

1 The State of Ohio ) 0-1737  
2 County of Cuyahoga. ) **SS:**  
3 - - - -  
4 IN THE COURT OF COMMON PLEAS  
5 - - - -  
6 JUDITH EHLEN, ) Judge Peggy  
7 Plaintiff, ) Foley Jones  
8 vs. ) Case No.  
9 BRUNO MACHINERY CORP., ) **218459**  
10 et al., )  
11 Defendants. )

13 Deposition of JACK E. VANDEMAN, a  
14 witness herein, called by the Plaintiff as  
15 if upon cross-examination, and taken  
16 before Lynn A. Regovich, Notary Public  
17 within and for the State of Ohio, pursuant  
18 to agreement of counsel, and pursuant to  
19 the further stipulations of counsel herein  
20 contained, on Thursday, the 15th day of  
21 September, 1994, at 10:30 a.m., at the  
22 offices of Schulman, Schulman & Meros,  
23 1700 Standard Building, City of Cleveland,  
24 County of Cuyahoga and the State of Ohio.

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APPEARANCES:

On Behalf of the Plaintiff:

Schulman, Schulman & Meros, by:

JOHN C. MEROS, ESQ.

On Behalf of the Defendants:

Weston, Hurd, Fallon, Paisley &

Howley, by:

MARK O'NEILL, ESQ.

HARRY SIGMIER, ESQ.

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1 P R O C E E D I N G S

2 - - - -

3 JACK E. VANDEMAN, of lawful  
4 age, having been first duly sworn,  
5 as hereinafter certified, was  
6 examined and testified as follows:

7 - - - -

8 CROSS-EXAMINATION

9 BY MR. MEROS:

10 Q May I have your full name, please?

11 A Jack Enos Vandeman, E-N-O-S.

12 Q And your street address?

13 A 6694 Flamingo Road, Melbourne Village.

14 Q Where are you currently employed?

15 A Harris Corporation,

16 Q May I have a summary of your  
17 engineering background and education in  
18 that field, please?

19 MR. O'NEILL: Excuse me.

20 Melbourne Village is in Florida?

21 THE WITNESS: It's adjacent  
22 to Melbourne. Just a small village.

23 Q Why don't we start with a summary of  
24 your educational background in terms of  
25 formal education in engineering, then

1 we'll get into your work background.

2 A All right. I went to the University  
3 of Cincinnati as a student in mechanical  
4 engineering and graduated in 1943 with a  
5 Bachelor of Science Degree in Mechanical  
6 Engineering. And that's -- other than,  
7 well, one night school course in Cleveland  
8 at the Case Institute of Technology in  
9 kinematics and dynamics of machinery, and  
10 that's it.

11 Q Okay. Your date of birth is what?

12 A May 7th, 1919.

13 a Okay. You are currently employed  
14 though, you have not retired; is that  
15 correct?

16 A Well, I retired from full service in  
17 1986 and one month later I came back as  
18 part time in the same office, same job,  
19 but working less hours.

20 Q When did you first become employed by  
21 the Harris Seibold Potter Company, when  
22 was that?

23 A Actually, that was while I was in  
24 school, it's a cooperative engineering  
25 school, and so I -- in January of 1939 I

1 started work for it was a Seibold  
2 Division, S-E-I-B-O-L-D, in Dayton, Ohio  
3 as a co-op student, and working through  
4 various jobs in the factory, tool design,  
5 and then ended up in engineering, some  
6 drafting, and then some design work in  
7 paper cutters.

8 Q Okay.

9 A And then when I graduated from college  
10 it was still in World War II and they said  
11 if I came back, they'd be glad to have me  
12 come back but I'd be drafted out right  
13 away, they couldn't hold me. And so I  
14 tried to get into a Navy program but I was  
15 unable to, and I came up here to it was  
16 NAC at that time, aircraft engineering  
17 research, it's NASA now. I worked there  
18 until the end of the war, and early in  
19 October I went back to work for --

20 MR. O'NEILL: October of  
21 what year?

22 THE WITNESS: Oh, October of  
23 1943.

24 A With the same division, Seibold  
25 Division, Harris Seibold Potter in

1 Dayton.

2 At that time since I was living  
3 in Cleveland they had me stay in Cleveland  
4 for, oh, it was about six months, and  
5 redesign a small printing press, sheet fit  
6 printing press for manufacture in the  
7 Dayton plant. They were going to start  
8 manufacturing small presses there.

9 And I took the design then down  
10 to Dayton and followed it through to  
11 manufacture. And 1948 they moved me back  
12 up to the Cleveland plant and continued in  
13 engineering and sheet fed printing presses  
14 as a -- started as a designer. Then in  
15 1951 I became a design -- project engineer  
16 where I would have portions of a press  
17 designed and it would be my  
18 responsibility.

19 In 1961 I became an engineering  
20 product manager where I had people  
21 reporting to me employment wise as well as  
22 just job wise, at a program, and I would  
23 have a larger responsibility as far as  
24 size of the job and worked into full  
25 presses.

1                   In 1968 I became senior press  
2 engineer and 1972 -- well, senior press  
3 engineer, then I would help the chief  
4 engineer to follow the programs that were  
5 in our engineering department, advise and  
6 assist as I could, and then have, well,  
7 special programs that I would be involved  
8 in, experimental work or designs of that  
9 type. Then still as senior press engineer  
10 in 1972 they started getting me into  
11 product safety and patent specialist.

12                   Then in 1976 in July that  
13 division ceased as a going division in --  
14 or they stopped design, manufacture and  
15 sale of sheet fed printing presses,  
16 including paper cutters and all of the  
17 products of that division, and so I moved  
18 downtown here to the corporate office,  
19 which was the Illuminating Building, as  
20 product safety engineer, and I've been --  
21 held that title ever since.

22 Q     When did you begin to investigate  
23 accidents on Sheridan presses for the  
24 Harris Corporation?

25 A     Probably not till maybe '77, '78.

1 Maybe '78.

2 Q What percentage of your time was spent  
3 on investigating accidents from 1978 on?

4 A Well, of course accident  
5 investigation, per se, as I was handling  
6 it involved whenever there was an accident  
7 reported or suit was initiated because of  
8 an accident I would go out and investigate  
9 the accident, inspect the equipment, try  
10 to find out what we could about how the  
11 accident occurred and condition and so  
12 forth of the product, photograph it, write  
13 a report to my superior who is a lawyer in  
14 the corporation. So that wouldn't take  
15 that much time, depended on how many  
16 accident cases there were.

17 Q Was a part of your time spent in being  
18 the designee of the Harris Corporation for  
19 product safety in terms of litigation?

20 A Yes, and of course part of the time  
21 would be assisting our lawyers and lawyers  
22 that we would hire in certain -- in the  
23 area of where the accident occurred, such  
24 as say Mark O'Neill, and help them  
25 understand the product and the accident



1 and whatever the product was, how the  
2 product operated, especially relative to  
3 the type of accident.

4 Q In terms of Sheridan presses and  
5 accidents, who did that specific job  
6 before you for the Harris Corporation  
7 prior to 1978?

8 A To tell you the truth, I don't know.  
9 I think -- I think Jim Averill probably  
10 was in some of them, I'm pretty sure that  
11 he was involved in some.

12 Q Was Harris Corporation given the  
13 records of the Old Sheridan Company in  
14 terms of accident histories for the  
15 presses?

16 A Well, the legal department -- well,  
17 actually it was the insurance department,  
18 had records of suits and the documentation  
19 and so forth that went along with it. It  
20 was -- they were -- suits were handled by  
21 insurance companies at that time.

22 Q And we are talking about the Old  
23 Sheridan Company prior to '64, or are you  
24 speaking of the Sheridan Company from '64  
25 to your involvement in '78?

1     A     It included the old company.

2     Q     Included.    Okay.

3                 Were there any reported incidents

4 of injuries on 5A presses before 1964, or

5 do you not know?

6     A     I don't recall.   I can't say that I

7 have photographic memory of that era, but

8 it seemed like most of the ones that I

9 investigated or even was in the -- our

10 prior records were the larger machines and

11 it seemed mostly to be grouped around say

12 automotive, around the Detroit area and

13 some up in the New England, but they

14 basically were all larger machines.

15                 I remember one case in Kansas

16 that was smaller, the equipment was

17 smaller and I don't know what model it

18 was.

19     Q     Do you have any information or

20 knowledge as to the pre 1964 accident

21 history for 5A embossing presses?

22     A     Not that I can recall.

23     Q     Okay.    The Harris Corporation has

24 turned over certain records in this case

25 concerning prior accidents or injuries on

1 5A or 5AB presses. I have that  
2 information with me. The injuries  
3 themselves in five cases all occurred  
4 after 1972. A case of Mr. Vest, his  
5 injury occurred in 1972. Do you have any  
6 independent recollection of this  
7 particular matter, Vest versus Harris  
8 Corp.?  
9 A I remember the name, that's all.  
10 Q The other ones are Hines, Cruz,  
11 C-R-U-Z, Cowan, and Del Rosario. They all  
12 apparently involve either 5A or 5AB  
13 presses; is that correct, from your  
14 understanding of these?  
15 A That's my understanding of what they  
16 were pulling out.  
17 Q And they all involve the operator  
18 being injured in the point of operation  
19 while reaching into the press during a  
20 cycle, evidently, is that a fair statement  
21 of what these were about?  
22 A I don't recall the cases, all of them,  
23 but I can't say for sure.  
24 Q Do you recall the Olsen versus Harris  
25 Corporation incident that was in

1 Philadelphia, Pennsylvania between 1981 to  
2 1984?

3 A Yes.

4 Q And you apparently testified at trial  
5 in that case?

6 A Yes.

7 Q And it involved an incident that  
8 occurred at a company called Murphy Parker  
9 where there was a Sheridan embossing press  
10 of some age?

11 A Yes.

12 Q And you made an attempt at researching  
13 the age of the press in question, you  
14 recall that?

15 A That's correct.

16 Q The model or the type of that press  
17 was similar to a 5A, was it not?

18 A No.

19 Q Okay. Were you able to put a model on  
20 that press?

21 A I could never find out what the model  
22 was called or any designation for it. The  
23 only thing I could find about it was what  
24 I found in old Inland Printer magazines  
25 back in the 1890's.

1     **a**     You estimated at trial the age of that  
2     press being about 1908?

3     A     At the latest. I think -- I was  
4     thinking that that would put it --

5                     MR. O'NEILL:     Excuse me. At  
6     the latest, you mean most recent?

7                     THE WITNESS:     Latest in  
8     time, yeah.

9     A     I think by 1908, as I recall my  
10    research, new designs of about the same  
11    size were beginning to show up in Inland  
12    Printer, which led me to believe at that  
13    time that the old model had probably been  
14    discontinued sometime in the mid 1900 to  
15    1910 period. **As** I recall it I was  
16    thinking actually very well could have  
17    been the late 1890's.

18    Q     All right. How many instances have  
19    you found where you've investigated a **5A**  
20    or a **5AB** where the operator's fingers,  
21    hand or arm were crushed in the point of  
22    operation during the cycling of the press?

23    A     I remember the Cruz. Cowan may have  
24    been the case I mentioned in Kansas.  
25    Let's see. I've forgotten all the names

1     there.

2     Q     Cowan versus Harris is the one in

3     Kansas that involved a 5A or a 5AB?

4     A     Okay.

5     Q     Is that your understanding?

6     A     I think that's true.

7     Q     Del Rosario was a case where the

8     injury occurred in 1978 on a 5AB model --

9     I'm sorry. Serial number 1416, do you

10    recall that one?

11    A     I remember the case. I think I

12    probably investigated that.

13    Q     All right. And Cowan, let me go to

14    Cowan for just a second. The plaintiff in

15    that case was Mark Cowan, and it was

16    litigated in the U.S. Court for the

17    District of Kansas, and the allegation in

18    that case was that Mr. Cowan was injured

19    on a 5AB press in approximately 1978 and

20    it was press serial number 533. Do you

21    have any recollection of that?

22    A     No. No specific.

23    Q     Okay. You investigated that

24    particular case though in terms of going

25    to Kansas?

1 A I remember being out there.

2 Q And seeing the machinery?

3 A Yes.

4 Q And was it a case of Mr. Cowan

5 reaching into the point of operation

6 during the cycling of the press?

7 A I don't recall the --

8 Q You don't recall?

9 A -- the accident description.

10 Q Is there anybody at Harris Corporation

11 who would have independent recollection of

12 this matter if not you?

13 A No.

14 Q Okay. The records in Cowan indicate

15 it was an older press by the serial number

16 533, it indicates that it was of some age;

17 is that correct?

18 A Yes, it would have been a lot earlier

19 than the machine we're talking about here.

20 Q And in the Cowan case, was it not

21 estimated by you that it was manufactured

22 according to the history card in 1918,

23 does that ring a bell in any way?

24 A I don't recall.

25 Q No recollection?

1 A No.

2 Q Okay. And can you recall how

3 Mr. Cowan was injured in that case?

4 A No.

5 Q You do not?

6 A No.

7 a Okay. Have you had a chance to take a

8 look at the records that Harris

9 Corporation has in which they have

10 produced for me concerning the Cowan case?

11 A No. I haven't seen the list, really.

12 That was just recently printed up.

13 Q Okay. Do you have any recollection as

14 to how Mr. Del Rosario was injured in 1978

15 on a Sheridan press?

16 A I remember the name, but I'm a blank

17 on --

18 Q On what happened?

19 A What happened, yeah. Usually I can

20 picture in my mind if I saw it, if I saw

21 the machine, but I can't even do that in

22 that case.

23 Q The Del Rosario matter was in the

24 State Court of New York, and evidently the

25 injury occurred at a place of business in



1 Brooklyn, New York. Do you recall going  
2 there to inspect the press in the Del  
3 Rosario case?  
4 A I don't recall.  
5 Q No independent recollection?  
6 A No.  
7 Q Do you have a recollection of what the  
8 Hines versus Harris case involved and what  
9 the injury to Mr. Hines was, outside of it  
10 being on a 5A embosser?  
11 A Do you know where that was? It might  
12 help.  
13 Q I will in a second. I just have to  
14 locate it.  
15 State Court of New York.  
16 A That's another one where I remember  
17 the --  
18 Q 1987 was the injury.  
19 A -- the name.  
20 MR. O'NEILL: When was --  
21 when?  
22 Q The injury was in 1987 to Mr. Kevin  
23 Hines and suit was filed in 1991 in the  
24 State Court of New York, County of Kings,  
25 K-I-N-G-S, Case Number 27497. Do you have

1 an independent recollection of that  
2 matter?  
3 A No, I don't.  
4 Q Would you have investigated that?  
5 A I think I probably -- probably would  
6 have.  
7 Q Do you have any idea as to the  
8 approximate number of accidents on  
9 Sheridan presses that you personally have  
10 investigated?  
11 MR. O'NEILL: This is on the  
12 5A model?  
13 MR. MEROS: I want to get an  
14 overall picture first, then I was going to  
15 ask him about the 5A.  
16 MR. O'NEILL: Objection, but  
17 you may answer.  
18 A I have no recollection of how many.  
19 Q Would you compile a report each and  
20 every time you conducted an accident  
21 investigation on a Sheridan press?  
22 A Yes.  
23 Q Could you tell me an approximation as  
24 to how many reports you've authored?  
25 MR. O'NEILL: Objection.

1 A No.

2 Q You cannot?

3 A No, I can't.

4 Q Do you have any independent  
5 recollection as to how many accidents  
6 you've investigated concerning Sheridan 5,  
7 5A or 5AB embossing machines?

8 A I don't know. I know there were  
9 several, including the one here today.  
10 Maybe three or four all tolled, at the  
11 most.

12 Q As you went to inspect the accident  
13 situations on these 5, 5A or 5AB  
14 embossers, what were you generally finding  
15 in terms of point of operation guarding?

16 A Basically that they had no guarding,  
17 per se, of that area.

18 Q And generally the accidents occurred  
19 -- I want to limit this to the five that  
20 have been identified for me -- with an  
21 operator reaching into the unguarded area  
22 of a 5, 5A, or 5AB embosser during the  
23 cycling operation?

24 A That's possible.

25 Q Okay. Would it help you in any way to

1 review records to refresh your  
2 recollection on this matter?  
3 A That would, sure.  
4 Q Okay. I won't take the time to do  
5 that today, but I would ask that you  
6 review the records with Harris Corporation  
7 prior to testifying in this case.  
8 A Of those?  
9 Q Right. You investigated the situation  
10 in this case, correct, you saw the  
11 machine?  
12 A Yes, I did, twice.  
13 Q And you gathered facts as to how Ehlen  
14 was injured on it, the Sheridan press?  
15 A I was told, yes.  
16 Q And you authored a report in this  
17 case?  
18 A Yes, I did.  
19 Q Your report seems to indicate that  
20 your information how it occurred was  
21 gained from Mr. Jack Kelley?  
22 A That's correct.  
23 Q You didn't have a chance to interview  
24 the plaintiff?  
25 A No, I did not speak to her. I saw her

1     there, but I did not speak to her.

2     Q     Can you summarize for me what you  
3     recall Mr. Kelley telling you about how  
4     the accident happened, or can you not?

5     A     Well, I think what he said --

6                     MR. O'NEILL:     Excuse me.

7     Note my objection for the record, but you  
8     may answer.

9     A     What he told me was that Ms. Ehlen  
10    pushed the handle forward, the lever to  
11    start the cycle, and for some reason  
12    reached in to reposition stock and was  
13    caught when the head closed, or the bed  
14    closed against the head.

15    Q     Is that similar to accidents that you  
16    had investigated prior to that time on the  
17    5, 5A, 5AB embossers?

18    A     Again, it would be speculation without  
19    reading the cases again.

20    **a**    Okay. Would it surprise you if that  
21    had been similar to prior occurrences on  
22    5, 5A or 5AB embossers?

23                     MR. O'NEILL:     Objection.

24    You may answer.

25    A     No, I think probably some of them were

1 similar.

2 Q Okay. Which would have been prior to

3 the plaintiff's in this case?

4 A Yes.

5 Q Okay.

6 A What other ramifications were

7 involved, I don't know. In this case it's

8 a question now as to what happened

9 exactly.

10 Q None of these accidents or injuries on

11 5, 5A or 5AB were identical, but there

12 were similar instances of injury to other

13 operators on 5, 5A, 5AB prior to the

14 plaintiff's injury in this case; would you

15 agree with me on that?

16 A Well, I think we can say that I am --

17 feel it was probably true they all

18 occurred at the point of operation.

19 Q Unguarded?

20 A Unguarded.

21 Q Right. Okay.

22 I'm not going to have you take a

23 look at these now because it would be

24 taking up our valuable time at deposition,

25 so I'll dispense with that.

1 Do you have any opinions in this  
2 case other than opinions contained in the  
3 report that you authored in this case?

4 A Well, in reading Miss Ehlen's  
5 deposition transcript, I --

6 MR. O'NEILL: In reading  
7 what, sir?

8 THE WITNESS: Miss Ehlen's  
9 deposition transcript.

10 MR. O'NEILL: Yeah.

11 a She stated that it was different than  
12 what Mr. Kelley told me.

13 Q Okay.

14 A And then I read Mr. Barto's  
15 deposition, Jaworski's, and that was  
16 similar to what Mr. Kelley told me with  
17 some added information.

18 Q Okay. Had you ever learned of an  
19 accident to a Mr. John Hemrick at the  
20 Muefler Art Cover & Binding Company in  
21 1964?

22 A No.

23 Q Have you had a chance to search the  
24 records of the Harris Corporation in terms  
25 of whether there has ever been a reporting

1 of an accident to a Mr. John Hemrick at  
2 the same employer, the Mueller Art Cover &  
3 Binding Company?  
4 A No.  
5 Q No there has not been any?  
6 A No recollection of anything of that  
7 type.  
8 Q You had a chance to take off and  
9 connect the automatic throw-off lever for  
10 this particular press?  
11 A Yes.  
12 Q Would you say that it was designed to  
13 be disconnected or bypassed to enable the  
14 machine to run in a continuous mode?  
15 A It was designed to be able to do that.  
16 Q Okay. Did anyone at the Mueller  
17 Company that you spoke to have any  
18 knowledge of what this automatic throw-off  
19 lever was when you were out there?  
20 A I didn't -- I don't think I even spoke  
21 to Mr. Kelley particularly about that. I  
22 saw the bar and inspected the mounting and  
23 actually put it on and took it off. I  
24 don't think I talked to Mr. Kelley about  
25 that.



1 Q All right. Is that a device that you  
2 had seen before that particular day on any  
3 other kind of press?

4 A I had seen I believe it was in the  
5 Cruz inspection the mountings for both  
6 ends of that bar. The bar was not in  
7 evidence there, but seeing the study on  
8 which that bar pivoted and the hole on  
9 which the other end of the bar went into  
10 on the lever for operating the clutch and  
11 brake, and being able to see a roller on  
12 the back of the main gear for driving the  
13 cam for the toggle mechanism, I deduced  
14 what it probably was, and then later  
15 through investigation and internally I  
16 came up with a drawing of one.

17 Q All right. Had you ever had the  
18 occasion to inspect a throw-off lever in  
19 the field prior to this time?

20 A No.

21 Q And you learned what it was to confirm  
22 your belief at the site later on in your  
23 investigation of this matter?

24 A That's right.

25 Q In your estimation, is that type of a

1 throw-off lever in adequate point of  
2 operation guard?  
3 A Yes.  
4 Q It affords safety to the operator at  
5 the point of operation?  
6 A Very definitely.  
7 Q By working in what manner?  
8 A That it would cycle only once and it  
9 would not -- if it were on, it would not  
10 continuously run or repeat or go through  
11 anything more than the one cycle.  
12 Q Of course disconnected or bypassed it  
13 does not afford that safety feature, does  
14 it?  
15 A That's true  
16 Q And would this particular 54 be  
17 expected to run in the continuous mode  
18 sometime during its use?  
19 A I would expect it to be run in a  
20 continuous mode for certain types of jobs,  
21 yes.  
22 Q Is it your understanding that Ehlen  
23 was intending to make one impression at  
24 the time of her injury, she was not  
25 intending to run in a continuous mode?

1 MR. O'NEILL: I'm sorry,  
2 sir. I didn't hear that.

3 MR. MEROS: I'm sorry.

4 Q Is it your understanding that Ehlen's  
5 intention was to run in the single-cycle  
6 mode when she was making the impression  
7 during which time she was injured?

8 A Yes.

9 Q If the injury occurred as Mr. Kelley  
10 described to you, would the automatic  
11 throw-off device have prevented injury if  
12 connected in this case?

13 A No.

14 Q Have you had any safety engineering  
15 training, any formal courses?

16 A Not formal courses. I've done a fair  
17 amount of research and had the opportunity  
18 to talk to people basically -- mainly in  
19 the printing press and cutter areas, but  
20 also to some extent in Sheridan products  
21 and discuss safety and of course inspect  
22 designs, and it's mainly through reading  
23 and attending National Safety Council  
24 meetings. I was on the executive  
25 committee of the printing and publishing

1 section.

2 Q Of the National Safety Council?

3 A The committee of the printing and  
4 publishing section of the National Safety  
5 Council.

6 Q Are you a member of that organization  
7 still?

8 A No, we -- in 1983 we sold off --  
9 Harris sold off all of their printing  
10 equipment group divisions, which I think  
11 consisted of five divisions at the time,  
12 and so I -- from then on I had no more  
13 responsibility of working with divisions  
14 on designs and things of that type. So I  
15 pulled back out of the -- attending those  
16 meetings because I no longer had any  
17 duties or input in that area.

18 Q When did you first join the National  
19 Safety Council, do you recall?

20 A Probably started -- I think I started  
21 attending the section meetings maybe '73  
22 or '74, and it was just two or three years  
23 later that I got on the executive  
24 committee.

25 Q But when did you first become a member

1 of that organization?

2 A I would say '74.

3 Q '74? So your involvement with the

4 National Safety Council was for about a

5 decade, from '73 to '83?

6 A That's about it.

7 Q What are the good sources of

8 information on machine guarding that you

9 looked to in conducting research?

10 MR. O'NEILL: I think the

11 question is a bit too broad.

12 MR. MEROS: Okay. I'll see

13 if I can simplify it.

14 Q Do you have research authorities that

15 you use when you conduct some research

16 into aspects of, let's say, designing safe

17 guards for machinery?

18 A Well, I have -- let's see if I can

19 remember back. Of course I reviewed like

20 the American National Standards Institute

21 standards, and I read the pertinent OSHA

22 standards when they came out, and I worked

23 on several committees other than the

24 National Safety Council on safety, and

25 again it was printing and publishing area,

1 graphic arts technical foundation,  
2 engineering -- engineering research  
3 committee, engineering -- excuse me.  
4 Research and engineering committee, but  
5 let's see. I was involved in two ANSI  
6 standard subcommittees for developing  
7 standards, new standards.

8 MR. O'NEILL: Excuse me.  
9 ANSI is A-N-S-I.

10 A And I did go through some books of --  
11 Q And what books would those have been?  
12 A I'm trying to remember them. To tell  
13 you the truth, I can't remember the  
14 authors and titles.

15 Q Have you ever used the National Safety  
16 Council Accident Prevention Manual as an  
17 authority?

18 A Yes, I've had several sources of that.

19 Q Would you find that an authoritative  
20 source of information?

21 A Yes, it's pretty good.

22 Q Have you ever utilized Kent on  
23 mechanical engineering?

24 A Yeah, I had a Kent -- Kent handbook  
25 for years, just in engineering.

1 Q Would you say that that is an  
2 authoritative source in mechanical  
3 engineering?

4 A Yes. It's not a safety publication.

5 Q But is there anything in Kent's book  
6 that you know of that references design  
7 safety and things a mechanical engineer  
8 ought to be thinking about in terms of  
9 incorporating safety into the design of a  
10 product?

11 A To tell you the truth, I don't think I  
12 ever looked at the Kent Engineering  
13 Handbook, or whatever it's called, for  
14 that purpose, no.

15 Q Okay. Have you ever been involved in  
16 product safety other than for litigation  
17 purposes?

18 A Well, of course in the National Safety  
19 Council meetings, safety and printing and  
20 publishing equipment was very high on the  
21 agenda.

22 Q I understand.

23 A And the committee I was on with the  
24 graphic arts technical foundation had to  
25 do with safety, there was a product, they

1 called it a product liability committee in  
2 it was the National Printing Equipment and  
3 Supply Association.

4 Q But this was during a time when you  
5 were Harris' designee for litigation  
6 purposes concerning product safety; is  
7 that not correct?

8 A Well, designee for litigation, I place  
9 that in that I was used for depositions  
10 and in court, if necessary. That was only  
11 part of the job.

12 Q I see. Let me move around a little  
13 bit, okay?

14 A Sure.

15 Q If you don't mind, I'll go to a  
16 different topic.

17 A Sure.

18 Q Jim Averill testified here just a  
19 short time ago that a Boyle guard is not  
20 the type of a guard that would have a lot  
21 of value on a 5A embossing press because  
22 of the general purpose nature of an  
23 embossing press. Do you agree or disagree  
24 with that?

25 A I agree that the Boyle guard would not



1 be appropriate for certain types of work  
2 that have been done on that machine.

3 Q Do you know whether or not Sheridan  
4 ever made 5A or 5AB embossing presses with  
5 Boyle guards?

6 A No, they never did. I don't think  
7 I've ever seen a Boyle guard that small.

8 Q In the Del Rosario case, which  
9 involved I think, as I said before, an  
10 injury that occurred in **1978** on a Sheridan  
11 5A or 5AB embossing press, serial number  
12 1416, you were involved in that case; do  
13 you recall this matter?

14 A I remember the case. I'm pretty sure  
15 I was involved. I don't really remember  
16 any details of it.

17 Q This was a case captioned as Jose  
18 Antonio Del Rosario and Angela N. Del  
19 Rosario versus L & N Industries, Inc.,  
20 T.W. & C.B. Company, Harris Corp., and  
21 Harris Intertype, State Court of New  
22 York. I'm trying to identify the case  
23 number from a transcript of trial  
24 testimony and it's not on there. Give me  
25 a moment and see if I can locate it.

Looks to be case number **2641**, calendar number **41943**. In that case an expert witness who testified at trial was Mr. Ralph Barnett, Mr. Lipsy Ralph Barnett. You certainly know him, don't you?

**A** Oh, yes.

**Q** He's testified as an expert on behalf of the Harris Corporation in a number of Sheridan cases, would you agree with me?

**9**  
**10** **A** He has a few. How many, I don't  
**11** recall.

**12** **Q** Okay. Were you aware that he  
**13** testified in the Del Rosario case that the  
**14** Sheridan embossing press in that case was  
**15** a **5A** embossing press?

**16** **A** I don't recall.

**17** **Q** Okay. I'm looking at page **30** of his  
**18** transcript of testimony, trial testimony,  
**19** which was given to me by the Harris  
**20** Corporation. You would have had knowledge  
**21** of this particular case back when it  
**22** occurred; is that right, but you have --

**23** **A** As soon as the corporation learned of  
**24** it.

**25** **Q** Let me show you the transcript, page

1 30, and just to refresh your recollection  
2 of the matter I'd ask you to agree with me  
3 that Mr. Barnett indicates that the press  
4 he inspected was a 5A. Is that what the  
5 transcript seems to indicate?

6 MR. O'NEILL: What is the  
7 purpose of showing this page of the  
8 transcript to the witness?

9 MR. MEROS: To refresh his  
10 recollection on the Del Rosario case,  
11 which evidently involved a 5A that was  
12 serial number --

13 MR. O'NEILL: Forget the  
14 serial number. What is the purpose of  
15 this, to refresh his recollection of  
16 what?

17 MR. MEROS: Of the press  
18 itself, that it was a 5A built originally  
19 with a Boyle guard by the Sheridan  
20 Company.

21 Q Do you recall that?

22 MR. O'NEILL: Wait a second.  
23 You're asking him if he remembers from his  
24 investigation and as refreshed by this  
25 page that the press in the Del Rosario

1 case was a 5A and that it had a Boyle  
2 guard when originally manufactured by the  
3 Sheridan Company?

4 MR. MEROS: That's correct.

5 MR. O'NEILL: That's what  
6 you're asking him of his memory?

7 MR. MEROS: Right.

8 MR. O'NEILL: Tell us about  
9 it.

10 A I have no recollection of that and  
11 actually I question -- it appears --

12 MR. O'NEILL: No, you've  
13 answered the question.

14 Q Who at the Harris Corporation would  
15 have better knowledge of the Rosario case  
16 than you, anyone there?

17 A Nobody there presently.

18 Q Okay. Were you present at the Rosario  
19 trial, were you there?

20 A I don't recall.

21 Q Did you offer any testimony or  
22 expertise in that case at all?

23 A I don't recall.

24 Q Okay. Would the company have records  
25 of who the product liability expert was

1 for the Harris Corporation in-house if it  
2 wasn't you?

3 A They should have. They would have, if  
4 we had an in-house expert or fact witness,  
5 whatever.

6 Q Do you recall anything else about the  
7 Rosario case?

8 A Del Rosario.

9 Q I'm sorry. Del Rosario.

10 A No.

11 Q Now, I have shown you a portion of the  
12 transcript and it seems to indicate that  
13 Harris' expert said that it was a 5A and  
14 that it was made with a Boyle guard. That  
15 is indicated in the testimony of  
16 Mr. Barnett; is that correct?

17 MR. O'NEILL: I object to  
18 that statement because I don't think that  
19 the transcript makes that statement  
20 clearly factual.

21 Q Okay.

22 A That's -- in reading it rapidly there  
23 it looked like --

24 MR. O'NEILL: No. No,  
25 you're not being asked to interpret

1 someone else's testimony.

2 THE WITNESS: Fine.

3 MR. MEROS: Let me take just

4 a five-minute break and I'll review this a

5 little better than I did last evening.

6 MR. O'NEILL: Do you want to

7 do it now?

8 MR. MEROS: Yes. Just give

9 me a few minutes.

10 - - - -

11 (Brief recess had.)

12 - - - -

13 BY MR. MEROS:

14 Q Mr. Vandeman, you're aware that the

15 transcript of testimony of Mr. Barnett in

16 the Del Rosario case was given to me by

17 the Harris Corporation, it was in their

18 possession?

19 A I understand now.

20 MR. O'NEILL: Given when,

21 yesterday?

22 MR. MEROS: Last night.

23 Q Showing you pages 39 to 42 of that

24 particular transcript, I'll hand you these

25 and you may read them over. My question

1 is simply at page 42, does not Mr. Barnett  
2 admit that he has seen a Boyle guard on a  
3 Sheridan 5A embossing press?

4 MR. O'NEILL: Let me read  
5 along with you. Excuse me, Jack. I  
6 apologize. I want to get the context  
7 here.

8 Q At page 41 -- I'm sorry, when you're  
9 all done, Mark.

10 MR. O'NEILL: I'm now up to  
11 42.

12 Q Tell me when you're ready and I'll  
13 pose a couple questions to you.

14 A Okay.

15 Q First of all, Mr. Barnett is a  
16 respected and well-known expert in the  
17 field of machinery and mechanical  
18 engineering; is that correct?

19 A Yes.

20 Q And he is the head of a company out of  
21 Chicago called Triadine?

22 A That's true.

23 Q A research institute and a research  
24 expert on these types of matters?

25 A Yes.

1 Q And Harris Corporation has utilized  
2 Mr. Barnett for his expertise in a number  
3 of cases; is that correct?  
4 A Yes, but some time ago.  
5 Q Okay. And the Harris Corporation has  
6 relied upon the expertise of Mr. Barnett  
7 in several matters; is that not correct?  
8 A In matters of course we hired him for,  
9 and again that was some time ago.  
10 Q And it appears in the Del Rosario case  
11 that Mr. Barnett was the retained expert  
12 for the Harris Corporation; is that  
13 correct?  
14 A I don't know.  
15 MR. O'NEILL: If you  
16 remember.  
17 A The records would show one way or the  
18 other.  
19 Q And --  
20 A I don't remember.  
21 Q During that particular trial when we  
22 look at this transcript from pages 30 all  
23 the way to 42 and thereafter, the  
24 questioning is being done by Mr. Costello,  
25 who was actually Harris Corporation's



1 attorney questioning Mr. Barnett on direct  
2 examination; would you agree with that?  
3 A Well, it was --  
4 MR. O'NEILL: Objection.  
5 A Working for Harris, yeah.  
6 Q But it was Harris Corporation's  
7 retained lawyer?  
8 A Right.  
9 Q Questioning Barnett on direct  
10 examination?  
11 A Uh-huh.  
12 Q You'll agree with me on pages 41 to 42  
13 on that transcript Barnett has admitted  
14 that he has seen a Boyle guard on a 5A  
15 press?  
16 A That's what he admits, yes.  
17 Q Do you have any opinions that you will  
18 offer as to the guarding methods available  
19 for a 5A Sheridan embosser in 1922 in this  
20 case?  
21 MR. O'NEILL: May I hear  
22 the question again?  
23 Q Sorry. It was kind of wordy.  
24 Are you going to be offering any  
25 opinions in this case on the guarding

1 methods available for a Sheridan embosser  
2 5A in 1922?  
3 A No.  
4 Q Do you have any expertise on the  
5 commercially available guards in 1922 that  
6 would have been utilized on a 5A embosser?  
7 A No, I don't.  
8 Q Okay. Will your expertise run only to  
9 the items mentioned in your report dated  
10 September 11th, 1992?  
11 A Well, and my other research, probably,  
12 in this case and my opinions and so forth,  
13 I presume in that area.  
14 Q All right. Do you have any knowledge  
15 as to whether this type of 5A embosser, in  
16 our case, could have been guarded in 1922  
17 at the point of operation?  
18 A I can't say. I'm not familiar with  
19 what they had. I know it's been suggested  
20 that the push away guard which has been  
21 shown on 9 -- 8E presses, 9 --  
22 Q A?  
23 A 9A.  
24 MR. O'NEILL: 8E, not 80.  
25 A Yeah, 8E and 9A, which were

1 considerably larger machines. To my  
2 knowledge it's been never considered for 5  
3 machines, 5A, 5AB, and in this case I  
4 think what would be certain types of jobs  
5 that Mueller ran would be inappropriate.

6 Q Okay. From an engineering standpoint  
7 is there any reason why a push away guard  
8 could not have been engineered into a 5A  
9 embosser?

10 A Engineering wise? Oh, engineering  
11 wise it could be.

12 Q Your position is it would have  
13 interfered with some of the work of the 5A  
14 embosser?

15 A That's true.

16 Q But you would admit that some of the  
17 work done on a 5A would not have  
18 interfered with a push away guard in **1922**?

19 A Some would have.

20 Q Would not have been interfered by?

21 A That's right.

22 Q And would you admit that a push away  
23 guard would have afforded an operator of a  
24 5A some protection from being crushed in  
25 the point of operation?

1 A Certain types of jobs where it would  
2 be applicable, but that's all I can say,  
3 just in those jobs.

4 Q It would not have applicability or use  
5 on all jobs, that's what you're saying?

6 A That's right.

7 Q Is it more important to market a  
8 product without a safety guard to enable  
9 it to have a wide range of application?

10 A Well, actually if you -- if you sold  
11 like in this type of situation press with  
12 a guard on it, which is not applicable.

13 MR. O'NEILL: With what, oh,  
14 a guard?

15 A A guard, which is not applicable,  
16 found to be not applicable for some of the  
17 purchaser's work, then they would take it  
18 off. And in some cases, or not on  
19 Sheridan equipment, but where somebody  
20 didn't want a certain guard and was on the  
21 machine when they got it, and they wanted  
22 their money back on it for that part, and  
23 we would never give it back to them. They  
24 were told to keep it and recommended the  
25 use of it.

1 Q From an engineering standpoint is  
2 there any other guard that could have been  
3 adapted to a 5A in 1922 besides the push  
4 away guard?

5 A I don't know of any guard that would  
6 be designed to actually fit that type of  
7 equipment. I can consider several  
8 different types, but they would not again  
9 be applicable for numbers or types of jobs  
10 that say Mueller themselves did.

11 Q But I take it you can envision some  
12 guards in 1922 besides the push away guard  
13 that would have had application for some  
14 uses of the 5A?

15 A Sure.

16 Q Can you tell me a few of those guards?

17 A Well, you could have a barrier guard  
18 and space enough to feed in something  
19 which could be held, that is you could  
20 feed it in without having to go underneath  
21 that guard, and -- you'd have to be able  
22 to then extract it so the product -- part  
23 of it at least would have to be out where  
24 you could get a hold of it.

25 Q So are you saying that a fixed barrier

1 guard would have some application on a 5A  
2 embosser, but it would cut down on the use  
3 of the machine?  
4 A Definitely. Definitely.  
5 Q So it's your criticism of the fixed  
6 barrier guard on a 5A that it cuts down on  
7 the general purpose nature of the press?  
8 A Sure.  
9 Q But it would have some application in  
10 guarding the point of operation?  
11 A Yeah, that's of course not the type of  
12 thing that you sell on equipment if you  
13 want to sell it generally for the people  
14 who need a machine like that.  
15 Q Would it cut down on the marketability  
16 of a 5A?  
17 A Sure.  
18 Q Okay. But it would make it somewhat  
19 safer at the point of operation; is that  
20 correct?  
21 A Yeah, but for very limited duties.  
22 MR. O'NEILL: Excuse me.  
23 What was your answer?  
24 THE WITNESS: For very  
25 limited duties.

1 Q I think you said, yes, but for very  
2 limited duties?

3 A That's right.

4 Q Any other guards that fit into that  
5 category of being applicable or usable on  
6 a 5A, but the cutting down in the use of  
7 the machine? Now, you've already  
8 mentioned a fixed barrier guard and you've  
9 mentioned a push away guard. Any other  
10 type of guard at that time, 1922?

11 A Sweep guards were I think being used  
12 on mechanical power presses and could have  
13 been applied to this. Again, now, in  
14 limited usage.

15 Q Okay.

16 A And there undoubtedly were others, but  
17 I think -- I don't know of any which would  
18 be applicable to the various types, all  
19 the various types of jobs that would be  
20 put on this type of machine. And so we  
21 generally did not feel that we had -- we  
22 had the duty to impose upon the purchaser  
23 what he had to use or give him something  
24 which may cut down his business  
25 considerably or he'd have to take it off.

1 Q Did New Sheridan after 1964 as a  
2 division of the Harris Intertype Company  
3 continue with the production of Sheridan  
4 5A embossers?  
5 A No. I think they -- we have records  
6 that they did make maybe a couple of  
7 5AB's, but they were greatly updated from  
8 -- with new technology and everything else  
9 and controls.  
10 Q Right.  
11 A From the earlier ones.  
12 Q And some of those updates were, I  
13 believe, dual palm buttons; is that  
14 correct?  
15 A That's right.  
16 Q Air shifters?  
17 A Air shifters.  
18 Q Right. And Harris as the owner of the  
19 New Sheridan Company from 1964 to I  
20 believe 1972 --  
21 A Right.  
22 Q -- manufactured some 5AB's, which were  
23 similar to the 5A's, with updated means of  
24 activation which afforded safety to the  
25 operator?



1 A That's right.

2 Q Whatever happened to the Sheridan  
3 customer lists that were sold to New  
4 Sheridan in 1964 by Old Sheridan?

5 A That all went to Bruno Sherman when we  
6 **sold** the -- I forget the term we used.

7 Q The die press -- die press operation?

8 A The operation, yeah.

9 Q Let me move to the Sheridan press  
10 search program that you were involved in I  
11 believe from about 1967 until 1980. Is  
12 that a fair characterization?

13 MR. O'NEILL: '67?

14 Q I meant to say '76. '76 through about  
15 1980. And I'm only giving that as a time  
16 frame because there seems to be some  
17 references to meetings in '76 concerning  
18 the start of this search mailing.

19 I have a document that is dated  
20 May 19th, 1976 that I'll show you, that  
21 talks about the press safety mailing  
22 program.

23 A Yes.

24 Q Okay. May I mark that as Vandeman  
25 Exhibit A so we keep our record clear what

1 we're looking at.

2 - - - -

3 (Vandeman Exhibit A  
4 marked for identification.)

5 - - - -

6 A I was going to say that I am not -- I  
7 don't believe that I was involved at this  
8 time.

9 Q Looking at Exhibit A?

10 A I think if you get into it.

11 Q 1976?

12 A I didn't get into it until after this  
13 recommendation went out. If I were a  
14 definite part of it, I think my name at  
15 least would have been over in this column  
16 with Averill.

17 Q Okay. What I've marked in yellow  
18 there indicates that one of the motivating  
19 factors in doing a press search in order  
20 to warn users of the Sheridan presses were  
21 to reduce accidents. I think it's  
22 indicated right on the recommendation  
23 there: would you agree with that?

24 A Reduce accidents through knowledge of  
25 possible hazards.

1 Q Okay. Do you feel that it was  
2 necessary to warn owners and users of  
3 Sheridan presses of the hazard of an  
4 unguarded point of operation?  
5 A Yeah, where that -- where that was  
6 applicable.  
7 Q Okay.  
8 A I mean, we're talking '76.  
9 Q Okay. As part of the search mailing  
10 program was -- were Bruno Sherman and  
11 Harris intending to instruct owners and  
12 users on things that should be done to  
13 make the presses that were unsafe, more  
14 safe?  
15 MR. O'NEILL: You mean the  
16 presses that were safe, more safe?  
17 MR. MEROS: I'll include  
18 that.  
19 Q That presses that were safe or unsafe,  
20 to be more safe?  
21 A I would say that is part of it. Also,  
22 it was to make presses which had been safe  
23 and were now unsafe for various reasons.  
24 Q I see. Go ahead.  
25 A Get them back to being safe.

1 Q As part of the warning letter or  
2 notices that were certified mailed to all  
3 owners and users that could be located,  
4 they were instructed as to what type of  
5 guards were available for presses that may  
6 now be unsafe to operate, is that your  
7 recollection?

8 A Yeah, one of the pages of the letter  
9 shows various things that could be done.

10 Q Was Jim Averill involved in this press  
11 search program as well? He seems to be  
12 copied on a number of these memos.

13 A In a limited, very limited degree, and  
14 I of course, corporate level wasn't  
15 cognizant where all this came from. I  
16 think some of this stuff came from Bruno  
17 Sherman or possibly others at New  
18 Sheridan.

19 Q Okay.

20 A Just what Averill's involvement was up  
21 there in Champlain I don't know.

22 Q Let me have two more things marked as  
23 Vandeman B and C and then I'll have a few  
24 questions on these.

25 - - - -

1                   (Vandeman Exhibits B and C  
2                   marked for identification.)

3                   - - - -

4   Q    Let me show you documents that you  
5        should be familiar with.  These are B and  
6        C.

7                   MR. O'NEILL:  That's A.

8   Q    You can look at that if you want to,  
9        but I'm not going to ask you about that.

10   A    All right.

11                  MR. O'NEILL:  This one B, I  
12        want to read it along with you.

13   Q    First of all, for the record you are  
14        familiar with items A, B and C in front of  
15        you; is that correct?

16                  MR. O'NEILL:  Just a  
17        second.  We haven't had a chance to look  
18        at E and C.

19   Q    I'm sorry.  Tell me when you're  
20        ready.

21   A    Okay.

22   Q    All right.  Have you had a chance to  
23        take a look at A, B and C?

24   A    Yes.

25   Q    Can you identify those as being

1 business records of the Harris  
2 Corporation, A, B and C?  
3 A I remember A and C and I don't recall  
4 exactly B. I think it was one of the  
5 drafts throughout the program that was  
6 considered.  
7 Q Okay. Was not something like Exhibit  
8 B sent along to the recipients of the  
9 press warning?  
10 A Yeah, but it was different -- I think  
11 part of the second paragraph was deleted.  
12 There was some changes. This was one of  
13 the early drafts of the final safety  
14 letter.  
15 Q Let me move to Exhibit C then.  
16 You're knowledgeable as to Exhibit C?  
17 A Yes.  
18 Q As being a part of the press search  
19 mailing program; is that correct?  
20 A That's right.  
21 Q And a copy of C is what -- a copy of  
22 Exhibit C is what would have gone to  
23 everybody that was getting the press  
24 search mailing?  
25 A That's right. This was the second

1 page actually of that letter, or let's say  
2 an appendix to the cover letter.

3 Q All right. On our screen we can all  
4 see this at the same time, that's why I'm  
5 doing this, I don't have to stand over  
6 you. The instruction was four fold, it  
7 had an instruction on the point of  
8 operation, had an instruction on the  
9 safety devices, instruction on safety  
10 maintenance, and then number four, safety  
11 in general, okay?

12 A Yes.

13 Q Focusing on the first part where it  
14 says point of operation, hand fed presses,  
15 Harris, Bruno Sherman were instructing the  
16 recipients of this that there were guards  
17 that they could use to safe guard a press  
18 that was either safe when made or unsafe  
19 when made that became unsafe?

20 A Yeah, we believe some were available  
21 that could be.

22 Q This was not just a warning about a  
23 danger on the machine or a hazard on the  
24 machine, but it's also included an  
25 instruction on what to do; is that

1 correct?

2 A That's true.

3 Q The recommendation under 1 is to

4 provide a guard or a gating mechanism?

5 A Yes.

6 Q And number 2 talks about pull out

7 devices, right?

8 A Yes.

9 Q Number 3 is use hand feeding tools?

10 A Yes.

11 Q Number 4 is consider conversion to

12 automatic feed mechanism, right?

13 A Yes.

14 Q Would that 4 encompass a sliding plate

15 or a roll feed?

16 A It could, yeah, chain feed.

17 Q Chain feed, something of that sort.

18 Okay. And number 5 it talks about I guess

19 entrance and exit of the material are not

20 on the same side, items 1 to 3 apply to

21 both points of operation, which would mean

22 the back of the machine?

23 A Front and back.

24 Q Okay. Would you say that it was open

25 and obvious to owners of unguarded



1 machinery that they had a hazard and a  
2 risk there?

3 A I would say that most of the  
4 equipment, yes, they should be aware of  
5 that.

6 Q But the Harris Corporation evidently  
7 felt a need to warn owners and users of  
8 these kind of presses of a hazard?

9 A Yes.

10 Q So the company still felt that it was  
11 necessary to give a warning on this issue?

12 A Uh-huh.

13 Q Okay.

14 A As we did in other safety letters on  
15 other types of equipment.

16 Q Would it be open and obvious to an  
17 owner or user as to how to safe guard a  
18 machinery, piece of machinery at the point  
19 of operation?

20 A Not necessarily.

21 a Harris would have expertise that many  
22 of the owners and users would not have;  
23 would you agree?

24 A Well, we had some, although at this  
25 time it was limited in that we had no --

1 none of the background information. It  
2 was all in Bruno Sherman's hands.

3 Q But the Harris Corporation had people  
4 employed that were experts in this area  
5 such as Jim Averill; is that correct?

6 A Had a few, yes.

7 Q Any others besides Jim Averill that  
8 were experts in this area that was  
9 employed by the Harris Corporation?

10 A May have been. I don't know.

11 Q Would you consider yourself expert in  
12 this area at that time on how to guard the  
13 point of operation?

14 A Not truly.

15 Q Okay.

16 A I didn't -- I didn't attempt to make  
17 that list up. I went -- had somebody else  
18 do it. It was either Bruno or I forget  
19 whether -- I don't know where it came  
20 from.

21 Q And we've already looked at Exhibit  
22 A. And Exhibit B you aren't sure if that  
23 is the final draft that actually went out?

24 A I know it was not the final draft.

25 Q It was not. I think that you had said

1 the second paragraph on Exhibit B may very  
2 well have been excluded from the final  
3 draft, or is that not --

4 A Not all of it. I think part of it,  
5 towards the end was included.

6 MR. O'NEILL: Do we have the  
7 final draft here?

8 MR. MEROS: No, this is all  
9 I have. This is all I've been -- in  
10 addition I have some warning labels, some  
11 forms for the owner to fill out and send  
12 back, the return address of Bruno  
13 Sherman. I've been given the whole  
14 package.

15 MR. SIGMIER: John, I  
16 thought we gave you the final draft on the  
17 letter.

18 MR. MEROS: I don't have  
19 anything on this topic besides what I'm  
20 showing you now, and if you want to take a  
21 look at it.

22 A You don't have the final.

23 Q I have what is marked June 25th, 1979,  
24 but I still may be able to **just** ask a  
25 question about this and I may be able to

1 leap frog this problem.

2 Was the first paragraph on this  
3 draft included in the final letter?

4 A I don't recall the wording.

5 Q You have to see that to be able to  
6 tell me?

7 A Yeah, that would be much better.

8 a Okay.

9 A Because I may -- I was involved in  
10 several of the drafts so I wouldn't want  
11 to --

12 a Okay. But the final draft, wherever  
13 it is, I'm sure that I'll be provided with  
14 that soon, you would have some involvement  
15 with what went into that final draft; is  
16 that right?

17 A Yes.

18 MR. MEROS: Okay. All  
19 right. That's A, B and C, and I would ask  
20 counsel to try to look through their  
21 records for me what they think is the  
22 final draft.

23 MR. O'NEILL: Sure.

24 MR. MEROS: And I'll cross  
25 this during trial.

1 Q Let me show you some documents. Mark  
2 this as Vandeman D.

3 - - - -

4 (Vandeman Exhibits D and E  
5 marked for identification.)

6 - - - -

7 (Discussion had off the record.)

8 - - - -

9 (Vandeman Exhibit B-1  
10 marked for identification.)

11 - - - -

12 Q This appears to indicate that when  
13 you sent this out, the opening paragraph  
14 is telling the recipient that they may own  
15 or operate a press manufactured by T.W. &  
16 C.B. Sheridan Company, and it says,  
17 "Sheridan presses as originally designed  
18 and manufactured, incorporated approved  
19 and accepted safety devices but due to the  
20 age of some of the presses and the  
21 possibility of inadequate maintenance or  
22 improper modification, the press may no  
23 longer be safe to operate."

24 How did the 5A that you inspected  
25 at the Mueller Company fit into this

1 opening paragraph?

2 A It would fit in that as originally  
3 designed and manufactured.

4 Q Incorporated approved and accepted  
5 safety devices we're talking about?

6 A Such as were needed. I didn't include  
7 that in the letter.

8 Q But you were referring to the  
9 throw-off device as a safety device?

10 A Yeah, one -- yeah. That's right.

11 Q Was the 5A as you saw it, and which I  
12 believe was essentially in the condition  
13 which was manufactured, one that would be  
14 included in the first paragraph as needing  
15 updates or modernization?

16 A Yes, because of the age of it, not  
17 wear and tear, but --

18 Q And it could be improved in terms of  
19 safe guarding?

20 A Yes.

21 Q So the intention of Bruno Sherman and  
22 Harris was to reach owners like Mueller  
23 that may have had a **1922** essentially  
24 unmodified embossing press that needed  
25 some upgrading; is that correct?

1 A Uh-huh.

2 Q You're going to have to answer yes.

3 A Yes. I beg your pardon. I know  
4 better.

5 Q That's all right.

6 Then it goes on in paragraph 2, 3  
7 and 4 to explain further the need to  
8 follow the recommendations of this safety  
9 letter; is that correct?

10 A Yes.

11 Q Okay. Now, you're aware from Harris'  
12 own records that Harris Corporation had an  
13 owners card showing that Mueller was an  
14 owner of a 5A press number 824 and for  
15 some reason Mueller was not on the warning  
16 list; is that correct?

17 A I understand that, yes.

18 Q How many other instances of that  
19 happening did you learn of, where you had  
20 in your information an owner that would  
21 need this type of warning but was left off  
22 the list?

23 A I think we run into maybe several  
24 where we couldn't figure out why a letter  
25 had not been sent.

1 Q But you are confident --  
2 A We're talking, yeah, several  
3 thousands, so, yeah.  
4 Q You are confident though by a search  
5 of your records that Mueller was not on  
6 your certified mailing list; is that  
7 correct?  
8 A That's true.  
9 Q Okay. And you have now been able to  
10 confirm that they were shown as an owner  
11 though on the press history cards?  
12 A On that one.  
13 Q Okay. Now, looking at Exhibit D, this  
14 appears to be some Sheridan literature of  
15 some age showing automatic case feeding  
16 presses; is that correct?  
17 A Yes.  
18 Q This is Exhibit D?  
19 A All right.  
20 Q And the last page of Exhibit D shows  
21 some old types of machinery from the T.W.  
22 -- well, it **just** says T.W. & C.B.  
23 Sheridan, established 1835. Would you  
24 know the vintage of this page of Exhibit  
25 D, when would this have been --



1     A     Might I see that?

2     Q     I'm sorry. Sure.

3                 When would that have been used by

4     the Old Sheridan Company?

5     A     Yeah, these -- the last page of this

6     being a five-page exhibit, the fifth page

7     is a copy of a page which I found in the

8     Inland Printer magazine of August, 1891.

9     Q     I see.

10    A     And showing some T.W. & C.B. Sheridan

11    pieces of equipment of that era as a sale

12    item I would have presumed. The rest of

13    it, the first four pages, even though the

14    first page has handwritten in there "1891"

15    at the top, that is not from that date.

16    Q     Okay.

17    A     How that got connected with these and

18    that number, yeah, the date was put on

19    there, I don't know, but that would not be

20    1891.

21    Q     Okay.

22    A     These were later machines.

23    Q     Okay. In 1922 were there any

24    standards that you are aware of now that

25    were either public or private that would

1 have governed the manufacturing of this 5A  
2 embosser?

3 A No.

4 Q By today's standards?

5 A May I --

6 Q Sure.

7 A Can we split this?

8 Q If you would like, you can mark it if  
9 you want as Exhibit D-1.

10 A This?

11 Q Yes.

12 A And I'll cross out the "1891."

13 Q If you wish.

14 A Because it has no relationship --

15 Q Okay.

16 A -- to this exhibit.

17 MR. O'NEILL: What about the  
18 last page which bears a Bate's stamp  
19 number 001528 and the hand letter date  
20 August, 1891?

21 THE WITNESS: I don't know  
22 where that number comes from.

23 MR. O'NEILL: The Bate's  
24 number?

25 Q Would that have been a stamp put on by

1 the reference library? Weren't you going  
2 to retrieve this in Chicago? Well, that  
3 was an exhibit utilized in the Olsen  
4 trial?

5 A Okay.

6 Q That's what that is that you're  
7 looking at now?

8 A Okay.

9 Q But the numbered stamp on the last  
10 page, would that have been a stamp put on  
11 by the reference people in Chicago where  
12 you obtained this?

13 A No. No. Actually, since this came  
14 from the Olsen trial, this may have been  
15 to indicate what early 1900 say in 1914  
16 maybe presses may have looked like, as  
17 against what is shown in the actual sheet  
18 which was a copy from the Inland Printer  
19 of 1891.

20 MR. O'NEILL: Meaning the  
21 last page of Exhibit D?

22 A Last page. So I mean, that was why  
23 they were together in that -- in that  
24 case.

25 MR. O'NEILL: The Olsen

1 case?

2 A The Olsen case, they may have been  
3 used together just to show comparison.

4 Q Okay.

5 A Not that they are related in --

6 MR. O'NEILL: Time?

7 A -- close in time.

8 Q Concerning the press search mailing  
9 and the recipients that Harris intended to  
10 receive this, do you believe that it was  
11 open and obvious to them that they had  
12 some machinery that may be unsafe to  
13 operate?

14 MR. O'NEILL: Excuse me?

15 A Let's repeat that.

16 MR. O'NEILL: I need to hear  
17 that again.

18 THE WITNESS: I do, too.

19 MR. MEROS: Could you read  
20 that back exactly as I said it.

21 - - - -

22 (Question read.)

23 - - - -

24 MR. O'NEILL: Okay. I ask  
25 you to repeat the question.

1 MR. MEROS: I'll rephrase  
2 it.  
3 MR. O'NEILL: Are we talking  
4 now about Muelfer?  
5 MR. MEROS: No, I was  
6 talking about in general the recipients of  
7 the press search mailing.  
8 Q Were you intending --  
9 A May I pose one problem?  
10 Q Sure.  
11 A You say the search mailing?  
12 Q Yes.  
13 A That was not for that purpose. The  
14 safety mailing, which was 1980.  
15 Q Followed the search?  
16 A Yeah, that had the purpose --  
17 Q I'll clarify that.  
18 A -- of notifying.  
19 Q Whatever the intended function of what  
20 we have as exhibit -- I had it. I don't  
21 see it now. The final letter, which would  
22 have been B-1, right, whatever the purpose  
23 of B-1, okay, on the back it's B-1, and  
24 whoever that was going to, is it the  
25 opinion of Harris that it would have been

1 open and obvious to these recipients that  
2 they had machinery that was unsafe to  
3 operate?

4 MR. O'NEILL: Well, excuse  
5 me. You're asking the witness to imagine  
6 the mental impressions and reactions of  
7 hundreds and hundreds of companies to  
8 which this letter would be sent and I  
9 think that this goes beyond the limits of  
10 propriety.

11 Q Could you answer that or could you  
12 attempt to based upon --

13 MR. O'NEILL: No, I don't  
14 want you to guess.

15 Q Let me see if I can ask it again then  
16 in a way that I can draw out.

17 MR. O'NEILL: You can ask  
18 him what Harris' purpose was, but  
19 certainly not --

20 Q Well, let me attempt it that way.

21 Was it Harris' purpose to  
22 instruct and warn them on something Harris  
23 felt was not open and obvious?

24 MR. O'NEILL: Objection.

25 A We didn't know whether it was open and

1 obvious or not.

2 Q Okay.

3 A And because there are so many  
4 different products and this being a  
5 general mailing to people with any model  
6 Sheridan embosser, die cutter press, and  
7 one of the main purposes was to get them  
8 tuned that there may be a problem of  
9 safety with their product as compared to  
10 current criteria, and to get them to have  
11 their press inspected by competent  
12 inspectors.

13 Q Right.

14 A Who could then help them.

15 Q Did you personally feel that owners  
16 may be running presses that were unsafe to  
17 operate without realizing they were so?

18 A Well, we knew that some presses that  
19 were being operated were unsafe, and to  
20 the extent of which the owner knew that I  
21 can't necessarily say at this time. I  
22 think in a number of cases where that came  
23 up the employer was told that we felt that  
24 this was unsafe to operate in the manner  
25 that they were.

1 Q But you felt that there were probably  
2 owners and users of the older Sheridan  
3 presses that were using them without  
4 really knowing that they were unsafe to  
5 operate, in some cases?

6 MR. O'NEILL: That calls for  
7 a speculation response.

8 A I don't know.

9 Q You don't know?

10 A Yeah, I don't know.

11 Q But it was your intention to reach  
12 everybody that may be operating an unsafe  
13 press that you could locate?

14 A Yeah, and even if we reached people  
15 who were operating safe presses, it's all  
16 right, we wanted to be sure to catch all  
17 we could.

18 a Who advised Bruno Sherman and Harris  
19 on how to devise this warning campaign,  
20 where did you get your advice on how to do  
21 it?

22 A Basically by talking with other people  
23 who had been involved in safety campaigns,  
24 and also in doing the same thing but for  
25 different products, like I had a big wind



1 in '75 on paper cutters, and paper cutters  
2 were out there from 1926 on up and so it  
3 was the same type of thing, different  
4 models, different ages, different wear and  
5 tear, different alterations, everything  
6 else. It was very similar to this.

7 Q Were they specialists or experts in  
8 the area of how to warn users in the  
9 marketplace, or just other companies that  
10 had made an effort at doing this for their  
11 own products?

12 A Some we felt had done a good job in  
13 reaching their customers on things of this  
14 type.

15 Q Can you think of anybody in particular  
16 that you pattern this after, at the time,  
17 like Ford or General Motors or  
18 Catterpillar or the Hobart Company?

19 A No, the automotive industry is weird  
20 as far as that's concerned, their -- the  
21 situation is so different.

22 Q Can you think of anyone, anyone's  
23 program that you patterned this one after?

24 A I think I saw one which I felt was --  
25 and talked with the man involved in it,

1 John Deere, who were very safety conscious  
2 people.

3 Q Right. But -- go ahead.

4 A They did something similar.

5 Q Even though a company is safety  
6 conscious, they should have some expertise  
7 on how to effectively warn users of older  
8 equipment, would you agree with that?

9 A I suppose maybe it doesn't hurt, but I  
10 think you can develop the expertise just  
11 in working in the area.

12 Q But Harris at some point recognized  
13 that they had missed a percentage of those  
14 that they wanted to reach; is that  
15 correct?

16 A At some point during the program?

17 Q Yes.

18 A Well, between the search mailing and  
19 the warning, the safety mailing, because  
20 we knew we had not reached everybody and  
21 so we did a lot of work in between to try  
22 to --

23 Q Right. After the first mailing you  
24 found that a large percentage of those  
25 that were sent out never got to where they

1 were supposed to go?

2 A Yeah, and we - -

3 Q And you tried to correct it?

4 A We understood that a lot of them  
5 certainly did not even exist anymore, so  
6 it was not surprising that we had a fairly  
7 high number of returns. We did make an  
8 effort to go through those and see if we  
9 could locate these people, maybe they had  
10 moved, maybe they changed names or  
11 something like that. So attempted to  
12 locate the customers to whom we were not  
13 able to reach before.

14 Q There was no attempt to put an ad or a  
15 warning in an industry publication that  
16 would have been widely circulated amongst  
17 the binders and bookbinders and printing  
18 companies, was there?

19 A I did not know and I would not begin  
20 to understand it. There were widely read  
21 trade magazines.

22 Q Being in the printing business, was  
23 not Harris a subscriber to a publication  
24 called Graphics Monthly out of Chicago,  
25 Illinois?

1 A Yeah, we had Graphics Monthly.

2 Q But there was no advertising or

3 warnings circulated in Graphics Monthly,

4 was there?

5 A Not in Graphics Monthly.

6 Q Let me move to Exhibit E and then I'll

7 be finished.

8 You had a chance to take a look

9 at Exhibit E. It's a re-print of

10 something in the Inland Printer, which I

11 guess you found to be a good source of

12 information in finding old depictions of

13 machinery?

14 A Yes.

15 Q Okay. And we have in Exhibit E, first

16 of all the front page indicates that

17 Inland Printer is a technical journal

18 devoted to the art of printing, and you've

19 got Volume XXIV here, it says October, '99

20 to March of 1900, okay?

21 A Yeah.

22 Q And this was what you found in

23 Chicago, Illinois in connection with the

24 Olsen matter?

25 A That's right.

1 Q We see pages that did not copy well.  
2 Then we see a photograph of the T.W. &  
3 C.B. Sheridan Company in Chicago on -- I'm  
4 sorry. In London, England on Farringdon  
5 Street?  
6 A Right.  
7 Q Okay. I want you to focus on the  
8 fifth page of this, and it talks -- it  
9 shows what I think is a four rod  
10 embosser. Would you agree with me that  
11 that's an example of an old four poster or  
12 a four rod embosser?  
13 A Sure.  
14 Q Okay. And we know by this publication  
15 that this was probably between 1899 and  
16 1900 that this marketing material was out  
17 there?  
18 A That's right.  
19 Q Do you have any idea what model that  
20 is looking at that?  
21 A That's the model that -- that's the  
22 machine where you never find the model,  
23 name or anything else for, any record  
24 within Sheridan's -- well, the  
25 documentation that we still retain in

1 Sheridan. Nobody knew anything about it,  
2 that was a -- basically the Olsen machine.  
3 Q Okay. And the experts on the Olsen  
4 case were all trying to date this machine,  
5 and everybody kind of disagreed about  
6 that; is that right?  
7 A I don't recall a great disagreement.  
8 Q Okay.  
9 A I think we all agreed it was around  
10 1900.  
11 Q Okay. And this is a four rod and we  
12 know that it's an embossing press because  
13 it says so, it says, the most powerful  
14 embossing press ever built for  
15 bookbinders, okay? Now, when you look at  
16 this part, and I'm going to focus you in  
17 on this, at the point of operation, I'm  
18 blowing it up, is that not a point of  
19 operation guard right there (indicating)?  
20 MR. O'NEILL: Where?  
21 Q Hang on. I'm supposed to use my pen  
22 when doing this.  
23 MR. O'NEILL: Hold it so it  
24 won't jiggle at the point of registration.  
25 Q Is this not a point of operation guard

1 (indicating)?  
2 A No.  
3 Q What is that?  
4 A That's a lip on the back of the table  
5 on which they were to stack unfinished and  
6 finished work.  
7 Q But that's a vertical projection?  
8 A Sure.  
9 Q Of at least a few inches. But doesn't  
10 that -- let me back it up a little bit,  
11 Doesn't that impede the point of  
12 operation?  
13 A No.  
14 Q In terms of how can you hand feed  
15 anything in there if that's a backstop?  
16 A That's not where you feed it in.  
17 Q Where would you feed on this machine?  
18 A This is the -- this is the bed, that's  
19 the head and it is in that area that is  
20 the point of operation.  
21 MR. O'NEILL: You can see  
22 right through it?  
23 THE WITNESS: Yeah.  
24 A That's the place where you put in the  
25 material.

1                   MR. O'NEILL:    This is a back  
2 post?  
3 Q    You are pointing to this as the point  
4 of operation (indicating)?  
5 A    That's right.  
6 Q    Right there (indicating)?  
7 A    The space between those two plates.  
8 Q    You're saying that this area here  
9 above the work table is not the point of  
10 operation?  
11 A    That's true.   Definitely.  
12 Q    Okay.  
13 A    See, you might stack --  
14                   MR. O'NEILL:    Okay.  
15 A    -- a pile and they don't want to spill  
16 over into the machinery.  
17 Q    Okay.   I understand.  
18                   THE WITNESS:   Off the record  
19 for a second.  
20                   - - - -  
21                   (Discussion had off the record.)  
22                   - - - -  
23 Q    In this case, attached to the  
24 affidavit that you filed in this case  
25 awhile ago there was attached a depiction



1 of a 5 press. Is that the closest  
2 reproduction you could find concerning  
3 what the 5A press looked like in this  
4 case? You attached what was a 5, a  
5 diagram of a 5. Did you not find a 5A  
6 from 1922?

7 A I don't know whether that is actually  
8 from 1922. We don't know the dates of  
9 those.

10 Q Okay. What's the difference between a  
11 5A and 5AB?

12 A I'm not sure. I'd have to look at it  
13 again.

14 Q The press has the same size, 27 and a  
15 half by 22 press bed area?

16 A Okay.

17 Q It's got the same tonnage, things of  
18 that sort?

19 A Okay.

20 Q Is the 5A one that has an electrically  
21 heated crown as opposed to steam?

22 A I'm not sure how they designated their  
23 numbers and letters.

24 Q Do you know if the Harris Corporation  
25 as the owner of the New Sheridan Company

1 made 5AB presses after 1964?

2 A I think I said that I think we made a  
3 couple of 5AB's.

4 Q I see. 5AB's, not the 5A's?

5 A Oh, no.

6 MR. MEROS: Well, that's all  
7 I have. Thanks very much.

8 MR. SIGMIER: John, before  
9 we go off --

10 MR. MEROS: Do you have a  
11 couple things you wanted me to see?

12 MR. SIGMIER: This is the  
13 memo that Jack has dated April 25, 1977.

14 MR. MEROS: Okay.

15 MR. SIGMIER: And one other  
16 thing. I think you're aware that some of  
17 the records indicated that this press was  
18 at one time owned by the A.H. Pells  
19 Company, I think you discovered that.

20 MR. MEROS: I found that 829  
21 was owned -- 824 was owned by A.H. Pells.,  
22 not 829. There wasn't anything I found in  
23 the records of the company that the 829  
24 was owned by anybody other than the P.T.  
25 Collier World Publishing Company and then

1 Otterbein. Did I say that the 829 was  
2 owned by --

3 MR. SIGMIER: I'm not sure  
4 what you said, but I'm not sure you have  
5 all these documents. If you don't, I'll  
6 get them to you. There was some  
7 indication that these presses, both the  
8 824 and the 829 were owned by A.H. Pells,  
9 despite the machinery card for the --  
10 Jack, you \*saw all this.

11 MR. MERQS: I saw that the  
12 824 was shown to be owned by two different  
13 companies at the same time.

14 MR. SIGMIER: Okay.

15 MR. MEROS: In the -- you  
16 had that index book that you can look up a  
17 serial number and a press. I looked at  
18 824 and they had it being owned by A.H.  
19 Pells and somebody else, it's in my notes,  
20 but not the 849. It didn't show anything  
21 that the 849 was ever owned by A.H.  
22 Pells.

23 MR. SIGMIER: I'll check it  
24 out.

25 MR. MERQS: Why don't you

1 let me know what you have that you want me  
2 to see.

3 MR. SIGMIER: I will.

4 MR. MEROS: I'll be back  
5 later today or I can come over earlier to  
6 see this stuff tomorrow because I  
7 anticipate that I'll be there to talk to  
8 you.

9 - - - -

10 (Discussion had off the record.)

11 - - - -

12 MR. O'NEILL: Jack, you'll  
13 waive your signature, right?

14 THE WITNESS: Yeah.

15 (Deposition concluded at 12:38 p.m.)

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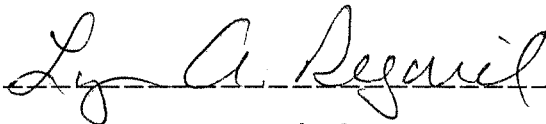
25

1                   C E R T I F I C A T E  
2   The State of Ohio,       )  
3   County of Cuyahoga.    )   **SS:**  
4  
5                   I, Lynn A. Regovich, Registered  
6   Professional Reporter, Notary Public  
7   within and for the State of Ohio, duly  
8   commissioned and qualified, do hereby  
9   certify that the within-named witness,  
10   JACK E. VANDEMAN, was by me first duly  
11   sworn to testify to the truth, the whole  
12   truth and nothing but the truth in the  
13   cause aforesaid; that the testimony then  
14   given by the above-referenced witness was  
15   by me reduced to stenotype in the presence  
16   of said witness; afterwards transcribed,  
17   and that the foregoing is a true and  
18   correct transcription of the testimony so  
19   given by the above-referenced witness.  
20  
21                  I do further certify that this  
22   deposition was taken at the time and place  
23   in the foregoing caption specified, and  
24   was completed without adjournment.  
25

1 I do further certify that I am  
2 not a relative, counsel or attorney for  
3 either party, or otherwise interested in  
4 the event of this action.

5  
6 IN WITNESS WHEREOF, I have  
7 hereunto set my hand and affixed my seal  
8 of office at Cleveland, Ohio, this 18th  
9 day of September, 1994.

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Lynn A. Regovich, RPR,

Notary Public/State of Ohio.

My commission expires: 6-14-98.