

COURT MINUTES OF COURT TRIAL

APPLETON PAPERS, INC, et al.,

v.
GEORGE A. WHITING PAPER COMPANY, et al.

CASE NO. 08-C-16

HON. WILLIAM C. GRIESBACH PRESIDING

DATE TRIAL BEGAN: February 21, 2012

DEPUTY CLERK: Mary Conard & Dee McLeod Brock

COURT REPORTER: John Schindhelm

PLAINTIFF BY: David Marriott, Darin McAtee, Jennifer Daniels, Vanessa Lavelly - NCR, Michael Hermes Heidi Melzer , Ron Ragatz, Greg Knauss , Megan Sentori, Dennis Birke - API, William Mulligan, Ted Weskowski, Richard Yde-City of Appleton/ NMSC/other

DEFENDANTS BY: David Mandelbaum, Frances Citera, Caleb Holmes - Glatfelter, John Dosken, Patrick Ferguson, Mary Rose Alexander - GP, David Robbins, Nancy Peterson, Peter Karageannes - WTM, Steve Bogart, Tom Gottshall, Steve Bogart - CBC

<u>Date</u>	<u>Time Called</u>	<u>A.M. Break</u>	<u>Lunch Break</u>	<u>P.M. Break</u>	<u>Time Finished</u>	<u>Court Report</u>
Tues. 2/21	9:08	10:30 -10:42	12:03 -1:02	3:01 -3:21	5:30	John Schindhelm
Wed. 2/22	8:32	9:48 - 10:10	11:54 - 1:02	3:00 - 3:34	5:00	John Schindhelm
Thurs. 2/23	8:35	10:10 - 10:30	11:38- 12-48	2:16 - 2:36	5:00	John Schindhelm
Fri 2/24	9:00	10:43 - 11:09	12:30 - 1:30	3:09 - 3:16	3:30	John Schindhelm
Mon. 2/27	9:01	10:42 - 11:01	11:51 - 1:00:	2:11 - 2:31	3:46	John Schindhelm
Tues. 2/28	9:02	10:26 - 10:45	11:50 - 12:59	2:46 - 3:03	3:38	John Schindhelm
Wed. 2/29	9:03	10:25 - 10:45	12:04 - 12:49		1:30	John Schindhelm

Tuesday 2/21

9:08 Case called.

9:08 Atty. Mandelbaum addresses the court.

9:09 Atty. Alexander addresses the court regarding admissibility of exhibits.

9:56 Atty. Krauss responds.

10:04 Atty. McAtee responds.

10:07 Atty. Alexander replies.

10:13 The court reserves ruling and will take objections under advisement during the course of the trial. The court directs parties that if they wish sealed testimony they should make a request on the record.

- 10:22 Atty. Peterson expects three insurance experts to testify. They will request this testimony to be sealed.
- 10:30 Court recesses.
- 10:42 Court resumes.
- 10:45 **Witness Richard Wand** sworn. Direct examination by Atty. Mandelbaum.
Exhibits 2228, 5997, 2230, 2760, 6004, 2114, 2477 received. Exhibits 2458 - through 2489 received.
- 12:02 Court recesses.
- 1:02 Court resumes. Direct examination continues of Richard Wand by Atty. Mandelbaum. **Exhibits 5285, 5288, 5290, 5335, 479, 482 received.**
- 1:28 Cross-examination by Atty. Marriott. **Exhibits 877, 878, 2, 17, 873, 889, 10, 891,874 offered. Exhibits 2 and 17 received.**
- 2:55 Cross-examination by Atty. Hermes.
- 2:57 Redirect by Atty. Mandelbaum.
- 3:01 Court in recess
- 3:20 Court resumes
- 3:21 **Robert J Dolan** to stand. Direct exam by Atty. Jan Conlin
Exhibits 2070, 2887, 2125, 2873, 2496, 2019 , 168, 2112 , 2064 Received
Exhibit 2151 Offered - Objection on relevance & authenticity - court will reserve ruling at later time.
- 5:15 Court adjourned

Wednesday 2/22

- 8:32 Court convenes
- 8:33 **Robert Dolan** returns to stand. Direct exam by Jan Conlin
Exhibits 70006 pg 49, 2903, 3016, 164, Received
- 9:01 Cross exam by Atty. McAtee
Exhibits 155, 156, 2888, 157, Received
- 9:48 Recess
- 10:10 Court resumes cross by Atty. McAtee continues
- 10:21 Cross exam by Atty Ron Rogetz
- 10:23 Redirect by Atty. Jan Colin
- 10:35 **Charles Klass** to stand by deft. Direct exam by Atty. Mandelbaum
Exhibits 3100 Appex C, 2084 Received
Exhibit 2174 offered- objection under hearsay & 702 - court will reserve ruling & receiving exhibit at a later time.
- 11:54 Recess
- 1:02 Court convenes
Exhibits 3100 A & 3100 C , 3896 Received

- 1:05 Cross exam by Atty. Chesler
Exhibit 2505 Received
- 2:25 Cross exam by Atty. Krause
- 2:28 Redirect by Atty. Mandelbaum
Exhibit 2159 offered , objection under hearsay - court wil reserve ruling & take under advisement
- 2:39 **James Kittrell** to stand. Direct exam by Atty. Lytz
Exhibits 2911, 5940, 2903 Received
- 3: 08 Recess
- 3: 34 Direct continues
Exhibits 2095, 2790, 2791,161,100. 2857 Received
Exhibits 2151, 3117 2152, Received Exhibit 2202 court will reserved ruling.
- 4:40 Cross Exam by Atty. Chesler
- 5:00 Court adjourned

Thursday 2/23

- 8:35 Court convenes
Atty. Peterson addresses court on sealing the courtroom when witnesses testify regarding the insurance issue & to seal the testimony as well.
Atty Cohen addresses court on this matter as well. Atty. Lovern addresses the court on this matter as well.
Court will order closure of courtroom and sealing of the testimony of those witnesses court finds good cause has been shown
Atty. Mulligan requests continuing objection on testimony that would relate to NMSC. Atty. Yde makes similar request on behalf of the City.
Atty. McAtee states to court that they have reached a decision with Georgia Pacific
- 8:45 **James Kittrell** returns to the stand. Cross exam continues by Atty. Chesler
- 9;29 Cross exam by Atty.Ragatz.
- 9:29 Redirect by Atty. Lytz
Exhibits 2900, 2668, Received Exhibit 2655 court will reserve ruling.
- 9:46 Atty. Citera addresses court regarding witness
Exhibits 306, 5995, 2508, 2509, 2502, 2503, 2398, 2411, 2864, 2668, 2662, 3072, 3075, Received
- 9:53 **John A. Heitman to stand.** Direct exam by Atty. Citera
- 10:10 Recess
- 10:30 Direct exam continues by Atty. Citera
Cross exam by Atty. McAtee
- 10:50 Redirect exam by Atty. Citera
- 10;59 **Video testimony played of Wiliam L.New**
- 11:30 Recess
- 12:48 Court Resumes

Exhibits 430-433, 444-447, 448, 451, 452, 461-463, 3655, 5343 5357, 5362-5365, 5776, 5793, 5830, 5800, 5822, 5823, 58 53, 5858, 5859, 5860, 5864, 5866, 5870-5873, 5876, 7600, 7601, & 7602 Received

12:53 **Robert Zach** to stand. Cross exam by Atty. Westerfield

Exhibits 409, 534 Received

1:25 Cross Exam by Atty. Alexander

Exhibits 479, 7700 Received

1:35 **Mark Travers** to stand. Direct exam by Atty. Westerfield

Exhibits 434, 438 Received.

1:58 Cross exam Atty. Kearney

Exhibit 5950 Received

2:11 Recross Atty. Westerfield

2:12 Arthur Vogel, Jr. to stand. Direct exam by Atty. Karegeannes

2:16 Recess

2:36 Court Resumes

Atty. Karegeannes addresses discovery issues regarding attorney invoices with the court. Atty's Westerfield & Mandelbaum reply.

Court instructs counsel on to how to proceed & will take objection under advisement.

2:40 Direct exam continues by Atty. Karegeannes

Exhibit 5892, offered court will take under advisement

Exhibit 483 Received

3:12 Cross exam Atty. Kearney

Exhibit 481 Received

3:20 Cross exam by Atty. Westerfield

3:22 Cross exam by Atty. Citera

3:25 Atty. Holmes & Atty. McAtee make same objection to attorney invoices

Court will take objection under advisement.

3:27 **Jay O'Keefe** to stand. Direct exam by Atty. Holmes

Exhibit 6001 offered, objection, court will take under advisement

Cross exam by Atty. McAtee

3:46 Atty. Lovern addresses court regarding witness Thomas Metivier

3:47 Recess

4:01 Court resumes.

4:04 **Video testimony of Dale Shumaker** played

5:00 Court Adjourned

Friday 2/24

9:00 Court Convenes

Court addresses matters. Atty. Lovern requests that the courtroom be Sealed during the testimony of the witness Metivier. Court would prefer that the courtroom remain open unless there is a stronger showing of why it should be closed.

9:07 Court will take brief recess so that the court room can be sealed before testimony regarding insurance issue is presented.

9:11 Court is back on record appearances will be noted. Court room **SEALED** (Appearances: Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbeck WTM)

JP Causey, Jr. to stand Direct exam by Atty. Peterson

Exhibits 778, 781, 870, 3355, 790, 784, 785, 869, 5893 thru 5908 , 5911, 5912 Received. Exhibits 5890, 5891,5889 ,5909, 5910 court will reserve ruling at a later date.

10:30 Atty. McAtee & Atty. Karegeannes address matters with the court
Cross exam by Atty. McAtee.

10:43 Recess

11:09 Court resumes. Court room is still **SEALED** appearances will be noted. (Appearances; Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbeck WTM)

11:10 Cross exam continues by Atty. McAtee

11:28 Redirect by Atty. Peterson **Exhibit 770 Received**

11:39 **Ross J. Mishkin to stand.** Direct exam by Atty, Mandelbaum

Exhibits 682A , 5306, 5307, 5306, 5307, 5310, 5313, 5316-5320, 711-719, 725-731 Exhibits, 732 - 737 under Seal Received

12:30 Recess

1:31 Court resumes

Cross examination with Atty. McAtee

2:08 Redirect by Atty. Madelbaum

2:17 **Exhibits 3191-3354 offered and received under SEAL, no objections.**

2:28 Court breaks

Court resumes Court room is still **SEALED** appearances will be noted.

(Appearances: Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Susan Lovern, CBC, Michael Carlton, Bill Harbeck- time keeper only)

2:43 **John Vishneski III to stand.** Direct begins by Atty. McAtee

Exhibits 845, 847 received.

2:56 Atty. Lovern discusses housekeeping matter regarding Exhibit 843. Plaintiff objects to it. Deft want objection waived. Court takes this under advisement.

3:01 Cross exam by Atty. Lovern.

Exhibit 843 (2009 - C)referred too. Court will reserve ruling on this exhibit.

3:09 Court recess

3:16 Court resumes

Thomas Metivier to the stand. Direct by Atty. McAtee.

Exhibit 868 R (redacted version) offered and received.

3:26 Court adjourned

Monday, 2/27

9:01 Court convenes and addresses matters.

Floyd Strelow to stand. Direct exam by Atty. Ragatz.

9:29 Cross exam by Atty. Citera

10:01 Cross exam by Atty. Karegeannes

10:04 Redirect by Atty. Ragatz

10:07 **Robert Hietpas** to stand. Direct exam by Atty. Ragatz

Exhibits 5, 90, 89 Received

10:42 Recess

11:01 Court Resumes

Cross exam by Atty. Ferguson

11:41 Cross exam by Atty. Citera

11:51 Recess

1:00 Court resumes

1;05 Counsel makes motion to have Doc #1343 on the docket sheet Sealed - Court grants motion and Doc #1343 will be Sealed

Binder of Exhibits 2,000 - 6,000 (excluding exhibits all ready in evidence) listed under Tab 1- Received & Exhibits listed under Tab 2 (excluding exhibits all ready in evidence)(and which are duplicate exhibits of other exhibits that have all ready been Received) and the exclusion of Tab 3 which are reserved for ruling at a later date. Exhibits 3192-3354, 5970, 5976 Received. Atty. Alexander submits list of Insurance Exhibits 794-3354 (with gaps) Received Under Seal. Exhibits 794-806, 3191 Received

- 1:14 Defendant's rest
1:15 Recess
1:26 Court resumes Court room is **SEALED** appearances will be noted. (Appearances Vaness Lavelly NCR, Darin McAtee NCR, Evan Cheseler NCR, Lindsay Smith NCR, Lindsay Colvin NCR, Matthew Pierce NCR, Edward Gallagher NCR, Jennifer Daniels NCR, John HortjcNCR, Dana Crandall NCR, Onid Nasab NCR, Dennis Birke API, Megan Santori API, Ronald Ragatz API, Michael Hermes API, Heidi Melzer API, Greg Krauss API, Pam Barker API, Susan Lovern CBC, Mike Carlton CBC, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbock WTM, David Mandelbaum Glatfelter, Frank Citera Glatfelter, Calbe Holms Glatfelter)
1:27 **Kenneth Abraham** to stand. Direct exam by Atty. McAtee
Exhibit 681A , 1021 & 1019 Received
2:11 Recess
2:31 Court Resumes
2:32 Cross exam by Atty. Mandelbaum
3:16 Cross exam by Atty. Karegeannes
3:44 Atty. Mandelbaum makes motion to strike testimony of Kenneth Abraham based on 702 and insufficient data. Court will hold ruling.
3:46 Court Adjourned.

Tuesday 2/28

- 9:02 Court Convenes
Charles Breeden to stand. Direct exam by Atty. Onid Nasab
9:06 Cross exam by Atty. Alexander
9:49 Cross exam by Atty. Harbeck
10:03 **J. Andrew Schlickman** to stand. Direct exam by Atty. Westerfield
10:13 Cross exam by Atty. Mandelbaum
10:23 Cross exam by Atty. Kargeannes
10: 26 Recess
10:45 Court Resumes
10:46 **Robert Rock** to stand. Direct exam by Atty. Westerfield
Exhibits 1022 - 1025 Received
11:32 Direct exam by Atty. McAtee
11:50 Recess
12:59 Court Resumes
Robert Rock returns to stand Cross exam by Atty. Alexander
Exhibit 46 Received
1:33 Cross exam by Atty. Kearney
1:43 Cross exam by Atty. Mandelbaum
1:51 Redirect by Atty. Westerfield
1:54 **Dedric Bergstrom** to stand. Direct exam by Atty. Lyons

Atty. Citera addresses the court that Dedric Bergstrom is a hostile witness. Court will only address issues that it feels are related to witness being hostile as they occur.

- 2:29 Cross exam by Atty. Citera
- 2:45 Redirect by Atty. Lyons
- 2:46 Recess
- 3:03 Court Resumes
Exhibit 6050 Received
- 3:03 **Video testimony of John Schultz** played.
- 3:08 Technical difficulties in video
- 3:09 Video continues
- 3:36 Video concluded. Attys Rabbino & Atty Lyons address the court regarding the video testimony.
- 3:38 Court Adjourned.

Wednesday 2/29

- 9:03 Court convenes
- 9:04 **Ronald Jezerc** to stand. Direct exam by Atty. Ragatz
- 9:15 Cross exam by Atty. Lytz
- 9:43 Cross exam by Atty. Harbeck
- 9:48 **Neil Shifrin** to stand. Direct exam by Atty. Chesler
Exhibits 323A, 1033-1036, 1037, 1038, 1039, 1040, 1041,1042 Received
- 10:25 Recess
- 10:45 Court resumes
- 10:46 Direct exam by Atty. Chesler continues
Exhibits 1043, 1044, 1046, 1045, 1047, 1048 Received
- 11:29 Cross exam by Atty. Lytz
- 12:04 Recess
- 12:49 Cross exam by Atty. Harbeck
- 12:58 Redirect by Atty. Chesler
Binder marked Exhibit 1053 contains Exhibits 1-1052 (with gaps) under tab 1: under tab 2 Exhibits 501-876 (with gaps) Received; Exhibits 751, 752, 753 will remain under Seal Received ; Exhibits 6054, 6059 Received
- 1:05 Court addresses submission of exhibits with counsel. 1 external hard as courtesy copy for the Judge; All other exhibits to be placed on DVD's in 10MB increments; PDF copy of the exhibit list for docketing.
- 1:08 Plaintiffs Rest
Briefing schedule is set at 1st round of simultaneous exchange on 4/2/12 and the 2nd round of simultaneous exchange on 4/23/12.
- 1:17 Court Adjourned

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Patrick Ferguson, Mary Rose Alexander - GP, David Robbins, Nancy Peterson, Peter
Karageannes - WTM, Steve Bogart, Tom Gottshall, Steve Bogart - CBC -William Mulligan, Ted
Weskowski, Richard Yde-City of Appleton/ NMSC/other

<u>Date</u>	<u>Time Called</u>	<u>A.M. Break</u>	<u>Lunch Break</u>	<u>P.M. Break</u>	<u>Time Finished</u>	<u>Court Report</u>
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Tuesday 2/21

9:08 Case called.

9:08 Atty. Mandelbaum addresses the court.

9:09 Atty. Alexander addresses the court regarding admissibility of exhibits.

9:56 Atty. Krauss responds.

10:04 Atty. McAtee responds.

10:07 Atty. Alexander replies.

- 10:13 ~~The court reserves ruling and will take objections under advisement during the course of the trial. The court directs parties that if they wish sealed testimony they should make a request on the record.~~
- 10:22 Atty. Peterson expects three insurance experts to testify. They will request this testimony to be sealed.
- 10:30 Court recesses.
- 10:42 Court resumes.
- 10:45 **Witness Richard Wand** sworn. Direct examination by Atty. Mandelbaum. **Exhibits 2228, 5997, 2230, 2760, 6004, 2114, 2477 received. Exhibits 2458 - through 2489 received.**
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- 2:57 Redirect by Atty. Mandelbaum.
- 3:01 Court in recess
- 3:20 Court resumes
- 3:21 **Robert J Dolan** to stand. Direct exam by Atty. Jan Conlin **Exhibits 2070, 2887, 2125, 2873, 2496, 2019 , 168, 2112 , 2064 Received Exhibit 2151 Offered - Objection on relevance & authenticity - court will reserve ruling at later time.**
- 5:15 Court adjourned

Wednesday 2/22

- 8:32 Court convenes
- 8:33 **Robert Dolan** returns to stand. Direct exam by Jan Conlin **Exhibits 70006 pg 49, 2903, 3016, 164, Received**
- 9:01 Cross exam by Atty. McAtee **Exhibits 155, 156, 2888, 157, Received**
- 9:48 Recess
- 10:10 Court resumes cross by Atty. McAtee continues
- 10:21 Cross exam by Atty Ron Rogetz
- 10:23 Redirect by Atty. Jan Colin
- 10:35 **Charles Klass** to stand by deft. Direct exam by Atty. Mandelbaum **Exhibit s 3100 Apex C, 2084 Received**

Exhibit 2174 offered- objection under hearsay & 702 - court will reserve ruling & receiving exhibit at a later time.

11:54 Recess

1:02 Court convenes

Exhibits 3100 A & 3100 C , 3896 Received

1:05 Cross exam by Atty. Chesler

Exhibit 2505 Received

2:25 Cross exam by Atty. Krause

2:28 Redirect by Atty. Mandelbaum

Exhibit 2159 offered , objection under hearsay - court wil reserve ruling & take under advisement

2:39 **James Kittrell** to stand. Direct exam by Atty. Lytz

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3: 08 Recess

3: 34 Direct continues

Exhibits 2095, 2790, 2791,161,100. 2857 Received

Exhibits 2151, 3117 2152, Received Exhibit 2202 court will reserved ruling.

4:40 Cross Exam by Atty. Chesler

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Atty. Peterson addresses court on sealing the courtroom when witnesses testify regarding the insurance issue & to seal the testimony as well.

Atty Cohen addresses court on this matter as well. Atty. Lovern addresses the court on this matter as well.

Court will order closure of courtroom and sealing of the testimony of those witnesses court finds good cause has been shown

Atty. Mulligan requests continuing objection on testimony that would relate to NMSC. Atty. Yde makes similar request on behalf of the City.

Atty. McAtee states to court that they have reached a decision with Georgia Pacific

8:45 **James Kittrell** returns to the stand. Cross exam continues by Atty. Chesler

9;29 Cross exam by Atty.Ragatz.

9:29 Redirect by Atty. Lytz

Exhibits 2900, 2668, Received Exhibit 2655 court will reserve ruling.

9:46 Atty. Citera addresses court regarding witness

Exhibits 306, 5995, 2508, 2509, 2502, 2503, 2398, 2411, 2864, 2668, 2662, 3072, 3075, Received

9:53 **John A. Heitman** to stand. Direct exam by Atty. Citera

10:10 Recess

10:30 Direct exam continues by Atty. Citera

Cross exam by Atty. McAtee
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10:59 **Video testimony played of Wiliam L.New**
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Exhibits 479, 7700 Received
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Exhibits 434, 438 Received.
1:58 Cross exam Atty. Kearney
Exhibit 5950 Received
2:11 Recross Atty. Westerfield
2:12 **Arthur Vogel, Jr.** to stand. Direct exam by Atty. Karegeannes
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Atty. Karegeannes addresses discovery issues regarding attorney invoices with the court. Atty's Westerfield & Mandelbaum reply.
Court instructs counsel on to how to proceed & will take objection under advisement.
2:40 Direct exam continues by Atty. Karegeannes
Exhibit 5892, offered court will take under advisement
Exhibit 483 Received
3:12 Cross exam Atty. Kearney
Exhibit 481 Received
3:20 Cross exam by Atty. Westerfield
3:22 Cross exam by Atty. Citera
3:25 Atty. Holmes & Atty. McAtee make same objection to attorney invoices
Court will take objection under advisement.
3:27 **Jay O'Keefe** to stand. Direct exam by Atty. Holmes
Exhibit 6001 offered, objection, court will take under advisement
Cross exam by Atty. McAtee
3:46 Atty. Lovern addresses court regarding witness Thomas Metivier
3:47 Recess
4:01 Court resumes.
4:04 **Video testimony of Dale Shumaker** played
5:00 Court Adjourned

Friday 2/24

9:00 Court Convenes

Court addresses matters. Atty. Lovern requests that the courtroom be Sealed during the testimony of the witness Metivier. Court would prefer that the courtroom remain open unless there is a stronger showing of why it should be closed.

9:07 Court will take brief recess so that the court room can be sealed before testimony regarding insurance issue is presented.

9:11 Court is back on record appearances will be noted. Court room **SEALED**

(Appearances: Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbeck WTM)

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10:30 Atty. McAtee & Atty. Karegeannes address matters with the court
Cross exam by Atty. McAtee.

10:43 Recess

11:09 Court resumes. Court room is still **SEALED** appearances will be noted.

(Appearances; Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbeck WTM)

11:10 Cross exam continues by Atty. McAtee

11:28 Redirect by Atty. Peterson **Exhibit 770 Received**

11:39 **Ross J. Mishkin** to stand. Direct exam by Atty, Mandelbaum

Exhibits 682A , 5306, 5307, 5306, 5307, 5310, 5313, 5316-5320, 711-719, 725-731 Exhibits, 732 - 737 under Seal Received

12:30 Recess

1:31 Court resumes

Cross examination with Atty. McAtee

2:08 Redirect by Atty. Madelbaum

2:17 **Exhibits 3191-3354 offered and received under SEAL, no objections.**

2:28 Court breaks

Court resumes Court room is still **SEALED** appearances will be noted.

(Appearances: Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Susan Lovern, CBC, Michael Carlton, Bill Harbeck- time keeper only)

2:43 **John Vishneski III to stand.** Direct begins by Atty. McAtee

Exhibits 845, 847 received.

2:56 Atty. Lovern discusses housekeeping matter regarding Exhibit 843. Plaintiff objects to it. Deft want objection waived. Court takes this under advisement.

3:01 Cross exam by Atty. Lovern.

Exhibit 843 (2009 - C)referred too. Court will reserve ruling on this exhibit.

3:09 Court recess

3:16 Court resumes

Thomas Metivier to the stand. Direct by Atty. McAtee.

Exhibit 868 R (redacted version) offered and received.

3:26 Court adjourned

Monday, 2/27

9:01 Court convenes and addresses matters.

Floyd Strelow to stand. Direct exam by Atty.,Ragatz.

9:29 Cross exam by Atty. Citera

10:01 Cross exam by Atty. Karegeannes

10:04 Redirect by Atty. Ragatz

10:07 **Robert Hietpas** to stand. Direct exam by Atty. Ragatz

Exhibits 5, 90, 89 Received

10:42 Recess

11:01 Court Resumes

Cross exam by Atty. Ferguson

11:41 Cross exam by Atty. Citera

11:51 Recess

1:00 Court resumes

1;05 Counsel makes motion to have Doc #1343 on the docket sheet Sealed - Court grants motion and Doc #1343 will be Sealed

Binder of Exhibits 2,000 - 6,000 (excluding exhibits all ready in evidence) listed under Tab 1- Received & Exhibits listed under Tab 2 (excluding exhibits all ready in evidence)(and which are duplicate exhibits of other exhibits that have all ready been Received) and the exclusion of Tab 3 which are reserved for ruling at a later date. Exhibits 3192-3354, 5970, 5976

Received. Atty. Alexander submits list of Insurance Exhibits 794-3354 (with gaps) Received Under Seal. Exhibits 794-806, 3191 Received

1:14 Defendant's rest

1:15 Recess

1:26 Court resumes Court room is **SEALED** appearances will be noted. (Appearances Vaness Lively NCR, Darin McAtee NCR, Evan Cheseler NCR, Lindsay Smith NCR, Lindsay Colvin NCR, Matthew Pierce NCR, Edward Gallagher NCR, Jennifer Daniels NCR, John HortjcNCR, Dana Crandall NCR, Onid Nasab NCR, Dennis Birke API, Megan Santori API, Ronald Ragatz API, Michael Hermes API, Heidi Melzer API, Greg Krauss API, Pam Barker API, Susan Lovern CBC, Mike Carlton CBC, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbock WTM, David Mandelbaum Glatfelter, Frank Citera Glatfelter, Calbe Holms Glatfelter)

1:27 **Kenneth Abraham** to stand. Direct exam by Atty. McAtee
Exhibit 681A , 1021 & 1019 Received

2:11 Recess

2:31 Court Resumes

2:32 Cross exam by Atty. Mandelbaum

3:16 Cross exam by Atty. Karegeannes

3:44 Atty. Mandelbaum makes motion to strike testimony of Kenneth Abraham based on 702 and insufficient data. Court will hold ruling.

3:46 Court Adjourned.

Tuesday 2/28

9:02 Court Convenes

Charles Breeden to stand. Direct exam by Atty. Onid Nasab

9:06 Cross exam by Atty. Alexander

9:49 Cross exam by Atty. Harbeck

10:03 **J. Andrew Schlickman** to stand. Direct exam by Atty. Westerfield

10:13 Cross exam by Atty. Mandelbaum

10:23 Cross exam by Atty. Kargeannes

10: 26 Recess

10:45 Court Resumes

10:46 **Robert Rock** to stand. Direct exam by Atty. Westerfield
Exhibits 1022 - 1025 Received

11:32 Direct exam by Atty. McAtee

11:50 Recess

12:59 Court Resumes

Robert Rock returns to stand Cross exam by Atty. Alexander
Exhibit 46 Received

1:33 Cross exam by Atty. Kearney

1:43 Cross exam by Atty. Mandelbaum

- 1:51 Redirect by Atty. Westerfield
1:54 **Dedric Bergstrom** to stand. Direct exam by Atty. Lyons
Atty. Citera addresses the court that Dedric Bergstrom is a hostile witness.
Court will only address issues that it feels are related to witness being hostile
as they occur.
2:29 Cross exam by Atty. Citera
2:45 Redirect by Atty. Lyons
2:46 Recess
3:03 Court Resumes
Exhibit 6050 Received
3:03 **Video testimony of John Schultz** played.
3:08 Technical difficulties in video
3:09 Video continues
3:36 Video concluded. Attys Rabbino & Atty Lyons address the court regarding the
video testimony.
3:38 Court Adjourned.

Wednesday 2/29

- 9:03 Court convenes
9:04 **Ronald Jezerc** to stand. Direct exam by Atty. Ragatz
9:15 Cross exam by Atty. Lytz
9:43 Cross exam by Atty. Harbeck
9:48 **Neil Shifrin** to stand. Direct exam by Atty. Chesler
Exhibits 323A, 1033-1036, 1037, 1038, 1039, 1040, 1041,1042 Received
10:25 Recess
10:45 Court resumes
10:46 Direct exam by Atty. Chesler continues
Exhibits 1043, 1044, 1046, 1045, 1047, 1048 Received
11:29 Cross exam by Atty. Lytz
12:04 Recess
12:49 Cross exam by Atty. Harbeck
12:58 Redirect by Atty. Chesler
**Binder marked Exhibit 1053 contains Exhibits 1-1052 (with gaps) under tab
1: under tab 2 Exhibits 501-876 (with gaps) Received; Exhibits 751, 752, 753
will remain under Seal Received ; Exhibits 6054, 6059 Received**
1:05 Court addresses submission of exhibits with counsel. 1 external hard as courtesy
copy for the Judge; All other exhibits to be placed on DVD's in 10MB increments;
PDF copy of the exhibit list for docketing.
1:08 Plaintiffs Rest
Briefing schedule is set at 1st round of simultaneous exchange on 4/2/12 and the
2nd round of simultaneous exchange on 4/23/12.

1:17 Court Adjourned

COURT MINUTES OF COURT TRIAL

APPLETON PAPERS, INC, et al.,

v.

CASE NO. 08-C-16

GEORGE A. WHITING PAPER COMPANY, et al.

HON. WILLIAM C. GRIESBACH PRESIDING

DATE TRIAL BEGAN: February 21, 2012

DEPUTY CLERK: Mary Conard & Dee McLeod Brock

COURT REPORTER: John Schindhelm

(Appearances for morning of 2/21)

PLAINTIFF BY: David Marriott, Darin McAtee, Evan Chesler, Jennifer Daniels, Vanessa Lavelly - NCR, Dennis Birke, Greg Knauss, Ron Ragatz, API Michael Hermes, Megan Senatori, Heidi Melzer, - NCR/API

DEFENDANTS BY: David Mandelbaum, Frances Citera, Caleb Holmes - Glatfelter; Patrick Ferguson, Mary Rose Alexander - GP; David Rabbino, Nancy Peterson, Peter Karageannes - WTM/Menasha; Steve Bogart, Tom Gottshall, Susan Lovern - CBC/US Paper; William Mulligan, Ted Weskowski, Richard Yde - City of Appleton NMSC/Other

(Note: for all other changes in daily appearances refer to the official transcript)

<u>Date</u>	<u>Time Called</u>	<u>A.M. Break</u>	<u>Lunch Break</u>	<u>P.M. Break</u>	<u>Time Finished</u>	<u>Court Report</u>
Tues. 2/21	9:08	10:30 -10:42	12:03 -1:02	3:01 -3:21	5:30	John Schindhelm
Wed. 2/22	8:32	9:48 - 10:10	11:54 - 1:02	3:00 - 3:34	5:00	John Schindhelm
Thurs. 2/23	8:35	10:10 - 10:30	11:38- 12:48	2:16 - 2:36	5:00	John Schindhelm
Fri 2/24	9:00	10:43 - 11:09	12:30 - 1:30	3:09 - 3:16	3:30	John Schindhelm
Mon. 2/27	9:01	10:42 - 11:01	11:51 - 1:00:	2:11 - 2:31	3:46	John Schindhelm
Tues. 2/28	9:02	10:26 - 10:45	11:50 - 12:59	2:46 - 3:03	3:38	John Schindhelm
Wed. 2/29	9:03	10:25 - 10:45	12:04 - 12:49		1:30	John Schindhelm

Tuesday 2/21

9:08 Case called.

9:08 Atty. Mandelbaum addresses the court.

9:09 Atty. Alexander addresses the court regarding admissibility of exhibits.

9:56 Atty. Krauss responds.

10:04 Atty. McAtee responds.

10:07 Atty. Alexander replies.

10:13 The court reserves ruling and will take objections under advisement during the course of the trial. The court directs parties that if they wish sealed testimony they should make a request on the record.

10:22 Atty. Peterson expects three insurance experts to testify. They will request this testimony to be sealed.

10:30 Court recesses.

10:42 Court resumes.

10:45 **Witness Richard Wand** sworn. Direct examination by Atty. Mandelbaum. **Exhibits 2228, 5997, 2230, 2760, 6004, 2114, 2477 received. Exhibits 2458 - through 2489 received.**

12:02 Court recesses.

1:02 Court resumes. Direct examination continues of Richard Wand by Atty. Mandelbaum. **Exhibits 5285, 5288, 5290, 5335, 479, 482 received.**

1:28 Cross-examination by Atty. Marriott. **Exhibits 877, 878, 2, 17, 873, 889, 10, 891, 874 offered. Exhibits 2 and 17 received.**

2:55 Cross-examination by Atty. Hermes.

2:57 Redirect by Atty. Mandelbaum.

3:01 Court in recess

3:20 Court resumes

3:21 **Robert J Dolan** to stand. Direct exam by Atty. Jan Conlin **Exhibits 2070, 2887, 2125, 2873, 2496, 2019, 168, 2112, 2064 Received Exhibit 2151 Offered - Objection on relevance & authenticity - court will reserve ruling at later time.**

5:15 Court adjourned

Wednesday 2/22

8:32 Court convenes

8:33 **Robert Dolan** returns to stand. Direct exam by Jan Conlin **Exhibits 70006 pg 49, 2903, 3016, 164, Received**

9:01 Cross exam by Atty. McAtee **Exhibits 155, 156, 2888, 157, Received**

9:48 Recess

10:10 Court resumes cross by Atty. McAtee continues

10:21 Cross exam by Atty Ron Rogetz

10:23 Redirect by Atty. Jan Colin

10:35 **Charles Klass** to stand by deft. Direct exam by Atty. Mandelbaum

Exhibits 3100 Appex C, 2084 Received

Exhibit 2174 offered- objection under hearsay & 702 - court will reserve ruling & receiving exhibit at a later time.

11:54 Recess

1:02 Court convenes

Exhibits 3100 A & 3100 C , 3896 Received

1:05 Cross exam by Atty. Chesler

Exhibit 2505 Received

2:25 Cross exam by Atty. Krause

2:28 Redirect by Atty. Mandelbaum

Exhibit 2159 offered , objection under hearsay - court will reserve ruling & take under advisement

2:39 **James Kittrell** to stand. Direct exam by Atty. Lytz

Exhibits 2911, 5940, 2903 Received

3:08 Recess

3:34 Direct continues

Exhibits 2095, 2790, 2791,161,100. 2857 Received

Exhibits 2151, 3117 2152, Received Exhibit 2202 court will reserved ruling.

4:40 Cross Exam by Atty. Chesler

5:00 Court adjourned

Thursday 2/23

8:35 Court convenes

Atty. Peterson addresses court on sealing the courtroom when witnesses testify regarding the insurance issue & to seal the testimony as well.

Atty. Cohen addresses court on this matter as well. Atty. Lovern addresses the court on this matter as well.

Court will order closure of courtroom and sealing of the testimony of those witnesses court finds good cause has been shown

Atty. Mulligan requests continuing objection on testimony that would relate to NMSC. Atty. Yde makes similar request on behalf of the City.

Atty. McAtee states to court that they have reached a decision with Georgia Pacific

8:45 **James Kittrell** returns to the stand. Cross exam continues by Atty. Chesler

9:29 Cross exam by Atty. Ragatz.

9:29 Redirect by Atty. Lytz

Exhibits 2900, 2668, Received Exhibit 2655 court will reserve ruling.

9:46 Atty. Citra addresses court regarding witness

Exhibits 306, 5995, 2508, 2509, 2502, 2503, 2398, 2411, 2864, 2668, 2662, 3072, 3075, Received

9:53 **John A. Heitman** to stand. Direct exam by Atty. Citra

10:10 Recess

- 10:30 Direct exam continues by Atty. Citera
Cross exam by Atty. McAtee
- 10:50 Redirect exam by Atty. Citera
- 10:59 **Video testimony played of Wiliam L.New**
- 11:30 Recess
- 12:48 Court Resumes
Exhibits 430-433, 444-447, 448, 451, 452, 461-463, 3655, 5343 5357, 5362-5365, 5776, 5793, 5830, 5800, 5822, 5823, 58 53, 5858, 5859, 5860, 5864, 5866, 5870-5873, 5876, 7600, 7601, & 7602 Received
- 12:53 **Robert Zach** to stand. Cross exam by Atty. Westerfield
Exhibits 409, 534 Received
- 1:25 Cross Exam by Atty. Alexander
Exhibits 479, 7700 Received
- 1:35 **Mark Travers** to stand. Direct exam by Atty. Westerfield
Exhibits 434, 438 Received.
- 1:58 Cross exam Atty. Kearney
Exhibit 5950 Received
- 2:11** Recross Atty. Westerfield
- 2:12 **Arthur Vogel, Jr.** to stand. Direct exam by Atty. Karegeannes
- 2:16 Recess
- 2:36 Court Resumes
Atty. Karegeannes addresses discovery issues regarding attorney invoices with the court. Atty's Westerfield & Mandelbaum reply.
Court instructs counsel on to how to proceed & will take objection under advisement.
- 2:40 Direct exam continues by Atty. Karegeannes
Exhibit 5892, offered court will take under advisement
Exhibit 483 Received
- 3:12 Cross exam Atty. Kearney
Exhibit 481 Received
- 3:20 Cross exam by Atty. Westerfield
- 3:22 Cross exam by Atty. Citera
- 3:25 Atty. Holmes & Atty. McAtee make same objection to attorney invoices
Court will take objection under advisement.
- 3:27 **Jay O'Keefe** to stand. Direct exam by Atty. Holmes
Exhibit 6001 offered, objection, court will take under advisement
Cross exam by Atty. McAtee
- 3:46 Atty. Lovern addresses court regarding witness Thomas Metivier
- 3:47 Recess
- 4:01 Court resumes.
- 4:04 **Video testimony of Dale Shumaker** played
- 5:00 Court Adjourned

Friday 2/24

9:00 Court Convenes

Court addresses matters. Atty. Lovern requests that the courtroom be Sealed during the testimony of the witness Metivier. Court would prefer that the courtroom remain open unless there is a stronger showing of why it should be closed.

9:07 Court will take brief recess so that the court room can be sealed before testimony regarding insurance issue is presented.

9:11 Court is back on record appearances will be noted. Court room **SEALED**

(Appearances: Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbeck WTM)

JP Causey, Jr. to stand Direct exam by Atty. Peterson

Exhibits 778, 781, 870, 3355, 790, 784, 785, 869, 5893 thru 5908 , 5911, 5912 Received. Exhibits 5890, 5891, 5889 , 5909, 5910 court will reserve ruling at a later date.

10:30 Atty. McAtee & Atty. Karegeannes address matters with the court
Cross exam by Atty. McAtee.

10:43 Recess

11:09 Court resumes. Court room is still **SEALED** appearances will be noted.

(Appearances; Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbeck WTM)

11:10 Cross exam continues by Atty. McAtee

11:28 Redirect by Atty. Peterson **Exhibit 770 Received**

11:39 **Ross J. Mishkin** to stand. Direct exam by Atty, Mandelbaum

Exhibits 682A , 5306, 5307, 5306, 5307, 5310, 5313, 5316-5320, 711-719, 725-731 Exhibits, 732 - 737 under Seal Received

12:30 Recess

1:31 Court resumes

Cross examination with Atty. McAtee

2:08 Redirect by Atty. Madelbaum

2:17 **Exhibits 3191-3354 offered and received under SEAL, no objections.**

2:28 Court breaks

Court resumes Court room is still **SEALED** appearances will be noted.

(Appearances: Vanessa Lavelly NCR, Jennifer Daniels NCR, Lindsay Smith NCR, Darin McAtee, NCR, Matthew Pierce NCR, Evan Chesler NCR, Dana Crandall NCR, Lindsay Colvin NCR, Elizabeth Redd NCR, David Marriott NCR, Evan Westerfield NCR, Edward Gallagher NCR, John Hartjc NCR, Ron Ragatz API, Dennis Birke API, Heidi Melzer API, Mike Hermes API, Greg Krauss API, Pam Barker API, Susan Lovern, CBC, Michael Carlton, Bill Harbeck- time keeper only)

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2:56 Atty. Lovern discusses housekeeping matter regarding Exhibit 843. Plaintiff objects to it. Deft want objection waived. Court takes this under advisement.

3:01 Cross exam by Atty. Lovern.

Exhibit 843 (2099 - C)referred too. Court will reserve ruling on this exhibit.

3:09 Court recess

3:16 Court resumes

Thomas Metivier to the stand. Direct by Atty. McAtee.

Exhibit 868 R (redacted version) offered and received.

3:26 Court adjourned

Monday, 2/27

9:01 Court convenes and addresses matters.

Floyd Strelow to stand. Direct exam by Atty.,Ragatz.

9:29 Cross exam by Atty. Citera

10:01 Cross exam by Atty. Karegeannes

10:04 Redirect by Atty. Ragatz

10:07 **Robert Hietpas** to stand. Direct exam by Atty. Ragatz

Exhibits 5, 90, 89 Received

10:42 Recess

11:01 Court Resumes

Cross exam by Atty. Ferguson

11:41 Cross exam by Atty. Citera

11:51 Recess

1:00 Court resumes

1;05 Counsel makes motion to have Doc #1343 on the docket sheet Sealed - Court grants motion and Doc #1343 will be Sealed

Binder of Exhibits 2,000 - 6,000 (excluding exhibits all ready in evidence) listed under Tab 1- Received & Exhibits listed under Tab 2 (excluding exhibits all ready in evidence)(and which are duplicate exhibits of other exhibits that have all ready been Received) and the exclusion of Tab 3 which are reserved for ruling at a later date. Exhibits 3192-3354, 5970, 5976

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- 1:14 Defendant's rest
1:15 Recess
1:26 Court resumes Court room is **SEALED** appearances will be noted. (Appearances Vaness Lavelly NCR, Darin McAtee NCR, Evan Cheseler NCR, Lindsay Smith NCR, Lindsay Colvin NCR, Matthew Pierce NCR, Edward Gallagher NCR, Jennifer Daniels NCR, John HortjcNCR, Dana Crandall NCR, Onid Nasab NCR, Dennis Birke API, Megan Santori API, Ronald Ragatz API, Michael Hermes API, Heidi Melzer API, Greg Krauss API, Pam Barker API, Susan Lovern CBC, Mike Carlton CBC, Peter Karegeannes WTM, Nancy Peterson WTM, William Harbock WTM, David Mandelbaum Glatfelter, Frank Citera Glatfelter, Calbe Holms Glatfelter)
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Exhibit 681A , 1021 & 1019 Received
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3:44 Atty. Mandelbaum makes motion to strike testimony of Kenneth Abraham based on 702 and insufficient data. Court will hold ruling.
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Tuesday 2/28

- 9:02 Court Convenes
Charles Breeden to stand. Direct exam by Atty. Onid Nasab
9:06 Cross exam by Atty. Alexander
9:49 Cross exam by Atty. Harbeck
10:03 **J. Andrew Schlickman** to stand. Direct exam by Atty. Westerfield
10:13 Cross exam by Atty. Mandelbaum
10:23 Cross exam by Atty. Kargeannes
10: 26 Recess
10:45 Court Resumes
10:46 **Robert Rock** to stand. Direct exam by Atty. Westerfield
Exhibits 1022 - 1025 Received
11:32 Direct exam by Atty. McAtee
11:50 Recess
12:59 Court Resumes
Robert Rock returns to stand Cross exam by Atty. Alexander
Exhibit 46 Received
1:33 Cross exam by Atty. Kearney
1:43 Cross exam by Atty. Mandelbaum

- 1:51 Redirect by Atty. Westerfield
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9:48 **Neil Shifrin** to stand. Direct exam by Atty. Chesler
Exhibits 323A, 1033-1036, 1037, 1038, 1039, 1040, 1041,1042 Received
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Exhibits 1043, 1044, 1046, 1045, 1047, 1048 Received
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2nd round of simultaneous exchange on 4/23/12.

1:17 Court Adjourned