

1 APPLICANT'S COUNSEL: Ms. Sanchez
2 WITNESS: Mr. Phillips
3 DEFENSE COUNSEL NO. 1: Ms. Johnson
4 DEFENSE COUNSEL NO. 2: Ms. Lee

5
6 **WARM UP**

7 Q BY MS. JOHNSON: Mr. Phillips, my name is Maria
8 Johnson. As you can see, I'm one of many who will be
9 chatting with you today. I represent Brothers /
10 Concrete.

11 A Before we start the deposition could you state your
12 full name and spell your last name for the record.

13 A Robert James Phillips. P-H- / I-L-L-I-P-S.

14 Q Okay. I do have a copy of your social security
15 card, and I notice it has a single L / for Phillips.

16 A I went, like, 25 years of working before I found
17 out that it is spelled incorrectly. So I have two cards.
18 I have / an alias, which would be that currently. My
19 other one is the real one which has two Ls on it.

20 Q Have you ever worked under / the one-L name?

21 A For 25 years I worked with it.

22 Q Okay.

23 A I didn't even realize it. You know, nobody ever
24 said anything. You know / how you give it to the people
25 you work for? Nobody ever caught it, and I never caught

1 it.

2 Q That's interesting.

3 And what is your / residence address, please?

4 A 6815 Lakeside, Roseville, California.

5 Q How long have you lived at that address?

6 A Since March of '98.

7 Q Where did you live /*(1) prior to the Roseville
8 address?

9 A That would be 883 Westward Court, Campbell,
10 California. I don't know the zip code.

11 Q And for how long / did you live in Campbell?

12 A I moved to Campbell in May, I believe, of '87,
13 about.

14 Q Okay. And before Campbell where did you live?

15 MS. SANCHEZ: Objection. / There is no need to go
16 that far back, Counsel.

17 MS. LEE: I would like the information to confirm
18 identity, if you wouldn't mind.

19 Q BY MS. JOHNSON: That is all / for the record.
20 Please answer the question.

21 A I lived in Tucson, Arizona.

22 Q And for how long did you live in Tucson?

23 A About 29 years.

24 Q Have / you ever had your deposition taken
25 before?

1 A Yes, I have.

2 Q How many times?

3 A I believe at least once, maybe twice. My
4 brother was killed erecting / a tower crane.

5 Q Okay. Were you deposed as a percipient witness
6 or --

7 A As a family member witness, I guess.

8 Q Okay. All right. Did / you actually observe
9 the incident?

10 A No.

11 Q Okay. I assume there was some kind of a
12 wrongful death case?

13 A Yes.

14 Q When did your brother die?

15 A That / would be '81. '80 or '81. 1981.

16 MS. SANCHEZ: Please don't guess or speculate. Only
17 tell us what you know.

18 MS. JOHNSON: Well, that's not true, Counsel.
19 We /*(2) are entitled to his best estimate.

20 MS. SANCHEZ: It sounded to me like he was guessing.

21 Q BY MS. JOHNSON: Okay. And the other time you
22 had your deposition taken, can / you recall when that
23 was?

24 A Yes. The actual deposition was done in early
25 '98.

1 Q And was that a case in which you were a party? /

2 A I was involved in that lawsuit. Yes.

3 Q And what kind of lawsuit was that?

4 A I completely tore the tendons in my right
5 shoulder, resulting in / shoulder surgery. I later sued
6 the general contractor.

7 Q Was that a workers' comp, or was it civil as
8 well?

9 A It was a workers' comp, but / I don't know about
10 the civil part.

11 Q Okay.

12 A You would have to look that one up. I don't
13 know.

14 Q The general contractor that you sued, / was that
15 your employer?

16 A No. I sued Bell Construction.

17 Q B-e-l-l?

18 A Yes.

19 Q Who was your employer at that time?

20 A Evergreen Steel.

21 Q And where / were they located?

22 A In Campbell.

23 Q I'll ask you more about both of those later.

24 A No problem.

25 Q Have you taken any medications today that might

1 cause / you to be sleepy or drowsy?

2 A No.

3 Q And is there any reason that you might be
4 impaired, either unable to hear or understand my
5 questions? /*(3)

6 ****END OF WARMUP****

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EXAM

Q BY MS. JOHNSON: Will you have trouble answering my questions today?

A No, not that I know of.

Q And what medications have you taken in the last 24 hours? /

A Just my blood pressure pill.

Q Do you recall the name of the medication?

A I don't remember. I know I take one pill daily, and that / keeps everything under control.

Q Who prescribes the blood pressure pills?

A Dr. Woods.

Q Dr. Pat Woods? Does that sound right?

A Yes.

Q Is Dr. Woods your family / physician?

A Yes, she is.

Q For how long have you treated with Dr. Woods as your family doctor?

A For about 12 or 13 years now.

Q What / pharmacy do you use for filling your prescription?

A We always go to Rite Aid.

Q So you don't get any prescriptions through the mail or anything / like that; is that correct?

A Yes, that's right.

1 Q Do you have a California driver's license?

2 A Yes, I do.

3 Q Would you produce that, please. You can / show
4 it to your attorney, and I'll take a look at it.

5 A Here it is.

6 MS. SANCHEZ: The record will reflect that
7 Mr. Phillips has produced a / California driver's
8 license. It is a Class CM1.

9 MS. LEE: What does that mean?

10 THE WITNESS: Class C is just your regular driver's
11 license for driving a /*(1) vehicle.

12 MS. LEE: Right.

13 THE WITNESS: And the M1 is motorcycle.

14 MS. LEE: Thank you, sir.

15 Q BY MS. JOHNSON: How far did you travel to the
16 deposition today?

17 A Around 10 miles.

18 Q You came / from your residence in Roseville?

19 A Yes, ma'am.

20 MS. SANCHEZ: We'll go with MapQuest.

21 MS. JOHNSON: That's fine. So will I.

22 Q Okay. How long did you spend preparing for
23 this / deposition with MS. SANCHEZ?

24 MS. SANCHEZ: What time did we start talking?

25 THE WITNESS: We started talking at 9:30.

1 Q BY MS. JOHNSON: Do you recall how long overall
2 you spoke with / her?

3 A No. I didn't look at the clock.

4 Q Okay. What is your date of birth?

5 A 7/20/1958.

6 Q Where were you born?

7 A Tucson, Arizona. /

8 Q Do you remember who your family doctor was when
9 you were growing up in Tucson?

10 A Dr. Lane.

11 Q L-a-n-e?

12 A Yes. Dr. James Lane. /

13 Q Did you have any problems growing up? What I
14 mean by that is major illnesses or injuries that required
15 the need for any treatment or / hospitalization.

16 A No, ma'am.

17 Q Did you attend high school?

18 A Yes.

19 Q And what school was that?

20 A Tucson High School.

21 Q Did you finish?

22 A Yes.

23 Q And when was that? /

24 A I graduated in 1970.

25 Q And while you were in high school, did you do

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any sports or other activities or regular PE?

A Yes. /* (2)

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START TYPING

Q BY MS. JOHNSON: What sports or activities did you do?

A I played football and track.

Q Did you have any injuries while you were participating in the sports? I / mean other than the usual strains, bumps, bruises.

A No.

Q Have you attended college or a trade school?

A I went to school through the union.

Q Which / union was that?

A Ironworkers.

Q I would guess that they don't have sports like football at that school.

MS. SANCHEZ: That's argumentative, but he can answer.

THE WITNESS: No.

MS. LEE: I'm / sorry. Did the witness answer? I did not hear a response.

THE WITNESS: No.

Q BY MS. JOHNSON: Okay. Any injuries while you were in that schooling program?

A No.

Q Have you / served in the military?

A No.

1 Q Have you received treatment in any military
2 facility?

3 A Yes. In high school.

4 Q Was your dad in the air force?

5 A Well, / he was civil service. He was a fireman.

6 Q And for what did you receive medical treatment?

7 A I had a broken leg.

8 Q Is that the only / time you went there that you
9 can think of?

10 A Yes, ma'am, that's it.

11 Q Okay. Have you ever been convicted of a felony?

12 A No.

13 Q Are you / married?

14 A Yes, I am.

15 Q How many times?

16 A Twice.

17 Q What was your first wife's name?

18 MS. SANCHEZ: I'll object as to relevance, Counsel.

19 How does that pertain to /*(3) this lawsuit?

20 MS. JOHNSON: I am not going to debate with you. Are
21 you instructing the witness not to answer?

22 MS. SANCHEZ: No, but I would ask you to / ask
23 relevant questions.

24 MS. LEE: In the interest of time, maybe we could
25 stick with the last ten years.

1 Q BY MS. JOHNSON: Are you currently married?

2 A Yes, I am.

3 Q What / is your wife's name?

4 A Susan Phillips.

5 Q How long have you been married to Susan?

6 A We got married in 1988.

7 Q Other than the anomaly with / your social
8 security number and the single L versus the double L,
9 have you used any other names in your life?

10 A No, ma'am.

11 Q Does Susan / work?

12 A No.

13 Q Was Susan working in the year of 2012 or 2013?

14 A No.

15 Q Do you have children?

16 A Yes.

17 Q How many?

18 A Just the one / daughter.

19 Q What is her name?

20 MS. SANCHEZ: Object as to form.

21 MS. LEE: I think we are entitled to get that
22 information as a possible witness to his injuries. /

23 Q BY MS. JOHNSON: Would you please answer the
24 question.

25 A Amy Phillips.

1 Q And how old is Amy?

2 A Amy is 35.

3 Q In the years of 2012 and 2013, / did Amy live
4 with you?

5 A No, she was married then.

6 Q Okay. Other than Susan during the years of
7 2012 and 2013, were any /*(4) other people financially
8 dependent on you?

9 A No.

10 Q During your time with Brothers Concrete, did you
11 have any other work? That would mean work for goods, /
12 services, or credits.

13 A No.

14 Q I'm going to ask you that same question for the
15 other employer present here today.

16 A No, no side jobs.

17 Q Well, let / me ask the complete question. Did
18 you have concurrent work while working for Evergreen
19 Steel?

20 A Not at all, no.

21 Q Okay.

22 I'm going to look for an / exhibit. Counsel, did
23 you have questions?

24 MS. LEE: Yes, I do. Let me jump in here.

25 MS. JOHNSON: Then I will pass the witness for now.

1 EXAMINATION

2 Q BY MS. LEE: Good morning, Mr. / Phillips. I
3 have a few questions for you. When were you hired with
4 Evergreen Steel?

5 A I worked for them back in the 90s.

6 Q And where / did you work for them?

7 A That was down in Los Angeles on Interstate 5.

8 Q What were you doing on that project?

9 A Bridges. Bridge work, concrete / work.

10 Q Do you recall your dates of employment with
11 Evergreen?

12 A I worked for them for approximately one week.
13 When I say that, I worked for / Evergreen for a few days,
14 and we got stopped. I went back for a day or two after
15 that about a week later.

16 Q You testified /*(5) you went back about a week
17 subsequent?

18 A Yes. For a day or two.

19 Q And what was your job title at Evergreen?

20 A I was just something / like a helper.

21 Q What were your actual work duties, your physical
22 work duties there?

23 A I helped tie in rebar, rebar placement. I don't
24 know exactly / how to explain it completely. Can we go
25 off the record for a second?

1 Q Absolutely.

2 MS. SANCHEZ: You might as well go ahead and put it
3 on / the record.

4 MS. JOHNSON: Okay. Let's go ahead and do that.

5 THE WITNESS: It's a piece of pipe about four inches
6 in diameter. They run from one end of / the bridge to
7 the other end of the bridge, and you subsequently put
8 cable in it.

9 Q BY MS. LEE: Okay. So were you placing the
10 pipe, or were you / just dealing only with the cables?

11 A Placing pipe and adjusting it to height.

12 Q And the pipe is placed and held in place with
13 the rebar? /

14 A With rebar and wire.

15 Q Sorry?

16 A Rebar and wire.

17 MS. SANCHEZ: They want to know what you physically
18 did.

19 THE WITNESS: I tied the pipe into place on the
20 rebar / with wire.

21 Q BY MS. LEE: Were you working aboveground?

22 A Yeah. We were working on a deck inside the
23 bridge before the concrete was poured.

24 Q So when you say /*(6) a deck, did you have to
25 utilize a ladder to access the deck?

1 A Yes, I had to use a ladder.

2 Q Okay. How often or how / many times in an
3 average work shift were you required to go up and down
4 that ladder to get to the deck?

5 A Maybe seven or / eight times.

6 Q Is that seven or eight different trips?

7 A Yes, approximately eight times.

8 Q And why were you going up and down so
9 frequently?

10 A For breaks / and go to the bathroom.

11 Q Okay. How high was the ladder?

12 A I'm going to say about 15 feet.

13 Q While you were working for Evergreen, how / long
14 was your average workday?

15 A I believe they were eight-hour days.

16 Q Do you recall doing any overtime at Evergreen?

17 A Not right offhand. I was / a person that chased
18 overtime, but I don't think we were doing ten-hour days.

19 Q Okay. Do you remember who your supervisor was
20 at Evergreen? /

21 A No, I do not.

22 Q Were there any other duties you had at Evergreen
23 besides what we have described so far?

24 MS. SANCHEZ: Object as vague and ambiguous. /

1 MS. JOHNSON: I will join. Do you mean work-related
2 activities?

3 MS. LEE: Let me rephrase that.

4 Q Have you described all of your job duties to us
5 while you /*(7) were employed at Evergreen?

6 A Yes, I believe so.

7 Q About how many people were on your team up on
8 the deck?

9 A I believe there were five / or six.

10 MS. LEE: Thank you, Mr. Phillips. Those are all of
11 my questions for right now.

12 MS. SANCHEZ: Are you ready to continue with your
13 examination, Counsel?

14 MS. JOHNSON: Yes, / thank you.

15 FURTHER EXAMINATION

16 Q BY MS. JOHNSON: Did you work on any other
17 projects for Brothers Concrete?

18 A Yes, I worked on one other one.

19 Q Do you remember where it was? /

20 A In San Jose.

21 Q Okay. And so what were you doing at the project
22 in San Jose?

23 A Concrete work.

24 Q Were you working on a bridge as / well?

25 A No, that's incorrect. I was doing footings.

1 Q Okay. And what does that mean?

2 A There are holes in the ground that you put
3 rebar / into. From each and every hole in the ground,
4 you proceed to build walls that are erected out of the
5 ground. It is the bottom / point of the building. It
6 holds the entire weight of the building.

7 Q Okay. Correct me if I am wrong. I got the
8 impression that when / you were working on the bridge the
9 rebar was for footings. Would that be incorrect?

10 A The rebar that I was working with was for
11 walls. /*(8) We were building walls.

12 Q Okay.

13 A There were two walls.

14 Q So the footings that you were doing were not in
15 connection with the bridge work?

16 A No, / that was in the ground.

17 Q Okay.

18 MS. SANCHEZ: When you say "in the ground," what are
19 we talking about?

20 THE WITNESS: We are talking a hole that was about /
21 as wide as this room and about four or five feet deep.
22 The hole is approximately 200 feet long, and there were a
23 number of / them around the building.

24 Q BY MS. JOHNSON: Was this a footing for a
25 building?

1 A Yes.

2 Q Okay. And so what kind of physical activities
3 were involved in working with / these footings?

4 A Carrying rebar, placement of rebar, tying the
5 rebar in place.

6 MS. LEE: What job was that?

7 THE WITNESS: That would be San Jose.

8 MS. SANCHEZ: I think she wants / to know who you
9 were working for at that location.

10 MS. LEE: That is exactly what I meant. Thank you,
11 Counsel.

12 THE WITNESS: Oh, that was with Brothers Concrete. /

13 Q BY MS. JOHNSON: And when you were carrying
14 rebar, how much did that weigh?

15 A It can vary from 50 to 100 pounds that you put
16 on your shoulder / and carry it.

17 Q By yourself?

18 A That's correct. I mean, if it is short, you
19 take the entire bunch by yourself. If it is really
20 long, /*(9) you get more than one person and you carry as
21 much as you are able to carry.

22 Q I'm going to return you back to Evergreen / for
23 a second. When you went to work for Evergreen, did you
24 have any physical restrictions?

25 A No.

1 Q Were you having any symptoms at the time / you
2 went to work for Evergreen?

3 A What exactly do you mean?

4 Q Did you have pain in any parts of your body?

5 MS. SANCHEZ: Any aches, pains, discomfort? /

6 THE WITNESS: Yes.

7 Q BY MS. JOHNSON: Like what?

8 A Everything.

9 Q Okay. In this particular claim, you have
10 alleged neck, back, both shoulders, both hands, both
11 knees, both feet. Those body parts? /

12 A All those body parts hurt.

13 Q Okay. After you stopped working at Evergreen
14 doing the bridge, were those symptoms the same, worse, or
15 better?

16 A They got / better, and now they are getting
17 worse again.

18 Q Actually, I mean, like, your last day of
19 employment.

20 A On the last day of work?

21 Q Yes. On / your last day there.

22 A Honestly, my knees were killing me. My feet were
23 killing me. My shoulders were killing me.

24 Q Okay. Were they better, worse, / or the same in

1 that period that you were employed there, that week's
2 period of time?

3 A They didn't get no better. At the end of /*(10)
4 the week, it was just as bad as when I started.

5 Q Are you saying you weren't any worse?

6 MS. SANCHEZ: Objection. That's vague and ambiguous.

7 MS. LEE: I would / join in that objection.

8 MS. SANCHEZ: You can answer the question if you
9 understand it.

10 THE WITNESS: You know, you can have a good day
11 today, and tomorrow will / be a bad day, so I can't
12 really say if I was truly better or any worse.
13 Everything was painful.

14 Q BY MS. JOHNSON: Okay. I'm going to / ask that
15 same question as for Brothers. When you started working
16 for Brothers, were you having the pain in all the exact
17 same body parts? /

18 A Yeah, approximately. It was pretty much the
19 same.

20 Q While you were employed at Brothers, did you
21 work eight-hour days as well?

22 A Yes. It was / always eight hours.

23 Q Okay. Do you use any kind of a back brace for
24 support?

25 A No.

1 Q Would you consider that your symptoms were
2 better, worse, / or the same at the end of the period of
3 time that you were working with Brothers Concrete?

4 A About the same.

5 Q All right.

6 A Excuse me. / Can I add something here?

7 MS. SANCHEZ: Do you wish to correct a previous
8 answer?

9 THE WITNESS: I remember one other thing I had to do
10 with Evergreen.

11 MS. LEE: I /*(11) would like the witness to correct
12 his testimony here if it's okay with everyone else.

13 MS. JOHNSON: That's a good idea.

14 Q Sir, what would you like to / add?

15 A We additionally worked on a parking garage,
16 where I worked with both cables and rebar.

17 Q Please tell me how that works. What do you /
18 physically do?

19 A You place the rebar in both directions, and then
20 we rolled out cables and then put more rebar in.

21 Q Okay. Exactly how big / is this cable you are
22 dealing with?

23 A The cable is approximately an inch in diameter.

24 Q How big is a spool?

