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FD-30400

(SUB 21)

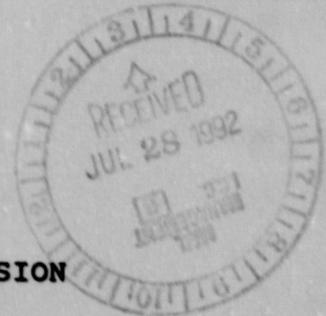
7-28-92

COMPLAINT VOL. I 1 OF 10

LEE J. KUBBY, INC.  
A PROFESSIONAL CORPORATION  
BOX 60485  
Sunnyvale, CA 94085

(415) 691-9331

Attorney for Injured Parties



INTERSTATE COMMERCE COMMISSION

SIEU MEI TU AND JOSEPH Z. TU )  
INJURED PARTIES )

VS )

SOUTHERN PACIFIC TRANSPORTATION )  
COMPANY; ATCHISON, TOPEKA, SANTA FE )  
RAILROAD COMPANY; PACIFIC FRUIT )  
EXPRESS COMPANY; T. ELLEN; E.E. CLARK; )  
d. W. FEND; T. R. ASHTON; DOE DEFEN- )  
DANTS ONE TO TWO THOUSAND; WHITE )  
COMPANY; BLACK CORPORATION; BROTHER- )  
HOOD OF RAILWAY, AIRLINE AND STEAM- )  
SHIP CLERKS; R. B. DRACKBILL; J. M. )  
BALOVICH; SANTA FE SOUTHERN PACIFIC )  
CORP. )

DEFENDANTS )  
\_\_\_\_\_ )

INTERSTATE )  
COMMERCE )  
COMMISSION )  
FINANCE DOCKET )  
NO. 30400 (SUB- )  
NO. 21) )  
SANTA FE SOUTHERN )  
PACIFIC CORPORA- )  
TION CONTROL )  
SOUTHERN PACIFIC )  
TRANSPORTATION )  
COMPANY )

INITIAL EVIDENCE )  
AND ARGUMENT )

VOLUME I

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LEE J. KUBBY, INC.  
A PROFESSIONAL CORPORATION  
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VOLUME I

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ENDORSED  
FILED  
San Francisco County Superior Court

SEP 26 1986

DONALD W. DICKINSON, Clerk:  
BY: R. de Luna  
Deputy Clerk

1 LEE J. KUBBY, INC.  
2 A PROFESSIONAL CORPORATION  
3 One Palo Alto Square  
4 Suite 260  
5 Palo Alto, CA 94306

6 Attorney for Plaintiffs

7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

9 SIEU MEI TU AND JOSEPH Z. TU )

10 Plaintiffs )

11 VS )

12 SOUTHERN PACIFIC TRANSPORTATION )  
13 COMPANY, ATCHISON, TOPEKA, SANTA FE )  
14 RAILROAD COMPANY, PACIFIC FRUIT )  
15 EXPRESS COMPANY, T. ALLEN, E.E.CLARK, )  
16 R. W. FEND, T. R. ASHTON, DOE DEFEN- )  
17 DANTS ONE TO TWO THOUSAND, WHITE )  
18 COMPANY, BLACK CORPORATION )

19 Defendants )

864666

COMPLAINT

20 PLAINTIFF SIEU MEI TU alleges that:

21 FIRST CAUSE OF ACTION

22 1. SOUTHERN PACIFIC TRANSPORTATION COMPANY is and all  
23 times herein mentioned was a corporation authorized to do  
24 businesses in the State of California.

25 2. DEFENDANT PACIFIC FRUIT EXPRESS COMPANY (PFE) is a  
26 wholly owned subsidiary of SOUTHERN PACIFIC TRANSPORTATION  
27 COMPANY.

28 /

/

1 3. The true names and capacities of Does One to Two Thou-  
2 sand, White Company, Black Corporation, are unknown to  
3 plaintiff. Plaintiff will amend this complaint to insert  
4 said true names and capacities upon ascertainment. Plain-  
5 tiff is informed and believes, and upon such information  
6 and belief alleges that each of the said fictitiously named  
7 defendants is liable to plaintiff for the acts, events and  
8 occurrences alleged herein as a result of said defendant's  
9 relationship to defendant PACIFIC FRUIT EXPRESS COMPANY or  
10 participation in said acts, events and occurrences.

11 4. Plaintiff is informed and believes, and upon such infor-  
12 mation and belief alleges that each of the defendants  
13 herein was, at all times mentioned herein, the agent,  
14 employee or representative of the remaining defendants and  
15 was acting within the course, scope and authority of said  
16 relationship.

17 5. Plaintiff Sieu Mei Tu (SMT) is a Chinese female born  
18 September 4, 1926.

19 6. On May 15, 1962, SMT and Defendant PACIFIC FRUIT EXPRESS  
20 COMPANY (PFE) entered into an oral employment agreement at  
21 San Francisco, California, pursuant to which SMT agreed to  
22 work for said defendant in the capacity of key punch opera-  
23 tor and for which said defendant agreed to pay SMT compen-  
24 sation. Thereafter on or about December 18, 1978 said  
25 agreement was reduced to writing, a copy of which is  
26 attached hereto as Exhibit A and incorporated herein by  
27 this reference as if fully set forth. Through a series of  
28 promotions during continuous employment by the said defen-

1 dant SMT was elevated to the position of General Clerk. She  
2 was terminated from employment by defendants and each of  
3 them effective October 9, 1985, involuntarily and wrong-  
4 fully without good just or legitimate cause or reason,  
5 without continuance of pay or benefits.

6 7. Plaintiff has performed each and every condition and  
7 covenant required on her part to be performed pursuant to  
8 said employment agreement and, in particular, was conti-  
9 nuously employed by defendant PFE from said date through  
10 October 9, 1985, occupying various positions within defen-  
11 dant PFE.

12 8. Pursuant to said employment agreement, defendant PFE  
13 promised that plaintiff would be treated as a permanent  
14 employee, that plaintiff's employment would continue indef-  
15 initely and if no job were available for her she would con-  
16 tinue to be paid her salary and benefits to age 65; that  
17 defendant PFE and its agents and employees would not act  
18 arbitrarily in dealing with plaintiff, and that plaintiff's  
19 employment would not be terminated except for good, just  
20 and legitimate cause or reason. Said promises were made  
21 expressly to plaintiff upon commencement of the employment  
22 relationship, were implied by the conduct and activities of  
23 defendant PFE and its agents and employees, and set forth  
24 in writing. In particular, said promises were implied in  
25 the content of defendant PFE's personnel policies and prac-  
26 tices; by said defendant's contracts with plaintiff's bar-  
27 gaining agent; by the longevity and continued nature of  
28 plaintiff's employment relationship; by the actions of

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1 defendant PFE and its agents and employees in consistently  
2 rating plaintiff's performance satisfactory, or better,  
3 issuing commendations to plaintiff for job performance,  
4 promoting plaintiff to her ultimate position within defen-  
5 dant PFE and in providing plaintiff with merit increases in  
6 compensation, all of which, together with the communica-  
7 tions of defendant PFE's agents and employees in connection  
8 therewith, reflect defendant PFE's assurance of plaintiff's  
9 continued employment.

10 9. Effective October 9, 1985, defendant PFE acting in  
11 wrongful concert with each and every of the remaining  
12 defendants breached said employment agreement and its  
13 express and implied promises by involuntarily and wrong-  
14 fully terminating plaintiff's employment without good, just  
15 or legitimate cause or reason and without continuation of  
16 salary and benefits. Prior to said termination defendants  
17 and each of them deliberately and purposefully created  
18 intolerable working conditions for plaintiff, causing her  
19 to be humiliated before other fellow employees.

20 10. As a direct and foreseeable result of said wrongful  
21 termination, plaintiff has suffered damages in an amount  
22 not less than \$30,000.00, the precise amount of which will  
23 be proven at the time of trial. Said damages include lost  
24 wages, salary, benefits and certain other incidental and  
25 consequential expenses and losses. Plaintiff claims damages  
26 of prejudgment interest pursuant to Civil Code Section 3287  
27 and/or any other provision of law providing for prejudgment  
28 interest.

1 11. As a result of the aforesaid acts of defendants, plain-  
2 tiff has become mentally upset, distressed and aggravated.  
3 Plaintiff claims general damages for such mental distress  
4 and aggravation in the sum of \$2,000,000.00

5 12. Because the acts taken toward plaintiff were carried  
6 out by managerial employees acting in a deliberate, cold,  
7 callous and intentional manner in order to injure and dam-  
8 age plaintiff, plaintiff requests the assessment of puni-  
9 tive damages against defendants and each of them in the sum  
10 of \$5,000,000.00.

11 SECOND CAUSE OF ACTION

12  
13 13. Plaintiff SMT realleges and incorporates herein by ref-  
14 erence paragraphs 1-12 of her First Cause of Action and  
15 makes them a part of this Second Cause of Action.

16 14. In consideration for the continuous employment of  
17 plaintiff, plaintiff provided certain benefits to defen-  
18 dants and each of them and suffered certain detriment  
19 beyond and in addition to the rendition of the personal  
20 services called for by said employment agreement in that  
21 when said defendant PFE moved its offices to a location  
22 more distant and involving a more arduous commute than the  
23 place of the original employment; Plaintiff none the less  
24 suffered these more difficult conditions of employment and  
25 continued to provide her services for the good of her  
26 employer.

27 15. Implied as a term in said employment agreement, as a  
28 result of said consideration independent of the services to

1 be performed by plaintiff, was defendant PFE's promise not  
2 to terminate plaintiff except for good or just cause  
3

4 THIRD CAUSE OF ACTION

5 16. Plaintiff SMT realleges and incorporates herein by ref-  
6 erence paragraphs 1-15 supra and makes them a part of this  
7 Third Cause of Action.

8 17. As a result of the employment relationship which  
9 existed between plaintiff and defendant PFE, the express  
10 and implied promises made in connection therewith, and the  
11 acts, conduct and communications which resulted in said  
12 implied promises, defendant PFE covenanted and promised to  
13 act in good faith toward and deal fairly with plaintiff and  
14 concerning all matters related to said employment so as to  
15 not deprive plaintiff of or injure her right to receive the  
16 benefits of said relationship.

17 18. Defendant PFE's termination of plaintiff's employment  
18 was wrongful, in bad faith and unfair, and therefore a  
19 violation of said defendant's legal duties, in that defen-  
20 dant not only terminated plaintiff in bad faith and  
21 unfairly but also humiliated and shamed her before her fel-  
22 low workers and friends by demanding that she perform  
23 demeaning duties, moving PFE positions and fellow employees  
24 with less seniority or experience to other employment with  
25 defendant Southern Pacific Transportation Company, and not  
26 so moving plaintiff SMT leaving plaintiff uninformed of her  
27 expectations re employment, requiring her not to seek fur-  
28 ther employment or be considered as self-terminated, etc.,

1 as a retaliatory discharge, discharge in conscious or reck-  
2 less disregard of known rights, pretextual discharge,  
3 and/or discharge for reasons other than dissatisfaction  
4 with plaintiff's services.

5 19. As a further direct and proximate result of the afore-  
6 mentioned wrongful conduct of defendants and each of them  
7 plaintiff has suffered anxiety, worry, mental, physical and  
8 emotional distress, and other incidental and consequential  
9 damages and expenses in excess of \$30,000, the total amount  
10 of which will be proven at the time of trial.

11 20. The conduct of defendants and each of them as described  
12 herein was oppressive, fraudulent and malicious, thereby  
13 entitling plaintiff to an award of punitive damages in an  
14 amount appropriate to punish and make an example of defen-  
15 dants and each of them.

16  
17 FOURTH CAUSE OF ACTION  
18

19 21. Plaintiff realleges and incorporates herein by refer-  
20 ence paragraphs 1-20 supra and makes them a part of this  
21 Fourth Cause of Action.

22 22. Said termination was wrongful and in violation of the  
23 fundamental principles of public policy of the United  
24 States of America and the State of California as reflected  
25 in the constitution of each and as reflected in laws as set  
26 forth in 42 USC 1981, 1983, 1985 and California Government  
27 Code 12900 et seq., and California Public Utilities Code  
28 453 (a), and the objectives underlying said policy (and

1 law) in that said termination was based on discrimination  
2 against plaintiff because of plaintiff's sex, age or race.  
3

4 23. As a result of said employment relationship, defendants  
5 and each of them was obliged to refrain from discharging  
6 plaintiff, or any employee, for reasons which violate or  
7 circumvent said policy, law or the objectives which  
8 underlie each.  
9

10 FIFTH CAUSE OF ACTION

11 24. Plaintiff SMT incorporates paragraphs 1-23 supra as if  
12 set forth in full.

13 25. Plaintiff is informed and believes and on that basis  
14 alleges that within two years last past the defendants, and  
15 each of them, jointly conspired, conceived and began to  
16 carry into effect in San Francisco, California a plan to  
17 merge defendant Southern Pacific Transportation Company  
18 with Defendant Atchison Topeka and Santa Fe Railroad Com-  
19 pany, cease operations of Defendant PFE as to cold storage  
20 transportation, move plaintiff SMI's position to defendant  
21 SPTC, wrongfully terminate plaintiff from her employment,  
22 and avoid their contractual and moral responsibilities to  
23 plaintiff.

24 26. Plaintiff is informed and believes and on the basis of  
25 said information and belief alleges that the defendants and  
26 each of them did the acts and things herein alleged and  
27 continue to pursue said conspiracy to the present time pur-  
28 suant to and in furtherance of said conspiracy.

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SIXTH CAUSE OF ACTION

PLAINTIFF JOSEPH Z. TU (JZT) alleges:

27. Plaintiff JZT incorporates paragraphs 1-26 supra as set forth in full.

28. As a result of the aforesaid acts of defendants and each of them, Plaintiff JZT has suffered the loss of society, companionship and support from Plaintiff SMT.

Plaintiff JZT has been upset, aggravated and distressed by these losses, and claims damages for the same according to proof.

WHEREFORE plaintiffs pray for judgment against defendants, and each of them as follows:

1. For damages of not less than \$35,000 pursuant to plaintiff's First and Second Causes of Action, according to proof;
2. For damages of not less than \$35,000 pursuant to plaintiff's Third, Fourth, and Fifth Causes of Action according to proof;
3. For damages according to proof pursuant to plaintiff JZT's Sixth Cause of action.
4. For punitive damages according to proof;

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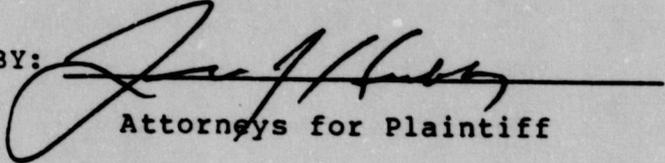
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- 5. For prejudgment interest, according to proof;
- 6. For reasonable attorney fees; and
- 7. For such other relief as the court deems proper.

DATED: September 25, 1986

LEE J. KUBBY, INC.  
A Professional Corporation

BY:   
Attorneys for Plaintiff

# *Pacific Fruit Express Company*

116 NEW MONTGOMERY STREET, SAN FRANCISCO, CALIFORNIA 94105

(415) 362-1212

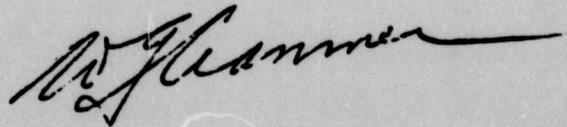
**W. CRANMER**  
VICE-PRESIDENT AND GENERAL MANAGER

December 18, 1978

TO WHOM IT MAY CONCERN:

This letter is to advise and confirm that Mrs. Sieu-Mei Tu (Social Security No. 569-54-5736) of 1697 Hickory Avenue, San Leandro, CA 94579, a citizen of the United States, is a permanent employee of this company at this address. Mrs. Tu was employed by this company on May 31, 1962 and has worked continuously for us from that date. Her position with this company is not only permanent in nature but she also is, under our contract with the Brotherhood of Railway, Airline & Steamship Clerks, "fully protected" so that in the unlikely event we were not to have a job for her, she would continue to be paid under that contract until she reaches age 65 and can retire under the provisions of Railroad Retirement Act and receive the appropriate pension therefrom.

Mrs. Tu holds the position of Payroll Clerk and her current salary is over \$1,300 per month, and is due for an increase therein of some ten percent or more. She is, and has always been, a valued employee and even if her present position were to be eliminated, we would find some other position for her to hold as we would not want to lose her services.



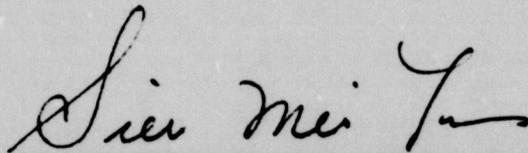
1 VERIFICATION

2 I, SIEU MEI TU, declare:

3 I am one of the Plaintiffs in the above entitled action; I  
4 have read the foregoing complaint and know the contents  
5 thereof; and I certify that the same is true of my own  
6 knowledge, except as to those matters which are therein  
7 stated upon my information or belief, and as to those  
8 matters I believe it to be true.

9 I certify, under penalty of perjury, that the foregoing is  
10 true and correct.

11 Executed on September 25, 1986 at Palo Alto, California.

12  
13  
14  
15  
16 

17 SIEU MEI TU, PLAINTIFF

<b>NAME AND ADDRESS OF SENDER</b> LEE J. KUBBY, INC. A PROFESSIONAL CORPORATION One Palo Alto Square, Suite 260 Palo Alto, CA 94306	<b>TELEPHONE NO</b> (415) 856-3505	For Court Use Only
<b>Insert name of court, judicial district or branch court, if any, and Post Office and Street Address</b> SUPERIOR COURT OF SAN FRANCISCO City Hall, Room 480 San Francisco, California		
<b>PLAINTIFF</b> SIEU MEI TU AND JOSEPH Z. TU		
<b>DEFENDANTS</b> SOUTHER PACIFIC TRANSPORTATION COMPANY, ATCHISON, TOPEKA, SANTA FE RAILROAD COMPANY, PACIFIC FRUIT EXPRESS CO., T. ALLEN, E.E.CLARK, R.W. FEND, T.R. ASETON, DOE DEFENDANTS ONE TO TWO THOUSAND, WHITE CO., BLACK CORPORATION		
<b>NOTICE AND ACKNOWLEDGMENT OF RECEIPT</b>		<b>Case Number</b> 864666

TO T. F. O'Donnell

(Insert name of individual being served)

This summons and other document(s) indicated below are being served pursuant to Section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it to me within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons and other document(s) are deemed served on the date you sign the Acknowledgment of Receipt below, if you return this form to me.

Dated February 13, 1987

*[Handwritten Signature]*  
(Signature of sender)

**ACKNOWLEDGMENT OF RECEIPT**

This acknowledges receipt of. (To be completed by sender before mailing)

- 1.  A copy of the summons and of the complaint
- 2.  A copy of the summons and of the Petition (Marriage) and
  - Blank Confidential Counseling Statement (Marriage)
  - Order to Show Cause (Marriage)
  - Blank Responsive Declaration
  - Blank Financial Declaration
  - Other. (Specify)

(To be completed by recipient)

Date of receipt

FEB 19 1987

(Signature of person acknowledging receipt with title if acknowledgment is made on behalf of another person)

Date this form is signed

FEB 19 1987

Pacific Fruit Express Co.

(Type or print your name and name of entity, if any, on whose behalf this form is signed)

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ROBERT S. BOGASON  
SOUTHERN PACIFIC TRANSPORTATION  
COMPANY  
One Market Plaza, Room 837  
San Francisco, CA 94105  
Telephone: 415-541-1786

MAR 24 1987

PATRICK W. JORDAN  
WAYNE M. BOLIO  
McLAUGHLIN AND IRVIN  
100 Pine Street, Suite 770  
San Francisco, CA 94111-5109  
Telephone: 415-433-6330

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SIEU MEI TU AND JOSEPH Z. TU, )

Plaintiffs, )

v. )

SOUTHERN PACIFIC TRANSPORTATION )  
COMPANY, et al., )

Defendants. )

Case No. C87-1198 DLJ

SOUTHERN PACIFIC  
TRANSPORTATION  
COMPANY'S ANSWER  
TO COMPLAINT

COMES NOW defendant Southern Pacific Transportation  
Company (hereinafter "SPT"), answering for itself and itself  
alone, and in answer to the above-entitled Complaint,  
admits, denies, and alleges as follows:

ANSWER TO FIRST CAUSE OF ACTION

1. Answering paragraphs 1, 2 and 5, defendant admits  
the allegations contained in said paragraphs.

2. Answering paragraph 6, defendant admits that  
plaintiff was employed by defendant Pacific Fruit Express  
Company (hereinafter "PFE"). With the foregoing exception,

1 defendant denies each and every allegation contained in said  
2 paragraph. Defendant further alleges that plaintiff was  
3 employed by PFE pursuant to the terms of a collective bar-  
4 gaining agreement negotiated under the terms of the Railway  
5 Labor Act, 45 USC §151 et seq. between PFE and the Brother-  
6 hood of Railway, Airline and Steamship Clerks, Freight  
7 Handlers and Station Employees (hereinafter "BRAC").  
8 Defendant further alleges that even if the letter from Mr.  
9 Cranmer dated December 18, 1978, was an employment agree-  
10 ment, it was superseded by subsequent "BRAC" collective  
11 bargaining agreements.

12 3. Answering paragraph 7, defendant admits that  
13 plaintiff was employed by PFE until October 9, 1985. With  
14 the foregoing exception, defendant denies each and every  
15 allegation contained in said paragraph.

16 4. Answering paragraphs 3, 4, 8, 9, 10, 11, and 12,  
17 defendant denies each and every allegation contained in said  
18 paragraphs.

19 ANSWER TO SECOND CAUSE OF ACTION

20 5. Answering paragraph 13, defendant refers to para-  
21 graphs 1 through 4 hereinabove and incorporates the same by  
22 reference herein.

23 6. Answering paragraph 14, defendant admits that  
24 PFE moved from Brisbane, California, to San Francisco,  
25 California. With the foregoing exception, defendant denies  
26 each and every allegation contained in said paragraph 14.  
27 Defendant further alleges that the transfer was authorized  
28 by the terms of the collective bargaining agreement between

1 PFE and BRAC, which allows a transfer of employment as long  
2 as the change is not in excess of 30 miles.

3 7. Answering paragraph 15, defendant denies each and  
4 every allegation contained in said paragraph.

5 ANSWER TO THIRD CAUSE OF ACTION

6 8. Answering paragraph 16, defendant refers to para-  
7 graphs 1 through 7 hereinabove and incorporates the same by  
8 reference herein.

9 9. Answering paragraphs 17, 18, 19, and 20, defendant  
10 denies each and every allegation contained in said para-  
11 graphs.

12 ANSWER TO FOURTH CAUSE OF ACTION

13 10. Answering paragraph 21, defendant refers to para-  
14 graphs 1 through 9 hereinabove and incorporates the same by  
15 reference herein.

16 11. Answering paragraphs 22 and 23, defendant denies  
17 each and every allegation contained in said paragraphs.

18 ANSWER TO FIFTH CAUSE OF ACTION

19 12. Answering paragraph 24, defendant refers to para-  
20 graphs 1 through 11 hereinabove and incorporates the same by  
21 reference herein.

22 13. Answering paragraphs 25 and 26, defendant denies  
23 each and every allegation contained in said paragraphs.

24 ANSWER TO SIXTH CAUSE OF ACTION

25 14. Answering paragraph 27, defendant refers to para-  
26 graphs 1 through 13 hereinabove and incorporates the same by  
27 reference herein.

28 15. Answering paragraph 28, defendant denies each and

1 every allegation contained in said paragraph.

2 ANSWER TO PRAYER FOR RELIEF

3 16. Answering Pray for Relief paragraphs 1 through 7  
4 inclusive, defendant generally and specifically denies  
5 plaintiffs and their attorneys are entitled to any aspect or  
6 portion, in whole or in part, of the relief prayed for.

7 SEPARATE AND AFFIRMATIVE DEFENSES

8 1. The court lacks subject matter jurisdiction over  
9 the complaint in that the claims alleged in the complaint  
10 are preempted by the Railway Labor Act and subject to the  
11 exclusive remedies contained therein.

12 2. The claims alleged in the complaint are barred by  
13 plaintiff's failure to exhaust her contractual and admini-  
14 strative remedies, including those set forth in the Railway  
15 Labor Act.

16 3. The fourth cause of action is barred by plain-  
17 tiff's failure to file a charge of discrimination with  
18 either the California Fair Employment and Housing Commission  
19 or the United States Equal Opportunity Commission, within  
20 the time periods specified in the state and federal statutes  
21 setting forth remedies for discrimination.

22 4. The complaint and each cause of action are barred  
23 by the applicable statute of limitations.

24 5. Plaintiff has failed to mitigate damages by seek-  
25 ing and/or accepting employment comparable to that which she  
26 held at PFE.

27 WHEREFORE, defendant prays that the complaint be dis-  
28 missed, that plaintiff take nothing, that defendant be

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awarded its costs and attorney's fees and for such other relief as the court may deem reasonable and proper.

Dated: March 23, 1987

Respectfully submitted,

By Robert S. Bogason  
Robert S. Bogason  
Attorney for Defendant  
Southern Pacific  
Transportation Company



APR 24 1987

1 LEE J. KUBBY, INC.  
2 A PROFESSIONAL CORPORATION  
3 One Palo Alto Square, Suite 260  
4 Palo Alto, CA. 94306

WILLIAM L. WHITTAKER  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

5 Telephone: 415 856-3505

6 Attorney for Plaintiffs

7 UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9  
10 SIEU MEI TU AND JOSEPH Z. TU, )

Case No. C 87 1198DLJ

11 Plaintiffs, )

Objection to Juris-  
diction, Demand for  
Jury, Objection to  
Sufficiency of Bond

12 v. )

13 SOUTHERN PACIFIC TRANSPORTATION )  
14 COMPANY, ET AL., )

Status Conference:  
June 17, 1987

15 Defendants. )

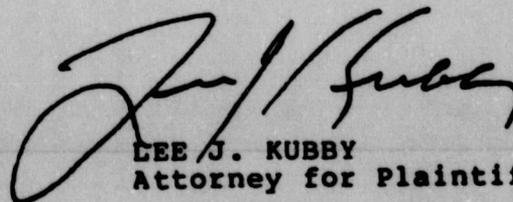
Time: 9:00 A. M.  
Court: Court No. 3

16 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

17 Please take notice that Plaintiffs herein herewith make demand  
18 for trial by jury, object to the jurisdiction of this court to  
19 grant the petition for removal under the provisions of 28 USC  
20 1445, and object to the sufficiency of the bond filed by peti-  
21 tioning DEFENDANT PACIFIC FRUIT EXPRESS COMPANY. Said objections  
22 will be joined with Plaintiffs' Status Conference Statement to be  
23 filed herein subsequently.

24 Dated April 23, 1987

25 Respectfully submitted,

26   
27  
28 LEE J. KUBBY  
Attorney for Plaintiffs 24

1  
2 DECLARATION OF SERVICE BY MAIL

3 I, Jane Ann Taylor, say and declare:

4 I am a citizen of the United States, over eighteen  
5 years of age, and not a party to the within action. My  
6 business address is One Palo Alto Square, Suite 260, Palo  
7 Alto, California 94306.

8 That on April 23, 1987, I served the attached:

9 Objection to jurisdiction, Demand for Jury, Objection to  
10 Sufficiency of Bond

11 via United States First Class Mail on the following party of  
12 record:

13 ROBERT S. BOGASON  
14 SOUTHERN PACIFIC TRANSPORTATION COMPANY  
15 One Market Plaza, Room 837  
16 San Francisco CA 94105  
Telephone: 415-541-1786

17 PATRICK W. JORDAN  
18 WAYNE M. BOLIO  
19 McLAUGHLIN AND IRVIN  
20 100 Pine Street, Suite 770  
21 San Francisco, CA 94111-5109  
22 TELEPHONE: 415-433-6330

23 and by then sealing said envelope and depositing same into  
24 the United States Mail, postage fully prepaid.

25 I declare under penalty of perjury that the foregoing is  
26 true and correct.

27 Executed on April 23, 1987, at Palo Alto California.

28 \_\_\_\_\_  
Jane Ann Taylor

1 LEE J. KUBBY, INC.  
2 A PROFESSIONAL CORPORATION  
3 One Palo Alto Square, Suite 260  
4 Palo Alto, CA. 94306

5 Telephone: 415 856-3505

6 Attorney for Plaintiffs

7 UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9	SIEU MEI TU AND JOSEPH Z. TU,	)	Case No. C 87 1198DLJ
10	Plaintiffs,	)	
11		)	MOTION TO REMAND TO
12	v.	)	SUPERIOR COURT
13	SOUTHERN PACIFIC TRANSPORTATION	)	
14	COMPANY, ET AL.,	)	
15	Defendants.	)	Date: August 19, 1987
		)	Time: 9:30 A. M.
		)	Court: Court No. 3

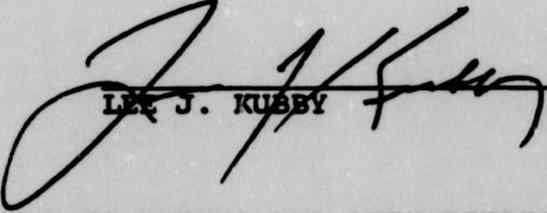
16 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

17 Please take notice that on August 19, 1987 at 9:30  
18 A.M. Plaintiffs will move the above entitled court at the Federal  
19 Court House, San Francisco, California, to remand the instant  
20 matter to the Superior Court County of San Francisco, on the  
21 basis that the matter in controversy was improperly removed from  
22 that court to the United States District Court for the Northern  
23 District of California.

24 /  
25 /  
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1 This motion is based on all pleadings, papers, and  
2 records filed in this action, and on the attached memorandum of  
3 points and authorities and on such evidence as may be presented  
4 at the hearing.

5 Dated: July 10, 1987

6  
7  
8   
9 LEE J. KUBBY

10 MEMORANDUM OF POINTS AND AUTHORITIES

11  
12  
13 Plaintiffs complaint in this matter alleges various  
14 tortious causes of action based on negligent and or intentional  
15 bad faith, unfair, oppressive, fraudulent and malicious termina-  
16 tion of plaintiff Sieu Mei Tu's long standing employment by  
17 Defendant Pacific Fruit Express, in violation of laws of the  
18 State of California and the United States of America. The Com-  
19 plaint seeks special damages; general damages for emotional dis-  
20 tress; and punitive damages.

21 The question of whether the federal district court  
22 had jurisdiction of the subject matter of the complaint (ie the  
23 nature of the action) which has been removed from the state  
24 court, is required to be answered under California law. Elec-  
25 tronic Race Patrol, Inc. (D.C.N.Y. 1961) 191 F. Supp. 364.  
26 Removal statutes are strictly constructed in favor of state court  
27 jurisdiction. Strange v. Arkansas-Oklahoma Gas Corp. (D. C. Ark.

1 1981) 534 F. Supp. 138. Removal statutes are to be strictly con-  
2 strued against removal and in favor of remand. Heatherton v.  
3 Playboy, Inc. (D.C. Cal 1973) 60 F.R.D. 372.

4 28 USCA 1445 (a) provides:

5 "A civil action in any State court  
6 against a railroad...arising under  
7 sections 51-60 of Title 45, may  
8 not be removed to any district  
9 court of the United States."

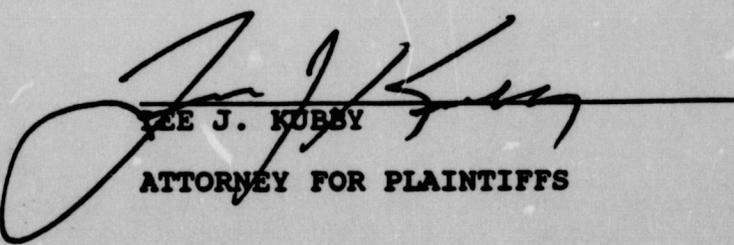
10 45 USCA 51 provides:

11 "Every common carrier by railroad  
12 while engaging in commerce  
13 between any of the several states  
14 ...shall be liable in damages to  
15 any person suffering injury while  
16 he is employed by such carrier in  
17 such commerce....

18 That Defendants are common carriers by railroad  
19 engaged in interstate commerce, and that Plaintiff Sieu Mei Tu  
20 was employed by said Defendants in such commerce when the tor-  
21 tious injury to her occurred, is clear and without argument.

22 Wherefore it is respectfully submitted that this  
23 matter should be remanded to the Superior Court for trial.

24 Dated July 10, 1987

25   
26 LEE J. KUBBY

27 ATTORNEY FOR PLAINTIFFS



LEE J. KUBBY, INC.  
A PROFESSIONAL CORPORATION  
One Palo Alto Square, Suite 260  
Palo Alto, CA. 94306

Telephone: 415 856-3505

Attorney for Plaintiffs

ORIGINAL  
FILED

AUG 31 1987

WILLIAM L. WHITTAKER  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SIEU MEI TU AND JOSEPH Z. TU, )

Plaintiffs, )

v. )

SOUTHERN PACIFIC TRANSPORTATION )  
COMPANY, ET AL., )

Defendants. )

Case No. C 87 1198DLJ

MOTION TO REMAND TO  
SUPERIOR COURT  
RENOTICE

Date: September 30,  
1987

Time: 10:00 A. M.  
Court: Court No. 3

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that the motion originally  
noticed for August 19, 1987 at 9:30 A.M. is hereby renoticed for  
hearing on September 30, 1987 at 10:00 A..M. at which time and  
place Plaintiffs will move the above entitled court at the Fed-  
eral Court House, San Francisco, California, to remand the  
instant matter to the Superior Court County of San Francisco, on  
the basis that the matter in controversy was improperly removed  
from that court to the United States District Court for the  
Northern District of California.

/

/

28

1 This motion is based on all pleadings, papers, and  
2 records filed in this action, and on the memorandum of  
3 points and authorities previously filed herein, on the Declara-  
4 tion Sieu Mei Tu to be filed hereafter and on such evidence as  
5 may be presented at the hearing.

6 Dated: July 31, 1987

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9 LEE J. KUBBY

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DECLARATION OF SERVICE BY MAIL

I, Berina Hawes, say and declare:

I am a citizen of the United States, over eighteen years of age, and not a party to the within action. My business address is One Palo Alto Square, Suite 260, Palo Alto, California 94306.

That on July 31, 1987, I served the attached:  
Motion to Remand To Superior Court Renotice

via United States First Class Mail on the following party of record:

ROBERT S. BOGASON  
SOUTHERN PACIFIC TRANSPORTATION COMPANY  
One Market Plaza, Room 837  
San Francisco CA 94105  
Telephone: 415-541-1786

PATRICK W. JORDAN  
WAYNE M. BOLIO  
McLAUGHLIN AND IRVIN  
100 Pine Street, Suite 770  
San Francisco, CA 94111-5109  
TELEPHONE: 415-433-6330

and by then sealing said envelope and depositing same into the United States Mail, postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 31, 1987, at Palo Alto California.

---

Berina A. Hawes

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

COPY

SIEU MEI TU and JOSEPH Z. TU,  
Plaintiffs,

vs.

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY, et al.,  
Defendants.

No. C 87 1198 DLJ

DEPOSITION OF

SIEU MEI TU

Monday, May 11, 1987

Reported by:  
Peggy Tsujimoto, C.S.R.  
Certificate No. 5229

**HARRY A. CANNON, INC.**

*Certified Reporters and Notaries*  
636 SACRAMENTO STREET  
SUITE 800  
SAN FRANCISCO, CALIFORNIA 94111  
(415) 391-7421

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Deposition of SIEU MEI TU  
Monday, May 11, 1987

Examination by	Page
Mr. Bogason	6
 Afternoon session	 66

Questions advised or instructed not to answer:  
None

34

## E X H I B I T S

1  
2  
3 Deposition of SIEU MEI TU

4 Monday, May 11, 1987

7	Number		Page
8	A	Three-page document entitled	16
9		"Southern Pacific Transportation	
10		Company (Western Lines)	
11		Preferential Bulletin No. 4" and	
12		three-page document entitled	
13		"Special Preferential Bulletin No. 22"	
14	B	One-page document entitled	23
15		"Application For Vacancy"	
16	C	One-page letter dated	102
17		November 5, 1985, and two-page	
18		letter dated October 25, 1985	
19	D	One-page letter dated	113
20		October 2, 1985	
21	E	Four one-page documents	114
22	F	One-page letter dated	119
23		December 18, 1978	
24	G	Three-page document entitled	121
25		"Charge of Discrimination"	

1	H	One-page letter dated	151
2		October 2, 1985	
3	I	One-page letter dated	154
4		October 18, 1985, to	
5		J. M. Balovich from	
6		Lee J. Kubby, two-page letter	
7		dated October 18, 1985, to	
8		John Schmidt from Lee J. Kubby	

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1 BE IT REMEMBERED that, pursuant to Notice, and  
2 on Monday, May 11, 1987, commencing at the hour of  
3 10:00 a.m. thereof, at the offices of Southern  
4 Pacific Transportation Company, One Market Street,  
5 San Francisco, California, before me, PEGGY  
6 TSUJIMOTO, a Certified Shorthand Reporter and Notary  
7 Public in and for the State of California,  
8 personally appeared

9 SIEU MEI TU

10 called as a witness by Defendants, who, being by me  
11 first duly sworn, was thereupon examined and  
12 testified as hereinafter set forth.

13  
14 APPEARANCES:

15 LEE J. KUBBY, Attorney at Law, One Palo Alto  
16 Square, Suite 260, Palo Alto, California 94306,  
17 appeared as counsel on behalf of the Plaintiffs.

18 Law Offices of SOUTHERN PACIFIC TRANSPORTATION  
19 COMPANY, One Market Street, Suite 848, San  
20 Francisco, California 94105, represented by ROBERT  
21 S. BOGASON, Attorney at Law, appeared as counsel on  
22 behalf of the Defendants.

23 Also present: Richard Fend, Joseph Z. Tu, Jim  
24 Bertram.

1 SIEU MEI TU

2 being first duly sworn, testified as follows:

3

4 EXAMINATION BY MR. BOGASON:

5 MR. BOGASON: Q. Could you state your full  
6 name for the record, please?

7 A. My name is Sieu Mei Tu.

8 Q. Mrs. Tu, you are here with your attorney,  
9 Mr. Kubby; is that correct?

10 A. Yes.

11 Q. Did he have a chance to explain to you  
12 generally the procedures of the deposition?

13 A. Yes.

14 Q. Have you ever had your deposition taken  
15 before in any case?

16 A. No.

17 Q. Let me explain my understanding of how the  
18 deposition process works, and Mr. Kubby can correct  
19 me if I am wrong. You have been sworn to tell the  
20 truth under oath just as if you were in court. Do  
21 you understand that?

22 A. Yes.

23 Q. The court reporter is going to take down  
24 my questions and your answers and they will be typed  
25 into a booklet. Before trial or within a reasonable

1 period of time, you will have an opportunity to read  
2 the booklet and then you will be asked to sign it.

3 Do you understand that?

4 A. Yes.

5 Q. If she makes an error in transcription,  
6 you can correct her errors and there wouldn't be any  
7 problem. However, if you were to change the text  
8 and change what you actually said, I would have the  
9 right to comment on that to the judge or the jury.

10 Do you understand that?

11 A. Yes.

12 Q. Do you understand that if this case goes  
13 to trial and you are not available that the  
14 transcript of the deposition can be read to the  
15 judge and the jury?

16 A. Yes.

17 Q. If you say something different at trial  
18 from what you have said here today or say here today,  
19 I could point that out to the judge or the jury. Do  
20 you understand that?

21 A. Yes.

22 Q. It is very important that you give us your  
23 best answer. Do you understand that?

24 A. Yes.

25 Q. Also, if I ask you a question that you

1 don't understand, please tell me. Will you do that?

2 A. I will.

3 Q. In other words, quite often I ask  
4 questions that don't make any sense, and it is a  
5 sign of intelligence to tell me that you don't  
6 understand it. Will you try to do that?

7 MR. KUBBY: She will answer as she understands  
8 the question.

9 MR. BOGASON: Q. I don't want you to answer  
10 a question if you don't understand it. Okay?

11 A. Okay.

12 Q. I would rather have you say "I don't  
13 understand the question."

14 A. Okay.

15 Q. Mrs. Tu, you are a plaintiff in this  
16 lawsuit?

17 A. Yes.

18 Q. Is this the first time you have ever sued  
19 anybody?

20 A. Yes.

21 Q. Have you ever been sued?

22 A. No.

23 Q. Mrs. Tu, I believe you were born in China;  
24 is that correct?

25 A. Yes.

1 Q. You came here in what year?

2 A. I come to this country 1956, December the  
3 7th.

4 Q. What is your birth date?

5 A. September 4th, 1926.

6 Q. The last day you worked at Pacific Fruit  
7 Express was sometime in 19 --

8 A. 1985 October the 2, 3:45.

9 Q. You are married to Mr. Tu?

10 A. Yes.

11 Q. Could you tell me how to spell his name?

12 A. Joseph Tu.

13 Q. Do you have children?

14 A. Five.

15 Q. When and where did you marry Mr. Tu?

16 A. Shanghai, China.

17 Q. What year?

18 A. 19 -- I don't remember.

19 MR. TU: 43 years ago.

20 THE WITNESS: 43 years ago.

21 MR. TU: We not count it 19 something.

22 MR. BOGASON: Q. 1943?

23 A. No, 43 years ago.

24 Q. So that would be 1944?

25 A. Yes.

1 Q. What does Mr. Tu do for a living?

2 A. He work at U.C. Berkeley.

3 Q. Are your children still living at home?

4 A. No, all married.

5 Q. Are they all self-supporting?

6 A. Yes.

7 Q. When did you first learn the English  
8 language?

9 A. When I come to this country.

10 Q. So you didn't speak English until you came  
11 to this country?

12 A. True.

13 Q. If I use words like self-supporting, what  
14 did you understand me to mean what I said self-  
15 supporting?

16 A. They take care of themselves.

17 Q. Right. Would you do me a favor? If I use  
18 words that you don't understand, simply don't answer  
19 and tell me you don't understand them. Okay?

20 A. Okay.

21 Q. So far I have a conviction that you have a  
22 good command of the English language, but if I say a  
23 word you don't understand, tell me.

24 A. I will.

25 Q. Where do you live, which city?

1 A. San Leandro.

2 Q. You went to work at -- when did you go to  
3 PFE?

4 A. 1962, May 15th.

5 Q. What did you do? Did you work outside the  
6 family home from the time of your arrival in the  
7 states until going to work at PFE?

8 A. Yes.

9 Q. You arrived in 1956?

10 A. Yes.

11 Q. Where was your first home in the states?

12 A. In Oakland. First we move, stay with my  
13 sister-in-law, and then we move to the Oakland 51st.

14 Q. What jobs did you have in Oakland before  
15 coming to PFE?

16 A. I work. First I come this country, I do  
17 some housework. Then I went to night school learn  
18 English. Then I went to the Berkeley mechanic  
19 school daytime. I go to learn adding machine in  
20 daytime in the school, and I do the housework at  
21 night. After that, I learn the key punch. The  
22 first job I find is Equitable Life Insurance Company.

23 Q. Where was that?

24 A. In San Francisco.

25 Q. What year?

1 A. I think 1954. I am sorry. I come -- 1958.

2 Q. You were a key puncher there?

3 A. Yes.

4 Q. How long did you stay at Equitable?

5 A. I think a year-and-a-half.

6 Q. Where did you go next for work?

7 A. Then I work -- find a job in Oakland.

8 Q. For whom?

9 A. For California Life Insurance.

10 Q. As a key puncher?

11 A. Yes.

12 Q. Did you voluntarily leave Equitable or  
13 were you fired?

14 A. No, because I want close to home because  
15 San Francisco is too far for me.

16 Q. How long did you remain at California Life?

17 A. I worked there four months.

18 Q. Then where did you go?

19 A. PFE.

20 Q. How did you happen to choose or find out  
21 about PFE?

22 A. I have a girlfriend working Equitable  
23 Building. Her name is Linda. So one day I meet her  
24 on the street and I told her I work California. She  
25 said, "Sieu, how about you try PFE?" She said they

1 pay good because at that time I think they pay three  
2 time more than California Life Insurance Company.  
3 She say you can try. So that is what I tried.

4 Q. Did Linda work for PFE?

5 A. Yes.

6 Q. Did she live in your apartment building?

7 A. No. I wasn't living in the apartment  
8 building. I live 51st duplex.

9 Q. I was trying to -- was Linda Chinese?

10 A. No.

11 Q. Do you remember her last name?

12 A. No.

13 Q. How did you happen to know Linda so she  
14 could tell you about the job?

15 A. On the bus station.

16 Q. You would see her every day?

17 A. Not every day.

18 Q. You struck up a friendship by seeing her  
19 at the bus?

20 A. Yes, just that time. I don't understand  
21 your question. What do you mean?

22 Q. Was Linda a relative of yours?

23 A. When I work in the Equitable, she work  
24 there, too. Then she went to PFE.

25 Q. You and she had remained friends?

1           A.    No.  After I went, we just like friends in  
2 the street.  I say where you work, and then she ask  
3 me where I work.  Then she told me PFE.

4           Q.    She told you to go to PFE?

5           A.    Yes.

6           Q.    What happened next in getting your job at  
7 PFE?

8           A.    So I went -- I think I called PFE.  I went  
9 to PFE, Mr. Harder.

10          MR. KUBBY:  Harder, H-a-r-d-e-r.

11          THE WITNESS:  Harder.  He told me we need a  
12 key punch, but he worried about my English language.  
13 So he said, "Right now I think about it."  So I went  
14 home.  I think after one week, two weeks later, he  
15 called.  I wasn't home.  My daughter was home.  So  
16 my daughter get a message.  So she said someone  
17 called you from PFE.

18                 So I called back and he say, "I want to see  
19 you."  So I went office.  He said, "I will give you  
20 job, but I will let you only try one week, two weeks."

21          MR. BOGASON:  Q.    Do you remember what Mr.  
22 Harder's first name was?

23           A.    Bob Harder, I think.

24          Q.    Did he tell you why he wanted to try you  
25 for only a week or two?

1 A. My English.

2 Q. Where did you go to work?

3 A. 116 New Montgomery Street.

4 Q. Was that the old PFE building up the  
5 street on Montgomery and Market?

6 A. Yes.

7 Q. Or was it Montgomery and Mission?

8 A. Montgomery and Mission, I think.

9 Q. That year was 1962?

10 A. 1962.

11 Q. What was Mr. Harder's job at the time when  
12 you were hired?

13 A. He is assistant audit.

14 Q. Do you know who his boss was at that time?

15 A. I remember the secretary, Charlotte Smith.

16 Q. Did you go to work as a key puncher?

17 A. Yes.

18 Q. In which department?

19 A. Key punch department.

20 Q. Did you work days or nights?

21 A. Day.

22 Q. Were you the only key puncher?

23 A. No. At that time, more than 30.

24 Q. Who was your immediate supervisor at that  
25 time?

1 A. Ann Green.

2 Q. Did you eventually have to become a member  
3 of the Brotherhood of Railroad Clerks?

4 A. After 30 day or 60 day. I don't remember.

5 Q. Can you remember any of the other 30 key  
6 punchers that were there?

7 A. No. I remember Kathy.

8 Q. At the time you were terminated by PFE in  
9 October of 1985, were any of those original key  
10 punch ladies still there?

11 A. Yes, Kathy.

12 Q. So Kathy was still employed?

13 A. Yes.

14 Q. Did she get transferred to the S.P.?

15 A. Yes.

16 MR. BOGASON: Just for easy reference, I would  
17 like to have marked as our first in order what  
18 appears to be a bulletin dated September 18th, 1985.  
19 Could you mark this, please?

20 (Document more particularly  
21 described in the index marked for  
22 identification as Defendants'  
23 Exhibit A.)

24 MR. BOGASON: Q. Let me show you Exhibit A,  
25 Mrs. Tu. Have you seen a copy of the first page of

1 Exhibit A before?

2 A. No.

3 Q. You have never seen this bulletin?

4 A. No.

5 MR. BOGASON: Mr. Kubby, I think we served you  
6 with a request for production of documents on  
7 plaintiff. Have you brought any documents  
8 responsive to our request for production of  
9 documents?

10 MR. KUBBY: I produced those to you previously.  
11 I think there is no subpoena for the deposition.

12 MR. BOGASON: I have here -- I don't know what  
13 you mean there is no subpoena for the deposition. I  
14 just asked if you brought the documents and you  
15 indicated that you had.

16 MR. KUBBY: Yes.

17 MR. BOGASON: I will read for the record what  
18 was apparently produced by Mr. Kubby on April 27,  
19 1987, in response to the request for production of  
20 documents. Appears to be a handwritten letter of  
21 April 18, 1986, from someone, looks like Mr. Walsh,  
22 to Ms. Tu; a letter from Mr. Laakso to Mr. Kubby of  
23 January 29, 1986; letter from Mr. Kubby to Mr. Hurtt  
24 of January 28, 1986; Brackbill's letter to Mr. Kubby  
25 of January 28, 1986; Mr. Kubby's letter to Mr.

1 Balovich of January 20, 1986; Mr. Kubby's letter to  
2 Mr. Laakso of January 17, 1986; a letter from Mr.  
3 Brackbill to, quote, Dear Sirs and Brothers, January  
4 16, 1986; letter from Attorney Clarke to the RLEA  
5 Executives of December 20, 1985; decision of  
6 Interstate Commerce Commission dated December 9,  
7 1985; an S.P. update of January 14, 1986; Rick  
8 Fend's letter to Ms. Tu of January 6, 1986; Laakso  
9 letter to Mr. Kubby of November 7, 1985; Mr.  
10 Batson's letter to Mr. Balovich of November 5, 1985;  
11 claim letter from Mr. Balovich to Mr. Segurson of  
12 October 20, 1985; Mr. Denton's letter to Mr. Kubby  
13 of October 23, 1985; Mr. Kubby's letter to Mr. John  
14 Schmidt of October 18, 1985; Mr. Kubby's letter of  
15 October 18, 1985, to Mr. Balovich; Mr. Segurson's  
16 letter of October 2, 1985, to Ms. Tu; clerks'  
17 abolishment notice number 32 signed by Mr. Segurson  
18 dated October 2, 1985; Charles Carroll's letter To  
19 Whom It May Concern of October 2, 1985; the  
20 September 18, 1985, special preference bulletin  
21 number 4 which is Exhibit A to this deposition;  
22 Application For Vacancy of September 19, 1985,  
23 signed by Ms. Tu; the local chairman's bulletin of  
24 September 9, 1985; Mr. Segurson's letter to Mr.  
25 Balovich of August 27, 1985; Segurson's letter to

1 Action Vending of August 27, 1985; Mr. Ellen's  
2 letter to Mr. Shakin of August 13, 1985; Mr.  
3 Balovich's letter to Mr. Segurson of August 12, 1985;  
4 Mr. Ashton's letter to Mr. Young of August 12, 1985;  
5 two copies of newspaper articles; third copy of a  
6 newspaper article; a fourth copy; a fifth page of a  
7 newspaper article; another article in the newspaper;  
8 a Notice of Vacancy dated April 1, 1985; a request  
9 for bids dated March 27, 1985; Mr. Autrey's letter  
10 to Ms. Tu of March 4, 1985; a bulletin and vacancy  
11 notice number 7 of February 27, 1985; an update  
12 article referring to proposed officers of merged  
13 railroad; a form 401 with a clerk seniority roster  
14 for PFE attached; a letter from Mr. Cranmer dated  
15 December 18, 1978, addressed To Whom It May Be  
16 Concerned; a newspaper article referring to S.P.  
17 workers being paid to quit; a document entitled,  
18 quote, A Guide For Complainants, from the Department  
19 of Fair Employment and Housing; a notice of case  
20 closure; a letter from Med Claveria dated October 29,  
21 1986; some correspondence from the Equal Employment  
22 Opportunity Commission; a charge of discrimination  
23 signed by Ms. Tu dated October 1, 1986; another  
24 charge of discrimination; another charge of  
25 discrimination; a precomplainant questionnaire dash

1 employment from the Department of Fair Employment  
2 and Housing; a second precomplainant questionnaire  
3 which apparently is a copy of the other one.

4 Mr. Kubby, that appears to be a listing of all  
5 of the documents that you produced on April 27, 1987.

6 MR. KUBBY: To the extent that you  
7 characterized the documents, I do not agree with the  
8 characterization, and I did not bring my copy of  
9 what was produced, but I assume that is the packet  
10 that I delivered to you.

11 MR. BOGASON: Besides, I will state for the  
12 record that it is -- I have described what is in the  
13 packet that you delivered to me. Are there any  
14 other documents that you would like to produce in  
15 response to the request for production besides what  
16 I have described for you as being in the packet and  
17 besides what you produced on April 27, 1987?

18 MR. KUBBY: That is all we had as of that time.  
19 The source of them is somewhat in question. Various  
20 people volunteered to send Sieu various stuff.

21 MR. BOGASON: That is wonderful.

22 MR. KUBBY: The source --

23 MR. BOGASON: It must be quite rewarding to  
24 you to have people volunteer to send documents.

25 MR. KUBBY: It is. It is wonderful.

1 MR. BOGASON: Q. What did you do as one of  
2 these 30 key punchers when you first went to work?  
3 Could you just briefly describe for the record what  
4 a key puncher does?

5 A. They give me work. I do my work.

6 Q. What is the work that they would give you  
7 and how would you do your work?

8 A. Just --

9 Q. I have never been a key puncher. You will  
10 have to kind of explain to us.

11 A. Ten key machine, the old machine, not like  
12 new, the old. Punch the card, the hole in card.

13 Q. What are the documents that you would  
14 receive that you would use?

15 A. The punch work?

16 Q. Yes.

17 A. The supervisor, whatever she gave to me.

18 Q. What does the key punch machine do?

19 A. Punch the hole.

20 Q. The holes are related to what? You just  
21 punch any hole you want?

22 A. No. The supervisor give me the master  
23 card in there and she give me the work. I punch.  
24 They have a master.

25 Q. Why does the company have a key punch

1 operation?

2 A. Wny a company have lawyer? Same thing.

3 Q. To defend lawsuits.

4 A. I don't understand you.

5 Q. As a key puncher in 1962 for PFE, did you  
6 just punch anything you wanted into the machine or  
7 did you have some paper documents that you looked at  
8 before you punched?

9 A. I have paper I look at. I punch.

10 Q. So you would take documents that would be  
11 given to you and extract information and punch that  
12 information into the key punch --

13 A. Yes.

14 Q. -- machine, correct?

15 A. That is right.

16 Q. It would punch holes in cards?

17 A. Yes, that is right.

18 Q. So to be a good key punch operator, you  
19 had to be able to take the information on the paper  
20 you got and punch it into the machine?

21 A. Yes.

22 Q. How long did you remain in the key punch  
23 department of Pacific Fruit Express?

24 A. I don't remember. I think maybe eight or  
25 nine years.

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1 MR. BOGASON: For example, let me mark as  
2 Exhibit B an Application For Vacancy dated September  
3 19, 1985.

4 (Document more particularly  
5 described in the index marked for  
6 identification as Defendants'  
7 Exhibit B.)

8 MR. BOGASON: Q. Let me show you Exhibit B.  
9 Assuming that you had the same key punch machine  
10 that you had in 1962, you would have the ability as  
11 a key punch operator to punch that information into  
12 the machine; right?

13 A. Yes.

14 Q. In other words, would there have to be a  
15 standard format used?

16 A. Yes, I think so.

17 Q. In other words, you would punch in the  
18 name of the person?

19 A. Yes.

20 Q. And then you would punch in the date?

21 A. Yes.

22 Q. Could you punch in the assignment number?

23 A. Yes.

24 Q. As the key puncher, what you were doing  
25 was taking information from paper documents and

1 really typing it into the machine?

2 A. Yes.

3 Q. So as a key puncher, you were really just  
4 copying information from the paper onto the machine?

5 A. That is right.

6 MR. KUPBY: Sieu, I want you to think about  
7 the question that he is asking. I think he is  
8 misdirecting you.

9 MR. BOGASON: Q. Besides copying  
10 information -- strike that. Have you ever used a  
11 typewriter?

12 A. Yes.

13 Q. Is a key punch machine similar to a  
14 typewriter machine?

15 A. It is a little bit different.

16 Q. How is it different?

17 A. They have a number in there.

18 Q. A number in the typewriter?

19 A. Yes.

20 MR. KUBBY: Typewriter or key punch?

21 THE WITNESS: The key punch have a number, 1,  
22 2, 3, 4, 5.

23 MR. BOGASON: Q. Isn't it true when you are  
24 working the key punch machine, you are copying  
25 information the same way you copy information using

1 a typewriter? Right?

2 A. I don't understand what you mean.

3 Q. Would you know how to use a typewriter to  
4 copy that information that is on Exhibit B?

5 A. I am not typist. I am a key punch  
6 operator.

7 Q. So you don't know how to type?

8 A. No.

9 Q. But you know what a typewriter does, right?

10 A. Yes.

11 Q. Someone could use a typewriter to make a  
12 copy of that information -- strike that. Let me  
13 start again. Someone could use a typewriter to make  
14 up a document with the bulletins bid for and the  
15 name of the bidder, right?

16 A. Yes.

17 Q. You could copy all the information that  
18 was on there if you knew how to type, right?

19 A. I don't know because I don't know how to  
20 type.

21 Q. When you were working the key punch, did  
22 you have to use any other materials besides the key  
23 punch machine and the paper you were copying from?

24 A. Can you repeat that?

25 Q. If you were --

1 MR. KUBBY: I think the question is difficult  
2 because she previously testified that there was a  
3 master card that contained the number reference for  
4 the information.

5 MR. BOGASON: Q. When you would go to work  
6 as a key puncher from 1962 to 1970, you would have  
7 your key punch machine; right?

8 A. Yes.

9 Q. Did you have a desk?

10 A. Yes.

11 Q. What was on the desk besides the key punch  
12 machine?

13 A. The work the supervisor give me what you  
14 should do.

15 Q. Would the work be a stack of papers like  
16 this?

17 A. It is different. Sometimes card,  
18 sometimes paper.

19 Q. Sometimes what?

20 A. Card. You know, they have the card give  
21 to you.

22 Q. Cards?

23 A. Cards, yes.

24 Q. You mean cards not automobiles?

25 A. Cards.

1 Q. With writing or printing on the cards?

2 A. Yes.

3 Q. Time cards?

4 A. Sometimes time cards.

5 Q. So in other words, payroll time cards?

6 A. Yes.

7 Q. Besides payroll time cards, what other  
8 types of paper or work would be given to you?

9 A. They have all kinds of job there.

10 Q. Payroll cards. What are the other types  
11 of jobs?

12 A. I don't remember.

13 Q. Freight bills?

14 A. Freight bill.

15 Q. So what else besides freight bills and  
16 payroll time cards?

17 A. Waybills.

18 Q. Besides the key punch machine and the work  
19 which would be cards, payrolls, time cards, waybills,  
20 what else was on your desk?

21 A. What else on my desk?

22 Q. Yes.

23 A. Coffee cup.

24 Q. Your attorney mentioned something else  
25 that was on there, a code book or something?

1 MR. KUBBY: Master card.

2 THE WITNESS: Master card.

3 MR. BOGASON: Q. Master what?

4 A. Card. Each job, they give you a master  
5 card.

6 Q. Could you explain the function of a master  
7 card? What was the purpose of the master card? Why  
8 did you have to have the master card?

9 A. If you work payroll, they have a master  
10 card. If you work waybill, they have a master card.  
11 Each job have a master card.

12 Q. What was the function of the master card  
13 for a payroll?

14 A. For your key punch machine.

15 Q. What would it tell you?

16 A. What it tell me? I don't know.

17 Q. How did you use the master card when you  
18 were doing a bunch of time cards?

19 A. Just like you cook something. You got to  
20 use chopstick how to cook. You know, same thing.

21 Q. In other words, you would --

22 A. If I cook my food, I got to use my  
23 chopsticks. The master card same thing. If I do my  
24 waybill, I have the master card.

25 Q. What would you get from the master card to

1 punch in a time card?

2 A. The supervisor give to me.

3 Q. On the master card for time cards, what  
4 was the information that you needed from the master  
5 card?

6 A. That is the supervisor give to me.

7 Q. Did the master card tell you what entry to  
8 punch on the key? If it said straight time, was  
9 there a code for straight time?

10 A. Yes.

11 Q. Besides the master card and the work which  
12 would be paper, and the key punch machine and your  
13 coffee cup, was there anything else that was on your  
14 desk?

15 A. I don't remember.

16 Q. Did you have to make any decisions as a  
17 key punch operator?

18 A. No.

19 Q. Did you have to consult any other books  
20 besides the master card and the work that was in  
21 front of you?

22 A. I think they have a book for you. Every  
23 day what work you do, you got to check, give to the  
24 supervisor.

25 Q. So am I correct that as a key punch

1 operator, you were taking either waybills, payrolls,  
2 or some other documents, looking at the master card,  
3 and using the codes from the master card, you would  
4 then copy the information that was on the time card;  
5 correct?

6 A. No. I don't understand.

7 Q. Tell me how you would do it just so we can  
8 move on to another subject. Suppose you had a time  
9 card. What would you do?

10 A. My supervisor give me the master card.

11 Q. A whole bunch of time cards?

12 A. Yes. I follow the key.

13 Q. What would you do with the first time card?

14 A. I key the -- follow the key.

15 MR. BOGASON: Could you read that back for me,  
16 please?

17 (Record read.)

18 MR. BOGASON: Q. You would use the card and  
19 you would key in the man's name, right?

20 A. Yes.

21 Q. Then you would look and see how many hours  
22 was on for each day?

23 A. Yes.

24 Q. You would hit the keys on the key punch?

25 A. That is right.

1 Q. Then you would look and see -- you would  
2 key in the payroll period?

3 A. Payroll period, yes.

4 Q. The dates that he worked?

5 A. That is right.

6 Q. You would key in his rate?

7 A. Yes.

8 Q. Then you would look and get whatever other  
9 information there was and type it in, correct?

10 A. Yes.

11 Q. When I say type, I mean punch it on the  
12 machine.

13 A. Yes.

14 Q. When you copied all of that information  
15 onto the card, you would take the card out of the  
16 machine and put in a new card?

17 A. Yes.

18 A. And get a new time card to copy?

19 A. Yes.

20 Q. Was the work in the key punch bureau  
21 pretty much the same during the eight years that you  
22 were there?

23 A. Yes.

24 Q. Did your job remain the same?

25 A. No. Later on, I --

1 Q. No. While you were in the key punch  
2 department, did your work pretty much remain the  
3 same?

4 A. Yes, same, but I promoted to be a senior  
5 key puncher.

6 Q. Did you get a higher rate of pay?

7 A. Yes.

8 Q. Did they get new machines during the years  
9 while you worked there?

10 A. No.

11 Q. Was your job --

12 MR. KUBBY: I am sorry. She hasn't finished  
13 her answer.

14 THE WITNESS: I would be senior and I teach  
15 the new girl come in. I teach them the machine, key  
16 punch, the thing I know.

17 MR. BOGASON: Q. Was there any other change  
18 in your job besides becoming a senior key puncher  
19 and teaching other girls?

20 A. No.

21 Q. What was your next job at PFE after being  
22 a senior key puncher?

23 A. Payroll clerk.

24 Q. In what year was that?

25 A. I don't remember, but I think just after

1 key puncher, you know.

2 Q. About 1970?

3 A. Yes, I think so.

4 Q. How was your job as payroll clerk  
5 different from your job as a key punch operator?

6 A. I learn to read the time card when they  
7 send me time card, come in and I do some filing.

8 Q. Why was it necessary for you as a payroll  
9 clerk to read the time card?

10 A. That time they have all different area  
11 from Tucson, Roseville, Watsonville. Every time  
12 come in, you have to check that time. Sometimes  
13 they put not eight hours, some seven hours. I got  
14 to check that.

15 Q. If they put seven, what would you do?

16 A. I give to supervisor and call Tucson.

17 Q. You would call the supervisor?

18 A. No. I call Tucson. If they want, I call  
19 the supervisor, the time is wrong.

20 Q. In what department were you the payroll  
21 clerk?

22 A. Payroll department.

23 Q. How many other payroll clerks were there  
24 at that time?

25 A. Four or six.

1 Q. Who was your boss?

2 A. He passed away after we were there a short  
3 time. Later on, it is a Mr. Fox. He passed away.

4 Q. So you would call the supervisor and then  
5 decide whether the payroll cards should be changed?

6 A. Yes.

7 Q. Besides doing that, what else did you do  
8 as payroll clerk?

9 A. Do all different jobs in the payroll  
10 department, whatever supervisor want me to do.

11 Q. How long did you remain in the payroll  
12 department?

13 A. I think five years.

14 Q. What was your next job?

15 A. Payroll department, I become payroll file  
16 clerk.

17 Q. So your first job after key punch was  
18 payroll file clerk?

19 A. First job is key punch. Second job is  
20 senior key punch.

21 Q. Third job was?

22 A. Payroll file clerk, then payroll clerk.

23 Q. You were payroll file clerk for about five  
24 years

25 A. No. I think six or eight months.

1 Q. Then after payroll clerk, what did you do?

2 A. I still do checking and do more -- if the  
3 computer department send payroll sheets don't  
4 balance, then I got to balance. I do the balance  
5 sheets.

6 Q. What was your next job title after payroll  
7 clerk?

8 A. Bill payable clerk.

9 Q. Do you know what year you became a bills  
10 payable clerk?

11 A. I don't remember.

12 Q. You were eight years in key punch, right?

13 A. Yes.

14 Q. Then five years in payroll?

15 A. Yes.

16 Q. So that would take us to about 1975?

17 A. Okay.

18 Q. Then you became a bills payable clerk?

19 A. Yes.

20 Q. How long did you remain in that job?

21 A. I think a year.

22 Q. What was your next job after that?

23 A. M.S., material/supply.

24 Q. Material/supply clerk?

25 A. Yes.

1 Q. What was your next job after that?

2 A. I went to the bills payable.

3 Q. Back to bills payable?

4 A. Yes.

5 Q. And then what?

6 A. Then went general clerk.

7 Q. What was next?

8 A. Then I went to the file -- wait a minute.

9 I think in the last six months, I have so many job  
10 they put me. Then I think miscellaneous clerk.

11 Q. So in the last six months, they moved you  
12 around a lot?

13 A. Yes.

14 Q. So starting in 1985, there was a lot of  
15 movement?

16 A. Yes. Excuse me. May I get some water?

17 MR. BOGASON: Yes. Let's take a two or three  
18 minute break.

19 (Recess taken from 10:48 to 10:57)

20 MR. BOGASON: Back on the record.

21 Q. Do you remember a time when the PFE office  
22 on Market Street was moved to Brisbane?

23 A. Yes.

24 Q. Do you remember the approximate year?

25 A. 1980.

1 Q. When the office moved to Brisbane, were  
2 you still in the accounting department?

3 A. Yes.

4 Q. Do you remember what job you first had  
5 when you physically moved to Brisbane?

6 A. Physically? What do you mean?

7 Q. Which job of all these jobs did you have  
8 when you went there? Were you a miscellaneous clerk,  
9 a key puncher? What was the first position you had  
10 at Brisbane?

11 A. When I in San Francisco, I was the M.S.  
12 department.

13 Q. So when you first moved to Brisbane, you  
14 were still in M.S.?

15 A. Yes.

16 Q. M.S. was material/supply?

17 A. Yes.

18 Q. Was that in the purchasing department or  
19 the accounting department?

20 A. Accounting department.

21 Q. What did you do as a material/supply clerk  
22 there?

23 A. The bill come in. I got to match whatever  
24 they buy, the material. Then they have a paper. I  
25 got to match what we got. I send to the bills

1 payable to pay and check inventory.

2 Q. What else did you do as a material/supply  
3 clerk?

4 A. That is all. I do all different work,  
5 whatever supervisor want me to do.

6 Q. So when some company would send a bill and  
7 ask PFE to pay, you would get the bill; right?

8 A. Yes.

9 Q. And you would get a purchase order?

10 A. Yes.

11 Q. You would check the bill to see if  
12 somebody signed -- strike that. Would you get an  
13 invoice?

14 A. I get an invoice.

15 Q. Would the invoice show somebody signing  
16 for PFE as receiving the goods?

17 A. Yes. I match what we receive.

18 Q. If the invoice and the bill and the  
19 purchase order didn't match, what would you do?

20 A. I would call and find out.

21 Q. If they all matched, would you send the  
22 bills payable?

23 A. Yes.

24 Q. Who was your boss when you were  
25 material/supply clerk?

1 A. Mr. Johnson is my boss.

2 Q. What was your next job at Brisbane after  
3 materials/supply clerk?

4 A. Bills payable.

5 Q. How did you get the bills payable job?

6 A. How I get the bills payable job?

7 Q. Yes. Strike that. Do you know what a job  
8 abolishment is?

9 A. Yes.

10 Q. What is your understanding of what a job  
11 abolishment is?

12 A. Would you repeat that again?

13 Q. Can you explain what a job abolishment is?

14 A. No. They don't have a job. That is all.

15 Q. Have you ever been in a position that was  
16 abolished?

17 A. Yes.

18 Q. My question is real simple. Did you bid  
19 for the bills payable job because it was vacant or  
20 was your materials/supply clerk job abolished and  
21 that caused you to move? I am trying to ask a real  
22 simple question.

23 A. I try to give you simple answer, too,  
24 because I want to think. Because all these so long,  
25 I can't remember the details.

1 Q. Was the materials/supply position  
2 abolished and that is why you had to go to the bills  
3 payable job?

4 A. I tell the truth. I don't remember.

5 Q. Before your job was abolished in 1985, you  
6 had other positions abolished that you were on;  
7 right?

8 A. Would you repeat that again?

9 Q. Your job was abolished in 1985 and you  
10 never worked for PFE after that, right?

11 A. Yes.

12 Q. But before that in your 20 or 30 years  
13 with PFE, was your position abolished and you had  
14 been on another job?

15 A. Yes. The last job, miscellaneous clerk,  
16 they abolish that job. I was general clerk. They  
17 abolish that. After six months, they put it back.  
18 I become miscellaneous clerk. They reduce my pay,  
19 too, same job and same work.

20 Q. So you went to Brisbane. You were  
21 materials/supply clerk and then you were a bills  
22 payable clerk?

23 A. Yes.

24 Q. What was your next job after bills payable?

25 A. General clerk.

1 Q. Then after the general clerk job, what did  
2 you get?

3 A. They abolish my job. Then I went to the  
4 Bayshore S.P.

5 Q. What do you mean when you say you went to  
6 Bayshore?

7 A. They have a job open there. I went there.

8 Q. What is Bayshore? How is it different  
9 from Brisbane?

10 A. Entirely different job.

11 Q. Was there a different building?

12 A. Sure, different building and different  
13 area, too.

14 Q. Could you describe for us what Bayshore is  
15 and how it is different from Brisbane, the job, the  
16 place?

17 A. New people, all S.P. people and new job.

18 Q. When you transferred to Bayshore, who was  
19 your boss?

20 A. Mr. Kupp (sic), I think, if I pronounce  
21 right. Is that right?

22 Q. Is it Mr. Merv Koerpel?

23 A. Yes, Merv Koerpel.

24 Q. Do you know what year it was you went to  
25 Bayshore?

1 A. I don't remember.

2 Q. How long were you at Bayshore?

3 A. I think four months or -- six months,  
4 maybe a little longer. I don't remember.

5 MR. KUBBY: Do you have her personnel record?  
6 It would probably be helpful.

7 MR. BOGASON: Off the record.

8 (Discussion off the record.)

9 MR. BOGASON: Q. Could you describe for us  
10 the place at Bayshore or in the Bay Area where this  
11 Bayshore job was?

12 A. Would you repeat that again? What do you  
13 mean? The building? What job? What I do?

14 Q. Where was the building that you went to  
15 work at when you worked for Mr. Koerpel?

16 A. Right in the Bayshore, bad area.

17 Q. Was that in the City of San Francisco?

18 A. Yes.

19 Q. Where is the Bayshore area?

20 A. Bayshore. The street is Bayshore.

21 Q. Is this Bayshore Street over by Chinatown?

22 A. No. It is very bad area.

23 Q. Where is it?

24 A. It is right next to the train, walking  
25 distance. It is not safe area for women to walk at

1 night. That I know. Rick know the area. Rick, you  
2 know the Bayshore.

3 Q. Do you know what a wide open bump is?

4 A. Wide open bump?

5 Q. Yes. Wide open displacement?

6 A. What do you mean wide open?

7 Q. You said that the general clerk's job that  
8 you had just before the Bayshore was abolished,  
9 right?

10 A. Yes.

11 Q. Under the union agreement, since your job  
12 was abolished, what rights did you have to get  
13 another job?

14 A. I have a right to bump any job I want to --  
15 I have more seniority.

16 Q. Because your job was abolished, you could  
17 bump on any job then held by someone with less  
18 seniority than you?

19 A. Yes, I did. Yes, I do because I was going  
20 to bump Kou Lim Feng, revenue accounts.

21 Q. How come you didn't bump Kou Lim Feng?

22 A. Because they told me no way I would get  
23 that job.

24 Q. Who told you that?

25 A. I think Rick say that and Jim Segurson

1 because J. J. can have a choice to choose whatever  
2 she likes. J. J. keep.

3 Q. So J. J. Kim -- strike that. Mr. Segurson  
4 or Mr. --

5 A. Rick Fend.

6 Q. Mr. Fend told you that you couldn't bump  
7 on Kou Lim Feng's revenue job --

8 A. Revenue job.

9 Q. -- because -- strike that. Try to let me  
10 finish my questions and I will try to let you finish  
11 your answers.

12 A. Okay.

13 Q. So Mr. Fend told you that he wouldn't let  
14 you bid on Kou Lim Feng's job because J. J. Kim  
15 didn't want you?

16 A. Yes -- no -- just a minute. Because they  
17 told me I don't know anything about revenue because  
18 if I bump there, they will disqualify me.

19 Q. Mr. Fend told you that?

20 A. I don't remember who told me that, but Jim  
21 Segurson, I think -- I don't remember who told me  
22 that.

23 Q. What did Mr. Fend say to you about the  
24 subject of Kou Lim Feng's job?

25 A. I never worked there. I don't know her

1 job because I have rights to bump anyone.

2 Q. Please try to listen to my questions. My  
3 question is, what did Mr. Fend tell you about you  
4 being able to work on Kou Lim Feng's revenue job?

5 A. I don't remember.

6 Q. What did Mr. Segurson say to you about  
7 that subject?

8 A. He say if I got that job, they will  
9 disqualify me.

10 Q. So Mr. Segurson said that if you got that  
11 job, they would disqualify you?

12 A. Yes.

13 Q. Did anyone else besides Mr. Segurson tell  
14 you that they would disqualify you from Kou Lim  
15 Feng's job?

16 A. No, I don't remember.

17 Q. Where were you and Mr. Segurson when he  
18 told you they would disqualify you?

19 A. I don't remember.

20 Q. What year was it that they told you this?

21 A. I don't remember.

22 Q. Did you submit a bid to get the Bayshore  
23 job?

24 A. Do I submit for the Bayshore job? Sure,  
25 you got to.

1 Q. Who held the Bayshore job before you  
2 bumped him or her?

3 A. I don't know.

4 Q. How did you leave the Bayshore job? Was  
5 that job abolished?

6 A. No. My supervisor called me. He say, "I  
7 need you in our department. We have so much work."  
8 So I go back to same job and less pay because they  
9 say become miscellaneous clerk.

10 Q. Do you think they did that to you because  
11 you were Chinese?

12 A. What do you think?

13 Q. Let me ask the question again. I  
14 represent PFE and I have the right to ask these  
15 questions. What I think isn't important because I  
16 am just a lawyer. Do you believe that they --  
17 strike that.

18 Let's get the story first. When you were  
19 general clerk just prior to working at Bayshore, who  
20 was your immediate supervisor?

21 A. Chuck Carroll.

22 Q. What was his job title then?

23 A. Chief clerk.

24 Q. Of what bureau?

25 A. Accounting department.

1 Q. Was he in revenue accounts or  
2 disbursements?

3 A. Disbursements.

4 Q. You were a general clerk before you went  
5 to Bayshore?

6 A. Yes.

7 Q. That was for Mr. Carroll, correct?

8 A. Yes.

9 Q. What did you do as a general clerk for Mr.  
10 Carroll?

11 A. All different jobs.

12 Q. Describe one. Tell us about the first job  
13 you can remember.

14 A. Okay. If the bills payable people not  
15 sick, I go to do bills payable, and then when M.S.  
16 department, the boss early retirement, they didn't  
17 fill that job. I do his job, too.

18 Q. The M.S. job?

19 A. Yes.

20 Q. Who was it that retired whose job you  
21 filled?

22 A. John Mangan.

23 Q. Do you know how to spell that?

24 A. No. He is assistant chief clerk.

25 Q. What else did you do when you were general

1 clerk for Mr. Carroll?

2 A. I did the insurance and I do all the  
3 closing, and I do all the filing.

4 Q. When you went to Bayshore, were you in  
5 revenue or disbursements?

6 A. When I leave Bayshore?

7 Q. Yes.

8 A. I still report -- what do you mean? I  
9 don't get it. What department I work?

10 Q. Yes.

11 A. I don't remember. Mr. Koerpel is my boss.

12 Q. What types of things were you doing? What  
13 was the work you were doing at Bayshore?

14 A. I learn. I started learning. They teach  
15 me whatever available.

16 Q. Was this bills payable or revenue?

17 A. No.

18 Q. What was it?

19 A. To tell you the truth, I don't remember.  
20 All these things I just learn. After I just start,  
21 begin to know a little job, they transfer me back.

22 Q. I thought you were there for six months?

23 A. Four months or six months because they  
24 have lots to learn because when I first started,  
25 nobody could teach me.

1 Q. What was the type of correspondence that  
2 you were handling?

3 A. I don't remember.

4 Q. Was it insurance?

5 A. No. I think most they put me all do the  
6 filing, you know. They give me something to file or  
7 something to copy.

8 Q. So mostly you were filing and running the  
9 copy machine?

10 A. Yes, that is true.

11 Q. Was this part of the sales department at  
12 Bayshore?

13 A. No.

14 Q. Was it part of the mechanical department?

15 A. Yes, I think it is mechanical -- they  
16 trace. Some fruit delayed, they trace why delay the  
17 time.

18 Q. Besides filing and making copies, what  
19 else did they have you do while you were at Bayshore.  
20 Was that about it, filing and copying?

21 A. Copying and trace whatever supervisor want  
22 me to do. My boss tell me.

23 Q. What are the things that you can remember  
24 doing while you were at Bayshore? First of all, you  
25 can remember running the copy machine?

1 A. Yes.

2 Q. Secondly, you filed?

3 A. Yes.

4 Q. What are some other tasks that you can  
5 remember besides filing and copying?

6 A. No, I don't remember.

7 Q. You said that they would have you, quote,  
8 trace, close quote?

9 A. Yes.

10 Q. How would you trace? Would it be like  
11 tracing a piece of paper?

12 A. No. The supervisor give me the things to  
13 trace, figure out the time. They have whole bunch  
14 of people work there, you know. They just tell me  
15 what to do. I just follow their instruction.

16 Q. How did you trace? Was it like taking one  
17 piece of paper and putting it on top of another  
18 piece of paper and tracing it?

19 A. No.

20 Q. Explain to us what tracing was and what  
21 documents you used.

22 A. It depends on the supervisor give me.  
23 Whatever they give to me, I follow his instruction.

24 Q. What are some of the documents that they  
25 gave to you?

1 A. I don't remember.

2 Q. So after you had been there four to six  
3 months, your job wasn't abolished, right?

4 A. No, they both abolish. They call me back.

5 Q. Chuck Carroll called you up?

6 A. Yes. They reopen my job.

7 Q. Did they establish a new job?

8 A. Yes.

9 Q. Did they put out a bulletin establishing  
10 the job?

11 A. Yes, I think so.

12 Q. What was the title of the job that they  
13 established under Mr. Carroll's jurisdiction?

14 A. Miscellaneous clerk.

15 Q. Have you ever looked at any of the union  
16 agreements that covered PFE's work down there for  
17 clerks?

18 A. No.

19 Q. In the union agreements, is there a  
20 specific rate of pay for a miscellaneous clerk?

21 A. No.

22 Q. Is there a specific rate of pay --

23 MR. KUBBY: She didn't quite answer your  
24 question. She wasn't finished.

25 MR. BOGASON: I don't know how you knew that.

1 MR. KUBBY: Because I heard her speaking and  
2 you came in with another question.

3 THE WITNESS: No, I don't know.

4 MR. BOGASON: Please read the question and  
5 answer back.

6 (Record read.)

7 MR. BOGASON: Would you tell us what you heard  
8 her say, Mr. Kubby, that I interrupted?

9 MR. KUBBY: That she didn't know. The answer  
10 was not "no." The answer was "no, I did not know.  
11 I do not know."

12 MR. BOGASON: Q. Is there a specific rate of  
13 pay in the union agreements -- strike that. When  
14 you were at PFE, how was your rate of pay set?

15 A. What? Repeat that. I don't understand  
16 you.

17 Q. Could the company PFE pay one person a  
18 rate of pay for a miscellaneous clerk and pay a  
19 higher rate for somebody else?

20 A. Different job, different pay.

21 Q. But if there were two jobs both entitled  
22 general clerk, could the company pay one higher than  
23 the other?

24 A. That depends on the company. Depends on  
25 the company. They set the rule, not me.

1 Q. When you were working as a general clerk  
2 then, I take it -- strike that. It is your  
3 testimony that PFE would pay one general clerk more  
4 money than another general clerk?

5 MR. KUBBY: Misstatement of testimony, Mr.  
6 Bogason.

7 MR. BOGASON: Tell her what her statement is.  
8 Just state it the way you want it stated.

9 MR. KUBBY: I want it stated the way she  
10 testified. I would like to have her answer read  
11 back. She answered your question.

12 MR. BOGASON: Q. At the time you were a key  
13 puncher, were there other people working as key  
14 punchers?

15 A. Say that again.

16 Q. At the time that you worked as a key punch  
17 operator, there were a lot of other women who had  
18 the title key punch operator?

19 A. Yes.

20 Q. There were some women who were called  
21 senior key punch operators?

22 A. Yes.

23 Q. Was the rate of pay the same for all key  
24 punch operators?

25 MR. KUBBY: If you know.

1 THE WITNESS: I don't know.

2 MR. BOGASON: Q. You don't know?

3 A. No, I don't know. We don't check. You  
4 are not supposed to ask anybody's money.

5 Q. Was the rate of pay the same?

6 MR. KUBBY: Again, Mr. Bogason, she has not  
7 completed her answer. You are starting another  
8 question before she finishes her answer.

9 MR. BOGASON: You are quite correct on this  
10 occasion.

11 Q. Can you finish your answer?

12 A. I don't remember your question.

13 Q. So the company could pay one senior key  
14 punch operator a higher rate than it paid another  
15 senior key punch operator?

16 A. I don't know. It depends on the company.

17 Q. We are only talking about PFE. On many  
18 occasions during your career at PFE, you submitted  
19 bids when you saw vacancy notices, right?

20 A. Yes.

21 Q. Did the vacancy notices tell you what the  
22 rate of pay would be on the job?

23 A. Yes.

24 Q. At any time, did you believe that the rate  
25 of pay was set by the agreement, the union agreement?

1 A. I don't know the agreement.

2 Q. In any event, you were a general clerk?

3 Then you went to Bayshore?

4 A. Yes.

5 Q. Then Mr. Carroll called you?

6 A. Yes.

7 Q. There was a vacancy notice for a  
8 miscellaneous clerk position?

9 A. Yes.

10 Q. Did the vacancy notice have the rate of  
11 pay on it?

12 A. Yes, but the same job, just change the  
13 title. I do the same work and I sit in the same  
14 seat, same table. I do the same work exactly the  
15 same, but the rate and the title change.

16 Q. Are you through?

17 A. Yes.

18 Q. Let me ask the question again. Did the  
19 vacancy notice for the miscellaneous clerk job that  
20 you bid for state what the rate of pay would be?

21 A. State the pay rate? What that mean?

22 Q. Did it say --

23 A. You have to be patient with me. You know  
24 I am a foreigner. Sometimes I don't understand. I  
25 got to give you right answer. You don't want me to

1 give you the wrong answer. I know you are so  
2 impatient with me. Make me upset because you know I  
3 don't want upset you. I want to tell the truth.

4 Q. I am not upset with you, Mrs. Tu. If at  
5 any -- please, Mrs. Tu. You are interrupting me. I  
6 have the --

7 A. I am sorry.

8 Q. I have to have your counsel interrupt me  
9 when he feels that I am interrupting you and your  
10 counsel is -- I have some problem because I never  
11 know when you are finished.

12 A. Try to stop. If you don't understand me,  
13 ask me again. I don't mind it because I don't want  
14 any unhappy, you know. You are impatient with me  
15 because I am embarrass -- because of my English, you  
16 know. I try the best I can to answer you.

17 Q. You shouldn't be embarrassed about it. I  
18 think you have done a fine job, you and your husband.  
19 I understand you have a very lovely family and you  
20 ought to be congratulated.

21 A. Thank you.

22 Q. Please don't feel that I am upset with you.  
23 This is very important to you. I understand that.

24 A. Very important to me.

25 Q. It is very important to Pacific Fruit

1 Express, too.

2 A. Yes.

3 Q. Did the miscellaneous clerk position pay  
4 more or less than --

5 A. Yes.

6 Q. -- than the position you held at Bayshore?

7 A. Yes.

8 Q. Did it pay more?

9 A. I don't remember.

10 Q. Did the miscellaneous clerk position pay  
11 less than the Bayshore job?

12 A. I don't remember.

13 Q. Did it pay less than the general clerk's  
14 job under Mr. Carroll that had been abolished just  
15 before you went to Bayshore?

16 A. Yes.

17 Q. How much less did it pay?

18 A. I think I am not sure, but I think \$3.00  
19 or \$2.00, between \$2.00 and \$3.00 a day.

20 Q. How long did you remain in the  
21 miscellaneous clerk's job?

22 A. Until they -- until October.

23 Q. Until they closed down PFE Brisbane?

24 A. Yes.

25 Q. Do you believe that you were paid the

1 lower rate of pay as a miscellaneous clerk because  
2 you are Chinese?

3 A. I think so. What do you think?

4 Q. Do you believe that you were paid the  
5 lower rate of pay on the miscellaneous clerk's job  
6 because of your age?

7 A. I don't know because I have been doing  
8 that job for a long time because I know, you know, I  
9 always know my work.

10 Q. But you do believe that you got the lower  
11 rate of pay as a miscellaneous clerk because you  
12 were Chinese?

13 A. I got to talk to Mr. Kubby.

14 Q. Sure.

15 MR. KUBBY: Let's go outside for a minute.

16 (Recess taken from 11:32 to 11:34)

17 MR. BOGASON: Q. Did you get a chance to  
18 talk to Mr. Kubby?

19 A. Yes.

20 Q. Now that you have talked to him, can you  
21 answer the question or can you remember it?

22 A. No. Would you like to repeat the question?  
23 I am sorry.

24 Q. That is okay.

25 Could you read the question, please, or just

1 tell me what it is so I can reask it?

2 (Record read.)

3 MR. BOGASON: Let me see if I can ask the  
4 question again.

5 Q. It is your belief that the reason you got  
6 the lower rate of pay when you came back from  
7 Bayshore was because you were Chinese?

8 A. Yes.

9 Q. Why do you believe that?

10 A. Because when I was general clerk, I do the  
11 same work. Then they call me back for miscellaneous  
12 clerk. Then I do the same job, do same work, do  
13 exactly the same thing. Why I ask myself they  
14 didn't do that to anybody. They do that to me.  
15 First you think you are Chinese.

16 Q. Mr. Carroll was the chief clerk in the  
17 disbursements department?

18 A. Yes.

19 Q. Who did he report to? Who was his boss?

20 A. Rick Fend, and I think 1980 Bill Cahalan,  
21 assistant audit, and Sandy and --

22 MR. KUBBY: She hasn't finished yet.

23 THE WITNESS: Terry Berry.

24 MR. BOGASON: Mr. Kubby, I don't think I am  
25 being rude to the lady. I think I allow her to

1 finish her answers. I am not doing it intentionally.  
2 I am just trying to move on. It is going a little  
3 slowly. I hope you understand I am not trying to  
4 cut her off.

5 I think I maybe sometimes ask a question that  
6 is a bit ambiguous. The reason I was going to  
7 interrupt her was to narrow it down to the time  
8 frame because I happen to know that Mr. Cahalan had  
9 left before this event, so I just want you to  
10 understand.

11 MR. KUBBY: It is difficult for the witness  
12 who is in the process of trying to think through  
13 your question to come up with an accurate answer  
14 when in the process of thinking and to all of a  
15 sudden turn off that process and try to listen to  
16 another question when they are right in the middle  
17 of a sentence. It is unfair to do that. You are  
18 going to have to be patient and wait for the answer  
19 to be completed before you jump into your next  
20 question.

21 I understand that you think very quickly and  
22 you are a very bright man, and it is very difficult  
23 for you to deal with somebody who has to think  
24 through these kinds of problems. She was employed  
25 as a general clerk, not as a lawyer, and this is her

1 thinking process, and she is entitled to answer your  
2 questions as best she can.

3 MR. BOGASON: Q. Please think back as you  
4 answer this question to September of 1985 just  
5 before Brisbane was shut down. Your boss at that  
6 time was Mr. Chuck Carroll?

7 A. Yes.

8 Q. Who was his boss?

9 A. Rick Fend.

10 Q. Mr. Carroll was in charge of disbursements?

11 A. Yes.

12 Q. And disbursements means paying money out?

13 A. Yes.

14 Q. Who was in charge of collecting money,  
15 revenues?

16 A. That is Rick Fend's department, too. He  
17 in charge of both.

18 Q. Who was Mr. Fend's immediate subordinate?  
19 Who below Mr. Fend was in charge of revenues?

20 A. J. J. Kim.

21 Q. At this same time period just before the  
22 closing of Brisbane, who were the clerks working for  
23 Ms. Kim?

24 A. I don't know.

25 Q. Do you have Exhibit A in front of you?

1        Could you please look at the first page of Exhibit A?

2            A.    Yes.

3            Q.    Do you know Ms. Shirley Hauff?

4            A.    Yes.

5            Q.    The date of this notice is September 18th,  
6 1985?

7            A.    Yes.

8            Q.    Was Ms. Hauff working for Ms. Kim at that  
9 time?

10           A.    No.   Shirley Hauff was Kim's job. She was  
11 paid monthly. Then they put J. J. Kim on her job.  
12 You got it?

13           Q.    Ms. Hauff then was the boss of revenues  
14 under Mr. Fend?

15           A.    No, under Cahalan at that time. I am not  
16 sure.

17           Q.    Didn't Mr. Cahalan leave quite a few  
18 months before Brisbane closed down?

19           A.    I don't remember.

20           Q.    The date that my questions refer to is  
21 September 18th, 1985, about a month before PFE was  
22 closed down.

23           A.    Yes.

24           Q.    Was Mr. Cahalan still working there at  
25 that time?

1 A. No.

2 Q. About a month before PFE closed down,  
3 where was Ms. J. J. Kim working?

4 A. Revenue accounts.

5 Q. She worked for Mr. Fend?

6 A. Yes.

7 Q. She was boss of the people that worked for  
8 her, right?

9 A. Yes.

10 Q. Just before PFE closed down in September  
11 of 1985, who were the people working in revenue  
12 accounting?

13 A. I don't know.

14 Q. Did Shirley Hauff work as a clerk in  
15 revenue accounting just the month before?

16 A. I don't know.

17 Q. Did she work in disbursements with you?

18 A. Yes.

19 Q. The month before?

20 A. Yes.

21 Q. Ms. Hauff was in disbursements?

22 A. Yes.

23 Q. How about Kathy Kotronakis, where was she  
24 just before the closure?

25 A. She worked with me in the disbursements.

1 Q. How about Jerry Sumner?

2 A. Disbursements.

3 Q. How about John Baumann?

4 A. I don't know which department.

5 Q. How about Kathy Feng or K. H. Feng?

6 A. Revenue accounts.

7 Q. That is a man?

8 A. No, girl.

9 Q. She was in revenues?

10 A. Yes.

11 Q. How about R. C. Soldavini?

12 A. I don't know. I don't remember him.

13 Q. Do you know who he is?

14 Off the record.

15 (Discussion off the record.)

16 MR. BOGASON: Back on the record.

17 Q. The next name on this list is Ron

18 Soldavini. Do you know him?

19 A. I work with him a few months.

20 Q. Do you know what he was doing when PFE was  
21 closed, his job?

22 A. No, I don't know.

23 Q. How about Patrick Newell, do you know what  
24 he was doing?

25 A. I don't know.

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MR. BOGASON: Let's take about 30 seconds.

(Recess taken from 11:45 to 11:50)

MR. BOGASON: Why don't we take lunch now?

(Lunch recess taken at 11:50)

1 Afternoon session

12:40 p.m.

2 MR. BOGASON: Q. Shirley Hauff, how many  
3 years had you known her?

4 A. I think more than ten. In fact, she  
5 started key punch. I teach her when she began.

6 Q. So you had more seniority than her?

7 A. Yes.

8 Q. My next bunch of questions will be  
9 directed towards the month or two before Brisbane  
10 closed. Did you see Ms. Hauff at work during that  
11 period?

12 A. She take quite a bit of sick leave. She  
13 is sick quite a bit.

14 Q. Before PFE was closed?

15 A. Yes, before. She abolish her job from  
16 revenue accounts, and she was hurt on the company.  
17 She have workmen's comp.

18 Q. So when she was in revenue accounts, she  
19 got hurt?

20 A. I don't know when she got hurt.

21 Q. When she was in revenue accounts, she was  
22 the chief clerk, the boss?

23 A. Yes, she is the chief clerk.

24 Q. Then that was when Mr. Cahalan was there?

25 A. Yes, I think so.

1 Q. They terminated her from her chief clerk  
2 job in revenue accounts, correct?

3 A. I don't know the story.

4 Q. But she left revenue accounts?

5 A. Yes.

6 Q. And came back as a clerk in disbursements?

7 A. Yes.

8 Q. Job 150?

9 A. I don't know what job, but bills payable  
10 job.

11 Q. Do you still have the exhibit there?

12 A. Yes.

13 Q. She had the bills payable -- she had a  
14 bills payable job when she came back?

15 A. Yes.

16 Q. During the month or so just before  
17 Brisbane was closed, she was a bills payable clerk?

18 A. Yes.

19 Q. Do you know who held the bills payable job  
20 before she did?

21 A. Armstrong.

22 Q. Did Ms. Hauff bump Ms. Armstrong from the  
23 bills payable job?

24 A. Yes.

25 Q. That is because she had -- her revenue

1 accounts job had been terminated, so she had a wide  
2 open bump, right?

3 A. I don't know, but I know she --

4 Q. In September of 1985, was there only one  
5 bills payable position under Mr. Carroll?

6 A. Yes.

7 Q. Did you ever do Ms. Hauff's work when she  
8 was sick?

9 A. Yes.

10 Q. Did you do that during the month before  
11 the closing of Brisbane?

12 A. I don't remember, but every time she is  
13 not there, I do her job.

14 Q. All of her job?

15 A. Yes, all her job, if I have time.

16 Q. I want to focus on the period when you had  
17 come back from Bayshore to be a miscellaneous clerk.

18 A. Okay.

19 Q. You came back from Bayshore approximately  
20 how long before Brisbane was closed?

21 A. I don't remember.

22 Q. Were you at Brisbane before it closed more  
23 than a year?

24 A. I don't remember. You should have a  
25 record check.

1 Q. But we can't find your file.

2 MR. KUBBY: You can't find her file?

3 THE WITNESS: You got to try. That is  
4 important.

5 MR. BOGASON: Q. Thank you. I appreciate  
6 that. So you don't know if you held your last job  
7 at Brisbane for more or less than a year?

8 A. Yes, maybe a year, you know, after  
9 transfer to Brisbane. I am not too -- I don't  
10 remember.

11 Q. What is PACE?

12 A. What do you mean?

13 Q. I will write it out. PACE, P-A-C-E.

14 A. What do you mean? You explain that to me.

15 Q. Did Pacific Fruit Express participate in  
16 an accounting system that had the initials P A C E?

17 A. Yes, PACE.

18 Q. What is the PACE accounting system?

19 A. It is very hard to explain that.

20 Q. How often during the year before Brisbane  
21 closed did you do the accounts payable work of  
22 Shirley Hauff?

23 A. Don't forget I have my own job,  
24 miscellaneous clerk. Whenever my closing day, I am  
25 very busy. If she is not there, I put her job a

1 little behind, but bills payable is very important.  
2 Everybody want their money. So they all call in,  
3 you know. Also I do M.S. job, too, you know, match.  
4 The last few months, I do three jobs, you know, all  
5 different time.

6 Q. The material and supplies job?

7 A. Yes, because they didn't fill that job,  
8 retired. They didn't fill that job, so I got to do  
9 that desk job, too.

10 Q. You did the M.S. job during the last three  
11 months at Brisbane?

12 A. Yes.

13 Q. How much time did you spend doing the M.S.  
14 job during the last three months at Brisbane?

15 A. I don't know, whatever, sometimes two  
16 hours, sometimes one hour. It depends, you know.

17 Q. Let me try and ask that same question I  
18 asked before. How much time did you spend filling  
19 in for Ms. Hauff during the year before Brisbane  
20 closed?

21 A. It depends. It depends. That day my  
22 supervisor was telling me, he say your job --

23 Q. I am sorry. Go ahead.

24 A. "You got closing time. You better hurry  
25 up. We want to get all the documents out." I do my

1 job. So leave that to maybe Shirley Hauff come in  
2 tomorrow, maybe she not sick tomorrow. So it  
3 depends.

4 Q. How many hours in total during the year  
5 before Brisbane closed did you spend doing Shirley  
6 Hauff's work?

7 A. I don't know.

8 Q. Would it more than a hundred hours?

9 A. I can't tell you that.

10 Q. You did do Shirley Hauff's account payable  
11 work during the year before Brisbane closed?

12 A. Yes.

13 Q. In doing that job, did you have to apply  
14 the PACE inventory system, the PACE accounting  
15 system?

16 A. What that mean?

17 Q. In doing Shirley Hauff's job, did you have  
18 to understand how to use PACE?

19 A. I don't get what you mean.

20 Q. What do the initials P A C E stand for in  
21 this system?

22 A. Can I ask my husband Chinese maybe? Can I  
23 do that?

24 Q. No.

25 A. Then I can't answer you because I don't

1 know.

2 MR. KUBBY: You have to answer in Chinese? Is  
3 that what you are saying?

4 THE WITNESS: No, explain PACE, what that mean.

5 MR. KUBBY: Would you have to do it in Chinese?

6 MR. BOGASON: No, she is not saying that, Lee.

7 THE WITNESS: No, I don't understand what is  
8 PACE.

9 MR. BOGASON: She said she wanted to ask him a  
10 question in Chinese.

11 THE WITNESS: No. What the PACE mean? That  
12 is what I want to know.

13 MR. KUBBY: He is referring to it as the name  
14 of an accounting system. What he wants to know is  
15 what you know about that accounting system.

16 THE WITNESS: No, I don't know. I don't know  
17 the accounting.

18 MR. BOGASON: Q. In connection with doing  
19 Shirley Hauff's job, did you ever have to use the  
20 PACE, the Southern Pacific PACE accounting system?

21 A. No, I don't know.

22 Q. Did you ever work as an accounts payable  
23 clerk?

24 A. Yes, I did.

25 Q. But that was when PFE was still at --

1           A.    New Montgomery Street.  I only do that  
2 clerk job.

3           Q.    Can you explain what Shirley Hauff did as  
4 an accounts payable clerk?

5           A.    I verified when the bill come --

6           Q.    This is Shirley Hauff's job?

7           A.    Yes.  When the invoice come in, I check  
8 the accounts.  They have different department,  
9 different accounts, and then I stamp.  Then I check  
10 the initials who approved it, if some people  
11 approved, the supervisor approved.  So I got to send  
12 back.  Then I add altogether how much money.  Then I  
13 give to Rick.  Rick examine then.  We put envelope  
14 and send it to S.P.

15          Q.    S.P. would issue the check?

16          A.    Yes.  Then they have a special rush check  
17 because they want to hurry, so different envelope.

18          Q.    When you were doing Shirley Hauff's job  
19 during the last year, did you have to do anything in  
20 order to allocate the expenses covered by the bills  
21 to a particular profit center?

22          A.    No, I don't take care of that.

23          MR. KUBBY:  You mean a particular department?  
24 Is that what you are referring to?

25          THE WITNESS:  Would you like repeat that

1 question very simple way because it is a little  
2 complicated to me now?

3 MR. BOGASON: Q. Am I correct you don't know  
4 what the PACE accounting system is?

5 A. No.

6 Q. Do you know whether or not Shirley Hauff  
7 in connection with her job had to be able to use the  
8 PACE accounting system?

9 A. No, I don't know.

10 Q. During the year prior to the closing of  
11 Brisbane, you believe that you did work Shirley  
12 Hauff's accounts payable job?

13 A. Yes.

14 Q. When she was off ill?

15 A. Yes.

16 Q. Did anybody else work her job when she was  
17 off ill during that year?

18 A. I don't remember.

19 Q. Were there weeks at a time when you worked  
20 Shirley Hauff's job?

21 A. Yes, sometimes. It depends. If she is  
22 sick, she don't come. She come late.

23 Q. Was she ever sick for more than a week?

24 A. I don't remember.

25 Q. Did you ever do all of the duties of her

1 job for more than a week?

2 A. I don't remember.

3 Q. Did you ever do all of the duties of  
4 Shirley Hauff's accounts payable job for more than a  
5 week?

6 A. I don't remember.

7 Q. How about more than a day?

8 A. No, because I have own job. I told you  
9 that.

10 Q. Your own job?

11 A. Miscellaneous clerk.

12 Q. You also said that you did some of the  
13 M.S. job?

14 A. Yes.

15 Q. Did you do that during the last year  
16 before Brisbane closed?

17 A. Yes.

18 Q. What type of M.S. work did you do at  
19 Brisbane?

20 A. I told you that before.

21 Q. At Brisbane?

22 A. Yes, same thing. I told you that before.

23 Q. I am sorry. I have forgotten.

24 A. Do the matching and trace. I got the  
25 invoice. I got to match with the packing slip, you

1 know. If not match, I got to trace, call them.

2 Q. Are these the same invoices that you  
3 looked at when you were doing Shirley Hauff's  
4 accounts payable job?

5 A. It is different. Part is invoice and  
6 Shirley Hauff -- everybody bills come in, different  
7 bills come in. Her job is bills payable, so all the  
8 bills come to that department.

9 Q. During the last year you were at Brisbane,  
10 the bills would come to you first as the M.S. job  
11 and then they would go to Shirley Hauff for payment?

12 A. It is two different things. One is  
13 material and one is like everybody's rent, PG&E bill.  
14 All come to bills payable, two different kind of  
15 bills. They not come to me, come to my supervisor  
16 box. They sort.

17 Q. The people that wanted to get paid only  
18 sent one set of bills, correct?

19 A. Yes.

20 Q. We know that Shirley Hauff would handle  
21 them to get them paid?

22 A. Yes, that is right.

23 Q. Are you saying that you also handled them  
24 as part of the M and S function?

25 A. No. M.S. is material. Maybe I don't

1 understand. Then like PG&E bill, rent bill, all  
2 this expense, they won't send to M.S. department.  
3 They will direct send to bills payable department,  
4 so two different desk job.

5 Q. When you were at Brisbane during the year  
6 before it closed, you had an M.S. desk or you had  
7 M.S. work while you were a miscellaneous clerk?

8 A. I don't have M.S. desk. It was empty  
9 there. So whenever I finish my job, then I got to  
10 go that desk to do that job. Then when Shirley  
11 Hauff not there, I got to go her desk.

12 Q. Did you ever go on furlough from PFE  
13 before 1985?

14 A. No.

15 Q. Did you ever voluntarily take a furlough  
16 before 1985?

17 A. I went to -- no -- okay. One time they  
18 put me job all different. I work one month, they  
19 abolish my job away. So one day I was totally  
20 exhausted, mentally exhaust. So I went to talk to  
21 Duane. I think he passed away.

22 I said, "Duane, how long you think they will  
23 keep" -- I just called back. They abolish and then  
24 I go to different department, so I said, "Maybe do  
25 you think I can just stay home two or three weeks

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1 rest, then I come back work?" I talk to Jim  
2 Segurson, too.

3 I said as long as I still have a job come back,  
4 they said no because they said I don't know the rule  
5 or something. They write me a letter. in that case,  
6 I said I will stay the job, and I don't remember the  
7 detail who I talked to. I did ask them and I think  
8 they did write me a letter.

9 Q. Are you familiar with the manner in which  
10 Pacific Fruit Express would allocate expenses  
11 between departments?

12 A. No.

13 Q. You testified earlier you worked for Mr.  
14 Soldavini?

15 A. Yes.

16 Q. What department did Mr. Soldavini run when  
17 you worked for him?

18 A. I don't remember.

19 Q. Was there a department called the  
20 protective service department?

21 A. I don't remember.

22 Q. What was your job title when you worked  
23 for Mr. Soldavini?

24 A. Whatever he give to me.

25 Q. What was your job title? Was it a general

1 clerk, a miscellaneous clerk?

2 A. I don't remember.

3 Q. Did you ever have an opportunity to bid  
4 for the accounts payable job?

5 A. Accounts payable? Bills payable job, not  
6 accounts payable. Yes, when Shirley Hauff left that  
7 job open, I was going to bid, but I talked to my  
8 super -- I think he make -- I think I want to go  
9 back because everybody job give to me. I just think  
10 it is too much for me. My supervisor, Chuck Carroll,  
11 told me, "Sieu, I need you to stay in my department  
12 and I can't depend on Shirley Hauff. Shirley Hauff  
13 always off sick."

14 So then I figure out so what is the difference  
15 few dollars. So I stay my own job. I did ask him.  
16 I wanted to bump that job.

17 Q. Did you ever try to bump on the dues  
18 payable job?

19 A. No.

20 Q. Why not?

21 A. Because the supervisor talk to me.

22 Q. Chuck Carroll said that he didn't want you  
23 to bump on it?

24 A. No. He said, "I need you on this job.

25 You know more M.S. and bills payable." He said, "I

1 can't depend -- on closing, I depend on you. I  
2 can't depend on Shirley Hauff."

3 Q. Before Shirley Hauff ever had the job, did  
4 you ever have an opportunity to bid for a bills  
5 payable job while at Brisbane?

6 A. I don't remember.

7 Q. Do you know Kathy Kotronakis?

8 A. Yes.

9 Q. What job did she have just before Brisbane  
10 closed?

11 A. She work the payroll.

12 Q. I am sorry. I am talking about Kathy  
13 Kotronakis.

14 A. Payroll.

15 MR. BOGASON: Could you read back the  
16 preceding question and answer?

17 (Record read.)

18 MR. BOGASON: Q. Look at Exhibit A. Exhibit  
19 A shows Kotronakis as the head control clerk?

20 A. Yes.

21 Q. Are you familiar with what Mr. Kotronakis  
22 did as head control clerk?

23 MR. KUBBY: Mister?

24 MR. BOGASON: Q. Ms. Kotronakis, what did  
25 she do?

1 A. She do all the payroll.

2 Q. The payroll for everybody in the company?

3 A. Yes.

4 Q. How did Kathy Kotronakis do the payroll?

5 A. I don't know.

6 Q. Did you ever do the payroll for the  
7 company in the year 1985?

8 A. No. Before I do payroll, they didn't  
9 change the system. After change the system, I  
10 didn't do it.

11 Q. The next job on this list is the assistant  
12 chief clerk position which was held by Geri Sumner.  
13 Did you ever do Geri Sumner's job?

14 A. No -- yes. When she was not here, I got  
15 to find out all the rent paid, PG&E bill. She take  
16 care, and I do her because they have percentage, you  
17 know, which department, 40 percent, 20 percent. I  
18 do her.

19 Q. What else did Geri Sumner do as assistant  
20 chief clerk besides approve bills?

21 A. I don't know.

22 Q. Look at the next job on Exhibit A, the  
23 equipment audit clerk.

24 A. Yes.

25 MR. KUBBY: The next job is miscellaneous

1 clerk.

2 MR. BOGASON: I am sorry. Thank you. I  
3 appreciate that.

4 Q. The next job is John Baumann's job,  
5 miscellaneous clerk?

6 A. Yes. I don't even know him.

7 Q. Did Mr. Baumann work for PFE?

8 A. I don't know him.

9 Q. Have you ever heard the name?

10 A. Oh, yes.

11 Q. Did he work in disbursements under Mr.  
12 Carroll?

13 A. I don't remember. I don't think so.

14 Q. Did he work in revenues under Ms. Kim?

15 A. I don't know.

16 Q. Do you know what the duties were of his  
17 job?

18 A. I don't know.

19 Q. How about K. H. who is shown as the  
20 equipment audit clerk, do you know K. H. Feng?

21 A. Yes, I know her.

22 MR. FEND: It is Kou Lim, K-o-u, L-i-m.

23 MR. BOGASON: Q. Do you know what the duties  
24 of Kou Lim Feng's job were in September of 1985?

25 A. No.

1 Q. Did you ever perform the job that she held  
2 in September of 1985?

3 A. No.

4 Q. Do you know what job Mr. Soldavini was  
5 holding in September of 1985?

6 A. No, I don't.

7 Q. Was Ms. Feng in revenue accounting in  
8 September of 1985?

9 A. I don't know.

10 Q. Did she work for Mr. Carroll in September  
11 of 1985?

12 A. Feng?

13 Q. Yes.

14 A. Yes, work with Rick.

15 Q. I am sorry. I jumped back to Ms. Feng.  
16 She worked in revenue accounts, not disbursements,  
17 right?

18 A. Yes.

19 Q. Mr. Soldavini worked for Mr. Carroll or  
20 for Mr. Fend?

21 A. Can we stop there?

22 Q. Sure.

23 A. I don't understand this. I thought Ron  
24 was monthly before go to transfer to -- he was  
25 monthly in the PFE. Now here is clerk. I don't

1 understand that. Is this wrong?

2 Q. Don't answer.

3 A. Don't answer, okay.

4 Q. Which employee did you feel was monthly?

5 A. Ron.

6 Q. Mr. Soldavini?

7 A. Yes.

8 Q. The next job is number 125 held by Patrick  
9 Newell?

10 A. Yes.

11 Q. Do you know what his job was in September  
12 of 1985?

13 A. No.

14 Q. The people that worked for Mr. Carroll in  
15 disbursements, I want to see if I have got them all  
16 now. First of all, you had Shirley Hauff?

17 A. Yes.

18 Q. She was bills payable. Then you had Ms.  
19 Kotronakis?

20 A. Kathy, yes.

21 Q. She did the payroll?

22 A. Yes, payroll.

23 Q. Then you had Geri Sumner?

24 A. Yes.

25 Q. Geri Sumner was the assistant chief clerk?

1 A. Yes.

2 Q. What did she generally do?

3 A. I don't know.

4 Q. Then the last person in the group was  
5 yourself?

6 A. Yes. What do you mean the last in group?  
7 I am not last in this group. Shirley Hauff is the  
8 last one following seniority.

9 Q. But the people who worked for Mr.  
10 Carroll --

11 A. Yes.

12 Q. The other people that worked for Mr.  
13 Carroll were only Geri Sumner, Kotronakis, and Hauff?

14 A. Yes.

15 Q. Your job at that time?

16 A. Miscellaneous clerk.

17 Q. As the miscellaneous clerk, you were  
18 responsible for what? Let me see if I got that.  
19 You would do M and S?

20 A. Yes, and bills payable.

21 Q. But bills payable was the work of Ms.  
22 Hauff if she was there, right?

23 A. Yes. When she was not there, I do her  
24 work.

25 Q. What are the types of things that you

1 would do when Hauff, Kathy, and Sumner were all  
2 there?

3 A. I do my own job.

4 Q. What were the duties of your own job, M.S.?

5 A. That is not my own job.

6 Q. Whose job was it then?

7 A. M.S.?

8 Q. Yes.

9 A. John Mangan retired.

10 Q. Excuse me, Mrs. Tu. I am still talking  
11 about the month before Brisbane was closed. John  
12 Mangan was doing it?

13 A. John retired. I don't know which year.  
14 After he retired, that vacancy -- nobody fill his  
15 work, so I do his job.

16 Q. So in September of 1985, was Mr. Mangan  
17 retired?

18 A. I don't know which year retired. After he  
19 retired, nobody take over his job. I do his job.  
20 If I don't understand the job, the supervisor will  
21 do it.

22 Q. So what was your job besides filling in  
23 for these other people?

24 A. My job?

25 Q. Yes, as miscellaneous clerk.

1 MR. KUBBY: I believe there is a description  
2 of her job on the exhibit.

3 MR. BOGASON: I would prefer to let her answer  
4 the question.

5 THE WITNESS: Can I read it? Maybe I forgot.

6 MR. BOGASON: Q. Before you read it, can you  
7 tell me the other duties you had? Then you can  
8 refresh your recollection. I want to know what you  
9 remember about your own job before you look at  
10 your --

11 A. Do the closing. When the closing come, I  
12 do the checking accounts.

13 Q. You did closing?

14 A. Yes.

15 Q. What is the next thing you did after  
16 closing that belonged to you?

17 A. American Express and all the personal  
18 expense.

19 Q. Personal expenses?

20 A. Yes, and balance the book.

21 Q. Balance the book?

22 A. Yes.

23 Q. What else?

24 A. That is all.

25 Q. So if i am correct, you would fill in when

1 the other people were sick or gone. Then you also  
2 did closing?

3 A. Yes.

4 Q. Things you had to do even when they were  
5 there were closing?

6 A. My own job is closing and insurance.

7 Q. American Express?

8 A. Yes.

9 Q. Personal expenses?

10 A. Yes, and insurance for the retired people  
11 insurance. I do work part of workmen's comp. I pay  
12 McDonald.

13 Q. Could you describe how you would do the  
14 closing, what other papers you worked with?

15 A. Check the accounts, check the figure and  
16 make sure they sign -- they initial.

17 Q. How did you do the American Express?

18 A. American Express, the bill come in because  
19 I should get everybody's personal expense to match  
20 American Express, but I usually never -- they always  
21 late. They always told me they don't have time to  
22 do it, you know. So my supervisor told me just go  
23 ahead and pay American Express first because they  
24 can't be late. So after I pay it, then I try to ask  
25 everybody give me their receipts to match the

1 American -- they sent me the American Express bill,  
2 you know, when you sign, charged it. You have two,  
3 one you keep and one they sent to us.

4 Q. Did American Express send just one bill  
5 for the whole company?

6 A. Yes.

7 Q. Did a lot of company employees have  
8 American Express cards?

9 A. That I got to ask Rick. I don't know.

10 Q. Was there more than one?

11 A. You mean one charge card, yes. They have  
12 ten, I think, credit card.

13 Q. Was there more than one person who had an  
14 American Express card that had PFE's name on it?

15 A. Yes.

16 Q. Why did you have to match the American  
17 Express bills to the expense accounts?

18 A. That is what they all charge. I got to.  
19 Why?

20 Q. Yes.

21 A. Just like you balance your checkbook. You  
22 know, you got to match it, your canceled check back.

23 Q. How many expense accounts did you have to  
24 match to the bill?

25 A. More than ten people.

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1 Q. More than 20?

2 A. No, I don't think so. One time is quite a  
3 bit, but I don't know exactly figure.

4 Q. What were the names on the American  
5 Express bills?

6 A. What are the names? They charge hotel.

7 Q. The cards, the imprint, would there be a  
8 name of the employee, and then it would --

9 A. Yes.

10 Q. Don't interrupt me. Then also Pacific  
11 Fruit Express on it?

12 A. Yes.

13 Q. So what did you have to do? You had to  
14 take all of the ten people, take all of their bills  
15 and add them up to see if that total matched to the  
16 total bill that PFE was sending?

17 A. They should.

18 Q. Or that American Express was sending?

19 A. They should be like that, but they never  
20 sent me to their personal expense after one month,  
21 two months, some is whole year. I have not that  
22 detail sheets.

23 Q. If I am correct, there were at least ten  
24 people who worked at PFE who had American Express  
25 cards?

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1 A. Yes.

2 Q. They charged things on it?

3 A. Yes.

4 Q. But the bills didn't go to the ten people,  
5 the bill came to PFE?

6 A. The American Express come to PFE bills  
7 payable.

8 Q. You had to prepare the paperwork?

9 A. Yes.

10 Q. And send it to S.P. accounting to get a  
11 check payable?

12 A. No.

13 Q. To PFE?

14 A. After I finish, I give to the bills  
15 payable.

16 Q. That would be Ms. Hauff?

17 A. Yes.

18 Q. Ms. Tu, do you have a pen? Borrow my pen.  
19 Would you take and number each of the pages on  
20 Exhibit A? Number the first page 1 at the bottom  
21 and then 2, 3, 4, 5, 6.

22 MR. KUBBY: Would this be considered a call  
23 back?

24 MR. BOGASON: Q. You have seen all of the  
25 documents in Exhibit A before, haven't you?

1 A. Yes, right now.

2 Q. You have never seen them before today?

3 A. I see that, but I don't remember.

4 Q. Let me just state for the record that  
5 Exhibit A is a copy of documents produced by Mr.  
6 Kubby. In other words, Exhibit A comes from a pile  
7 of documents that Mr. Kubby gave me.

8 A. Yes.

9 Q. So I would assume you have seen these  
10 before?

11 MR. KUBBY: That is a wrong assumption. You  
12 shouldn't assume that at all.

13 MR. BOGASON: Q. Then let me just keep going  
14 ahead. Look at the last page, page 6.

15 I do appreciate all of your comments, Mr. Kubby.  
16 It is a pleasure to meet someone as intelligent and  
17 as kind and considerate as you.

18 MR. KUBBY: Thank you very much.

19 MR. BOGASON: I appreciate learning that I  
20 shouldn't assume anything.

21 Q. Have you ever seen the last page, page 6  
22 of Exhibit A?

23 A. Yes.

24 Q. Had you ever seen it before today?

25 A. This I see, yes. My supervisor give to me

1 page 6.

2 Q. Who was your supervisor that gave it to  
3 you?

4 A. Chuck Carroll.

5 Q. When did he give it to you?

6 A. I don't remember.

7 Q. Did he give it to you while you were  
8 working at Brisbane?

9 A. Yes.

10 Q. Did he give it to you before you  
11 transferred to Bayshore?

12 A. No. I worked at Brisbane.

13 Q. Did he give it to you after you had first  
14 heard that Brisbane was going to be closed?

15 A. Would you repeat that question?

16 Q. Did there come a time in 1985 when there  
17 were rumors that Brisbane was going to be closed?

18 A. They have so many rumor. If you want to  
19 listen, you will be spending three days here.

20 Q. I think this calls for a yes or no answer.

21 A. No, I don't remember the rumor.

22 Q. Did you ever hear gossip before September  
23 of 1985 that Brisbane was going to be closed?

24 A. I don't remember.

25 Q. When did you first learn that Brisbane was

1 going to be closed?

2 A. October the 2nd.

3 Q. Prior to October 2nd, 1985, had you feared  
4 that Brisbane was going to be closed?

5 A. I fear last four years.

6 Q. What caused you to fear for the four years  
7 before September of 1985 that Brisbane --

8 MR. KUBBY: She referred to October.

9 MR. BOGASON: Strike that.

10 Q. Are you saying that for about four years  
11 before it closed, you were worried that it was going  
12 to close?

13 A. No. You just asked me before the rumor  
14 gossip. Last four years.

15 Q. So for four years before it actually  
16 closed, there was a lot of gossip?

17 A. Yes.

18 Q. Did Mr. Carroll give you this in 1985?

19 A. I think so, but I am not sure.

20 Q. There is a description entitled, quote,  
21 miscellaneous clerk, S. M. Tu, \$99.99.

22 A. \$99.99.

23 Q. Have you read that before?

24 A. I got paid for that money. I got to know  
25 that.

1 Q. See what is written below your name, S. M.  
2 Tu?

3 A. Yes.

4 Q. Have you read that description before?

5 A. Yes.

6 Q. The first sentence says, quote, controls  
7 input of documents into the account stream for  
8 closing of monthly accounts, close quote. Is that a  
9 correct description of what you did?

10 A. Yes.

11 Q. Please explain what you did to control the  
12 input of documents into the account stream for  
13 closing of monthly accounts.

14 A. All the department bills give to me. I  
15 add together and balance.

16 Q. The next sentence says, "Balances  
17 transmittals of these documents to register of  
18 accounts (we call a DBI), communicates with SPT  
19 regarding closing matters." What did you do to do  
20 all that?

21 A. I refuse to answer all these because I do  
22 all the work. Supervisor told me what to do.

23 Q. The next sentence says, quote, prepares  
24 "check sheet" of revenues and expenses for closing  
25 of accounts to reflect net operating income, close

1 quote. Is that what you did?

2 A. Yes.

3 Q. How did you prepare check sheet of  
4 revenues and expenses for closing of accounts to  
5 reflect net operating income?

6 A. We have a form, and whoever give me the  
7 figure, then I try to balance.

8 Q. The next sentence says that you also,  
9 quote, corrects Form 176 errors and sends to SPT,  
10 close quote. What is a Form 176?

11 A. I don't remember all these things now  
12 because -- may I ask you something?

13 Q. No.

14 A. No off the record?

15 Q. No. Your counsel said we can't go off the  
16 record, and I have to do what Mr. Kubby says because  
17 he is a very brilliant man.

18 A. You are going to give me English test or  
19 just ask my work?

20 Q. I don't know. What do you mean by that?

21 A. You read. You know I am foreigner.

22 Sometimes I misunderstand your English, and I don't  
23 want you to read my book because I don't know. You  
24 give me English test or something. All this form --  
25 I be home year and seven months. I don't remember

1 all these things. So I can't answer you.

2 Q. Let me just tell you these are the kinds  
3 of questions I always ask people in any kind of  
4 lawsuit, be they witnesses for or against Pacific  
5 Fruit Express. I ask them what these things mean  
6 trying to get an explanation of what they did on the  
7 job. I have to ask these questions because you said  
8 earlier that this is a correct description of your  
9 job.

10 A. Yes. If I see the form, but I don't want  
11 to answer you something wrong. Later on, you use  
12 that against me. I got to see the form, then I  
13 remember because I be home a year and seven months.  
14 I can't tell you exactly to answer you.

15 Q. That is fine. Prepares department bills,  
16 close quote.

17 A. Yes.

18 Q. What department bills did you prepare when  
19 you were a miscellaneous clerk in 1985?

20 A. I don't remember.

21 Q. What types of department bills did you  
22 prepare?

23 A. They come all different department.

24 Q. What was a department bill that you  
25 prepared? Just give us one example of a department

1 bill that you prepared.

2 A. I don't remember.

3 MR. KUBBY: Do you have any examples of it,  
4 Mr. Bogason, so you could show her to refresh her  
5 recollection?

6 MR. BOGASON: No, I don't.

7 Q. Did you or did you not prepare department  
8 bills?

9 A. I did.

10 Q. So you did prepare department bills?

11 A. Yes.

12 Q. What companies or departments were to pay  
13 these bills that you prepared?

14 A. S.P.

15 Q. They were bills for services performed by  
16 PFE on behalf of S.P.?

17 A. Yes.

18 Q. What are the types of services that PFE  
19 performed for S.P.?

20 A. I don't know. I don't remember.

21 MR. KUBBY: Is this revenue or disbursements,  
22 Mr. Bogason?

23 MR. BOGASON: I don't know. It is the job  
24 that was described.

25 MR. KUBBY: You are suggesting to her an

1 answer which would indicate that it is a revenue  
2 production rather than disbursement. It is a bill  
3 from PFE to S.P. and, in fact, S.P. was the paying  
4 agent for PFE, so it was a disbursement process  
5 rather than a revenue process, as I understand it.

6 MR. KUBBY: Would you like to testify? Was  
7 that an objection or --

8 MR. KUBBY: It was an objection. I think you  
9 are misleading the witness by the direction of your  
10 question.

11 MR. BOGASON: I don't know how you can say I  
12 am misleading the witness when everyone -- please  
13 let me finish. Would you like to speak and then I  
14 will speak? Go ahead.

15 MR. KUBBY: After you, sir.

16 MR. BOGASON: I don't see how you can accuse  
17 me of misleading the witness when each and every one  
18 of my questions began with how, what, why. I am  
19 trying to learn the work she did. That is all.

20 MR. KUBBY: You have got her supervisor  
21 sitting right next to you. He supervised her for  
22 five or six years. He certainly knows.

23 MR. BOGASON: I would think that she ought to  
24 know what she did, too.

25 MR. KUBBY: Yes, she does when you ask her a

1 question with her limited English ability and it  
2 falls within the general description of what she was  
3 doing, but you did not fully describe the job. I  
4 think that is misleading. She has made it clear  
5 that she was in disbursements. She was not in  
6 revenue.

7 MR. BOGASON: I don't know exactly why I can't  
8 ask her questions and why you have to keep relying  
9 on her, quote, limited ability in English language.

10 MR. KUBBY: Because I feel that you are  
11 progressing in a way that is not conducive to  
12 eliciting the truth. It is a means of trying to  
13 turn statements around.

14 MR. BOGASON: I really resent that you are  
15 implying that I am trying to mislead or confuse this  
16 witness, and you have so stated. I do not do that,  
17 mislead a witness.

18 MR. KUBBY: Then please ask her the question --

19 MR. BOGASON: Please let me finish.

20 MR. KUBBY: -- in the context in which she has  
21 testified to.

22 MR. BOGASON: Would you let me speak? Each  
23 one of my questions have been how, what. How can  
24 you mislead when you use the word how? That is not  
25 suggestive. Let's move on.

1 Q. You prepared something called department  
2 bills, right?

3 A. Yes.

4 Q. Did you also prepare something called  
5 bills collectable?

6 A. Yes.

7 Q. What is a bills collectable?

8 A. I don't remember.

9 Q. What is the purpose of a bills collectable?

10 A. I don't remember.

11 Q. Did you prepare forms 4911?

12 A. Yes. 4911 is a list of all the bill, you  
13 know, who send to us, all names.

14 Q. Did you prepare rush vouchers?

15 A. Yes.

16 Q. What is a rush voucher?

17 A. They have some special account -- special  
18 voucher emergency, money they need. So I got to  
19 rush that voucher to S.P. They will issue the  
20 voucher right away.

21 Q. The last sentence says, quote, handles  
22 store invoices by matching packing slip with invoice,  
23 and prepares apron, and passes for payment."

24 A. That is M.S.

25 Q. Did you do that during your last year as a

1 miscellaneous clerk at PFE?

2 A. Yes.

3 Q. Look at the fourth page of Exhibit A. It  
4 is also a notice of jobs or job abolishments?

5 A. Yes.

6 Q. Did you work for Mr. Shorb at one time?

7 A. George Shorb, no.

8 Q. I thought when you were at Bayshore, you  
9 worked for someone?

10 A. George. I think he worked Bayshore, yes.

11 Q. I would like to have marked as our Exhibit  
12 C a three-page exhibit with -- on the top of which  
13 is Mr. Batson's letter to Mr. Balovich of November 5,  
14 1985.

15 (Document more particularly  
16 described in the index marked for  
17 identification as Defendants'  
18 Exhibit C.)

19 MR. BOGASON: Q. I have numbered these three  
20 pages on the bottom. Could you look at Exhibit C,  
21 please? Look at the second page, please. I will  
22 represent to you that this document came from your  
23 counsel's files. Do you know Mr. Balovich?

24 A. Yes.

25 Q. How did you know him?

1 A. Union man.

2 MR. KUBBY: I am sorry, Mr. Bogason. I am  
3 sorry to interrupt. I wanted to make it clear that  
4 it is my recollection that documents I gave to you  
5 were not stamped, is that correct?

6 MR. BOGASON: I really don't know. I assume  
7 this came from your files, but it might have come  
8 from mine.

9 MR. KUBBY: The question is, why are they  
10 together? That is the issue.

11 MR. BOGASON: Just for convenience. Why do I  
12 have them together?

13 MR. KUBBY: Stapled together here.

14 MR. BOGASON: Just convenient, ease of  
15 handling. They seemed to relate to each other.

16 MR. KUBBY: It is not that they were presented  
17 to you as one document?

18 MR. BOGASON: Oh, no, of course not.

19 Q. Have you ever seen Mr. Balovich's letter  
20 to Mr. Segurson before? Have you ever seen a copy  
21 of this letter of October 25, 1985?

22 A. I don't remember.

23 Q. Please turn to the second page of this  
24 exhibit.

25 A. Yes.

1 Q. Your name is mentioned there?

2 A. Yes.

3 Q. Is this a claim that was filed by the  
4 union?

5 A. That is what union did.

6 Q. Did Mr. Balovich send you a copy of this  
7 claim letter after he filed it with Mr. Segurson?

8 A. I think so.

9 Q. So you may have seen this claim letter of  
10 Mr. Balovich's before?

11 A. Before?

12 Q. Before today.

13 A. Oh, yes.

14 Q. Can you take a second and read Mr.  
15 Balovich's letter while we take about a three-minute  
16 break? What I want to do is just go through it.  
17 Take your time and just read what is in this letter.  
18 Okay?

19 A. Can I talk to Mr. Kubby?

20 Q. Sure. We are going to take a three-minute  
21 break.

22 MR. KUBBY: Before you leave, can you give us  
23 some indication of what you want to know from her  
24 about it so we can concentrate on that?

25 MR. BOGASON: I would just like to have her

1 read it.

2 MR. KUBBY: Are you going to have her read it  
3 into the record?

4 MR. BOGASON: Mr. Kubby, I have asked her to  
5 read it.

6 MR. KUBBY: For what purpose?

7 MR. BOGASON: Is that an objection?

8 MR. KUBBY: I am just asking as a matter of  
9 courtesy what is the intent so when she is reading  
10 it, she can concentrate so she can answer your  
11 questions more readily after the break.

12 MR. BOGASON: I would like to have her read it  
13 so that she can understand and answer some questions  
14 that I may have about the context of the letter.

15 MR. KUBBY: Without delineating what it is  
16 that you want her to concentrate on, that might take  
17 an extensive period of time. I want to know how  
18 much time we should devote to the reading.

19 MR. BOGASON: The document is two pages long.  
20 If you are telling me and -- are you going to  
21 stipulate for the record that she does not have the  
22 ability to read and understand what is in this text?  
23 Then make that offer. If she doesn't have the  
24 ability to read and understand the text, then simply  
25 so state.

1 MR. KUBBY: I object to your question because  
2 there are a lot of legal conclusions in here, just  
3 in a cursory reading by me. She is not a lawyer.  
4 She is not a union representative. She is a worker,  
5 a clerk who gave 23 years to her company. To ask  
6 her to explain --

7 MR. BOGASON: Okay, Mr. Kubby, just keep on  
8 going this way. I am going to produce voluntarily  
9 everything that you have asked for as long as it is  
10 relevant, but if you are going to do this, we are  
11 going to do it -- if you are going -- if you are  
12 going to say I can't question this person in the  
13 normal fashion that I can question an average  
14 plaintiff, fine. I want to know how you are going  
15 to work. I want to ask her a couple of simple  
16 questions.

17 You tell me from now on in the rest of these  
18 depositions that we have that. The rule is going to  
19 be that I have when you are questioning him about  
20 documents or any other PFE witness. I have the  
21 right to say he ain't going to answer unless you  
22 tell me -- he isn't going to read this document  
23 unless you tell me what your questions are going to  
24 be.

25 MR. KUBBY: I haven't even suggested, Mr.

1 Bogason. You have said you were going to take a  
2 recess. You want her to read this letter.

3 MR. BOGASON: Okay, let's don't take a recess.

4 MR. KUBBY: Okay. Ask your questions then.

5 MR. BOGASON: Q. What was the purpose of  
6 this letter?

7 A. I haven't read it yet.

8 MR. KUBBY: I object to the question as it is  
9 not her letter. It is written by somebody else, and  
10 I object to the question as calling for a conclusion.

11 MR. BOGASON: Q. What is your understanding  
12 as to the purpose of this letter?

13 A. I don't know.

14 Q. Have you ever looked at this letter before?

15 A. I didn't read it.

16 Q. You have never read it before?

17 A. I don't know. I don't remember.

18 Q. Do you have any understanding why your  
19 name is mentioned in this letter?

20 A. I don't know.

21 Q. If I were to give you 15 minutes, would  
22 you have the ability to read and comprehend what is  
23 in this two-page letter?

24 A. Because I am not a lawyer, I am just an  
25 average -- the union rule I don't understand anyway.

1 Q. This is a simple question, calls for a yes  
2 or no, please. Even though you are foreign born and  
3 have only been in this country for 20 years --

4 A. More than that.

5 Q. I think it calls for a yes or no answer.  
6 Do you have the ability to read this letter and  
7 understand parts of it?

8 A. Maybe parts of it, not the whole thing.

9 Q. Would you read this letter and tell me  
10 which part you don't understand?

11 A. Lots of things I don't understand.

12 Q. Let's take the first paragraph. Read the  
13 first paragraph silently to yourself.

14 A. Now you make me very nervous. I even  
15 can't think.

16 MR. KUBBY: Just read it first.

17 THE WITNESS: This first page or second page?

18 MR. BOGASON: Q. I said paragraph. Please  
19 listen to me.

20 MR. KUBBY: She is saying which page.

21 MR. BOGASON: The same page we have been  
22 looking at until your counsel told you that you  
23 couldn't understand the letter.

24 MR. KUBBY: Could you just give her a number?

25 MR. BOGASON: The one we have been talking

1 about, the letter from Mr. Balovich to Mr. Segurson  
2 that is dated October 25, 1985.

3 MR. KUBBY: What is the number that you placed  
4 upon that?

5 MR. BOGASON: First paragraph.

6 MR. KUBBY: What is the number that you placed  
7 upon that on the exhibit?

8 MR. BOGASON: Q. Do you have this in front  
9 of you?

10 A. Yes.

11 Q. It has got a number 2 on the bottom?

12 A. Yes.

13 Q. Do you have any trouble understanding the  
14 first paragraph which begins "On October 1, 1985"?

15 A. No. Yes, I understand that part.

16 Q. Let's take the second paragraph. Would  
17 you read that and tell me what parts of that  
18 paragraph you don't understand?

19 A. I don't know why they didn't give us the  
20 rights to exercise our seniority.

21 Q. Where is it in the letter that it says  
22 that they didn't give you the rights to exercise  
23 your seniority?

24 A. They didn't say that, but after I read it,  
25 I want to know why they didn't give us the right to

1 exercise our seniority.

2 Q. Is there any part of the words, the  
3 language in the second paragraph, that you don't  
4 understand?

5 A. I understand.

6 Q. Under name of claimant, you have as number  
7 8, S. M. Tu. Who do you understand to be the S. M.  
8 Tu referred to in this letter?

9 A. I think you just make fun of me. My name,  
10 I got to know my name. S. M. Tu is me.

11 Q. Do you think that by my question I am  
12 trying to make a fool out of you?

13 A. I think so because you say S. M. Tu. That  
14 is my name.

15 Q. I have to ask some of these questions  
16 because your counsel wouldn't let me take a five-  
17 minute recess in order to ask a few simple questions,  
18 and he has implied that you don't have the ability  
19 to understand the language of this letter.

20 MR. KUBBY: That is not at all the implication,  
21 Mr. Bogason. I simply asked you to please give us  
22 some indication of what you wanted her to  
23 concentrate on in reading the letter so that she  
24 could more readily answer your questions and we  
25 could save time.

1 MR. BOGASON: Q. Person number 8 is S. M. Tu.  
2 That is you, right?

3 A. Yes.

4 Q. Read the paragraph that begins, quote, The  
5 consequence of such company handling leading up to  
6 October 1, et cetera?

7 A. I don't understand all this language.

8 Q. Turn to the following page 2 of the letter  
9 which has the number 3 on it. Do you see the  
10 paragraph with the Arabic number 2 on it which reads,  
11 "Secondly and more seriously"?

12 A. I don't understand that either.

13 Q. Please read the last paragraph.

14 A. Yes.

15 Q. Do you understand this to be a claim by  
16 your union representative against the company on  
17 your behalf?

18 A. Yes.

19 Q. Do you understand this to be a claim that  
20 the company violated the agreement when it abolished  
21 your job?

22 A. PFE?

23 Q. Yes.

24 A. PFE violated the agreement, yes.

25 Q. Did you have any discussions with Mr.

1 Balovich before he wrote this letter?

2 A. No.

3 Q. Did you ever talk to him after your job  
4 was abolished?

5 A. I talked to him. I said, "Why I don't  
6 have the right to exercise my seniority?" Then he  
7 said, "The company made a rule." That is what he  
8 told me.

9 Q. So I guess the question I am asking is,  
10 did he ask you if you wanted him to write this  
11 letter?

12 A. He never ask me anything.

13 Q. Do you know each of the eight people  
14 identified on page number 2 of Exhibit C?

15 A. Yes, I know them.

16 Q. Do you know what happened to K. E.  
17 Armstrong? Is he still working for PFE or S.P.?

18 A. I don't know.

19 Q. Are any of these people still working for  
20 PFE?

21 A. I don't know.

22 Q. Are any of them working for Southern  
23 Pacific?

24 A. I don't know.

25 Q. Are any of these people Chinese besides

1 you?

2 A. I am the only Chinese here. Also, I am  
3 the oldest one in this group.

4 Q. Do you have any reason to believe that any  
5 of these seven people on page 2 of Exhibit C are now  
6 working for PFE or Southern Pacific?

7 A. I don't know.

8 MR. BOGASON: I would like to have marked as  
9 our next in order a letter from Mr. Charles Carroll  
10 dated October 2, 1985.

11 (Document more particularly  
12 described in the index marked for  
13 identification as Defendants'  
14 Exhibit D.)

15 MR. BOGASON: Q. I show you Exhibit D. It  
16 is a letter from Mr. Carroll that refers to you.

17 (Recess taken from 2:00 to 2:06)

18 MR. BOGASON: Q. I will show you Exhibit D.  
19 Have you ever seen Exhibit D before?

20 A. Yes.

21 Q. Did you have any conversations with Mr.  
22 Carroll about this letter before it was written?

23 A. Before, no. After they abolish my job, I  
24 talked to him on the phone.

25 Q. Did he ever tell you why he wrote the

1 letter?

2 A. I need -- he told me exactly how is my  
3 work performance and maybe --

4 MR. BOGASON: Would you mind -- I would like  
5 to have marked as our next in order a four-page  
6 exhibit. Top page is Mr. Autrey's letter of  
7 February 27, 1985, which is vacancy notice number 7.

8 (Document more particularly  
9 described in the index marked for  
10 identification as Defendants'  
11 Exhibit E.)

12 MR. BOGASON: Q. Could you please look at  
13 Exhibit E, Mrs. Tu? Have you ever seen a copy of  
14 the first page of Exhibit E before?

15 A. I don't remember.

16 Q. I see a handwritten star by position  
17 number 141, general clerk, Brisbane, S. M. Tu?

18 A. Yes.

19 Q. Do you know whose handwriting that is, who  
20 put in the star by 141?

21 A. I don't know. I don't know whose  
22 handwriting that is.

23 Q. Just below the name Autrey, there is a  
24 handwritten note with a star "Note: Position is  
25 titled general clerk. Title later changed to

1 miscellaneous clerk." Do you know who wrote that in?

2 A. No, I don't know.

3 MR. BOGASON: Do you know whose handwriting  
4 that is, Mr. Kubby?

5 MR. KUBBY: No idea.

6 MR. BOGASON: It came from the documents that  
7 you provided.

8 MR. KUBBY: I don't think so. I don't believe  
9 I have seen this before.

10 MR. BOGASON: Yes, it came from the early  
11 material that you produced for me on April 27th.

12 THE WITNESS: I don't recall seeing it before.  
13 The top page maybe, but I don't think -- I don't  
14 recall these notes.

15 MR. BOGASON: These are materials that came  
16 from what -- all of these exhibits are coming from  
17 the documents.

18 MR. KUBBY: I don't recall it. I don't know  
19 whose writing it is or where it came from.

20 MR. BOGASON: Off the record.

21 (Discussion off the record.)

22 MR. BOGASON: Q. Mrs. Tu, I think you had a  
23 job at Bayshore that you held when Mr. Carroll asked  
24 you to come back to work? When you worked for Mr.  
25 Koerpel, was that a general clerk's job?

1 A. I don't remember.

2 Q. You have seen these vacancy notices in the  
3 past, haven't you, notices like this?

4 A. Yes.

5 Q. Do you have any trouble understanding  
6 this --

7 A. No.

8 Q. -- first page of Exhibit E?

9 A. No.

10 Q. Basically, it means that your general  
11 clerk job was going to be abolished on March 8, 1985?

12 A. Yes, March 8.

13 Q. Once you got that notice, you had the  
14 right to bid on any other job, right?

15 A. Yes.

16 Q. The second page is a letter from Mr.  
17 Autrey to you dated March 4, 1985?

18 A. Yes.

19 Q. Do you recall receiving a copy of this  
20 letter?

21 A. Yes.

22 Q. Is this letter from Mr. Autrey in reply to  
23 a letter of yours or some conversation you had with  
24 him?

25 A. I just ask him what I should do, and they

1 sent me this letter.

2 Q. The third page is another one of these  
3 vacancy notices, notice number 13.

4 A. Page 3?

5 Q. Yes. Do you see vacancy notice number 13?

6 A. Yes.

7 Q. Any clerk on the PFE roster would have the  
8 right to bid for one of those two positions?

9 A. Yes, I did.

10 Q. Look at the fourth page from Mr. Autrey.  
11 It is a vacancy notice number 14, April 1, 1985?

12 A. Yes. That is what I tell you few minutes  
13 ago. They have two job open. I was going to bid  
14 the bills payable, and Chuck Carroll told me he  
15 needs me in the miscellaneous clerk. That is what I  
16 did, you know.

17 Q. Look at the third page again. This third  
18 page, vacancy notice number 13, announces two  
19 positions; correct?

20 A. Yes.

21 Q. Under the union agreement, you could bid  
22 for either one, correct?

23 A. Yes.

24 Q. If you would have bid for number 150, you  
25 could have gotten it, correct?

1 A. Yes.

2 Q. Did you want number 150 at the time --  
3 strike that. Look at page 3 again. What is the  
4 wage rate for job 150 and the wage rate for job 141?

5 A. A dollar less.

6 Q. Job 150 is the one that Ms. Shirley Hauff  
7 got, correct?

8 A. Yes.

9 Q. At the time you saw this vacancy notice in  
10 March of 1985, were you working on a job or had your  
11 job been abolished? Do you follow me?

12 A. I don't remember.

13 Q. In any event, you could have bid for  
14 either one?

15 A. Yes. Just a minute. I had miscellaneous  
16 clerk job. That is my job. Right?

17 Q. On March 27, 1985, they advertised job 141  
18 and job 150?

19 A. I put my bid on 141.

20 Q. Did you put the bid on 141 because that is  
21 the one you wanted or was there some other reason?

22 A. That is what Chuck Carroll told me. He  
23 say Shirley Hauff always absent. She doesn't know  
24 your job. You know the closing, everything. So how  
25 about you just -- that is why I stayed at my job.

1 Q. If Mr. Carroll had not told you that,  
2 would you have bid for job 150?

3 A. I don't know my decision at that time.

4 MR. KUBBY: Is it accurate to say, Mr. Bogason,  
5 she had the same right on September 18th, 1985 under  
6 the notice of Exhibit A?

7 MR. BOGASON: I would like to have marked as  
8 our next in order, which will be Exhibit F, a letter  
9 from Mr. Cranmer To Whom It May Concern dated  
10 December 18th, 1978.

11 (Document more particularly  
12 described in the index marked for  
13 identification as Defendants'  
14 Exhibit F.)

15 MR. BOGASON: Q. Have you seen Exhibit F  
16 before?

17 A. Yes.

18 Q. What were the circumstances surrounding  
19 this letter? How did it come to be written?

20 A. Why he write this letter?

21 Q. What caused him to write it? Did you have  
22 a conversation with him or Mr. Walsh or anybody?

23 A. I went to personnel department, Mr. Walsh,  
24 because my father was here. Immigration need where  
25 I work, you know, how much income I make. I ask Mr.

1 Walsh. Then by the time -- I think he said he would  
2 be glad to write me a letter. Then after that, Edna  
3 Clark, I think, at that time, she was office manager.  
4 She gave me this letter I didn't talk to Mr. Cranmer.

5 Q. So you went to Mr. Walsh because of your  
6 father?

7 A. Yes.

8 Q. What did you tell Mr. Walsh about your  
9 father? Just tell me what was said.

10 A. Just I need to go to immigration. At that  
11 time, my father was -- prior to coming here, they  
12 need to ask me how much money I make, what kind of  
13 job I have, you know.

14 Q. Why would getting this letter help you  
15 with your father's situation?

16 MR. KUBBY: Not this letter, the letter she  
17 asked for.

18 THE WITNESS: I asked for.

19 MR. BOGASON: Q. Why would the letter that  
20 you asked for help you?

21 A. I got to support my father.

22 Q. Why would the immigration be concerned?

23 A. Because he come here. Prior to him come  
24 over here, they don't want to put the burden on  
25 government.

1 Q. So to get papers to allow him to come to  
2 this country?

3 A. No. He already here.

4 Q. Why did you even have to prove that you  
5 could support him?

6 A. I don't know. Immigration ask me. He  
7 said, are you work; how much money you make; we need  
8 a piece of document. That is what they ask me.

9 Q. So you went to Mr. Walsh and told him what  
10 the immigration said?

11 A. Yes.

12 Q. The next thing you knew, Miss Clark give  
13 you this letter?

14 A. That is right.

15 Q. Besides telling him about immigration, did  
16 you tell Mr. Walsh anything else?

17 A. No.

18 Q. So this letter was the result of your  
19 conversations with Mr. Walsh about your father and  
20 immigration?

21 A. Yes.

22 MR. BOGASON: I would like to have marked as  
23 our next in order a charge of discrimination signed  
24 apparently 10-1-86.

25 (Document more particularly

1 described in the index marked for  
2 identification as Defendants'  
3 Exhibit G.)

4 MR. BOGASON: Q. Is that your signature at  
5 the bottom of the page there, left-hand corner?

6 A. Yes.

7 Q. Paragraph 2 says, "Respondent offered to  
8 male non-Chinese employees two alternatives; to  
9 those qualified to retire, early retirement, and to  
10 those young non-retirable, transfer to Southern  
11 Pacific Transportation Company." Who were the males  
12 that were offered transfer to Southern Pacific?

13 A. You have a list. I don't have a seniority  
14 list. If you have it, may I have it? I don't  
15 remember. Do you have a seniority list?

16 Q. I don't know.

17 A. You should have.

18 Q. Can you remember who they were?

19 A. No. I think I better read that list  
20 because I don't want to give you wrong information.

21 Q. Paragraph 4 that is numbered paragraph 4,  
22 you say, "During my employment I overheard my  
23 supervisors make comments that 'foreigners are  
24 getting all the jobs and having all the money.'

25 A. One day I went downstairs, Mr. Walsh told

1 me, "19th Avenue in San Francisco almost by all  
2 Chinese." You know, I didn't take that seriously.

3 Q. So that paragraph 4 refers to Mr. Walsh's  
4 comments?

5 A. Yes.

6 Q. At any time, did Mr. Walsh make other  
7 statements to indicate that he was prejudiced  
8 against Chinese people?

9 A. I don't know why he say that to me. What  
10 do you think? Why he say that? You know, he said  
11 all the 19th Avenue almost Chinese. Pretty soon  
12 Chinese own San Francisco. I don't know why he say  
13 that comment, make comment to me.

14 Q. Did he know you were Chinese?

15 A. Yes.

16 Q. Do you think he was making it as a  
17 statement of fact?

18 A. I think he did.

19 Q. Based upon that statement, do you believe  
20 that Mr. Walsh didn't like Chinese people?

21 A. In a way, I think he is a little  
22 prejudiced to make a statement like that.

23 Q. So you believe that statement indicates  
24 that he is prejudiced against Chinese?

25 A. Yes. Are you going to ask me something?

1 Q. Could you read the question back, please?

2 MR. KUBBY: There was an answer.

3 (Record read.)

4 MR. BOGASON: Q. At any time prior to this  
5 date, has Mr. Walsh made other statements --

6 A. No.

7 Q. -- that --

8 A. I don't remember.

9 MR. KUBBY: Let him finish.

10 MR. BOGASON: Q. He has never made other  
11 statements?

12 A. I don't remember.

13 Q. So you don't remember any other statements  
14 made by Mr. Walsh which indicate that he was  
15 prejudiced against Chinese?

16 A. No, I don't remember.

17 Q. Has any other supervisor said things to  
18 you which you believe indicate that they were  
19 prejudiced against Chinese?

20 A. Rick Fend make quite a bit statements.

21 Q. What are some of the statements that Mr.  
22 Fend said that caused you to believe he was  
23 prejudiced against Chinese?

24 A. One time they have a new phone system come  
25 in, and Rick Fend have a new system. They push the

1 button, you know. So I push the wrong button and  
2 Rick Fend -- I told Rick Fend somebody calling for  
3 Rick Fend. Then I went to Rick Fend's office --  
4 Rick Fend come to office. I said, "Rick, the phone  
5 call for you." I say I push the wrong button. Then  
6 his remark, "You can't talk English. You can't even  
7 push the button." I didn't take it, you know. He  
8 make quite a few, Rick Fend. I hate to say that you  
9 always make lots of remarks about Chinese.

10 Q. What are some of the other comments about  
11 Chinese?

12 A. I don't remember.

13 Q. Would you let me finish? You are  
14 interrupting me, and that is going to make Mr. Kubby  
15 get mad.

16 A. No.

17 Q. Besides that comment about buttons and  
18 English, what are some of the other things that Mr.  
19 Fend has said that caused you to believe that he is  
20 prejudiced against Chinese?

21 A. I don't remember what he said, but he make  
22 quite a few remarks about it.

23 Q. Besides Mr. Fend and Mr. Walsh, are there  
24 any other people who said things that caused you to  
25 believe that they were prejudiced against Chinese?

1 A. I don't remember.

2 MR. KUBBY: By the way, Mr. Bogason, is Mr.  
3 Fend your representative from PFE to attend?

4 MR. BOGASON: For this deposition, yes.

5 MR. KUBBY: Just for this deposition? Do you  
6 intend to switch around?

7 MR. BOGASON: I don't know. I just was  
8 looking at the law. At least in federal cases, I  
9 don't know if there is in federal cases, you don't  
10 have the automatic right to exclude people without  
11 showing a good cause. I don't know what the rule is  
12 in state court cases. I would imagine there is only  
13 going to be a deposition of Mr. Tu and Mrs. Tu.

14 MR. KUBBY: We are not going to have Ms. Clark?

15 MR. BOGASON: Yes, but I don't think that  
16 would be necessary to have anybody here for her  
17 deposition.

18 Q. When did Mr. Fend make this statement  
19 about your problems with the phone buttons and  
20 English?

21 A. I don't remember the day.

22 Q. Was it more than a year before you lost  
23 your job?

24 A. No. Rick always make all kind of nasty  
25 remark about foreigners sometimes.

1 Q. Was Mr. Shorb offered a separation package?

2 A. I don't know. I heard.

3 Q. Did he transfer to S.P.?

4 A. After transfer S.P.

5 Q. Shirley Hauff, did she transfer to the  
6 S.P.?

7 A. Yes.

8 Q. How about J. U. Baumann?

9 A. You know, I don't know. I don't know that  
10 person. I only know my department.

11 Q. Did you ever complain or report what you  
12 felt were irregularities in personal expense  
13 accounts of employees of PFE?

14 A. Would you like to repeat that question?

15 Q. Your counsel, Mr. Kubby, has indicated  
16 that he thought that one of the reasons why you got  
17 terminated was because you had reported expense  
18 account violations?

19 A. Yes.

20 Q. Can you explain to me what you mean by  
21 that?

22 A. I do the expense accounts, and I never get  
23 the detail sheets. So I usually check the detail  
24 sheet. Sometimes -- wait a minute. Let me think  
25 about this. For example, when John retired, he was

1 taking care of John -- John take care all of these  
2 personal expense detail sheets. So when he retired,  
3 Chuck Carroll give to me everybody -- some people  
4 never balance. So I tried to balance.

5 So I ask Edna Clark. I said, "Edna, I need  
6 paper for one person, Ashton." I think he have five  
7 months never balance, five or six months never  
8 balance. Then Edna is supposed to take care of his.  
9 I think Ashton is her boss. I don't know that  
10 because they have all different title. So Edna told  
11 my boss give all the American Express my work, and  
12 she made a copy.

13 So I did talk to my supervisor, Chuck Carroll.  
14 I said that is not the way doing. Edna doesn't like  
15 it. They say you can't ask Edna, question Edna.  
16 Then Edna's personal expense never balance, too, but  
17 I think Rick knows. He have \$4,000 or \$5,000, never  
18 balance, but nobody want to solve that problem.

19 I think Terry Berry was talked to and Mr.  
20 Andria was talked to. Everybody talk about it not  
21 balance. Later on, I think she was upset. Later on,  
22 Chuck Carroll was upset her balance. I don't know  
23 how they do it. Don't ask me. So they told me,  
24 don't question anybody's personal expense. You  
25 going to get in trouble because I figured out that

1 is my job.

2 They ask me why you didn't question that same  
3 thing with Rick. One time he have personal expense.  
4 He approve himself. He sign himself. You can't do  
5 that. So I give to Chuck Carroll. Rick was upset.  
6 You can't sign your own personal expense and approve  
7 by yourself. So I give to Chuck Carroll. I say  
8 Rick sign both. So Chuck give to him.

9 Also, one time I think the one he working the --  
10 he is Mr. Koerpel's boss in Bayshore. His name is --  
11 I don't remember his last name. He have personal  
12 expense. When I got the American Express card, he  
13 said Mr. and Mrs. went to Canada, two tickets.

14 Q. This is Mr. Fend?

15 A. No. In the Bayshore, I think Rick knows  
16 his last name, Koerpel's boss.

17 Q. You are not testifying.

18 A. I don't remember the last name.

19 Q. Do you know his name, Mr. T?

20 A. No. He is not work the Bayshore. I am  
21 the one.

22 Q. So you questioned Rick's expense account?

23 A. Yes, I did once.

24 Q. You questioned Edna's expense account?

25 A. Yes.

1 Q. Who did you report these questions to, Mr.  
2 Carroll?

3 A. Mr. Carroll. I think Carroll ask at that  
4 time Terry Berry, and Rick Fend is Chuck Carroll's  
5 boss.

6 Q. Mr. Carroll worked for Mr. Fend, right?

7 A. Yes.

8 Q. Do you know if Mr. Fend got in trouble  
9 because you questioned his expense account to Mr.  
10 Carroll?

11 A. Would you like repeat that question again?

12 Q. Do you know if Mr. Fend got in trouble  
13 because you questioned his expense account?

14 A. No, I don't know. If got in trouble, I  
15 don't know. If he didn't get in trouble, I don't  
16 know.

17 Q. Did Mr. Fend ever criticize you for  
18 questioning his expense account?

19 A. He didn't like it. At times he get very  
20 upset.

21 Q. How do you know that he didn't like you  
22 questioning his expense account?

23 A. You can tell the face. I know you get  
24 upset with me. I can tell you right away. This is  
25 for the feeling.

1 Q. So you make decisions based upon your  
2 feelings?

3 A. No. It is not my feelings, just common  
4 sense.

5 Q. Look at Mr. Fend today. Can you tell if  
6 he is upset with you?

7 A. You just told him don't talk, don't answer.  
8 So he is listening to you.

9 Q. I asked you to look at him.

10 A. I ask him name. You said you are not a  
11 witness, so he is following your instruction.

12 Q. You have indicated that you can tell when  
13 Mr. Fend is upset by looking at him, correct?

14 A. Yes. When he gets mad, he use lots of  
15 swear words, too.

16 Q. So now you are saying it is something that  
17 he said?

18 A. No, when he get mad.

19 Q. Is he mad at you right now today as you  
20 sit here?

21 A. No, very nice to me.

22 Q. Did he say anything to you to let you  
23 believe that he didn't like you questioning his  
24 signing his own expense account?

25 A. Repeat to me.

1 Q. You said you thought Rick was mad at you  
2 because you questioned his expense account?

3 A. Yes.

4 Q. Did he say anything that made you think  
5 that he was mad at you?

6 A. If he said something, I don't remember.

7 Q. Your last day at work at PFE was October 2?

8 A. October 2.

9 Q. You were paid five more days?

10 A. Right.

11 Q. Have you worked anywhere else since  
12 leaving PFE?

13 A. They told me if you furlough, they can  
14 call you any time. So I stay home waiting.

15 Q. My question is, have you worked for  
16 anybody else?

17 A. I answer you already. They told me  
18 furlough they can call me. If they call me, I got  
19 to report to work. So I can't go looking for a job.

20 Q. I think what you are saying is you haven't  
21 worked anywhere else?

22 A. I didn't say that. You said that.

23 Q. You are saying you worked somewhere else?

24 A. No, I didn't say that either.

25 Q. Let me ask a question that calls yes or no

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1 and see if you can say yes or no. Have you worked  
2 for any other company since leaving PFE?

3 A. No.

4 Q. Before leaving PFE, I assume you were a  
5 very happy person?

6 A. I am.

7 Q. You are now today still happy?

8 A. No.

9 Q. Before you left PFE, you were very happy?

10 A. I am not say very happy. If a person come  
11 to a foreign country, never happy. You have to take  
12 all these things. You accept it because I always  
13 told my husband sometimes it is very hard to accept  
14 it, but then we figure our first -- I am great this  
15 country. We got to learn to accept it. Maybe my  
16 children will have a better education, better  
17 position than we have, you know.

18 Q. Did you have a better position in China?

19 A. Yes.

20 Q. What was your position in China?

21 A. We own a factory.

22 Q. You were the boss then?

23 A. Yes. It is no fun to be a refugee.

24 Q. It is better to be a boss?

25 A. No, no. Everybody step on you.

1 Q. Things were better in China?

2 A. Sure.

3 Q. In other words, you could hire people and  
4 fire people?

5 A. I don't think I could do that. I think  
6 you got to have a feeling with the people.

7 Q. Where did you have your factory?

8 A. If I tell you we have three thousand  
9 people work on the factory, you believe or not?

10 Q. Yes. Where was the factory?

11 A. In coast of Shanghai, not in Shanghai  
12 because Shanghai have office.

13 Q. Was that your husband's business or your  
14 father's business?

15 A. My husband's business.

16 Q. Did he run the business or did you?

17 A. No, I don't think I need to tell you all  
18 this detail. That is my personal life.

19 MR. KUBBY: The question was, were you  
20 employed in the business?

21 THE WITNESS: My husband owned the company.

22 MR. BOGASON: Q. Was he the boss or were you  
23 the boss?

24 A. We both the boss.

25 Q. So you were sort of happy when you worked

1 at PFE, but not very happy? I am not sure I  
2 understand your answer. You said you were happy but  
3 you weren't happy because you weren't in your own  
4 country?

5 A. No, I am happy. I come this country. I  
6 think give kids opportunity and freedom. I am not  
7 very happy. Some people treat me very badly.

8 Q. Because you are Chinese?

9 A. Yes.

10 Q. Besides PFE, who are the other people that  
11 treat you badly because you are Chinese, or is it  
12 just PFE?

13 A. I think quite a few people now looking  
14 back.

15 Q. Since you have been terminated, I take it  
16 you haven't looked for work somewhere else?

17 A. No.

18 Q. So you haven't looked for a job since you  
19 left PFE?

20 A. Why am I looking for job?

21 Q. The answer is no. I didn't ask you why  
22 you haven't looked for a job. I asked if you looked  
23 for a job.

24 A. Can you answer me? If somebody furlough  
25 you, you are going to go looking for job?

1 Q. Sure.

2 A. You are sure. Okay, I am glad you do that.  
3 Not me because I can't tell somebody I work two  
4 weeks, one week. Company could call me back.

5 Q. How have you been occupying your time?

6 A. Every day I be thinking about why PFE do  
7 that to me. That is my time occupied.

8 Q. Is your husband still working?

9 A. Yes.

10 Q. What time does he leave for work in the  
11 morning?

12 A. 7:30.

13 Q. When does he come back?

14 A. 4:30.

15 Q. Do you cook his meals for him?

16 A. Yes.

17 Q. It is just you and he now?

18 A. Yes. We have children come home to visit  
19 us and grandchildren.

20 Q. But nobody else living full-time with you?

21 A. No.

22 Q. You generally cook his meals?

23 A. Yes.

24 Q. Besides eating dinner together since you  
25 have been fired, do you do other things together?

1 A. Since I am fired?

2 Q. Excuse me. Since you have been --

3 A. That is very embarrassing after 23 years.

4 Q. You weren't fired?

5 A. No.

6 MR. KUBBY: She was fired.

7 THE WITNESS: That is very embarrassing. You  
8 know, they take my pride away without any reason.  
9 Do you know that?

10 MR. BOGASON: Q. Since you have lost your  
11 job at PFE, you have been cooking meals for your  
12 husband?

13 A. Yes, not just like you say they fire me.  
14 I cook the dinner. I cook the dinner all my life.

15 Q. So that hasn't changed?

16 A. No.

17 Q. Since you have been terminated, what are  
18 the other things that you do to occupy your time  
19 after your husband comes home?

20 A. After my husband comes home?

21 Q. Yes. Do you folks play checkers, play  
22 Chinese games? Do you go to movies?

23 A. No. My husband comes home. We take a  
24 walk.

25 Q. So you take walks?

1 A. Yes, I take a walk.

2 Q. What are the other things you do after  
3 dinner?

4 A. Watch TV. We ask each other why PFE do  
5 that to me.

6 Q. Every night?

7 A. Almost.

8 Q. What time do you normally eat dinner?

9 A. We eat at 5:30. You want to know what we  
10 eat?

11 Q. If you want to tell me.

12 A. Chinese food.

13 MR. KUBBY: Does the laughter get on the  
14 record? Insert the laughter after every night  
15 thinking about what PFE did to her.

16 MR. BOGASON: Q. After dinner, you take  
17 walks, watch TV?

18 A. Yes.

19 Q. Any other types of activities you engage  
20 in after dinner --

21 A. No.

22 Q. -- before you go to bed?

23 A. No.

24 Q. Did you go to church?

25 A. After I lost my job, I didn't go to church.

1 I have a hard time with the people.

2 Q. After you lost your job --

3 A. I feel embarrassed. I don't know why.

4 Q. Which church do you folks belong to?

5 A. Chinese church.

6 Q. Is that Chinese Christian?

7 A. Baptist.

8 Q. Do you belong to any church clubs?

9 A. That is church I belong to.

10 Q. Are there any Women's Auxiliary?

11 A. No, because when I work, I never have time.

12 I only go to church Sunday.

13 Q. During the day, you normally stay home and  
14 never go out?

15 A. I take a walk. I have a dog. His name is  
16 Rufus, if you want to know. I take him for a walk.  
17 I take him. Sometimes I visit my grandkids. I take  
18 the grandkids for a walk.

19 Q. I take a little sarcasm out of your  
20 comments to me. I do hope you know you are suing  
21 Southern Pacific and you are alleging great damages  
22 and you are alleging that the relationship between  
23 your husband and you have deteriorated, the loss of  
24 consortium. He is suing Southern Pacific.

25 MR. KUBBY: She did know of those things.

1 MR. BOGASON: Q. I have a right to know.  
2 You may take it lightly, but we don't take it  
3 lightly, just as you don't take your termination  
4 lightly.

5 A. I just told the truth.

6 Q. I would indicate that the deposition has  
7 been very interesting so far.

8 A. Yes.

9 Q. In what way do you think you have been a  
10 poorer wife to your husband since the  
11 termination -- strike that. Do you believe you have  
12 treated your husband differently since the  
13 termination from PFE?

14 A. Yes.

15 Q. Why do you believe you have treated him  
16 differently?

17 A. The whole thing, I am embarrassed.

18 Q. How do you treat him differently?

19 A. How I treat him differently?

20 Q. Yes. Do you still cook? How about the  
21 dinners, are they not as good as they used to be?

22 A. That is true. I tell the truth. My  
23 husband don't think I put my mind in the cooking.  
24 The other day he complain.

25 Q. Is that the first time that he has ever

1 complained about your cooking?

2 A. No, he complain, but then he say you  
3 forgot easy. He ask me why you forgot easy. I  
4 don't know why, but I just don't have the patience  
5 to do the cooking.

6 Q. Did he ever complain about your cooking  
7 before you lost your PFE job?

8 A. Oh, you know, male all complain, you know,  
9 but not that seriously, but now I take him seriously.

10 Q. Do you think you are not cooking as well  
11 as you used to?

12 A. I think I cook well, too, but I don't know.  
13 I tell you the -- I am not interested in anything.

14 Q. Are you more -- strike that. Since the  
15 termination, in your mind, do you believe that you  
16 have been less respectful to your husband? Do you  
17 know what it means when I say less respectful?

18 A. Yes, because I lost one income.

19 Q. In China, who is the boss of the family,  
20 the husband or the wife?

21 A. Husband.

22 Q. Among Chinese people in this country, who  
23 is the boss of the family, the wife or the husband?

24 A. I don't know now. My son wife is the boss,  
25 so it depends on what you look at, generation.

1 MR. KUBBY: That is a mother-in-law speaking.

2 MR. BOGASON: Would you let the record show  
3 extreme laughter on the part of Mr. Kubby.

4 MR. KUBBY: Concerning her daughter-in-law.

5 MR. BOGASON: Q. Who was the boss in your  
6 house before the termination, the husband or you?

7 A. My husband. We have a Chinese old saying,  
8 kitchen is my boss. We taught the kids that the  
9 living room is my husband's boss. So when the kids  
10 ask me something, it is my department, so most 50/50.

11 Q. Since the termination, who is the boss?  
12 Is it different?

13 A. Yes, it is different.

14 Q. You are the boss now?

15 A. No. I feel --

16 Q. Just on the subject of who is the boss.

17 A. I got to tell you what I feel. That is  
18 not just the boss. I feel embarrassed. So when he  
19 talk to me, I feel something different. My life  
20 changed different.

21 Q. I have to ask so we can get through this  
22 in a hurry. I have to ask questions to do my duty  
23 to Southern Pacific and to Pacific Fruit Express. I  
24 have to ask questions that I think are relevant. It  
25 is your responsibility to try and answer my

1 questions. If you don't, I will keep on going even  
2 though you may not think that I have a right to ask  
3 them.

4 A. No, that is okay.

5 Q. What I want to know is, is Mr. Tu still  
6 the boss?

7 A. Yes, he is still boss.

8 Q. Before you got terminated, were you ever  
9 cross or angry with Mr. Tu?

10 A. Oh, after married 43 years, you got to  
11 have something cross.

12 Q. So even before you got terminated, you  
13 were occasionally cross and angry with Mr. Tu?

14 A. We always, you know, discuss.

15 Q. Did you ever argue with him before you got  
16 terminated?

17 A. You argue 365 days every hour, you are  
18 husband and wife.

19 Q. Do you argue with him more since you have  
20 been terminated?

21 A. Yes.

22 Q. Do you get angry with him more now that  
23 you have been terminated?

24 A. I am more sensitive.

25 Q. How about your sexual relationship with

1 Mr. Tu, has it changed from what it was during the --  
2 strike that. During the year before you got  
3 terminated, you had sex with Mr. Tu, I assume?

4 A. That is very embarrassing. Yes.

5 Q. Was the sex after the termination about  
6 the same amount as it was before?

7 A. No.

8 Q. It was more or less?

9 A. I don't like him to touch me anymore.

10 Q. That is because you got terminated?

11 A. I think so.

12 Q. Have you had sex with him since the  
13 termination?

14 A. Yes.

15 Q. Is it your testimony that you are having  
16 sex less frequently than you did before the  
17 termination?

18 A. Yes.

19 Q. What was the frequency of the sex between  
20 you and Mr. Tu during the year before the  
21 termination?

22 A. I don't remember.

23 Q. Was it on the average more than once a day?

24 A. Oh, no. Do I need to answer all this?

25 MR. KUBBY: You do, Sieu.

1 THE WITNESS: That is very embarrassing.

2 MR. KUBBY: I know. You just have to get  
3 through it.

4 MR. BOGASON: Q. Was it more than once a  
5 week?

6 A. Yes.

7 Q. Was it more than twice a week?

8 A. If you say -- just a minute. More than  
9 once a week, I already said yes.

10 Q. Was it more than twice a week?

11 A. Sometimes.

12 Q. And sometimes was it less than twice a  
13 week?

14 A. No.

15 Q. So it was always at least twice a week?

16 A. Yes.

17 Q. Was it more than three times a week?

18 A. I think average two.

19 Q. How often did you have sex with Mr. Tu  
20 last week?

21 A. None.

22 Q. How often did you have sex with Mr. Tu the  
23 week before last?

24 A. None.

25 Q. How often did you have sex with Mr. Tu

1 during the month of April?

2 A. One time or two times, I think.

3 Q. How often did you have sex with Mr. Tu  
4 during the month of March?

5 A. I can't think that far away.

6 Q. Has Mr. Tu complained about not having as  
7 much sexual relations since the termination?

8 A. Yes, he has complained.

9 Q. What has he said to you?

10 A. He said why let these things bother you.

11 Q. Has he said anything else?

12 A. He said try to forget whatever they did to  
13 you. Don't hurt our relationship.

14 Q. What have you said when he said that?

15 A. I said I can't help. Every minute, every  
16 moment, I think about it, why they did to me.

17 Q. Who is your family doctor?

18 A. Dr. Lee.

19 Q. What is his first name?

20 A. I go to Dr. Lee and Dr. Elson.

21 Q. Where are they located?

22 A. Berkeley.

23 Q. Are you being treated by any other doctors?

24 A. Just these two doctors.

25 Q. Are you currently seeing a psychiatrist or

1 psychologist?

2 A. Yes.

3 Q. Who is your psychiatrist or psychologist?

4 A. Dr. Elson.

5 Q. Is that a he or a she?

6 A. He.

7 Q. What is his first name?

8 A. Ronny.

9 Q. He is a psychiatrist?

10 A. Yes, I think so.

11 Q. Where is he located?

12 A. Berkeley.

13 Q. Are you being treated by any other  
14 psychiatrist or psychologist?

15 A. No.

16 Q. Besides Dr. Lee and Dr. Elson, have you  
17 ever been treated by any other doctors or  
18 psychiatrist since arriving in California?

19 A. No.

20 MR. KUBBY: Since you have been in California.

21 THE WITNESS: Elson.

22 MR. BOGASON: Q. Those are the only doctors  
23 you have had since you have been in California?

24 A. No. I have family doctor, Dr. Wong.

25 Q. What is Dr. Wong's first name?

1 A. George Wong.

2 Q. Where is he located?

3 A. Hayward.

4 Q. How long has he been your family doctor?

5 A. He is a woman doctor.

6 Q. A gynecologist?

7 A. Yes.

8 Q. Is Dr. Lee treating you for your sexual  
9 problems?

10 A. No.

11 Q. What is he treating you for?

12 A. After I lost my job, I cannot sleep, so he  
13 gave me some sleeping pills. Later on, he recommend  
14 I should go to see Dr. Elson.

15 Q. Has your husband ever complained to you  
16 about -- strike that. Has your husband ever told  
17 you that he felt that you had changed because you  
18 had been terminated?

19 A. Yes.

20 Q. What did he tell you as to how you have  
21 changed? What did he say on that subject, Mrs. Tu?

22 A. Would you repeat the question?

23 Q. You said he told you that you changed,  
24 right?

25 A. Yes.

1 Q. What are some of the things that he said  
2 to show you how you have changed? I take it he has  
3 complained about the sex being less?

4 A. No -- yes. I forgot easy and I always  
5 have nightmare.

6 Q. So he has complained because you have  
7 nightmares?

8 A. Because I always wake him up at night, and  
9 I am restless during the daytime, and I don't know  
10 what I am doing, what I should do, I should not do.  
11 I just change my whole personality.

12 Q. Does he tell you that you are grumpy? Do  
13 you know what that means?

14 A. Yes, he told me.

15 Q. Has he told you how your change has hurt  
16 him?

17 A. He did. He said I get very more sensitive.  
18 Sometimes he says he doesn't mean to upset me. I  
19 got easy to upset.

20 Q. So he told you that upsets him?

21 A. Yes.

22 Q. Can you think of any other things that he  
23 has talked to you about on the subject of your poor  
24 personality since you have changed or since the  
25 termination?

1 A. Because I make him more worried.

2 Q. He worries about you?

3 A. Yes.

4 Q. To your knowledge, where is your husband  
5 employed?

6 A. U.C. Berkeley.

7 Q. What does he do at U.C. Berkeley?

8 A. Clerk.

9 Q. How long has he been at U.C. Berkeley?

10 A. 20 years.

11 Q. Has he always had the same job?

12 A. Yes -- no. He have two jobs. One time  
13 work marriage division. Now he work CEB. What do  
14 you call it -- see, I can't remember.

15 Q. Continuing education of the bar?

16 A. Yes.

17 Q. Does he have any jobs besides Berkeley?

18 A. No.

19 Q. Has he told you that his job is in  
20 jeopardy?

21 A. No.

22 Q. How did you learn that you were going to  
23 lose your job at PFE?

24 A. I never know I lost my job. I always  
25 think if they close, everybody go. If some job left,

1 I have more seniority -- always they told me I am  
2 TOPS agreement protect. What do you call? If I  
3 lost my job, I got protect from union, from company.  
4 Always everybody knows that.

5 MR. BOGASON: I would like to have marked as  
6 our next in order a letter from Mr. Segurson to Ms.  
7 S. M. Tu.

8 (Document more particularly  
9 described in the index marked for  
10 identification as Defendants'  
11 Exhibit H.)

12 MR. BOGASON: Q. May I ask a question off the  
13 record?

14 MR. KUBBY: Of whom?

15 MR. BOGASON: Q. Let me ask the question and  
16 then you can tell me whether or not to ask it off  
17 the record.

18 MR. KUBBY: I really don't like going off the  
19 record.

20 MR. BOGASON: It is a question for Mr. Tu.

21 MR. KUBBY: Well, you shouldn't be asking.

22 MR. BOGASON: You don't even have to --

23 MR. KUBBY: You can take his deposition  
24 tomorrow.

25 MR. BOGASON: I don't want to take his

1 deposition. I want to ask him about life in China.  
2 I read all these novels. It sounds great.

3 MR. KUBBY: Ask him tomorrow.

4 MR. BOGASON: It sounds great.

5 MR. KUBBY: Ask him on the record.

6 MR. BOGASON: The man is the boss. It sounds  
7 wonderful. I have read Taipan.

8 MR. KUBBY: The man is the boss in American  
9 philosophy, too.

10 MR. BOGASON: Q. Look at Exhibit H, please.  
11 You received a copy of this letter, didn't you?

12 A. Yes.

13 Q. When you received that letter, what did  
14 you understand on the question of whether or not you  
15 would have a job at PFE?

16 A. That is the letter they give to me. I  
17 think Rick give to me. It is dated October 2. You  
18 sent me in the envelope. They say if you want to --  
19 I think 2:30 they gave me the letter.

20 Q. Basically you understood that as of that  
21 date, you would not have a job at PFE?

22 A. No, I didn't understand. I went to ask  
23 Mr. Walsh.

24 Q. What did Mr. Walsh say?

25 A. I said why I didn't have the right to

1 exercise. People have less seniority should give me  
2 right to exercise. He said no. I said why they  
3 make the choice to abolish my job. They say Rick  
4 and Edna doesn't like me. So I went upstairs, ask  
5 my supervisor. He said I have trouble with Rick.

6 Q. Mr. Carroll?

7 A. Carroll. Then I pick everything and I  
8 leave.

9 Q. So after you left, what did you think were  
10 the chances of coming back to PFE or going to  
11 Southern Pacific?

12 A. I still think they should give me the  
13 right to exercise my seniority. So that is what all  
14 these times, one year seven months, nine days, six  
15 hours, I would be thinking why they did that to me.

16 Q. My question was, did you think you had  
17 much of a chance of getting back to work at PFE?

18 A. I thought in the first place I have a  
19 chance because I have more seniority than six people.

20 Q. Did you eventually go and see Mr. Kubby?

21 A. I didn't see him right away. Later on.

22 Q. When did you first retain Mr. Kubby? Was  
23 it after you got this letter of October 2?

24 A. Yes.

25 Q. About how long after you got the letter of

1 October 27

2 A. I don't remember.

3 Q. Was it more than six months?

4 A. I don't remember. Can I --

5 MR. KUBBY: Just wait for a question.

6 MR. BOGASON: Q. Would you like to ask a  
7 question?

8 A. Mr. Walsh told me Rick Fend and Edna  
9 decision abolish me. I said why not Shirley Hauff  
10 or me because we work same department. That is what  
11 they told me. Rick and Edna made the decision.  
12 They chose Shirley Hauff.

13 MR. BOGASON: I would like to have marked as  
14 our next in order a letter from Mr. Kubby to Mr.  
15 Balovich which has attached to it Mr. Kubby's letter  
16 to Mr. John J. Schmidt, chairman of the Santa Fe  
17 Southern Pacific Company.

18 (Document more particularly  
19 described in the index marked for  
20 identification as Defendants'  
21 Exhibit I.)

22 MR. BOGASON: Q. Could you look at Exhibit I  
23 which is Mr. Kubby's letter -- or two letters? Was  
24 Mr. Kubby your attorney at the time he wrote this  
25 letter?

1 A. Yes.

2 Q. Did you get a copy of that letter about  
3 the time it was written?

4 A. Yes.

5 Q. I assume it was sent. Was it sent to you  
6 by Mr. Schmidt or by Mr. Kubby?

7 A. I don't remember.

8 Q. Who is Mr. Schmidt?

9 A. I think S.P. Santa Fe boss.

10 Q. Why did you feel it was necessary to  
11 retain Mr. Kubby?

12 A. My children advise me.

13 Q. Did you retain Mr. Kubby in order to try  
14 and get your job back?

15 MR. KUBBY: Read the letter.

16 THE WITNESS: Protect my rights.

17 MR. BOGASON: Q. Did you think your rights  
18 were going to get protected even if you didn't  
19 retain an attorney?

20 A. I don't think they treat me right.

21 Q. Your attorney wrote to Mr. Balovich on  
22 September 18th, that is the first page of that  
23 exhibit, right?

24 MR. KUBBY: I believe it is October 18th.

25 MR. BOGASON: Thank you.

1 Q. Your attorney wrote to Mr. Balovich, right?

2 A. Yes.

3 Q. My question is, have you had any  
4 conversations with Mr. Balovich since your attorney  
5 wrote that letter?

6 A. I don't remember.

7 Q. Do you have any reason to believe that Mr.  
8 Balovich doesn't like you?

9 A. No, I don't know.

10 Q. Do you have any reason to believe that Mr.  
11 Balovich is prejudiced against Chinese people?

12 A. I don't know.

13 Q. Has any representative of the clerks'  
14 union ever done anything to you or said anything  
15 that would cause you to believe that the clerks'  
16 union doesn't like Chinese people?

17 A. They never talk to me.

18 Q. May I see all the exhibits? Thank you.

19 MR. KUBBY: I think my copy of H is in there,  
20 too.

21 MR. BOGASON: Q. Ms. Tu, I would like to  
22 have you look again at the second page of Exhibit C.  
23 Do you see those first seven names there? Do you  
24 know those names?

25 A. Yes.

1 Q. The name of your union is the Brotherhood  
2 of Railroad Clerks, right?

3 A. What do you say?

4 Q. Is the name of your union the Brotherhood  
5 of Railroad Clerks?

6 A. Yes.

7 Q. All of those first seven people on that  
8 letter are members of the Brotherhood of Railroad  
9 Clerks?

10 A. Yes.

11 Q. Has the Brotherhood of Railroad Clerks  
12 treated you any differently than it has treated  
13 those other people on that letter?

14 A. I don't know.

15 Q. Do you have any reason to believe that  
16 they favor the first seven people on that letter  
17 over you?

18 A. They call somebody back to work. I don't  
19 know.

20 Q. Which of those first seven have been  
21 called back to work by the Brotherhood of Railroad  
22 Clerks?

23 A. Not here, but they have seniority list.  
24 They have another list.

25 Q. Who is it that has the power to call you

1 back to work, PFE or the Brotherhood of Railroad  
2 Clerks?

3 A. That is between the company with the union.  
4 I don't know.

5 Q. If the union wants you to go back to work  
6 and the company refuses, are you going to go back to  
7 work?

8 A. Repeat again. I think now the company  
9 have more power than union.

10 Q. That is right. The union did complain  
11 about you not having a job in Mr. Balovich's letter,  
12 right?

13 A. Yes.

14 Q. The union accused Mr. Segurson and PFE of  
15 violating the agreement in that letter, right?

16 A. Yes.

17 Q. Even though the union complained in that  
18 letter, you are still not working, right?

19 A. Yes.

20 Q. So even though the union complained, the  
21 company thumbed its nose at the union, right?

22 MR. KUBBY: Do you have the newspaper article  
23 about the union's negotiations to become the  
24 representative for the combined railroad and the  
25 absence of activity by the union to protect the

1 rights of its members because it was seeking to  
2 become the representative for the combined railroad?  
3 I believe that was in the documents that I produced  
4 there. You can show that to her. The company is  
5 very powerful.

6 THE WITNESS: You are laughing now.

7 MR. BOGASON: Yes, I am laughing.

8 MR. KUBBY: Can you tell me, Mr. Bogason, has  
9 the union done anything to get Sieu back her job?  
10 They won't answer my letters, so I have to depend on  
11 somebody like you to answer the question.

12 MR. BOGASON: Q. Are you dissatisfied with  
13 the efforts of the union for you in this matter?

14 A. No.

15 Q. You were a member of the union, correct?

16 A. Yes.

17 Q. You paid your dues, correct?

18 A. Yes.

19 Q. If you didn't pay your dues, you knew you  
20 would lose your job?

21 A. That is what union told me, too.

22 Q. Since you have been furloughed, have you  
23 continued to pay your dues?

24 A. Yes. I pay very little.

25 Q. Did you pay your dues last month?

1 A. I don't remember. I paid a whole year.

2 Q. Can you think of anything that the union  
3 has done wrong in this whole thing?

4 MR. KUBBY: That calls for a conclusion on  
5 your part.

6 THE WITNESS: I don't know.

7 MR. KUBBY: It is a legal conclusion and I  
8 instruct you not to answer.

9 MR. BOGASON: Q. Do you have any complaints  
10 about what the union did or did not do for you in  
11 this matter?

12 A. I don't know. I don't understand.

13 Q. Do you have any complaints about what PFE  
14 did to you in this matter?

15 A. Unfair.

16 Q. So you have a complaint about PFE?

17 A. Sure.

18 Q. You think it is unfair?

19 A. Yes.

20 Q. Do you have any complaints about what the  
21 union did in this matter?

22 A. They not protect me.

23 Q. Why do you say they didn't protect you?

24 A. I can't answer you that.

25 Q. Do you think that there is something that

1 the union should have done in order to protect you?

2 A. I should have the rights to exercise my  
3 seniority.

4 Q. What do you think that the union should  
5 have done to give you the right to exercise your  
6 seniority?

7 A. I don't know.

8 Q. I will show you a copy of the complaint in  
9 this action. I would presume Mr. Kubby would want  
10 to study it. Could you look at the last page of the  
11 complaint? Does the top of that last page have the  
12 word "verification" on it?

13 A. Yes.

14 Q. Below that, is there a signature line for  
15 Sieu Mei Tu?

16 A. Yes.

17 Q. Is that your signature?

18 A. Yes.

19 Q. Did you read that last page before you  
20 signed it?

21 A. Yes.

22 Q. The first sentence says, "I am one of the  
23 plaintiffs in the above-entitled action. I have  
24 read the foregoing complaint."

25 A. Yes.

1 Q. At the time that you signed the  
2 verification, had you read the complaint?

3 A. Yes.

4 Q. Now turn to the first page of the  
5 complaint. Look at the second page, paragraph 6,  
6 please, line 19, which reads, "On May 15, 1962, S.  
7 M. Tu and defendant Pacific Fruit Express Company  
8 (PFE) entered into an employment agreement at San  
9 Francisco, California." Who represented PFE to make  
10 that agreement? Who did you talk to?

11 MR. KUBBY: The question is who hired you.

12 THE WITNESS: Mr. Haughton.

13 MR. KUBBY: Spell it.

14 MR. BOGASON: Take down what they are saying  
15 to each other, if you can, Miss Reporter, because we  
16 are not going off the record.

17 MR. KUBBY: Robert H-a-u-g-h-t-o-n.

18 MR. BOGASON: Q. If I remember correctly, he  
19 said he was concerned about your English?

20 A. Yes.

21 Q. But then he called you a week later and  
22 said come back and tried you out for a week?

23 A. Yes.

24 Q. At the time you got hired, what did he say  
25 to you about how long the job would last?

1           A.    After two or three weeks. He said he -- I  
2 don't remember. That is 23 years ago. He said you  
3 are doing okay. So after two months, I joined the  
4 union.

5           Q.    Did he tell you how long PFE was going to  
6 stay in business?

7           A.    No.

8           Q.    Did he tell you how long you would have a  
9 job?

10          A.    They all told me rest of my life. If I  
11 don't do anything wrong, they will protect.

12          Q.    Is that what Mr. Haughton said to you?

13          A.    Not exactly. He said with TOPS agreement  
14 I am well protected from the company, from the union.

15          Q.    That is what Mr. Haughton told you?

16          A.    Not just Haughton, but Mr. Walsh and Edna.  
17 Everybody told me that.

18          Q.    I am trying to stick with what Mr.  
19 Haughton told you. Did Mr. Haughton tell you that  
20 under the TOPS agreement, you would have a job for  
21 the rest of your life?

22          A.    I don't remember.

23          Q.    Who was it that first told you that under  
24 the TOPS agreement, you would have a job for the  
25 rest of your life?

1 A. Mr. Walsh.

2 Q. When did he tell you that?

3 A. I think when we are in San Francisco.

4 Q. So he told you about the TOPS agreement  
5 before you went to Brisbane?

6 A. Yes. When we went to Brisbane, S.P.  
7 separate from PFE. We move there. I don't drive,  
8 so it take me two hours -- more than two hours to  
9 get to Brisbane. So that time I didn't know I  
10 should go there, you know. My husband and I talk  
11 about it because it is long way for me to drive. So  
12 then I talk to Mr. Goldberg, Mr. Walsh, and also at  
13 that time Edna is manager office. At that time,  
14 they offer you severance pay if you don't go. You  
15 either go to S.P. or you get severance pay. So my  
16 son is in Omaha. We think about move to Omaha, too.

17 Then I said maybe we get severance pay, but  
18 they told me I am well protect until I am 65. So I  
19 told my husband I am struggle a little bit time,  
20 take all this bus and all this time. So when I am  
21 65, I will be okay, you know. As long as I do, they  
22 don't fire me. So I work at a job until I am 65.  
23 That is the truth.

24 Q. Look at line 27, page 2, where it says,  
25 "Through a series of promotions during continuous

1 employment by said defendant, S. M. Tu was elevated  
2 to the position of general clerk." Were all of  
3 those promotions that you got through jobs covered  
4 by the union agreement?

5 A. Would you like repeat the question?

6 MR. BOGASON: Would you read it back to her,  
7 please?

8 (Record read.)

9 THE WITNESS: I didn't understand that.

10 MR. BOGASON: Q. Did you ever get an officer  
11 job?

12 A. No.

13 Q. Did you ever get an exempt job?

14 A. No.

15 Q. So all the jobs you had were union jobs?

16 A. Yes.

17 Q. Look at page 8. Excuse me, I am sorry.  
18 Please turn to page 3. I would like to have you  
19 look at paragraph 8. At paragraph 8, line 14, it  
20 says that PFE promised that plaintiff's employment  
21 would continue indefinitely and if no jobs were  
22 available for her, she would continue to be paid her  
23 salary and benefits to age 65, close quote. Who  
24 from Pacific Fruit Express promised you that?

25 A. We all know that S.P. Company and the

1 union have agreement. We all get protect pay, this  
2 agreement between company and the union.

3 Q. So is that what you mean when you talked  
4 about the TOPS agreeent?

5 A. Yes, I think so.

6 Q. So you said that --

7 A. In fact, I think Rick once -- I think Rick  
8 and Jack was monthly. They always told us we are  
9 better off than them because they are monthly. They  
10 can lay off easy. We are more protected. In fact,  
11 Jack told me -- Jack is another person. He is an  
12 officer. He say if they bought -- they told me to  
13 go, I will go back my union and I would exercise and  
14 will get protect pay.

15 Q. But I think you said everybody knew that  
16 under the union agreement, you would have a job  
17 forever?

18 A. Not forever, for 65.

19 Q. It was either the basic union agreement  
20 that gave you that or the TOPS agreeent?

21 A. The company say that, too.

22 Q. Officers like Rick said you would have a  
23 job because of the TOPS agreeent, right?

24 A. No, he didn't say that. I think Rick was  
25 a clerk before. I don't remember. I can't say that.

1 but Jack was a clerk. He join the clerk agreement.  
2 He now become monthly. He always say your chance --  
3 my chance is much better than he.

4 Q. But you had heard that the union agreement  
5 or some union agreement gave you the promise of  
6 indefinite employment or gave you the promise of job  
7 until 65, right?

8 A. No, the company, too.

9 Q. Who from the company said that you would  
10 have a job until you were 65?

11 A. When we were in San Francisco, Mr. Walsh,  
12 Edna, and Mr. Goldberg. They told me not just me,  
13 everybody.

14 MR. KUBBY: There is also Mr. Cranmer's letter.

15 THE WITNESS: Cranmer and Mr. Cahalan told me  
16 that, too.

17 MR. BOGASON: Q. They told you that you  
18 would have a job for life?

19 A. Not life, 65.

20 Q. They told you you would have a job for 65.  
21 Did they tell you that that was because the company  
22 was just generous or was it because of the union  
23 agreement?

24 A. The agreement.

25 Q. In other words, they told you that as

1 officers, monthly employees, they could be  
2 terminated at any time; correct?

3 A. Yes.

4 Q. And maybe you were better off because the  
5 agreements would prevent you from being terminated  
6 until you were 65?

7 MR. KUBBY: Before you answer the question,  
8 would you read it back? Particularly note the word  
9 "maybe."

10 (Record read.)

11 MR. BOGASON: Q. Do you want me to withdraw  
12 the question and ask it another way?

13 A. No. You can ask if I know. I answer you.

14 Q. They told you that as officers, they could  
15 be terminated at any time?

16 A. Who is they?

17 Q. The officers like Mr. Fend, Mr. Walsh.

18 A. Yes. No, Mr. Walsh didn't tell me that.  
19 Only the monthly -- Jack was clerk, become monthly.  
20 Then I don't understand his union rules. He still  
21 in the clerk seniority, so he told me. He say if  
22 they abolish my job, I will go back to clerk. Then  
23 I have the right of seniority to bump everybody,  
24 that I had protect pay.

25 Q. Look at line 18, page 3, where the

1 statement is made that plaintiff's employment would  
2 not be terminated except for good, just, and  
3 legitimate cause or reason, close quote. Who told  
4 you that? Was it Edna?

5 A. I don't remember.

6 Q. The next sentence reads, "Said promises  
7 were made expressly to plaintiff upon commencement  
8 of the employment relationship." Who in 1962 said  
9 that you would not be terminated except for good and  
10 just cause?

11 A. Because as long as you don't do things  
12 wrong, if you keep good worker, they always keep you.

13 Q. Who told you that?

14 A. I don't remember. That is 23 years ago.

15 Q. You have alleged it in your complaint, so  
16 I have to ask these questions.

17 A. That is all right.

18 Q. Thank you. Look at page 4, line 4 reads,  
19 "Promoting plaintiff to her ultimate position within  
20 defendant PFE and in providing plaintiff with merit  
21 increases in compensation." What did you mean when  
22 you said that you got merit increases in  
23 compensation?

24 A. I can't answer you that.

25 Q. Did you ever get any merit increases?

1 A. Would you like repeat that?

2 Q. Did you ever get any merit increases in  
3 compensation?

4 A. No.

5 Q. Look at line 16 where you allege, "Prior  
6 to said termination, defendant and each of them  
7 deliberately and purposefully created intolerable  
8 working conditions for plaintiff causing her to be  
9 humiliated before other fellow employees." Is that  
10 true? Is that statement true?

11 A. It is true. October 2 at 2:00 o'clock,  
12 2:30, Rick give me the letter. Day before, no one  
13 to tell me my job was abolished. I was shocked. I  
14 was so embarrassed that moment. I have done nothing  
15 wrong. They do that to me when you work company 23  
16 years and four months.

17 Q. What are the, quote, intolerable working  
18 conditions, close quote, that you refer to on page 4,  
19 line 18?

20 A. I need to take the bus -- all these things  
21 they did to me is unbelievable.

22 Q. What do you mean you need to take the bus?

23 MR. KUBBY: Would you explain what you did the  
24 last few days you were at work?

25 MR. BOGASON: Q. That wasn't my question.

1 My question is, what are the intolerable working  
2 conditions that PFE created for you?

3 Number one, they moved the job to Brisbane,  
4 right?

5 A. Yes.

6 Q. This meant you had to take the bus, right?

7 A. Yes.

8 Q. What are the other intolerable things like  
9 that that they did to you?

10 A. They just make you so miserable.

11 Q. How did they make you so miserable?

12 MR. KUBBY: Just a minute. You are  
13 misrepresenting to her what that sentence says.  
14 This has to do with the termination and it has to do  
15 with the duties they imposed upon her in closing up  
16 that office. She became a janitor in the closing up  
17 of that office.

18 MR. BOGASON: That doesn't sound like an  
19 objection, but --

20 MR. KUBBY: It is an objection because you are  
21 going back to 1980 and the transfer to Brisbane.  
22 This paragraph has to do with the termination and  
23 the deliberate attempt to humiliate her at the time  
24 of the termination. That is what that sentence has  
25 to do with. That is what the question -- if you are

1 going to point to that paragraph and talk about it,  
2 then you shouldn't be asking her about 1980.

3 MR. BOGASON: You just don't care about the  
4 ordinary rules about making objections.

5 MR. KUBBY: I do, yes.

6 MR. BOGASON: I think, Counsel, I would like  
7 to have an understanding with you. I have let you  
8 make speeches and talk to your client instead of  
9 simply saying object as to the form of the question.  
10 That is the way I normally like to have a deposition  
11 run. It seems to be a fairer way, instead of making  
12 speeches and comments. Please let me finish.

13 MR. KUBBY: If my client is dealt with fairly,  
14 then I am fair.

15 MR. BOGASON: Counsel, I don't like this when  
16 you interrupt my statements. Would you let me  
17 finish? Then I will give you time so you can make  
18 your statements. Do you want me to treat you in the  
19 same way you treat me in the deposition? Do you  
20 want me to make speeches to the witnesses instead of  
21 merely making objections?

22 MR. KUBBY: I think both of us have a duty as  
23 officers of this court to be fair with the witness.

24 MR. BOGASON: I think I have been fair with the  
25 witness.

1 MR. KUBBY: No. There certainly is a  
2 difference of opinion about that.

3 MR. BOGASON: I think you also ought to follow  
4 the rules, which is to state your objections.

5 MR. KUBBY: I am stating my objections.

6 MR. BOGASON: And don't make speeches or don't  
7 coach the witness.

8 Q. After hearing your counsel's statements,  
9 would you like to change your testimony in any way?

10 A. No. I still don't understand what you  
11 mean.

12 Q. So you don't want to change your testimony?

13 A. I don't understand what you mean.

14 Q. I am going to read from line 16, paragraph  
15 9, and see if you would like to change your  
16 testimony. It says, "Prior to said termination,  
17 defendants and each of them deliberately and  
18 purposefully created intolerable working conditions  
19 for plaintiff, causing her to be humiliated before  
20 other fellow employees."

21 A. They did.

22 Q. That statement is true?

23 A. Yes.

24 Q. How did they do the things that you have  
25 described in that statement?

1 A. They treat me like dirt.

2 Q. Who treated you like dirt?

3 A. I don't remember.

4 Q. Did Mr. Fend treat you like dirt?

5 A. In a way.

6 Q. What did Mr. Fend do to treat you like  
7 dirt?

8 A. I don't remember.

9 Q. Did Edna Clark treat you like dirt?

10 A. I think she did.

11 Q. What did Ms. Clark do to treat you like  
12 dirt?

13 A. If she call Chuck Carroll and I answer the  
14 phone, she hang up the phone. I know it is her  
15 voice.

16 Q. How about Mr. Cranmer, did he treat you  
17 like dirt?

18 A. No.

19 Q. How about Mr. Walsh, did he treat you like  
20 dirt?

21 A. No. He always make some kind of joke.

22 Q. I will show you again my copy of Exhibit F  
23 which is a letter that was given to you after you  
24 talked to Mr. Walsh about the immigration and your  
25 father.

1 A. Yes.

2 Q. Do you consider that letter to be an  
3 example of how you were treated like dirt?

4 A. I didn't say 1978. I said last couple of  
5 years -- last couple of months.

6 Q. How about Mr. Segurson, did he treat you  
7 like dirt during the last couple of months?

8 A. I don't think dirt, but I didn't think he  
9 treat me nicely.

10 Q. What did he do that made you think he  
11 didn't treat you nicely?

12 A. I think one time they send J. J. Kim to  
13 speak English. I work with another Chinese man. We  
14 work there for much longer than J. J. Now I ask Jim  
15 Segurson why we didn't have a chance. He told me  
16 why don't you ask Tom Ellen.

17 Q. So Ms. Kim got sent to --

18 A. How to speak good English, a special  
19 school, I think.

20 Q. Was that during working time?

21 A. Yes.

22 Q. How do you know she was sent to a special  
23 English school during working time?

24 A. Sometimes -- I am not sure, but at night,  
25 she go to the school learn -- take some course, but

1 I do know she -- somebody ask her. We got to depend  
2 on J. J.'s figures. Sometimes she is not in the  
3 office. We ask. They say she go to school. That  
4 is why I know. I am not sure what school.

5 Q. Who told you that she went to school  
6 during the working hours?

7 A. Who told me?

8 Q. Yes.

9 A. Her coworkers.

10 Q. Which one of her coworkers said she went  
11 to school during working hours?

12 A. I don't know.

13 Q. Was this during the last year?

14 A. I think between 1984-85. I don't remember  
15 what year.

16 Q. Do you think PFE sent her to school  
17 because she was Korean?

18 A. I don't know.

19 Q. Do you think they didn't send you to  
20 school because you were Chinese?

21 A. I don't know. They never offer me. I  
22 think so.

23 Q. Do you think that PFE favored Koreans over  
24 Chinese?

25 A. No. J. J. Kim is very -- she was key

1 punch. Then she got promoted revenue account. She  
2 is very powerful woman. That is all. They all say  
3 she is very powerful. J. J. Kim tell everybody. If  
4 she want any job in the PFE, Tom Ellen will give to  
5 her.

6 Q. Is J. J. Kim a male or female?

7 A. Female.

8 Q. Do you believe that is true that she could  
9 have any job at PFE?

10 A. I don't know because everybody knows and  
11 Rick Fend knows.

12 Q. Mr. Ellen favored her because she was a  
13 woman?

14 A. I don't know.

15 Q. Do you think Mr. Ellen favored her because  
16 she was Korean?

17 A. I don't know. If she like Korean, she  
18 must like Chinese.

19 MR. BOGASON: Let's take a two-minute recess.

20 (Recess taken from 3:58 to 4:03)

21 MR. BOGASON: Q. In Mr. Carroll's letter, he  
22 said that you prepared bills. Is that true, did you  
23 prepare bills?

24 (Mr. Jim Bertram entered the deposition room.)

25 A. What kind of bills?

1 Q. The kind of bills that are in that letter.  
2 it is page 6 of Exhibit A. Page 6 of Exhibit A in  
3 this job description of position 141.

4 Who prepared this job description?

5 A. We have all the forms already.

6 MR. KUBBY: He asked you who composed those  
7 words.

8 THE WITNESS: Chuck Carroll.

9 MR. BOGASON: Q. So I guess I was right. It  
10 says that you "prepared department bills." Could  
11 you explain the paperwork, the pencil work and what  
12 you actually did in preparing a department bill?

13 A. In that department, we have lots of  
14 different form, so I don't remember. You got to  
15 show me some form, and then I tell you.

16 Q. Generally, how do you prepare a department  
17 bill?

18 A. Each one is different.

19 Q. Who would you send the department bill to  
20 after you prepared it?

21 A. Let me think. All different department  
22 let them approve.

23 Q. Was the department bill a piece of paper  
24 that you typed up and sent to somebody?

25 A. I don't remember. I got to see them. I

1 don't want to give you wrong information.

2 Q. Do you know what a journal entry is?

3 A. Yes.

4 Q. Isn't it true that a department bill is  
5 just a journal entry?

6 A. Yes.

7 Q. You talked about all this heavy work you  
8 had to do as a miscellaneous clerk --

9 A. Yes.

10 Q. -- during closing?

11 A. Yes.

12 Q. Did that put a lot of pressure on you?

13 A. Yes.

14 Q. It was your responsibility to do certain  
15 work during closing?

16 A. Yes.

17 Q. What was the time period during the month  
18 when you would be involved in closing accounts?

19 A. It depends. Sometimes they close end of  
20 the month, close early end of the month. I think 26,  
21 27, we start, you know, collect all the bills and  
22 then finish on -- it depends. Tom Ellen sometimes  
23 want early, sometimes he want it late.

24 Q. What amount of time was usually involved  
25 in closing accounts?

1 A. Week.

2 Q. Five working days?

3 A. Yes, sometimes six. It depends. They  
4 change their figure sometimes, forecast. It depends,  
5 all different department.

6 Q. What did you do the rest of the month when  
7 you weren't closing?

8 A. Different work.

9 MR. BOGASON: I have no further questions.

10 MR. KUBBY: Thank you.

11

12 (The deposition adjourned at 4:10 p.m.)

13

14

15

16

17 DATE

SIGNATURE OF WITNESS

18

19

20

21

22

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24

25

1 STATE OF CALIFORNIA )  
 2 ) ss.  
 3 CITY AND COUNTY OF SAN FRANCISCO )  
 4

5 I hereby certify that the witness in the  
 6 foregoing deposition named

7 SIEU MEI TU

8 was by me duly sworn to testify the truth, the whole  
 9 truth, and nothing but the truth in the  
 10 within-entitled cause; that said deposition was  
 11 taken at the time and place therein stated; that the  
 12 testimony of said witness was reported by me,

13 PEGGY TSUJIMOTO,

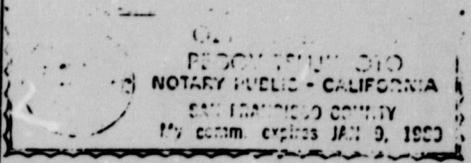
14 a Certified Shorthand Reporter and disinterested  
 15 person, and was thereafter transcribed into  
 16 typewriting, and that the pertinent provisions of  
 17 the applicable code or rules of civil procedure  
 18 relating to the notification of the witness and  
 19 counsel for the parties hereto of the availability  
 20 of the original transcript of deposition for  
 21 reading, correcting and signing have been complied  
 22 with.

23 And I further certify that I am not of counsel  
 24 or attorney for either or any of the parties to said  
 25 deposition, nor in any way interested in the

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outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my seal of office the 18<sup>th</sup>  
day of June 1987.



...Peggy Tsujimoto...

PEGGY TSUJIMOTO

**HARRY A. CANNON, INC.**

*Certified Reporters and Notaries*

635 SACRAMENTO STREET  
SUITE 800  
SAN FRANCISCO, CALIFORNIA 94111  
TELEPHONE (415) 391-7431

June 1, 1987

Sieu Mei Tu  
c/o Lee J. Kubby, Attorney at Law  
One Palo Alto Square, Ste. 260  
Palo Alto, California 94306

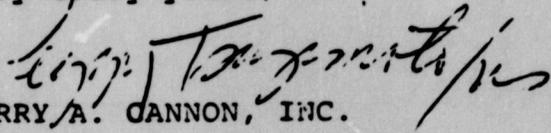
In re: Tu vs. Southern Pacific Transp. Co., et al.

Dear Mr. Kubby:

Pursuant to the provisions of 2019 (e) CCP, effective 1/7/77 and FRCP 30 (e), you are advised that your deposition in the above matter taken on Monday, May 11, 1987 is available at this office for your reading and signing, and the making of such corrections as you deem necessary.

In the event you have not read and signed your deposition by Friday, July 3, 1987, it will be filed with the Clerk of the Court unsigned.

Very truly yours,

  
HARRY A. CANNON, INC.

Encl.

Invoice No. 0414

Reporter: Peggy Tsujimoto

FED

**EXHIBIT(s)**

**EXHIBIT(s)**

**notes:**

**HARRY A. CANNON, INC.**

stand 10  
list 13, 1985

SEPTEMBER 18, 1985

SOUTHERN PACIFIC TRANSPORTATION COMPANY (WESTERN LINES)  
and  
PACIFIC FRUIT EXPRESS COMPANY

SOUTHERN PACIFIC TRANSPORTATION COMPANY (WESTERN LINES)  
SPECIAL PREFERENTIAL BULLETIN NO. 4

PACIFIC FRUIT EXPRESS COMPANY  
SPECIAL PREFERENTIAL BULLETIN NO. 23

TO ALL EMPLOYEES ON SENIORITY DISTRICT NO. 1 ROSTER, PACIFIC FRUIT EXPRESS COMPANY, BRISBANE, CALIFORNIA, AND EMPLOYEES ON SOUTHERN PACIFIC TRANSPORTATION COMPANY GENERAL OFFICES ROSTER, SAN FRANCISCO, CALIFORNIA, IN THE ORDER OF PREFERENCE SHOWN IN "C" BELOW:

(A) Pursuant to the provisions of Section 2(b), Article III of the Agreement of September 16, 1971, and Section 4(a) of the PFE Agreement of January 7, 1980, the following positions on Pacific Fruit Express Company, Seniority District No. 1, Brisbane, California, will be abolished close of shift September 30, 1985, and work of such positions will be transferred to the Accounting Department at the Southern Pacific Transportation Company at San Francisco, California:

<u>POS. NO.</u>	<u>TITLE</u>	<u>DAILY RATE OF PAY</u>	<u>INCUMBENT</u>
150	CLERK	98.84	✓ SHIRLEY A. HAUFF
147	HEAD CONTROL CLERK	105.68	KATHY KOTRONAKIS
101	ASSISTANT CHIEF CLERK	109.92	GERI L. SUMNER
149	MISCELLANEOUS CLERK	99.99	JOHN H. BAUMANN
140	EQUIPMENT AUDIT CLERK	101.94	✓ K. H. FENG
122	CLERK	94.70	R. C. SOLDAVINI
125	AAR CLERK	102.45	PATRICK F. NEWELL

RATES OF PAY INCLUDE COST-OF-LIVING ADJUSTMENT

Exhibit A  
Sm Tu  
5/11/87

(3) Effective October 1, 1985, the following seven permanent positions will be established on the San Francisco General Office Seniority Roster:

<u>POS. NO.</u>	<u>TITLE</u>	<u>LOCATION</u>	<u>HOURS REST DAYS MEAL PERIOD</u>	<u>DAILY RATE</u>	<u>DURATION</u>
<u>Manager, Accounts Payable</u>					
<u>Addressee: Mr. C. M. Brasher, Room 508</u>					
P-19	Voucher Clerk	Accounts Payable	7:15AM-3:50PM Sat & Sun 12:25PM-1:00PM	102.26	Permanent
<u>Manager, Payroll Accounting</u>					
<u>Addressee: Mr. W. R. Hertz, 475 Brannan Street, San Francisco</u>					
TK-225	Timekeeper	Payroll	7:30AM-4:00PM Sat & Sun 12:20PM-12:50PM	105.55	Permanent
<u>Manager, Property Accounting</u>					
<u>Addressee: Mr. S. Jackovich, Room 508</u>					
J-18	Joint Facility Clerk	Contract and Joint Facility	7:30AM-4:05PM Sat & Sun 12:25PM-1:00PM	104.40	Permanent
<u>Manager, Revenue Accounting</u>					
<u>Addressee: Mr. R. A. Finkes, 475 Brannan Street, San Francisco</u>					
H-75	Sr. Tracing and Checking Clerk	Tracing	7:30AM-4:00PM Sat & Sun 12:30PM-1:00PM	99.87	Permanent
H-76	Sr. Tracing and Checking Clerk	Tracing	7:30AM-4:00PM Sat & Sun 12:30PM-1:00PM	99.87	Permanent
H-77	Sr. Tracing and Checking Clerk	Tracing	7:30AM-4:00PM Sat & Sun 12:30PM-1:00PM	99.87	Permanent
H-78	Sr. Tracing and Checking Clerk	Tracing	7:30AM-4:00PM Sat & Sun 12:30PM-1:00PM	99.87	Permanent

RATES OF PAY INCLUDE COST-OF-LIVING ADJUSTMENT

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(C) PREFERENCE OF ASSIGNMENT WILL BE MADE ON THE FOLLOWING BASIS:

1. To employees who are incumbents of the positions to be abolished as the result of transfer of work.
2. To employees who are displaced in chain of displacements resulting from abolishment of permanent position involved in transfer of work.
3. To other Pacific Fruit Express employees, Seniority District No. 1.
4. To employees on Southern Pacific Transportation Company, San Francisco General Offices Master Roster.

INSTRUCTIONS

Applications should state only positions advertised under this special bulletin. Combining advertised positions of other bulletins which are separate and apart from this special bulletin will result in voiding of the application.

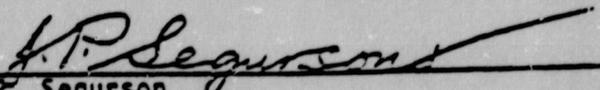
ONLY ONE APPLICATION IS TO BE MADE COVERING POSITIONS ADVERTISED IN THIS BULLETIN.

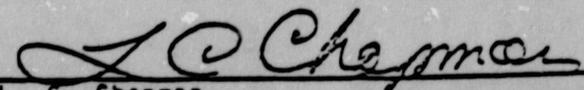
WHEN MORE THAN ONE POSITION IS APPLIED FOR, BID SHALL BE JOINTLY ADDRESSED TO EACH DEPARTMENT INVOLVED AND SHALL INDICATE ORDER OF CHOICE FOR ALL POSITIONS FOR WHICH APPLICATION IS MADE.

COPIES OF APPLICATION SHALL BE ADDRESSED AND MAILED TO ADDRESSEE SHOWN UNDER DEPARTMENT CONCERNED. A COPY OF APPLICATION MUST ALSO BE SENT TO:

Mr. J. P. Segurson  
Pacific Fruit Express Company  
700 Valley Drive  
Brisbane, California 94005

Time for filing applications for above positions closes at 5:00 PM,  
September 25, 1985.

  
\_\_\_\_\_  
J. P. Segurson  
Asst. to Vice President & General Manager  
Pacific Fruit Express Company

  
\_\_\_\_\_  
L. C. Chapman  
Manager of Personnel Services  
Southern Pacific Transportation Company

cc - Mr. R. B. Brackbill, General Chairman  
Mr. J. M. Balovich, Local Chairman  
Mr. W. L. Luque, Local Chairman (Lodge 890)  
Mr. T. D. Walsh

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