

1 VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF  
2 RICHMOND  
3 JOHN MARSHALL COURTS BUILDING

4 ----- I

5 LEE V. BARNETT,

6

7 Plaintiff,

8

9 V.

10 case No.

11 LX-262-4

12 NORFOLK SOUTHERN RAILWAY CO.,

13

14 Defendant.

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20 DEPOSITION OF LEE V. BARNETT

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23

24 June 30, 1994

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26 Richmond, Virginia

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29 ORIGINAL

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32 HALASZ & HALASZ

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34 Court Reporters

35

36 P.O. Box 223

37

38 Richmond, Virginia 23202

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40 (804) 741-5200

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42 Reported by: Lori J. Krenik

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45 Halasz & Halasz

1                   Deposition of LEE V. BARNETT taken by and  
2 before Lori J. Krenik, Notary Public in and for the  
3 Commonwealth of Virginia at large, pursuant to Rule  
4 4:5 of the Rules of the Supreme Court of Virginia,  
5 and by agreement to take depositions; commencing at  
6 11:10 a.m., June 30, 1994, at the law offices of Mays  
7 & Valentine, 1111 East Main Street, Richmond,  
8 Virginia.

9

10 Appearances:

11                   WILSON & HAJEK  
                    (VIRGINIA BEACH, VIRGINIA)  
12                   By: RICHARD N. SHAPIRO, ESQ.  
                    attorney, of counsel for Plaintiff

13

                    MAYS & VALENTINE  
                    (RICHMOND, VIRGINIA)  
14                   By: SUSAN C. ARMSTRONG, ESQ.  
15                   attorney, of counsel for Defendant

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I N D E X

2 -DEPONENT

3 Examination By: Page

4 LEE V. BARNETT

5 Direct Ms. Armstrong 4

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E X H I B I T S

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10 Barnett Description Page

11 No. 1 Respiratory Protection Medical Questionnaire 225

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HALASZ & HALASZ  
Court Reporters  
P. O. Box 223  
Richmond, Virginia 23202  
(804) 741-5200

July 25, 1994

Richard N. Shapiro, Esquire  
Wilson & Hajek  
P.O. Box 5369  
Virginia Beach, Virginia 23455

In re: LEE V. BARNETT v. NORFOLK SOUTHERN

Dear Mr. Shapiro:

Enclosed is the original of the deposition  
of Lee V. Barnett taken in this matter on June 30,  
1 9 9 4 .

Please see that Mr. Barnett  
reads his deposition, signs the signature page  
before a notary T)ublic, makes any necessary  
corrections on the errata sheet, and return same to  
me in the enclosed envelope.

If I can be of further assistance, please  
do not hesitate to call.

Sincerely,

l@iq

i .4- enik

enclosures

cc: Susan C. Armstrong, Esq.

2 LEE V. BARNETT,

3 was sworn and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. ARMSTRONG:

6 Q Good morning. As you know, my name is  
7 Susan Armstrong, and I represent the railroad in a  
8 suit that you have filed against it. I'm going to  
9 ask you a number of questions today, and it's stated  
10 at the beginning that it's very important for you to  
11 understand my question.

12 A If I don't understand it, I'll ask you  
13 a g a i n .

14 Q That's very good. It's also going to be  
15 important for us to understand your answers, so if  
16 you could speak it rather than nod your head or  
17 anything like that, that would be helpful, okay?

18 A All right.

19 Q If you want to take a break or anything  
20 else, let us know, and we can surely do that. All  
21 right?

22 A All right.

23 Q Would you state your full name for the  
24 record?

25 A Lee Vaughn Barnett.

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1 Q Mr. Barnett, you pronounce it Barnett?  
2 A Barnett.  
3 Q You answer to both I bet?  
4 A No. Barnett.  
5 Q All right. Well, then, Mr. Barnett,  
6 where do you currently live?  
7 A Hot Springs, North Carolina.  
8 Q And what is the street address there?  
9 A They don't have no street address. Post  
10 office Box 337, Hot Springs. There's a street there,  
11 but we don't have no street address.  
12 Q What's the name of the street?  
13 A Spring Street.  
14 Q How long have you lived at that address?  
is A Ten years.  
16 Q And where did you live before that?  
17 A Hot Springs.  
18 Q Just a different house?  
1 9 A Yeah .  
20 Q And where is Hot Springs, North Carolina?  
21 A It's northwest of -- about 38 or 40 miles  
22 northwest of Asheville.  
23 Q Of what?  
24 A Asheville, North Carolina.  
25 Q I understand that's pretty country?

- A The mountains.
- 2 Q Have you lived in that area all of your  
3 l i f e ?
- 4 A Except two years.
- 5 Q And what two years were those?
- 6 A Oh, in '77 I guess, '78, somewhere in  
7 there, I lived in Greenville, Tennessee.
- 8 Q And why did you live in Greenville,  
9 Tennessee, then?
- 10 A Wife was pregnant and she wanted to get  
11 closer to a doctor, hospital.
- 12 Q All right. You say you lived in the same  
13 house the last ten years?
- 14 A Yeah .
- 15 Q Who do you currently live there with?
- 16 A My wife and kid.
- 17 Q And your wife's name is Jeanne?
- 18 A Jeanne.
- 19 Q What was her maiden name?
- 20 A Keller.
- 21 Q K-E-L-L-E-R?
- 22 A That's right.
- 23 Q And where is she from?
- 24 A Hot Springs.
- 25 Q I take it this is your first marriage?

- 1           A     Yes, my only one.
- 2           Q     All right.  And what are your children's
- 3 names and ages?
- 4           A     Got one child.  Eric.  He's 16.
- 5           Q     And when is his birthday?
- 6           A     April the 28th -- 25th.  That's my
- 7 daddy's.  I get his mixed up.  They have the party
- 8 the same time.
- 9           Q     April the 25th?
- 10          A     Yeah.  of '78.
- 11          Q     '78.  Has anyone other than your wife and
- 12 son lived with you in the house where you currently
- 13 live?
- 14          A     N o .
- 15          Q     Has anyone other than your wife and son
- 16 lived with you at any other address where you
- 17 previously lived?
- 18          A     No.
- 19          Q     When did you marry your wife?
- 20          A     1970.  June the 12th.
- 21          Q     Don't forget that date.
- 22          A     Better not.
- 23          Q     And has your wife ever been employed?
- 24          A     When we first got married she did.
- 25          Q     When was the last date in which she was



1 employed?  
2 A oh, gosh.  
3 Q Approximate year is fine.  
4 A It's been 20 years or better.  
5 Q All right. Let's go back, Mr. Barnett,  
6 to your education. What's the last grade that you  
7 completed?  
8 A Twelfth.  
9 Q Did you graduate from high school?  
10 A Yeah.  
11 Q What was the name of the high school?  
12 A Hot Springs High School.  
13 Q And what year did you graduate?  
14 A ' 68 .  
15 Q Did you repeat any grades?  
16 A Yeah.  
17 Q What grade was that?  
18 A Third and ninth.  
19 Q Okay. Were you ever suspended or  
20 expelled from school?  
21 A No.  
22 Q Okay. Did you play any sports in school?  
23 A Played football.  
24 Q What position did you play?  
25 A Fullback.

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1 Q what are your parents' names?  
2 A mama is dead. You want her name anyhow?  
3 Q Yes, sir, please.  
4 A Father's name is Fred Barnett. And  
5 Hattie Barnett.  
6 Q And when did your mother die?  
7 A Oh, let's see. In '80, early '80s.  
8 Q What did she die of?  
9 A Well, I guess age. I didn't ask the  
10 doctor. She had been sick since I was little badly.  
11 Q She had been sick since you were little?  
12 A Well, she had -- she had cancer, and they  
13 cured that, and then I think they said she just had a  
14 heart attack and died when she died.  
15 Q How old was she when she died?  
16 A Oh, gosh. Eighties. Might have been  
17 almost 80.  
18 Q All right. And is your father still  
19 alive?  
20 A Yeah .  
21 Q How old is he?  
22 A Ninety-one.  
23 Q And is he in good health?  
24 A Well, fairly, yeah. He has problems with  
25 breathing.

1 Q What kind of problems does he have with  
2 breathing?  
3 A Just short of breath. He smoked about 50  
4 years .  
5 Q Did your mother smoke?  
6 A No.  
7 Q Where does your father live?  
8 A Hot Springs. You've got about 50-mile  
9 range there I guess. That's where they live, in the  
10 country. It's routes.  
11 Q Does he live in the house where you grew  
1 2 up?  
1 3 A Yeah .  
14 Q Does anyone live with him?  
15 A No. He stays by himself.  
16 Q How long has he had problems breathing?  
17 A I'd say when he got 70s, along in there,  
18 close to 80 I guess.  
19 Q What did your father do? What was his  
20 occupation?  
21 A Farm.  
22 Q what kind of farming did he do?  
23 A Well, they run a grocery store, too.  
24 They had a real country grocery store.  
25 Q There in Hot Springs?

1           A       Yeah. Well, right out there where he  
2 lives. He lives out in the country. We call it  
3 country.  
4           Q       What kind of farming did he do?  
5           A       He raised tobacco, stuff like that.  
6           Q       Anything else?  
7           A       Sometime he raised tomatoes. Very  
8 seldom.  
  
9           Q       Primarily tobacco farming?  
10          A       Yeah, beef, cows, had cows. I mean, he  
11 didn't make that a living raising tobacco, but he had  
12 a farm and he raised tobacco.  
13          Q       I see.  
14          A       They lived off the store.  
15          Q       The store was his primary source of  
16 income?  
17          A       Yeah.  
18          Q       And did he and your mother work together  
19 in the store?  
20          A       Both, yeah. They run the store for about  
21 40 years.  
22          Q       All right. Did you get to help out in  
23 running that store?  
24          A       oh, yeah, I worked the store.  
25          Q       Okay. what was your mother's maiden

name, do you know?  
2 A B r i g g s  
3 Q Briggs?  
4 A Uh-huh.  
5 Q B-R-I-G-G-S?  
6 A Yeah .  
7 Q And did she -- did she die in a hospital?  
8 A Yeah.  
9 Q what hospital was that?  
10 A Laughlin.  
11 Q I'm sorry?  
1 2 A Laughlin .  
13 Q Can you spell that for me?  
14 A No. It wasn't Laughlin neither. All I  
15 know it was in Greeneville. There's two -- is it  
16 Laughlin? I was at work when she died.  
17 Q Is it Greeneville, Tennessee?  
18 A Yeah, Greeneville, Tennessee. It might  
19 have been Takoma. I believe it was Takoma.  
20 Q Takoma. Do you know how that's spelled?  
21 A No. A denomination I think. Like  
22 Baptist hospital or Presbyterian. I don't know.  
23 Q All right.  
24 A All I know it's in Greeneville.  
25 Q Greeneville, Tennessee?

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1           A       That's right.  
2           Q       And about how far is that from Hot  
3 Springs?  
4           A       Thirty-five miles.  
5           Q       So that's the closest hospital?  
6           A       well, let's say hospital, yeah.  
7           Q       What do you mean? Are there clinic-like  
8 things that are closer?  
9           A       They got one in New Port, but they don't  
10 have the doctors. Asheville is probably -- well,  
11 that's closer than Asheville.  
12          Q       Greeneville, Tennessee, is closer than  
13 Asheville to Hot Springs?  
14          A       Yeah.

is          Q       Okay. Have you ever had any nicknames?  
16          A       No. Not what you call nicknames. I  
17 don't know.

18          Q       Some people, your friends call you Lee?  
19          A       No, they call me Vaughn.  
20          Q       Vaughn?  
21          A       Most people don't know my first name.  
22          Q       So Vaughn is your middle name?  
23          A       Yeah.  
24          Q       And how do you spell that?  
25          A       VA-U-G-H-N.

1 Q G-H-A-N?

2 A No A. Just an H-N.

3 Q H-N?

4 A Yeah.

5 Q And at work, what did they call you?

6 A Vaughn.

7 Q Vaughn. Mr. Barnett, let's go back to  
8 when you were growing up in Hot Springs, and let me  
9 ask you when you first started to help your folks  
10 around the store or around the farm.

11 A When I was in high school.

12 Q About how old were you then?

13 A Thirteen, fourteen.

14 Q And what did you do?

15 A Well, mostly, if we had to, I had to work  
16 in the store. I had to help clean it up or deliver  
17 groceries or help my mama, you know. People would  
18 call in orders, you know, and I helped her box it up.

19 Q So you did delivery work?

20 A Well, helped her get stuff.

21 Q Get it ready?

22 A I didn't have my driver's license. I  
23 couldn't deliver.

24 Q When you say clean up, what are you  
25 talking about? Using a broom or

A No, you get stuff in, put it up on the  
2 s h e l v e s  
3 Q So you would help stock the shelves?  
4 A Yeah .  
5 Q Anything else that you would help do?  
6 A Well, if somebody come, you know, I'd  
7 carry it out to the car and put it in the car for her  
8 because she was old. Well, when I was 14, she was in  
9 the 60s, almost 70. She was 40 some years old when I  
10 was born.  
11 Q Okay. How many brothers and sisters do  
12 you have?  
13 A Got three brothers and two sisters.  
14 Q What are your three brothers' names?  
15 A oldest is Neal. The next one is Glen.  
16 The next one is Tommy.  
17 Q And your two sisters?  
18 A Francis and Isabel.  
19 Q Isabel?  
20 A Uh-huh.  
21 Q Where does Neal live?  
22 A Hot Springs.  
23 Q Where does he work?  
24 A He's retired.  
25 Q How old is he?

Halasz & Halasz



1 A Sixty-five.  
2 Q What's he retired from?  
3 A Forest service.  
4 Q Is he in good health?  
5 A I guess. I don't know.  
6 Q okay. How often do you see him?  
7 A Oh, I might see him almost every two  
8 weeks or something, if I run into him.  
9 Q Now about Glen?  
10 A He's retired.  
11 Q About how old is he?  
12 A Oh, gosh. Sixty. I ain't positive now.  
13 Q That's close enough.  
14 A Because they were gone when I was growing  
15 up. They done moved out.  
16 Q All right. Does he live in Hot Springs,  
17 too?  
18 A Yeah. He used to live here in Richmond.  
19 Q And where is he retired from?  
20 A Sealtest.  
21 Q Sealtest?  
22 A Yeah .  
23 Q The ice cream folks?  
24 A Or Kraft. I think it's Kraft, ain't it?  
25 Well, it's either Sealtest or Kraft?

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1           A     Well, I think Kraft bought R. J. Reynolds  
2 or Philip Morris bought them out or something. I  
3 don't know all that.

4           Q     But he's retired?

5           A     Yeah .

6           Q     And what did he do for them?

7           A     He was a manager over at the plant,  
8 shipping or receiving or something. I don't know for  
9 s u r e .

10          Q     Is he in good health?

11          A     Yeah.

12          Q     And Tommy, where does he live?

13          A     White Pine, Tennessee.

14          Q     About how old is he?

15          A     He ' s 48 .

16          Q     And what does he do?

17          A     He works for -- well, he's off. He don't  
18 work nowhere now because they shut the plant down.

19          Q     What plant did he use to work at before  
20 they shut down?

21          A     well, it's still running, but they cut  
22 departments out. All I know is Low Land. That's all  
23 the people around there call it is Low Land.

24          Q     Low Land?

25          A     Yeah. That's where it's located at.

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1 People back in there they don't say -- well, I don't  
2 really know the name. All I know if somebody asked  
3 me and I say Low Land, they'd know.

4 Q What did he do?  
5 A He worked maintenance around the plant.

6 Q How long has he been laid off?  
7 A Two, three months. Maybe more. I don't  
8 know. All I know the last time I seen him he said he  
9 was laid off.

10 Q And is he in good health?  
11 A YeaLh. He got arthritis I think. I don't  
12 know for sure.

13 Q Any other problems that he has?  
14 A No.

15 Q And Francis, how old is Francis?  
16 A Sixty-seven.

17 Q Is she the oldest?  
1 8 A Yeah .

19 Q where does she live?  
20 A Hot Springs.

21 Q And has she ever worked?  
2 2 A Yeah .

23 Q As what?  
24 A Well, the last job she had she was a  
25 dentist assistant. i guess that's what you call

1 them.  
2 Q is she retired?  
3 A Yeah, she works -- yeah, she works half a  
4 day a week.  
5 Q Part-time?  
6 A Yeah.  
7 Q As a dental assistant?  
8 A Yeah.  
9 Q And is she in good health?  
10 A Yeah .  
11 Q And Isabel?  
12 A She retired.  
13 Q How old is she?  
14 A Well, I don't know. Fifty some. For 30  
15 some years she was a school teacher.  
16 Q So she's a retired school teacher?  
17 A Yeah .  
18 Q And is she in good health?  
19 A well, I guess.  
20 Q As far as you know?  
21 A As far as I know.  
22 Q okay. Now, you say that you started  
23 helping out in the store around age 13 or 14?  
24 A Yeah .  
25 Sometime around there. Did you ever help  
Halasz & Halasz

1 out around the farm?

2 A Yeah. Some. A little. Not much but  
3 some.

4 Q When did you start working on the farm?

5 A When I got big enough to do anything.

6 Q About age eight or nine, something like  
7 that or nine or ten? or what's big enough to do

8 anything?

9 A I'd say probably eight or nine maybe. if  
10 we didn't have homework to do.

11 Q And sometimes even if you did maybe?

1 2 A Yeah .

13 Q So you started helping out on the farm.  
14 What did you do?

15 A I pulled weeds or something.

16 Q Anything else?

17 A No. That's it. Or go get the cows, just  
18 in the field, just walk up and get them and come back  
19 and bring them to the barn.

20 Q Now, you say you started helping out in  
21 the farm sometime around age eight or nine. How long  
22 did you continue to help out on the farm?

23 A How long?

24 Q Yes, sir.

25 A Well, until I got married I guess.

1 Q And how old --  
2 A Right after I got out of school.  
3 Q How old were you when you got married?  
4 A Twenty-one.  
5 Q Okay. Did you ever get paid for helping  
6 out at the store or helping out at the farm?  
7 A Not at the farm.  
8 Q When you helped out at the store, did you  
9 get paid?  
10 A Mama. She didn't pay me. She'd give me  
11 something. You know how your mama does.  
12 Q Like an allowance?  
13 A No, I didn't have an allowance.  
14 Q Like she just gave you some money from  
15 time to time?  
16 A Yeah.  
17 Q Now, you say that you started helping out  
18 in the store around age 13 or 14?  
19 A Yeah .  
20 Q How long did you continue to help out in  
21 the store?  
22 A I mean, I wouldn't work solid. Some days  
23 I'd help her, something like that.  
24 Q Until how old?  
25 A Well, until I got married.

Halasz & Halasz

1 Q So until age 21. So you helped out both  
2 around the store and around the farm from when you  
3 were a child until you got married at age 21?

4 A Yeah. And they still run the store after  
5 I got married.

6 Q Now, when you were telling me about  
7 helping around the store, you say you started around  
8 13 or 14 and you would help with --

9 A Put up stuff.

10 Q Put up stuff and get boxes ready for  
11 delivery and carry groceries to people's cars, that  
12 type of thing. As you got older, did your duties  
13 change at the store?

14 A Yeah, I would stay in there by myself.  
15 As you call it, cashier. Country store, people come  
16 in and charge stuff. You'd have a ticket and write  
17 down what they got.

18 Q Other than doing cashier duties, did you  
19 do any other duties as you got older at the store?

20 A No. That's it. I didn't order nothing  
21 or, you know, like order wholesale places. She had  
22 always done that.

23 Q How about cleaning; did you ever help  
24 with the cleaning of the store?

2 5 A Yeah .

1           Q       What did you do when you would clean the  
2 store?  
3           A       I'd pick up, you know, empty stuff that  
4 didn't need to be around and take it out and get rid  
5 of it.  
6           Q       How about sweeping; did you do any  
7 sweeping?  
8           A       Yeah, I've done some sweeping. Everybody  
9 has done that I guess.  
10          Q       All right. How much sweeping would you  
I I do?  
12          A       Very seldom. She would do all that.  
13          Q       How about run the house; did you help at  
14 all around the house?  
15          A       Mop. I didn't do no sweeping. I'd mop.  
16          Q       Anything else around the house?  
17          A       Make up beds.  
18          Q       Okay. Anything else?  
19          A       Just wash windows.  
20          Q       All right. Anything else?  
21          A       Huh-uh. That covered about all of it.  
22          Q       Now, on the farm, you say that when you  
23 started at age eight or nine you started helping  
24 doing some weeding. As you got older, did your  
25 duties with the farm change?



1           A       No, because I was the youngest one. My  
2 brothers, if there was anything easier, it would go  
3 up. Plowing or anything, they would do it. It's a  
4 lot easier to plow than it is to get the weeds. Have  
5 you ever hoed a garden or anything?

6           Q       You'd have to explain all this to me,  
7 Mr. Barnett. I'm afraid I don't know much about the  
8 farming industry. So when you would weed, what would  
9 you do?

10          A       Get the weeds away from the plant.

11          Q       What kind of tools would you use?

12          A       You have a hoe.

13          Q       A hoe?

14          A       Probably about five, six-foot handle on

15 i t .

16          Q       And you would use that to get the weeds  
17 out?

18          A       Yeah, just rake it and get the weeds out.

19          Q       okay. Now, you say that your brothers

20 did the other easier things?

21          A       Well, that's considered easier, yeah.

22          Q       What things did they do?

23          A       Well, like plow. Have a horse and you'd  
24 have a plow and plow the rows.

25          Q       And that's to prepare it to be planted?

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1           A           That's to keep the weeds out of it. We'd  
2 always hire somebody with a tractor to plow it. We  
3 didn't have no tractor.  
4           Q           All right. So as far as the planting of  
5 the tobacco --  
6           A           We stuck it out by hand when it was wet.  
7           Q           So somebody would plow a field and  
8 then --  
9           A           And get it ready. And when it comes, a  
10 good hard rain, we'd pull the plants out of the  
11 ground wet and take your fingers or sticks and stick  
12 a hole and put the plant in it.  
13           Q           So would you help with the planting?  
14           A           Oh, yeah.  
15           Q           Okay. And then after it was planted,  
16 you'd have to do the weeding?  
17           A           After it started growing, yeah. We  
18 probably weeded it two times.  
19           Q           Two times during the --  
20           A           Yeah, whole summer.  
21           Q           I say summer. When did you put tobacco  
22 i n ?  
23           A           Well, people now -- we put it out in  
24 about June, and you'd be done with it by July.  
25           Q           So you plant it in June

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1           A        It would grow. It got so big. It grows.  
2           Q        And when would you harvest it?  
3           A        Before frost. You'd cut it.  
4           Q        Okay. So after it was planted, you would  
5 start doing the weeding?  
6           A        Hoeing.  
7           Q        Hoeing, weeding. And then what else did  
8 you have to do to the tobacco before it was ready to  
9 harvest?  
10          A        Sucker it, top it.  
11          Q        Who would do that?  
12          A        We would if I was big enough to reach up  
13 there and get it. You take a knife and cut the top  
14 out of it and cut the suckers.  
15          Q        What are suckers?  
16          A        Little sprouts that grow into the leaves.  
17          Q        And you have to take those out?  
18          A        Yeah .  
19          Q        Why? Do you know?  
20          A        So the tobacco would grow or the leaves  
21 get bigger.  
22          Q        I see. Okay. And about what time of the  
23 year would you do that?  
24          A        August. About August.  
25          Q        How about watering; would you have to get  
                  Halasz & Halasz

1 out there and water it at all?

2 A Huh-uh. Nature.

3 Q Nature?

4 A Nature. That's why we had to wait until

5 it rained to set it. You didn't have nothing to set

6 it out. You did that with your hand.

7 Q I don't understand that. Why can't you

8 water?

9 A Oh, you can. You're talking about

10 watering it.

11 Q Well, why couldn't you plant it before it

1 2 rained?

13 A You could if you had a setter.

14 Q If you had a what?

15 A A setter, something to set it with.

16 Q What's a setter?

17 A You're talking about putting water in the

18 ground. It'll die if you don't -- if it's dry, it

19 won't live.

20 Q i know what you're talking about. Can't

21 you dig a hole and put water in it? It doesn't work

22 that way?

23 A No, too much work.

24 Q So you'd wait for rain and plant it after

25 the rain?

1           A       Yeah  
2           Q       And you would sucker it sometime in  
3 August?  
4           A       Yeah.  
5           Q       And between planting it in June and  
6 suckering it in August, you would do some weeding,  
7 weeding with a hoe?  
8           A       Before you laid it, you'd weed it.  
9           Q       Before you what?  
10          A       You set it out. It's little. It will  
11 grow like -- you weed it two times. It keeps so the  
12 tobacco outgrows the weeds. You still have weeds  
13 after it gets big. But after it gets big, the weeds  
14 can't grow, and then you top it. Then you sucker it,  
is and then it will turn yellow or ripe looking and then  
16 you cut the whole stock down.  
17          Q       Okay. So if I'm understanding you  
18 correctly, the role that you played in this process  
19 is sometime in June or thereabouts, after it  
20 rained --  
21          A       I'd set it.  
22          Q       You would put it in?  
23          A       No, you put tobacco -- you set it out in  
24 June .  
25          Q       By setting it out, you're talking about  
                  Halasz & Halasz

1 planting?

2 A Yeah, that's setting it out. Planting.

3 And then August or July it will be big enough you

4 don't have to mess with it. It would outgrow the

5 weeds .

6 Q So between June and July you would do the  
7 weeding maybe two times a season?

8 A Yeah.

9 Q Okay. And then sometime in August you  
10 would get involved in suckering it?

11 A Yeah, top it.

12 Q Topping it?

13 A Yeah. It will bloom out.

14 Q And then what was your involvement in the  
15 harvesting of it in the fall?

16 A After you top it, four weeks maybe before  
17 it gets ripe, it will still grow, spread out, and  
18 then you just -- you got a stick and a spear, and you  
19 cut it and stick it on it.

20 Q A stick and a spear?

21 A Well, it looks like a spear. It's a  
22 piece of metal. Real sharp.

23 Q That you use to cut it?

24 A No. You use like a hatchet to cut it  
25 with.

1 Q What did you use the stick and the spear  
2 for? I'm sorry.

3 A Put it on the stick and hang it in the  
4 barn. You put like five stalks or plants on a stick.  
5 Then you put it in the barn.

6 Q And then it dries in the barn?

7 A That's right.

8 Q okay. And you would use that spear and  
9 stick?

10 A No, I cut.

11 Q Okay. So when you cut, what did you do?

12 A You just get a whole stick and take that  
13 knife and cut it, green stalk and cut it.

14 Q And then somebody else would --

is A Hand it to them, and they would put it on  
16 the stick.

17 Q Okay. And then what else do you do? Do  
18 you have any other involvement with the tobacco?

19 A well, after it's wilted down, you put it  
20 in the barn, hang it in the barn.

21 Q And then what would you do next?

22 A You wait until the leaves turn brown.

23 And then when it rains, it got soft enough to handle  
24 without breaking all to pieces, you'd work it.

25 Q What do you mean "work it"?

1           A       Pull it off the stalk, tie it, and then  
2 pack it and take it to the market.  
3           Q       Did you get involved in all of that?  
4           A       I've done that, yeah.  
5           Q       Okay. Would you do that most every year,  
6 get involved in that whole process every year?  
7           A       After I got old enough, yeah, to help.  
8 Me and my brother.  
9           Q       which brother?  
10          A       Tommy.  
11          Q       Because the other ones were gone by that  
12 time to wherever they were working?  
13          A       Yeah .  
14          Q       Okay. Did your sisters help in the  
15 process at all?  
16          A       Yeah .  
17          Q       Did they do the same things that you did?  
18          A       Yeah. Women can do the same thing.  
19          Q       I like that attitude, Mr. Barnett. And  
20 you say you'd cut it in August?  
21          A       Well, after -- you didn't cut it until it  
22 bloomed out and then it got ripe.  
23          Q       And that was sort of August or September?  
24          A       We cut it before frost. You had to cut  
25 t before frost.

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1 Q So sometime before November you'd cut it?  
2 A well, yeah, I guess it frosts the end of  
3 September.  
4 Q All right.  
5 A Just like that, you take a knife and cut  
6 it and hand it back to the fellow and spear. We call  
7 it spud. There's different language everywhere.  
8 Q How much time would you say you spent  
9 doing that?  
10 A oh, well, probably worked a patch of  
11 tobacco out a day.  
12 Q How many days between when the process  
13 started in June and the end of September --  
14 A You'd have --  
15 Q -- would you actually be involved in  
16 working with the tobacco?  
17 A I really wouldn't know. I mean, you  
18 might have some day you might go out there and work  
19 an hour, and then some days you might work a little  
20 longer.  
21 Q Would there be days during your summer  
22 vacation from school where you'd work all day on the  
23 farm?  
24 A on the farm, tobacco field?  
25 Q Well, wherever? I guess that's where you  
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1 were working, tobacco field.

2 A That's all we raised, tobacco. Or cows.  
3 You wouldn't work the cows. Just go get them if they  
4 got out.

5 Q Were there days when you worked a summer  
6 vacation when they worked an eight-hour day that you  
7 worked on the farm?

8 A Yeah, probably. You get some. We didn't  
9 have much. i ain't talking about like 50, 60 acres.  
10 I'm talking about seven-tenths.

11 Q Seven-tenths of an acre?

12 A Yeah. Some farmers, they raise other,  
13 650 acres of tobacco. Like I said, my parents, they  
14 didn't live off of the farm. They made their living  
15 off the store.

16 Q And then they used the farm to  
17 supplement?

18 A Yeah, help pay taxes on the farm.

19 Q okay .

20 A Pay it off.

21 Q what else did you do when you were young?

22 A That's about it.

23 Q Any hobbies?

24 A oh, yeah. Fishing, hunting.

25 What kind of fishing?

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1           A       Trout.  
2           Q       What kind of hunting?  
3           A       Deer hunting, coon hunting, groundhog  
4 hunting. That's what we did a lot, groundhog hunt  
5 and coon hunt. Deer hunt, squirrel hunt.  
6           Q       And when did you start hunting?  
7           A       Big enough to carry a gun.  
8           Q       How old is that?  
9           A       Probably eight years old.  
10          Q       All right.  
11          A       I'd be with an adult. I wouldn't go out  
12 by myself.  
13          Q       Sure. Did you have any other hobbies or  
14 interests when you were young?  
15          A       No, that's about it. We lived in the  
16 country. There wasn't nothing else to do.  
17          Q       So you did hunting and fishing and worked  
18 in the store and worked on the farm and went to  
19 school?  
  
20          A       And went to school.  
  
21          Q       Do you remember what year it was when you  
22 graduated from high school?  
  
23          A       What year?  
24          Q       You told me that -- '68 -- didn't you?  
25          A       '68, yeah.

Q What did you do after you graduated in  
2 1 9 6 8 ?

3 A Well, let's see. I got married. I still  
4 lived around next to my daddy and lived and helped  
5 him around. The first public job I had was in '72.

6 Q So between 1968 and 1972 --

7 A Well, I hauled -- I guess I had a job.  
8 It wasn't a job. I was like a contractor I guess. I  
9 had a truck, and I hauled commodity food for people  
10 who were on welfare. I would go haul it to them. I  
11 charged them two dollars a family. I'd go to  
12 Marshall and pick it up and bring it to them twice a  
13 month. I had two loads. Not the same person. I had  
14 about 70 people.

15 Q When did you start doing that?

16 A About '68.

17 Q When you graduated from high school?

18 A School, yeah. This guy did it, and I had  
19 a truck, and he asked if I wanted to do it. They  
20 didn't have no assignment. Then I'd take like you or  
21 somebody had a card and they didn't want me to have  
22 it, I'd give it back to them. I'd haul, you know,  
23 haul food for them. You had to have their card to  
24 pick their food up. Food stamps now. It wasn't food  
25 stamps then. It was commodity food. People around

1 there, they didn't have vehicles. Old people didn't.  
2 And I'd go help them. Charge two dollars for boxing  
3 it up and carrying it in the house for them.  
4 Q And where did you get the food?  
5 A Marshall.  
6 Q Marshall?  
7 A North Carolina. County seat.  
8 Q Okay.  
9 A Seventeen miles.  
10 Q Seventeen miles from Hot Springs?  
11 A Yeah.  
12 Q Okay.  
13 A It might be a little more, but that's  
14 about what it is.  
15 Q So if I understand --  
16 A That's what I had done.  
17 Q You would get the card from the person  
18 that showed that they were entitled to this food?  
19 A For that month.  
20 Q For that month. And then you would go to  
21 Marshall, and you'd show them the card, and they'd  
22 give you the food?  
23 A And I'd box it up and put their name on  
24 it and put it on the truck, and I'd deliver it to  
2 5 them.

1 Q And you did that for about 70 families in  
2 the Hot Springs area?  
3 A Yeah .  
4 Q Is that yes?  
5 A Yes .  
6 Q All right. And you did that once a  
7 month?  
8 A Yeah, once a month.  
9 Q So that would be about 140 dollars a  
10 month that you would earn doing that if it was 70  
11 families at two dollars a family?  
1 2 A Yeah.  
13 Q Did you have any other employment between  
14 1968 and 1972?  
15 A Yeah, I helped my daddy.  
16 Q Helped your dad in the store?  
17 A Tobacco. He'd give me half the tobacco  
1 8 crop.  
19 Q So you worked pretty much --  
20 A I didn't have no rent or nothing. I had  
21 the place paid for where I lived.  
22 Q You lived with your parents?  
23 A No, I built -- they had an apartment in  
24 the store. I didn't live in the same house with  
25 them.

1 Q When did you move in under the store?  
2 A In the '70s. When I got married.  
3 Q But you got married in 1970?  
4 A Yeah, I lived with my parents. That's  
5 right. I lived with my parents in '68.  
6 Q So from '68 to '70, you lived in the same  
7 house that your parents did?  
8 A That's right.  
9 Q And you did this truck hauling?  
10 A Yeah, when I grown up and helped them in  
11 the store and helped him on the farm.  
12 Q Okay. And you said that your father gave  
13 you half of the proceeds from the tobacco?  
14 A Yeah.  
15 Q When did he start doing that?  
16 A Well, after I got out of school.  
17 Q So did you start working more full-time  
18 with your father in the store and the farm after you  
19 graduated from high school?  
20 A I don't know what you call -- I didn't  
21 work every day, you know. Maybe worked two days in  
22 the crop.  
23 Q And then how many days in the store?  
24 A Well, I'd help my mama in the store. She  
25 might would be -- if she'd feel bad, I'd stay in the  
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1 store. if she get sick or something.  
2 Q Now, did anything change after you got  
3 married in 1970? You moved in the apartment then?  
4 A Yeah .  
5 Q And did you continue to do the same types  
6 of duties?  
7 A No. I went on a public job.  
8 Q And what was that job?  
9 A Well, in '72 I went to Burlington.  
10 Q what did you do in 1970, between '70 and  
11 72?  
12 A Hauled that food, commodity food. In  
13 '68, that's when I started hauling. I hauled it  
14 until I started working at Burlington.  
is Q So from '68 to '72, you hauled the food  
16 once a month?  
17 A Yeah .  
18 Q And from '68 to '72, did you also help  
19 out on the farm and in the store?  
20 A Yeah .  
21 Q And did you have any other jobs of any  
22 sort between '68 and '72?  
23 A No. Not that I can remember.  
24 Q All right. And then in '72 you started  
25 going to work for Burlington?



1 A Yeah.

2 Q All right. Let's go back and finish up  
3 with this period between '68 and '72. About what  
4 percentage of your time did you spend hauling the  
5 food?

6 A It would take probably -- if I went up  
7 there and I didn't have to wait -- there were other  
8 people coming in there -- I could do it in -- if I  
9 got there at 9:00, I could be done by 2:00.

10 Q And then between 1968 and 1972, what  
11 percentage of your time did you spend working on the  
12 farm?

13 A Oh, I'd say -- I don't know for sure.  
14 I'd say probably -- it would take a day a week to  
15 work tobacco, and you'd work it -- you wouldn't work  
16 it every week. You'd work it like the first of the  
17 month and then maybe the end of the month, and you'd  
18 be done with weeding. It grows itself. If you don't  
19 work it, it won't grow.

20 Q What do you mean by "working it"?

21 A Keep the weeds out of it.

22 Q So what percentage of your time between  
23 1968 and 1972 did you spend working on the farm?

24 MR. SHAPIRO: I'm going to interpose my  
25 first objection today. You need to clarify the

1           A        I mean, you wouldn't be in it in July  
2 now. You wouldn't be in the field in July. I'm  
3 talking about after you get it set. It sits there  
4 and grows.

5           Q        So in June, you would estimate that you  
6 worked six hours a week?

7           A        A week. That would be high.

8           Q        And in July --

9           A        Because you wouldn't work every week.  
10 You see what I'm talking about?

11          Q        And how about in July; what would you  
12 estimate you worked per week in July?

13          A        Well, I really wouldn't know.

14          Q        Would it be less than six hours?

15          A        I don't know. Sure don't. With topping  
16 i t .

17          Q        How long would that take?

18          A        According to how you worked I guess.

19          Q        For you?

20          A        For me? Probably six hours.

21          Q        Six hours a week?

22          A        No. Six hours that night. After you top  
23 i t .

24          Q        And how about August?

25          A        Well, August or September, when you cut

1 it -- it would take you longer to put it in the barn  
2 than it does anything.

3 Q All right. How long in August or  
4 September? How many hours?

5 A well, for the month?

6 Q If that's -- unless there's an easier way  
7 for you to estimate it, yes.

8 A Well, figuring a day you cut it, two  
9 days, probably 16 hours. And then you'd put it up,  
10 eight hours. About 24 hours.

11 Q Twenty-four hours during that two-month  
12 period, August or September, depending on when you  
13 did it?

14 A When you cut it, yeah.

is Q But it was about 24 hours total?

16 A Yeah. Usually you had to get somebody to  
17 help you when you cut it.

18 Q And then any time after that? That's it?

19 A well, you'd cut it and then you have to  
20 work it when it comes in. And you work it when it  
21 rains. You can't get into it.

22 Q And would that be either in September  
23 November, September or October.  
24 September, October, November?

25 A Well, you usually work it in November,  
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1 pull it off in November.  
2 Q And about how many hours would you spend  
3 working it?  
4 A Well, back in them days, I pulled two  
5 hundred sticks in an hour, in six hours. I really  
6 wouldn't know for sure. I'm just guessing now.  
7 Q Would you estimate?  
8 A mlhree, four, that's probably about eight  
9 hours aday. Thirty-two hours. Say 40 hours.  
10 That's a week. Eight hours a day.  
11 Q okay. So 40 hours during November?  
12 A To work it, pulling it off.  
1 3 Q Okay.  
14 A Because some days you might work today,  
15 and tomorrow you can't work any.  
16 Q Okay. Now, during this same period, from  
17 1968 to 1972, can you estimate how many hours you  
18 worked in the store?  
1 9 A N o .  
20 Q Can you --  
21 A All I know when she was sick or  
22 something, I'd go help. I didn't keep up with hours  
23 or nothing like that.  
24 Q Would it average less than one day a  
25 week?

1           A       I don't really know.  Some weeks I might  
2 not even be in it.

3           Q       Some weeks it might be zero and some days  
4 it might be a day or two?

5           A       I wouldn't know for sure.

6           Q       And I understand that you had no other  
7 source of employment during this period between 1968  
8 and 1972?

9           A       That's right.

10          Q       What did you do during the other months  
11 of the year when you weren't farming?  In other  
12 words, you farmed the tobacco six hours a week in  
1 3 June --

14          A       well, summer.  The rest of it was going  
15 to school and going to bed.

16          Q       How about after you graduated from high  
17 school in '68, what did you do the other months of  
18 the year?

19          A       If I wasn't doing nothing I would go  
20 hunting or swimming.

21          Q       So you basically were on vacation, did  
22 what you wanted to do; is that right?

23          A       Well, yeah.

24          Q       Did you register for the draft?

2 5         A       Yeah.

1 Q Do you remember what your draft number  
2 was?

3 A No.

4 Q Do you remember what your draft  
5 classification was?

6 A No, i don't. I registered though.

7 Q Where did you register?

8 A Marshall. County seat.

9 Q And you don't remember either your draft  
10 number or your classification?

1 1 A No.

12 Q You never served in the military?

13 A No. My birthday was 300 and some when  
14 they changed it over. That's all I know. I was up  
15 to 300 and they said I'd probably never be called.

1Ei Q Okay. Then you got married in 1970?

1 7 A Yeah.

18 Q And you moved into the apartment?

1 9 A Yeah .

20 Q In the bottom of the store?

21 A That's right.

22 Q Did the time that you spent either in the  
2'3 store or farming --

2,1 A well, my wife worked some when we first  
25 got married now.

1 Q And what did she do?  
2 A She worked at Magnavox TV.  
3 Q What did she do for them?  
4 A I don't know. She worked in Greeneville.  
5 She drove to Greeneville.  
6 Q Okay. Did your activities and the time  
7 you spent at work change at all between 1970 when you  
8 got married and 1972 when you went to work for  
9 Burlington?  
10 A What do you mean?  
11 Q Did you keep the same routine that you've  
12 just been describing to me where you worked on the  
13 farm --  
14 A No. I might help him some, but I didn't  
15 farm, no. When I started a public job, I worked a  
16 public job.  
17 Q But that was in 1972, right?  
18 A That's right.  
19 Q I'm talking about from 1970 to 1972.  
20 A Yeah, I done about the same. She  
21 worked -- I ain't for sure now, but she went to work  
22 when we first got married.  
23 Q All right. So you kept the same schedule  
24 until 1972, and then you went to Burlington?  
25 A Yeah .

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1 Q And what was your job at Burlington?  
2 A Section man helper.  
3 Q Was it Burlington Factory? Burlington  
4 Incorporated? What was the name of your employer?  
5 A Burlington Industries.  
6 Q Burlington Industries. And where were  
7 they located?  
8 A Hot Springs.  
9 Q Do they have a factory in Hot Springs?  
10 A Not now.  
11 Q Did they then?  
12 A Did they then? In '72, yeah.  
13 Q And is that where you worked, in the  
14 factory in Hot Springs?  
15 A Yeah.  
16 Q And what did you do as a section helper?  
17 A Helped the section man set up machines.  
18 Q what kind of machines?  
19 A I guess it would be like a -- no, it was  
20 twisting. No, that ain't it. It's like a twisting  
21 frame .  
22 Q A twisting frame?  
23 A I guess. Roll yarn, made yarn, clothes.  
24 They didn't make the cloth. It made the string. All  
25 we did is set them up and put gears on it. Like if  
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1 they wanted certain length of thread, put the gears  
2 on it, crank it up, and then go somewhere else. They  
3 had women and stuff that cleaned them. You know what  
4 I'm talking about?

5 Q Can't say that I do. In setting up these  
6 machines, was it physical labor that you did? Did  
7 you lift things or --

8 A Well, no. Little gears. You open the  
9 doors, and it got gears in there. And you put a  
10 gear -- change a gear and put another one on it.

11 Q And so you would maintain the machines?

12 A Well, you set it up. Like they give us  
13 what size thread they wanted or something, and then  
14 maybe that machine was running this other kind and  
15 they run out of that and they wanted to change it  
16 over. You go change the gears so it would run that  
17 thickness or whatever.

18 Q All right. Did you have any other job  
19 duties when you worked for Burlington Industries?

20 A Dolpher [sic].

21 Q What is that?

22 A That would be take a spool, you cut the  
23 machine off, cut it plumb off. You take the thread  
24 off and you put a new bobbin back on and you crank it  
2 5up.

1 Q Okay. Did you have any other duties?  
2 A No. That was it.  
3 Q And you worked there from 1972 to 1974?  
4 A That's right.  
5 Q And --  
6 A And they shut it down.  
7 Q They closed the factory?  
8 A Yeah.  
9 Q Why?  
10 A Imports. That's what they said, imports.  
11 Q And did you work there on the last day  
12 that it was open?  
13 A Last day?  
14 Q Yes, sir.  
15 A No, they still run -- there's still some  
16 people that stayed up there two or three years until  
17 they shut everything down.  
18 Q But you worked until they shut your  
19 section down?  
20 A Shut that section down.  
21 Q All right. Do you remember who your boss  
22 was?  
23 A No, I don't.  
24 Q The person that you helped when you say  
25 you were the section helper, you don't remember his

1 name?

2 A I think he's dead.

3 Q All right.

4 A I don't know his name, but I think he's  
5 dead .

6 Q All right. And do you remember what time  
7 of year it was in 1974 that you stopped working  
8 there?

9 A November.

10 Q So you were laid off, is that right, laid  
11 off in November?

12 A Yeah. I'm pretty sure it's November.

13 Q And then you went to work for the  
14 railroad in December?

15 A December 4. I believe that's it,  
16 December the 4th.

17 Q That's your seniority date with the  
18 railroad?

19 A I believe it is.

20 Q And what railroad did you go to work  
21 with?

22 A Southern.

23 Q What was your initial job title?

24 A Laborer.

25 Q And who was your first boss?

Halasz & Halasz

1           A       Tommy Gahagan.

2           Q       Do you know how to spell that?

3           A       G-A -- no, not really.

4           Q       What's your best guess of how you spell  
5 Tommy Gahagan's name?

6                   MR. SHAPIRO: If you know.

7           A       I don't know. I might spell it wrong.

8           Q       That's all right. Would it help you to  
9 write i t ?

10          A       I don't know.

11          Q       why don't you take a crack at it. If you  
12 were writing his name, how would you write it?

13          A       I always look it up in the book.

14          Q       Well, if you didn't have a book, what  
15 would you do? It's all right if you make a mistake.

16          A       I can't do it. I don't know. I don't  
17 know what it is. Gahagan is all I know. Tommy  
18 Gahagan.

19          Q       All right. How long was he your  
20 supervisor?

21          A       I don't really know. Maybe a year or  
22 two.

23          Q       And what were your job duties?

24          A       What did I do? Done what they wanted me  
25 to do.

1 Q What did that include?

2 A It included shoveling rock or jacking  
3 jacks and switches or take a shovel and get a rock  
4 from a switch or run a machine.

5 Q Anything else?

6 A well, anything they needed done, they  
7 needed done.

8 Q What other types of things that you can  
9 think of that you did when you first went to work?

10 A Well, shovel rock, worked on switch crew,  
11 snapped anchors, run machines. If somebody is out  
12 and they need somebody to run a machine, you run the  
13 machine.

14 Q And how long a period of time were those  
15 your job duties?

16 A What do you mean? Job duties?

17 Q Well, you say those were the things that  
18 you did. You did those --

19 A well, when you're a laborer and people  
20 are older out there got machines, you don't get -- I  
21 worked like that maybe two years before I even got a  
22 machine.

23 Q All right. And then when did you get a  
24 machine?

2 5 A 76.

1 Q What machine?  
2 A it was an anchor remover.  
3 Q How long did you work the anchor remover?  
4 A I really don't know. And then I went to  
5 s w i t c h .  
6 Q About how long did you work the anchor  
7 remover?  
8 A I really don't know.  
9 Q Was it more or less than five years?  
10 A No, it would be less than five years.  
11 Q Was it more or less than two years?  
12 A I don't know now about that.  
13 Q Do you think it was about two years?  
14 A Yeah, I'd say two years, three maybe.  
15 I'm just guessing now. I have run, you know, an  
16 anchor machine. They put somebody else on it, and  
17 I'd go run something else. Because you're on a  
18 machine doesn't mean you're out there all the time.  
19 Q what was the next machine you were  
20 assigned to?  
21 A Tamper. Well, I wasn't assigned it. I  
2 2 ran it.  
23 Q when did you start running the tamper?  
24 A I started running them in '75. Out  
25 there, if something needed to be done and they didn't  
Halasz & Halasz

1 have somebody to do it, they'd put them on it.

2 Q So you started working a tamper around  
3 1 9 7 5 ?

4 A Yeah, I ran a tamper in 1975.

5 Q And that's when you were doing other job  
6 duties as well?

7 A Y e a h .

8 Q So you were filling in on the tamper in  
9 7 5 ?

10 A Yeah, '75 I run tampers.

11 Q And then in '76, your primary job was to  
12 run an anchor remover?

13 A Well, I was assigned to it but, you know,  
14 if somebody is out and they had somebody to run that  
15 machine, they'd put him on it and put me over on  
16 another machine.

17 Q All right. So that's in 1976 that you're  
18 assigned to the anchor remover?

19 A Yeah .

20 Q When did you become assigned to a  
21 different machine?

22 A I don't know.

23 Q About how long after 1976 was it,  
24 approximately?

25 A I really don't know.

Halasz & Halasz

1 Q You have no recollection of when you were  
2 next assigned to a different machine?

3 A I bided on a machine? See, you have to  
4 bid on them if you're assigned to it. And that's  
5 been too many years.

6 Q About how long were you assigned to the  
7 anchor remover? About how many years do you recall  
8 being assigned to the anchor remover?

9 A Well, I stayed on probably about three  
10 years. I mean --

11 Q I'm sorry. You told me that. Two, three  
12 years?

13 A But what I'm saying I might be on that  
14 machine but if something else come up, I would have  
15 to go over there.

16 Q I understand. After those two or three  
17 years, what kind of machine were you assigned to  
1 8 next?

19 A Well, I went and run the tamper.

2 0 Q All right.

21 A And run a ballast regulator or slave  
22 broom or back-up broom.

23 Q well, now, you say that you were assigned  
24 to the anchor remover for about two or three years  
25 beginning in '76. So that would take you



1           A       Well, I don't know. That's what I say  
2 assigned. i bid it.  
3           Q       So that would take you to 1978 or 1979?  
4           A       Well, I didn't stay on that machine all  
5 the time.  
6           Q       I understand. But you were assigned to  
7 i t ?  
8           A       Well, I bided on it and got the bid.  
9           Q       In 1978 or 1979 when you were no longer  
10 assigned to the anchor remover, what were you next  
11 assigned to? Or what did you next bid on that you  
12 received?  
13          A       Tamper I guess. Yeah.  
14          Q       And how long were you assigned to the  
15 tamper?  
16          A       Until I made foreman I guess.  
17          Q       All right. When did you make foreman?  
18          A       Early '80s.  
19          Q       Can you be a little more specific?  
20          A       Well, I'm trying to think -- I done the  
21 foreman job. You have to work it so long before they  
22 qualify you on it. '82.  
23          Q       All right. 1982?  
24          A       Yeah .  
25          Q       And how long did you work as a foreman?

Halasz & Halasz

1           A       oh, until '84. Yeah, '84.  
2           Q       And what happened in '84?  
3           A       Well, they cut the gang off. I was head  
4 foreman and asked them if there was anything to do,  
5 and they said no. Every year they cut them off, and  
6 you have to hunt you a job. So I rolled over on the  
7 job, and I told them -- they called me and wondered  
8 if I wanted to come back, and I said, no, I'd stay  
9 where I didn't have to look every fall for a job.  
10 I'd stay out there.  
11          Q       So what did you do when you stopped being  
12 the foreman?  
13          A       Machine operator. Tamper.  
14          Q       Went back to operating a tamper?  
15          A       Yeah.  
16          Q       And how long did you do that?  
17          A       until I got rolled off of it.  
18          Q       When was that?  
19          A       I don't know. '88? well, just like that  
20 on this gang now, rolled over on that tamper. I run  
21 regulators, too. You try to get the work done. if  
22 somebody is out, they put somebody else on the  
23 machine that can run it.  
24          Q       What did you do in 1988?  
25                 After I got rolled? I ain't for sure  
                  Halasz & Halasz

1 that's when I got rolled.  
2 Q I understand. Could have been a little  
3 earlier; could have been a little later?  
4 A Yeah .  
5 Q what did you do after you got rolled?  
6 A I rolled over to a ballast regulator.  
7 Q And how long did you do that?  
8 A I'm still doing it.  
9 Q So you've been working the same job since  
10 1 988?  
11 A Well, I run a tamper last week. They  
12 can't just put you down on one machine.  
13 Q Well, let's go back. We're going to go  
14 back over this now. When you worked for about two  
15 years as a laborer under Tommy Gahagan, where were  
16 you working?  
17 A Where was I working?  
1 8 Q Yes, sir.  
19 A Virginia. Remington.  
20 Q Remington, Virginia?  
21 A Yeah.  
22 Q where is Remington, Virginia?  
23 A All I can tell you is -- if I can  
24 remember. I believe it's south of Manassas. I ain't  
25 for sure, but I believe it is.

Halasz & Halasz

1 Q And that entire two years did you work in  
2 that area?

3 A No. We moved all over the place.

4 Q What other areas did you work in other  
5 than Remington?

6 A Remington.

7 Q other than Remington, what other places  
8 did you work in those two years?

9 A Atlanta. North Carolina. Charlotte.  
10 Everywhere. You're a traveling gang. Go over the  
11 whole northeast region.

12 Q Now, that job began around December 4 of  
13 1974 that you started working as a laborer?

14 A Yeah .

15 Q Do you remember getting laid off at all  
16 during those approximately two years?

17 A Yeah, I got laid off in early '75, but I  
18 come back. I didn't get laid off. I got rolled.  
19 They cut other gangs off and people had more time.  
20 They didn't cut the gang off.

21 Q How long a period were you rolled so that  
22 you were not working in that two-year period, that  
23 first two-year period that you were working for the  
24 railroad?

25 A What?

Halasz & Halasz

1           Q           During the first two years that you  
2 worked as a laborer, how many months were you out  
3 without work because of being rolled or any other  
4 reason?

5           A           Probably four months. Maybe that. I  
6 ain't for sure. Might have been less than that.

7           Q           All right. And when were those four  
8 months? Were they in the summer, the winter, the  
9 f a l l ?

10          A           It was probably February of '75. It was  
11 in early year when they cut the gangs off. They  
12 always come off about Christmas.

13          Q           But they hired you --

14          A           In December. See, they didn't cut the  
15 gang off now. They cut another gang off, like a rail  
16 gang or something. Then them men came over and  
17 rolled the ones --

18          Q           And so after being hired on December the  
19 4th, you got rolled about how long after that?

20          A           Well, December, January, February, about  
21 three months.

22          Q           About three months later. And did you  
23 stay off?

24          A           Yeah. I stayed on unemployment.

25          Q           Between February and about

1           A     Until they called me back.  
2           Q     When was that? Around June?  
3           A     That ain't for sure.  
4           Q     You say it was about four months?  
5           A     I'm just saying about maybe. I don't  
6 know.  
7           Q     All right.  
8           A     I know my unemployment didn't run out.  
9           Q     And how long did that last for?  
10          A     What?  
11          Q     The unemployment.  
12          A     Until I come back to work.  
13          Q     How many months were you eligible for  
14 unemployment?  
15          A     Well, I was drawing state unemployment.  
16 I wasn't drawing railroad unemployment.  
17          Q     How long did that state unemployment go  
18 on? You're talking about the state of North  
19 Carolina?  
20          A     Yeah. I don't know really. I ain't  
21 drawn none since then.  
22          Q     Then you went and you were assigned to an  
23 anchor remover in 1976?  
24          A     well, they opened -- somebody left or  
25 something, and an opening come up, and they say 'Do

1 you want this, do you want that,' and the guy who run  
2 the front end, he's dead, he said, "I want you to run  
3 that . "

4 Q The front end?

5 A They got supervisors, two supervisors.

6 One runs the front end or looks at you and then you  
7 have the head supervisor.

8 Q I'm sorry. I'm missing something here.

9 A They got two supervisors. They got a  
10 head supervisor, an assistant supervisor. An  
11 assistant supervisor runs the front end where they  
12 put ties in. We put the ties in. That's mostly what  
13 they do, to be sure that the ties are put in right.  
14 Do you understand what I'm talking about?

15 Q Well, I'm confused about how that has any  
16 bearing on your being assigned to be an anchor  
17 remover.

18 A well, what they'll do, they'll put you on  
19 a machine out there. If you think you make a good  
20 operator, they'll put you on that machine. You get  
21 so many days you get qualified on it.

22 Q Right.

23 A And then -- they must not put out the bid  
24 for other people to bid on it. That's how they put  
25 people on the machines. If they put it up for bid

1 and nobody didn't bid on it or something, so then  
2 they can put somebody on it.

3 Q Well, now, you say you started working  
4 the tamper filling in?

5 A Yeah, in '75.

6 Q So you had worked the tamper for --

7 A Well, I worked on a switch crew.

8 Q And that's when you used the tamper?

9 A Yeah. Well, they got a switch crew  
10 tamper and they got a tamper. See, I had been around  
11 it and knew how -- see, tamper, tamp to where  
12 somebody is shaking the jack from here to that  
13 coffee. You sit there with a bar and shake that jack  
14 out. And the man that runs that has to watch out for  
15 the other people. You can't have your mind over in  
16 the bushes or you'll hurt somebody.

17 MR. SHAPIRO: While we have a moment, I'd  
18 like to see if we can take a break when you think  
19 it's appropriate in the next few minutes for lunch,  
20 if it's okay.

21 MS. ARMSTRONG: Are you hungry,  
22 Mr. Barnett?

23 THE DEPONENT: A little.

24 MS. ARMSTRONG: Well, all right. Why  
25 don't we take about a 20-minute break. Want to come



1 back -- let's say come back to quarter to one?

2 There's a cafeteria down on the second floor.

3 MR. SHAPIRO: All right. Sounds good.

4

5 (A break was taken.)

6

7 BY MS. ARMSTRONG:

8 Q Mr. Barnett, let's go back over some

9 things that I need to get about your history. What

10 is your birth date?

11 A Sixth month, third day of '48.

12 Q And your social security number?

13 A 244-88-3737.

14 Q 3 7 3 7 ?

15 A Yeah .

16 Q Do you have a driver's license?

17 A I don't have it on me though.

18 Q Do you have one?

19 A Yeah, I got one, but I don't know what

20 the number is.

21 Q Are there any restrictions on your

22 driver's license?

23 A No. Never had no tickets.

24 Q okay. Do you have to wear eye glasses?

25 A No.

1 Q Do you ever wear eyeglasses?  
2 A Huh-uh. I have one time a long time ago,  
3 but I didn't need them.  
4 Q They just got in the way?  
5 A No. The doctor just told me I didn't  
6 need them anymore.  
7 Q All right. Did you drive yourself here  
8 today?  
9 A No; my boy.  
10 Q Your son?  
11 A Yeah.  
12 Q You said your son is 16?  
13 A uh-huh .  
14 Q What is his name? Eric. You told me  
15 Eric?  
16 A E r i c .  
17 Q Is he in school?  
18 A Yeah.  
19 Q Has he had any health problems of any  
20 sort?  
21 A He had allergies growing up.  
22 Q What was he allergic to?  
23 A I don't know. They gave him a shot, but  
24 he don't take that no more.  
25 Q Okay. Was he tested for his allergies?

I

Halasz &amp; Halasz

1 A Yeah.  
2 Q Did they ever determine what he was  
3 allergic to, do you know?  
4 A Not right off, no.  
5 Q And where were those tests done?  
6 A Knoxville.  
7 Q Pardon me?  
8 A Knoxville.  
9 Q Knoxville, Tennessee. Was it a doctor or  
10 a hospital or --  
11 A I don't know if it's a doctor's office.  
12 It's around a hospital, but it's a doctor's office.  
13 Q Do you remember the name of the doctor?  
1 4 A No.  
15 Q Have you ever had any allergies of any  
1 6 kind?  
17 A No. Just poison oak.  
18 Q Poison did you say?  
19 A Poison oak. Everybody is allergic to  
20 that I reckon.  
21 Q Are you a member of any kind of club or  
22 social organization?  
2 3 A No.  
24 Q What union are you a member of?  
25 A Brotherhood of Maintenance-of-Way.

Halasz & Halasz

2 Q what local?  
3 A 5 2 5 .  
4 Q Have you ever held any position in the  
5 union?  
6 A No.  
7 Q Are you a member of any civic  
8 associations?  
9 A What do you mean, civic?  
10 Q Well, like the Ruritan Club or --  
11 A I've helped Cub Scouts, been in Cub  
12 scouts.  
13 Q what do you do in the Cub Scouts?  
14 A I was just like -- I wasn't what -- you  
15 know, helped when they went on camping and stuff like  
16 that. I had a suit and everything.  
17 Q When was that? When your boy was a Cub  
18 Scout?  
19 A Yeah. Probably eight years ago, nine.  
20 Q okay. Are you a member of any church?  
21 A Yeah.  
22 Q what church is that?  
23 A Methodist.  
24 Q What's the name of the church that you're  
25 a member of?  
Hot Springs Methodist Church. They just  
Halasz & Halasz

1 opened one. There ain't no preacher, if that's what  
2 you're talking about like a minister that stays all  
3 the time. They don't have a minister that stays.

4 Q Do you attend church regularly?

5 A No.

6 Q Major holidays like Christmas and Easter  
7 perhaps?

8 A No, no. I don't make no special days if  
9 I go.

10 Q okay. Have you ever smoked any kind of  
11 cigarette or tobacco?

12 A No.

13 Q Have you ever chewed tobacco?

14 A Chewed tobacco.

15 Q What kind of chewing tobacco?

16 A Plug tobacco.

17 Q Excuse me?

18 A Chewing tobacco, plug tobacco.

19 Q And when did you start chewing that?

20 A Well, probably when I was little I tried  
21 it a little. Didn't really chew. You know how kids  
22 are. But I guess I was about 18 years old when I  
23 started chewing.

24 Q And how long did you chew tobacco?

25 A How long?

1 Q Yes, sir.

2 A Well, since about 18.

3 Q And you continue to chew tobacco?

4 A Yeah, I chew some now, yeah.

5 Q How much do you currently chew?

6 A How much?

7 Q Yes, sir.

8 A Probably a plug a day.

9 Q What's a plug? A package?

10 A No. It's a plug about the size of that

11 card. A little bit bigger.

12 MR. SHAPIRO: Pointing to a business

1 3 card?

14 THE DEPONENT: Yeah.

15 BY MS. ARMSTRONG:

16 Q Talking about two inches by three inches,

17 thereabouts?

18 A Yeah, about that wide. About like that.

19 Q And how long has that been the amount

20 that you've chewed?

21 A Oh, I quit one time.

22 Q All right. When did you quit? Let me

23 ask you: How long a period did you quit then?

24 A Six months.

25 Q Except for the six months when you quit,

1 have you always chewed about the same amount each  
2 day?  
3 A No, no.  
4 Q Did you used to chew more or less?  
5 A Just according to where I'm at. if I'm  
6 inside, I don't chew.  
7 Q Okay. And now your practice is to chew  
8 about aplug a day?  
9 A Yeah .  
10 Q How about when you were 18 years old --  
11 A No, I wouldn't chew that much, no.  
12 Q All right. Have you ever chewed more  
13 than a plug a day?  
1 4 A Have I --  
15 Q Have you ever chewed more than a plug a  
1 6 day?  
17 A Yeah, I probably have.  
18 Q When would that have been?  
19 A I don't know. I don't keep up with that.  
20 Q Did you ever chew as much as two plugs a  
21 day?  
22 A According to what time I went to bed I  
23 guess.  
24 Q So at some point --  
25 A Well, sometimes.

Halasz & Halasz

1 Q well, sometime in the last 15 years you  
2 chewed as much as two plugs a day?  
3 A I probably have.  
4 Q Did you ever chew as much as three plugs  
5 a day?  
6 A No, no.  
7 Q All right. Did you ever chew as much as  
8 two plugs a day for several months running?  
9 A No.  
10 Q All right. Have you ever used any other  
11 kind of tobacco?  
12 A Huh-uh.  
13 Q Is that a no?  
14 A No, no.  
15 Q Okay. So you've never smoked a  
16 cigarette?  
17 A No, never smoked no cigarettes.  
18 Q And you've never smoked a cigar?  
19 A No.  
20 Q Did you ever try smoking when you were  
21 young?  
22 A Tried it. Didn't get nothing.  
23 Q About what age did you try smoking at?  
24 A I really don't know. I was so young, I  
25 don't know.

Halasz & Halasz



1 Q Would it be younger than 18?  
2 A Oh, gosh, yeah. That's back when I was a  
3 kid. You know how kids are. Back probably -- I  
4 don't know. Probably five, six, seven maybe. I  
5 don't know.  
6 Q Okay. And when you tried it, did you  
7 smoke more than five cigarettes?  
8 A No, no. Didn't get one.  
9 Q So in your entire life you've never  
10 smoked as many as five cigarettes?  
11 A No.  
12 Q Not even at a party or something like  
13 that?  
14 A No. I don't like to be around cigarette  
15 smoke.  
16 Q Have you ever been on any kind of drugs  
17 or medication?  
18 A Drugs?  
19 Q Yes, sir.  
20 A Oh, I don't use drugs. I've taken  
21 medicine.  
22 Q Prescription medicine?  
23 A Yeah, prescription. Not no --  
24 Q When's the last time you took  
25 prescription medicine?

Halasz & Halasz

1 A Yesterday.

2 Q And what was it?

3 A I wrote that down so I wouldn't forget  
4 it. It's right here. There it is. That's the  
5 amount of pill. That's what that mg stands for,  
6 milligram.

7 Q And so yesterday you took Tenormin.

8 T-E-N-O-R-M-I-N. Did you take one?

9 A Half, half a pill.

10 Q Half a pill. And each pill is 50 mg?

11 A Yeah.

12 Q Is that right?

13 A That's right.

14 Q Fifty milligrams. So you took 25  
15 milligrams?

16 A That's right.

17 Q What do you take that for?

18 A They give it for blood pressure.

19 Q okay.

20 A But it's on the borderline. It hasn't  
21 went back.

22 Q When was that prescribed for you?

23 A I really don't know. Because that other  
24 is kidney medicine.

25 Q Well, let's do them one at a time. The

1 Tenormin, would that have been prescribed within the  
2 last two years or earlier than that?

3 A I would say about '91.

4 Q All right. Do you remember what doctor  
5 prescribed that for you?

6 A No, not really, no. It's not on the  
7 bottle or anything because I just go back and get my  
8 medicine renewed.

9 Q And do you take half a tablet every day?

10 A Yeah. Well, yeah, supposed to take a  
11 half a tablet. Sometimes I might miss it, but you're  
12 not supposed to do that I know.

13 Q All right. And it's your understanding  
14 that medication is for high blood pressure?

15 A I reckon that's what it's for.

16 Q Is that what the doctor told you?

17 A Yeah, I think so.

18 Q Okay. The Triam --

19 A That's the brand. That's kidney stone  
20 medicine.

21 Q And it says here 75 over 50 tab.

22 A Yeah.

23 Q So each tablet is what? Do you know what  
24 that means?

25 A No. That's just what was on the bottle.

1 Q And how many of those do you take?  
2 A One.  
3 Q You take one of those pills a day?  
4 A Yeah .  
5 Q Do you know what doctor prescribed that?  
6 A Same doctor that gave me that one.  
7 Q All right. But you don't remember his  
8 name?  
9 A No, because I don't have no family  
10 doctor.  
11 Q Okay. And was that prescribed -- did you  
12 first start taking that back around 1991 as well?  
13 A No.  
14 Q When did you start taking that?  
15 A well, I guess I did, too, because I used  
16 to take a different kind. I don't know. They said  
17 that was better. They change medicines over the  
1 8 years .  
19 Q Okay. So you've been taking medication  
20 for kidney stones since what date?  
2 1 A ' 76.  
22 Q '76. Do you know when it was changed to  
23 the current one?  
24 A No, not really.  
25 Q Now, under that it says for Maxzide?  
Halasz & Halasz

1           A       That's the same. That's just what they  
2 call that medicine there. That's the main name for  
3 that. Twenty-five what did you say?  
4           Q       75 over 50?  
5           A       Yeah, that's what that is, Maxzide.  
6           Q       It's M-A-X-Z-I-D-E for Maxzide tab?  
7           A       Yeah. That's that tablet right there.  
8           Q       Okay. So those are the only pills that  
9 you take?  
10          A       That's it.  
11          Q       And your understanding is one is for high  
12 blood pressure and the other one is for kidney  
13 stones?  
14          A       Yeah .  
15          Q       When was the last time that you were on  
16 any other medication?  
17          A       Just cold medicine if I got a cold or  
18 something. Over-the-counter medicine.  
19          Q       Now, what you wrote on this paper, is  
20 that what it says on the two bottles?  
21          A       Yeah, on the bottles.  
22          Q       Have you ever used any nonprescription  
23 drugs?  
24          A       No.  
25          Q       Do you drink any alcohol?

Halasz & Halasz

1           A        Drink beer every once in awhile.  
2           Q        All right. What is your normal habit as  
3 far as alcoholic beverages?  
4           A        I ain't got no normal habit. Not what  
5 you call normal. I might drink one tomorrow and not  
6 drink one for a week. I don't know if you call  
7 that -- that wouldn't be no normal.  
8           Q        But would you classify yourself as a  
9 social drinker?  
10          A        Probably. What is a social drinker?  
11          Q        well, how would you describe your  
12 alcoholic intake?  
13                 MR. SHAPIRO: He described it already in  
14 the first question. He said very occasionally.  
15                 MS. ARMSTRONG: Do you have an objection,  
16 Mr. Shapiro?  
17                 MR. SHAPIRO: The objection is you asked  
18 it and he answered it.  
19 BY MS. ARMSTRONG:  
20          Q        Mr. Barnett, do you ever drink anything  
21 other than beer?  
22          A        No.  
23          Q        When did you first drink any alcoholic  
24 beverages at age-wise?  
25          A        Probably 30 years old.

Halasz & Halasz

1 Q Thirty?

2 A Yeah. I was raised in a Christian home,  
3 and you didn't do that around the house.

4 Q And was it a beer when you were 30 the  
5 first type of alcohol that you had?

6 A Yeah .

7 Q Did you ever drink more than one beer in  
8 a given day?

9 A I probably have.

10 Q At what period in your life did you  
11 drink -- well, let me ask it this way: Do you ever  
12 drink more than you currently drink?

13 A Current?

14 Q Yes. You say that currently you may take  
15 one beer every now and again. Was there ever a  
16 period in your life that you drank more alcoholic  
17 beverages than you currently drink?

18 A No, I doubt it. I don't ever get drunk.  
19 I don't ever drink until I get drunk, no.

20 Q Okay. What types of beverages do you  
21 normally drink? I'm not talking about alcohol --

22 A Soda, Dr. Pepper or Sprite.

23 Q You drink the diet variety?

24 A Diet Mountain Dew.

25 Q I didn't know they made a Diet Mountain

1 Dew.  
2 A That's about the best diet you can get.  
3 Q Do you normally drink diet or nondiet  
4 drinks?  
5 A Well, according to what the price is. if  
6 it's about the same, I buy diet.  
7 Q Okay. And how much soda do you drink a  
8 day?  
9 A Probably two cans. Maybe some days  
10 three, according to how hot it is.  
11 Q Have you ever read the warnings published  
12 on the diet soft drink cans?  
13 A Cause cancer.  
14 Q Have you ever read those?  
15 A Yeah, I've read it. Yeah, I know I've  
16 read it because I've seen it on the can.  
17 Q Do you pay any attention to it?  
18 A Well, they changed that. They got that  
19 NutraSweet in them. It's supposed to have changed  
20 i t .  
21 Q Did you pay any attention to it back when  
22 it warned you that it might be a problem?  
23 A When I found out, back then, I didn't  
24 drink them.  
25 Q You didn't?

Halasz & Halasz



1 A No.

2 Q When was that?

3 A When I was young I guess growing up when  
4 they first came out with them.

5 Q What period of time did you stop drinking  
6 diet sodas?

7 A I don't know.

8 Q When you were older or younger than 30?

9 A older. When I was younger I probably  
10 drank regular drinks.

11 Q I'm trying to focus in on the time period  
12 when you stopped drinking diet sodas?

13 A I don't know.

14 Q How long of a time period was it?

15 A That I stopped?

16 Q That you stopped, yes, sir.

17 A Until they come up with this new stuff  
18 that I reckon.

19 Q How long a time period when you stopped  
20 drinking and when you started drinking the diet sodas  
21 again?

22 A Well, I don't drink them constantly.  
23 You're talking about diet soda? I know what you're  
24 saying, but I don't know.

25 Q You don't recall how long a time period

1 it was between when you stopped drinking them  
2 entirely and when you started drinking them again?  
3 A No.  
4 Q And do I understand correctly that you,  
5 as soon as you noticed the warning on the diet sodas  
6 about the possibilities of it causing cancer, that's  
7 when you stopped drinking them?  
8 A Yeah.  
9 Q And you stopped drinking them because of  
10 that warning?  
11 A Yeah.  
12 Q And you did not resume drinking it again  
13 until it was your understanding that they  
14 substituted --  
15 A They changed, yeah.  
16 Q Are you familiar with any warnings  
17 associated with chewing tobacco?  
18 A Lose your teeth. Gum disease.  
19 Q Are those the only warnings that you're  
20 familiar with --  
21 A Yeah.  
22 Q -- that apply to chewing tobacco?  
2 3 A Yeah .  
24 Q Do those cause you any concern?  
25 Not teeth because I ain't got none.

1 Q When did you lose your teeth?

2 A when I was in school. The teeth didn't  
3 shed, and they all went that way and killed them. I  
4 didn't shed my baby teeth. Permanent teeth had to go  
5 somewhere, and they went through my top of my other  
6 teeth and killed them, and they had to cut the teeth  
7 out and pull them. That was in high school.

8 Q How about gum disease; does that concern  
9 you, the possibility of gum disease from chewing  
10 tobacco?

11 A Well, yeah, probably.

12 Q What do you mean --

13 A They don't sit on my gum when I chew now.

14 I can't get my gums covered up, but it still gets in  
15 there. I don't know.

16 Q What do you mean your gum is covered up?

17 A Teeth cover your gums up. False teeth  
18 cover the gums up.

19 Q Okay.

20 A They don't lay up against your gum.

21 That's what's supposed to cause gum disease I reckon.

22 I ain't no doctor now. This is just my opinion.

23 Q What I was trying to understand,

24 Mr. Barnett, is you say that it sort of concerns you  
25 about these warnings that you're familiar with gum

1 disease, and what I'm trying to understand is the  
2 nature of your concern. What concern do you have  
3 about the possibilities of getting gum disease?  
4 A Nobody wants to get gum disease I reckon.  
5 Q So that is a concern to you?  
6 A Well, yeah, it would be a concern to me.  
7 Q Have you considered quitting chewing  
8 tobacco?  
9 A Yeah.  
10 Q And what have you decided?  
11 A It's harder -- it's just like smokers.  
12 It's hard to quit.  
13 Q So is it something you've chosen to  
14 continue to do?  
15 A Chosen?  
16 Q Yes, sir.  
17 A It's a habit I guess.  
18 Q Pardon me?  
19 A A habit.  
20 Q It's a habit that you've chosen to  
21 continue with?  
22 A Chose, I don't know about chose or not.  
23 It's like addicted I guess. Just like people smoke.  
24 They get addicted to smoking.  
25 Q What happens to you when you try not to  
Halasz & Halasz

1 chew chewing tobacco?

2 A Nothing.

3 Q You don't have any particular -- you  
4 don't get the shakes or anything like that?

5 A No.

6 Q And you don't have any craving or  
7 anything like that?

8 A No.

9 Q Okay. Mr. Barnett, have you ever been  
10 convicted of any crime?

1 A No.

12 Q Okay. Have you ever been arrested?

13 A Huh-uh.

14 Q Now, you say that in high school you had  
15 a problem with your baby teeth not shedding properly  
16 and you had the teeth cut out?

17 A They had to pull them out.

18 Q They pulled them out?

19 A Where I live from, they didn't have --  
20 they don't have dentists.

21 Q Okay. Well, when you were in high school  
22 and you had the problem with your teeth, were you  
23 hospitalized for that --

2 4 A No.

25 Q -- for them to remove the teeth?

1           A       No. I sat and let them cut it out.  
2           Q       Did you have any medication?  
3           A       No. Just numbed it. Just reached in  
4 there and cut it out. I guess -- I don't know what  
5 you call it. They numb -- you go to the dentist and  
6 numbs you.  
7           Q       Novocain.  
8           A       They numb you just like you're going to  
9 pull the teeth.  
10          Q       where was that done?  
11          A       Asheville.  
12          Q       Do you remember who did it?  
13          A       No .  
14          Q       Did you have to take any kind of  
15 medications afterwards?  
16          A       For inflammation.  
17          Q       Do you remember what the medication was?  
18          A       No.  
19          Q       You told me now that you had broken your  
20 leg in the third grade?  
21          A       Yeah.  
22          Q       And you've told me about the problems you  
23 had with your teeth in high school. Would you tell  
24 me all the other medical or physical problems that  
25 you can ever recall having?

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1           A       That's it. I didn't consider that.  
2           Q       Well, I noticed in your medical record  
3 with the railroad that you had had a couple of  
4 different injuries. Would you tell me about those?  
5           A       That's -- what are you talking about?  
6           Q       Did you have a problem with your back?  
7           A       Back?  
8           Q       Yes, sir.  
9           A       I hurt my back on the railroad.  
10          Q       When was that?  
11          A       '85, '86. I'm just guessing now. I  
12 ain't for sure. They got a record of it because they  
13 go over accident reports.  
14          Q       Have you had any other injuries on the  
15 railroad?  
16          A       Dehydration.  
17          Q       When was that?  
18          A       oh, gosh. You got me. '70s.  
19          Q       Any other injuries?  
20          A       Mashed finger.  
21          Q       Do you remember when that was?  
22          A       No. That's what you get for letting  
23 somebody help you. They mashed my finger for me  
24 helping them.  
25          Q       Any other injuries?

1           A       Dehydration, hurt my back -- what did I  
2 say.       Back, dehydration, mashed my finger. Mashed my  
3 foot.  
4           Q       Do you remember when that was?  
5           A       In the '80s. Probably '88, '89. Air  
6 hammer was messed up and hit my foot.  
7           Q       Any other injuries?  
8           A       Those are the only ones I can think of  
9 right now.  
10          Q       When you talk about dehydration, is that  
11 a different episode than the heat exhaustion that you  
12 had?  
13          A       That's it.  
14          Q       That's the same thing?  
15          A       Yeah. They put me in the hospital and  
16 gave me fluid. Sweat all the body fluid out.  
17          Q       Okay. Do you remember receiving any  
18 medication for any of these injuries?  
19          A       I did my back I know.  
20          Q       Do you remember what the medication was?  
21          A       No. Something strong I know.  
22          Q       Any other medications that you can recall  
23 receiving?  
24          A       I cannot recall. I probably did. They  
25 probably gave me some, but I don't know.

Halasz & Halasz



1 Q Okay. Did you ever have any injuries  
2 when you worked with Burlington Industries?  
3 A Burlington?  
4 Q Yes, sir.  
5 A Wrist .  
6 Q What happened to your wrist?  
7 A A fellow pushed a cart in on me.  
8 Q I don't understand. Pushed a cart?  
9 A Pushed a table. Just like this table. I  
10 was working on a machine, and he come around and he  
11 hit that cart and it hit me in the hand.  
12 Q Cart?  
13 A Yeah. I didn't lose no time. Yeah. it  
14 was an accident.  
15 Q Any other injuries with Burlington?  
16 A No. Not as far as I know of.  
17 Q Okay. How about when you were working  
18 around the store for your parents; did you have any  
19 injuries there?  
20 A No.  
21 Q working in the farm, any injuries there?  
22 A No.  
23 Q Have you ever mashed your finger or  
24 anything like that when you were working in the farm?  
25 A Mashed my finger?

Halasz & Halasz

1 Q Yes  
2 A Probably hit my finger with a hammer or  
3 something but didn't have to go to the doctor.  
4 Q Who is your family doctor as you were  
5 growing up?  
6 A Didn't have one.  
7 Q Did you have a pediatrician?  
8 A No.  
9 Q Was there a country doctor or anything  
10 that came around if somebody got sick?  
11 A Not that I can remember. We're talking  
12 back in the country now.  
13 Q Okay. Do you remember ever going to the  
14 doctor when you were a child?  
15 A Huh-uh.  
16 Q No?  
17 A No. Except there when I broke my leg.  
18 That was probably the first time I ever seen a doctor  
19 that I can remember of.  
20 Q When is the first time you ever remember  
21 going to the doctor?  
22 A I don't.  
23 Q Well, you had to have a physical before  
24 you started with Burlington Industries, didn't you?  
25 A Yeah, yeah. I don't even remember where

1 I took it at.

2 Q Okay. So the only time that you remember  
3 ever seeing a doctor -- the only times that you ever  
4 remember seeing a doctor between the time that you  
5 were born and the time that you got -- started  
6 working for Burlington Industries would be when you  
7 broke your leg and when you went to the dentist that  
8 took out the teeth; is that right?

9 A Yeah. Well, they had -- I don't know  
10 what you call it -- trainees come in school and work  
11 on kids' teeth.

12 Q Like a dental hygienist or something like  
13 that?

14 A No. They pulled them.

15 Q Pulled them, okay. So those are the only  
16 times that you had any contact with any medical  
17 practitioners?

18 A That's it.

19 Q All right. How's your back doing now?

20 A Bothers me some. I just don't try to  
21 pick up stuff like I used to pick up.

22 Q When you say it bothers you some, what  
23 kind of bother?

24 A Well, stiffness.

25 Q Where?

2           A           In the lower back.  
3           Q           In the lower back. How often is it  
4           s t i f f ?  
5           A           According to what I do.  
6           Q           Okay. Is it stiff right now?  
7           A           No.  
8           Q           Is it fair to say that you've modified  
9           your lifting practices to accommodate your back?  
10          A           Yeah.  
11          Q           would it also be fair to say that by  
12          doing that, by modifying your lifting practices,  
13          you're able to control or you're able to limit back  
14          pain?  
15          A           Well, I don't know.  
16          Q           Not sure about that?  
17          A           Huh-uh.  
18          Q           when's the last time you recall having  
19          any back pain?  
20          A           If I do real straining work or something  
21          like that.  
22          Q           Do you remember when the last time was?  
23          A           Not right off, no.  
24          Q           More than six months ago?  
25          A           More than six months ago? It's been less  
            than that I guess.

1 Q Pardon me?

2 A it's been less than that I guess.

3 Q Do you remember what you were doing when  
4 you felt back pain?

5 MR. SHAPIRO: I'm going to object. I  
6 want to know what the relevance of the questions  
7 regarding the back injury is. This is a lung  
8 disorder claim. I don't mind you going far afield,  
9 but you're going to have to make a statement as to  
10 what the relevance is of any of this.

11 MS. ARMSTRONG: I'm going to be talking  
12 with Mr. Barnett about all of his physical  
13 conditions.

14 BY MS. ARMSTRONG:

15 Q Mr. Barnett, can you remember what you  
16 were doing when you last felt any back pain?

17 A Last felt any?

18 Q Yeah.

19 A You don't feel it when you're doing it.  
20 It's the next morning is when you feel.

21 Q Okay. Do you remember what brought it  
2 2 on?

23 A Probably unloading machinery, picking up  
24 them three hundred pound pieces of steel.

25 Q Do you remember any specific incident?

1           A       No.  
2           Q       okay. Which finger did you mash?  
3           A       Middle one. I didn't mash it. Another  
4 person mashed it, but I got the accident report.  
5           Q       Okay. Can I see it again? How long did  
6 that take to heal? Is it healed?  
7           A       Yeah, it's healed. They stitched it up.  
8           Q       You got stitches in it?  
9           A       They put stitches in it, yeah. Did I  
10 miss any time, no.  
11          Q       How about when you mashed your foot, what  
12 happened?  
13          A       Running an air hammer, and the air  
14 pressure messed up.  
15          Q       Which foot was it?  
16          A       L e f t .  
17          Q       Is it healed?  
  
18          A       Yeah.  
  
19          Q       Do you have any trouble anymore?  
  
20          A       Not yet, no.  
  
21          Q       Okay. Are there any physical ailments or  
22 pains that you have as we sit here today?  
  
23          A       I get short of breath.  
  
24          Q       Anything else?  
  
25          A       No. Not that I know of right now. I

1 feel in pretty good shape.  
2 Q How tall are you?  
3 A About six foot.  
4 Q And how much do you weigh?  
5 A About 245.  
6 Q Have you weighed about 245 for the last,  
7 say, ten years or thereabouts?  
8 A No.  
9 Q What did you used to weigh?  
10 A About 235.  
11 Q When was that?  
12 A I don't know.  
13 Q Okay. When is the first time that you  
14 noticed any shortness of breath?  
15 A First time?  
16 Q Yes, sir.  
17 A It will just come over -- I mean, it's  
18 not like I woke up this morning and had shortness of  
19 breath. It was just gradually and gradually more.  
20 Q When is the first time that --  
21 A First time? Probably '85, '86.  
22 Q Okay. And what did you notice then?  
23 A That I was getting short of breath more  
24 than, you know, usual, if I had done real straining  
25 work.

Halasz & Halasz

1 Q Did you tell anybody that you were  
2 feeling short of breath?  
3 A Did I tell anybody? I might have. I  
4 can't remember.  
5 Q You don't recall telling anyone?  
6 A No.  
7 Q Now, when you say that you noticed it  
8 around 1985, '86 --  
9 A Along in there somewhere.  
10 Q -- do you remember where you were when  
11 you noticed it?  
12 A No, I don't. All I can tell you I was  
13 out working. And I don't know. We travel so much.  
14 Q Well, if you don't recall where you were  
15 when you first noticed it, how do you know you were  
16 working as opposed to doing something at home?  
17 A Doing something at home?  
18 Q Yes, sir.  
19 A Because I do heavier work on the railroad  
20 than I do at home.  
21 Q Well, my question, though, is if you  
22 don't recall where you were, how --  
23 A I was probably between Atlanta and  
24 Charlotte somewhere. Somewhere along in there, but I  
25 don't know.

Halasz & Halasz



1 Q Do you have any specific recollection of  
2 stopping, doing what you were doing or noticing as  
3 you were doing it that you felt --

4 A I felt it and rested until I could get my  
5 breath and then I went back.

6 Q Describe what you mean by shortness of  
7 breath?

8 A Well, hard to breathe, maybe coughing,  
9 you know, just like somebody -- I don't know how you  
10 describe it. Just like you cut your breath off.

11 Q How long would it last?

12 A How long?

13 Q Yes, sir.

14 A Well, just two minutes, three until I  
15 quit and got my breath.

16 Q And about how many times a day would it  
17 happen?

18 A According to what I was doing.

19 Q When you first noticed it, did it just  
20 happen once in a given couple of day period?

21 A No. It didn't come like that. It just  
22 seemed like it got worse and worser over the years.  
23 I mean, since then.

24 Q How often do you experience shortness of  
25 breath currently?

Halasz & Halasz

1           A     Currently?  
2           Q     Yes, sir.  
3           A     If I do real hard work or climb something  
4 or,    you know, real heavy physical.  
5           Q     And if you were doing something heavy  
6 physically, how often in a day do you feel shortness  
7 of breath?  
8           A     How often?  
9           Q     Yes, sir.  
10          A     I don't know. I mean, I know what you're  
11 saying, but I really wouldn't know. Because I don't  
12 keep up with, you know, I don't keep up with it.  
13          Q     What do you mean?  
14          A     Keep up. If I just stop and get my  
15 breath, and I go right on back to work. Do my job.  
16          Q     So when you experience this shortness of  
17 breath, you take a brief break?  
18          A     Well, I just stop.  
19          Q     How long do you have to stop for?  
20          A     Two or three minutes before I sit there  
21 before I get up.  
22          Q     And after you rest for two or three  
23 minutes, you can resume your difficulties?  
24          A     I go right back, yeah.  
25          Q     And when was the last time that this  
                  Halasz & Halasz

1 occurred?

2 A Last time?

3 Q That you had to stop and take a two,

4 three-minute break?

5 A Well, I don't know if you call it a

6 break. I just stop.

7 Q Two or three-minute rest; when's the last

8 time you remember doing that?

9 A Probably last week.

10 Q Last week?

11 A Yeah.

12 Q Do you remember what you were doing?

13 A Probably putting -- driving spikes or

14 putting ties in.

15 Q Where?

16 A Where?

17 Q Yes, sir.

18 A Charlotte. Or not Charlotte but Belmont.

19 Q Outside of Charlotte, North Carolina?

20 A Yeah. I mean, I just stopped, you know.

21 I guess you get tired, you know, you'll stop for a

22 second and then you go right on.

23 Q Okay. I'm sorry. I should have written

24 it down. You say you were either putting ties in or

25 what?

1           A       Putting ties in a crossing.

2           Q       And you were doing what?

3           A       Doing what? Driving spikes or putting

4 plates or something on. About a hundred degrees.

5           Q       You say it was about a hundred degrees?

6           A       Yeah.

7           Q       And you remember stopping --

8           A       Well, I don't know if you call it

9 stopping. I stopped. They don't want you to stop

10 out there if you're working now.

11          Q       So you stopped for a minute or two and

12 took a rest and then resumed?

13          A       I just stopped what I was doing and --

14          Q       Do you remember what day that was?

15          A       No.

16          Q       And how many times that day did you have

17 to stop?

18          A       I don't know.

19          Q       Do you remember doing it more than once?

20          A       More than once? I probably did. I don't

21 know.

22          Q       You're not sure if you did it more than

23 once or not?

24          A       No.

25          Q       And was it just one day last week that

1 you remember having to stop?

2 A I don't keep up. What I'm saying -- as I  
3 said, I don't know.

4 Q All right. As we sit here today, you're  
5 not sure whether it happened more than once last  
6 week?

7 A It probably did.

8 Q It may have but you don't recall?

9 A No, it probably did.

10 Q When you say it probably did, you  
11 remember this one incident --

12 A If I do real straining work, I get short  
13 of breath. It doesn't matter what day it is. I call  
14 it manual, heavy manual work.

15 Q All right. You say you were either  
16 driving spikes or putting plates on one day last week  
17 when you remember feeling short of breath and  
18 stopping?

19 A Well, that's until I got my breath.

20 Q But you don't remember whether you were  
21 actually driving spikes or putting the plates on?

22 A I drove spikes and I put plates on, too,  
23 see .

24 Q I'm talking about when this occurred.

25 A No, I don't remember. You do everything.

Halasz & Halasz

1 Q And you're not sure which of those  
2 activities you were doing at the time that you felt  
3 short of breath?  
4 A I done so many things that day.  
5 Q When you were driving spikes, what were  
6 you using?  
7 A Air hammer.  
8 Q And when you were putting plates on, were  
9 you doing that manually?  
10 A Yeah, you do that manual. Jack 'er up,  
11 slide the plates on.  
12 Q Who were you working with?  
13 A Who?  
1 4 Q Yes, sir.  
15 A The foreman, gang? Who are you talking  
16 about?  
17 Q Who was working with you when you  
18 remembered feeling short of breath?  
19 A I didn't tell nobody I was short of  
20 breath. I just stopped.  
21 Q But who were you working with at that  
22 time?  
23 A With?  
24 Q Yes, sir.  
25 A Well, there was Gary Johnson, Mike  
Halasz & Halasz

1 Johnson.  
2 Q Anybody else?  
3 A There's some boys there I don't know  
4 their names.  
5 Q Gary Johnson  
6 A He works on the gang that I do.  
7 Q And Mack Johnson?  
8 A Mike. Mike.  
9 Q Mack?  
10 A Mike.  
11 MR. SHAPIRO: M-I-K-E.  
12 BY MS. ARMSTRONG:  
13 Q Excuse me. Those are the only two names  
14 that you remember?  
15 A Charles Fowler.  
16 Q Anybody else?  
17 A No.  
18 Q Who's your supervisor?  
19 A Down there?  
2 0 Q Yes, sir.  
21 A Craig Webb.  
22 Q Craig Webb?  
23 A Yeah. Need the foreman?  
24 Q Yeah. Who's the foreman?  
25 A Lloyd wills.

Halasz & Halasz

1 Q Lloyd Wills?

2 A Lloyd.

3 Q How long had you been working with that

4 crew?

5 A How long?

6 Q Yes, sir.

7 A Since '84.

8 Q Same group of guys?

9 A Well, one, I've worked with him since the

0 7 0 s .

11 Q Pardon me?

12 A One of them I worked around since the

13 70s .

14 Q Who's that?

15 A mike.

16 Q Mike Johnson?

1 7 A Yeah .

18 Q And the rest of these guys you started

19 working with around '84?

20 A Yeah. Well, one of them don't work on

21 the gang I worked with.

22 Q which one is that?

23 A Charles Fowler.

24 Q What gang does he work on?

25 A I don't know what that gang number is.

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1 Local gang. But I didn't say -- when I got short  
2 breath, I didn't say nothing.  
3 Q To anybody?  
4 A No. I just stood up and got my breath.  
5 Q What does Mike Johnson do?  
6 A Machine operator.  
7 Q And how about Gary Johnson?  
8 A Machine operator.  
9 Q How long has Craig Webb been a supervisor  
10 of yours?  
11 A I don't know. Oh, he ain't my  
12 supervisor. He is when we're working in the area.  
13 Q So he's a local supervisor?  
14 A Yeah .  
15 Q How long have you worked with Lloyd  
16 wills?  
17 A Since '70s. But he wasn't, you know,  
18 foreman then.  
19 Q Do you consider him a good foreman?  
20 A Good foreman?  
21 Q Yes, sir.  
22 A Yeah.  
23 Q Do you consider him to be a fair person?  
24 A Fair?  
25 Q Yes, sir.

Halasz & Halasz

1           A       Yeah.  
2           Q       Who's above Lloyd wills on the group that  
3 you work with?  
4           A       (Deponent shaking head.)  
5           Q       No one?  
6           A       Huh-uh. Just supervising where we're at,  
7 territory.  
8           Q       So do I understand correctly that your  
9 gang --  
10          A       Doesn't have a supervisor.  
11          Q       And so you go to a particular locality  
12 that needs new ties or whatever?  
13          A       Yeah, or service.  
14          Q       or service. And there the local  
15 person --  
16          A       Says what to do, and that's what we do.  
17          Q       And the local maintenance-of-way person  
18 gives you direction?  
19          A       The who?  
20          Q       The local maintenance-of-way supervisor  
21 gives you direction?  
22          A       Yeah .  
23          Q       And tells you what you're supposed to do  
24 on a given day; is that right?  
25          A       Yeah.

Halasz & Halasz

1 Q okay. This will be fun. Let's go back  
2 to the different -- well, let me ask this first: Has  
3 your gang been operating that way ever since the  
4 '70s? When I say that way, I mean --

5 A I wasn't on that gang in the '70s.

6 Q When did you start in the gang, '84?

7 A ' 84.

8 Q Ever since 1984, have you worked the way  
9 you just described, which is going with your gang to  
10 a locality and working there with the local  
11 supervisor?

12 A For that gang?

1 3 Q Yes, sir.

14 A Just for that gang, yeah.

15 Q That's the way you've done it since '84?

16 A Yeah.

17 Q Now, when you say just with that gang,  
18 what do you mean when you specify that?

19 A Well, I've worked on that gang, but they  
20 had supervisors.

21 Q What gangs would these be?

22 A T and S two.

23 Q When did you start working with T and S  
24 two?

25 A 1 9 7 4 .

1 Q How long did you work with them?  
2 A Ten years.  
3 Q 1974 to 1984?  
4 A Yeah, about ten years or better.  
5 Q When you say T and S two, what do you  
6 mean?  
7 A Ties and service I guess.  
8 Q And when you worked with T and S two, you  
9 had --  
10 A Two supervisors.  
11 Q Two supervisors?  
12 A Two foremen.  
13 Q Can you tell me everybody that you can  
14 recall from T and S two?  
15 A No. Because all of them done gone when I  
16 started out there.  
17 Q Do you remember any of them?  
18 A Supervisors?  
19 Q Yeah.  
20 A Gahagan was a supervisor on there.  
21 Q Anybody else that you remember?  
22 A Gerald Doby, but he don't work the  
23 railroad no more.  
24 Q Gerald Doby?  
25 A Yeah. They brought him out I think.

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1 Q where did he live?  
2 A Somewhere around Charlotte.  
3 Q Do you know what he does now?  
4 A Huh-uh.  
5 Q Okay. Do you remember the names of any  
6 other supervisors --  
7 A Huh-uh.  
8 Q -- from the T and S two gang?  
9 A Hall, but I don't know what his first  
10 name was or if that was his last name.  
11 Q Hall?  
12 A Yeah, Hall. He ain't a supervisor now.  
13 I think.  
14 Q Is that H-A-L-L?  
15 A Yeah, but I don't know what his first  
16 name is or if that was his last name.  
17 Q where did you work with him, what area?  
18 A T and S two.  
19 Q Around the Charlotte area?  
20 A He was assistant. Huh?  
21 Q Around the Charlotte area?  
22 A Charlotte; Manassas. We traveled over  
23 the whole Northeast.  
24 Q Do you remember any other supervisors  
25 from T and S two, from your ten years at T and S two?  
Halasz & Halasz

1           A       Walt Singleton, but he's dead.

2           Q       Do you remember any others?

3           A       Huh-uh.

4           Q       How about foremen; do you remember any

5 other foremen from the T and S two gang?

6           A       Yeah. Glen Yeatts.

7           Q       All right.

8           A       Dave Sutherlin.

9           Q       Say it again?

10          A       Sutherlin.

11          Q       Any others?

12          A       Well, Mike Johnson, he was foreman, but

13 was, too, so I don't know if you need that or not.

14          Q       Okay. Do you remember any others?

15          A       No. There's some more. One more.

16 Colored guy. But he's dead, too.

17          Q       Do you remember his name?

18          A       John something.

19          Q       Do you remember any others?

20          A       That's it.

21          Q       Now, did you tell me earlier that you

22 became the head foreman in 1984?

23          A       '83. I left -- I ain't sure now. I

24 believe I left in '84.

25          Q       All right. But since --

1           A        I was foreman in '83, '82, along in  
2 there .  
3           Q        All right.  
4           A        It's hard to remember back 11 years.  
5           Q        Can you tell me, Mr. Barnett, the  
6 locations that you recall working back when you  
7 worked with the T and S two gang? You've mentioned  
8 Remington, Virginia?  
9           A        Yeah .  
10          Q        Atlanta?  
11          A        I said from Atlanta to Manassas. We  
12 worked --  
13          Q        You worked the entire area, the entire  
14 stretch?  
15          A        Yeah.  
16          Q        Any place more than those?  
17          A        Any place more? No, everywhere they had  
18 to T and S. Some places, like a single track they T  
19 and S more than they have to double.  
20          Q        More than they do double?  
21          A        Where all trains run on one track.  
22          Q        So you worked basically every mile of  
23 that track between Atlanta and Manassas?  
24          A        Alexandria. Yeah.  
25          Q        And you don't believe that you worked in

1 any one area more than any other area?

2 A No, I don't reckon. If I did, I can't  
3 remember it.

4 Q Now --

5 MR. SHAPIRO: I need to take a quick  
6 restroom break, if it's a good moment.

7 MS. ARMSTRONG: All right.

8

9 (A break was taken.)

10

11 BY MS. ARMSTRONG:

12 Q Mr. Barnett, I understand that since 1976  
13 you've been working both as a machine operator and as  
14 a maintenance-of-way laborer; is that right?

15 A Yeah, that's right.

16 Q Can you give me an approximation of the  
17 percentage of time that you worked as a machine  
18 operator as opposed to a track laborer?

19 A No. Because you run a machine, that  
20 don't mean that you don't do labor. You do what they  
21 tell you to do. Because you're assigned a machine,  
22 and if they need something laid right here, you get  
23 off the machine and you do it.

24 Q I would assume -- and please tell me if  
25 I'm wrong -- that in that instance, two-thirds or

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1 three-quarters or more of your time in a given day  
2 would be on a machine and then a small part of your  
3 time on the ground? Is that normally true or is that  
4 not normally true?

5 A Well, some days you might be on the  
6 ground more than you are on the others. There ain't  
7 no set --

8 Q Well, I understand that it's not set and  
9 that you don't have any right to say, 'No, I'm not  
10 getting off the machine.'

11 A No. But one day you might not even get  
12 off the machine. Next day you might stay off the  
13 machine. Ain't no set.

14 Q I understand that it's not set and it  
15 depends on what needs to be done?

16 A That's it.

17 Q But are you able to look at it as a whole  
18 and approximate the percentage of time that you're on  
19 a machine, the approximate percentage?

20 MR. SHAPIRO: I'm going to object.  
21 You've got to focus it to a month, a year, or what?  
22 He could be doing one thing this month and ten years  
23 ago totally different. You've got to focus the  
24 question.

25 BY M . ARMSTRONG:

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1 Q Can you answer the question, Mr. Barnett?

2 A No, because --

3 Q How can we help narrow the scope of the  
4 question so you can answer it?

5 MR. SHAPIRO: I'm going to object. You  
6 have to ask the questions. You can't ask him a  
7 question to frame your question.

8 A I don't know. Just like I told you  
9 awhile ago, some days -- it's just what you got to  
10 do, what needs to be done. I ain't trying not to  
11 answer your question, but I don't know.

12 Q well, let's try it this way: Are there  
13 any machines that you did a significant amount of  
14 work on other than a tamper, a ballast regulator, a  
15 cribber and a broom?

16 A Did what now? More work?

17 Q Let me rephrase it. Is there any  
18 equipment that you used a significant amount of time  
19 working with the railroad other than a tamper, a  
20 ballast regulator, a cribber, and a broom?

21 MR. SHAPIRO: I'm going to object because  
22 there's no definition of the word "significant," but  
23 given the fact that that has meaningless connotation,  
24 go ahead and answer the question.

25 A I wouldn't think so.

1 Q You can't think of any other pieces of  
2 equipment that you used more than infrequently?

3 A More than them?

4 Q No, no. Any other pieces of equipment  
5 that you used on more than an occasional basis?

6 A I don't understand.

7 Q okay. Let me give you an example. You  
8 may have worked on a TKO machine three times in 20  
9 years with the railroad, and I would consider that  
10 insignificant. That would be occasionally, just once  
11 or twice or a few times you may have worked on that  
12 machine. And I didn't include that. Are there any  
13 machines that you worked on more than just a few  
14 times, more than five or ten times other than the  
15 ones I just named?

16 A Yeah.

17 Q What other machines?

18 A Tie setter. They don't have them no  
19 more.

20 Q What do you call it?

21 A You have a chain to push the tie in, hook  
22 the tie in. They don't have that anymore.

23 Q But you worked on that early on in your  
24 career?

25 A I worked on that. Spikers, Fairmont  
Halasz & Halasz

1 spikers. They spike the rail to the tie.

2 Q Any other pieces of equipment that you  
3 can recall working with?

4 A That's about it. If something need to be  
5 done, if there weren't nobody to do it, they put you  
6 on it.

7 Q I understand that.

8 A I'm sure there are. I just can't think  
9 of it .

10 Q Can't think of any others, all right.  
11 Can you approximate for me the amount of time that  
12 you spent using a tamper machine?

13 A I can't point it down, no, ain't no way.

14 Q All right. Can you approximate the  
15 amount of time that you spent on a ballast regulator?

16 A Well, I don't know how you do it. Since  
17 I've been out there on the railroad.

18 MR. SHAPIRO: I would object to the  
19 question on the grounds that you haven't specified if  
20 you mean minutes, total ever, or different days, you  
21 know. If you would frame it a little better, he can  
22 probably give you a better answer.

23 MS. ARMSTRONG: Mr. Shapiro, would you  
24 please refrain from making inappropriate objections?

25 MR. SHAPIRO: I think my objection is  
Halasz & Halasz

1 appropriate. You're just giving your opinion. I  
2 made it.

3 BY MS. ARMSTRONG:

4 Q Well, Mr. Barnett, can you approximate  
5 the amount of time that you spent using a cribber?

6 A Years .

7 Q Approximately how many years?

8 A I really wouldn't know. I might get on  
9 it and run it up the track when the rock was heavy or  
10 something, helping them out. I don't know.

11 Q Helping who out?

12 A Ten years. I've been around a cribber  
13 ten years or more.

14 Q All right. Helping who out?

15 A If somebody needs help pulling spikes,  
16 the cribber goes with the spike puller or the puller  
17 and they get in a jam, you go up and help them. if  
18 you don't do that, you take the claw bar and pull  
1 9 them.

2 0 Q All right.

21 A What I'm saying, when I'm on a gang like  
22 that, if they needed help, they come and got you and  
23 you went and done it.

24 Q I understand that. I understand that  
25 from time to time the person operating a particular

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1 machine might run into difficulty and needed help,  
2 and I understand that your job was to help and assist  
3 in the operation in any way that was needed.

4 A What the bosses wanted you to do, that's  
5 what you did.

6 Q What I'm trying to get a better  
7 understanding of is the amount of time that you spent  
8 with these various machines. Maybe we can try it  
9 this way: Well, let's keep going. A broom; can you  
10 approximate the amount of time that you spent  
11 operating a broom?

12 A What type of broom?

13 Q Well, what types of brooms are there?

14 A Well, there's a slave broom and then  
15 back-up broom. That's the same thing, though.

16 Q Same as a slave?

17 A Some people call it the same thing.

18 Q What other type of brooms did you operate  
19 other than a slave and back-up brooms?

20 A Regulators. They got brooms on them.

21 Q Ballast regulators?

2 2 A Yeah.

23 Q All right. What other types of brooms?

24 A You have a plate broom.

25 Q All right. Any other types?

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1 A That's all I can think of right now. I  
2 know there's some more.

3 Q All right. Can you approximate the  
4 amount of time that you spent operating a slave or  
5 back-up broom?

6 A No. Ain't no way. I mean, to be honest,  
7 I couldn't, no. I couldn't tell you.

8 Q Can you approximate the amount of time  
9 that you spent operating a ballast regulator?

10 A well, since I've --

11 MR. SHAPIRO: I'm objecting, again --  
12 continuing objection -- because we don't know whether  
13 you mean hours ever on a machine or -- seems that a  
14 much clearer way to word the question where it  
15 wouldn't be fuzzy would be when did you first work on  
16 one, over how many years did you work on one, or  
17 something to that effect. That's my objection.

18 BY MS. ARMSTRONG:

19 Q Mr. Barnett, can you answer my question,  
20 please?

21 A How?

22 Q Can you approximate the amount of time  
23 that you spent operating a ballast regulator?

24 A well, since '70s, early '76, '77. I've  
25 been running one since then. I don't know. One week

1 I might run it all week, and back in them days I  
2 might run it a day.

3 Q In a given year, can you approximate the  
4 amount of days that you would have operated a ballast  
5 regulator?

6 A No.

7 Q How about a plate broom; can you  
8 approximate the amount of time that you operated a  
9 plate broom?

10 A Well, when they had them. They still got  
11 them, but we don't use them no more. I know they  
12 probably still do, but I ain't been around one in a  
13 probably five years. Approximately how long have I  
14 been around it? Well, used to they dump rock in the  
15 track and you used it, and they don't do that no  
16 more.

17 Q What do they do now?

18 A You just put it up on the heads or they  
19 pull the track and then fill it up.

20 Q Let them pull the track?

21 A Yeah, they got machines that pull track.

22 Q When you say pulls track, you mean lifts  
2 3 it?

24 A Yeah.

25 Q okay. Off the record.

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2 (off the record.)

3

4 BY MS. ARMSTRONG:

5 Q Mr. Barnett, when I was asking you about  
6 the ability to approximate you used these various  
7 pieces of machinery, I believe you said that you've  
8 used the cribber for approximately ten years, and I  
9 want to make sure I understand your response. I take  
10 it you don't mean that you used it continuously for  
11 ten years; is that right?

12 A Over ten years I've run it.

13 Q All right. So do you mean that you  
14 started using a cribber about ten years ago and you  
15 continue to operate a cribber from time to time now?

16 A Plate broom.

17 Q Okay. Let's just talk about the cribber  
18 for a second and make sure that I can understand the  
19 use that you've made of a cribber, okay? First of  
20 all, when did you first start using a cribber? Do  
21 you remember the first time that you used it?

22 A When you change rail.

23 Q Do you remember what time period?

24 A (Deponent shaking head.)

25 Q would it have been in the '70s or '80s?

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1 A 70s  
2 Q You used a cribber in the '70s. okay.  
3 Can you approximate the number of days that you have  
4 used a cribber?  
5 A No.  
6 Q Let me try this way: Would the number of  
7 days that you have operated a cribber be more or less  
8 than a thousand?  
9 A I don't know.  
10 Q Could be more, could be less?  
11 A Yeah.  
12 Q when you operate a cribber, in a normal  
13 day, how many hours a day would you operate a  
14 cribber?  
15 MR. SHAPIRO: I'm going to object  
16 because --  
17 A According to how much track time you've  
1 8 got.  
19 Q And by that do you mean how much time  
20 you're able to work on a given stretch of track,  
21 which depends on the usage of it?  
2 2 A Yeah .  
23 Q Okay. What range are we talking about?  
24 what's the range of track time that you would have?  
25 A Different time, different places.

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1 According to how many trains they have got. Some  
2 days they have more than they do the others.

3 Q Now, let's talk about that for a second.  
4 In this maintenance-of-way work that you've been  
5 doing, can you describe for me the number of hours  
6 that you actually work in your workday?

7 A I'm trying to think how I can answer that  
8 right. Some days you might get ten hours; some days  
9 you might not get five.

10 Q All right. Let's take it backwards.  
11 Let's talk about the jobs that you're doing now.  
12 You're working on what job currently?

13 A Ballast regulator.

14 Q How long have you been using that ballast  
15 regulator?

16 A Since I got rolled in '80 -- what did I  
17 say?

18 Q 84?

19 A No. I got rolled -- I run a tamper. I  
20 got rolled in '88.

21 Q '88. You were a tamper operator?

22 A And I run a tamper now. That boy is out.

23 Q Somebody is out on vacation?

24 A No, he's out hurt.

25 Q All right. So you have been assigned to

1 a ballast regulator between 1988 and currently, 1994?  
2 A Yeah, but --  
3 Q But you switch because someone is out?  
4 A Well, if somebody is on vacation, I might  
5 do something else.  
6 Q I understand.  
7 A You don't have a set --  
8 Q I understand. Where are you currently  
9 working?  
10 A Belmont. They was. I don't know. They  
11 might have moved.  
12 Q Outside Charlotte?  
13 A They might have moved. I don't know.  
14 Q How long have you been working at that  
15 location?  
16 A A week.  
  
17 Q Where were you before that?  
  
18 A Kannapolis.  
  
19 Q Say it again.  
  
20 A Kannapolis.  
  
21 Q Kannapolis, North Carolina?  
  
2 2 A Yeah.  
  
23 Q And how long were you at that location?  
  
24 A I don't really know. Probably two weeks.  
  
25 Q Okay. And where were you before that?

1           A       Havelock.  
2           Q       Havelock?  
3           A       Yeah.  
4           Q       Where's that?  
5           A       North Carolina, next to Morehead City.  
6           Q       And how long were you at that location?  
7           A       About a month.  
8           Q       Okay. Now, at all three of these  
9 locations that you've just mentioned, were you  
10 operating a ballast regulator?  
11          A       Have I?  
12          Q       Yes, sir.  
13          A       Except Belmont.  
14          Q       And Belmont you've been back on the  
15 tamper because the fellow that normally operates that  
16 is off?  
17          A       Yeah, got hurt.  
18          Q       Okay. At the Belmont location, how many  
19 hours in the workday have you been working, actually  
20 working? How much track time have you had?  
21          A       Let me see. We go to work at seven and  
22 get in about seven.  
23          Q       Twelve hours. But how much of that time  
24 have you been actually working except waiting for the  
25 trains to pass?

I

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1           A     We've been working.  
2           Q     All that you've had track time?  
3           A     Except for dinner. Or we might run up on  
4 a train and we get right back on it.  
5           Q     And how about Kannapolis, how much track  
6 time did you have down there?  
7           A     well, I really wouldn't know. We worked  
8 ten hours a day.  
9           Q     And how much of that time was actually  
10 working rather than waiting for the trains?  
11          A     Most of the time we got. We get it like  
12 five hours and then have to clear for a train and  
13 then go back out. I didn't keep up with it. Foreman  
14 does all that.  
15          Q     And what was the other location that you  
16 said was down by Morehead City?  
17          A     Havelock.  
18          Q     Havelock?  
  
19          A     Yeah .  
  
20          Q     How about down there; what kind of track  
21 time?  
  
22          A     About 13 hours.  
23          Q     Now, that's time actually working on the  
24 train?  
25          A     Yeah. There were no trains. They run  
                  Halasz & Halasz

1 trains at night.

2 Q Mr. Barnett, you've mentioned these  
3 different types of machinery, tamper, ballast  
4 regulator, cribber and broom. In your railroad  
5 career, have you used any one of those types of  
6 equipment more than the others?

7 A Probably the broom and the regulator,  
8 ballast regulator.

9 Q You've used those more --

10 A Of them.

11 Q Are there other types of equipment that  
12 you've used more?

13 A More?

14 Q Yes, sir.

15 A I don't know about that now.

16 MR. SHAPIRO: She means more than those  
17 two.

18 THE DEPONENT: More than those two? I've  
19 run a tamper.

20 BY MS. ARMSTRONG:

21 Q Have you used the tamper more than you've  
22 used the ballast regulator?

23 A Probably.

24 Q Have you used the tamper more than you've  
25 used the broom?

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1 distinguish that from a ballast regulator, you're  
2 talking about two different pieces of equipment,  
3 right?

4 A Yeah, there are ballast regulators  
5 without brooms on them.

6 Q And when you said a moment ago that you  
7 use the ballast regulator more than the broom, you  
8 were referring to a slave broom, weren't you?

9 A Yeah. But I still use a broom on it.

10 Q What you're saying you still use the  
11 broom part of the ballast regulator as you're  
12 operating the ballast regulator?

13 A That's right.

14 Q I understand that. But as far as  
15 operating, being on and operating a piece of  
16 equipment, your best testimony is that you have  
17 operated a ballast regulator, including its broom,  
18 more than you have operated a slave broom; is that  
19 right?

20 A That's right.

21 Q All right. Now, have you used a slave  
22 broom more or less than a cribber?

23 A Slave broom.

24 Q So the way I understand your testimony,  
25 the piece of machinery that you have used most

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1 frequently in your railroad history has been a  
2 tamper?

3 A The most I've used?

4 Q Yes, sir.

5 A Tamper probably, yeah.

6 Q And the second piece of equipment is the  
7 ballast regulator?

8 A Regulator.

9 Q And the third piece of equipment most  
10 used by you has been the slave broom, and the fourth  
11 most used piece of equipment has been the cribber; is  
12 that right?

13 A As far as I know, yeah, that I can  
14 remember.

15 Q Okay. Now, do you discern any difference  
16 between the amount of dust that is raised by the  
17 tamper and the cribber?

18 A What do you mean? Which one throws the  
19 most dust?

20 Q Yes, sir. Does one of those -- does  
21 operating one of those machines create more dust than  
22 operating the other?

23 A The ballast regulator and your slave  
24 broom creates more than any of them. I've swept so  
25 much I couldn't even see you if you were sitting

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1 beside me.  
2 Q Now, what part of the ballast regulator  
3 creates the most dust?  
4 A The most?  
5 Q Yes, sir.  
6 A The broom on it.  
7 Q Using the broom, okay. Have there been  
8 days when you have used the broom on the ballast  
9 regulator where you have not created nearly as much  
10 dust as other days?  
11 A Rainy days.  
12 Q On rainy days it does not create --  
13 A You don't have no dust on rainy days.  
14 Q And do you operate the ballast regulator  
is in the rain?  
1 6 A Yeah.  
17 Q Can you tell me what conditions cause  
18 more dust to be created when you're using the broom  
19 and the ballast regulator or the slave broom?  
20 A If -- come back with me again. I don't  
21 believe that's what you wanted.  
22 Q Can you tell me what conditions,  
23 environmental conditions cause there to be more dust  
24 created when you use the slave broom or the ballast  
25 regu a or?

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1           A        If track's got a lot of dirt off the  
2 trains where trains drop dirt on it or spill stuff  
3 out in the track, fertilizer coming out or something  
4 or another, that causes it. You stir it up and it  
5 will cause more dirt, dust or whatever you want to  
6 call it.

7           Q        What do you mean when fertilizer has been  
8 spilled? You mean accidentally?

9           A        Like we work in yards, pull tracks and  
10 they switch them cars around, there will be big piles  
11 of I guess fertilizer or something coming out of the  
12 cars, and then we got to blow it and sweep it.

13          Q        So you've noticed more dust when you've  
14 had those kinds of conditions?

15          A        Yeah. There's more stuff in the dirt.  
16 Or when they first unload the rock. If they've  
17 washed the rock -- I don't know if this could -- they  
18 could probably do it. Fresh rock.

19          Q        Fresh rock?

20          A        Where they buy rock out of a rock quarry,  
21 bring it out there. It's got more -- I don't know  
22 what you call it -- dust on it or that dust on the  
23 rock when you unload it.

24          Q        I'm not sure I'm following you. What do  
25 you mean by fresh rock?

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1           A       That had never been out on the track.  
2   Where they go to a rock quarry and buy it. When they  
3   unload the rock off the ballast train, that rock will  
4   cause more dust, too.

5           Q       How is that?

6           A       Got more -- where it's been laying there,  
7   the rain has washed up and cleaned the rock. Do you  
8   understand what I'm talking about?

9           Q       I'm not sure I do. Where it's been  
10   laying where?

11          A       On the ballast line. That's where the  
12   ballast sits. If it's been sitting there, the rain  
13   washes the dirt off the top of the rock unless you  
14   dig under it and dig up the dirt. Do you still not  
15   understand what I'm saying?

16          Q       I'm not following you. Let's see if I  
17   can clear it up for myself. You're distinguishing  
18   now between --

19          A       You asked me which condition is the most  
20   dust .

21          Q       Yes, sir.

22          A       That's it.

23          Q       Which one now? I'm lost. Help me. What  
24   condition are you talking about creates the most  
25   dust?

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1           A       where stuff is spilled on the track and  
2 fresh ballast.  
3           Q       I understand when you talk about stuff  
4 spilled on the track. What I'm trying to talk about  
5 is fresh ballast. When you say the fresh ballast  
6 causes more dust --  
7           A       Causes? It's got more dust in it.  
8           Q       It's got more dust in it?  
9           A       It causes more dust.  
10          Q       And you're distinguishing between fresh  
11 ballast, which is brought from the quarry --  
12          A       You asked which one had the most, and  
13 that's the one that has the most dust in it.  
14          Q       As opposed to other ballast, ballast  
15 gotten where?  
16          A       All ballast they bring has dust in it.  
17 It sits out there and rain --  
18          Q       Maybe I'm following you now. You're  
19 talking about if the ballast has just been --  
20          A       Dumped out.  
21          Q       So it's fresh as opposed to having been  
22 sitting there for  
23          A       For a year, two years.  
24          Q       Where the rain has come on before you  
25 have to deal with it?

1           A     If you get down in it deep, you'll get  
2 the dust up. if it's got dirt in it, you will get  
3 dust up.

4           Q     How often do they unload the ballast? Is  
5 it several months before you come and work with it,  
6 do you know?

7           A     Used to we unload ballast every time we  
8 used to pull track, but they don't do that now.  
9 That's when we had that plate broom.

10          Q     How have they changed the procedure?

11          A     The procedure?

12          Q     Yes, sir.

13          A     You pull the track, and then you put rock  
14 in. If you need rock, they bring it out there and  
15 unload it.

16          Q     And how did it use to be?

17          A     They used to unload the rock, and you  
18 filled the rock up in the track. And then you had  
19 your plate broom sweep the plates out so there  
20 wouldn't be no rock getting up underneath the rail.

21          Q     You mean between the tie plate and the  
22 rail?

23          A     Yeah.

24          Q     When did they make that change?

25          A     Well, they still do it on some gangs I

1 t h i n k  
2 Q when did your gang --  
3 A Change? I don't know. I know we used to  
4 do it all the time. Probably in -- I don't know. if  
5 I guessed, I wouldn't know for sure. I'd be  
6 guessing.  
7 Q Do you know why they changed the  
8 procedure?  
9 A No.  
10 Q Has it been more than two years since the  
11 procedure was changed --  
12 A I don't know.  
13 Q -- for your gang?  
14 A It's been more than that.  
15 Q Can you approximate how many years?  
16 A No. It's been more than two years,  
17 though.  
18 Q Has it been more than five years?  
19 A I don't know.  
20 Q Someplace between two and five years?  
21 A It's probably been more than that five  
22 years. I don't know.  
23 Q Probably more than five years, possibly  
2 4 less?  
25 A I don't know. According to where we're

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1 at, what's got to be done.

2 Q Who makes the decision as to the  
3 procedure that will be used?

4 MR. SHAPIRO: As to which procedure,  
5 Ms. Armstrong?

6 MS. ARMSTRONG: The procedure we've just  
7 been talking about.

8 MR. SHAPIRO: As to the way the rock is  
9 addressed? It's a very broad question.

10 BY MS. ARMSTRONG:

11 Q Do you understand my question,  
12 Mr. Barnett?

13 A You said what procedure for what, though?

14 Q Okay. You're talking about them changing  
15 the procedure for bringing -- either using the broom  
16 or not using the broom and either bringing the rock  
17 up under the rail or not bringing it up under the  
1 8 rail .

19 A who made that --

20 Q Is that the procedure we've just been  
21 talking about?

22 A They used to do it that way.

23 Q And do you know who -- and you said some  
24 groups you think still do it that way?

25 A I don't know. But I think. I don't

1 know.

2 Q okay. Do you know whose decision it is  
3 as to which way to do it?

4 A No. It ain't nobody on our gang.

5 Q It's not your supervisor?

6 A I don't reckon. I don't know.

7 Q You don't know. Okay. Mr. Barnett,  
8 would you say that you've used a tamper more than  
9 twice as much as you've used a ballast regulator in  
10 your history with the railroad?

11 A Twice as much?

12 Q Yes, sir.

13 A I don't know. I might be on the tamper  
14 the next day.

15 Q I understand that you switch around, but  
16 I'm saying looking at your history with the railroad,  
17 would you say that you've used the tamper  
18 approximately twice as much as you've used a ballast  
19 regulator?

20 A I don't know that because sometimes I run  
21 a tamper and then go back and get a regulator and  
22 catch up that way.

23 Q So you're not able to make that  
24 approximation?

25 A No, because somebody might be out and got  
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1 new people in working here, and then you'd go catch  
2 the rest of it.

3 Q Would you be able to assign percentages  
4 between the tamper, the ballast regulator, the slave  
5 broom and the cribber?

6 A Same question you asked me, and I cannot.

7 Q You can't assign percentages to any of  
8 them?

9 A No.

10 Q But you can tell me that you've used the  
11 tamper more than the others?

12 A Yeah, probably. Probably have.

13 Q Mr. Barnett, what is the first time that  
14 you ever recall seeing any type of respirator or mask  
15 used by anybody on the railroad?

16 A First time?

17 Q Yes, sir.

18 A Probably when they come out there and  
19 checked us for masks, told us we had to start wearing  
20 them. I know they --

21 Q When was the first time you ever saw  
22 anyone using them?

23 A Probably when they bought it their self  
24 and put it on.

25 Q Well, I'm not asking how they got it

1 right now. I'm just asking when it was.

2 A I don't know.

3 Q Did you see anybody using a respirator or  
4 a mask working for the railroad in the 1970s?

5 A Huh-uh.

6 Q Is that a no?

7 A No.

8 Q Did you see anyone using a respirator or  
9 a mask while working for the railroad between 1980

10 and 1985?

11 A No, I don't think I did.

12 Q Did you see anyone using either a  
13 respirator or mask while working for the railroad  
14 between 1985 and 1990?

15 A Just the one I told you. I think a boy  
16 bought it and used it.

17 Q You think that was between 1985 and 1990?

18 A Yeah, probably.

19 Q Who did you see using one?

20 A James Owens, but he's dead. I believe I  
21 gave you his name and told you he was dead. He used  
22 to run a ballast regulator all the time.

23 Q He was a ballast regulator operator?

2 4 A Uh-huh.

25 Q Did he spend more than two-thirds of his  
Halasz & Halasz

1 time running a ballast regulator?

2 A I would say so, yeah.

3 Q How was it that he spent so much of his  
4 time on one piece of machinery whereas you --

5 A He didn't know how to run the others.

6 Q Did you see anyone else using either a  
7 respirator or a mask between 1985 and 1990?

8 A Yeah. I believe it was '89 when they  
9 come out there and fitted us for masks. I ain't for

0 sure .

11 Q All right. Let me narrow it then. Let's  
12 make it between 1985 and 1988. Do you recall anyone  
13 other than James Owens wearing either a respirator or  
14 a mask between 1985 and 1988?

15 A I can't remember. Only reason I can  
16 remember that boy, he had them big old filters on the  
17 s i d e .

18 Q Did he have one of those?

19 A Yeah.

20 Q So James Owens had one --

21 A No, I don't know about -- I can't  
22 remember for sure. I remember -- seemed like he had  
23 like a painting mask.

24 Q That who used? Are you talking about  
25 James Owens or somebody else?

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1           A     James Owens I think. It might have been  
2 somebody else. I know he wore one.

3           Q     Do you know why he wore --

4           A     Because he was working in the yard.

5           Q     That's when he wore it; when he was  
6 working in the yard?

7           A     Yeah, because all the chemicals, the  
8 spills and stuff they had in there and sweeping.

9           Q     Do you know why he wore it?

10          A     Why?

11          Q     Yes, sir.

12          A     I guess because he could breathe.

13          Q     Did you have any conversation with him  
14 about using it?

15          A     No.

16          Q     Did you have any conversation with  
17 anybody about the fact that James Owens was using a  
18 respirator?

19          A     Just about how dusty it was.

20          Q     What conversation did you have with  
21 anybody about that?

22          A     We could see it from a mile away coming  
23 down the track.

24          Q     See what?

25          A     Dust .

1 Q Caused by what?  
2 A Sweeping dust.  
3 Q Did you have any conversations with  
4 anybody about the dust?  
5 MR. SHAPIRO: At any time to the present  
6 day or back then? I mean, you've got to define the  
7 question. of course he's talked to someone about  
8 d u s t .  
9 BY MS. ARMSTRONG:  
10 Q Mr. Barnett, have you had any  
11 conversations with anyone about the dust that you  
12 were exposed to while working on the railroad?  
13 A Since I've been working on the railroad?  
1 4 Q Yes, sir.  
1 5 A Yes .  
  
16 Q Who have you had conversations with?  
17 A Supervisor.  
18 Q What supervisor?  
19 A My supervisor. Different ones.  
20 Q Well, which ones?  
21 A Which ones? I'm trying to think. About  
22 all of them I guess, as far as I can remember.  
23 Q Well, name them for me one by one.  
24 A Well, there's Gerald Doby. Gahagan.  
25 You ve got it wrote down there.

1 Q I know, but I have to go back and find  
2 it. Any others? Any other supervisors that you've  
3 had conversations with regarding the dust?  
4 A Kevin Meeks probably.  
5 Q Kevin Meeks?  
6 A Meeks, yeah.  
7 Q Anyone else?  
8 A Okay. Hoke Rogers. I don't know if they  
9 were it, but I know I said something to them about  
10 it. That don't mean nothing if you say something to  
11 them.

12 Q Anyone else, any other supervisor?  
13 A Probably is, but I can't think.

14 Q All right. What did you say to Gerald  
15 Doby?  
16 A Gerald Doby? A way to fix it.  
17 Everything was open.  
18 Q What do you mean everything was open?  
19 A Everything was open.  
20 Q What do you mean by that?  
21 A If you sit in this seat, machine around  
22 you, ain't nothing. Maybe got a roof over your head.  
23 That's it.  
24 Q when did you have this conversation with  
25 Gerald Doby?

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1 A When?  
2 Q Yes, sir.  
3 A I couldn't -- well, when I was on the  
4 gang.  
5 Q Approximately when --  
6 A I couldn't approximately --  
7 MR. SHAPIRO: Mr. Barnett, let her finish  
8 her questions before you answer. Give her the chance  
9 to finish it.  
10 MS. ARMSTRONG: Well, he knew what I was  
11 asking.  
12 BY MS. ARMSTRONG:  
13 Q Do you have any idea the approximate year  
14 that you had a conversation with Mr. Doby?  
15 A No.  
16 Q Do you know if it was sometime after  
17 1 9 8 5 ?  
18 A It had to be before '85.  
19 Q Why do you say that?  
20 A Because I left the gang in '84.  
21 Q So these conversations you had with  
22 Gerald Doby, Gahagan, Kevin Meeks and Hoke Rogers,  
23 did all of those take place before 1985?  
24 A I say they did, yeah. The best of my  
25 knowledge, I would say so.

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1 Q And what did Gerald Doby tell you?

2 A He didn't tell me nothing. Just looked

3 at me.

4 Q He didn't respond at all?

5 A Just looked at you.

6 Q Was that unusual?

7 A No.

8 Q All right. Did you ask him whether you

9 could use a respirator?

10 A No.

11 Q Did you ask him if you could possibly use

12 a mask?

13 A (Deponent shaking head.)

14 MR. SHAPIRO: Isn't that the same as a

15 is respirator?

16 BY MS. ARMSTRONG:

17 Q You can't just shake your head.

18 A Oh. No.

19 Q Did you have any other conversation with

20 him other than what you've just told me?

21 A That they ought to wash the rock. I've

22 heard that they can buy rock washed that don't have

23 as much dust on it. But they don't listen to

24 somebody like that.

25 Q Gahagan; what conversation did you have  
Halasz & Halasz

1 with Mr. Gahagan?  
2 A Same thing, dust, if he could do  
3 something.  
4 Q And Kevin Meeks; what conversation did  
5 you have with him?  
6 A Same thing.  
7 Q Did you have any response from  
8 Mr. Gahagan?  
9 A No.  
10 Q Did you have any response from Mr. Meeks?  
11 A No.  
12 Q How about Hoke Rogers; what conversations  
13 did you have with him?  
14 A They just look at you.  
15 Q Did you say anything different to him  
16 than you said to them?  
17 A Like you say something to somebody and  
18 they just say something, you know, and you don't say  
19 nothing else.  
20 Q Why is that?  
21 A It don't do you no good.  
22 Q Did you have any response from Hoke  
23 Rogers?  
2 4 A No.  
25 MR. SHAPIRO: I'm going to mention a  
Halasz & Halasz

1 couple of points off the record here, Susan, just in  
2 an effort in case you want to look into these areas  
3 with him.

4 MS. ARMSTRONG: We'll keep it on the  
5 record.

6 MR. SHAPIRO: Okay. In talking with  
7 Mr. Barnett yesterday, he disclosed to me that I  
8 think last year he was provided a filtered mask by  
9 his supervisor, and you might want to discuss that  
10 with him. He also advised me that his ballast  
11 regulator that he normally operates does not have air  
12 conditioning but it has a blower that was installed,  
13 but he didn't know when that was. He also mentioned  
14 that ballast regulators have changed in the last ten  
15 years in the way that I think they used to be open.  
16 He mentioned that. They used to be open, but now  
17 they're closed. That's it.

18 BY MS. ARMSTRONG:

19 Q Mr. Barnett, have you had any  
20 conversations with anyone that you can recall other  
21 than Mr. Doby, Mr. Gahagan, Mr. Meeks, Mr. Rogers,  
22 about dust in working on the railroad?

23 A Probably have, but I can't, no, not for  
24 sure, I can't remember if there's anybody else.

25 Q Are you aware of any conversations that  
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1 anyone else has had with anyone in management  
2 capacity on the railroad regarding dust?  
3 A with what do you mean; officials?  
4 Q Yes, sir.  
5 A (Deponent shaking head.)  
6 Q You need to say yes or no.  
7 A No.  
8 Q Now, have you ever seen sandblasters  
9 working on the railroad?  
10 A Have I ever seen a sandblaster working on  
11 the railroad?  
12 Q Yes, sir.  
13 A Yeah.  
14 Q when did you first see any sandblasters  
15 working on the railroad?  
16 A You're talking about on the track or just  
17 on the railroad?  
18 Q Any place. Sandblasters working any  
19 p l a c e .  
20 A Hanes Yard.  
21 Q When? When was the first time you ever  
22 saw anyone working with a sandblaster?  
23 A In the '80s.  
24 Early '80s or late '80s?  
25 Probably early. '83. I don't know.  
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1 Along in there sometime. I don't know what you  
2 call -- you might be thinking of a bigger sandblaster  
3 than I am maybe.

4 Q What kind of sandblaster were you  
5 thinking of?

6 A They were in there. I didn't see them,  
7 but you can hear them. Sandblasting one of them  
8 boxcars, where they fix boxcars.

9 Q Okay. How about painters; have you ever  
10 seen painters working on the railroad?

11 A Just signalmen.

12 Q what kind of painting do they do?

13 A Paint these signal lights. Polls.

14 Q Have you seen any sandblasters or  
is signalmen using respirator equipment -- excuse me --  
16 using any kind of respirator?

17 A I've seen them out there painting, but  
18 we've been gone by. They stopped when we went by I  
19 reckon.

20 Q Have you ever seen any sandblasters or  
21 signalmen using respirators?

22 A No. I don't know. Like I said, we went  
23 by, and they stooped.

24 Q They stopped doing their work when you  
25 went i)ye

1 A Get out of the way of the machine.

2 Q when did you first become aware that  
3 anybody who worked for the railroad used any type of  
4 respirator?

5 A Come over again now.

6 Q Sure. When did you first become aware  
7 that anyone who works for the railroad used any type  
8 of respirator?

9 A I still don't get what you're saying.

10 Q I'm trying to focus on time, and I'm  
11 asking you when you first became aware that anyone  
12 who worked for the railroad was using any kind of  
13 respirator, any kind of mask or respirator?

14 A The two I said I seen back then, but they  
15 bought them themselves. I don't know. That's the  
16 only thing I can think of or if I'm misunderstanding  
17 your question or what.

18 Q Is it your testimony the first time that  
19 you were aware that anybody who worked for the  
20 railroad used a respirator was when you saw  
21 Mr. Owens --

22 A Owens.

23 Q -- using a respirator that you understood  
24 that he bought for himself?

2 5 A Yeah.

1 Q Do you know how you spell his last name?

2 A No, I don't. All I know it's James

3 Owens. Owens.

4 Q Is it Owens or Owings?

5 A Owings? I might not be saying it right.

6 Q Now, why do you say that he bought it for  
7 h i m s e l f ?

8 A I figured he did.

9 Q Did you ask him?

10 A No. We didn't have nothing like that out  
11 there .

12 Q So you don't really know whether he  
13 bought that for himself or not?

14 A I'd say he did, though. I ain't  
15 positive, but I say he did.

16 Q Did you talk to him about it?

17 A Did I talk to him about it?

18 Q Yes .

19 A I might have said something to him about  
20 'Where did you get it' or something or another, and  
21 he might have said, 'I bought it,' but I don't  
22 recall .

23 Q You don't recall having any  
24 conversations?

25 A That's been too long ago.



1 Q So you don't recall having any  
2 conversations with Mr. Owens about his respirator?

3 A I probably talked to him, yeah. I know  
4 what you're saying, but I probably did talk to him  
5 about where did he get it or something. That's why I  
6 say -- that's why I got in my mind that he probably  
7 bought it.

8 Q Do you have any --

9 A You're talking seven years or more ago,  
10 eight .

11 Q And you don't recall any conversation  
12 with Mr. Owens?

13 A Oh, I talked to him, yeah. I've talked  
14 to James Owens.

15 Q Do you recall any specific conversation  
16 about the respirator?

17 A No, not really.

18 Q when you saw him using the respirator,  
19 did you have any conversation with any of your  
20 supervisors?

21 A Didn't have no supervisor.

22 Q Did you have any boss?

23 A Boss?

24 Q Yes .

25 A Yeah.

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1 Q Who did you consider your boss?  
2 A The foreman.  
3 Q And who was that at the time that you saw  
4 Mr. Owens wearing his respirator?  
5 A Arthur Robert.  
6 Q Author Roberts?  
7 A Arthur.  
8 Q Arthur?  
9 A Yeah, like Arthur. Roberts.  
10 Q And where was that job?  
11 A where was that job?  
12 Q Yes, sir.  
13 A Same job I'm on now.  
14 Q Which one?  
15 A The gang I'm on now.  
16 Q Well, where were you working at the time  
17 you saw  
18 A Where were we working then?  
19 Q Yes, sir.  
20 MR. SHAPIRO: Just to your best  
21 recollection, Mr. Barnett.  
22 A I don't know.  
23 Q I need to make sure I understand  
24 correctly. Do I understand correctly, Mr. Barnett,  
25 that you don't know what job site you were working  
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1 at --  
2 A Where we were at.  
3 Q -- when you saw Mr. Owens wearing the  
4 respirator?  
5 A No, i can't remember where we were at.  
6 No, no way.  
7 Q Now, what type of respirator was  
8 Mr. Owens wearing?  
9 A I don't know.  
10 Q Can you describe it to me?  
11 A It had the filters on each side. I don't  
12 know what -- I probably could have told you back  
13 then, but I don't know now.  
14 Q All right. when did you first become  
15 aware of any policy that Norfolk Southern had  
16 regarding the use of respirators?  
17 A Around '88, '89, right when they come out  
18 there and give us that test.  
19 Q And what did you understand the policy to  
20 be?  
21 A That the dust was harmful to us. That's  
22 what they said.  
23 Q Who told you that?  
24 A Who told me that?  
25 Q Yes, sir.

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1 A The track supervisor.

2 Q What was his name?

3 A Craig Webb.

4 Q And what else did he say?

5 A What else did he say?

6 Q Yes, sir.

7 A He just come out there and fitted us for  
8 them masks; that we had to start wearing these masks;  
9 that the dust was harmful; OSHA or something. I  
10 can't remember exactly what he said. Something like

1 t h a t .

12 Q What direction were you given with regard  
13 to what type of respirator you were supposed to wear?

14 A None. We had to be shaved. Couldn't  
15 have no beard.

16 Q Did you have a beard before that?

17 A Yeah.

18 Q When did you shave your beard?

19 A When they told us to shave it.

20 Q Do you remember when that was?

21 A No.

22 Q What were you told with regard to the  
23 times when you were supposed to wear the respirators?

24 A Do what now?

25 Q What were you told with regard to the  
Halasz & Halasz

1 time you were supposed to wear the respirators?  
2 MR. SHAPIRO: You mean on what tasks, I  
3 think, right?  
4 A I still don't get what you mean.  
5 Q were you given any instruction about when  
6 you were supposed to use the respirators?  
7 A Yeah.  
8 Q What instruction were you given?  
9 A To wear it when there's dust.  
10 Q Whenever it was dusty?  
11 A Yeah. That we didn't have to wear it  
12 when it was raining. There weren't no dust.  
13 Q was it your understanding that you were  
14 supposed to wear them whenever it was not raining?  
15 A If you're stirring dust up, you wore it.  
16 Q What were you supposed to do when it  
17 wasn't raining and wasn't throwing dust up?  
18 A You didn't have to wear them.  
19 Q Who made the decision when --  
20 A I don't know that now. That's just what  
21 the supervisor told us.  
22 Q For you, how did you decide whether or  
23 not to wear a respirator on any given day, beginning  
24 in 1988 or 1989 when you were given this instruction?  
25 Come with that again, now.

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1 Q Okay. After you had this meeting with  
2 Craig Webb regarding the use of respirators when it  
3 was dusty, how did you go about deciding whether or  
4 not you would wear a respirator on a particular day?  
5 A If you see dust.  
6 Q And did you make that decision?  
7 A Did I make that decision?  
8 Q Yes, sir. In other words, did you wear a  
9 respirator whenever you saw dust?  
I 0 A Yeah .  
11 Q And did anybody have to come by and say  
1 2 to you --  
13 A No, no.  
14 Q -- 'Mr. Barnett, put on your respirator'  
15 A They told me it was dangerous. They  
16 never told me nothing like that.  
17 Q So you would wear a respirator whenever  
18 you saw dust?  
19 A Yeah .  
20 Q And when did you start --  
21 A That was policy.  
22 Q And when did you start doing that?  
23 A When they come out and told us that.  
24 Q And you believe that was in 1988 or 1989?  
25 A Along in there somewhere. Might have

1 been '90. I don't know. Along in there sometime.

2 Q Did you keep any logs or journals or  
3 notes of any kind?

4 A No.

5 Q Okay. Would you have any note reflecting  
6 the date that you had this meeting with Craig Webb?

7 A No. I probably got -- I don't know what  
8 I would have done with that piece of paper.

9 Q What piece of paper?

10 A Where they took --

11 Q The mask?

1 2 A Yeah.

13 Q Where you were fitted for the mask?

1 4 A Yeah.

15 Q As soon as you were fitted for that mask,  
16 is that when you started wearing these respirators?

17 A That's when we were told to start wearing  
18 them.

19 Q So from that date forward you wore a  
20 respirator whenever you saw dust?

21 A That's right.

22 Q All right. Since that policy was  
23 announced, would you approximate for me the  
24 percentage of workdays where you have worn a  
25 respirator?

1 A Since then?  
2 Q Yes, sir.  
3 A Every time you were there sweeping the  
4 dust. That's all I can tell you.  
5 Q Can you approximate the number of days  
6 that you have worn a respirator since that policy was  
7 announced?  
8 A No. You're talking about days and months  
9 and --  
10 Q Yes, sir.  
11 A Ain't no way.  
12 Q Can you approximate --  
13 A Any time I sweep and there was dust, I  
14 had a mask on. That's all I can tell you.  
15 Q Can you approximate for me the percentage  
16 of time that you have been wearing that mask since  
17 the policy was announced?  
18 A When there's dust.  
19 Q Well, I understand. I'm saying how  
20 often --  
21 MR. SHAPIRO: It's been asked and  
22 answered.  
23 MS. ARMSTRONG: It has not been asked and  
24 answered.  
25 MR. SHAPIRO: My objection you've asked



1 the same question. He said he can't approximate.

2 BY MS. ARMSTRONG:

3 Q Mr. Barnett, what I'm trying to  
4 understand is the approximate percentage of days that  
5 you have considered it dusty enough to wear one of  
6 these respirators. Now, if you work a five-day week,  
7 I don't know if you wear on an average respirator  
8 one, two, three, four, five days. And I've  
9 understood your testimony to be that when you see  
10 dust, you wear your respirator, right?

11 A Yeah.

12 Q Okay. Now, I'm trying to get you to help  
13 me understand approximately what percent of the time  
14 you see dust and wear your respirator? Can you do  
15 that?

16 MR. SHAPIRO: My objection is --

17 MS. ARMSTRONG: Your objection has been  
18 stated.

19 MR. SHAPIRO: my objection is going to be  
20 stated again, thank you. my objection to the  
21 question is it's vague. It's ambiguous. The man has  
22 already answered he cannot estimate. You've asked  
23 the same question again. Plus the man has already  
24 told you on many different occasions, there's  
25 different tasks, different days, but you still insist

1 on trying to get him to state an average. That's my  
2 objection.

3 MS. ARMSTRONG: Would you mark this for  
4 me, please?

5 BY MS. ARMSTRONG:

6 Q Mr. Barnett, can you answer my question,  
7 please?

8 A Just like I told you awhile ago, when our  
9 machine -- I might not be on that machine one day.  
10 There ain't no way.

11 Q All right. Last week, how many days did  
12 you wear a respirator?

13 A one day.

14 Q Okay. And the week before, how many days  
15 did you wear a respirator?

16 A I can't remember what I was doing, when I  
17 was running the tamper or running the regulator. Or  
18 what we were doing.

19 Q Well, I haven't even gotten to what you  
20 were doing. I was trying to figure out how many days  
21 you were wearing a mask.

22 MR. SHAPIRO: If you remember,

23 Mr. Barnett.

24 A I don't remember.

25 Q Now, last week when you wore the  
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1 respirator one day, what machine were you operating,  
2 the tamper?

3 A Tamper.  
4 Q All week?  
5 A One day. We were putting ties and stuff  
6 i n .  
7 Q Let me get this straight: Last week how  
8 many days did you operate the tamper?  
9 A Wait a minute. Two days. But not all  
10 day .  
11 Q Okay. So you operated the tamper two out  
12 of five days, part of two out of five?  
13 A Two out of four.  
14 Q You only worked four days last week?  
15 A Yeah.  
16 Q Why is that?  
17 A We work ten hours a day.  
18 Q So your normal workweek is a four-day  
19 workweek?  
20 A That's right.  
21 Q I forgot. I'm sorry. So you operated  
22 the tamper part of two out of four days last week as  
23 best you recall?  
24 A Best I recall, yeah.  
25 Q And on one of those days, you used the

1 respirator and on the other you did not; is that  
2 correct?

3 A Yeah. I used it both times.

4 Q Did you use the respirator one day last  
5 week --

6 A No. Every time I run that machine and  
7 dust, I wear the mask.

8 Q Is it your testimony that any time you  
9 operate the tamper you wear the mask?

10 A If there's dust.

11 Q okay. That's what I thought you said,  
12 and that's why I'm trying to find out whether there  
13 was dust last week. Was there dust last week?

14 A Yeah, I'm sure there was. Yeah, because  
15 I had that mask on.

16 Q Well, a moment ago you thought you were  
17 wearing the mask --

18 A Yeah, I was wearing the mask when I was  
19 running the tamper.

20 MR. SHAPIRO: Let her finish the  
21 question, Mr. Barnett.

22 BY MS. ARMSTRONG:

23 Q A moment ago you said that you wore the  
24 mask one day last week, and then you changed and you  
25 thought you had operated the tamper two days. What

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1 I'm trying to understand is did you wear that mask  
2 both days last week that you operated the tamper?

3 A Yes .

4 Q okay. when was the last time that you  
5 operated the tamper that you did not wear a  
6 respirator?

7 A When it was raining.

8 Q Okay. Have you ever operated the tamper  
9 without wearing the respirator when it has not been

0 raining?

11 A If there was no dust. It can rain --

12 Q And how often is that? How often do you  
13 operate that tamper and it's not raining and there's  
14 not any dust?

15 A Before the rock dries up. Like if it  
16 rained today all day long. In the morning it ain't  
17 going to be dusty. See what I'm talking about?

18 Q Okay. Can you approximate for me how  
19 often that occurs?

20 A No.

21 Q All right.

22 MR. SHAPIRO: I need to take a quick

23 restroom break.

24 MS. ARMSTRONG: All right.

25

(A break was taken.)

2

3 BY MS. ARMSTRONG:

4 Q Mr. Barnett, you told me that you -- if  
5 I've got this right -- that you recall having  
6 conversations with Mr. Doby, Mr. Gahagan, Mr. Meeks,  
7 and Mr. Rogers regarding the dust that you  
8 encountered on your job, correct?

9 A Yeah.

10 Q Can you recall the first time that you  
11 had any of those discussions? I'm looking for the  
12 time frame now, whether it was in the '70s or the  
13 '80s or when it was.

14 A No. All I said is that if something  
15 could be done about that dust.

16 Q Do you remember when you first asked that  
17 something be done about the dust?

1 8 A No.

19 Q When did you first become aware that the  
20 dust could be harmful to you?

21 A Probably '92 when I seen it in a labor  
22 paper, union labor paper.

23 Q And what did the labor paper say?

24 A Said that there's a lot of workers coming  
25 down with silicosis caused from rock dust.

1 Q Where was that publication?  
2 A Where?  
3 Q Yes .  
4 A Brotherhood of Maintenance-of-Way paper.  
5 I don't know. That's all I know.  
6 Q Okay. And what did you do in response to  
7 that paper?  
8 A What did I do in response? I've been  
9 before then having problem about breathing, so I  
10 went -- a boy down in South Carolina, I asked if he  
11 know anything about it, and he suggested Coleman, and  
12 I went to the doctor.  
13 Q Who told you about Dr. Coleman?  
14 A They call him Weasel, but I don't know  
15 what his name is.  
16 Q Weasel?  
17 A That ain't his name. Weasel is his  
18 nickname, yeah.  
19 Q Is this a co-worker?  
20 A Yeah, co-worker. Not on my gang but  
21 Q Well, how did you know Weasel?  
22 A How did I know him?  
23 Q Yes .  
24 A I've been around him before.  
25 Q Where?

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1 A Where?

2 Q Yes .

3 A other, you know, we travel, maybe go and  
4 work there and go somewhere else.

5 Q What is Weasel's position?

6 A I don't know. Laborer. I don't know  
7 what he's doing now.

8 Q Why is it that you talked with Weasel  
9 about this particular concern?

10 A Well, I was talking about -- he said  
11 something, and I said, "Well, I'm getting kind of  
12 short of breath," you know, stuff like that. And  
13 then I seen that in that paper, and he said, "Well,  
14 this fellow there supposed to know something about  
15 it.11 So I wanted to be sure, you know, about what I  
16 had. Find out what I had.

17 Q So Weasel is a laborer who works for  
18 Norfolk Southern?

19 A Yeah, he works for -- I believe Case is  
20 his last name.

21 Q Weasel Case?

22 A No, Weasel is not his name. It's a  
23 nickname.

24 Q well, Weasel is his nickname, and Case  
25 you think is his last name?

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1           A       I might think of it later. I don't know.

2           Q       Where does he live?

3           A       Somewhere around Saluda.

4           Q       Saluda, Virginia?

5           A       No.

6           Q       Saluda, South Carolina?

7           A       Yeah, right around Saluda there. I can't

8 think of it. Tryon or something. Weasel ain't his

9 name now.

10          Q       I understand. That's his nickname?

11          A       Yeah. I don't know if everybody calls

12 him that or not.

13          Q       And that's in South Carolina where he

14 lives?

15          A       Well, North Carolina or South Carolina.

16 Saluda or Tryon, one. Tryon I think it's in North

17 Carolina. Right above Spartanburg.

18          Q       How do you spell Tryon? Do you know?

19          A       I don't know.

20          Q       Okay. And did this Mr. Case have a

21 problem breathing as well?

22          A       I don't know.

23          Q       Do you know how he came to have this

24 information about Dr. Coleman?

25          A       No.

1 Q Does he have a position with the union?

2 A I don't know. He might. I don't know.

3 Q why was it that you sought information

4 from him?

5 A Why?

6 Q Uh-huh.

7 A Because there ain't no doctor where I

8 live .

9 Q Well, but why did you choose Mr. Case?

10 What made him a person who you thought would have

11 some information about this?

12 A I don't know what --

13 Q Why would you have gone to Mr. Case for

14 information about your condition?

15 A I didn't go to him for information. I

16 just was telling you that he said that. I didn't

17 walk up and say, 'Do you know a doctor.' I didn't do

18 that .

19 Q well, how did it evolve?

20 A I told him -- he said, "How are you

21 doing?" And I said, "Well, I'm doing all right, but

22 I'm getting real short of breath." And he brought up

23 something about the labor paper or something, "Have

24 you been checked," and I said, "No, I don't know

25 where to go," and he said there's a doctor there.

1 Q Were you working in South Carolina at the  
2 time?

3 A Yeah.

4 Q Okay. Was he a co-worker of yours at the  
5 time?

6 A No. What do you mean co-worker, working  
7 on the gang?

8 Q Yeah.

9 A No. Not on my gang.

10 Q Is he a friend of yours?

11 A Yeah, I know him, yeah.

12 Q Do you go to his house?

13 A No, no.

14 Q You just bumped into him?

15 A Yeah. When you're out there 20 years,  
16 you know -- meet people.

17 Q Did he recommend you to anybody else  
18 other than Dr. Coleman?

19 A No.

20 Q Did he recommend you to any lawyer?

21 A No.

22 Q When did you first contact a lawyer about  
23 this case, about your possible claim?

24 A After Dr. Coleman said that I probably --  
25 I had silica dust damage to my lung because I know I

1 couldn't handle it myself.

2 Q When was that?

3 A October 30, '92, when I found out.

4 Q That's when you found out -- that's when  
5 Dr. Coleman told you that he thought that you had  
6 some sort of problem with silicosis?

7 A That's right.

8 Q And how long after that did you contact a  
9 lawyer?

10 A Well, I really don't know. I ain't sure.  
11 Wasn't long.

12 Q was the first lawyer that you contacted  
13 the Wilson & Hajek firm?

14 A That's right.

15 Q How did you get their name?

16 A Seen a card somewhere or another.

17 Somebody had it. Or through the union. They have  
18 union meetings and stuff like that where you get all  
19 the lawyer stuff.

20 Q Do you remember who recommended them to  
21 you?

22 A No, I really don't.

23 Q O k a y .

24 A Because I knew I couldn't handle that  
25 silica stuff. I didn't know what to do. And then I

1 just asked him about maybe seeing another doctor for  
2 a second opinion, and that's when I seen Cardona.

3 Q And who recommended you to Dr. Cardona?

4 A I guess Coleman. I told him I wanted to  
5 get another opinion.

6 Q Dr. Coleman recommended you to Dr.  
7 Cardona?

8 A He said I need to see a specialist.

9 Q And did he give you Dr. Cardona's name?

10 A I can't remember. I'm going to see  
11 another doctor here pretty soon.

12 Q Who gave you Dr. Cardona's name?

13 A I guess the lawyer set it up. I can't  
14 remember. I don't know where I got it at.

15 Q Now, would that lawyer have been the  
16 Wilson & Hajek firm?

17 A Yeah, probably, yeah, because I ain't  
18 talked to nobody else. I just talked to him  
19 yesterday. Or met him.

20 Q Now, you say that you're going to go see  
21 yet another doctor?

22 A Get another opinion.  
23 What doctor do you have an appointment  
2 4 with?

25 It's in Pittsburgh, Pennsylvania.  
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1 Q What's the doctor's name, do you know?  
2 A No. All I know he's supposed to be one  
3 of the best in the country on lungs.  
4 Q Who told you that?  
5 A The lawyers said they heard about him. I  
6 told them I wanted another opinion. They didn't  
7 suggest it; I did.  
8 Q But they suggested the doctor?  
9 A I told them I wanted to get another check  
10 to be sure because paper states that it can set up  
11 stuff after you done got it.  
12 Q What do you mean that it sets up stuff?  
13 A well, sets up diseases in your lung.  
14 Q What diseases?  
15 A Well, different types I guess.  
16 Respiratory diseases.  
17 Q Are you aware of any particular diseases  
18 that --  
19 A No.  
20 Q Okay.  
21 MR. SHAPIRO: By the way, the name of the  
22 doctor is Dr. William Calhoun. I think we mentioned  
23 it in our answers. I'm not sure.  
24 A Wonder maybe I can get a test every year  
25 or something, get checked on my lungs. It's been

1 about a year since I've been checked before. Not  
2 quite.

3 Q You say that you first became aware that  
4 dust might be harmful to you in 1992 --

5 A It came out in the labor paper.

6 Q In the labor paper. Tell me, if you  
7 will, what your understanding is of the harm that  
8 this dust can be to you?

9 A You want me to tell you what it can do?

10 Q What you think it can do, yes, sir.

11 A Well, I didn't know it until the doctors  
12 told me that I had it what it done. He said it  
13 settles in your lungs and blocks your passage where  
14 the air comes in, clogs it up, and it's done damage  
15 permanently. Ain't no way they can fix it. Is that  
16 what you're wanting?

17 Q Is that the extent of what you understand  
18 to be the risk associated with breathing in this  
1 9 dust?

20 A Can you rephrase that again?

21 Q I can try. What you've just described to  
22 me, Mr. Barnett, is that the extent of what your  
23 understanding is of your condition?

24 A Plus it can set up diseases later on.

25 Q Do you have any other understanding?

1           A           Understanding of the dust? It takes a  
2 good double-filtered mask to keep it out.  
3           Q           Do you understand anything else about  
4 this supposed condition?  
5           A           I don't know really --  
6           Q           Do you have any other information about  
7 this supposed condition that you have?  
8           A           Just when I see it in labor paper. They  
9 keep coming out with stuff on it.  
10          Q           And you read about that?  
11          A           Yeah.  
12          Q           Have any of the doctors that you've seen  
13 recommended to you any modifications in your  
14 behavior?  
15          A           What do you mean, medicine or --  
16          Q           Any kinds of ways that you could alter  
17 the things that you do to benefit yourself?  
18          A           I guess get out of the dust.  
19          Q           Have any of the doctors discussed  
20 anything else? Have any doctors discussed weight  
2 1 loss?  
2 2          A           No.  
23          Q           Have any doctors discussed different  
24 habits?  
25          A           No. Only thing they discussed that I  
                          Halasz & Halasz



1 didn't need medication yet. Said not to get on it  
2 unless I had to be on it.

3 Q Have they told you anything else?

4 A No, that's -- as far as I can remember,  
5 that's it.

6 Q Have they told you what you can expect in  
7 future years?

8 A No.

9 Q Have they had any discussion with you  
10 about that at all?

11 A They just told me it wouldn't -- couldn't  
12 do nothing -- wouldn't get no -- your lungs wouldn't  
13 get no better.

14 Q Did they tell you they wouldn't get any  
15 worse?

16 A No, they didn't say nothing about that.

17 Q Did they say whether they would get worse  
18 or not?

19 A Well, they said I wouldn't need  
20 medication now but probably would later on. That's  
21 all they said. Not to take it unless I needed it.

22 Q Okay.

23 A Not to get hooked on it is I guess what  
24 they meant.

25 Q And when did they tell you you would need  
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1 i t ?  
2 A When?  
3 Q Yes, sir.  
4 A when I seen Cardona.  
5 Q But when did he tell you that he  
6 anticipated that you might need medication?  
7 A oh, he didn't know. When disease sets up  
8 or your condition gets worse I guess. All he said is  
9 "You just don't need to be on medication yet."  
10 That's all he said, "Yet." So that means I probably  
11 will be later on.  
12 Q Did he tell you that?  
13 A Yeah .  
14 Q Did he tell you when he expected that to  
15 be?  
16 A He probably didn't know for sure, no.  
17 Q Have you discussed your condition or  
18 anything about your health situation with anyone  
19 else?  
20 A Who do you mean?  
21 Q Any other doctors, your family members,  
22 your neighbors, your co-workers, anybody else?  
23 A No.  
24 Q With your wife?  
25 A Wife? She knows it --

1 Q But you haven't discussed it?  
2 A No. Because I don't want to worry her.  
3 Q Have you ever been involved with or been  
4 aware of any testing or studies that have been done  
5 about the work environment that you work in?  
6 A You're talking about dust?  
7 Q Anything to do with dust or other studies  
8 or tests that have been conducted?  
9 A Have I ever been --  
10 Q Have you ever been involved in any?  
11 A Any kind of test?  
12 Q Yes, sir.  
13 A Seemed like maybe noise. I can't  
14 remember --  
15 Q Noise?  
16 A Yeah. I believe noise.  
17 Q Some hearing tests?  
18 A Well, they put it on a machine, back a  
19 long time ago.  
20 Q Are you aware of any tests that have been  
21 conducted where you've worked having to do with dust?  
22 A I ain't never been in nothing like that,  
23 no.  
24 Q Have you read anything about tests that  
25 have been conducted?

Halasz & Halasz

1           A       Huh-uh.  
2           Q       or are you otherwise aware of any tests  
3 that have been conducted?  
4           A       Have been --  
5           Q       Are you aware of any tests?  
6           A       I don't know of none or when they have  
7 been. I guess they have, but I don't know.  
8           Q       Now, you've mentioned Dr. Coleman and Dr.  
9 Cardona. Are you aware of any other doctors that you  
10 have seen at any time having to do with your lungs?  
11          A       Huh-uh.  
12          Q       Is that a no?  
13          A       No.  
14          Q       What did you tell Dr. Coleman about when  
15 you first experienced shortness of breath?  
16          A       I told him I was strenuous work, heavy  
17 work or something, that it seemed like I was getting  
18 shorter each year, shorter of breath, and coughing,  
19 spitting up phlegm, you know, when you cough. And he  
20 said that he'd give me tests. He said, "I'll x-ray  
21 you and give you tests and stuff like that, maybe we  
22 can find out what the problem is, if you've got, you  
23 know, lung disease or what." And then he done the  
24 test, and it comes back and it showed up.  
25          Q       What did he tell you about what the test

1 showed?

2 A That I had damage from silica or had  
3 Si licosis .

4 Q That's what Dr. Coleman told you?

5 A Yeah. Then I wanted to go see somebody  
6 else, you know, know a little bit more, a specialist  
7 or something.

8 Q So you asked your lawyers to give you a  
9 name of another doctor?

10 A Do what?

11 Q So then you asked your lawyers to give  
12 you the name of another doctor?

13 A Yeah.

14 Q Why didn't you ask Dr. Coleman for the  
15 name of another doctor?

16 A Dr. Coleman?

17 Q Yes, sir.

18 A Well, I didn't -- well, the more I  
19 thought about it, I didn't just jump up then. He  
20 said I'd probably have to go somewhere else to see  
21 someone else in that field, lung specialist. That's  
22 why I told him the other day I need to go have it  
23 checked again with somebody else. I mean, I don't  
24 want to get worser or die or nothing like that.  
25 Nobody does that, wants to die.

1 Q Mr. Barnett, you testified that you get  
2 this shortness of breath when you have heavy,  
3 physical exertion; is that right?  
4 A That's right.  
5 Q Would you describe for me what you  
6 consider heavy, physical exertion?  
7 A Well, work hard. That's all I can say.  
8 Work hard, what I call work hard.  
9 Q All right. Let me give you some  
10 examples. When you are sitting in your machine  
11 operating a ballast regulator, does that require  
12 heavy, physical exertion?  
13 A No.  
14 Q When you are operating any of the  
15 machines, tamper, ballast regulator, slave broom --  
16 you say you don't use that much anymore -- the  
17 cribber --  
18 A No, we don't have them.  
19 Q Do any of those machines require heavy,  
20 physical exertion?  
21 A According if they break down, you have to  
22 work on them.  
23 Q If they don't break down, do they require  
24 heavy, physical exertion?  
25 A Huh-uh.

1 Q That was a no?  
2 A No.  
3 Q Okay. How about operating a spiker  
4 machine; do you consider that heavy, physical  
5 exertion?  
6 A Spiker?  
7 Q Yes, sir.  
8 A Yeah, because it weighs about 60, 70  
9 pounds, and you carry it like that.  
10 Q All right. Are there any other  
11 activities that you typically do at work that you  
12 consider heavy, physical exertion?  
13 A Like put on broom hoses. You have to cut  
14 them off and then beat them on with a hammer.  
15 Q Do you consider that heavy, physical  
16 exertion?  
17 A It's not heavy. it's --  
18 Q Strenuous?  
19 A Yeah .  
20 Q Are there any other tasks that you --  
21 A Loading machines.  
22 Q Loading machines with what?  
23 A Put them up on flat cars.  
24 Q And what is physically taxing about that?  
25 A You got to set the ramp up by hand.

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1 Q Is that a job that you typically do?  
2 A It's just when we move.  
3 Q Do you get involved in that typically?  
4 A Yeah, yeah. I mean, not all the time.  
5 Q Right. But frequently?  
6 A Yeah. Like if we move a long distance,  
7 they'll run cars in and we'll set the ramp up. I'm  
8 talking about pieces that weigh 300, maybe more than  
9 that, about that thick, about 12-foot long.  
10 Q You don't lift something that weighs 300  
11 pounds by yourself, do you?  
12 A No. We've got two or three people, but  
13 if something happened to them, I have all the weight  
14 on me on one end. Buckled my knees.  
is Q when was that?  
16 A Well, it buckled my knees the weight was  
17 so heavy, but somebody run come and helped me. He  
18 just grabbed it like that and didn't do nothing.  
19 Q When did this occur? Do you remember how  
20 long ago it was?  
21 A A month or two.  
2 2 Q Okay.  
23 A I mean, I didn't hurt myself, but you're  
24 talking about weight.  
25 Q But it was heavy?

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1           A       Yeah.

2           Q       Are there any other tasks that you  
3 typically do in your job that you consider to be  
4 heavy or requiring a lot of physical exertion?

5           A       Jacking switches.

6           Q       Anything else?

7           A       Shoveling rock. You shovel a lot.

8           Q       Anything else?

9           A       Well, I covered putting hoses on. If a  
10 machine break down, putting motors in. We have to  
11 help them put motors in, stuff like that.

12          Q       All right. Can you think of any other  
13 examples as we sit here today?

14          A       On my gang?

15          Q       Work that you typically do.

16          A       Now?

17          Q       Yes, sir.

18          A       No, I can't think of nothing else now.  
19 Might be, but I can't think of nothing.

20          Q       When you say "now," when did your job  
21 duties last change significantly?

22          A       Would change?

23          Q       Yes, sir.

24          A       Well, probably '84.

25          Q       okay. So since '84

1 A I've been on this gang.

2 Q And the things that you've just named are  
3 the things that you consider physically --  
4 requiring --

5 A It used to didn't bother me to do stuff  
6 like that.

7 Q And when was the last time that you were  
8 involved in any of these tasks that, in your opinion,  
9 require a lot of physical exertion?

I 0 A When?

1 1 Q Yes, s i r .

12 A When we're loading machines up.

13 Q Last week?

14 A No. Probably two months. I'm just  
15 guessing.

16 Q So the work that you were called upon  
17 last week, did you not consider it requiring a lot of  
18 physical exertion?

19 A Using that air hammer was.

20 Q And that was last week?

21 A Yeah.

22 Q Is that the only thing about the job that  
23 you did last week that you consider to have been  
24 to have required a lot of physical exertion?

25 MR. SHAPIRO: I don't understand your

1 question.

2 MS. ARMSTRONG: I'll restate it.

3 BY MS. ARMSTRONG:

4 Q Mr. Barnett, you've told me that last  
5 week you worked four days, right?

6 A Yeah.

7 Q And on parts of two of those days you  
8 worked on the tamping machine?

9 A Not all day now.

10 Q Right. On part of two days you worked on  
11 the tamping machine; is that right?

12 A About 15 minutes or 20 minutes about all  
13 it took.

14 Q All right. And the rest of that four-day  
15 period --

16 A Labor.

17 Q Now, you told me already that working  
18 that air hammer you consider to have required a lot  
19 of physical exertion?

20 A Putting rubber mats in, too.

21 Q Did you do that last week?

22 A Yeah. Do you know what a rubber mat is?

23 Q No. What's a rubber mat?

24 A Rubber mat is at a crossing.

25 Q And that was part of your job last week?

1           A        (Deponent nodding head.)  
2           Q        That's a yes?  
3           A        Yes .  
4           Q        Are there any other parts of your job  
5 that you did last week that you consider to have  
6 been -- to have required a lot of physical exertion?  
7           A        Yeah, moving them rubber mats around.  
8           Q        You've named the mats and you've named  
9 the air hammer. Anything else that you did last week  
10 that you consider to have required a lot of physical  
11 exertion?  
12          A        That's the first I know. That's all I  
13 can think of now. There might have been something  
14 else, but I can't think.  
15          Q        Okay. How many -- approximately how many  
16 hours last week did you spend putting that rubber mat  
17 in?  
18          A        We worked down there 40 hours.  
19          Q        Right. But how much of that 40 hours did  
20 you spend involved in putting the rubber mat in?  
21          A        I don't know that now.  
22          Q        Approximately?  
23          A        If I wasn't doing this, I would have been  
24 doing something else.  
25          Q        I know. But I'm trying to understand --  
                  Halasz & Halasz

1           A           I know what you're saying, rubber mat,  
2 how long did it take us to put all that in.

3           Q           How long did you spend in what you  
4 consider to have been physically demanding work last  
5 week between the work that you did putting the rubber  
6 mat in and the work that you did with that air  
7 hammer?

8           A           The air hammer you might run it 20  
9 minutes as fast as you can go.

10          Q           I'm not really interested in how long you  
11 might run it. How long did you run it last week?

12          A           I'll say about 20 minutes.

13          Q           Okay. And --

14          A           Solid, you know. You don't drive five  
15 minutes and set it down and then take your  
16 five-minute break and then get it. You don't take  
17 breaks. Well, here lately they say if you get tired,  
18 sit down and rest. Used to it wasn't like that.

19          Q           So you used that air hammer for about 20  
20 minutes last week, as best you can approximate?

21          A           About that, maybe, yeah.

22          Q           And how long, in addition to that 20  
23 minutes with the air hammer, how long did you spend  
24 doing physically demanding work putting that rubber  
2 5 mat in?

1 A Oh, gosh. I don't know.  
2 Q was it more or less than three hours?  
3 A Oh, yeah.  
4 Q That you were doing physically demanding  
5 work?  
6 A Yeah.  
7 Q Was it more than ten hours that you were  
8 doing physically demanding work on that --  
9 A A man couldn't stand ten hours of that.  
10 Q How long do you consider that you did  
11 physically demanding work in connection with that  
12 rubber mat?  
13 A I don't know what you mean physical. Are  
14 you talking about where it made me tired or --  
15 Q Yes, sir.  
16 A Anything is physical. Just like some of  
17 them pieces, one of them boys couldn't move it, but I  
18 can move it, see. I'm stouter than they are.  
19 Q Fatter or stronger?  
20 A Stouter.  
21 Q You haven't answered my question, so I  
22 have to ask it again. I'm trying to understand the  
23 part of the effort that you put on that rubber mat  
24 that you considered to have been physically demanding  
25 for you and how long that was. Can you answer that?

1 A No, because I just done my job.

2 Q Was it between five and ten hours?

3 A You're talking about one day or the whole  
4 week?

5 Q The whole week?

6 A Would have been more than that.

7 Q All right. So you can't -- you just  
8 can't or won't tell me

9 A No, I don't know.

10 Q I know you don't know the minute, but  
11 can't you approximate out of 40 hours last week how  
12 long you spent --

13 A My supervisor says, "Go over there and do  
14 that," and I do it.

15 Q I understand that. But how long did it  
16 take you to do it?

17 MR. SHAPIRO: You really asked him so  
18 many different ways, and he said he couldn't. You're  
19 badgering him now.

20 A I really don't know. Honest. We started  
21 at dinner and we worked until 6:00 that day, that  
22 evening putting mats down. That's six hours, see?

23 Q Right .

24 A Next day done the same thing. we had  
25 some putting the middle in, some putting the edge on.

1 Some putting spacing ties. I might be doing this  
2 here and then go over here and do something else.

3 Q Right. I understand that. Can you  
4 estimate for me, Mr. Barnett, the amount of time --

5 A I know what you're saying.

6 MR. SHAPIRO: Let her finish,  
7 Mr. Barnett.

8 BY MS. ARMSTRONG:

9 Q Can you estimate for me the amount of  
10 time out of last week's 40 hours that you worked that  
11 you did what you consider to have been physically  
12 demanding work for you?

13 MR. SHAPIRO: Now, my objection is you've  
14 asked him a million times.

15 MS. ARMSTRONG: Your objection is stated.

16 BY MS. ARMSTRONG:

17 Q Now would you answer the question.

18 MR. SHAPIRO: Just say yes; no; I don't  
19 know; okay?

20 A And you're saying how many hours out of  
21 40 hours that week that I had to work hard?

22 Q Approximately?

23 A That I considered working hard?

24 Q That's right. Approximately?

25 A Probably 30 hours.

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1 Q All right.  
2 A i'm guessing because I really don't know.  
3 MR. SHAPIRO: Mr. Barnett, there's no  
4 more question on the table. Let her ask the  
5 question, okay?  
6 BY MS. ARMSTRONG:  
7 Q Mr. Barnett, are there any activities  
8 outside of work that you used to do that you're  
9 unable to do now?  
10 A Yes .  
11 Q What are they?  
12 A H u n t i n g .  
13 Q Anything else?  
14 A Fishing. If I have to walk, do a lot of  
15 climbing, I can't do that.  
16 Q Anything else?  
17 A I ain't going to say that. Love life.  
18 Q Anything else?  
19 A Not as I know of right now.  
20 Q Okay. When's the last time you went  
21 hunting?  
22 A Last time I went hunting?  
23 Q Yes .  
24 A Probably two years ago.  
25 Q And what kind of hunting did you do?  
Halasz & Halasz

1 A Deer hunting.

2 Q With whom?

3 A Son. Took him.

4 Q Did you get a deer?

5 A No.

6 Q How long were you out?

7 A Well, half a day. Had to come in.

8 Q Why is that?

9 A Walking up a hill.

10 Q How long was the hill?

11 A I don't know. It's steep is all I know.

12 Q Where were you hunting?

13 A Down on my place. My land. my own land.

14 Q so you didn't go deer hunting at all in

15 1 9 9 3 ?

16 A Huh-uh.

17 Q No?

18 A No. It might have been '93 when the last

19 time I went hunting. It's been around that. it's

20 been awhile.

21 Q When's deer season?

22 A November.

23 Q So this past November of '93 did you do

24 any hunting?

2 5 No.

1 Q In '92, did you do --

2 A It had to be '92 I guess.

3 Q All right. Did you get a hunting license

4 last year?

5 A No. Don't have to have them.

6 Q Don't have to have a license?

7 A Huh-uh.

8 Q Do you have to have a fishing license?

9 A Yeah .

10 Q You do?

11 A No. If you fish the river, no.

12 Q All right. When's the last time you did

13 any fishing?

14 A I don't know. It's been so long, I don't

15 know.

16 Q More than five years ago?

17 A Yeah. Probably.

18 Q And why did you stop fishing?

19 A Why?

20 Q Yes, sir.

21 A Because every time I got home, fish would

22 be caught. Plus I'd get tired. I just quit wasting

23 my money. See, trout fishing you have to buy a

24 license. River you don't.

25 Q What kind of fishing did you used to do?

1 A Both.  
2 Q Trout and river?  
3 A Yeah .  
4 Q Now, you mentioned your love life.  
5 What's different about your love life?  
6 A I don't like to talk about that.  
7 Q Well, if your lawyer tells me that you  
8 won't be talking about it at trial, we won't be  
9 talking about that.  
10 A I ain't saying that.  
11 MR. SHAPIRO: In general terms. I don't  
12 think you have to get specific.  
13 A We just -- just short of breath during  
14 sex. Just short of breath.  
15 Q When's the last time that happened to  
16 you?  
17 A Last time?  
18 Q Yes, sir.  
19 A Last week.  
20 Q And what did you do about it?  
21 A What did I do?  
22 Q Yes, sir.  
23 A I rested.  
24 Q okay. For how long?  
25 A I don't know. Until I got my breath.

1           Q     And what percentage of the time does that  
2 interfere with your love life, getting shortness of  
3 breath?

4           A     How has it --

5           Q     What percentage of time does it interfere  
6 with your love life?

7           A     When I have sex.

8           Q     Whenever, every time that you have sex?

9           A     Whenever I have sex, I get tired, yeah,  
10 short of breath. Coughing. If I'm on top.

11          Q     How often do you have coughing spells?

12          A     When I get real tired or wake up or --  
13 mostly when I get real tired I start coughing or  
14 short of breath.

15          Q     How frequently does that happen in a  
16 given week?

17          A     According to what I'm doing.

18          Q     All right. When's the last time you had  
19 a coughing spell?

20          A     Probably last week.

21          Q     Last week?

22          A     Probably. I don't know. I don't keep,  
23 you know, I don't keep -- every time I cough I don't  
24 count it.

25          Q     You haven't had any problem with coughing

1 as we've been here taking your deposition for the  
2 last five hours today, have you?

3 A I coughed a little, but I ain't short of  
4 breath.

5 Q Now, when you have these coughing spells,  
6 what happens?

7 A What happens?

8 Q Yes .

9 A I start coughing.

10 Q How long do they last?

11 A I don't know that. Sometimes tears will  
12 come in my eyes when I'm coughing, and then I  
13 guess -- or cough up phlegm or something, you know,  
14 breaks loose. When I get air it quits. I cough more  
15 than three or four times at one time. I really  
16 couldn't --

17 Q What's the longest coughing spell you've  
1 8 had?

19 A I don't know. I don't -- I couldn't tell  
20 you how many times I've coughed since I've been in  
21 here. I know I've coughed, but not like I was out  
22 here doing -- get short of breath.

23 Q Have any of your co-workers ever  
24 mentioned anything to you about your coughing?

25 A Coughing?

1 Q Yes, sir.  
2 A About breathing? Yeah.  
3 Q About your coughing?  
4 A I'd say they have, yeah.  
5 Q Who?  
6 A Them Johnson boys.  
7 Q What have they said to you?  
8 A "Sit down. Looks like you're going to  
9 pass out or something. Get your breath" or  
10 something.  
11 Q Something?  
12 A Something like that.  
13 Q When's the last time that happened?  
14 A I don't know.  
15 Q What's the first time anybody ever said  
16 anything to you about coughing at work?  
17 A I don't know that neither.  
18 Q Has anybody in your family ever had  
19 tuberculosis?  
20 A As far as I know, I don't think so.  
21 Q How about rheumatoid arthritis; has  
22 anybody in your family ever had any rheumatoid  
23 arthritis?  
24 A I think mama might have had it. I ain't  
25 for sure. Been so long. My brother, he's got  
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1 arthritis I think.

2 Q Do you know what kind?

3 A No. I don't know. I think he has. I  
4 don't know.

5 Q How about sclerosis; has anybody in your  
6 family in kind of sclerosis, any kind of thickening  
7 in the skin or any kind of skin lesions or anything  
8 like that?

9 A I don't reckon.

10 Q Have you ever heard of anyone in your  
11 family been diagnosed with lupus?

12 A What is that?

13 Q A disease.

14 A I know it's a disease, but what?

15 Q Have you ever heard that word used,  
16 lupus, for any of your family members?

17 A I don't reckon.

18 Q when did you have your last physical  
19 examination?

20 A For my lungs?

21 Q For anything? How about a physical with  
22 work; when was the last physical you had for work?

23 A When my DO -- what do they call them

24 cards, where you have to have your health card to

2 5 d r i v e .



1 Q When was that?  
2 A I'd say a year, two maybe. Maybe a year.  
3 I think every two years you take a physical.  
4 Q Do you remember the name of the  
5 doctor that gave you your last physical?  
6 A It's in Salisbury. That's all I can tell  
7 you. That's North Carolina.  
8 Q When's the last time you missed any time  
9 from work for any medical condition?  
10 A Medical condition?  
11 Q Yes, sir.  
12 A I usually take vacation.  
13 Q When's the last time you missed any time  
14 from work? Let me say it another way. Have you  
15 missed any time from work because of this problem  
16 with your lungs?  
17 A No. Not yet.  
18 Q Have you ever been involved in a lawsuit  
19 before?  
20 A Lawsuit?  
21 Q Yes, sir.  
22 A What do you mean, like lawsuit? Where  
23 you have lawyers?  
24 Q Yes, sir.  
25 A Yes .

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1 Q When?  
2 A i believe it was '86.  
3 Q And what was that about?  
4 A Back.  
5 Q What lawyer?  
6 A I want to say Burns. I ain't for sure.  
7 Q Where was your lawyer located?  
8 A Birmingham.  
9 Q What was the outcome of that suit?  
10 A They settled out of court.  
11 Q For how much?  
12 A Forty thousand.  
13 Q Do you know whether a lawsuit was filed?  
14 A Really filed?  
1 5 Q Yes, sir.  
16 A What do you mean?  
17 Q Was your deposition taken in that suit?  
18 A Yeah.  
19 Q Who took your deposition?  
  
20 MR. SHAPIRO: Railroad lawyer.  
  
21 A Railroad is all I can tell you.  
  
22 Q Where was your deposition taken?  
  
23 A Birmingham.  
  
24 Q In Mr. Burns' office?  
  
25 A I don't think it was.

1 Q In the lawyer who took it's office, in  
2 the railroad lawyer's office?

3 A I think so, yeah.

4 Q Do you know where the building was? You  
5 don't know Birmingham?

6 A No.

7 MR. SHAPIRO: We're sure you can get it  
8 expeditiously.

9 BY MS. ARMSTRONG:

10 Q Have you ever been involved in any other  
11 lawsuits?

12 A No.

13 Q Have you ever given a deposition in any  
14 other lawsuit?

15 A Yeah.

16 Q What other lawsuits have you given  
17 depositions?

18 A No, not like her, no. Just claim agent  
19 or agents for the railroad to take a deposition.

20 Q Take a statement from you?

21 A Yeah.

22 Q When was the last time that that  
23 happened?

24 A Last time that that happened? When that  
25 fellow got hurt.

1 Q What, the guy on the tamping machine?  
2 A Yeah .  
3 Q How did he get hurt?  
4 A Throwing a switch.  
5 Q Who did you give the statement to?  
6 A DE supervisor.  
7 Q Department of engineering?  
8 A I guess that's what you call it. DE.  
9 That's all I know. DE. That's what it is, division  
10 of engineering.  
11 Q Do you remember his name?  
12 A Do what?  
13 Q Do you remember his name, the person who  
14 you gave that statement to?  
15 A About that boy's back?  
16 Q Yeah .  
17 A Cody.  
18 Q What was the boy's name?  
19 A That got hurt?  
20 Q Yes .  
21 A David Jordan.  
22 Q Mr. Barnett, did you file your income tax  
23 return last year?  
24 A Yeah .  
25 Q And have you filed it every year?

Halasz & Halasz

1           A       Did I file it every year?  
2           Q       Yes, sir.  
3           A       Yes, ma'am. It's the law.  
4           Q       Do you have a copy of last year's income  
5 tax return?  
6           A       Yes .  
7           Q       Where is that?  
8           A       At the house.  
9           Q       At your house. How about -- have you  
10 filed for 1993 yet? It was due April 15 of this  
11 year .  
12          A       Yeah.  
13          Q       Did you file for 1992 last year?  
14          A       Yeah .  
15          Q       1991, the year before that?  
16          A       Yeah.  
17          Q       And do you have copies of all those  
18 returns?  
19          A       Yeah .  
20          Q       And you have those all at your house?  
21          A       Yeah .  
22          Q       Would you give those to your lawyer so he  
23 can provide them to me, please?  
24          A       Yeah.  
25          Q       Okay.

1 MR. SHAPIRO: Did we give you anything?

2 MS. ARMSTRONG: 1985, and you gave me  
3 some W-2s for some other years but not tax returns.

4 MR. SHAPIRO: Well, we'll have to think  
5 about it. I'm not sure we're going to turn them over  
6 or not. We may just turn over W-2s and all income.

7 MS. ARMSTRONG: Well, we'll take that up  
8 with the Court.

9 MR. SHAPIRO: Maybe.

10 MS. ARMSTRONG: But there's not been an  
11 objection to giving a tax return, so I expect the tax  
12 return promptly. I would have liked it before this  
13 deposition.

14 MR. SHAPIRO: I'll have to look at our  
15 responses. I'm not sure what you said.

16 THE DEPONENT: The company has W-2 forms  
17 what I made.

18 MR. SHAPIRO: This is between the  
19 attorneys, okay, Mr. Barnett?

20 THE DEPONENT: Okay.

21 MS. ARMSTRONG: I'll state for the record  
22 that if it's necessary to reconvene the plaintiff's  
23 deposition to go into matters that are disclosed in  
24 the tax returns that have not been made available at  
25 this point, we'll reserve that right.

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1 BY MS. ARMSTRONG:  
2 Q Mr. Barnett, do you have any sources of  
3 income other than your employment with the railroad?  
4 A I have.  
5 Q What are the other sources of income that  
6 you have?  
7 A Rented apartment.  
8 Q Anything else?  
9 A No.  
10 Q Where is that rented apartment located  
11 at?  
12 A Right beside my house.  
13 Q Who do you rent it to?  
14 A I don't rent it to nobody now. Every  
15 time I rent it I got beat.  
16 Q When's the last time you rented it?  
17 A maybe two or three years.  
18 Q Any other sources of income?  
19 A I just help that boy of mine.  
20 Q Pardon me?  
21 A Helped him raise tobacco one year.  
22 Q Your 16-year-old son?  
2 3 A Yeah.  
2 4 Q Eric?  
2 5 A Yeah.

Halasz & Halasz

1 Q What does he do to raise tobacco?

2 A What did he do? He's trying to fix him a  
3 truck.

4 Q He still lives at home with you and your  
5 w i f e ?

6 A Yeah. He's 16.

7 Q Is he still in school?

8 A Yeah.

9 Q And what do you mean he's trying to fix  
10 him a truck? I don't understand that.

11 A Fixing a truck.

12 Q You mean he's trying to fix up a truck?

13 A Yeah, restore a pickup.

14 Q -Well, what are you talking about helping  
15 him with tobacco?

16 A Well, I filed it on my taxes, but I give  
17 him the money so he'd have something to buy stuff  
18 with. You don't understand, do you?

19 MR. SHAPIRO: You sold tobacco, right?

20 THE DEPONENT: Yeah. I sold it in my  
21 name and gave him the money.

22 BY MS. ARMSTRONG:

23 Q You sold tobacco in your name?

24 A Yeah, but I give him the money.

25 Q Where did you get the tobacco that you



1 sold?  
2 A Father.  
3 Q Your father's farm?  
4 A Yeah .  
5 Q And who did the work on your father's  
6 farm?  
7 A me and the boy.  
8 Q You and Eric?  
9 A Yeah .  
10 Q All right. How much, approximately, was  
11 your income from the farm?  
12 A A thousand dollars.  
13 Q okay.  
14 A It might have been a little more. I  
15 can't remember. It's on the tax.  
16 Q I take that your father at age 91 doesn't  
17 do any more work on that farm, does he?  
18 A He gets out every once in awhile.  
19 Q Okay. About how much time do you spend  
20 working on that farm?  
2 1 A Farm?  
2 2 Q Yes, sir.  
23 A Working, maybe six hours two months a  
24 y e a r .  
25 Q Have you kept working on that farm ever

Halasz & Halasz

1 since you were a young boy?  
2 A No.  
3 Q what period of time did you not work on  
4 the farm?  
5 A When I moved out, moved away.  
6 Q 1 9 7 0 ?  
7 A Yeah, probably '70, '71.  
8 Q When you moved into the apartment at the  
9 store?  
10 A No. I'm trying to think now. It's in  
11 the '70s, early '70s.  
12 Q And then when did you resume working on  
13 the tobacco farm again?  
14 A When he wanted to fix him a truck up.  
15 Q When was that?  
16 A About a year ago, two.  
17 Q All right. The property where you live,  
18 how much acreage do you have there?  
19 A An acre.  
20 Q And what do you have on that acre?  
21 A Yard.  
22 Q Who takes care of the yard?  
23 A He does.  
24 Q Eric does?  
2 5 A Yeah.

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1 Q Do you help at all?  
2 A Very little.  
3 Q okay. How far can you walk before you  
4 get short of breath?  
5 A According to where I'm walking.  
6 Q All right. On a flat level street, how  
7 far can you walk?  
8 A I don't know.  
9 Q Why don't you know?  
10 A I don't get out and walk that much.  
11 Q All right. Have you ever experienced  
12 shortness of breath when walking on flat, level land?  
13 A if I walk far enough, yeah.  
14 Q Well, how far would you have to walk? Or  
15 how far had you walked when you experienced shortness  
16 of breath on flat, level land?  
17 A I don't know. If you walk fast. People  
18 walk fast. According to how I'm walking.  
19 Q When's the last time you were walking on  
20 flat, level ground when you experienced shortness of  
21 breath?  
22 A When?  
23 Q Yes, sir.  
24 A I don't know really.  
25 Q when is the last time that you were  
Halasz & Halasz

1 working on any type of surface when you experienced  
2 shortness of breath?  
3 A When I go up a hill.  
4 Q When was the last time that that  
5 happened?  
6 A Probably last time I went up a steep  
7 h i l l .  
8 Q when was that?  
9 A I don't know. But, I mean, when I went  
10 up a steep hill. According to how fast you're  
11 walking.  
12 Q when was the last time you experienced  
13 shortness of breath when walking up a steep hill?  
14 MR. SHAPIRO: If you remember.  
15 A If I remember, it's probably -- I'm just  
16 guessing -- probably two months, three months.  
17 Q Okay. So that's the last time you  
18 experienced shortness of breath walking?  
19 A walking up a hill.  
20 Q Or walking in any way. Is that the last  
21 time you experienced shortness of breath when walking  
22 that you can recall?  
23 A No. I was walking out there. I don't  
24 uch attention. I just stop and get my  
25 go on.

Halasz & Halasz

1 Q And you don't remember the last time that  
2 happened?  
3 A No.  
4 Q Mr. Barnett, did you ever receive any  
5 kind of counseling because of the number of injuries  
6 that you had had with the railroad?  
7 A Yeah .  
8 Q when did that happen?  
9 A Well, so I don't get killed. But every  
10 accident I've had, I ain't done nothing wrong.  
11 Q When was it that you got that counseling?  
12 A What do you mean, counseling?  
13 Q Well, when they talked with you?  
14 A Just going over my accident report.  
15 Q When was that?  
16 A When was that?  
17 Q Yes .  
  
18 A They go over that about every year.  
  
19 Q When do you remember them talking to you  
20 about the number of injuries that you had had?  
  
21 A Probably first of the year.  
  
22 Q Of 1993?  
  
23 A ' 9 4 .  
  
24 Q 1 9 9 4 ?  
  
25 Yeah. I'm just guessing.

1 Q okay

2 A i tell you what I tell them. I said I  
3 got dehydration. They worked then, you didn't go get  
4 water until you got called up. Stuff like that. I  
5 couldn't help that. Air hammer messed up.

6 Q So you think the reason that you've had  
7 the number of accidents that you've had has been  
8 beyond your control?

9 A Oh, yeah. Ain't nobody going to get hurt  
10 on purpose I hope.

11 Q Did that irritate you when they talked  
12 with you about --

1 3 A No.

14 Q Okay. And did you understand that they  
15 were trying to take precautions to assist you in not  
16 getting hurt on your job? Is that what you  
17 understood the effort to be?

18 A All I know, like when I got hurt, air  
19 compressor, a compressor messed up. Nobody tells you  
20 listen to it, if it reved up, didn't go back up. Or  
21 helping somebody and you say, "You got it?" And they  
22 say, "Yeah," and they drop something down on your  
23 finger. Do it yourself.

24 MR. SHAPIRO: For the record, we'll  
25 object to the line of questioning regarding any other

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1 accidents should the defendant try to offer any part  
2 of this into the trial of this case as irrelevant.  
3 Off the record.

4  
5 (off the record.)

6  
7 MS. ARMSTRONG: I want these things on  
8 the record.

9 MR. SHAPIRO: I won't say it then. if  
10 you're going to hear it, you're going to hear it off  
11 the record.

12 MS. ARMSTRONG: I'm not off the record.

13 MR. SHAPIRO: Any questions you want to  
14 ask him about any wage income he had in the last --  
15 whenever you want to ask, you need to ask him.  
16 whether you have the tax returns or not is --  
17 certainly there's nothing limiting you from asking  
18 him anything you want to ask him about his wage or  
19 anything. I'm going to object just because you get a  
20 tax return later if you suddenly want to ask a  
21 question, which you're free to ask today. So I'm  
22 just putting on the record that, obviously, you can  
23 ask him any of those questions you desire today.

24 BY MS. ARMSTRONG:

25 Mr. Barnett, did you belong to any union  
Halasz & Halasz

1 when you worked for Burlington Industries?

2 A No.

3 Q Did they have any safety meetings that  
4 you remember?

5 A I don't remember none.

6 Q Were you exposed to any kind of chemicals  
7 when you worked with them?

8 A As far as I know, I wasn't.

9 Q How about in the farming, the tobacco  
10 farming that you've done; have you been exposed to  
11 any chemicals?

12 A I don't know -- what kind of chemical?

13 Q Any kind of chemicals?

14 A All the chemicals I used were supposed to  
15 have been safe.

16 Q What chemicals have you used?

17 A Like what you spray tobacco with is  
18 supposed to be safe.

19 Q What have you sprayed the tobacco with?

20 A It's for tobacco. That's all I know.

21 Q Pesticide?

22 A It's a pesticide. Spray it -- I sprayed  
23 it, well, maybe once a year.

24 Q How long has that been being used in the  
25 arm where you've worked?

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1 A i don't know.  
2 Q When's the first time you can remember a  
3 pesticide being used?  
4 A I can't.  
5 Q Back when you were still a boy --  
6 A I know what you're talking about.  
7 Q Did they use it back then, do you know?  
8 A Huh-uh. we caught the worms.  
9 Q How did you go about catching the worms?  
10 A Catching them with your finger.  
11 Q Did you get involved in that?  
12 A Yeah.  
13 Q And you can't tell me the first time  
14 that --  
15 A That I remember?  
16 Q That you remember the pesticide?  
17 A No, I can't remember.  
18 Q Are you aware of any of your co-workers  
19 who have had problems with shortness of breath?  
20 A No, not really.  
21 Q None of them have said anything to you?  
22 A Huh-uh.  
23 Q Is that a no?  
24 A That's a no.  
25 Q Okay. Now, you told me earlier on that  
Halasz & Halasz

1 your father was 91 and in pretty good health except  
2 that he had shortness of breath. Do you remember  
3 that?

4 A That's right.

5 Q what do you know about his condition?

6 A That ' s all .

7 Q That he has shortness of breath?

8 A Yeah. I can't even tell you who his  
9 doctor is.

10 Q How long have you known your father to  
11 have shortness of breath?

12 A Probably when he got 85, 86, 88, along in  
13 there. That's getting old, though.

14 Q You also said that your father was a  
15 smoker?

16 A Yeah.

17 Q How much did your father smoke?

18 A I couldn't tell you that, but all I know  
19 is he smoked.

20 Q What did he smoke?

21 A Different kinds I guess.

22 Q Cigarettes?

23 A Yeah .

24 Q How about cigars?

25 A No, I don't ever remember him smoking no

1 cigar.

2 Q just cigarettes?

3 A just cigarettes.

4 Q Does he still smoke?

5 A No.

6 Q Did he smoke more than one pack a day, do  
7 you know?

8 A I don't know.

9 Q Mr. Barnett, do you remember filling out  
10 a respiratory protection questionnaire in February of  
11 1 9 9 2 ?

12 A February of 1992? No. We had one the  
13 other day I filled out.

14 Q Is this your signature?

15 MR. SHAPIRO: I'm going to state an  
16 objection to the record to any reference to this  
17 basic statement that the defendant may offer in some  
18 way against my client in his injury case because it  
19 violates the Virginia statute, but I'll let him  
20 identify the signature. My objection will be  
21 continuing to any questions relating to this. Go  
22 ahead.

23 BY MS. ARMSTRONG:

24 Q Is that your signature, Mr. Barnett?

25 A It looks like it.

Halasz & Halasz

1 Q Do you remember signing this form?  
2 A No. I filled one out the other day.  
3 Q When did you fill one out the other day?  
4 MR. SHAPIRO: He just told you.  
5 BY MS. ARMSTRONG:  
6 Q Where were you?  
7 A Charlotte.  
8 Q And who cosigned that one with you, do  
9 you remember?  
10 A Nobody cosigned it.  
11 Q Well, there's a space here for --  
12 A All we done was sign it the other day,  
13 and they picked it up and that was it. Filled it  
14 out.  
15 Q The other day when you filled it out, who  
16 did the circling of the answers?  
17 A I did.  
18 Q Do you have any recollection of circling  
19 the answers to this form?  
20 A No.  
  
21 Q Do you have any problem with your memory?  
22 A I guess I do. I don't know.  
23 Q Are you aware of -- are you aware of any  
24 problem with your memory?  
25 A What do you mean?

1 Q Have you ever been told by any doctor,  
2 anybody else that you had a problem with your memory?  
3 A Have a doctor told me? No, I don't  
4 reckon.  
5 Q And is --  
6 A That looks like my signature.  
7 Q Well, I'm going to test your memory right  
8 now. I want to make sure that your memory is not  
9 abnormal. Do you consider yourself to have an  
10 abnormal memory?  
11 A I can't remember names and stuff.  
12 Q Other than that, are you pretty good with  
13 your memory?  
14 A Well, I don't know what you mean good or  
15 w h a t .  
16 Q All right. Can you recognize the  
17 signature below your signature on this document?  
18 A Looks like W. C. something. Ain't it? I  
19 can't make it out.  
20 Q All right. Now, Mr. Barnett, if you had  
21 been asked the question in February, 1992, are you  
22 ever troubled by shortness of breath when hurrying on  
23 a level surface or walking up a slight hill, what  
24 would your response have been?  
25 MR. SHAPIRO: Note my continuing  
Halasz & Halasz

1 objection to this in violation of Virginia statute,  
2 but go ahead and answer.

3 A Now?

4 Q No. The question --

5 A Or then?

6 Q I'll rephrase the question for you.

7 Perhaps your lawyer won't interrupt us this time. if  
8 you had been asked the question in February of 1992  
9 are you ever troubled by shortness of breath when  
10 hurrying on a level surface or walking up a slight  
11 hill, what would your answer have been?

12 A Been no because you'd be afraid they'd  
13 run you out because there's something wrong with you.

14 Q If you had been asked --

15 MR. SHAPIRO: I'm objecting to any  
16 further questions. It's total speculation. You're  
17 asking him if he was asked something two years ago  
18 what would he have said. It's speculative. It has  
19 no probative value.

20 BY MS. ARMSTRONG:

21 Q Mr. Barnett, if you had been asked in  
22 1992 does your chest ever sound wheezy or whistling,  
23 apart from colds, or have you ever had asthma, what  
24 would you have responded?

25 A I ain't never had asthma.

Halasz & Halasz

1 Q If you had been asked that question in  
2 February of 1992, what would you have responded?  
3 MR. SHAPIRO: Note our objection. Calls  
4 for total speculation.  
5 A I don't know.  
6 Q why don't you know?  
7 A I'd put no there.  
8 Q Is that because as of February, 1992,  
9 your chest never sounded wheezy?  
10 A Wheezy? That's when I went to the  
11 doctor. The fall of '92. The reason probably if I  
12 didn't put that down is because people -- if they  
13 think there's something wrong with you, they'll get  
14 rid of you; fire you. That don't sound right, but  
15 that's how people think out there.  
16 Q If you had been asked the question in  
17 February of 1992 do you have frequent coughing  
18 episodes, what would you have responded?  
19 A What do you mean, "frequent"'.?  
20 Q Well, what would you have responded to  
21 the question do you have frequent coughing episodes  
22 as of February, 1992?  
23 A I probably put no down there.  
24 Q And why is that?  
25 A Same reason I told you awhile ago.

Halasz & Halasz

1 Q Afraid of being dismissed?

2 A Being dismissed.

3 MS. ARMSTRONG: Are you trying to state  
4 an objection, Mr. Shapiro?

5 MR. SHAPIRO: No. I was just noticing a  
6 big streak of lightning out the window. Excuse me.

7 BY MS. ARMSTRONG:

8 Q If you had been asked in February, 1992,  
9 do you have high blood pressure, what would you have  
10 responded?

11 A Well --

12 MR. SHAPIRO: I'm not going to interrupt  
13 every time, but I'm just going to say my objection  
14 continues.

15 A I'd probably put yes there. What you  
16 call high or what you call low?

17 Q Well, if you had been asked in February  
18 of 1992, do you have high blood pressure, what would  
19 you have answered?

20 A I'd say no because I don't.

21 MS. ARMSTRONG: I'm going to ask that  
22 this document be marked as an exhibit, please.

23

24 (Barnett Exhibit No. 1, Respiratory  
25 Protection Medical Questionnaire, was  
Halasz & Halasz



marked for identification.)

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MS. ARMSTRONG: Let's take a break. I've got a little bit more of questioning, but let's take a break.

MR. SHAPIRO: make a note that we're taking a break at 5:00.

(A break was taken.)

BY MS. ARMSTRONG:

Q Mr. Barnett, you have provided me with a number of names of co-workers. I want to go through some of them with you. D. D. Sutherlin, do you know D. D. Sutherlin?

A Yeah.

Q when's the last time you saw him?

A When I was on the big gang.

Q When would that have been?

A In the early '80s.

Q And do you know where he currently lives?

A Hurt, Virginia. Over next to Lynchburg

is all I know. Alta Vista.

Q When's the last time you talked with him?

A When I was on the big gang.

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1 Q Okay. M. R. Johnson?  
2 A Yeah.  
3 Q That's the one on the --  
4 A One on the gang now.  
5 Q And you still work with him?  
6 A Yeah .  
7 Q L. R. Wills?  
8 A Still work with him.  
9 Q H. J. Ricker?  
10 A I see him every once in a while.  
11 Q Does he still work with the railroad?  
12 A Yeah .  
13 Q And what's -- he's not with the gang?  
14 A Huh-uh.  
15 Q Are you a social friend of his?  
16 A I know him, yeah.  
17 Q Do you do things with him socially?  
18 A No.  
19 Q G. R. Johnson; that's the Johnson boy  
20 that you still work with?  
21 A Yeah.  
22 Q Are either of the Johnson men social  
23 friends of yours or just working friends?  
24 A Social, what do you mean?  
25 Q Do you do things with them outside of

1 work?

2 A I have, yeah.

3 Q What types of things?

4 A Help cut wood back a long time ago. if  
5 that's what you mean, social. I don't go visit, if  
6 that's what you're talking about.

7 Q When you say help cut wood, what --

8 A At one time I got hurt, they come down  
9 there, and we cut wood when I hurt my back.

10 Q And L. R. Wills, is that a social friend  
11 of yours?

12 A He's the foreman.

13 Q Do you do things with him socially  
14 outside of work?

15 A No.

16 Q A. C. West, who is A. C. West?

17 A Alvin West? He's a fellow that lives in  
18 Tennessee. Worked on this gang I'm on now, but he  
19 don't work on there no more.

20 Q Where does he work now?

21 A I really don't know.

22 Q When's the last time you saw him?

23 A Oh, gosh. Probably four, five years.  
24 I'm just guessing. Might have been longer or  
25 s o r e

1 Q E. L. Case, is that the person you were  
2 talking about Weasel?

3 A What did you say?

4 Q E. L. Case, is that Weasel?

5 A Yeah, that's Weasel.

6 Q Do you consider him a social friend of  
7 yours?

8 A No, I don't visit.

9 Q D. L. Jordan?

10 A David Jordan. That's the one that got  
11 hurt.

12 Q Is he a social friend of yours?

13 A I just work -- co-worker.

14 Q Okay. W. G. Murphy, Jr., who is he?

15 A He's a boy that worked on T and S two.

16 Q Is he a social friend?

17 A Just a friend I reckon.

18 Q Do you ever do anything with him outside  
19 of work?

20 A No.

21 Q G. E. Ledford?

22 A Gary Ledford. He's retired.

23 Q He's retired?

24 A Disability.

25 Q What type of disability did he have?

1 A Ms. That's what he got.  
2 Q Multiple sclerosis?  
3 A Yeah.  
4 Q Do you ever see him anymore?  
5 A Every once in awhile.  
6 Q In what context do you see him?  
7 A If I'm going towards Marshall or  
8 something like that, I see him on the side of the  
9 road, talking to somebody else.  
10 Q You don't do things with him socially?  
11 A No.  
12 Q W. E. Ward, do you do anything with him  
13 socially?  
14 A Who?  
15 Q W. E. Ward?  
16 A From Spartanburg, a supervisor? No, no,  
17 I just know him.  
18 Q what do you mean, "know him"?  
19 A Just track supervisor.  
20 Q T. J.  
21 A Gahagan? Yeah, that's the supervisor.  
22 Q Okay. When's the last time you saw him?  
23 A Seen him this weekend or last weekend  
24 once.  
25 Q whereabouts?

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1           A        There in town. I didn't talk to him, but  
2 I seen him.  
3           Q        Okay. Is he a social friends of yours?  
4           A        Do I visit him? No, we don't visit, no.  
5           Q        G. G. Yeatts, when's the last time you  
6 saw him?  
7           A        Yeatts? Glen Yeatts?  
8           Q        G. G.  
9           A        That's who it would have to be.  
10          Q        When's the last time you saw him?  
11          A        When I was on T and S two.  
12          Q        In 19 --  
13          A        ' 70s .  
14          Q        And he's not a social friend?  
15          A        No. I know him.  
16          Q        R. D. Rogers?  
17          A        Ronny Rogers.  
18          Q        Is he a social friend?  
19          A        Just a co-worker. Worked with him.  
20          Q        On what gang?  
21          A        Two.  
22          Q        T and S two?  
23          A        Yeah .  
24          Q        C. A. Hooper?  
25          A        Craig Hooper works on the gang with me  
                  Halasz & Halasz

1 now.  
2 Q All right. Is he a social friend?  
3 A Just co-worker.  
4 Q S. H. Peszko?  
5 A Teszko. He works in Atlanta.  
6 Q Is it a T?  
7 A Teszko. Should that be a T? That's a  
8 polish name. Teszko. He's polish.  
9 Q All right. Is he a social friend?  
10 A A friend. I know him, yeah, worked with  
11 him on gangs, on two and on this gang.  
12 Q Ever do anything with him outside of  
1 3 work?  
14 A No.  
15 Q R. D. Padgett?  
16 A Social worker.  
17 Q Pardon me? Social? He's a social  
18 friend?  
19 A Just like worked around him.  
20 Q Do you ever do anything with him outside  
21 of work?  
22 A No. He lives too far away.  
23 Q Which gang is he on?  
24 A He's on this gang I'm on now. I don't  
25 know what he's on now.

I

Halasz &amp; Halasz

1 Q G. Doby?

2 A That's a supervisor.

3 Q Is he a social friend of yours?

4 A Well, I don't visit his home. Just work  
5 together.

6 Q J. C. Gass?

7 A He's supervisor.

8 Q All right. J. C. Meeks?

9 A J. C.? That must be Kevin Meeks.  
10 Supervisor.

11 Q Ever see him outside of work?

12 A No.

13 Q A. E. Roberts?

14 A No, I don't see him out of work.

is Q What gang did he work on?

16 A He worked on this gang before he became  
17 supervisor. The one I'm on now.

18 Q All right. W. C. Webb, do you see him  
19 outside of work?

20 A No.

21 Q Ranedy Minor, who is that? Maybe it's  
22 supposed to be Randy. It's got an extra letter in  
23 i t .

24 A He was a supervisor.

25 Q Is it Randy?



1 A Randy, yeah.  
2 Q Do you know him outside of work?  
3 A No.  
4 Q When's the last time you saw him?  
5 A When they promoted him up when he was  
6 working down where he had a territory.  
7 Q When was that?  
8 A '80s, late '80s.  
9 Q S. C. Moore, do you ever see him outside  
10 of work?  
11 A S. C. Moore?  
12 Q Yes, sir.  
13 A No, ma'am.  
14 Q Do you know who that is?  
15 A Yeah.  
16 Q Who is it?  
17 A That's a supervisor up here in Manassas.  
18 Q Who is your current family doctor?  
19 A Don't have one.  
20 Q Does your boy ever get sick?  
21 A Yeah.  
22 Q what do you do when he gets sick?  
23 A Take him to the clinic I guess. RN  
24 nurse. Ain't that what they call them?  
25 Q That's who sees him?

Halasz & Halasz

1           A       Yeah. They don't have -- well, they have  
2 doctors come there in town. But every time you go to  
3 the clinic, you've got to see one of them nurses, and  
4 then they got to call a doctor and get a  
5 prescription. I don't know what they call them.  
6 They're RN nurses, but they've got a name for it.  
7           Q       So you've never had a family doctor?  
8           A       (Deponent shaking head.)  
9           Q       All right. other than the hospitals that  
10 you've already told me about today, have you ever  
11 been to any other hospital?  
12          A       Which one did I tell you?  
13          Q       We have to ask this court reporter to  
14 answer that question for us because I sure can't  
15 remember. Well, let's try another way. Tell me  
16 every hospital that you can ever recall being to?  
17          A       Being to?  
18          Q       Yes, sir.  
19          A       Well, St. Joseph Memorial.  
20          Q       Where is St. Joseph?  
21          A       Asheville. St. Mary I believe is in  
22 Spartanburg. I believe I've got that right. And  
23 let's see. Knoxville at Park West for kidney stone.  
24 Laughlin Hospital in Greeneville for kidney stone. I  
25 believe that's it. They might be some more.

1 Q What were you at St. Joseph Hospital for?  
2 A St. Joseph? Ear surgery.  
3 Q Do you remember when that was?  
4 A I'm just guessing. '75.  
5 Q And that's when you had a laceration on  
6 your face where your face got cut?  
7 A No.  
8 Q What happened?  
9 A What do you mean?  
10 Q What happened to you that required ear  
11 surgery?  
12 A Oh, eardrum. Had a hole in it.  
13 Q What caused that?  
14 A I don't know. Got infected and they had  
15 to patch it.  
16 Q Did you not have a laceration on your  
17 face?  
18 A Yeah, a piece of steel.  
19 Q When was that? Was that before or after  
20 your ear surgery?  
21 A Oh, that was after ear surgery. A spike  
22 head flew up. It's still in there.  
23 Q Okay. When did you first notice a  
24 problem with your ear?  
25 A Ear?

Halasz & Halasz

1 Q When?

2 A When it got infected.

3 Q And that's when you first learned that  
4 you had a hole in your eardrum?

5 A I went to an ear specialist because it  
6 would have a smell to it like it gets infected, and  
7 they wanted to know what was wrong with me. Examined  
8 me and gave me some medicine; said that I had a hole  
9 in my eardrum.

10 Q Did he help you understand how you had  
11 gotten that hole?

12 A No. All I understand pressure built up  
13 or something maybe. I don't know. That's been so  
14 long.

15 MS. ARMSTRONG: All right. Mr. Barnett,  
16 I don't have any further questions just now. Thank  
17 you.

18 MR. SHAPIRO: Mr. Barnett, you have a  
19 right --

20 MS. ARMSTRONG: Wait, wait, wait. Excuse  
21 me. Excuse me. I forgot one thing.

22 BY MS. ARMSTRONG:

23 Q Mr. Barnett, when do you recall the  
24 machines, the ballast regulator being changed?

25 A What do you mean, changed?

Halasz & Halasz

1 Q Was it changed so that a blower was put  
2 on it at any point in time?  
3 A Well, what do you mean "change"? Just a  
4 blower?  
5 Q Were there any other changes made to the  
6 ballast regulator between the time that you started  
7 working with the railroad and now?  
8 A Oh, yeah.  
9 Q What changes?  
10 A They've put side pieces in, doors,  
11 windows to keep you away from the dust.  
12 Q When did they do that?  
13 A They come out -- well, I don't really  
14 know. We got that old one that I used to run. it  
15 had air conditioning on it, but they wouldn't fix it.  
16 Said it was too old to fix. They come -- N and W  
17 Railroad -- and took it down there. Every one that  
18 they bought new had air conditioning on there, and  
19 they brought it down there, and they tore it up and  
20 they wouldn't fix it.  
21 Q Tried to get who to fix it?  
22 A Mechanics.  
23 Q To fix what, the air conditioning?  
2 4 A Yeah.  
25 Q When was that?

Halasz & Halasz

1 A When we got the machine.

2 Q When was that?

3 A Oh, I don't really know. I think it was  
4 late '80s .

5 Q Okay .

6 A I ain't sure.

7 Q And this additional change that you're  
8 telling me about where they've enclosed -- put sides  
9 and windows in it, when did that occur?

10 A When I first seen one?

1 Q Yes, sir.

12 A Except that old one, same railroad come  
13 up, N and W. That's the first one I seen.

14 Q When did you first see it?

15 A I don't know for sure. The new one, air  
16 conditioning, that one came with air conditioning was  
17 '92 when I first seen it.

18 Q Now, tell me, if you will, please, the  
19 different kinds of respirators that you've used while  
20 working on the railroad?

21 A I call it paper respirator, and then they  
22 got one that's got a paper -- got a blower I guess on  
23 it to let the air out. Then I got a supervisor to  
24 get me one with rubber, with the double filters on  
25 t.

Halasz & Halasz

1 Q All right. What's the first respirator  
2 that you ever used?  
3 A Paper I guess. That's what I'd call it,  
4 paper.  
5 Q And when did you first use that?  
6 A When they come out and told us they :iad  
7 to start using the tests.  
8 Q Approximately when was that?  
9 A In '80s. '89 I guess. I don't know for  
1 0 sure .  
11 Q And the first one that you had was paper  
12 you say?  
1 3 A Yeah.  
14 Q Did that help you?  
15 A I guess it did. I don't know.  
16 Q And then how long was it before you :iext  
17 had a different kind of respirator to use?  
18 A When I found out I had something wro@ig  
19 with my lungs. I told them I wanted a better  
20 respirator.  
21 Q And when was that?  
22 A I don't know. J. C. Gass is who I t,-ilked  
23 to.  
24 Q And how long did you talk to them that  
25 you wanted a different kind of respirator were y,-iu  
Halasz & Halasz

1 provided with a different type of respirator?

2 A What now?

3 Q How long after you requested a different  
4 type of respirator --

5 A He went and got it.

6 Q That same day?

7 A Not that same day but that week.

8 Q That's Mr. Gass?

9 A Yeah .

10 Q And you think that was in what year, 1992  
11 did you say?

12 A '93, '92 I guess. I don't know. I can't  
13 say for sure.

14 Q Mr. Barnett, can you help me understand  
15 why it is that you're able to work but you're not  
16 able to hunt?

17 A Because hunting you climb hills,  
18 mountains. Down here you probably wouldn't because  
19 you'd be on flat land. Where I live, it's mountains.  
20 Steeper. Steeper area.

21 Q How about fishing; can you explain to me  
22 why you can't fish?

23 A Why I can't?

24 Q Yes, sir.

25 A Walking the creeks. You're going up the



1 creeks and stuff. I just don't fish anymore.

2 Q All right.

3 A I done more hunting than I did fishing.

4 MS. ARMSTRONG: All right. I don't have  
5 any other questions. Thank you.

6 MR. SHAPIRO: Okay. Mr. Barnett, what I  
7 was starting to tell you before, under the rules you  
8 have a right to review the transcript and rely on her  
9 accuracy -- I'm sorry. Review the transcript for  
10 corrections, or you can waive and give up that right.  
11 And the choice is yours. I would tell you this,  
12 though: You have a lot -- a very strong accent, and  
13 I think it might be a good idea for you to review the  
14 transcript for corrections. And this court reporter,  
15 we have a card, we can get up with her, and she'll  
16 send the thing over for you to review.

17 THE DEPONENT: All right.

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(The deposition was concluded at 5:35 P.M.)

And further this deponent saith not.  
(Reading and signature waived.)

COMMONWEALTH OF VIRGINIA AT LARGE, to wit:  
I, Lori J. Krenik, Notary Public in and for the Commonwealth of Virginia at large, and whose commission expires November 30, 1995, do certify that the aforementioned appeared before me, was sworn by me, and was thereupon examined by counsel; and that the foregoing is a true, correct, and full transcript of the testimony adduced.

I further certify that I am neither related to nor associated with any counsel or party to this proceeding, nor otherwise interested in the event thereof.

Given under my hand and notarial seal at Richmond, Virginia, this 26 day of July, 1994.

Lori J' K@nik - Notary Public  
Commonwealt h of Virginia at Large

