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In The  
**Supreme Court of Virginia**

RECORD NO. 002613

**HARRY ADAMS, et al,**

*Appellants,*

v.

**ALLIANT TECHSYSTEMS, INC.  
and  
HERCULES INCORPORATED,**

*Appellees.*

---

**APPENDIX**

---

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STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

---

Harry Adams, et al  
Plaintiffs,

AFFIDAVIT

vs.

File No. 97-10152


Alliant Techsystems Inc., et al  
Defendants.

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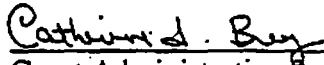
Cynthia M. Nelson, being first duly sworn, deposes and states the following:

1. That I am employed as a Court Specialist in the Hennepin County District Court Administrator's Office.
2. That this affidavit is given as a clarification of court filing procedure.
3. That on June 30, 1997 documents and fees were submitted on behalf of the Plaintiffs to open a file in the above entitled action.
4. That the documents were verified and retained by the filing clerk and a file number assigned to the newly opened case.
5. That as a result of standard office procedure the documents were not file stamped until July 1, 1997.

FURTHER YOUR AFFIANT SAITH NOT.

  
Cynthia M. Nelson  
Court Specialist

Subscribed and sworn to before me  
this 18<sup>th</sup> day of July, 1997.


  
Catharine L. Berg  
Court Administrative Supervisor

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

AFFIDAVIT OF SERVICE

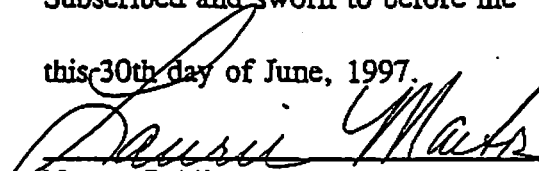
Jeffrey L. Shaw being first duly sworn, deposes and says that on the 30th day of June, 1997, he served the attached Summons and Complaint and Notice and Acknowledgement of Service by hand delivery upon the below-listed party, by placing true and correct copies thereof in an envelope addressed as follows to:

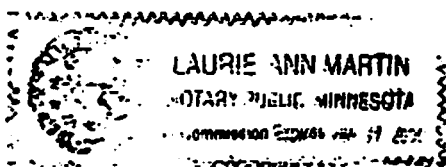
CT Corporation (a registered agent of Alliant Techsystems, Inc.  
401 Second Ave. S. and Hercules, Inc.)  
Norwest Midland Bank Bldg  
Suite 454  
Minneapolis, MN 55401

  
Jeffrey L. Shaw

Subscribed and sworn to before me

this 30th day of June, 1997.

  
Notary Public



DISTRICT COURT

**FOURTH JUDICIAL DISTRICT**

HARRY ADAMS, et al.

## PERSONAL INJURY

**Plaintiffs,**

**Court File No. PI 97-010152**

**VS.**

# AFFIDAVIT OF FILING

**ALLIANT TECHSYSTEMS, INC.,  
et al.,**

**Defendants.**

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

**Jeffrey L. Shaw being first duly sworn, deposes and says the following:**

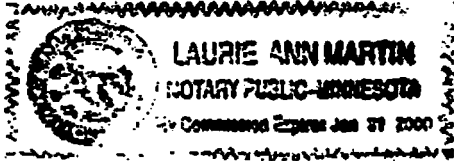
1. I filed the Summons and Complaint with the Civil Court of Hennepin County located on the second floor of the Hennepin County Government Center in the City of Minneapolis, State of Minnesota, on June 30, 1997 at approximately 4:00 p.m.
2. On this 30th day of June, 1997, I was informed by the personnel at the Hennepin County Civil Court, located on the second floor of the Hennepin County Government Center in the City of Minneapolis, State of Minnesota, that cases filed on this 30th day of June, 1997 would not be issued a receipt for the payment of the filing fee due to accounting reasons. The Civil Court instead issues a file number, being PI 97-010152 in Adams, Harry ... Wright, Gay v. Alliant Techsystems, Inc. and Hercules, Inc., to the Summons and Complaint.
3. On this 30th day of June, 1997, I specifically wrote the court-issued file number PI 97-010152 on page 5 of the Complaint that I served upon CT Corporation on the 30th day of June, 1997.
4. The case of Adams, Harry ... Wright, Gay v. Alliant Techsystems, Inc. and Hercules, Inc., Summons and Complaint was received by the State of Minnesota, County of Hennepin District Court of the Fourth Judicial District and the Summons and Complaint was served upon defendants' agent CT Corporation this same day, June 30, 1997.

Dated: 7/24/97

Jeffrey L. Shaw  
Jeffrey L. Shaw

Subscribed and sworn to before me  
this 24th day of July, 1997.

Laurie Ann Martin  
Notary Public





# COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

NOV 03 1999

*Y. Crut*

HARRY ADAMS,  
ROBERT N. AGNEY,  
BRENDA A. AKER,  
JOHN R. AKER,  
ALLEN AKERS,  
MARTIN J. AKERS,  
DOROTHY AKERS,  
GENEVA. AKERS,  
JANE ALBERT,  
LARRY K. ALBERT,  
RYOKS B. ALBERT,  
CHARLES ALDERMAN,  
MITCHELL ALDERMAN,  
CLABORNE ALEXANDER,  
GLORIA ALGER,  
HARRISON T. ALLEY,  
RANSOM D. ALLEY,  
HAROLD ALLISON,  
CLINTON ALTIZER,  
SPARRELL AMOS,  
WAYNE ANDERSON,  
RICHARD ANDERS,  
GENE F. ANDREWS,  
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BILLY W. BISHOP,  
FRANCES C. BLAKE,  
ROBERT C. BLAKE,  
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CAROLYN BOOTHE,  
FAYETTE BOOTH,  
FAYETTE M. BOOTHE,  
GARLAND J. BOOTHE,  
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CLEVEN J. BUCKNER,  
EDNA BUCKNER,  
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NITA S. BURK,  
PEGGY BURKS,  
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PAUL E. CECIL,  
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FREDERICK CROCKETT,  
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GEORGE P. DICKERSON,  
DOUGLAS DOBBINS,

7:99CV00813

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DARRELL LEE DUNCAN,  
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BOBBY L. GRAVLEY,  
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FRANKIE HUDSON,  
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DANIEL HUFF,  
WAYNE M. HUFF,  
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JOHN G. HUTCHINS,  
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GUSSIE L. INGO,  
HORACE A. JIMENEZ,  
DANIEL JOHNSTON,  
GLINNA F. JONES,  
HESTER H. JONES,  
JIMMY C. JONES,  
LYMAN J. JONES, SR.,  
RICHARD JORDAN,  
JOHN D. KEMP,  
RICHARD KEMP,  
JESSIE L. KERNS,  
GRACIE KIMLETON,  
MARY K. KING,  
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HENRY B. KINZER,

HAROLD R. KIRK,  
JAMES R. KITTINGER,  
CHARLES B. KROLL,  
SAM J. KYLE,  
JAMES W. LAWRENCE,  
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HENRY C. LINDSAY,  
PAULINE G. LINKOUS,  
ROSS LINKOUS,  
THOMAS D. LESTER,  
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DICKY A. LUCAS,  
WILLIAM L. LUCAS,  
CHARLES V. LYONS,  
ALICE Y. MARTIN,  
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DAVID MARTIN,  
GERALD MARTIN,  
PEGGY ANN MARTIN,  
WILLIAM L. MARTIN,  
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SARA J. MCKINNEY,  
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ROBERT MEDLEY,  
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WILLIAM MILLER,  
NELSON MILLS,  
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ROGER QUESENBERRY,  
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WILLIAM RADFORD,  
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JAMES M. REYNOLDS,  
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MARGARET S. RILEY,  
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DOUGLAS S. ROBINSON,  
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ALVIN SARVER,  
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HERMAN L. SARVER,  
SUE SARVER,

LEONARD E. SAUNDERS,  
ELEANOR V. SCOTT,  
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CARROLL M. SUMNER,

JOHN SUTTON,  
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ROY E. TAYLOR,  
BETTY L. THOMPSON,  
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ROGER THOMPSON,  
EMETT THOMPSON,  
WILLIAM D. THOMPSON,  
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EMORY H. TURNER, JR.,  
CECIL W. TURPIN,  
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OWEN T. WADE,  
QUINCY WALKER,  
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ALLEN WEDDLE,  
DORIS WERNER,  
RONALD WHITAKER,  
MARION D. WHITE,  
ORDIE WHITLOCK,  
CHARLES D. WHITT,  
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JAMES R. WILLIAMS,  
EDWARD F. WILSON,  
GORDON WILSON,

**WILLIE ANDREW WILSON,  
A. W. WOLFORD,  
LUTHER WOOLWINE,  
ROY WORKMAN,  
BARRY WORTH, AND  
GAY WRIGHT,**

**COPY**

NOV 03 1999

RECORDED  
BY:

*H. Wright*

17: 99CV00813

**Plaintiffs,**

**v.**

**ALLIANT TECHSYSTEMS, INC.**

600 2<sup>nd</sup> Street, N.E.  
Hopkins, Minnesota 55343

**Serve:**

**Edward R. Parker, Registered Agent  
5511 Staples Mill Road  
Richmond, VA 23228**

**and**

**JURY TRIAL DEMANDED**

**HERCULES, INCORPORATED**

Tax Department  
9226 SW Hercules Plaza  
1313 N. Market Street  
Wilmington, Delaware 19894

**Serve:**

**Edward R. Parker, Registered Agent  
5511 Staples Mill Road  
Richmond, VA 23228**

**Defendants.**

**CIVIL COMPLAINT**

Comes now the Plaintiffs, by counsel, and for this Complaint against the Defendants,

Alliant Techsystems Inc., ("Alliant") and Hercules, Incorporated ("Hercules") represent as

follows:

**JURISDICTION AND VENUE**



1. Jurisdiction is founded on diversity of citizenship, pursuant to 28 U.S.C. §1332. The matter in controversy for each of the Plaintiffs exceeds, exclusive of interest and costs, the sum of \$100,000.00. The Defendants are foreign corporations who are amenable to the jurisdiction and venue of this Court in that they have transacted business and caused tortious injury in the Commonwealth of Virginia and in the Western District of Virginia.

2. Venue is proper in the United States District Court for the Western District of Virginia, Roanoke Division, because the Plaintiffs were injured in Radford, Virginia. In addition, the vast majority of the Plaintiffs live in the Radford area.

### **PARTIES**

3. The Plaintiffs are or were at all times pertinent hereto employees of the Defendants, Alliant and Hercules, and are residents of the Commonwealth of Virginia. Each Plaintiff was employed at the Radford Army Ammunition factory in Radford, Virginia. Each Plaintiff was exposed to unsafe and hazardous noise levels while working in this plant and each Plaintiff suffers permanent partial hearing loss as a result of the common exposure.

4. Defendant Alliant Techsystems, Inc. ("Alliant") is a corporation incorporated in Delaware and has its principal place of business at 600 2<sup>nd</sup> Street, N.E. Hopkins, Minnesota 55343. Defendant Alliant is an aerospace and defense company which has offices and/or facilities in Virginia and in this federal district, and regularly conducts business throughout Virginia and in this federal district. Defendant Alliant's agent for service in Virginia is Edward R. Parker, Esquire, 5511 Staples Mills Road, Richmond, Virginia, 23228. Alliant has been named as a Defendant in its own right and as the corporate successor of Hercules.

5. Defendant Hercules, Inc. ("Hercules") is a corporation incorporated in Delaware

and has its principal place of business at Tax Department, 9226 SW Hercules Plaza, 1313 N. Market Street, Wilmington, Delaware 19894 and is headquartered in Wilmington, Delaware. Defendant Hercules is a diversified worldwide producer of chemicals and related products which has plants and facilities throughout the United States and regularly conducts business throughout Virginia. Defendant Hercules' agent for service in Virginia is Edward R. Parker, Esquire, 5511 Staples Mills Road, 23228, Richmond, Virginia.

### **PROCEDURAL BACKGROUND**

6. In 1996, in the case of Stenrich Group v. Jemmott, 251 Va. 186, 467 S.E. 2d 795 (1996), the Virginia Supreme Court ruled that injuries resulting from cumulative trauma were not covered under the Virginia Workers' Compensation Act.

7. In the wake of this ruling, the United States District Court for the Western District of Virginia, Charlottesville Division, held that if no coverage for cumulative injuries is provided under the Virginia Workers' Compensation Act, the plaintiff's common law tort remedies are preserved. Laureen Johnson v. ITT Corporation, et al., Civil Action No. 95-0050-C (W. Dist. Va., July 10, 1996) (Plaintiff's Memorandum of Law in Opposition to Defendants' Motion to Dismiss and the Court's Order denying the Defendants' Motion to Dismiss are attached as Exhibit A). A similar ruling was handed down at the state trial level in Kathleen Monroe v. Safeway Stores, Inc., (Cir. Ct. City of Alexandria) (Sept. 10, 1996) (copy attached as Exhibit B). See also, Whitmer v. Glitter Turner & Minter, Inc., VWC No 186-27-62, Deputy Commissioner John Costa, Dec. 10, 1997 (copy attached as Exhibit C).

8. On June 30, 1997, the Plaintiffs herein filed a Complaint in the District Court for the Fourth Judicial District of Minnesota (Hennepin County) alleging injuries related to their

hearing loss.

9. On December 29, 1997, Judge Deborah Hedlund of the Minnesota District Court transferred the case from Minnesota to Virginia provided that the six-year Minnesota statute of limitations applies to the cases transferred. (copy attached as Exhibit D).

10. The Plaintiffs herein have been properly joined in this Complaint pursuant to Rule 20 of the Federal Rules of Civil Procedure. The Plaintiffs allege injuries arising out of excessive noise exposure at the same work site, under the same or similar working conditions, and at or about the same time period.

### **FACTS**

11. From approximately February 1995 to the present time, Defendant Alliant was engaged in the business of manufacturing gunpowder and other items at the Radford Arsenal in Radford, Virginia.

12. On and before July 1, 1991, Defendant Hercules was engaged in the business of manufacturing gunpowder and other items at the Radford Arsenal in Radford, Virginia. Hercules turned over operation of the Radford Arsenal to Defendant Alliant in or about February of 1995.

13. On, before and after July 1, 1991, Plaintiffs were employed by Defendants Alliant and/or Hercules at the Radford Arsenal to manufacture gunpowder and other items.

14. During the time period relevant to this Complaint, it was the duty of both Defendants during their respective tenures of operating the Arsenal to provide the Plaintiffs with a safe workplace and to conduct its manufacturing operations and activities in a reasonable manner with regard for the health and safety of its employees.

15. Notwithstanding those duties, Defendants during their respective tenures of

operating the Arsenal did then and there so carelessly, recklessly and negligently conduct their manufacturing operations at the Arsenal that they subjected Plaintiffs to conditions which injured the Plaintiffs.

16. Defendants were negligent in that they:

(A) created unreasonable work conditions which imposed constant and excessive noise levels upon Plaintiffs on an everyday basis in the performance of their employment;

(B) failed to inspect and review working conditions at their manufacturing plant to identify work requirements and practices which were unreasonable and unsafe;

(C) failed to remove or eliminate the hazards of injury caused by requiring Plaintiffs to perform their duties under work conditions which imposed constant and excessive noise levels upon Plaintiffs on an everyday basis in the performance of their employment;

(D) failed to take reasonable precautions to provide Plaintiffs with safe work methods, practices and conditions;

(E) failed to provide Plaintiffs with a safe place to work where they would not be exposed to unreasonable danger and injury; and

(F) failed to exercise reasonable precautions under the circumstances.

17. As a direct and proximate result of Defendants' negligence, Plaintiffs have sustained serious and painful injuries which are, or may be, permanent, including but not limited to partial or total loss of hearing capability. Plaintiffs have also suffered physical pain, discomfort and mental anguish, and they will continue to endure these conditions in the future. Plaintiffs have incurred substantial expenses for doctors and related medical care, and in the future will, or may continue to, incur such expenses in an effort to cure or abate their injuries. In

addition, Plaintiffs will, or may, lose income and earning capacity as well as other benefits from their present and future employment. The Plaintiffs have been unable to perform all of the usual affairs of a man or woman in their respective ages and positions in life, and in the future, they will be, or may continue to be, unable to perform all such affairs.

18. Upon information and belief, Defendants Alliant and Hercules, acting by and through their respective agents, servants or workmen, including but not limited to their respective company physician, intentionally and fraudulently concealed from some or all of the Plaintiffs the existence, degree, nature and/or severity of the injuries Plaintiffs suffered and the relationship between the injuries suffered by the Plaintiffs and the careless, reckless and negligent conduct of Defendants which was the proximate cause and/or substantial contributing factor in Plaintiffs' injuries.

19. Defendants' wrongful conduct in causing and then concealing the injuries suffered by Plaintiffs was committed willfully and with actual awareness in wanton, outrageous and reckless disregard of Plaintiffs' rights and interests. Accordingly, Plaintiffs, in their individual capacities, are each entitled to an award of punitive damages against Defendants Alliant and/or Hercules both as punishment and to discourage such wrongful conduct in the future.

WHEREFORE, the Plaintiffs, by counsel, each respectfully request judgment against the Defendants Alliant Techsystems, Inc. and Hercules, Inc., jointly and severally for compensatory damages in an amount in excess of \$100,000.00 together with pre-judgment and post-judgment interest as outlined by law, for punitive damages, and for their costs in this behalf expended, and for all other such relief to which they may be entitled.

**PLAINTIFFS REQUEST A TRIAL BY JURY.**





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Washington, DC 20005  
(202) 637-0400

Dated: November 3, 1999

ENTERED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE, U.S. DIST. CT.  
AT CHARLOTTESVILLE, VA  
FILED

JAN 19 1996

MORGAN E. SCOTT, JR., Clerk  
By: *[Signature]*  
Deputy Clerk

LAUREEN JOHNSON,

Plaintiff

v.

ITT CORPORATION, ITT AUTOMOTIVE,  
INC., AND ITT TEVES AMERICA, INC.,

Defendants

) CIVIL ACTION NUMBER 95-0050-C

)

) ORDER

) By: B. Waugh Crigler  
U. S. Magistrate Judge

)



In accordance with the pretrial conference and for the reasons set forth from the bench on December 21, 1995, it is

ORDERED

as follows:

1. Defendants' motion to dismiss hereby is denied.
2. Except to the extent provided in this Order, this action hereby is exempted from the requirements of the amendments to Fed.R.Civ.P. 26 that were effective December 1, 1993.
3. The parties hereby are directed to make all initial disclosures required by Rule 26(a)(1) within ten (10) business days hereof.
4. Initial disclosures of expert evidence under Rule 26 (a)(2) shall be made by the plaintiff within thirty (30) days hereof with final supplementation to occur no later than thirty

(30) days before the expiration of the discovery period fixed by this or any superseding Order.

Defendants' initial disclosure shall be made fifteen (15) days after plaintiff's disclosure, with final supplementation to occur no later than thirty (30) days before the close of discovery. A party shall not be permitted to disclose any additional expert by way of supplementation without first obtaining leave of court upon good cause shown. Experts and expert evidence not so disclosed and/or supplemented may be excluded by the court.

5. Limitations on the number of interrogatories shall be governed by Rule 33.

6. By agreement of counsel, and with the concurrence of the court, this case shall be tried before the undersigned and a seven-member jury on July 15 and 16, 1996, at the United States District Court in Charlottesville, Virginia, with the proceedings to commence at 9:30 a.m. each day.

7. All discovery in this case, including the taking of depositions, whether for discovery or to be used pursuant to Rule 32, shall be completed by April 30, 1996. The court cautions the parties that all interrogatories, requests for production of documents, and all other discovery requests of whatever nature, should be filed in such a manner that the other party's answers or responses under the Federal Rules of Civil Procedure would be due on or before the discovery cut-off date. This provision shall apply to any enlargements of the discovery period. Any deposition taken, whether for discovery or to be used under Rule 32, shall be filed by the cut-off date with the court, in accordance with Rule 30(f), Fed.R.Civ.P. Further, any Rule 32 depositions proposed to be taken by video-tape must be taken in accordance with an Order of this court permitting the same, and must be completed so as to allow a typed transcript to be filed by the cut-off date. Any motions seeking a ruling on any objections to testimony contained in depositions to be offered at trial including motions regarding the use of a deposition at trial in

lieu of the appearance of a witness must be filed with the court no later than May 10, 1996.

8. The parties shall exchange all exhibits or lists of exhibits and lists of all witnesses who will be called to testify at trial by April 1, 1996. A person appearing on a party's list may be called by any other party. No witness, expert or otherwise, will be permitted to testify unless the person has been identified on a list exchanged under this paragraph.

9. Dispositive motions together with supporting memoranda, are due on or before May 10, 1996. Responses thereto shall be filed by May 17, 1996. Any motion for summary judgment shall be accompanied by a statement of material facts as to which the moving party contends there is no genuine issue, which shall include references to the parts of the record relied on to support the statement. Any opposition to such a motion shall be accompanied by a separate concise statement of genuine issues setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated, which shall include references to the parts of the record relied on to support the statement. In determining a motion for summary judgment, the court may assume that facts identified by the moving party in its statement of material facts are admitted, unless such a fact is controverted in the statement of genuine issues filed in opposition to the motion.


10. A hearing on all dispositive motions and a further pretrial conference is hereby scheduled before the undersigned on May 29, 1996 at 2:00 p.m. in the U. S. District Court, Charlottesville, Virginia.


11. The parties shall file jointly endorsed stipulations of fact or a report of their failure to agree to stipulations, motions *in limine* and proposed jury instructions shall be filed on or before July 1, 1996.

12. The burden shall be upon the parties jointly to apprise the court of potential or

actual settlement of the case. Should a case settle at such a time that attendance by the jury and/or court reporter or both cannot be avoided, costs related to such attendance shall be borne by all parties equally and they shall be payable forthwith upon notice of calculation of the Clerk.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record.

ENTERED:   
Magistrate Judge  
19 January 1996  
Date

A TRUE COPY, TESTE:  
MORGAN E. SCOTT, JR., CLERK  
BY:   
DEPUTY CLERK



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

LAUREEN JOHNSON,  
Plaintiff

v.

Civil Action No. 95-0050-C

ITT CORPORATION, ITT AUTOMOTIVE  
INC., and ITT TEVES AMERICA,  
INC.,  
Defendants

PLAINTIFF'S MEMORANDUM IN RESPONSE AND OPPOSITION  
TO DEFENDANTS' MOTION TO DISMISS

Plaintiff Laureen Johnson, by counsel, files this memorandum in response to Defendants' motion to dismiss.

PROCEDURAL STATUS

The Plaintiff filed a complaint in this Court to pursue her common law remedies against Defendants because of repetitive stress injuries she developed as a result of the repetitive and forceful movements she was required to make in the performance of her job on a production line manufacturing and inspecting automobile brakes. Defendants have filed a motion to dismiss asserting that Plaintiff's exclusive remedy is under the Virginia Workers' Compensation Act.

FACTS AND PRIOR PROCEEDINGS

Plaintiff was employed by Defendants at their Culpeper, Virginia, plant where she worked on a production line manufacturing automotive brakes. On or about July 22, 1993, she developed pain

in her left wrist due to the repetitive movements she was required to make in the performance of her job. When she reported her condition to her employer she was sent to Amauri Gonzalez, M.D., of Culpeper Family Practice. On August 4, 1993, Dr. Gonzalez prepared an Attending Physician's Report which provided the following account of the patient's injury:

Repetitive movement of lifting assembled auto booster (est. wt. 7 lbs) turning upside down and placing into gauging fixture 177 times.

A copy of this report is attached as Exhibit 1.

By letter dated January 24, 1994, Defendants' workers' compensation carrier, CIGNA, denied Plaintiff's claim for benefits for her wrist injury. CIGNA's letter stated as follows:

Please be advised our investigation, which has been completed in (your) case, indicates you did not sustain a compensable injury within the meaning of the Virginia Workers' Compensation Act.

Under the circumstances, we regret to advise that we will be unable to assume liability in connection therewith.

A copy of that letter is attached as Exhibit 2.

When Plaintiff filed a claim for workers' compensation benefits, Defendants opposed her claim on the grounds that "the claimant has not suffered an occupational disease." (This defense is set forth on page 2 of the opinion by Chairman Joyner who heard Plaintiff's claim. A copy of that opinion was attached to the Defendants' memorandum in support of their motion to dismiss.) At her workers' compensation hearing, Plaintiff failed to meet her burden of proving that her condition was an occupational disease and her claim was denied.

### ISSUE

Whether Plaintiff's claim is barred by the exclusive remedy provision of Virginia's Workers' Compensation Act, Va. Code §65.2-307.

### SUMMARY OF ARGUMENT

The Virginia Workers' Compensation Act, §65.2-100, et seq., only bars state or federal court actions that are brought on account of an "injury" that is an "injury by accident arising out of and in the course of the employment or occupational disease." Va. Code §65.2-101. The Plaintiff's injury in this case is not an "injury by accident" as that term has been defined by the Virginia Supreme Court.

An "injury by accident" is an "identifiable incident or sudden precipitating event [that results] in an obvious sudden mechanical or structural change in the body." Morris v. Morris, 238 Va. 578, 589, 385 S.E.2d 853, 865 (1989). Injuries resulting from repetitive trauma are not "injuries by accident" within the meaning of the Workers' Compensation Act. Id. The Plaintiff's injuries were caused by such repetitive trauma.

For injuries caused by repetitive trauma, the Act provides no remedy to the employee and erects no bar preventing the employee from pursuing common law remedies against her employer. Williams v. Garrahty, 249 Va. 224 (1995); Lichtman v. Knouf, 248 Va. 138 (1994); Middlekauff v. Allstate Ins. Co., 247 Va. 150 (1994); Griffith v. Raven Red Ash Coal Co., 179 Va. 790, 797-798 (1942).

Therefore the Plaintiff is free to pursue her common law remedies against the Defendants.

While the Defendants argue that Plaintiff's injury is an "occupational disease" and would therefore be compensable under the Act and barred by the Act, they have cited not one Virginia Supreme Court case to support their position. Their reliance is entirely upon 1995 Virginia Court of Appeals decisions applying a broad definition of the term "disease" which erases the distinction between the Act's categories of injury and occupational disease. This approach was rejected by the Virginia Supreme Court in Merillat Industries v. Parks, 246 Va. 429, 443 (1993) and invades the province of the General Assembly to expand the coverage of the Workers' Compensation Act. Id.; Perdue Farms, Inc. v. McCutchan, 21 Va.App. 65, 75 (1995), Judge Koontz, dissenting. None of the Plaintiff's treating physicians have diagnosed her injury as a "disease" and Plaintiff does not allege in her complaint that her injuries are an "occupational disease".

#### DISCUSSION

The Plaintiff has suffered injuries to her arms and hands due to the repetitive stress and trauma from her work for Defendants in manufacturing and inspecting auto brake systems. She has made no allegation that she has suffered an occupational disease. A review of her complaint will show that the Plaintiff is seeking damages for the injuries caused by the repetitive movements

required by her job at Defendants' manufacturing plant. <sup>1</sup>

Injury Caused by Repetitive Trauma  
Or Cumulative Injury is Not Covered  
By the Virginia Workers' Compensation Act

It is clear under Virginia law that a work-related injury resulting from repetitive stress or trauma is not covered by the Virginia Workers' Compensation Act and is not compensable thereunder. In Morris v. Morris, 238, Va. 578, 385 S.E.2d 858 (1989), the Virginia Supreme Court held that injuries resulting from repetitive trauma, continuing mental or physical stress or other cumulative events are not "injuries by accident" within the meaning of the Workers' Compensation Act. Id., at 589; Middlekauff v. Allstate Ins. Co., 247 Va. 150, 153, 154, 439 S.E.2d 394, 397 (1994).

To be compensable under the Workers Compensation Act (herein "the Act"), an injury must be an "injury by accident." What this means is that the injury must involve an identifiable incident or sudden precipitating event that results in an obvious sudden mechanical or structural change in the body. Morris, at 589. An injury resulting from gradually incurred traumatic injuries or cumulative trauma conditions fails to qualify as an "injury by accident" and is therefore not compensable under the Act. Middlekauff, at 154; Merillat Industries v. Parks, 246 Va. 429,

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<sup>1</sup> The Defendants denied Plaintiff's claim for workers' compensation benefits on the basis that she was not suffering from an occupational disease. That position completely contradicts their current argument that Plaintiff is suffering from an occupational disease.



433, 436 S.E.2d 600 (1993); Morris, at 589 (Supreme Court vacated awards of compensation for claimants with injuries resulting from repetitive trauma or continuing physical stress;.

Employee Remedy for Repetitive Trauma Injury  
Is Under Common-Law Right of Action for Damages at Law

Although the Workers' Compensation Act provides no remedy for an employee with a work-related gradually incurred injury, such an employee is not left without a remedy. In Raven Red Ash Coal Co. v. Griffith, 131 Va. 911, 916 (1943), the Virginia Supreme Court noted that while the rights and remedies of the Act were exclusive, they were intended to only exclude common-law remedies for injury of an employee caused "by accident arising out of and in the course of the employment". If an employee's injury does not meet these conditions, the employee's common-law right of action for damages for that injury is not impaired by the Act. Raven Red Ash Coal Co., at 916.

A number of recent cases clearly show that employees with claims for gradually incurred injuries are free to bring actions at law to pursue their claims against fellow employees or their employers. For example, in Williams v. Garrahty, 249 Va. 224 (1995), a prison warden brought a defamation action against a subordinate employee. The employee filed a demurrer, claiming that the warden's claim was barred by the exclusive remedy provision of the Act. The trial court agreed, ruling that the warden's claims for pain and suffering, humiliation, mental distress, and negligent infliction of emotional distress were not recoverable because they were within the exclusive jurisdiction of the Workers' Compensation

Act. The Virginia Supreme Court found that these damages were not the result of an "injury by accident" but were the result of a gradually incurred injury. Accordingly, the Supreme Court held that the trial court erred in ruling that these claims were within the exclusive jurisdiction of the Workers' Compensation Act. Williams, at 227, 238.

In another recent case, an employee brought an action at law against her former employer and fellow employees claiming intentional infliction of emotional distress. The trial court dismissed her claim, holding that the exclusive remedy provision of §65.2-307 of the Act barred the suit. The Virginia Supreme Court noted that the plaintiff had alleged a gradually incurred injury and that such an injury was not within the purview of the Workers' Compensation Act. Accordingly, the Supreme Court reversed the trial court's dismissal and remanded the case for further proceedings. Lichtman v. Knouf, 248 Va. 138 (1994). See also Middlekauff, (plaintiff sued fellow employee and former employer for intentional infliction of emotional distress, trial court ruled claim was barred by Workers' Compensation Act and dismissed action, Virginia Supreme Court reversed and remanded for further proceedings, holding that under Morris a gradually incurred injury is not within purview of the Workers' Compensation Act).

#### Plaintiff's Injuries are Not an Occupational Disease

In their memorandum the Defendants argue that the Plaintiff's claim is barred because she has bilateral carpal tunnel syndrome which the Virginia Court of Appeals has held to be compensable

under the Act. Defendants suggest that had the Plaintiff done a better job in representing herself at her Workers' Compensation hearing, she would have proved that her condition constituted a disease and would have gotten the benefits provided under the Act. This is a cynical position in light of the fact that the only reason the Plaintiff was put to the task of a Workers' Compensation hearing was because the Defendants opposed her claim, arguing that she did not have an occupational disease.

In the Workers' Compensation proceeding Defendants had access to all of Plaintiff's medical records. While they now argue that the Plaintiff's condition is a disease, they offer no opinion from a treating physician and no shred of any other evidence from her medical records which would prove that her condition is a disease rather than a repetitive stress injury.

To support their argument that Plaintiff's carpal tunnel syndrome is compensable under the Act as an "occupational disease", Defendants attach to their memorandum copies of three unpublished opinions from the Virginia Court of Appeals. These cases are Sunnyside Presbyterian Home v. Phyllis M. Shifflett, Record No. 2284-94-3 (1995), Tyson Foods, Inc. v. Angela Gladwell, Record No. 2301-94-3 (1995), and Haywood Riddick v. Franklin City Public Works, Record No. 0301-95-1 (1995).<sup>2</sup> All three decisions rely on the Virginia Court of Appeals decision in Perdue Farms, Inc. v.

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<sup>2</sup> Sunnyside Presbyterian was decided as recently as November 7, 1995, and Tyson Foods and Riddick were both decided October 31, 1995. There is no indication whether these decisions have been appealed to the Virginia Supreme Court.

McCutchan, 21 Va. App. 65, 69, 461 S.E.2d 431, 433 (1995), holding that the general medical definition of carpal tunnel syndrome ("CTS") places it within the definition of disease within the meaning of the Act.

Virginia Court of Appeals Decision in Perdue Farms  
Adopts an Approach Previously Rejected  
By the Virginia Supreme Court

In Perdue Farms, two claimants sought workers' compensation benefits for CTS. Both cases concerned the compensability of CTS as an occupational disease and the application of the "injury-disease" dichotomy addressed in Merillat Industries. None of claimant McCutchan's doctors specifically termed her bilateral CTS a disease. Surprisingly, in the absence of any medical evidence that her CTS was a "disease", the Court of Appeals held her claim to be a compensable disease, noting:

Ms. McCutchan's condition did not present an obvious, sudden, mechanical or structural change in her body. Therefore, we conclude that credible evidence supports the commission's finding "that the claimant's diagnosed carpal tunnel syndrome meets the definition of 'disease' within the meaning of the Workers' Compensation Act.

McCutchan, at 73.

Even more surprising is the court's handling of claimant Bowen's case. Not only did none of claimant Bowen's doctors describe her CTS as a disease, one of her doctor's stated that CTS was a cumulative trauma injury. In the face of medical evidence that her CTS was a cumulative trauma injury, the Court of Appeals held that her claim was also a compensable disease, noting:

. . . her proof was substantially the same as Ms. McCutchan's. No evidence described a specific injury. No evidence described an obvious, sudden,

mechanical or structural change in her body. The uncontradicted evidence described a condition that falls squarely within the definition of disease set forth in Piedmont.<sup>3</sup>

Piedmont, at 74.

What is happening here is identical to what has happened before when the Virginia Court of Appeals' has sought to treat cumulative trauma injuries like other compensable work related injuries. Prior to Morris, in cumulative trauma cases the Court of Appeals awarded compensation under a liberal definition which permitted a finding of "injury by accident" where the injury occurred during "a particular work activity which takes place within a reasonably discrete time frame." Morris, at 587, citing Bradley v. Philip Morris, 1 Va.App. 141, 336 S.E.2d 515 (1985). In Morris the Virginia Supreme Court explicitly rejected that reasoning and stated:

. . . it is clear that Bradley and its progeny have resulted in a marked departure from the rule in Aistrop, leading for the first time to awards of compensation for gradually incurred injuries, without any legislative revision of the Act. We adhere to the view that it is peculiarly within the province of the General Assembly to adjust the balance of competing interests inevitably involved when such a fundamental policy change is contemplated.

Morris, at 588.<sup>4</sup>

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<sup>3</sup> In Piedmont Mfg. Co. v. East, 17 Va.App. 499, 503, 438 S.E.2d 769, 772 (1993), the Virginia Court of Appeals defined "disease" as "any deviation from or interruption of the normal structure or function of any part, organ, or system (or combination thereof) of the body that is manifested by a characteristic set of symptoms and signs and whose etiology, pathology, and prognosis may be known or unknown." Piedmont, at 68.

<sup>4</sup> Aistrop v. Blue Diamond Coal Co., 181 Va. 287, 24 S.E.2d 546 (1943).

Scolded but undaunted by Morris, the Virginia Court of Appeals has taken a different tack in its handling of these cases. With Morris foreclosing further liberalization of the "injury by accident" requirement, the court has chosen instead to liberalize the "occupational disease" requirement. In doing this, the court adopts a definition of disease that is so broad it erases the distinction between the traditional categories of "injury" and "disease" under the Act.

While the Supreme Court has not yet addressed the Court of Appeals' new departure from the law of Virginia as enunciated by the General Assembly and the Virginia Supreme Court, Judge Koontz confronts the court's action in his dissent in Perdue Farms. In regard to the definition of "disease" which the court has adopted, Judge Koontz states:

. . . in Merillat, the Supreme Court declined to cite with approval a definitive and comprehensive definition of "disease" applicable to these Code sections. Rather, where the condition arose from cumulative trauma resulting from repetitive motion . . . the Court has repeatedly rejected any definition of disease that is so broad as to render meaningless the distinction between the statutory categories of injury by accident and occupational disease. Such a broad definition would expand the coverage of the Act with regard to occupational diseases, a matter within the sole province of the legislature.

Perdue Farms, at 76. Judge Koontz goes on to state "I cannot in good conscience, in the name of judicial certainty, adhere to the definition of 'disease' given in Piedmont as I now believe that this definition is contrary to the mandate of Merillat." Id., at 77.

As shown by Judge Koontz's statements and by the Virginia

Supreme Court's decisions in Merillat, the Virginia Court of Appeals stands alone in its view that CTS is compensable. As indicated above, the Supreme Court holds such injuries to be non-compensable. The General Assembly understands that such injuries are non-compensable and even sought to correct that situation this year by passing a bill which would have made CTS compensable. However, that bill was vetoed by Governor Allen. A copy of this bill is attached hereto as Exhibit 3.

The law of Virginia governing Laureen Johnson's case is not set forth in the Defendants' 1995 collection of unpublished Court of Appeals decisions and Perdue Farms, which Judge Koontz rightly criticizes. The law governing Laureen Johnson's case is instead found in the cases previously cited herein, which hold that an employee with a work-related, gradually incurred injury has no remedy under the Act and is not barred by the Act from bringing an action at law against her employer to pursue her common-law remedies.

#### CONCLUSION

For the reasons set forth above, the Plaintiff Laureen Johnson asks that the Defendants' motion to dismiss be denied, and she asks for such other and further relief as the Court may deem just.

LAUREEN JOHNSON  
By Counsel

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Charlottesville, VA 22902-0298  
(804) 977-3390

**31**

CERTIFICATE

I hereby certify that a true copy of this memorandum was mailed, first class, postage prepaid, this 11th day of December, 1995, to:

Clinton S. Morse, Esq.  
WOODS, ROGERS & HAZLEGROVE  
P. O. Box 14125  
Roanoke, VA 24038-4125  
Counsel for Defendants

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# MINNESOTA RULES OF COURT

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STATE AND FEDERAL

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1997

WEST PUBLISHING COMPANY

## RULES OF CIVIL PROCEDURE

### Form

- 20. Request for Admission Under Rule 36.
- 21. Allegation of Reason for Omitting Party.

### Form

- 22. Notice and Acknowledgement of Service by Mail.
- 23. Subject Matter Index for Civil Cases.

### INDEX

## PUBLISHER'S NOTE

The Supreme Court Order dated September 5, 1991, which promulgated amendments to the Rules of Civil Procedure, provided in part:

"The inclusion of Task Force notes, if any, is made for convenience and does not reflect court approval of the comments made therein."

The Supreme Court Order dated December 20, 1993, which promulgated amendments to the Rules of Civil Procedure, effective March 1, 1994, provided in part:

"The comments of the Advisory Committee are those of the committee and their inclusion with the

amendments does not imply either agreement or adoption by this Court of the statements contained therein."

The Supreme Court Order dated November 22, 1996, which promulgated amendments to the Rules of Civil Procedure, effective January 1, 1997, provided in part:

"The inclusion of Advisory Committee comments is made for convenience and does not reflect court approval of the comments made therein."

## I. SCOPE OF RULES—ONE FORM OF ACTION

### RULE 1. SCOPE OF RULES

These rules govern the procedure in the district courts of the State of Minnesota in all suits of a civil nature, with the exceptions stated in Rule 81. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.

[Amended November 22, 1996, effective January 1, 1997.]

#### Advisory Committee Comments—1996 Amendments

This change conforms the rule to its federal counterpart. The amendment is intended to make clear that the goals of just, speedy, and inexpensive resolution of litigation are just as important—if not more important—in questions that do not involve interpretation of the rules. These goals should guide all aspects of judicial administration, and this amendment expressly so states.

### RULE 2. ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

## II. COMMENCEMENT OF THE ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

### RULE 3. COMMENCEMENT OF THE ACTION; SERVICE OF THE COMPLAINT

#### \* RULE 3.01 COMMENCEMENT OF THE ACTION

A civil action is commenced against each defendant:

(a) when the summons is served upon that defendant, or

(b) at the date of acknowledgement of service if service is made by mail, or

(c) when the summons is delivered to the sheriff in the county where the defendant resides for service; but such delivery shall be ineffectual unless within 60 days thereafter the summons is actually served on that defendant or the first publication thereof is made.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

FILED

97 DEC 31 12:11

DISTRICT COURT

FOURTH JUDICIAL DISTRICT

Harry Adams, et al.,

BY                      DEPUTY  
HENN CO. DISTRICT  
COURT ADMINISTRATOR

Plaintiff,

vs.

FILE NO. PI 97-10152  
ORDER

Alliant Techsystems Inc. and  
Hercules Incorporated,

Defendants.

PLAINTIFF'S  
EXHIBIT

D

ALL-STATE LEGAL SUPPLY CO.

The above-entitled matter came on for hearing before the undersigned Judge of District Court on November 25, 1997, pursuant to defendants' motion to dismiss for forum non conveniens.

Attorney Robert Stone and Virginia Attorney Gary Kendall appeared on behalf of plaintiffs. Attorney Craig Brandt appeared on behalf of defendants.

Based on all the files, records and proceedings herein, together with the arguments of counsel, the Court makes the following:

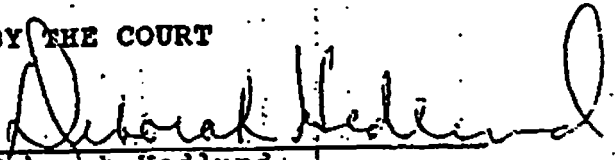
ORDER

IT IS HEREBY ORDERED THAT:

1. Defendants' Motion to Dismiss for forum non conveniens is GRANTED on the condition that defendants waive defenses involving: personal jurisdiction, service of process, and statutory limitations which did not exist in Minnesota as of July 1, 1997.

2. The attached Memorandum of Law is made a part of this Order.

BY THE COURT

  
Deborah Hedlund  
Judge of District Court

Dated: December 5<sup>th</sup>, 1997

## MEMORANDUM OF LAW

This matter comes before the court based on defendants' motion to dismiss for forum non conveniens. In making this motion, defendants argue that, although jurisdiction is proper in Minnesota, this matter would be more equitably and efficiently resolved in the State of Virginia.

In deciding whether to dismiss a matter under the doctrine of forum non conveniens, the court looks at certain public and private factors. Kennecott Holdings v. Liberty Mut. Ins., 561 N.W.2d 189, 191 (Minn.App. 1997). These factors include: the relative ease of access to sources of proof; availability of witnesses; the cost of obtaining the attendance of witnesses; the need to view the premises; the forum's interest in the outcome of the litigation; and the law which governs the case. Gulf Oil Corp. v. Gilbert, 330 U.S. 508, 509 (1946). As a general rule, there is a presumption favoring plaintiff's choice of forum. This presumption is lessened, however, in cases where the chosen forum is not plaintiff's home state. Behm v. John Nuveen & Co., Inc., 555 N.W.2d 301, 308 n. 5 (Minn. 1996).

Even when dismissal is proper for forum non conveniens, this dismissal should be conditioned so as not to deprive plaintiff of its procedural position. An attempt should be made to place the parties in the same position in the alternative forum as they were in the original forum. Bergquist v. Medtronic, Inc., 379 N.W.2d 508, 512-513 (Minn. 1986); Kennecott Holdings v. Liberty Mut. Ins., 561 N.W.2d 189, 192 (Minn.App. 1997).

The 342 plaintiffs in this matter are all former or current employees of the Radford Army Ammunition Plant (hereinafter RAAP) located in Radford Virginia. These plaintiffs worked in Virginia, and are current or former residents of Virginia. None of these individuals live in Minnesota, and there is no evidence that any of the plaintiffs have ever lived in Minnesota. These plaintiffs claim that they suffered hearing losses during their employment at the RAAP.

The RAAP is owned by the Federal Government. Prior to March 15, 1995, the operating contractor of the RAAP was Defendant Hercules, through its operating company Hercules Aerospace. Hercules is a Delaware corporation with its corporate headquarters in Wilmington, Delaware. On March 15, 1995, Defendant Alliant Techsystems, Incorporated (hereinafter Alliant) purchased a number of assets from Hercules, and consequently, became the operating contractor at the RAAP. Alliant is a Delaware corporation with its corporate headquarters in Hopkins, Minnesota.

At this point in time, the corporate headquarters of Alliant provides the only identified connection between this case and Minnesota. With respect to Alliant, many of the plaintiffs' allege injuries occurring before 1995. The parties acknowledge that "a substantial issue to be resolved in this case is whether Alliant assumed the liability for the plaintiffs' injuries when it acquired the plant from Hercules." (Plaintiff's Memorandum of Law in Opposition to Defendant's Joint Motion to Dismiss for Forum Non Conveniens at p. 3). If Alliant did not assume this liability,

then their responsibility for plaintiffs' damages are significantly decreased. In that event, the connection between this matter and a Minnesota forum is also decreased.

With respect to witnesses, the plaintiffs, their family members, their medical records, the physicians who examined them, their coemployees, and the supervisors of the RAAP are located primarily in Virginia. With 342 individual plaintiffs, there is a question whether all the necessary fact witnesses would be available to testify in Minnesota. Additionally, there are substantial costs associated with transporting these witnesses to this jurisdiction, or taking their depositions.

Plaintiffs have indicated that they plan to call at least one, and possibly two, experts from the State of Minnesota. As of yet, however, these potential experts have not been identified. Plaintiffs also claim that key personnel necessary to testify about Alliant's health and safety policies are located in Minnesota. Plaintiffs, however, have not identified any such witnesses, or produced any evidence that these individuals are located in Minnesota. Alliant, on the other hand, has produced affidavits that personnel responsible for implementing the health and safety policies for the RAPP are located primarily in Virginia.

The parties agree that Virginia law will apply in this matter. In fact, this action involves an issue in Virginia law regarding whether plaintiffs' action can be brought as a tort or is covered by Virginia workers' compensation. Recent cases from the United States District Court in the Western District of Virginia, the

Virginia State trial court, and the Virginia Workers' Compensation Commission, indicate that workers' compensation benefits are not available for plaintiffs.

Due to the current trend in Virginia law to denying workers' compensation benefits to plaintiffs, these individuals argue that their claims are covered under general tort principles and do not involve novel interpretations of Virginia law. According to this argument, Minnesota courts can apply these tort principles as easily as a court in Virginia. The issue of whether workers' compensation or tort principles apply to actions like those brought by plaintiffs is still being litigated in Virginia and has not been resolved by a Virginia appellate court.

Finally, if not settled prior to trial, this matter will be expensive to resolve. There are 342 individual plaintiffs, with different damages, and different facts supporting their claims for liability. It is inequitable to expect Minnesota to provide 342 trials for the cost of one filing fee.

Based on the above, the public and private factors weigh heavily in favor of defendants' argument that Virginia is the proper forum for this matter. For the above reasons, defendants' request for dismissal is GRANTED. The question now becomes what conditions the court should place on this dismissal so that plaintiffs do not lose any significant procedural rights they obtained by filing this action in Minnesota.

With respect to conditions of dismissal, defendants are willing to waive defenses which did not exist in Minnesota when



this action was filed on July 1, 1997 involving: personal jurisdiction; process; and limitations periods. In addition to these conditions, however, plaintiffs want defendants to pay the additional filing costs which are anticipated by bringing this matter in Virginia. Plaintiffs also want defendants to waive any objections they may have to joinder of plaintiffs' claims.

The reason for plaintiffs' requests for additional conditions stems from the difference between Minnesota and Virginia joinder rules. In Virginia, plaintiffs allege that they would have to file 342 separate actions and then request that these actions be joined - which request may or may not be granted depending on certain conditions. In Minnesota, however, plaintiffs were able to file one action, and pay one filing fee. The parties anticipate that it will cost approximately \$200.00 per plaintiff to file 342 separate actions in Virginia, for a total additional cost of approximately \$70,000.00.

Even though plaintiffs filed their claims under one case heading, there was no determination by the court regarding the propriety of this action. Pursuant to Rule 21 of the Minnesota Rules of Civil Procedure, "parties may be dropped or added by order of the court on motion of any party or upon the court's own initiative at any stage of the action and on such terms as are just". Since defendants have a right in Minnesota to contest the joinder of plaintiffs in this action, they should retain this right when the case, or cases, are filed in Virginia.

Finally, there is no basis to order defendants to pay any additional filing fees plaintiffs may incur in Virginia. As outlined above, defendants have a right to challenge the joinder of plaintiffs in this case. Additionally, this matter should have been brought in the State of Virginia and defendants should not be monetarily penalized for plaintiffs choice of an inconvenient forum.

For the above reasons, defendants' motion to dismiss for forum non conveniens is GRANTED on the conditions that defendants waive defenses involving: personal jurisdiction, service of process, and statutory limitations which did not exist in Minnesota as of July 1, 1997, the date this matter was filed.

D.H.

## **Selected Hearing Tests & Exams of Plaintiff, Jimmy C. Jones**

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Testing dates:

- 6/01/95
- 9/04/96 Comments by Dr. Clause:  
"Leach in ear when swimming, age 14. Three months exposure, severe noise, no protection, Coleman Furniture. Ears would ring for 2 hours when left work. 'That's when I really damaged my ears.'"
- 11/03/97

JONES JIMMY C 06/01/95  
 SS #: 230-38-1330 Birth: 10/03/34 Sex: M Clock: 15346 Work Shift:  
 Dept: 593 POWER HOUSE # 2 Job:

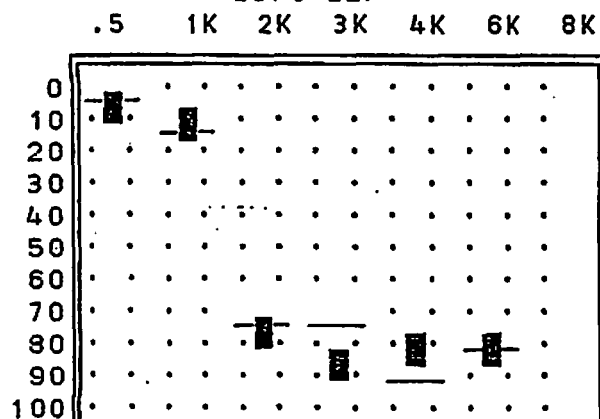
=====MOST RECENT RESULTS (06/01/95)=====

Current OSHA Trend (2,3,4K Avg):..... Worse Hearing  
 Impairment: AAO 1979 FORMULA - ....Left: 28.1% Right: 5.6% Tot: 9.4%  
 Speech Frequency Loss (.5,1,2,3K). Left: MODERATE Right: MILD  
 High Frequency Loss (4 & 6K)..... Left: SEVERE Right: MOD SEVER  
 Referral Based Upon Medical History (History Date = 06/01/95):  
 Ear pain was indicated within the last 12 months  
 Severe ringing has occurred in one or both ears within last 12 months

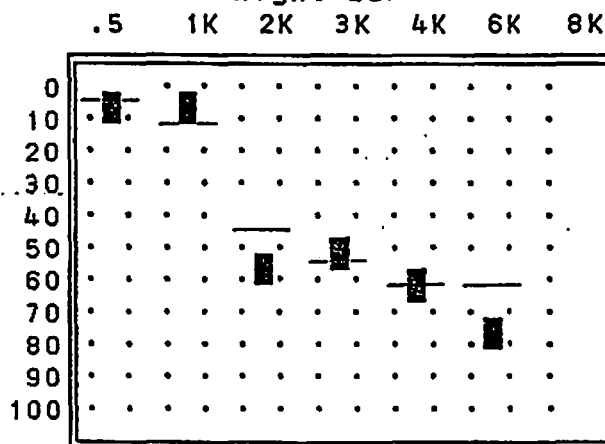
=====MEDICAL HISTORY=====

CONDITION	95	94
10.EAR PAIN*	R	
13.SEVERE RINGING*	B	
15.FLUCTUATING LOSS*		B
26.MEASLES	T	T
33.HIGH NOISE PRIOR		T
36.MILITARY SERVICE	T	
38.LOUD MUSIC/HEADPHONE	T	

=====Left Ear=====Right Ear=====



— Medical Baseline (07/23/83)

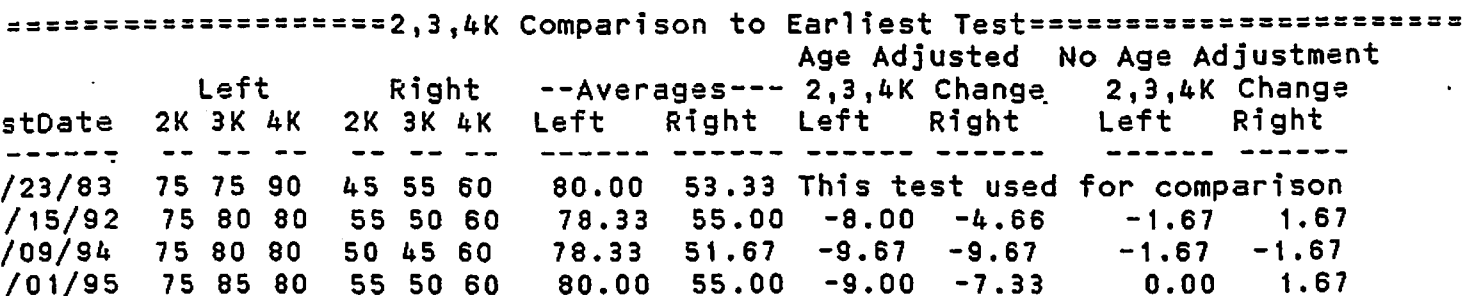


■ Current Test (06/01/95)

=====HEARING TEST DATA=====

Date	LEFT								RIGHT								Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	NT	.5	1K	2K	3K	4K	6K	8K	NT					
06/01/95	5	10	75	85	80	80	NT		5	5	55	50	60	75	NT	86			WORSE	10:04	
06/09/94	5	10	75	80	80	80	NT		5	5	50	45	60	70	NT	86			60% BETTER	10:18	
05/15/92	10	10	75	80	80	80	NT		5	5	55	50	60	80	NT	86			40% NO CHNG	:	
07/23/83	5	15	75	75	90	80	NTBM		5	10	45	55	60	60	NT	86			40% FIRST	:	

Audiometer (06/01/95): MAICO 728M S/N 31638 (RIGHT), S/N: 1638  
 Tester (06/01/95): MCKENZIE, ID:0333



- ☐ Mandatory Referral - Audiologist - Physician  
☐ Questionable Test Results  
☐ Re-Test Required - (how soon) \_\_\_\_\_  
☐ Hearing Loss May Be Due to Medical/Non-Occupational Conditions  
☐ Possible Communication Problems  
☐ Possible Candidate for OSHA Log

Comments: Dr. Bishop exam. 2 yrs. ago, rec. hearing aid. trouble to discernment - some.

Reviewed By: [Signature] Date: 6-1-91

\_\_\_\_\_ signed \_\_\_\_\_ Date \_\_\_\_\_

JONES JIMMY C 09/04/96  
 SS #: 230-38-1330 Birth: 10/03/34 Sex: M Clock: 15346 Work Shift:  
 Dept: 593 POWER HOUSE # 2 Job:

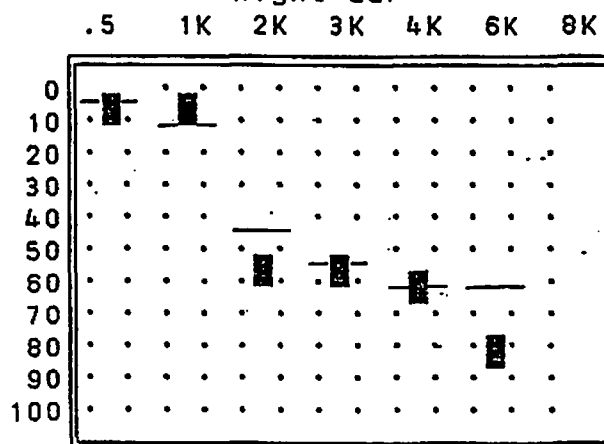
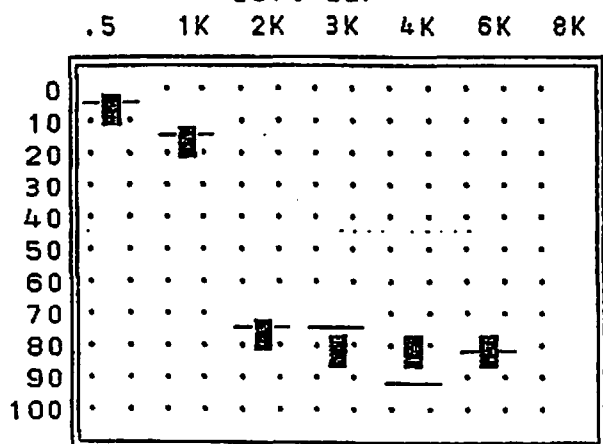
=====MOST RECENT RESULTS (09/04/96)=====

Current OSHA Trend (2,3,4K Avg):..... No Change  
 Impairment: AAO 1979 FORMULA - ....Left: 28.1% Right: 7.5% Tot: 10.9%  
 Speech Frequency Loss (.5,1,2,3K). Left: MODERATE Right: MILD  
 High Frequency Loss (4 & 6K)..... Left: SEVERE Right: MOD SEVER  
 Referral Based Upon Medical History (History Date = 09/04/96):  
 Severe ringing has occurred in one or both ears within last 12 months

=====MEDICAL HISTORY=====

CONDITION	96	95	94
10.EAR PAIN*		R	
13.SEVERE RINGING*	B	B	
15.FLUCTUATING LOSS*			B
26.MEASLES	T	T	T
33.HIGH NOISE PRIOR	T		T
36.MILITARY SERVICE	T	T	
38.LOUD MUSIC/HEADPHONE		T	

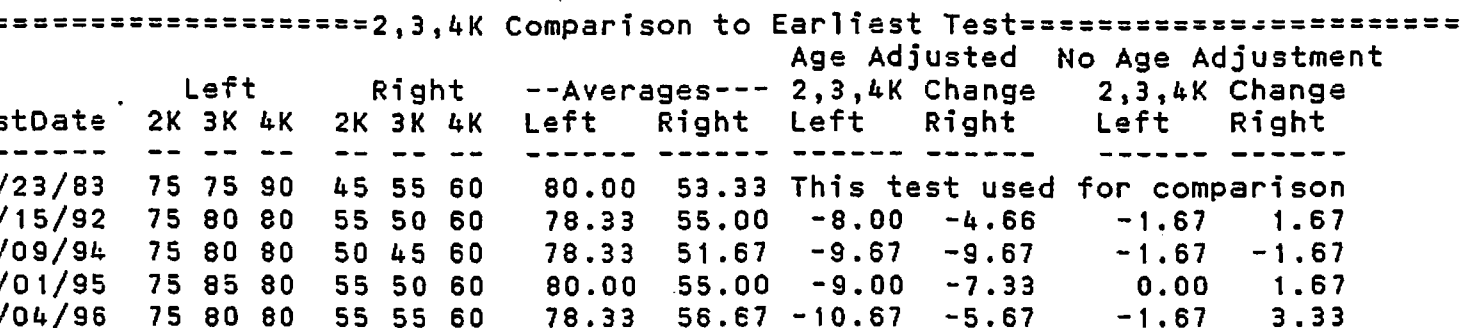
=====Left Ear=====Right Ear=====



=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
09/04/96	5	15	75	80	80	80	NT	5	5	55	55	60	80	NT	86	100%	NO CHNG	08:39	
06/01/95	5	10	75	85	80	80	NT	5	5	55	50	60	75	NT	86		WORSE	10:04	
06/09/94	5	10	75	80	80	80	NT	5	5	50	45	60	70	NT	86	60%	BETTER	10:18	
05/15/92	10	10	75	80	80	80	NT	5	5	55	50	60	80	NT	86	40%	NO CHNG	:	
07/23/83	5	15	75	75	90	80	NTBM	5	10	45	55	60	60	NT	86	40%	FIRST	:	

Audiometer (09/04/96): MAICO 728M S/N 31466 (LEFT), S/N: 1466  
 Tester (09/04/96): SANTOROSKI, ID:0339



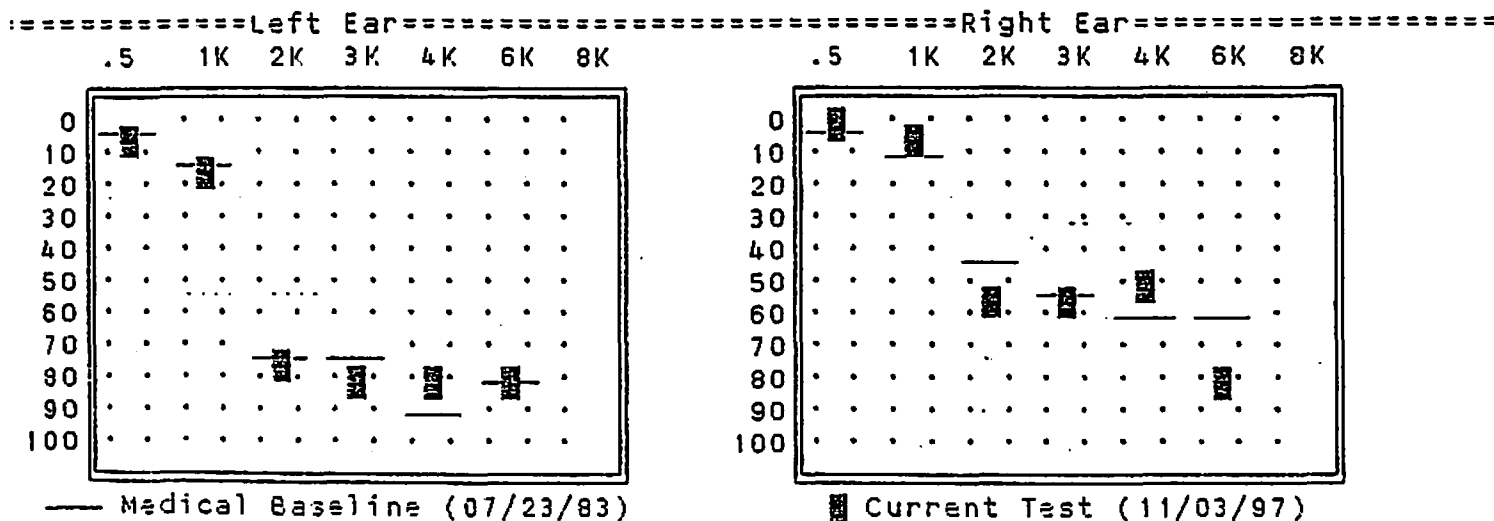
- ☐ Mandatory Referral - Audiologist - Physician
- ☐ Questionable Test Results
- ☒ Re-Test Required - (how soon) \_\_\_\_\_
- ☐ Hearing Loss May Be Due to Medical/Non-Occup
- ☐ Possible Communication Problems
- ☐ Possible Candidate for OSHA Log

Comments: Coach in car p swimming, age 14. 3 mos. exposure, sex. notes,  
no protection, Coleman Family. Car went by - for 2 hrs. p left with  
viewed By: \_\_\_\_\_ Date: 1/1/86 That's when I really  
tampered my ears." RP 9.4.86  
Protection implemented 7-8-85 RP

Date \_\_\_\_\_

NAMES JIMMY C 11/03/97  
 #: 230-38-1330 Birth: 10/03/34 Sex: M Clock: 15346 Work Shift:  
 Apt: 593 POWER HOUSE # 2 Job:  
 =====MOST RECENT RESULTS (11/03/97)=====  
 Current OSHA Trend (2,3,4K Avg):..... Better Hearing  
 Impairment: AAO 1979 FORMULA - ....Left: 28.1% Right: 5.6% Tot: 9.4%  
 Speech Frequency Loss (.5,1,2,3K). Left: MODERATE Right: MILD  
 High Frequency Loss (4 & 6K)..... Left: SEVERE Right: MOD SEVER

=====MEDICAL HISTORY=====  
 CONDITION 97 96 95 94  
 -----  
 1. EAR PAIN\* R  
 2. SEVERE RINGING\* B B  
 3. FLUCTUATING LOSS\* B  
 4. MEASLES T T T T  
 5. HIGH NOISE PRIOR T T  
 6. HEAD COLD TODAY T  
 7. MILITARY SERVICE T T T  
 8. LOUD MUSIC/HEADPHONE T

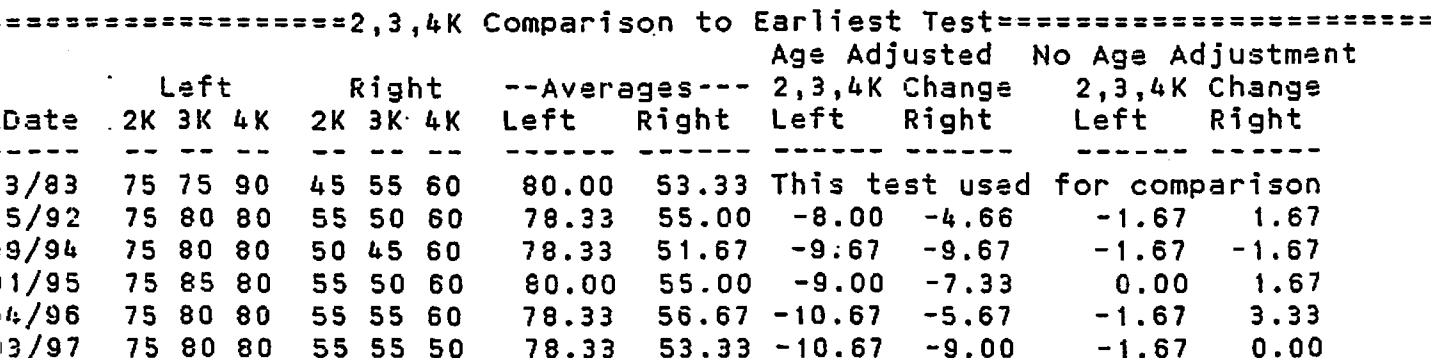


=====HEARING TEST DATA=====  

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
11/03/97	5	15	75	80	80	80	NT	0	5	55	55	50	80	NT	86		BETTER	10:13	
03/04/96	5	15	75	80	80	80	NT	5	5	55	55	60	80	NT	86	100%	NO CHNG	09:39	
05/01/95	5	10	75	85	80	80	NT	5	5	55	50	60	75	NT	86		WORSE	10:04	
03/09/94	5	10	75	80	80	80	NT	5	5	50	45	60	70	NT	86	60%	BETTER	10:18	
03/15/92	10	10	75	80	90	80	NT	5	5	55	50	60	80	NT	86	40%	NO CHNG	:	
07/23/83	5	15	75	75	90	80	NTBM	5	10	45	55	60	60	NT	86	40%	FIRST	:	

 Audiometer (11/03/97): MAICO 720M S/N 31466 (LEFT), S/N: 1466  
 Tester (11/03/97): SANTOROSKI, ID:0339





- Mandatory Referral - Audiologist - Physician  
 — Questionable Test Results  
 — Re-Test Required - (how soon) \_\_\_\_\_  
 — Hearing Loss May Be Due to Medical/Non-Occupational Conditions  
 — Possible Communication Problems  
 — Possible Candidate for OSHA Log
- See 6/1/95*  
*9.4.96*

ents: Registered protection, 25 mandated 7885.

ewed By: Alamy Date: 11-3-97.

## **Selected Hearing Tests & Exams of Plaintiff, Buddy J. Dickerson**

---

Testing dates:

- 11/18/96 Comments by Dr. Clause:  
"Child - frequent infections, earaches. Formerly  
'shoot alot,' chainsaw, heavy equipment,  
farm tractor, no protection. Also auto  
races. Now uses protection."
- 11/17/97

CKERSON BUDDY J 11/18/96  
 #: 227-56-5717 Birth: 01/15/44 Sex: M Clock: 16526 Work Shift:  
 pt: 591 WATER & WASTE TREATM Job:  
 =====MOST RECENT RESULTS (11/18/96)=====

Current OSHA Trend (2,3,4K Avg):..... No Change

Pairment: AAO 1979 FORMULA - ....Left: 3.8% Right: 0.0% Tot: 0.6%

Each Frequency Loss (.5,1,2,3K). Left: MILD Right: NORMAL

High Frequency Loss (4 & 6K)..... Left: SEVERE Right: SEVERE

Referral Based Upon Medical History (History Date = 11/18/96):

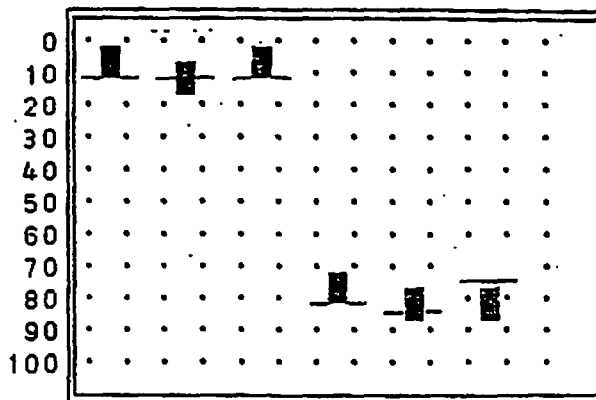
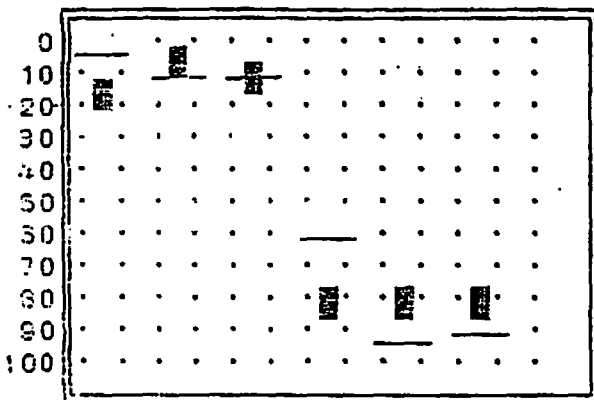
Severe ringing has occurred in one or both ears within last 12 months

=====MEDICAL HISTORY=====

CONDITION	96	95
SEVERE RINGING*	B	
RECENT PRESCR'N DRUGS	T	
HIGH BLOOD PRESSURE	T	T
MUMPS	T	T
MEASLES	T	T
VISIBLE WAX/OBJECT*	L	
FAMILY HEARING LOSS	T	T
MILITARY SERVICE	T	T
NOISY HOBBIES	T	

=====Left Ear=====Right Ear=====

.5 1K 2K 3K 4K 6K 8K .5 1K 2K 3K 4K 6K 8K



=====HEARING TEST DATA=====

Date	LEFT								RIGHT								Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K							
11/18/96	15	5	10	80	80	80	NT	5	10	5	75	80	80	NT	84		NO CHNG	09:47			
11/95	10	5	5	80	80	80	NT	5	5	5	80	80	80	NT	84		0% BETTER	10:35			
11/96	5	10	10	60	95	90	NT	10	10	10	80	85	75	NT			FIRST				

Biometer (11/18/96): MAICO 728M S/N 31466 (LEFT), S/N: 1466

Biometer (11/18/96): SANTOROSKI, ID:0339



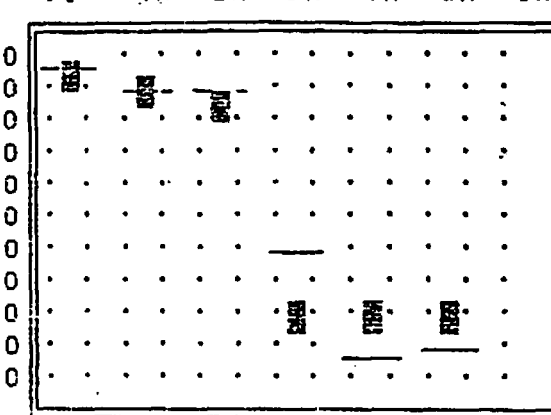
ERSON BUDDY J. 11/17/97  
 : 227-56-5717 Birth: 01/15/44 Sex: M Clock: 16526 Work Shift:  
 : 591 WATER & WASTE TREATM Job:  
 =====MOST RECENT RESULTS (11/17/97)=====  
 ent OSHA Trend (2,3,4K Avg):..... No Change  
 irment: AAO 1979 FORMULA - ....Left: 3.8% Right: 0.0% Tot: 0.6%  
 ch Frequency Loss (.5,1,2,3K). Left: MILD Right: NORMAL  
 Frequency Loss (4 & 6K)..... Left: SEVERE Right: SEVERE  
 rral Based Upon Medical History (History Date = 11/17/97):  
 r pain was indicated within the last 12 months  
 vere ringing has occurred in one or both ears within last 12 months  
 sible evidence of cerumen accumulation or foreign body in ear canal

=====MEDICAL HISTORY=====

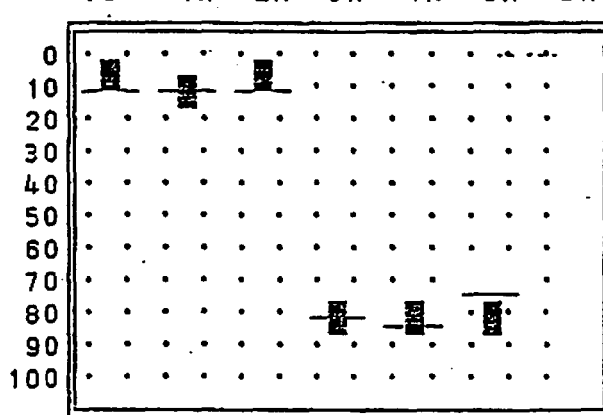
ITION. 97 96 95

AR PAIN\* L  
 EVERE RINGING\* B B  
 ECENT PRESCR'N DRUGS T T  
 IGH BLOOD PRESSURE T T T  
 UMPS T T T  
 EASLES T T T  
 ISIBLE WAX/OBJECT\* L L  
 AMILY HEARING LOSS T T T  
 ILITARY SERVICE T T T  
 OISY HOBBIES T T

=====Left Ear=====Right Ear=====



— Medical Baseline (02/18/86)



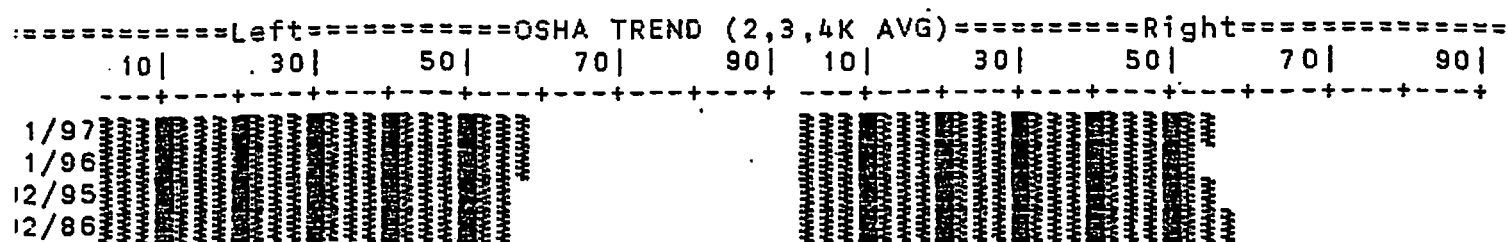
■ Current Test (11/17/97)

=====HEARING TEST DATA=====

Date	LEFT								RIGHT								Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K							
7/97	5	10	15	80	80	80	NT	5	10	5	80	80	80	NT	84		NO CHNG	09:14			
8/96	15	5	10	80	80	80	NT	5	10	5	75	80	80	NT	84		NO CHNG	09:47			
7/95	10	5	5	80	80	80	NT	5	5	5	80	80	80	NT	84		0% BETTER	10:35			
8/86	5	10	10	60	95	90	NT	10	10	10	80	85	75	NT			FIRST				

ometer (11/17/97): MATCO 729M S/N 31466 (LEFT), S/N: 1466  
 er (11/17/97): MCKENZIE, ID:0333

11/17/97



```
=====2,3,4K Comparison to Earliest Test=====
```

2,3,4K Comp. Test										Age Adjusted		No Age Adjustment	
TestDate	Left			Right			--Averages--		2,3,4K Change		2,3,4K Change		
	2K	3K	4K	2K	3K	4K	Left	Right	Left	Right	Left	Right	
2/18/86	10	60	95	10	80	85	55.00	58.33	This test used for comparison				
12/17/95	5	80	80	5	80	80	55.00	55.00	-4.67	-8.00	0.00	-3.33	
1/18/96	10	80	80	5	75	80	56.67	53.33	-4.00	-10.67	1.67	-5.00	
1/17/97	15	80	80	5	80	80	58.33	55.00	-3.01	-9.67	3.33	-3.33	

           Mandatory Referral - Audiologist - Physician

Questionable Test Results

Re-Test Required - (how soon)

☒ Hearing Loss May Be Due to Medical/Non-Occupational Conditions *El 11/18/16*

### Possible Communication Problems

### Possible Candidate for OSHA Log

Comments: Examination marked - 2:18:06.

Reviewed by:

Date:

Signed \_\_\_\_\_ Date \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT A-12**

## **Selected Hearing Tests of Plaintiff, Sidney H. Stroupe**

---

Testing dates:

- 5/31/95 Comments by Dr. Clause:  
"former auto race driver, pit for son,  
deer hunter, no protection."
- 4/03/96
- 6/05/97

STROUPE SIDNEY 05/31/95  
 S #: 223-62-9803 Birth: 02/24/46 Sex: M Clock: 17549 Work Shift: E  
 Dept: 751 MAGAZINE AREA Job:

=====MOST RECENT RESULTS (05/31/95)=====

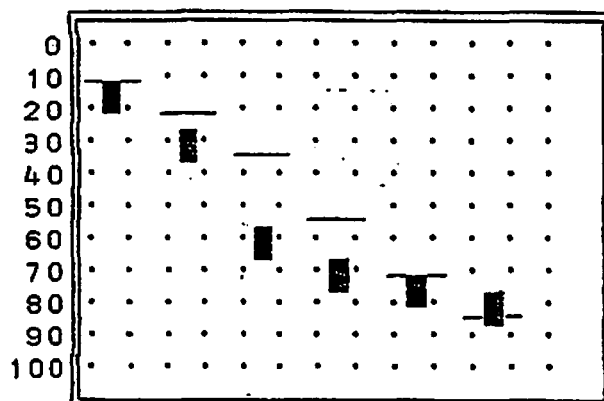
Current OSHA Trend (2,3,4K Avg):..... No Change  
 Impairment: AAO 1979 FORMULA - ....Left: 28.1% Right: 20.6% Tot: 21.9%  
 Speech Frequency Loss (.5,1,2,3K). Left: MODERATE Right: MILD  
 High Frequency Loss (4 & 6K)..... Left: SEVERE Right: MOD SEVER  
 Referral Based Upon Medical History (History Date = 05/31/95):  
 Ear pain was indicated within the last 12 months

=====MEDICAL HISTORY=====

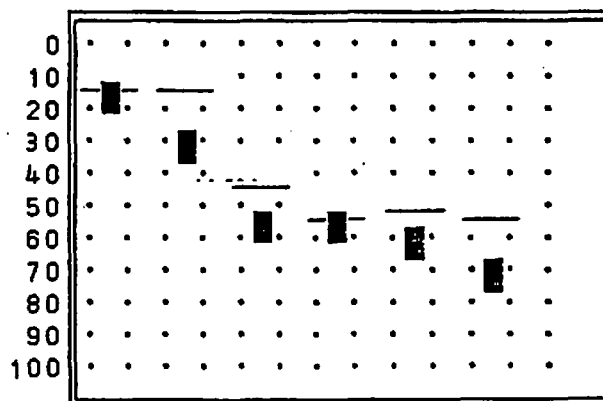
CONDITION	95	94
0.EAR PAIN*	R	
12.DIZZINESS/IMBALANCE*		T
19.HIGH BLOOD PRESSURE	T	T
20.SEE MD FOR EARS		B
23.WEAR HEARING AID		R
24.MUMPS	T	T
26.MEASLES	T	T
32.FAMILY HEARING LOSS		T
35.HEAD COLD TODAY	T	

=====Left Ear=====Right Ear=====

.5 1K 2K 3K 4K 6K 8K



.5 1K 2K 3K 4K 6K 8K



— Medical Baseline (03/30/83)

■ Current Test (05/31/95)

=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
05/31/95	15	30	60	70	75	80	NT	15	30	55	55	60	70	NT	97		40%	NO CHNG	09:56
05/20/94	10	30	60	70	80	70	NT	10	30	55	60	55	75	NT	97		100%	STS	13:19
05/15/92	5	30	50	65	75	70	NT	10	25	50	50	55	70	NT	97			WORSE	:
03/30/83	10	20	35	55	70	85	NTBM	15	15	45	55	50	55	NT	97		40%	FIRST	:

Audiometer (05/31/95): MAICO 728M S/N 31638 (RIGHT), S/N: 1638  
 Tester (05/31/95): SANTOROSKI, ID:0339



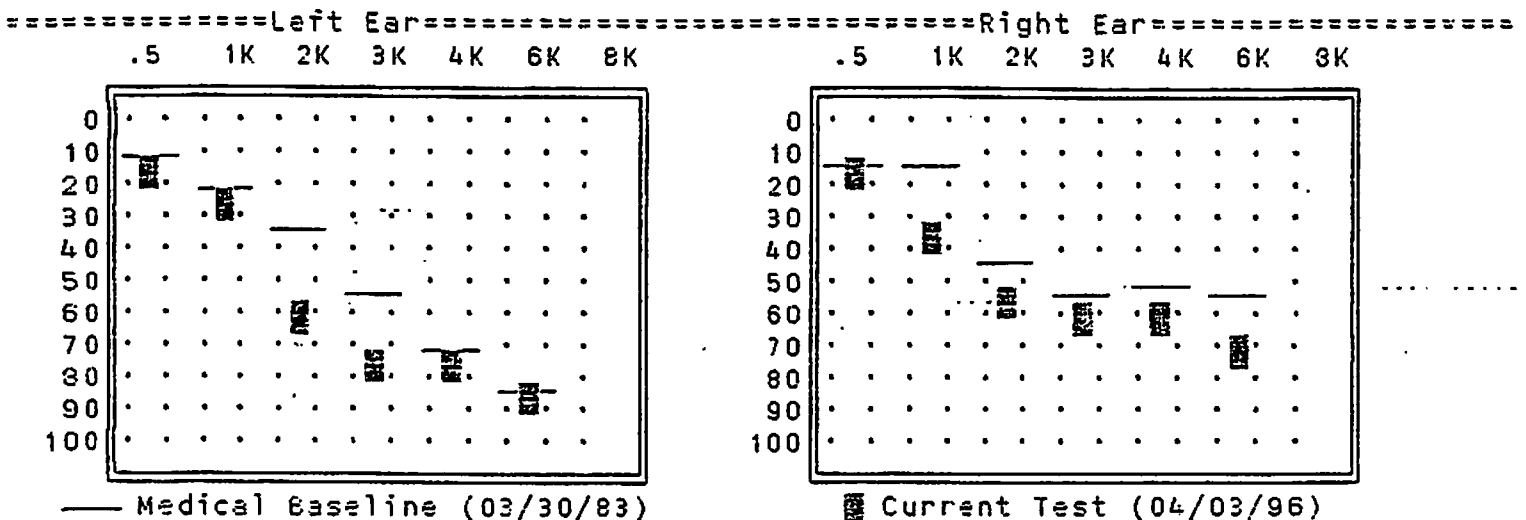


STROUPE SIDNEY 04/03/96  
 SS #: 223-62-9803 Birth: 02/24/46 Sex: M Clock: 17549 Work Shift: E  
 Dept: 751 MAGAZINE AREA Job:  
 =====MOST RECENT RESULTS (04/03/96)=====

Current OSHA Trend (2,3,4K Avg):..... No Change	
Impairment: AAO 1979 FORMULA - ....Left: 28.1%	Right: 24.4% Tot: 25.0%
Speech Frequency Loss (.5,1,2,3K). Left: MODERATE	Right: MODERATE
High Frequency Loss (4 & 6K)..... Left: SEVERE	Right: MOD SEVER

=====MEDICAL HISTORY=====

CONDITION	96	95	94
10.EAR PAIN*	R		
12.DIZZINESS/IMBALANCE*			T
18.RECENT PRESCR'N DRUGS	T		
19.HIGH BLOOD PRESSURE	T	T	T
20.SEE MD FOR EARS			B
23.WEAR HEARING AID	R		R
24.MUMPS		T	T
26.MEASLES	T	T	T
32.FAMILY HEARING LOSS	T		T
35.HEAD COLD TODAY		T	



=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
04/03/96	15	25	60	75	75	85	NT	15	35	55	60	60	70	NT	97		100%	NO CHNG	12:13
05/31/95	15	30	60	70	75	80	NT	15	30	55	55	60	70	NT	97		40%	NO CHNG	09:56
05/20/94	10	30	60	70	80	70	NTB	10	30	55	60	55	75	NT	97		100%	STE	13:19
05/15/92	5	30	50	65	75	70	NT	10	25	50	50	55	70	NT	97			WORSE	:
03/30/83	10	20	35	55	70	85	NT	M15	15	45	55	50	55	NT	97		40%	FIRST	:

Audiometer (04/03/96): MAICO 728M S/N 31466 (LEFT), S/N: 1466  
 Tester (04/03/95): MCKENZIE, ID:0333

=====2,3,4K Comparison to Earliest Test=====												
								Age Adjusted		No Age Adjustment		
Left		Right		--Averages--		2,3,4K Change		2,3,4K Change				
stDate	2K	3K	4K	2K	3K	4K	Left	Right	Left	Right	Left	Right
-----	--	--	--	--	--	--	-----	-----	-----	-----	-----	-----
/30/83	35	55	70	45	55	50	53.33	50.00	This test used for comparison			
/15/92	50	65	75	50	50	55	63.33	51.67	5.67	-2.66	10.00	1.67
/20/94	60	70	80	55	60	55	70.00	56.67	11.67	1.67	16.67	6.67
/31/95	60	70	75	55	55	60	68.33	56.67	9.00	0.67	15.00	6.67
/03/96	60	75	75	55	60	60	70.00	58.33	10.00	1.66	16.67	8.33

- ☐ Mandatory Referral - Audiologist - Physician
- ☐ Questionable Test Results
- ☐ Re-Test Required - (how soon) \_\_\_\_\_
- ☒ Hearing Loss May Be Due to Medical/Non-Occupational Conditions
- ☐ Possible Communication Problems
- ☐ Possible Candidate for OSHA Log

Comments:

viewed By:

Date:

ended

Date \_\_\_\_\_

TRouPE	SIDNEY	H			06/05/97
S #:	223-62-9803	Birth:	02/24/46	Sex: M	Clock: 17549
Dept:	751	MAGAZINE AREA		Job:	Work Shift: E

```

=====MOST RECENT RESULTS (06/05/97)=====
Current OSHA Trend (2,3,4K Avg):..... Better Hearing
Impairment: AAO 1979 FORMULA - ....Left: 26.3%           Right: 20.6%   Tot: 21.6%
Speech Frequency Loss (.5,1,2,3K). Left: MODERATE         Right: MILD
High Frequency Loss (4 & 6K)..... Left: SEVERE           Right: MOD SEVER

```

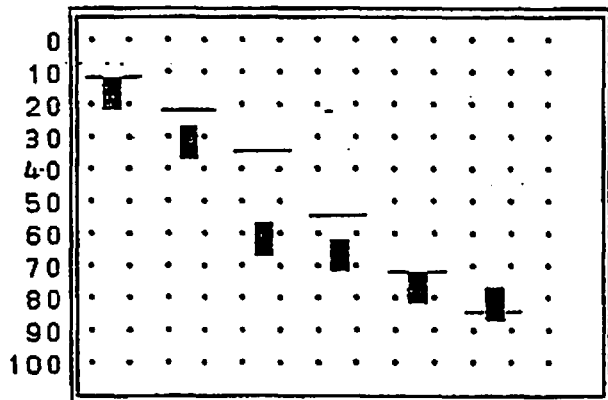
```
=====MEDICAL HISTORY=====
CONDITION          97 96 95 94
```

10.EAR PAIN*				R	
12.DIZZINESS/IMBALANCE*					T
18.RECENT PRESCR'N DRUGS	T	T			
19.HIGH BLOOD PRESSURE	T	T	T		T
20.SEE MD FOR EARS					B
23.WEAR HEARING AID	B	R			R
24.MUMPS				T	T
26.MEASLES	T	T	T		T
32.FAMILY HEARING LOSS	T	T			T
35.HEAD COLD TODAY				T	
37.NOISY HOBBIES	T				

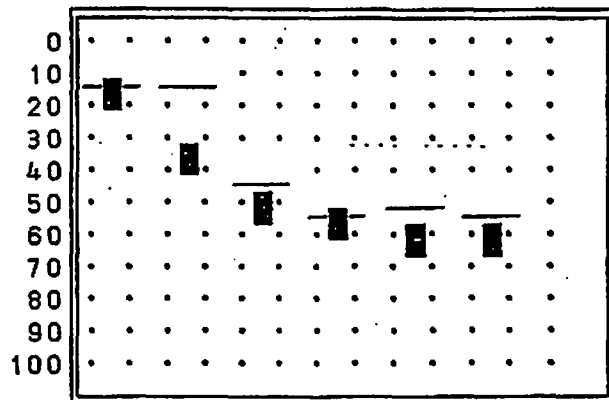
```

=====Left Ear=====Right Ear=====
      .5    1K   2K   3K   4K   6K   8K      .5    1K   2K   3K   4K   6K   8K

```



— Medical Baseline (03/30/83)



Current Test (06/05/97)

=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
06/05/97	15	30	60	65	75	80	NT	15	35	50	55	60	60	NT	97		BETTER	09:59	
04/03/96	15	25	60	75	75	85	NT	15	35	55	60	60	70	NT	97	100%	NO CHNG	12:13	
05/31/95	15	30	60	70	75	80	NT	15	30	55	55	60	70	NT	97	40%	NO CHNG	09:56	
05/20/94	10	30	60	70	80	70	NTB	10	30	55	60	55	75	NT	97	100%	STS	13:19	
05/15/92	5	30	50	65	75	70	NT	10	25	50	50	55	70	NT	97		WORSE	:	
03/30/83	10	20	35	55	70	85	NT	M15	15	45	55	50	55	NT	97	40%	FIRST	:	

Audiometer (06/05/97): MAICO 728M S/N 31466 (LEFT), S/N: 1466

Tester (06/05/97): SANTOROSKI, ID:0339



## **Selected Hearing Tests & Exams of Plaintiff, Anthony Nixon**

---

### **Testing dates:**

- 9/11/95 Comments by Dr. Clause:  
"Goes to races every Saturday nite.  
No earplugs uses helmet only. Has had tinnitus,  
hearing loss since, U.S. Navy, 1975-78 – 'Never filed  
for disability, figuring if it was gone, it was gone.'"
- 11/13/95
- 9/10/96

ANTHONY  
 #: 231-78-2694 Birth: 04/07/56 Sex: M Clock: 26137 Work Shift: E  
 : 531 CAST SHOP Job:

09/11/95

=====MOST RECENT RESULTS (09/11/95)=====

ING SUGGESTED - L vs R differences exceed 50 at .5-4K or 50 at 6K.  
 rent OSHA Trend (2,3,4K Avg):..... No Change  
 irment: AAO 1979 FORMULA - ....Left: 0.0% Right: 0.0% Tot: 0.0%  
 ech Frequency Loss (.5,1,2,3K). Left: NORMAL Right: NORMAL  
 Frequency Loss (4 & 6K)..... Left: MOD SEVER Right: NORMAL  
 ical Referral Based Upon Hearing Levels (Medical Baseline = 02/14/83):  
 ange in avg hearing compared to base of more than 20 dB (3,4,6 kHz)  
 eral Based Upon Medical History (History Date = 09/11/95):  
 zzziness/imbalance was experienced within the last 12 months  
 evere ringing has occurred in one or both ears within last 12 months

=====MEDICAL HISTORY=====

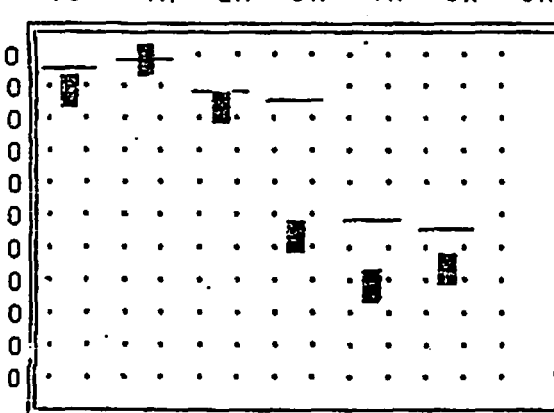
CONDITION	95	95	94
DIZZINESS/IMBALANCE*	T	T	T
EVERE RINGING*	B		
RECENT PRESCR'N DRUGS			T
EASLES	T	T	T
ALLERGIES	T	T	
IGH NOISE PRIOR	T		
NO HPD BEFORE TEST	T		
MILITARY SERVICE	T	T	T
NOISY HOBBIES	T	T	T
LOUD MUSIC/HEADPHONE		T	T

ments:

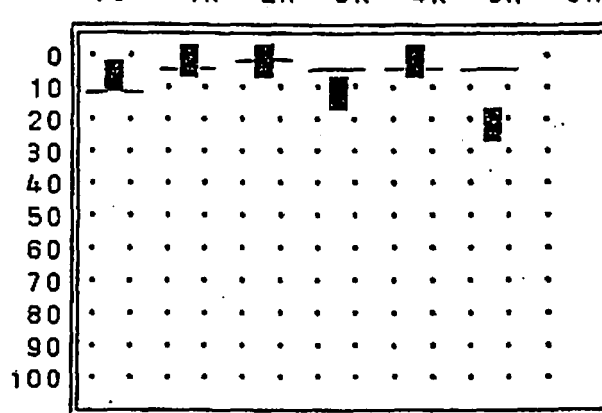
/11/95 GOES TO RACES EVERY SATURDAY NITE NO EARPLUGS USES  
 /11/95 HELMET ONLY

=====Left Ear=====Right Ear=====

.5 1K 2K 3K 4K 6K 8K



.5 1K 2K 3K 4K 6K 8K



— Medical Baseline (02/14/83)

■ Current Test (09/11/95)

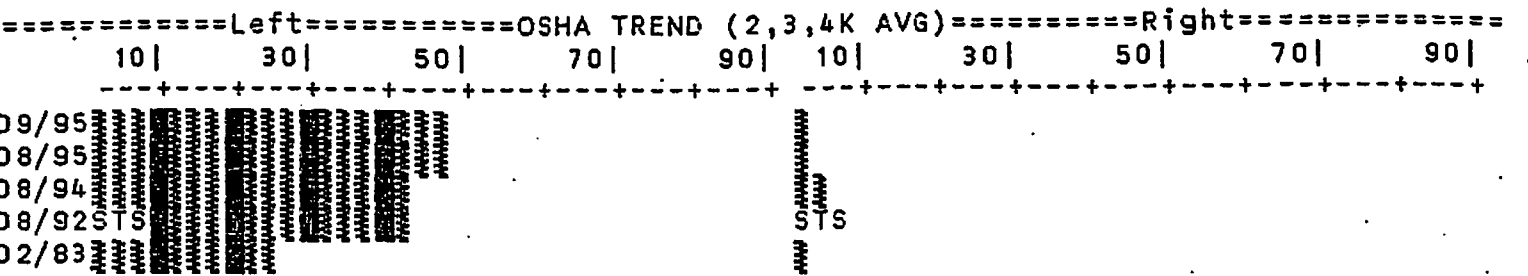
=====HEARING TEST DATA=====

te	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
1/95	10	0	15	55	70	65	NT	5	0	0	10	0	20	NT	50		NO CHNG	08:39	
1/95	10	5	20	55	65	60	NT	10	0	0	5	0	15	NT	50		WORSE	09:38	
2/94	5	0	20	45	60	55	NT	5	0	0	10	5	15	NT	50		NO CHNG	13:49	

=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
08/03/92	5	5	15	50	65	60	NTB	5	0	0	10	0	10	NT	50	100%	STS	:	
02/14/83	5	0	10	15	50	55	NT M10	5	0	5	5	5	NT	50	100%	FIRST	:		

Audiometer (09/11/95): MAICO 728M S/N 31466 (LEFT), S/N: 1466  
Tester (09/11/95): MCKENZIE, ID:0333



=====2,3,4K Comparison to Earliest Test=====

TestDate	Left			Right			--Averages--		Age Adjusted 2,3,4K Change		No Age Adjustment 2,3,4K Change	
	2K	3K	4K	2K	3K	4K	Left	Right	Left	Right	Left	Right
02/14/83	10	15	50	0	5	5	25.00	3.33	This test used for comparison			
08/03/92	15	50	65	0	10	0	43.33	3.33	14.99	-3.34	18.33	0.00
08/22/94	20	45	60	0	10	5	41.67	5.00	12.67	-2.33	16.67	1.67
08/04/95	20	55	65	0	5	0	46.67	1.67	17.00	-6.34	21.67	-1.67
09/11/95	15	55	70	0	10	0	46.67	3.33	17.00	-4.67	21.67	0.00

- =====
- ☐ Mandatory Referral - Audiologist - Physician
  - ☐ Questionable Test Results
  - ☒ Re-Test Required - (how soon) 60 days
  - ☐ Hearing Loss May Be Due to Medical/Non-Occupational Conditions
  - ☐ Possible Communication Problems
  - ☐ Possible Candidate for OSHA Log

Comments: Rt. ear improved. Lt. ear unchanged. Bilat. tinnitus.  
He had tinnitus, hearing loss since, U.S. Army, 1975-78, "never  
fixed for  
Reviewed By: \_\_\_\_\_ Date: \_\_\_\_\_  
disability, figuring if it was gone, it was gone." @ 9-11-95.  
Rec. ENT Exam.

Signed \_\_\_\_\_ Date \_\_\_\_\_



ON ANTHONY 11/13/95  
#: 231-78-2694 Birth: 04/07/56 Sex: M Clock: 26137 Work Shift: E  
t: 531 CAST SHOP Job:

=====MOST RECENT RESULTS (11/13/95)=====  
RINGING SUGGESTED - L vs R differences exceed 50 at .5-4K or 50 at 6K.  
Current OSHA Trend (2,3,4K Avg):..... Better Hearing  
Hearing: AAO 1979 FORMULA - ....Left: 0.0% Right: 0.0% Tot: 0.0%  
Speech Frequency Loss (.5,1,2,3K). Left: NORMAL Right: NORMAL  
High Frequency Loss (4 & 6K)..... Left: MOD SEVER Right: NORMAL  
Referral Based Upon Medical History (History Date = 11/13/95):  
Severe ringing has occurred in one or both ears within last 12 months

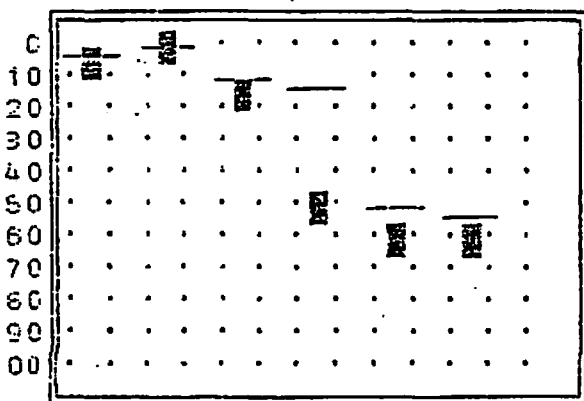
=====MEDICAL HISTORY=====

CONDITION	95	95	95	94
DIZZINESS/IMBALANCE*	T	T	T	
SEVERE RINGING*	B	B		
RECENT PRESCR'N DRUGS				T
MEASLES	T	T	T	
ALLERGIES	T	T		
HIGH NOISE PRIOR	T			
NO HPD BEFORE TEST	T			
MILITARY SERVICE	T	T	T	T
NOISY HOBBIES	T	T	T	T
LOUD MUSIC/HEADPHONE			T	T

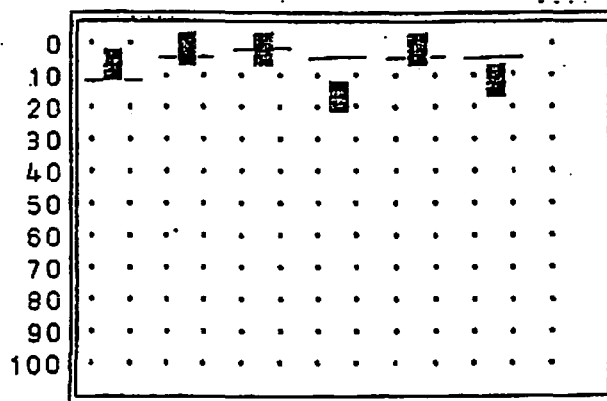
Comments:  
9/11/95 GOES TO RACES EVERY SATURDAY NITE NO EARPLUGS USES  
9/11/95 HELMET ONLY

=====Left Ear=====Right Ear=====

.5 1K 2K 3K 4K 6K 8K



.5 1K 2K 3K 4K 6K 8K



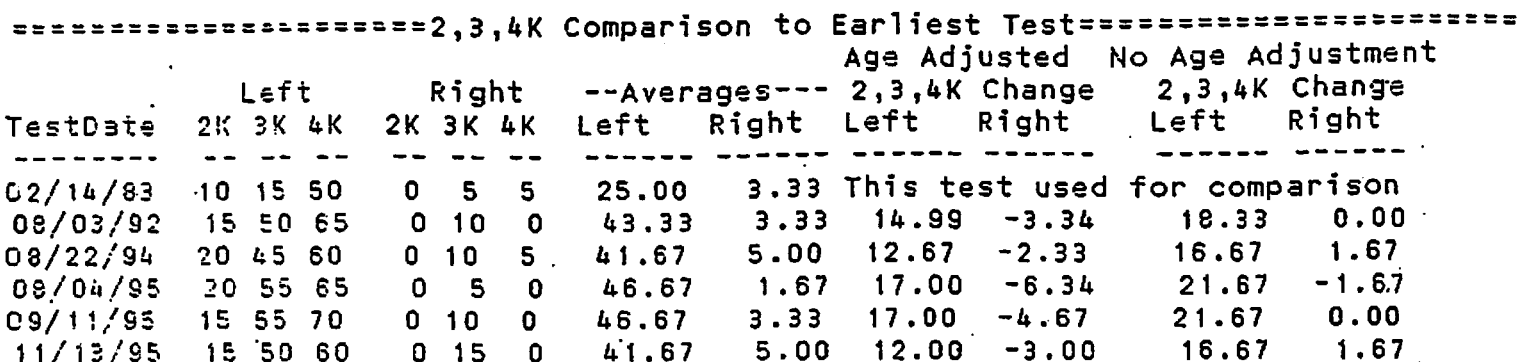
— Medical Baseline (02/14/83)

■ Current Test (11/13/95)

=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
11/13/95	5	0	15	50	60	60	NT	5	0	0	15	0	10	NT	50	40%	BETTER	09:47	
11/95	10	0	15	55	70	65	NT	5	0	0	10	0	20	NT	50		NO CHNG	08:39	
04/95	10	5	20	55	65	50	NT	10	0	0	5	0	15	NT	50		WORSE	09:38	
22/94	5	0	20	45	60	55	NT	5	0	0	10	5	15	NT	50		NO CHNG	13:49	
03/92	5	5	15	50	65	60	NT	5	0	0	10	0	10	NT	50	100%	STS	:	
14/83	5	0	10	15	50	55	NT	M10	5	0	5	5	5	NT	50	100%	FIRST	:	

Diometer (11/13/95): MAICO 720M S/N 31466 (LEFT), S/N: 1466  
tar (11/13/95): GRAVES, ID:0306



- ☐ Mandatory Referral - Audiologist - Physician  
☐ Questionable Test Results  
☒ Re-Test Required - (how soon) *next annual exam*  
☐ Hearing Loss May Be Due to Medical/Non-Occupational Conditions  
☐ Possible Communication Problems  
☐ Possible Candidate for OSHA Log

COMMENTS: Significant improvement since 9-11-95. Not met for ENT-M.D., advised to do so again; he plans to.

Reviewed by:

✓  
Date:

Strongly urged leaving protection, during his nursing, off  
work 20th Nov. *Alava 11.13.95*

KON ANTHONY E 09/10/96  
 #: 231-78-2694 Birth: 04/07/56 Sex: M Clock: 26137 Work Shift: E  
 pt: 531 CAST SHOP Job:

=====MOST RECENT RESULTS (09/10/96)=====  
 SKING SUGGESTED - L vs R differences exceed 50 at .5-4K or 50 at 6K.  
 -rent OSHA Trend (2,3,4K Avg):..... Worse Hearing  
 pairment: AAO 1979 FORMULA - ....Left: 0.0% Right: 0.0% Tot: 0.0%  
 eech Frequency Loss (.5,1,2,3K). Left: NORMAL Right: NORMAL  
 gh Frequency Loss (4 & 6K)..... Left: MOD SEVER Right: NORMAL  
 ical Referral Based Upon Hearing Levels (Medical Baseline = 02/14/83):  
 hange in avg hearing compared to base of more than 20 dB (3,4,6 kHz)  
 erral Based Upon Medical History (History Date = 09/10/96):  
 Severe ringing has occurred in one or both ears within last 12 months

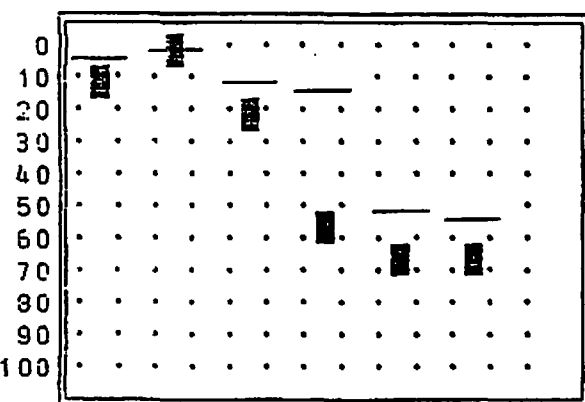
=====MEDICAL HISTORY=====

CONDITION	96	95	95	95	94
DIZZINESS/IMBALANCE*			T	T	T
SEVERE RINGING*	B	B	B		
RECENT PRESCR'N DRUGS					T
MUMPS	T				
MEASLES	T		T	T	T
ALLERGIES	T		T	T	
HIGH NOISE PRIOR			T		
NO HPD BEFORE TEST			T		
MILITARY SERVICE	T	T	T	T	T
NOISY HOBBIES	T	T	T	T	T
LOUD MUSIC/HEADPHONE				T	T

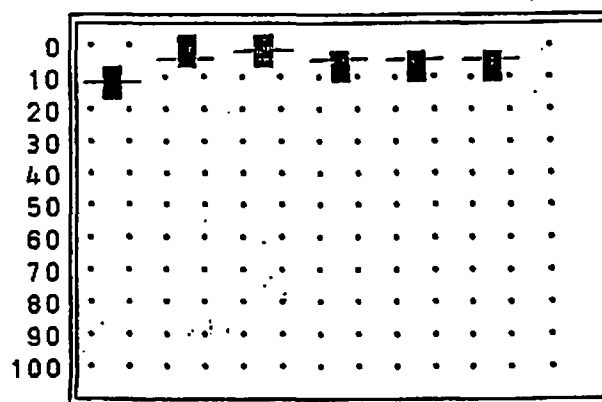
Comments:  
 09/11/95 GOES TO RACES EVERY SATURDAY NITE NO EARPLUGS USES  
 09/11/95 HELMET ONLY

=====Left Ear=====Right Ear=====

.5 1K 2K 3K 4K 6K 8K



.5 1K 2K 3K 4K 6K 8K



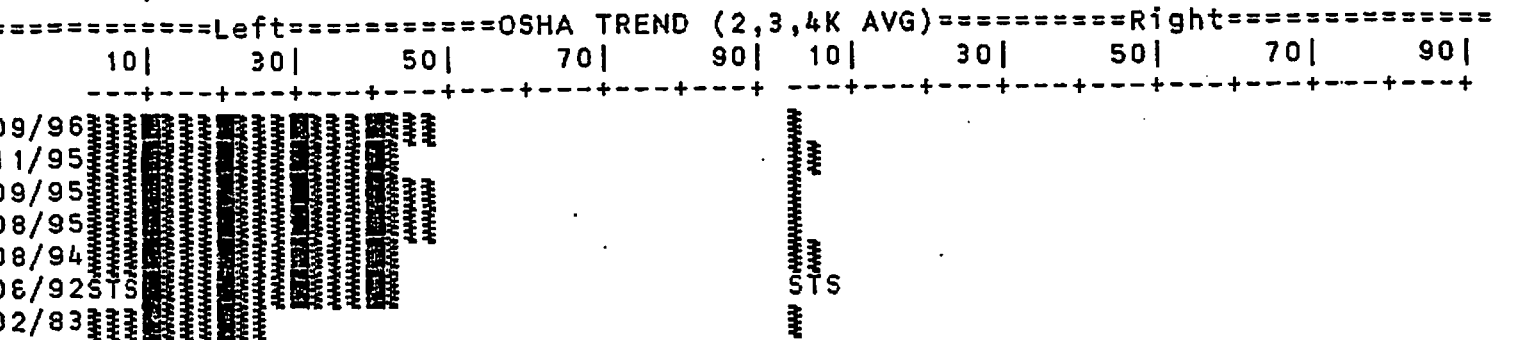
— Medical Baseline (02/14/83)

■ Current Test (09/10/96)

=====HEARING TEST DATA=====

Date	LEFT							RIGHT							Dpt	Job	HPD USE	2,3,4K Result	TIME
	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K					
/10/96	10	0	20	55	65	65	NT	10	0	0	5	5	5	NT	50		WORSE	11:03	
/13/95	5	0	15	50	60	60	NT	5	0	0	15	0	10	NT	50	40%	BETTER	09:47	
/11/95	10	0	15	55	70	65	NT	5	0	0	10	0	20	NT	50		NO CHNG	08:39	

=====HEARING TEST DATA=====																			
LEFT								RIGHT								HPD	2,3,4K		
Date	.5	1K	2K	3K	4K	6K	8K	.5	1K	2K	3K	4K	6K	8K	Dpt	Job	USE	Result	TIME
18/04/95	10	5	20	55	65	60	NT	10	0	0	5	0	15	NT	50			WORSE	09:38
18/22/94	5	0	20	45	60	55	NT	5	0	0	10	5	15	NT	50			NO CHNG	13:49
18/03/92	5	5	15	50	65	60	NTB	5	0	0	10	0	10	NT	50		100% STS		:
12/14/83	5	0	10	15	50	55	NT M10	5	0	5	5	5	5	NT	50		100% FIRST		:
Audiometer (09/10/96): MAICO 728M S/N 31466 (LEFT), S/N: 1466																			
Tester (09/10/96): GRAVES, ID:0306																			



=====2,3,4K Comparison to Earliest Test=====													
Left			Right			--Averages--		Age Adjusted		No Age Adjustment			
TestDate	2K	3K	4K	2K	3K	4K	Left	Right	2,3,4K Change	2,3,4K Change	2,3,4K Change	2,3,4K Change	
12/14/83	10	15	50	0	5	5	25.00	3.33	This test used for comparison				
18/03/92	15	50	65	0	10	0	43.33	3.33	14.99	-3.34	18.33	0.00	
18/22/94	20	45	60	0	10	5	41.67	5.00	12.67	-2.33	16.67	1.67	
18/04/95	20	55	65	0	5	0	46.67	1.67	17.00	-6.34	21.67	-1.67	
19/11/95	15	55	70	0	10	0	46.67	3.33	17.00	-4.67	21.67	0.00	
11/13/95	15	50	60	0	15	0	41.67	5.00	12.00	-3.00	16.67	1.67	
19/10/96	20	55	65	0	5	5	46.67	3.33	17.00	-4.67	21.67	0.00	

- \_\_\_\_\_ Mandatory Referral - Audiologist - Physician
- \_\_\_\_\_ Questionable Test Results
- \_\_\_\_\_ Re-Test Required - (how soon) \_\_\_\_\_
- ☒ Hearing Loss May Be Due to Medical/Non-Occupational Conditions *for 11.13.95, 9.11.95*
- \_\_\_\_\_ Possible Communication Problems
- \_\_\_\_\_ Possible Candidate for OSHA Log

Comments: *Refer to Corvick rec. otology exam.*  
*Protection implemented 8.22.94*  
Reviewed By: *H. Camp* Date: *9.10.96*

Signed \_\_\_\_\_ Date \_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF VIRGINIA  
Roanoke Division**

**HARRY ADAMS, et al.,**

**Plaintiffs,**

**v.**

**ALLIANT TECHSYSTEMS INC.,**

**And**

**HERCULES, INCORPORATED,**

**Defendants.**

Civil Action No. 99-00813-R

**AFFIDAVIT OF JIM JAQUIN**

I, James N. Jaquin, being first duly sworn upon my oath affirm and hereby state as follows:

1. I am the Director of Human Resources of Alliant Ammunition and Powder Company, LLC, owned by Alliant Techsystems, Inc., and am the custodian of the Human Resource files maintained at the Radford Army Ammunition Plant, (the "Plant").
2. Attached to this affidavit are true and accurate copies of personnel records maintained at the Plant.
3. Exhibit A-1 is the record of Termination of Employment for John W. Austin. John W. Austin has not been employed with the Plant since September 30, 1989.
4. Exhibit A-2 is the record of Termination of Employment for Jean B. Cook. Jean B. Cook has not been employed with the Plant since May 5, 1986.
5. Exhibit A-3 is the record of Termination of Employment for John K. King, Jr. John K. King, Jr. has not been employed with the Plant since January 7, 1977.
6. Exhibit A-4 is the record of Termination of Employment for Harry Quesenberry. Harry Quesenberry has not been employed with the Plant since February 29, 1984.

7. Exhibit A-5 is the record of Termination of Employment for Joe N. Roberts. Joe N. Roberts has not been employed with the Plant since November 30, 1990.
8. Exhibit A-5 is the record of Termination of Employment for Edsel T. Shupe. Edsel T. Shupe has not been employed with the Plant since November 2, 1984.
9. Exhibit A-6 is the record of Termination of Employment for Nathaniel A. Slaughter. Nathaniel A. Slaughter has not been employed with the Plant since September 6, 1990.

I have read and had the opportunity to correct this Affidavit, consisting of two (2) typed pages, and swear, under penalties of perjury, that these facts are true and correct to the best of my knowledge and belief.

  
James N. Jaquin

STATE OF VIRGINIA            )  
  ) to wit:  
County OF Montgomery    )

On this the 3<sup>rd</sup> day of May 2000, personally appeared before me, James N. Jaquin, Director of Human Resources of Alliant Ammunition and Powder Company LLC and under oath stated that the foregoing Affidavit is true and correct to the best of his knowledge, information and belief.

  
Notary Public

My commission expires: My Commission Expires November 30, 2000

FRITH  
ANDERSON  
& PEAKE PC  
ATTORNEYS AT LAW  
ROANOKE, VIRGINIA

Termination of Employment for Salaried and Wage Employees

DATE 9/29/89

Name AUSTIN, JOHN W. Badge No. 15196 Job Sym. CEMF

Effective Date of Termination 9/30/89 Date of Exit Interview 9/29/89

Dept. and Area or Shop UTIL/SERVICES, ROADS & GROUNDS Dept. No. 551

No. Days Vac. Taken 15 Wage Only: Sen. Date 10/02/67 Sub-Group No. C-13

Reason: ( ) Reduction in Force ( ) Military ( ☒ ) Resignation ( ) Dismissed ( ) OTHER-Explain Below

RETIREMENT (EARLY)

Rt. 1, Box 326.

Christiansburg, Va. 24073

CLEARANCE

Tool Room \_\_\_\_\_ Life Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Stores 2929 A&S Ins. \_\_\_\_\_ Approved \_\_\_\_\_ (Supervisor)

Library 589131 Hosp. Ins. \_\_\_\_\_ Approved \_\_\_\_\_ (Dept. Head)

Fiscal \$28.65 Savings Plan \_\_\_\_\_ Approved \_\_\_\_\_ (Mgr. or Asst.)

OTHER \_\_\_\_\_

Distribution: (White-Employee) (Blue-Payroll) (Green-Employment Office) (Yellow-Dept.)

**HERCULES INCORPORATED**FORD ARMY AMMUNITION PLANT  
RADFORD, VIRGINIA**Termination of Employment for Salaried and Wage Employees**DATE May 6, 1986Name COOK, Jean B. Badge No. 16735 Job Sym. COPCEffective Date of Termination May 5, 1986 Date of Exit Interview \_\_\_\_\_Dept. and Area or Shop Propellant-Rocket Manufacturing Dept. No. 720No. Days Vac. Taken 19 Wage Only: Sen. Date 12/12/78 Sub-Group No. A-5

Reason: ( ) Reduction in Force ( ) Military ( ) Resignation ( ) Dismissed ( ) OTHER-Explain Below

Early Reduced Retirement**CLEARANCE**

Tool Room \_\_\_\_\_ Life Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Stores \_\_\_\_\_ A&amp;S Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Library \_\_\_\_\_ Hosp. Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Fiscal \_\_\_\_\_ Savings Plan \_\_\_\_\_ Approved \_\_\_\_\_

OTHER \_\_\_\_\_

Distributions: (White-Employee) (Blue-Payroll) (Green-Employment Office) (Yellow-Dept.)



**RADFORD ARMY AMMUNITION PLANT**  
**RADFORD, VIRGINIA**

DATE 1-4-77

Name King, John E., Jr. Badge No. 15363 Job Sym WPCA

Effective Date of Termination 1-7-77

Dept. and Area or Shop **Technical • Ballistics** Sept. No. **413**

(For wage only)

Seniority Dept. and Sub-Group No. D-1

Reason: ( ) Reduction in Force ( ) Military (X) Resignation ( ) Dismissed ( ) OTHER-Explain Below

459 Briarcliffe Acres

Myrtle Beach, S. C. 29577

LDW 1-9-77 (61) 40

## CLEARANCE

Tool Room \_\_\_\_\_ Life Ins. \_\_\_\_\_ Approved J. I. Haskins

AK [Signature] (Supervisor)

Stores:                      A&S Ins.                      Approved                     

Library \_\_\_\_\_ Hosp. Ins. \_\_\_\_\_ (Dept. Med.)

Form Savings Plan Approved N/A JULY 1997

Fiscal \_\_\_\_\_ Savings Plan \_\_\_\_\_ Approved \_\_\_\_\_ (Mgr. or Asst.)

OTHER \_\_\_\_\_

Distribution: (White-Employee) (Blue-Round) (Green-Engagement Office) (Yellow-Dart)

**Distribution: (White-Employee) (Blue-Payroll) (Green-Employment Office) (Yellow-Dept.)**

# HERCULES INCORPORATED

RADFORD ARMY AMMUNITION PLANT

RADFORD, VIRGINIA

## Termination of Employment for Salaried and Wage Employees

DATE January 30, 1984

Name Harry Quisenberry Badge No. 4328 Job Sym. CHMO

Effective Date of Termination February 29, 1984 Date of Exit Interview \_\_\_\_\_

Dept. and Area or Shop Propellant Magazine Dept. No. 751

No. Days Vac. Taken 0 Wage Only: Sen. Date 3-29-52 Sub-Group No. A-4

Reason: ( ) Reduction in Force ( ) Military ( ) Resignation ( ) Dismissed (X) Other Explain Below

Early Retirement

### CLEARANCE

Tool Room \_\_\_\_\_ Life Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Stores \_\_\_\_\_ A&S Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Library \_\_\_\_\_ Hosp. Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Fiscal \_\_\_\_\_ Savings Plan \_\_\_\_\_ Approved \_\_\_\_\_

OTHER \_\_\_\_\_

EMPLOYMENT OFFICE

# IEI RULES INCORPORATED

RADFORD ARMY AMMUNITION PLANT  
RADFORD, VIRGINIA

## Termination of Employment for Salaried and Wage Employees

DATE October 15, 1990

Name Joe N. Roberts Badge No. 12726 Job Sym. HACA

Effective Date of Termination November 30, 1990 Date of Exit Interview \_\_\_\_\_

Dept. and Area or Shop Maintenance - Machine Shop Dept. No. 561

No. Days Vac. Taken \_\_\_\_\_ Wage Only: Sen. Date \_\_\_\_\_ Sub-Group No. C-3

Reason: ( ) Reduction in Force ( ) Military ( ) Resignation ( ) Dismissed (X) OTHER-Explain Below

### Early Retirement

#### CLEARANCE

Tool Room \_\_\_\_\_ Life Ins. \_\_\_\_\_ Approved \_\_\_\_\_

Stores \_\_\_\_\_ A&S Ins. \_\_\_\_\_ Approved \_\_\_\_\_ (Supervisor)

Library \_\_\_\_\_ Hosp. Ins. \_\_\_\_\_ Approved \_\_\_\_\_ (Dept. Head)

Fiscal \_\_\_\_\_ Savings Plan \_\_\_\_\_ Approved \_\_\_\_\_ (Mgr. or Asst.)

OTHER \_\_\_\_\_

Distribution: (White-Employee) (Blue-Payroll) (Green-Employment Office) (Yellow-Dept.)

# HERCULES INCORPORATED

RADFORD ARMY AMMUNITION PLANT  
RADFORD, VIRGINIA

## Termination of Employment for Salaried and Wage Employees

DATE October 31, 1984

Name Edna T. Shupe Badge No. 4083 Job Sym. LAUN

Effective Date of Termination 11/2/84 Date of Exit Interview 11/2/84

Dept. and Area or Shop Utilities/Services Laundry Dept. No. 559

No. Days Vac. Taken 23 days Wage Only: Sent Date 12/19/84 Sub-Group No. C-24

Reasons: ☒ Reduction in Force ☐ Military ☐ Resignation ☐ Dismissed ☐ OTHER-Explain Below

Early Reduced Retirement

### CLEARANCE

Tool Room Life Ins. Approved [Signature]

(Supervisor)

Stores A&S Ins. Approved [Signature]

(Dept. Head)

Library Hosp. Ins. Approved [Signature]

(Mgr. or Asst.)

Fiscal Savings Plan Approved [Signature]

OTHER

Distributions: (White-Employee) (Blue-Payroll) (Green-Employment Office) (Yellow-Dept.) ✓

# HERCULES INCORPORATED

RADFORD ARMY AMMUNITION PLANT  
RADFORD, VIRGINIA

## Termination of Employment for Salaried and Wage Employees

9-6-90

DATE

Name Nathaniel A. Slaughter Badge No. 28977 Job Sym. SOP0  
Effective Date of Termination 9-6-90 Date of Exit Interview \_\_\_\_\_  
Dept. and Area or Shop Green Lines Dept. No. 743  
No. Days Vac. Taken 10 Wage Only: Sen. Date 4-27-87 Sub-Group No. A2  
Reasons: ( ) Reduction in Force ( ) Military ( ) Resignation (X) Dismissed ( ) OTHER-Explain Below

For cause.

### CLEARANCE

Tool Room \_\_\_\_\_ Life Ins. \_\_\_\_\_ Approved B. J. Miller 7/7/90  
(Supervisor)  
Stores \_\_\_\_\_ A&S. Ins. \_\_\_\_\_ Approved D. L. Lutting  
(Dept. Head)  
Library \_\_\_\_\_ Hosp. Ins. \_\_\_\_\_  
Fiscal \_\_\_\_\_ Savings Plan \_\_\_\_\_ Approved J. L. White  
(Mgr. or Asst.)  
OTHER \_\_\_\_\_

Distribution: (White-Employee) (Blue-Payroll) (Green-Employment Office) (Yellow-Dept.)

## VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the  
City of Richmond on* Thursday the 14th day of December, 2000.

Harry Adams, et al., Plaintiffs,  
against Record No. 002613  
Alliant Techsystems, Inc., et al., Defendants.

Upon consideration of the order of certification entered by the United States District Court for the Western District of Virginia, Roanoke Division, this Court accepts the questions of law certified by the said United States District Court in this case.

Oral argument tentatively is scheduled for 30 minutes during the February 2001 session of this Court. Plaintiffs' opening brief and appendix shall be filed no later than January 19, 2001, defendants' brief shall be filed no later than February 9, 2001, and plaintiffs' reply brief, if any, shall be filed no later than February 20, 2001.

A Copy,

Teste:

  
Clerk