn't feel that it
14 was going to hurt me by signing something, you know,

15 that a customer should have signed.

16 Q. If you refused to sign it, what would you
17 have been basically scared of?

18 A. Mr. Sisak, you know...

19 Q. Retaliating?

20 A. Yes. Trying to, you know, find a way to
21 get back at me for not cooperating.

22 Q. And did you work through lunch without
23 permission quite a bit?

24 A. Yes, I did.

25 Q. And how long had that been going on?
305

1 A. Years. I mean, very seldom did I take
2 lunch. I mean normally I worked a lot of overtime.
3 If it was available, I worked it, and if I had a
4 foreman that said no, then you didn't. I mean,
5 there was foremen that said don't work through
6 lunch.

7 Q. You heard Mr. Sisak say that he had talked
8 to you prior to your indefinite suspension about
9 working through lunch; is that correct?

10 A. Yes, I heard him say that.

11 Q. Did he actually talk to you about that?

12 A. No, he didn't.

13 Q. Never said anything to you about working

14 through lunch?

15 A. No, he didn't.

16 MR. WILKEY: That's all the questions I

17 got.

18 EXAMINATION

19 QUESTIONS BY MS. GARNER:

20 Q. So you admit that you falsified and loafed

21 on the 10-29 memo, that you got one day one hour and

22 three-tenths of an hour?

23 A. Yes.

24 Q. And you admit that you were dishonest when

25 you signed the customers' name?

306

1 A. Yes.

2 Q. And you admit that you were dishonest when

3 you signed the two servicemen's names?

4 A. Yes.

5 Q. Two separate forms, and all of those things

6 were dishonest?

7 A. Yeah.

8 Q. You understand that you have an -- that
9 there's a rule that you are supposed to take your
10 tool bucket in with you?

11 A. Yes.

12 Q. And you substituted your own judgement and
13 determined you didn't need to take your tool bucket
14 in with you on these turn on turn offs?

15 A. On TFTOs? Yes.

16 Q. So you decided that the service manual
17 didn't matter, you were going to do what you wanted
18 to do?

19 A. I felt --

20 Q. I'll do the same thing Ron did. That's a
21 yes or no.

22 A. No, I didn't take the tool bucket in.

23 Q. You didn't take the tool bucket in because
24 you felt your judgment was more important than what
25 the service manual said?

307

1 A. I felt I didn't need them to check for gas
2 leaks.

3 Q. What if you went into the basement and

4 found a serious leak, what would you do then? You

5 wouldn't have your tools, would you?

6 A. I would tell everybody to get out of the

7 house, which is the first thing I'm supposed to do

8 on a leak.

9 Q. Right. But if you have your tools, you

10 might be able to do something to stop the leak a

11 little more quickly, right?

12 A. I might.

13 Q. You might be able to do it. You'd be able

14 to shut the meter off?

15 A. Possibly.

16 Q. Possibly. And all those things would be

17 things you could do with your tools but not if you

18 don't have your tools, right?

19 A. That's true.

20 Q. So it's a safety issue, and you substituted

21 your own judgement for the Company's judgment on a

22 safety issue, yes or no?

23 A. Yes.

24 Q. On the settlement agreement, did anyone

25 tell you that if you arbitrated it, you could get

1 your money back? You could get your back pay if you
2 won?

3 A. No.

4 Q. No one ever told you that?

5 A. No.

6 Q. Did you know you could get all that money
7 back if you win the arbitration?

8 A. I was told that the Arbitrator rules
9 however he wants to. He may rule you come back to
10 work with no back pay. He may give you some back
11 pay.

12 Q. So one possibility is that you could get
13 your back pay back?

14 A. Possibly, yes.

15 Q. Do you completely deny that there was any
16 theft of company materials?

17 A. Yes.

18 Q. And you completely deny that you were
19 involved in tampering with the gas meter?

20 A. Yes.

21 Q. And yet you weren't willing to go through

22 an arbitration to get your money back when you're

23 completely honest?

24 A. I had no choice.

25 Q. Well, I didn't ask you whether or not you
309

1 had a choice. I just said you weren't willing to go

2 through an arbitration to get your money back as you

3 sit here today and you say you were completely

4 honest?

5 A. Yes.

6 Q. And in the agreement, it says that you

7 allowed this suspension to be used in any further

8 case against you?

9 A. Yes.

10 Q. So you knew that the Company would say that

11 you did these things and you allowed it to happen,

12 you signed the agreement anyway?

13 A. Well, I mean, I was -- when I read the

14 agreement, I was under the impression that if I ever

15 stole from the Company or did anything that that

16 letter said, that there would not be any argument,

17 there would not be any union involved, it would be

18 pretty much you're gone.

19 Q. Doesn't it also say that this suspension
20 shall remain in the record and be used in any
21 further case involving you?

22 A. It does say that on there, yeah.

23 Q. The issue about writing on the back of 8021
24 Titus, I think it's Joint Exhibit -- it's the CIS
25 tickets, Joint Exhibit 2. I think it's -- the sixth
310

1 page is Titus.

2 A. Mm-hmm.

3 Q. Where you said that you changed your time?

4 A. Yes.

5 Q. Did you ever raise that at the third step
6 meeting?

7 A. What?

8 Q. Did you ever say at the third step meeting
9 the reason why I changed my time there was because I
10 was taking my break?

11 A. No, I never said that.

12 Q. And you understand that in this matter, the
13 Union stipulated that you were properly trained on
14 the proper use of the CGI?

15 A. Sorry?

16 Q. The Union entered the stipulation that you
17 were properly trained on the use of the CGI?

18 A. I've never had any training on it other
19 than it just being handed to me and J.J. going over
20 with it.

21 Q. Never been trained on the CGI?

22 A. No. Not everybody went to a class.

23 MR. WILKEY: We stipulated to that.

24 MS. GARNER: Hold on. This will go to his
25 credibility.

311

1 (Discussion off the Record.)

2 BY MS. GARNER:

3 Q. Okay. These are not marked. You all could
4 write on them. I hadn't intended on using them
5 since we had a stipulation in place. It's going to
6 be Company 15 and Company 16.

7 MR. WILKEY: I'm going to object. I mean,
8 I don't know what she's throwing out here.

9 MS. GARNER: I'll give you a minute.

10 MR. WILKEY: You can put that on through
11 your own witnesses.

12 MS. GARNER: I want to put it on through
13 him.

14 THE ARBITRATOR: Perfectly legitimate.

15 MR. WILKEY: I know.

16 (Discussion off the Record.)

17 BY MS. GARNER:

18 Q. I'm going to give the marked ones to the
19 Arbitrator for the record, Company 15 and Company
20 16. Company 15 is a one-page document, Company 16
21 annual training, and I'm going to hand you what's
22 been marked Company 15. Can you tell me what that
23 is?

24 A. Attendance roster for safety meeting.

25 Q. For a safety meeting, is that what it says?

312

1 A. Annual training.

2 Q. Annual training?

3 A. Attendance roster.

4 Q. Attendance roster. Is your name on there?

5 A. Yes, it is.

6 Q. Number 10 --

7 A. Yes.

8 Q. -- I believe. Okay. And I'm going to hand

9 you what's been marked Company 16.

10 MR. WILKEY: This first one was Company 15?

11 MS. GARNER: 15.

12 BY MS. GARNER:

13 Q. Company 16, and I'm flipping it to the page

14 for you, they're not numbered, so let me -- first of

15 all, on the first page, can you tell me what that

16 is?

17 A. Annual training.

18 Q. Annual training 2005?

19 A. Yes.

20 Q. And is this the same date that appears on

21 the attendance roster?

22 A. Yes.

23 Q. Okay. So this document and this document

24 go together to show that you were at an annual

25 training?

313

1 A. Mm-hmm.

2 Q. And on the front page, does it show

3 training on a combustible gas indicator?

4 MR. WILKEY: What page?

5 MS. GARNER: Front page.

6 THE WITNESS: Yes.

7 BY MS. GARNER:

8 Q. Okay. What did I say the tenth page?

9 Fourth from the back. Wally will tell me. Four
10 from the back. Can you tell me what page that is?

11 MR. WILKEY: What page?

12 MS. GARNER: Fourth from the back.

13 A. There's no page number on it.

14 Q. No page number. What does it say across
15 the top?

16 A. Combustible Gas Indicator.

17 Q. And is this a test, a true false or
18 multiple choice test?

19 A. Multiple choice.

20 Q. Okay. And did you sign that?

21 A. Yes, I did.

22 Q. Did you take that test?

23 A. Yes.

24 Q. And does that show that you took training
25 on that day?

1 A. Yes.

2 Q. And you took a test on the training?

3 A. Mm-hmm.

4 Q. So did you take training on the CGI machine?

5 A. Not the one the Company gave everybody
6 else.

7 Q. Did you take training on a CGI machine?

8 A. Yeah.

9 Q. I didn't ask about the one the manufacturer
10 gave. I asked you if you took training on a CGI
11 machine?

12 A. Yes.

13 Q. Okay. But you just testified you didn't
14 have any training on the CGI?

15 A. I thought you meant the one the Company
16 gave everybody.

17 Q. This is training that the Company gave
18 everyone?

19 A. I guess I should have asked for more --

20 Q. This was January of '05, two months prior,
21 is that correct, to your discharge -- or I'm sorry,
22 to March 3rd?

23 A. Yes.

24 MS. GARNER: I have nothing further.

25 EXAMINATION

315

1 QUESTIONS BY MR. WILKEY:

2 Q. When looking at Company Exhibit Number 16,
3 the page that you were looking at?

4 A. Yes.

5 Q. And on the front, this says annual
6 training. Did you understand Miss Wagner's question
7 to be --

8 MS. GARNER: I'm sorry?

9 MR. WILKEY: I mean, Miss Garner's.

10 A. No, I didn't. I mean, I thought she meant
11 the training that everybody went to when it first
12 received a Ranger.

13 Q. So you're aware that there was other
14 training -- the annual training happens annually,
15 doesn't it?

16 A. Yes.

17 Q. So, I mean, when you answered it that you
18 hadn't been properly trained on the CGI, you weren't

19 talking about this training, were you?

20 A. No, I wasn't.

21 Q. And you were talking about what training
22 then?

23 A. The training that the manufacturer gives
24 when you receive the piece of equipment for the
25 first time.

316

1 Q. And did you, in fact, ever get that
2 training?

3 A. No, I didn't.

4 Q. And on this page, is there -- if you look
5 at it again, fourth to the last page.

6 MS. GARNER: Here.

7 BY MR. WILKEY:

8 Q. Is there anything on that page that you can
9 see that talks about filters, or that you had to
10 have attachments when using the CGI?

11 A. Let's see.

12 Q. I think if you look at number 10, that
13 talks about a filter.

14 A. Charcoal filter should be replaced, and
15 after each use, that's standard in all the CGIs we

16 ever had. The one I used to use was the same way.

17 Charcoal filter is used one time and then it's

18 thrown away.

19 Q. Okay. Also number 3 filter is talked

20 about; is that correct?

21 A. If you suspect -- yes.

22 Q. But that's just a charcoal filter it's

23 talking about. Is there anywhere on here that says

24 that you actually got to have a filter on the

25 machine, you got to use attachments?

317

1 A. No.

2 Q. And just -- Miss Garner asked you why --

3 about your changing of the time on your time ticket,

4 which is Joint number 3 -- I mean on the CIS order,

5 I'm sorry, that's Joint Number 2, do you see that

6 there where you changed it? Did the Company ever

7 ask you why you changed it?

8 A. No. Never ever asked.

9 Q. Did they ever ask you in the second step

10 meeting?

11 A. No.

12 Q. In the third step meeting?

13 A. No.

14 Q. And do you know if they had access to that

15 at the time?

16 A. I think so. I mean, it was showed to me in

17 my second step meeting they had all the paperwork --

18 I mean, the CIS and my route sheet.

19 Q. You never pointed it out to them but they

20 never asked you either, right?

21 A. No.

22 Q. Is that correct?

23 A. Yes.

24 Q. They didn't ask you, you didn't point it

25 out?

318

1 A. Yes.

2 MR. WILKEY: That's all the questions I've

3 got.

4 EXAMINATION

5 QUESTIONS BY MS. GARNER:

6 Q. Is it pretty common to scratch out and

7 change things on a CIS, it happens from time to time?

8 A. Yes. From time to time, if you think a job

9 is done and the customer may come back out and ask
10 another question or -- it can happen.

11 MS. GARNER: I have nothing.

12 THE ARBITRATOR: Thank you.

13 MR. WILKEY: That's all I have.

14 (Discussion off the Record.)

15 MS. GARNER: Union rest?

16 MR. WILKEY: (Nodded.)

17 MS. GARNER: Company would request

18 additional time to go out and investigate the

19 photographs.

20 THE ARBITRATOR: I don't have a problem

21 with that. The only problem I have is if I have to

22 come back.

23 MS. GARNER: I don't believe it will

24 require you to come back.

25 THE ARBITRATOR: Huh?

319

1 MS. GARNER: I don't know whether it will

2 require you to come back.

3 THE ARBITRATOR: I'll just say this to

4 both parties, I'm going to go out there.

5 MS. GARNER: Sure.

6 THE ARBITRATOR: And, you know, look at
7 the situation, but I prefer your people to go out
8 and do their thing.

9 MS. GARNER: Uh-huh.

10 THE ARBITRATOR: And then if we come back
11 here and we can go to a decision, I'm going to go
12 out there.

13 MR. WILKEY: We already did our thing.
14 We've already been out there.

15 THE ARBITRATOR: You already got all that
16 done. I will offer, you know, reasonable period of
17 time, about a week.

18 MS. GARNER: A week to get out there and
19 get back to you?

20 THE ARBITRATOR: Uh-huh.

21 MS. GARNER: So next Friday?

22 THE ARBITRATOR: Yeah.

23 MS. GARNER: Okay.

24 THE ARBITRATOR: You can make it Monday if
25 you want.

320

1 MS. GARNER: Following Monday?

2 THE ARBITRATOR: Yes. That's all right.

3 MS. GARNER: Actually, I do have one
4 rebuttal, if I could.

5 THE ARBITRATOR: Sure.

6 MS. GARNER: Wally?

7 THE ARBITRATOR: What's Union 2?

8 MR. WILKEY: Pardon?

9 THE ARBITRATOR: What's Union 2?

10 MR. WILKEY: What is Union 2?

11 THE ARBITRATOR: Yeah.

12 MR. WILKEY: I have nothing back. I'll
13 look in my notes. Temperatures that she stipulated
14 to actually. It was a diagram of the temperatures.

15 THE ARBITRATOR: Oh, okay. Well, that
16 was -- Union 1.

17 MR. WILKEY: That should have been Union 2.

18 MS. GARNER: What's Union -- tape 2.

19 MR. WILKEY: The tape is 2. The tape is 2.

20 MS. GARNER: Vickie, can we designate the
21 tape is 2?

22 THE ARBITRATOR: Are you going to give me

23 a copy of that?

24 MS. GARNER: It's right here.

25 MR. WILKEY: You're saying it's the same
321

1 one?

2 MS. GARNER: Yes.

3 THE ARBITRATOR: Okay.

4 WALTER A. REITZ

5

6 of lawful age, having been previously sworn to

7 testify the truth, the whole truth, and nothing but

8 the truth in the case aforesaid, testifies further

9 and says in reply to oral interrogatories propounded

10 as follows, to-wit:

11

12 EXAMINATION

13 QUESTIONS BY MS. GARNER:

14 Q. Mr. Reitz, you understand you're still

15 under oath?

16 A. Yes.

17 Q. And you testified earlier that you made the

18 recommendation concerning the decision to discharge

19 Mr. Jackson?

20 A. That's correct.

21 Q. In your -- in reaching your decision to
22 recommend the discharge of Mr. Jackson, did you
23 consider the video in making that decision?

24 A. No, I did not consider the video.

25 THE ARBITRATOR: What?

322

1 THE WITNESS: I did not consider the
2 video. I based my recommendation on the third step
3 meeting, the second step meeting as it was reported
4 to me because I didn't attend it, and interviews
5 with the employees, the supervisors before and after
6 the third step meeting.

7 Q. So the video was of no importance to you
8 with respect to your decision to recommend discharge?

9 A. No. It didn't make any difference. We
10 thought it may help someone who hadn't been out
11 there to get a better idea of what they were looking
12 at. That's why they did it a couple of weeks after
13 the fact. After we reviewed it, we didn't think it
14 had that much value, so we decided just to go with
15 the testimony.

16 THE ARBITRATOR: Well, I thought I heard

17 both of these gentlemen testify about going out

18 there and doing what it is they did.

19 THE WITNESS: Yes, they did.

20 THE ARBITRATOR: And that testimony was in

21 coordination with what they told you?

22 THE WITNESS: We had a third step meeting

23 on the 18th of March. I believe they were out there

24 on the 24th, like the week after that. Just to make

25 it, just to make -- in case the recommendation that

323

1 we made was based on the third step meeting and our

2 meetings with our -- internal meetings with our

3 supervisors before and after the third step meeting.

4 We just felt that a tape might be something -- have

5 some value a year from now, six months from now,

6 whenever it was, it would be required if, in fact,

7 we did arbitrate the case.

8 BY MS. GARNER:

9 Q. So, in fact, the Company decided not to use

10 the tape because why?

11 A. It just didn't -- we didn't feel it helped

12 or hurt the case. It just, you know -- we said the

13 testimony of the witnesses is going to be what's
14 going to determine the case, whether you believe
15 that the supervisors' testimony or the Grievant's
16 testimony, and we felt that the tape really didn't
17 have any weight.

18 THE ARBITRATOR: When I viewed that tape,
19 the camera seemed to be a hell of a lot closer than
20 what I saw out here in the hall. Do you agree with
21 that?

22 THE WITNESS: Yes, sir. That would appear
23 to be from that distance, yes. I haven't been to
24 the site.

25 THE ARBITRATOR: You have to do what you
324
1 have to do.

2 MS. GARNER: Thank you, Your Honor.

3 THE ARBITRATOR: Thank you.

4 MR. WILKEY: I've got some questions.

5 EXAMINATION

6 QUESTIONS BY MR. WILKEY:

7 Q. Did you know that the two supervisors who
8 went out to do the reenactment were at the wrong

9 address?

10 A. No. I had never been to the site, Ron, so

11 I didn't know.

12 Q. Never been to the site?

13 A. No.

14 Q. And you recommended that Mr. Jackson be

15 terminated?

16 A. Because -- yes, I did, because the decision

17 was based on what they saw the date that it

18 occurred.

19 Q. Now, you watched the tape here, Wally, and

20 I'm assuming you saw the pictures. You heard --

21 A. Those photographs?

22 Q. Uh-huh.

23 A. The Union 3 or 4 whatever?

24 Q. Yes.

25 A. Yes. I saw those.

325

1 Q. Okay. And you've also heard that your

2 supervisors said there was no way in heck that they

3 were at the wrong address, that they were at 8735?

4 A. Correct.

5 Q. Isn't that correct?

6 A. The day of the incident.

7 Q. The day of the incident?

8 A. Correct.

9 Q. And also the day that they did the
10 reenactment; isn't that correct?

11 A. I believe they did say that, yes.

12 Q. And that there's no way that they could
13 have been at 8677? Didn't they say that also?

14 A. Yeah. I believe they did.

15 Q. Doesn't that concern you some today?

16 A. I believe they know what Mr. Jackson looks
17 like and they could identify him. They obviously
18 may have been mistaken based on what I've seen to
19 this point without going out there, but I haven't
20 gone out there as far as what they did when they
21 tried to create a tape, but my point was is that
22 they claimed they could clearly see him getting out
23 of the vehicle without a CGI and go in the house.

24 They know the employee. They're familiar with the
25 work. They had been there for 15 or 25 years

326

1 experience, and I would believe what they told us.

2 Q. Now, the house is a lot bigger than that

3 CGI, isn't it?

4 A. The house?

5 Q. The house?

6 A. Well, yeah.

7 Q. Is that a fair question? A lot bigger?

8 Wouldn't be too hard to miss a house, would it? I

9 mean, if you were out and you were watching an

10 individual and their job was dependent upon what you

11 observed, wouldn't it be funny that when you went

12 out to do the reenactment, that you didn't even go

13 to the right house?

14 A. It's kind of odd, but, I mean...

15 Q. They testified they weren't -- or they

16 testified that they were at the right house so they

17 said that this video would be wrong, didn't they?

18 A. They did say the video was wrong. They

19 also said they were sure they saw Mr. Jackson

20 without a CGI.

21 Q. They also said that they were at the right

22 house too, didn't they?

23 A. Yes, they did.

24 Q. Doesn't that cause you some concern?

25 A. Not particularly because they had no reason
327

1 to lie, Ron. They just told us that's what they saw
2 when they went out in the field to investigate an
3 employee who didn't have -- two employees on that
4 street that same day, so I believed what they saw at
5 that time and reported to their supervisor as it was
6 occurring was, in fact, what happened.

7 Q. Didn't have any reason to lie, but they
8 certainly didn't hesitate, as Mr. Sisak testified,
9 that he asked Mr. Jackson to falsify documents, he
10 didn't hesitate on that, did he?

11 MS. GARNER: I think the record speaks for
12 itself on that, Ron.

13 THE ARBITRATOR: Yeah, he can't recall.

14 THE WITNESS: I have no knowledge of that.

15 MS. GARNER: He can't speak to that.

16 BY MR. WILKEY:

17 Q. Did you know about the tape, Wally, the
18 tape of the reenactment that the two supervisors
19 did, were you aware of that tape?

20 A. Did I know there was a tape? Yes.

21 Q. And you never watched it?

22 A. I -- eventually I saw it, yes.

23 Q. When did you see it?

24 A. Gosh, Ron, I'd have -- made a copy of it.

25 I'm not sure when we had it. It was done the 24th.

328

1 I'm sure it was done. The 8 millimeter tapes had to

2 be converted to the VHS, so I'm not exactly sure

3 when we got it to view it.

4 MR. WILKEY: That's all the questions I've

5 got.

6 MS. GARNER: Nothing.

7 THE ARBITRATOR: Okay. Thank you. All

8 right.

9 For the record, the Company has requested

10 a continuance in order to re-examine whatever it is

11 they want to re-examine at the location of the

12 various incidents involved in this case. The

13 Arbitrator has said fine, no problem. Expect a

14 notification from the Company within a week and a

15 half Monday following next Friday as to whether or

16 not they want a continuance or what it is they're

17 going to do.

18 Now, I will say this. When you file your
19 briefs, outside of the cases that are already here,
20 if you bring any other cases in or any other
21 citations or any laws, you make -- attach a copy of
22 that to the brief because I ain't going to the
23 library anymore. I'm too damn old.

24 (Discussion off the Record.)

25 MS. GARNER: So if I could, the notice
329
1 will be April 3rd.

2 THE ARBITRATOR: That's fine.

3 MS. GARNER: Fine. And then, Ron, on the
4 briefing --

5 MR. WILKEY: I don't have my planner.
6 I'll have to get with you. It depends on -- I've
7 only picked up five additional assignments from the
8 last time we probably arbitrated here.

9 MS. GARNER: Can we plan on 30 days from
10 receipt of transcript and then we'll talk if there's
11 an issue?

12 MR. WILKEY: Yeah. I would like to shoot

13 for that.

14 THE ARBITRATOR: I don't really care as

15 long as you let me know.

16 MS. GARNER: Okay.

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18 (The arbitration concluded at 4:12 P.M.)

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1 State of Missouri

2

3 City of St. Louis

4 I, VICKIE L. HUELSMAN, a Notary Public within

5 and for the State of Missouri, do hereby certify

6 that I was personally present at the hearing in the

7 above-entitled cause, at the time and place set

8 forth in the caption sheet herein; that the

9 witnesses were by the reporter first duly sworn to

10 testify the truth, and nothing but the truth of
11 their knowledge touching the matters in controversy
12 in this cause, that I then and there took down in
13 stenotype the questions propounded to the witnesses,
14 the answers given, objections and rulings of the
15 Arbitrator thereon, and that the foregoing is a
16 full, true and correct transcript of such stenotype
17 notes, so made at such time and place.

18 In witness whereof, I have hereunto set my hand
19 and seal on this 24th day of March, 2006.

20 _____

21 Vickie L. Huelsman, CSR

22 Notary Public within and for the State of
23 Missouri.

24

25 My Commission expires: 8-8-06.

331

1 COURT MEMO

2 .

3 4

5 Laclede Gas Company vs. PACE Local 11-6

6

7

8 CERTIFICATE OF OFFICER AND

9 STATEMENT OF DEPOSITION CHARGES

10

11 DEPOSITION OF ARBITRATION PROCEEDINGS

12 TAKEN ON BEHALF OF THE OTHER

13 3/24/2006

14 Name and address of person or firm having custody of

15 the original transcript:

16 Judith L. Garner

17 Laclede Gas Company

18 720 Olive Street,

19 St. Louis, MO 63101

20

21

22

23

24

25

16 Ronald J. Wilkey

17 Wilkey, Ronald J.

18 PACE International U, 10523 Glen Oaks Driv

19 Festus, MO 63028

20

21

22

23

24

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332

1 ORIGINAL TRANSCRIPT TAXED IN FAVOR OF:

2 Judith L. Garner

3 Laclede Gas Company

4 720 Olive Street,

5 St. Louis, MO 63101

6 Total:

1 ORIGINAL TRANSCRIPT TAXED IN FAVOR OF:

2 Ronald J. Wilkey

3 Wilkey, Ronald J.

4 PACE International U, 10523 Glen Oaks Driv

5 Festus, MO 63028

6 Total:

7

8 Upon delivery of transcripts, the above

9 charges had not been paid. It is anticipated

10 that all charges will be paid in the normal course

11 of business.

12 GORE PERRY GATEWAY & LIPA REPORTING COMPANY

13 515 Olive Street, Suite 700

14 St. Louis, Missouri 63101

15 IN WITNESS WHEREOF, I have hereunto set

16 my hand and seal on this _____ day of _____

17 Commission expires

18 _____

19 Notary Public

20

21

22

23

24

25