

Tab D

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1 period was?
 2 **A. No.**
 3 Q. Does -- what type of records does
 4 CHEP maintain regarding its relationship
 5 with Abbott Foods from 1998 through the
 6 spring of 2001?
 7 **A. There will be -- there is a database**
 8 **called CMS, contact management systems.**
 9 **Information regarding any customer or**
 10 **distributor would reside in that database.**
 11 **Prior to that, it would have been physical,**
 12 **manually handwritten call reports. And I'm**
 13 **not sure of the date when the transition**
 14 **occurred between manual and database.**
 15 Q. Do you have an approximation?
 16 **A. I can probably make an estimate.**
 17 Q. What's your best estimate?
 18 **A. My best estimate is '99.**
 19 Q. Sometime in '99?
 20 **A. '99 to 2000.**
 21 Q. Okay. Did you review any records
 22 from the CMS system regarding Abbott Foods
 23 in preparation for today's deposition?
 24 **A. We did.**

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1 Q. And when you say "we," who is "we"?
 2 **A. Bridgette Roman and I.**
 3 Q. What information did you find in the
 4 CMS system for the period from whenever data
 5 started getting put into it until spring of
 6 2001 regarding Abbott?
 7 **A. Primarily return information when**
 8 **they were a participant, and collection**
 9 **information as they became an NPD. There**
 10 **were comments regarding arrangements that**
 11 **had been made for the transport of the**
 12 **pallets back to CHEP.**
 13 Q. Okay. Did Abbott give any reason
 14 that you found in the records for becoming
 15 an NPD?
 16 **A. I don't recall that they were in the**
 17 **records, but I have had conversations with**
 18 **CHEP personnel. The reason they became an**
 19 **NPD was in spring of 2001, we rolled out a**
 20 **national program called the depot**
 21 **consolidation. And it was the process of**
 22 **identifying larger depot warehousing service**
 23 **centers to accept returns into across the**
 24 **country and closing a lot of the smaller**

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1 **warehouses that had been acting as depots.**
 2 Q. Okay.
 3 **A. Abbott no longer had a depot close**
 4 **to them geographically, and it would have --**
 5 **for them to remain a participant, it would**
 6 **have required them to pay a contract carrier**
 7 **or CHEP to pick up their returns and bring**
 8 **them into the warehouse, into the depot.**
 9 **They were unwilling to incur that extra**
 10 **cost.**
 11 Q. And that's information you got from
 12 other CHEP personnel?
 13 **A. Uh-huh.**
 14 Q. Who?
 15 **A. Rose Vasquez. She is our analyst in**
 16 **my department. She was also in an analyst**
 17 **position in customer service.**
 18 Q. At that time?
 19 **A. Uh-huh.**
 20 Q. And what was the basis upon which
 21 she had that information?
 22 **A. She did get it through either CMS or**
 23 **the manual records, but I'm guessing -- I'm**
 24 **not going to guess. She got them from CMS.**

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1 Q. So she got it from CHEP records?
 2 **A. Because I know she would not have**
 3 **had access to the manual ones. I believe**
 4 **they're in storage.**
 5 Q. Okay. And she would not have had
 6 any direct contact with anyone at Abbott; is
 7 that correct?
 8 **A. That's correct. Never.**
 9 Q. Did you talk to Mr. DeVaughn at all
 10 about the reasons for Abbott leaving the
 11 CHEP system?
 12 **A. I spoke with John Depolt, and I**
 13 **believe he spoke with Mr. DeVaughn.**
 14 Q. Did he report back to you anything
 15 that he learned from Mr. DeVaughn?
 16 **A. Only that the reason for them coming**
 17 **off the program was a fairly predictable one**
 18 **from that era of a small to medium**
 19 **distributor being unwilling to incur the**
 20 **cost of return, being angry that their depot**
 21 **was being removed. We had a handful that**
 22 **reacted to depot consolidation in that**
 23 **manner.**
 24 Q. And did Mr. Depolt have any of that

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1 information himself, or did he tell you that
 2 was all information he got from
 3 Mr. DeVaughn?
 4 **A. He was aware of it himself, and he**
 5 **talked to Mr. DeVaughn just for confirmation**
 6 **and to see if there were any anomalies we**
 7 **were not aware of. There were not.**
 8 Q. Did you -- is there any reason that
 9 you didn't contact Mr. DeVaughn directly
 10 about this?
 11 **A. My busy schedule. It was a matter**
 12 **of delegating it to one of my managers who**
 13 **had been involved to the extent that he had**
 14 **awareness of his own.**
 15 Q. Would it be fair to say that all
 16 that you know about CHEP's relationship with
 17 Abbott has come through investigation that
 18 you've conducted?
 19 **A. Yes.**
 20 Q. And would it be fair to say before
 21 you conducted that investigation, you didn't
 22 have any knowledge --
 23 **A. Yes.**
 24 Q. -- about CHEP's relationship --

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1 **A. Yes.**
 2 Q. -- with Abbott?
 3 Would it be fair to say that
 4 Mr. DeVaughn has more knowledge than you
 5 from personal experience with Abbott?
 6 **A. Yes.**
 7 MS. ROMAN: Objection. Calls for
 8 speculation.
 9 Q. Other than checking the CMS records
 10 and talking to individuals, was there
 11 anything else that you did in your
 12 investigation regarding the relationship
 13 with Abbott?
 14 **A. No.**
 15 Q. Did you make any investigation as to
 16 the condition of pallets returned by Abbott
 17 Foods between 1999 and 2001 to CHEP?
 18 **A. No.**
 19 Q. Did you review any agreements
 20 between CHEP and Abbott Foods?
 21 **A. No.**
 22 Q. Do you know whether pallets received
 23 back by CHEP from Abbott Foods were ever
 24 found by CHEP to have any damage or

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1 reconditioning costs above CHEP's averages?
 2 **A. We do not maintain record of that**
 3 **information specific to any distributor.**
 4 Q. So it would be impossible for anyone
 5 at CHEP to say whether the pallets were
 6 returned from Abbott Foods were any more
 7 damaged than the norm; is that right?
 8 **A. I would be speculating if I said**
 9 **that were the case. There may be someone**
 10 **who has more specific information or stood**
 11 **at a door and watched Abbott Foods come in**
 12 **and have an opinion, but to draw specific**
 13 **analysis, no.**
 14 Q. Did you ask Mr. Depoit about that
 15 issue?
 16 **A. No.**
 17 **--0--**
 18 **(Exhibit 157 marked.)**
 19 **--0--**
 20 **BY MR. WILSON:**
 21 Q. Ms. Southwick, I have had the court
 22 reporter hand to you a document that's
 23 labeled CHEP 10877, and it is marked as
 24 Exhibit 157.

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1 Do you recognize that document?
 2 **A. Yes.**
 3 Q. Can you tell me what it is.
 4 **A. It is a record, beginning in 1999,**
 5 **and concluding in 2003, of transfers into**
 6 **Abbott Foods and returns to CHEP. And the**
 7 **top line is -- it says invoiced, but that**
 8 **doesn't make a lot of sense, because a**
 9 **distributor would not be invoiced.**
 10 Q. Well, would a distributor be
 11 invoiced if it had a shortfall of pallets to
 12 return to CHEP?
 13 **A. No. Only -- only a customer is**
 14 **invoiced. A distributor receives pallets**
 15 **from a manufacturer.**
 16 Q. Okay.
 17 **A. And there's no financial**
 18 **relationship in that regard.**
 19 Q. And is it your understanding that
 20 then Abbott Foods had no obligation as a
 21 distributor to pay a lost pallet fee if it
 22 returned to CHEP less pallets than it had
 23 received through the system?
 24 **A. That could only be determined by an**

<p style="text-align: right;">Page 70</p> <p>1 Q. And the next one is CHEP 11485 2 through CHEP 11541. 3 A. I do not recognize this. It appears 4 to have no relevance to Mills Pride or 5 Abbott. 6 Q. Okay. And the next document begins 7 on CHEP 11542 and goes through CHEP 11547. 8 A. I do not recognize this. It doesn't 9 appear to have any relevance to Mills Pride 10 or Abbott. 11 Q. Okay. I believe you testified 12 earlier today that insofar as your 13 investigation showed, the dwell time of 14 pallets at Abbott was no greater than 15 ordinary? 16 A. Correct. 17 Q. And I assume, then, that CHEP did 18 not incur any greater than ordinary 19 depreciation on pallets at Abbott. 20 MS. ROMAN: Objection. Foundation. 21 You may answer if you have knowledge 22 of depreciation. 23 A. I have no knowledge of depreciation, 24 how we calculate it or what -- or an</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Yes. 2 Q. And if for -- if a pallet marked 3 with CHEP's logo had, for some period of 4 time, gone out of Mills Pride's control to a 5 recycler and then been returned, Mills Pride 6 would have still been paying rental on that 7 period of time, correct? 8 MS. ROMAN: Objection. Calls for 9 speculation. 10 You may answer to the extent you 11 know. 12 A. The assumption is yes. 13 Q. Okay. Does CHEP calculate average 14 dwell times of pallets at NPDs? 15 A. Yes. 16 Q. Does it do it by individual NPDs or 17 just generally by categories of NPDs? 18 A. By individual NPDs. 19 Q. And how does it go about calculating 20 that? 21 A. It is a calculation of how many 22 pallets are shipped in to a location against 23 how many pallets come out of the location. 24 It gives us an estimate of the approximate</p>
<p style="text-align: right;">Page 71</p> <p>1 appropriate response to that question. 2 Q. Okay. Are you aware of any instance 3 in which CHEP had to acquire new pallets 4 because of excessive dwell times at Abbott? 5 A. I'm unaware of any such instance. 6 Q. Okay. Now, Mills Pride, as you 7 testified today, was a participating 8 manufacturer, correct? 9 A. Correct. 10 Q. So Mills Pride would have paid 11 rental on pallets from the date that they 12 received a pallet from CHEP until they 13 notified CHEP that it had been shipped? 14 A. Correct. 15 Q. Do you know if Mills Pride was 16 authorized to ship to NPDs? 17 A. They were not. 18 Q. Okay. So all of Mills Pride's 19 shipments would have been to participating 20 distributors? 21 A. Yes. Home Depot specifically. 22 Q. And that was their -- the only 23 customer they were shipping out CHEP 24 pallets?</p>	<p style="text-align: right;">Page 73</p> <p>1 pallet days, and that is -- the result of 2 that calculation is however many pallet days 3 the number of pallets against the days they 4 reside there. 5 Q. And then does CHEP aggregate that 6 information by categories of NPDs? 7 A. No. 8 Q. So insofar as you're aware, CHEP has 9 never, for instance, looked at what the 10 average dwell time was for pallets at 11 hostile NPDs? 12 A. No. 13 Q. Or for cooperative NPDs? 14 A. No. I can, but I don't know that we 15 have. 16 Q. Do you look at dwell times for 17 particular NPDs for your work 18 responsibilities? 19 A. No. 20 Q. Does anyone? 21 A. No. 22 Q. Why does CHEP calculate the 23 information if no one looks at it? 24 A. The system calculates it, and it is</p>

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1 a fairly automatic process.
 2 Q. Okay.
 3 A. However, in the instance of an NPD,
 4 it isn't value added information for me
 5 because we're not measuring ins and outs the
 6 same way we would for a participant. In
 7 other words, you can assume that with a
 8 hostile NPD, we're not receiving back
 9 consistent collections. That would extend
 10 the dwell time inordinately.
 11 Q. Okay.
 12 A. And even if I knew that, even if I
 13 knew what that result was, I wouldn't have a
 14 business application for the knowledge,
 15 because I'm not necessarily having a
 16 conversation with that hostile NPD or that
 17 uncooperative NPD.
 18 Q. When you say the system calculates
 19 it, do you mean the SAP system?
 20 A. Yes.
 21 Q. If you had a reason to want that
 22 information, Rose Vasquez or someone could
 23 write a query that would get that
 24 information for particular NPDs?

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1 A. Yes.
 2 Q. Would it be difficult for her to do
 3 so?
 4 A. No.
 5 Q. During your investigation of returns
 6 by Abbott Foods of pallets marked with
 7 CHEP's logo, did you gain any information
 8 that we haven't discussed today?
 9 A. No.
 10 Q. During your investigation of Mills
 11 Pride's returns of pallets or acquisition of
 12 pallets from CHEP, did you learn any
 13 information that we haven't discussed today?
 14 A. No.
 15 MR. WILSON: Thank you for your
 16 time, Ms. Southwick. It was nice to see you
 17 again.
 18 THE WITNESS: Thank you, Mr. Wilson.
 19 Nice to see you again.
 20 MS. ROMAN: She'll read.
 21 --O--
 22 Thereupon, the testimony of April
 23 7, 2004, was concluded at 10:58 a.m.
 24 --O--

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1 *Attach to the deposition of CANDICE SOUTHWICK
 BUCKEYE V CHEP
 2 Case No. 23-01-440
 3 STATE OF OHIO :
 SS:
 4 COUNTY OF :
 5 I, CANDICE SOUTHWICK, do hereby
 6 certify that I have read the foregoing
 7 transcript of my deposition given on April
 8 7, 2004; that together with the correction
 9 page attached hereto noting changes in form
 10 or substance, if any, it is true and
 11 correct.
 12
 13 I do hereby certify that the
 14 foregoing transcript of CANDICE SOUTHWICK
 15 was submitted for reading and signing; that
 16 after it was stated to the undersigned
 17 notary public that the deponent read and
 18 examined the deposition, the deponent signed
 19 the same in my presence on this day
 20 of , 2004.
 21
 22 NOTARY PUBLIC
 23 My commission expires:
 24

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1 CERTIFICATE
 2 STATE OF OHIO :
 SS:
 3 COUNTY OF FRANKLIN :
 4 I, Sara S. Fuller, RPR/CRR, a
 5 Notary Public in and for the State of Ohio,
 6 duly commissioned and qualified, do hereby
 7 certify that the within-named CANDICE
 8 SOUTHWICK was first duly sworn to testify to
 9 the truth, the whole truth, and nothing but
 10 the truth in the cause aforesaid; that the
 11 testimony then given was reduced to
 12 stenotypy in the presence of said witness,
 13 afterwards transcribed; that the foregoing
 14 is a true and correct transcript of the
 15 testimony; that this deposition was taken at
 16 the time and place in the foregoing caption
 17 specified.
 18
 19 I do further certify that I am not
 20 a relative, employee or attorney of any of
 21 the parties hereto; that I am not a relative
 22 or employee of any attorney or counsel
 23 employed by the parties hereto; that I am
 24 not financially interested in the action;
 and further, I am not, nor is the court
 reporting firm with which I am affiliated,
 under contract as defined in Civil Rule
 28(D).
 In witness whereof, I have
 hereunto set my hand and affixed my seal of
 office at Columbus, Ohio, on this day
 of , 2004.
 Sara S. Fuller, RPR/CRR
 Notary Public, State of Ohio.
 My commission expires: March 19, 2008

1 IN THE UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF OHIO
 2 WESTERN DIVISION AT DAYTON

3
 4 BUCKEYE DIAMOND)
 LOGISTICS, INC., FKA)
 5 BUCKEYE RECYCLERS, INC.,)

6 Plaintiff,)

7 vs.) Civil Action No.
) 23-01-440

8 CHEP USA, A GENERAL)
 PARTNERSHIP,)
 9)
 Defendant.)

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 DEPOSITION
 of DERRICK SMITH

 Taken at the offices of
 SCHOTTENSTEIN, ZOX & DUNN
 250 West Street, Suite 700
 Columbus, Ohio 43216

 on April 7, 2004, at 11:29 a.m.

 Reported by: Sara S. Fuller, RPR/CRR

 --0--

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<p>1 specific than that?</p> <p>2 A. No.</p> <p>3 Q. Did you ever determine how Mr. Potts</p> <p>4 came to believe that there was a level of</p> <p>5 contamination with respect to these pallets?</p> <p>6 A. No idea.</p> <p>7 Q. Did you ever see any test results</p> <p>8 from these pallets suggesting they were</p> <p>9 contaminated?</p> <p>10 A. Test results?</p> <p>11 Q. Yeah.</p> <p>12 A. No, sir.</p> <p>13 Q. Did you do any tests of the pallets</p> <p>14 to see if they were contaminated?</p> <p>15 A. I inspected them against our</p> <p>16 guidelines.</p> <p>17 Q. Each of them?</p> <p>18 A. No.</p> <p>19 Q. How much time in total did you spend</p> <p>20 inspecting the pallets?</p> <p>21 A. What would be equivalent probably to</p> <p>22 maybe 16 to 18 hours.</p> <p>23 Q. Over how many days did the 16 to 18</p> <p>24 hours of inspection occur?</p>	<p>1 A. Operations representative.</p> <p>2 Q. And did he work with you throughout</p> <p>3 the day, or did he work separately from you?</p> <p>4 A. Worked with me.</p> <p>5 Q. What's an operations rep do?</p> <p>6 A. They have the more – more defined</p> <p>7 day-to-day responsibilities of a number of</p> <p>8 plants that they're assigned. And they do</p> <p>9 audits in those locations, they follow up on</p> <p>10 the receiving of pallets, the shipping of</p> <p>11 pallets, quality of pallets. They have some</p> <p>12 interactions with the emitters and</p> <p>13 distributors, as well. They have contact</p> <p>14 with CHEP logistics and planning folks to</p> <p>15 make certain that things are consistent in</p> <p>16 what's getting in and out of their plants.</p> <p>17 Q. How did you get to Greentent? Did</p> <p>18 you drive or fly?</p> <p>19 A. I flew.</p> <p>20 Q. And Mr. Spencer, did he come from</p> <p>21 Florida with you?</p> <p>22 A. No, sir.</p> <p>23 Q. Was he in that region?</p> <p>24 A. Yes, he is.</p>
Page 27	Page 29
<p>1 A. Three business days.</p> <p>2 Q. Do you know what days those were?</p> <p>3 A. The specific dates I don't recall.</p> <p>4 I know that the 16th of September was one of</p> <p>5 the days, and it was two days in that week,</p> <p>6 and one day the following week.</p> <p>7 Q. So you made two trips to Greentent?</p> <p>8 A. Yes, sir.</p> <p>9 Q. So when you say that the other day</p> <p>10 was during the week of September 16th, are</p> <p>11 you saying it was adjacent to the 16th?</p> <p>12 A. Yes.</p> <p>13 Q. So it was either the 15th or the</p> <p>14 17th?</p> <p>15 A. That's right.</p> <p>16 Q. And then one day the following week?</p> <p>17 A. That's correct.</p> <p>18 Q. Was anyone with you when you made</p> <p>19 this inspection?</p> <p>20 A. The first trip, there was another</p> <p>21 CHEP person there, yes.</p> <p>22 Q. And who was that?</p> <p>23 A. Neil Spencer.</p> <p>24 Q. And what's his title?</p>	<p>1 Q. At any point in time did Mr. Spencer</p> <p>2 inspect pallets separately from you?</p> <p>3 A. No.</p> <p>4 Q. And did Mr. Spencer make any notes</p> <p>5 of his review of the pallets?</p> <p>6 A. He was the recorder of what I said</p> <p>7 for the numbers.</p> <p>8 Q. And when he was recording this, was</p> <p>9 he recording it on an a laptop, on a note</p> <p>10 pad?</p> <p>11 A. Note pad.</p> <p>12 Q. And do you know what happened to his</p> <p>13 notes?</p> <p>14 A. I had them.</p> <p>15 Q. Do you have them now?</p> <p>16 A. No, sir.</p> <p>17 Q. What happened to them?</p> <p>18 A. Once I committed them to an Excel</p> <p>19 spreadsheet, I didn't maintain them.</p> <p>20 Q. Does that mean you discarded them?</p> <p>21 A. I don't know where they are.</p> <p>22 Q. How many pages of notes were there?</p> <p>23 A. Maybe four.</p> <p>24 Q. Prior to inspecting the pallets, did</p>

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1 **is based off of those inputs that we**
 2 **generate payment. There's no invoice**
 3 **involved.**
 4 Q. Well, do you know who asked Greenten
 5 to prepare an invoice in this case?
 6 **A. I did.**
 7 Q. And did you take it on yourself to
 8 do that, or did someone ask you to do that?
 9 **A. Someone asked me.**
 10 Q. Who asked you to do that?
 11 **A. Walt Russell.**
 12 Q. When did he ask you to do that?
 13 **A. Sometime in January.**
 14 MR. WILSON: Let's go ahead and mark
 15 this.
 16 **A. Are we done with this, sir?**
 17 Q. For now.
 18 ==0==
 19 (Exhibit 163 marked.)
 20 ==0==
 21 BY MR. WILSON:
 22 Q. You have before you what we've
 23 marked as Exhibit 163. Do you recognize
 24 that as the invoice we've been discussing?

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1 **A. Yes, sir.**
 2 Q. And this is the invoice you
 3 requested?
 4 **A. Yes, sir.**
 5 Q. And it is dated October 27th of
 6 2003, but you didn't request it until
 7 January of 2004?
 8 **A. That's correct.**
 9 Q. Do you know why it's dated October
 10 27th of 2003?
 11 **A. No, I don't.**
 12 Q. Do you know how Greenten went about
 13 preparing this?
 14 **A. As far as --**
 15 Q. Determining, for example, the
 16 conditioning fee?
 17 **A. The dollar seven?**
 18 Q. No, the number of pounds.
 19 **A. I had forwarded to them some numbers**
 20 **based off of my previous numbers, these**
 21 **numbers here, as to what, if we were to**
 22 **extrapolate those numbers, they would have**
 23 **been.**
 24 Q. Okay. So you sent to Greenten your

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1 information from your review of whatever the
 2 number was, around 1,100 pallets, 1,175
 3 pallets, and your calculation of what the
 4 repair rate was for those?
 5 **A. That's right.**
 6 Q. And is it your understanding that
 7 they then determined this conditioning fee
 8 based off of that extrapolation?
 9 **A. Yes.**
 10 Q. So Greenten didn't actually count
 11 how many pallets it received from Buckeye it
 12 conditioned, did it?
 13 **A. I don't know that.**
 14 Q. Okay. Well, if they had actually
 15 counted them, there wouldn't have been any
 16 need for you to provide the information to
 17 extrapolate from, correct?
 18 **A. I don't know that to be true**
 19 **neither.**
 20 Q. You don't know one way or another?
 21 **A. I sent this request across a weekend**
 22 **and I asked for it back on Monday morning.**
 23 **And I was traveling at the time that they**
 24 **had received the e-mail overnight from me,**

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1 **and there was no conversation with me that**
 2 **they wanted to do anything different than**
 3 **the numbers I had suggested to them.**
 4 Q. And you sent this request to them
 5 via e-mail?
 6 **A. Yes.**
 7 Q. Did you do it via e-mail?
 8 **A. Yes.**
 9 Q. Did you produce it in this case?
 10 **A. No, I have not.**
 11 Q. Do you know how Greenten calculated
 12 the number of components under the lumber
 13 cost?
 14 **A. That was an extrapolation off of**
 15 **that 2.10 number, off of my second**
 16 **inspection.**
 17 Q. Okay. And I'm assuming that on the
 18 other side of this, the rates are just the
 19 contractual rates you have with Greenten.
 20 **A. The 1.75 on the wash fee is a**
 21 **contractual rate. The conditioning fee of**
 22 **1.07 is a contractual rate, and the 67.3**
 23 **cents is the network average of what**
 24 **components cost during that period of time.**

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1 Q. CHEP's network average?
 2 **A. That's right.**
 3 Q. Not Greenten's network average?
 4 **A. That's correct.**
 5 Q. Did you ever -- if you could look
 6 back at 162 -- try to figure out what
 7 Greenten's average was for component costs?
 8 **A. This here is not component costs.**
 9 **This is components used per repair.**
 10 Q. Well, would CHEP have the
 11 information to figure out what Greenten's
 12 average was for component cost?
 13 **A. Yes, we would.**
 14 Q. But you never tried to do that,
 15 right?
 16 **A. No.**
 17 Q. Now, we were talking about CHEP's
 18 average component cost. Is that information
 19 that Erin got for you?
 20 **A. Yes.**
 21 Q. And, again, you told her what you
 22 wanted and she ran some sort of query?
 23 **A. That's right.**
 24 Q. And you never saw the query that she

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1 ran?
 2 **A. No, sir.**
 3 Q. Would you have had her run such
 4 queries for other purposes other than the
 5 assignment you had with respect to assisting
 6 to calculate damages in this case?
 7 **A. Yes, I have had Erin run many**
 8 **different queries for me before.**
 9 Q. Queries related to component costs
 10 or average component cost?
 11 **A. Yes.**
 12 Q. What purposes would you have used
 13 those for?
 14 **A. Similar to the one on the components**
 15 **per repair. It's a way for me to track or**
 16 **identify where my costs may be changing and**
 17 **who is influencing the change in my cost**
 18 **throughout my areas of responsibility.**
 19 Q. How voluminous was the information
 20 she gave you on component costs?
 21 **A. It was big. It was --**
 22 Q. Bigger than the information --
 23 **A. Yes, sir.**
 24 Q. I apologize, but the -- bigger than

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1 the information that we marked as 162,
 2 correct?
 3 **A. That's correct.**
 4 Q. A few moments ago, we were looking
 5 at CHEP 10972 through CHEP 11028. And I'll
 6 hand that to you again. Could that be part
 7 of the information that Erin provided to you
 8 when you were looking at component cost?
 9 **A. Is there a Number 2?**
 10 Q. There is. I could hand you the
 11 whole set if that would be helpful.
 12 **A. I think that would help me.**
 13 Q. Let me sort through this. There's
 14 actually -- I think we get all the way up to
 15 10.
 16 **A. And I have a better understanding of**
 17 **this now.**
 18 MS. ROMAN: Are we going to lay
 19 these out?
 20 THE WITNESS: Once we caught the 1
 21 up here, this is --
 22 MS. ROMAN: Wait until he asks you a
 23 question.
 24 BY MR. WILSON:

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1 Q. Just for the record, I believe what
 2 I'm handing you is a series of documents
 3 that go from where we started, with the last
 4 one, which would be CHEP 10972, all the way
 5 through CHEP 11541.
 6 Now that you have all this, you can
 7 take whatever time you need to review it,
 8 but my question will be if this is the
 9 information that Erin provided to you with
 10 respect to component costs.
 11 **A. There's two 5s.**
 12 Q. Thank you.
 13 **A. It is.**
 14 Q. Okay. When did she provide you with
 15 this information?
 16 **A. I believe it was in January also.**
 17 Q. And what use did you make of it?
 18 **A. It was used to make a basis as to**
 19 **the amount that we would spend on components**
 20 **repairing these pallets.**
 21 Q. Okay. Were you able to, as you got
 22 the information, find an average in the
 23 spreadsheets that you received, or did you
 24 have to do further calculation?

1 IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
2 WESTERN DIVISION AT DAYTON
3

4 BUCKEYE DIAMOND)
LOGISTICS, INC., FKA)
5 BUCKEYE RECYCLERS, INC.,)
Plaintiff,)

7 vs.) Civil Action No.
23-01-440

8 CHEP USA, A GENERAL)
PARTNERSHIP,)
9 Defendant.)

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DEPOSITION
of ELTON POTTS

Taken at the offices of
SCHOTTENSTEIN, ZOX & DUNN
250 West Street, Suite 700
Columbus, Ohio 43216

on April 8, 2004, at 9:00 a.m.

Reported by: Sara S. Fuller, RPR/CRR

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<p style="text-align: right;">Page 74</p> <p>1 Q. Okay. And do you know who Mills 2 Pride sends the pallets marked with CHEP's 3 logo to primarily? 4 A. I have a belief, but off the top of 5 my head, no, I do not know. 6 Q. Ms. Southwick would know more about 7 that than you? 8 A. Yes. 9 Q. And would you agree with me that the 10 invoiced charges on this document would 11 represent rental that CHEP was charging 12 Mills Pride? 13 A. No, sir. 14 Q. You would not? 15 A. No, sir. 16 Q. Do you have knowledge that the 17 invoiced charges are something -- for 18 something other than rental being charged to 19 Mills Pride? 20 A. I have knowledge of our typical 21 charges to a manufacturing customer -- 22 Q. Okay. 23 A. -- which leads me to believe that 24 these charges are not all rent.</p>	<p style="text-align: right;">Page 76</p> <p>1 A. I assumed that, as well. 2 Q. And the answer that you verified 3 indicates that Candice Southwick is that 4 person. 5 A. Yes. 6 Q. Did you make that determination, or 7 did someone else at CHEP make the 8 determination that she was the person most 9 knowledgeable -- the person who had 10 responsibility for overseeing, monitoring, 11 or auditing the return of pallets by Abbott 12 and Mills Pride? 13 A. Myself and counsel. 14 Q. Were you aware that she had no 15 knowledge of the overseeing, monitoring, or 16 auditing of the return of pallets by those 17 companies until she was asked to investigate 18 that in order to become a witness in this 19 case? 20 A. I'm sorry. Please repeat the 21 question. 22 Q. Were you aware that Ms. Southwick 23 had no knowledge of the oversight, 24 monitoring, or auditing of the return of</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. What else do you believe they're 2 for? 3 A. I believe that they include issue 4 fees, and would assume that they also 5 include transfer fees, as well as rent. 6 Q. Okay. Do you know whether these 7 invoices include any fees for lost pallets? 8 A. No, sir, I do not. 9 Q. If we could turn back to your 10 answers to interrogatories, which are 11 Exhibit 172 -- I mean CHEP's answers to 12 interrogatories. If I could draw your 13 attention to Pages 5 and 6, Interrogatory 14 Number 3, Part (e), asks, "Identify all 15 persons who, while employed by CHEP, or 16 acting as its agents, have, (e), had 17 responsibility for overseeing, monitoring or 18 auditing the return of pallets by," it says, 19 "ABX, FX, or MX, PX, since January 1, 1999." 20 First of all, do you understand the 21 ABX, FX, to stand for Abbott Foods? 22 A. I assumed it did. 23 Q. Okay. And did you understand the MX 24 and PX to stand for Mills Pride?</p>	<p style="text-align: right;">Page 77</p> <p>1 pallets by Abbott and Mills Pride until she 2 was asked to investigate those areas in 3 order to become a witness in this case? 4 A. No. 5 Q. Do you have any -- can you explain 6 why John Depolt or Miguel DeVaughn were not 7 identified in response to this 8 interrogatory? 9 A. No, I cannot. 10 Q. Do you know whether they have had 11 interaction with respect to the oversight, 12 monitoring, and return of pallets by Abbott 13 or Mills Pride since that time? 14 A. No, I don't believe I know that. 15 Q. Did you confirm with Ms. Southwick 16 that she was a person who had responsibility 17 for overseeing, monitoring, or auditing the 18 return of pallets by Abbott and Mills Pride? 19 A. I don't recall that I did. 20 Q. And her position reports to you; is 21 that correct? 22 A. That's correct. 23 Q. And she's the director of NPD sales? 24 A. Or we call them new business sales,</p>

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1 calculation of those damages for insurance
 2 purposes.
 3 Q. Was that for CHEP or a previous
 4 employer?
 5 A. Previous employer.
 6 Q. Any instances in which you've
 7 calculated either for litigation or
 8 insurance purposes how CHEP has been damaged
 9 by any incident or anyone's actions since
 10 you've been at CHEP?
 11 THE WITNESS: Please repeat the
 12 question.
 13 (Record read back as requested.)
 14 A. Yes, sir.
 15 Q. What instances have you been
 16 involved in those kind of calculations?
 17 A. As I recall, a storage facility had
 18 a fire a couple years ago.
 19 Q. Okay.
 20 A. I was involved in that damage
 21 calculation.
 22 Q. Any other instances?
 23 A. Yes. I also was involved in the
 24 calculation of damages against a recycler

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1 who was selling CHEP pallets.
 2 Q. What recycler was that?
 3 A. Actually, there have been two other
 4 than Buckeye.
 5 Q. Okay.
 6 A. Mock Pallets outside of Atlanta,
 7 Georgia. Covington, I believe. And Cape
 8 Fear Pallets.
 9 Q. Okay. In either of those instances,
 10 did you calculate the cost of capital for
 11 replacement pallets?
 12 A. Yes, sir.
 13 Q. Did you reduce it to writing?
 14 A. I'm sorry?
 15 Q. Did you reduce those calculations to
 16 writing?
 17 A. Yes, sir.
 18 Q. Who -- did you generate the document
 19 yourself, or did others at your direction
 20 generate the document?
 21 A. Others at my direction.
 22 Q. When was the calculation done with
 23 respect to Mock Pallets?
 24 A. With respect to cost of capital

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1 calculations or just the damage calculation
 2 for Mock Pallets?
 3 Q. Well, was the cost of capital
 4 calculation part of the damage calculations
 5 for Mock Pallets?
 6 A. No, sir.
 7 Q. Why not?
 8 A. It was done prior to this, and we
 9 took a daily rental approach to the
 10 calculation. And I think since then, we
 11 figured out it's probably not the -- this is
 12 probably more accurate.
 13 Q. What daily rental figure did you use
 14 for that calculation in Mock Pallets?
 15 A. I believe it was 3.5 cents per
 16 pallet per day.
 17 Q. How did you arrive at that figure?
 18 A. That's what we charge our customers.
 19 Q. And you assumed 100-percent
 20 utilization of those pallets for each day in
 21 which they were held by Mock Pallets?
 22 A. For that calculation, yes.
 23 Q. Does CHEP do any kind of overall
 24 utilization calculations?

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1 A. Yes.
 2 Q. Does it arrive at a bottom line
 3 utilization rate for its pallets?
 4 A. We don't look at it as a utilization
 5 rate, but as we discussed earlier, we do
 6 look at the portion of pallets held by
 7 customers versus held by CHEP plants.
 8 Q. Okay. Would you agree with me that
 9 that could be fairly characterized as a
 10 utilization rate?
 11 A. I believe you could derive a
 12 utilization rate calculation from that, yes.
 13 Q. And is it your testimony that you
 14 can't recall what that utilization rate is
 15 for any particular period of time over the
 16 last two years?
 17 A. That's correct.
 18 Q. But documents would exist that would
 19 show that information?
 20 A. No, sir.
 21 Q. Documents do not exist that show --
 22 A. That would show utilization rate,
 23 no, sir.
 24 Q. From which you could derive

<p style="text-align: right;">Page 90</p> <p>1 utilization rate? 2 A. Yes, sir. 3 Q. Going back to Exhibit 165, when you, 4 for the year 1999, indicate a -- the number 5 of pallets replaced -- 6 A. Yes, sir. 7 Q. -- is that number of pallets 8 replaced based -- I'm sorry, number of 9 replacement pallets -- I assume these are 10 the ones attributable to Buckeye; would that 11 be fair? 12 A. Yes, sir. 13 Q. And that's based on the same method 14 of estimating how many pallets were in 15 Buckeye's possession that you testified to 16 earlier? 17 A. Yes, sir. 18 Q. You didn't have any additional data 19 to try to determine how many pallets Buckeye 20 had in its possession in 1999 that we 21 haven't already discussed, correct? 22 A. That's correct. 23 Q. Okay. And then in your methodology, 24 you calculate the total replacement cost for</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. So you're assuming for purposes of 2 this calculation that Buckeye is liable for 3 a year's worth of capital cost, correct? 4 A. Yes, sir. 5 Q. And when you're doing your 6 depreciation calculation, you're assuming 7 that Buckeye is liable for 10.1 months' 8 worth of depreciation costs? 9 A. Yes, sir. 10 Q. Are those approaches consistent? 11 A. I don't know. 12 Q. What additional information would 13 you have to determine whether they're 14 consistent? 15 A. I don't have additional information. 16 There's information I'd like to have. 17 Q. What is that? 18 A. I'd like to know when Buckeye 19 received the pallets. 20 Q. Okay. 21 A. Then I could make more accurate 22 calculations. I'd also like to know when 23 Buckeye sold our pallets, if and when we 24 ever got them back.</p>
<p style="text-align: right;">Page 91</p> <p>1 those pallets based on your average cost of 2 purchasing a new pallet in 1999; is that 3 correct? 4 A. For the time frame used to develop 5 the average for 1999. 6 Q. You mean the portion of 1999 used in 7 the calculation? 8 A. Yes, sir. 9 Q. Okay. 10 A. We did not use the full year. 11 Q. And is the figure 2,559.43 simply 12 multiplying the 9 percent cost of capital as 13 against the total replacement cost? 14 A. Yes, sir. 15 Q. And is that cost of capital an 16 annual rate? 17 A. Yes, sir. 18 Q. How does that calculation square 19 with your previous assumption that CHEP -- 20 I'm sorry, that Buckeye held the pallets for 21 10.1 months? 22 A. It squares that I don't know how 23 long the pallets that Buckeye 24 sold/maintained were outside of our loop.</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. Well, you do have records at CHEP as 2 to how many pallets you got back from Abbott 3 Foods, don't you? 4 A. I believe we do, yes, sir. 5 Q. And you do have records at CHEP as 6 to how many pallets Mills Pride shipped on 7 to participating distributors, correct? 8 A. Yes, sir. 9 Q. But you didn't check those records 10 in doing this calculation, correct? 11 A. No, sir, because there could be 12 several other influencing factors for Abbott 13 Foods or Mills Pride. 14 Q. Okay. Well, can you offer any 15 explanation as to how an assumption that 16 Buckeye held pallets for 10.1 months in your 17 depreciation calculation is consistent with 18 the assumption that you're entitled to 19 recover a year's worth of cost of capital in 20 your cost of capital for replacement pallets 21 calculation? 22 A. In the cost of capital calculation, 23 we only included current year, even though 24 we've held the pallets for longer than that</p>

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1 **A. No, sir.**
2 Q. Have you had any conversation with
3 anyone at Greenten?
4 **A. No, sir.**
5 Q. As you sit here today, do you know
6 whether 15,303 parts were actually replaced
7 by Greenten for the pallets delivered from
8 Buckeye?
9 **A. I know this is the number given to**
10 **us by Derrick.**
11 Q. So you don't know whether that
12 number's accurate or not?
13 **A. No, sir.**
14 Q. And do you know whether 7,287
15 pallets were actually repaired by Greenten?
16 **A. No, sir, I don't know.**
17 Q. And do you know whether 320 pallets
18 were actually replaced among those sent to
19 Greenten?
20 **A. No, sir, I don't know. I'm**
21 **comfortable that Derrick, given his position**
22 **and the sample size he took, was fairly**
23 **statistically significant, and this is how**
24 **he extrapolated it, I'm comfortable with it.**

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1 Q. Did you give him directions as to
2 what sampling size would be statistically
3 significant?
4 **A. No, sir, I did not.**
5 Q. Do you have expertise on what a
6 significant -- statistically significant
7 sampling size is?
8 **A. I've had a few courses in statistics**
9 **over the course of my career, but could I**
10 **tell you exactly? No, sir. But numbers**
11 **around 5 percent come to mind.**
12 Q. Do you have expertise in what is
13 statistically significant in sampling sizes?
14 **A. No.**
15 Q. In fact, prior to yesterday, you
16 didn't know that these numbers were based on
17 samplings, did you?
18 **A. That's correct.**
19 Q. Did you give any directions to
20 Greenten yourself as to how to handle the
21 pallets received?
22 **A. No, sir.**
23 Q. Other than Mr. Smith, did anyone
24 from CHEP?

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1 **A. Not that I'm aware of. He may have**
2 **instructed someone else. I don't know.**
3 Q. Did Mr. Russell give any
4 instructions to Greenten?
5 **A. He may have told them that the**
6 **pallets were coming and needed to be washed,**
7 **but that would be all, if anything. I'm not**
8 **sure he did that.**
9 Q. Do you know how many of the pallets
10 sent to Greenten were white wood?
11 **A. I understand now that at least one**
12 **of them was.**
13 Q. You don't know how many, however?
14 **A. No, sir.**
15 Q. Did Greenten provide you with any
16 information as to how many of the pallets it
17 received from Buckeye it was returning to
18 the CHEP system?
19 **A. I don't know.**
20 Q. Did you direct Mr. Smith to do a
21 calculation of the portion of these costs
22 attributable to Buckeye?
23 **A. Mr. Smith, at my direction,**
24 **participated in the calculation of this**

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1 **damages claim.**
2 Q. Did he do the calculations himself?
3 MR. McDONALD: Are we talking about
4 all the calculations?
5 Q. Talking about the calculations under
6 the heading cost attributable to Buckeye.
7 **A. I am fairly certain he did not do**
8 **most of these calculations himself.**
9 Q. Do you know who did?
10 **A. I would believe that Rob Ferrentino**
11 **or a member of his team may have.**
12 Q. Could you take a look back at
13 Exhibit 172. If you could again look at
14 Interrogatory 3 on Page 5, and I'll direct
15 your attention to Subpart (c). "Identify
16 all persons who, while employed by CHEP or
17 acting as its agents, have, (c),
18 participated in any aspect of the
19 calculation of the CHEP's damages in this
20 matter."
21 Do you see where I'm referring to?
22 **A. Yes, sir, I do.**
23 Q. Do you see that the answer given is
24 Elton Potts, Derrick Smith?

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1 **A. Yes, sir, I do.**
 2 Q. And did you review that answer
 3 before you verified it?
 4 **A. Yes, sir, I did.**
 5 Q. And at the time you reviewed that
 6 answer, did you know that Mr. Ferrentino had
 7 participated in the calculation of damages?
 8 **A. I looked at his participation as one**
 9 **of putting the final numbers on pieces of**
 10 **paper and pulling some data. I didn't look**
 11 **at him as playing a major role in this.**
 12 Q. Does it say major role in the
 13 request?
 14 MR. McDONALD: Objection. The
 15 question's argumentative.
 16 Q. You can answer.
 17 **A. No.**
 18 Q. Are there other people that, as you
 19 read the interrogatory again today, should
 20 be included in the answer?
 21 **A. Yes, sir.**
 22 Q. Who?
 23 **A. Counsel, Kevin Adams, Ray Garcia, Ed**
 24 **Reed, Yibeng Feng. Those are all the ones I**

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1 **can think of.**
 2 Q. Other than counsel, can you tell me
 3 what each of them did.
 4 **A. I can give you my best estimate of**
 5 **what each of them did.**
 6 Q. Okay. Go ahead and do that.
 7 **A. Yibeng Feng pulled together**
 8 **information like cost of a new pallet for**
 9 **that month of \$18.54.**
 10 Q. Did you verify the work -- is that a
 11 man or woman? I'm sorry.
 12 **A. It's a woman.**
 13 Q. Did you verify the work that she
 14 did?
 15 **A. Define "verify."**
 16 Q. Did you look at the underlying data
 17 to see if her determination of that amount
 18 was correct?
 19 **A. No, sir. I gave it a reasonability**
 20 **test.**
 21 Q. Okay. Meaning you looked at the
 22 number based on your business experience and
 23 it looked reasonable to you?
 24 **A. Yes, sir.**

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1 Q. And that's the only thing you did to
 2 verify?
 3 **A. Her piece, that's correct.**
 4 Q. Okay. Could you tell me what the
 5 other individuals you've named did.
 6 **A. Ed Reed pulled the historical CHEP**
 7 **damage rate -- or damage ratio to determine**
 8 **what cost was in excess of that and could be**
 9 **attributable to Buckeye.**
 10 Q. And how do you know he did that?
 11 **A. I think I asked him to.**
 12 Q. Okay. Did you verify any of his
 13 work?
 14 **A. Other than the reasonability, no,**
 15 **sir.**
 16 Q. Is his work reflected in any of the
 17 exhibits you have in front of you?
 18 MR. McDONALD: Would you define
 19 "reflected"?
 20 Q. Is the term reflected unclear to
 21 you, Mr. Potts?
 22 **A. I'm going to assume that did he do**
 23 **any of this work is the question.**
 24 Q. Did he generate any of these

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1 documents?
 2 MR. McDONALD: That's a different
 3 question.
 4 MR. WILSON: I understand that.
 5 **A. I don't believe so.**
 6 Q. Did he generate any documents that
 7 you've seen?
 8 **A. Yes, sir.**
 9 Q. What documents did he generate?
 10 **A. He generated a document that pulled,**
 11 **for the time frame requested, damage ratio.**
 12 MR. WILSON: Would you mark that.
 13 --0--
 14 (Exhibit 173 marked.)
 15 --0--
 16 BY MR. WILSON:
 17 Q. After you've had a chance to look at
 18 Exhibit 173, Mr. Potts, can you tell me what
 19 that document is?
 20 **A. This is a calculation of CHEP's**
 21 **historical damage ratio over the time period**
 22 **requested.**
 23 Q. And who prepared this document?
 24 **A. Ed Reed did.**

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1 Q. Is it correct that you had to
 2 utilize this damage ratio in terms of
 3 calculating cost attributable to Buckeye
 4 because you have no information concerning
 5 what condition the pallets were in when they
 6 were received by Buckeye?
 7 **A. Please repeat the question.**
 8 MR. WILSON: Can you read it back?
 9 (Record read back as requested.)
 10 **A. No, sir, that's not correct.**
 11 Q. What information do you have
 12 concerning the condition that pallets were
 13 in when they were received by Buckeye?
 14 **A. Information that I've already**
 15 **testified to. One, condition that led us to**
 16 **the decision to wash them all, two, the**
 17 **information from Derrick regarding the**
 18 **amount that was damaged.**
 19 Q. Okay. Well, for instance, what
 20 contaminants were you informed were on the
 21 pallets?
 22 **A. I was told that they were filthy,**
 23 **that they included dirt, they included**
 24 **sawdust, that they smelled, that they were**

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1 **moldy. A variety of items along that line.**
 2 Q. And do you know whether any of those
 3 contaminants were on the pallets when
 4 Buckeye received them?
 5 **A. When did Buckeye receive them?**
 6 Q. Can you answer my question?
 7 **A. No, sir, I cannot answer your**
 8 **question.**
 9 Q. You do not know?
 10 **A. I do not know.**
 11 Q. Did anyone inform you that there was
 12 dog food on some of the pallets?
 13 **A. I learned that yesterday.**
 14 Q. How did you learn that?
 15 **A. I believe from counsel.**
 16 Q. Do you know how dog food would come
 17 to be on pallets at Buckeye itself?
 18 **A. No, sir, I do not know.**
 19 Q. And you don't know whether that dog
 20 food may have been on the pallet when
 21 Buckeye received it, do you?
 22 **A. No, sir, I don't know.**
 23 Q. And you don't know whether any of
 24 the damage on the pallets may have been

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1 already present when Buckeye received the
 2 pallets, correct?
 3 **A. Don't know, but we gave them credit**
 4 **for that.**
 5 Q. Well, you attempted to give them
 6 credit by your comparing the amount of
 7 pallets that Mr. Smith extrapolated needed
 8 to be repaired with CHEP's average damage
 9 ratio, correct?
 10 **A. That's correct.**
 11 Q. And you could not, because you
 12 didn't have the data, compare Mr. Smith's
 13 extrapolation as to the number of repaired
 14 with the damage ratio for pallets returned
 15 from NPDs, correct?
 16 **A. That's correct.**
 17 Q. Do you know what database the damage
 18 ratio was derived from?
 19 **A. I believe Mr. Reed pulled it from**
 20 **historical summary reports that we had done**
 21 **previously, which would have then come from**
 22 **more detailed reports in the organization.**
 23 Q. Do those summary reports still
 24 exist?

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1 **A. Yes, they do.**
 2 Q. Have you provided them to counsel in
 3 this case?
 4 **A. No, sir, I have not.**
 5 Q. Did you compare Exhibit 173 with
 6 those summary reports?
 7 **A. No, sir, I did not.**
 8 Q. Is it your understanding that those
 9 summary reports are hard copy documents that
 10 he would have derived these figures from or
 11 they are some sort of database that you
 12 would have done a query to get the data
 13 from?
 14 **A. My understanding is that some may be**
 15 **hard copy and some via electronic.**
 16 Q. Do you know how he actually derived
 17 the information on Exhibit 173 from either
 18 the hard copy or the electronic document?
 19 **A. I'm not sure I understand your**
 20 **question.**
 21 Q. What don't you understand about the
 22 question?
 23 **A. I understand the calculation.**
 24 Q. Okay. My question isn't about the

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1 **the pallets, the quantity estimated to me by**
2 **Buckeye and things like that.**
3 Q. Did you make any effort to inspect
4 the pallets at that time to see if any of
5 them were contaminated?
6 **A. I made visual inspections, and I**
7 **have photographs. And some of them did have**
8 **foreign substances on them.**
9 Q. Did you ask anyone at Buckeye about
10 those foreign substances at that time?
11 **A. No, sir, I did not.**
12 Q. Have you ever had any conversation
13 with anyone at Buckeye as to how foreign
14 substances came to be on any pallets marked
15 with CHEP's logo held by Buckeye?
16 **A. I don't believe that I have, no.**
17 Q. Do you know how many pallets per
18 month CHEP has recovered from Buckeye in
19 January, February, and March of 2004?
20 **A. I saw some data up through mid March**
21 **yesterday. The numbers were approximately**
22 **similar to the 580, maybe slightly less. I**
23 **didn't do an exact calculation.**
24 Q. Do you know how many pallets Buckeye

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1 has returned to common customers since the
2 Court's order in the fall of 2003 went in
3 place?
4 **A. No, sir, I do not.**
5 Q. If we could go back to your
6 interrogatory answers, which I think were
7 marked as Exhibit 172, and I mean CHEP's
8 interrogatory answers --
9 **A. Okay.**
10 Q. -- on Pages 3 and 4, I'm looking at
11 Interrogatory 1 (b), which asks about the
12 particular repairs made to each pallet
13 recovered. And you verified the answer that
14 "No record was made of particular repairs
15 made to each pallet, rather, what was
16 recorded was the total number repaired and
17 the total number of components that had to
18 be replaced."
19 Do you see that answer?
20 **A. Yes, sir, I do.**
21 Q. In fact, those numbers indicated in
22 your answer are Derrick Smith's
23 extrapolations as to the total number
24 repaired and the total number replaced,

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1 correct?
2 **A. Which I have since learned, yes.**
3 Q. So as far as you know, does anyone
4 have any record of the actual number of
5 pallets repaired or the actual number of
6 components replaced?
7 **A. No, sir.**
8 Q. Do you know whether Greenten has any
9 records regarding repair or replacement of
10 these pallets other than the invoice that we
11 looked at earlier today?
12 **A. I do not know.**
13 Q. Have you asked them for any?
14 **A. No, sir, I have not.**
15 Q. Your answer indicates that CHEP
16 received no payment for pallets scrapped.
17 Do you see that under Item (c)?
18 **A. Yes, sir.**
19 Q. Is that CHEP's normal business
20 practice, not to either receive payment for
21 the scrap value of a pallet or have the
22 components used for repair of other pallets?
23 **A. CHEP does not sell even scrap**
24 **pallets due to the potential ownership**

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1 **issues tied to that. If there are usable**
2 **components, we will try to use them on other**
3 **pallets for repair.**
4 Q. Do you know whether any of the
5 components from the pallets delivered from
6 Buckeye eventually to Greenten were used for
7 repair of other pallets?
8 **A. No, sir, I do not know.**
9 Q. Do you know the total cost of
10 loading the pallets from Buckeye and
11 transporting them to Millwood?
12 **A. No, sir, I don't know off the top of**
13 **my head.**
14 Q. Who would know that?
15 **A. We would have to go back and pull**
16 **information out of the system to determine**
17 **that cost.**
18 Q. Could you take the bills of lading
19 that we looked at today and determine what
20 those costs were?
21 **A. Sitting here, no, I could not.**
22 Q. I'm not saying just using the bills
23 of lading, but could you use the information
24 from the bills of lading to find the