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William F. Mitchell, CSB #159831  
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3 814 Seventh Street  
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6 William R. Bragg, CSB #70247  
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7 ANGELL & PERLMAN  
434 Seventh Street  
8 Eureka, CA 95501  
(707) 442-2927  
9 (707) 443-2747

10 Attorneys for Defendants

11 UNITED STATES DISTRICT COURT

12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 VERNELL LUNDBERG, et al.,

14 Plaintiffs,

15 vs.

16 COUNTY OF HUMBOLDT, et al.,

17 Defendants.

) Case No.: C97-3989-SI  
)  
) DECLARATION OF  
) WILLIAM F. MITCHELL  
) AND ATTACHED  
) EXHIBITS IN OPPOSITION  
) TO PLAINTIFFS' POST-  
) TRIAL MOTIONS  
)  
)  
)  
) DATE: November 12, 2004  
) TIME: 9:00 a.m.  
) CTRM: 10, 19<sup>th</sup> Floor

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I, WILLIAM F. MITCHELL, declare as follows:

1. I am a member of the firm Mitchell, Brisso, Delaney & Vrieze, attorneys of record for defendants here.

2. Attached to this declaration as *Exhibit A* is a true and correct copy of the declaration of John H. Fournier, M.D., previously filed by plaintiffs in this litigation in November, 1997.

3. Attached to this declaration as *Exhibit B* is a true and correct copy of portions of plaintiffs' deposition transcripts, as identified by the cover sheet for each transcript.

I declare under penalty of perjury under the laws of the State of California that all of the above is true and correct and that if called as a witness, I could competently testify thereto. Executed this 21<sup>st</sup> day of October, 2004, at Eureka, California.

  
WILLIAM F. MITCHELL

***EXHIBIT A***

1 MARK P. HARRIS (Bar No.145493)  
791 Eighth Street, Suite D  
2 Arcata, California 95521  
Telephone: (707) 822-9506

3 MACON COWLES  
4 SUSAN R. O'NEILL (Bar No. 124087)  
Macon Cowles & Associates, P.C.  
5 1680 Wilson Court  
Boulder, Colorado 80304  
6 Telephone: (303) 447-1332

7 Attorneys for Plaintiffs

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10  
11 HEADWATERS FOREST DEFENSE, an  
unincorporated association; MOLLY BURTON;  
12 VERNELL "SPRING" M. LUNDBERG; JAN  
LUNDBERG, as *guardian ad litem* for Vernell M.  
13 Lundberg; MICHAEL McCURDY; ERIC SAMUEL  
NEUWIRTH; MAYA PORTUGAL; SUE C.  
14 PORTUGAL, as *guardian ad litem* for Maya Portugal;  
LISA MARIE SANDERSON-FOX; JENNIFER  
15 SCHNEIDER; TERRI SLANETZ; and NOEL  
TENDICK,

16 Plaintiffs,

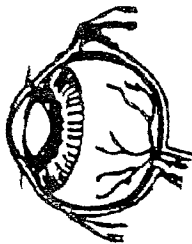
17 v.

18 COUNTY OF HUMBOLDT, a political subdivision  
19 of the State of California; HUMBOLDT COUNTY  
SHERIFF'S DEPARTMENT; SHERIFF DENNIS  
20 LEWIS, individually and as Humboldt County  
Sheriff; CHIEF DEPUTY GARY PHILP, SGT. FNU  
21 CIARBELLINI, DEPUTY RANDY K. HELD,  
DEPUTY MARVIN KIRKPATRICK, DEPUTY R.  
22 CRADDOCK, DEPUTY JOHN SYLVIA, DEPUTY  
FNU REYNOLDS, individually and in their capacities  
23 as members of the Humboldt County Sheriff's  
Department; CITY OF EUREKA, a political  
24 subdivision of the State of California; EUREKA  
POLICE DEPARTMENT; CHIEF ARNIE MILSAP,  
25 individually and as Chief of the Eureka Police  
Department; CAPTAIN BILL HONSAL, SGT.  
26 JAMES MANOS, individually and in their capacities  
as members of the Eureka Police Department; and  
27 DOES 1 through 150, Inclusive.

28 Defendants.

CASE NO. C-97-3989 VRW

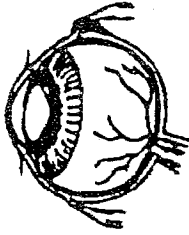
DECLARATION OF  
JOHN H. FOURNIER, M.D.,  
F.A.C.S., IN SUPPORT OF  
MOTION FOR  
PRELIMINARY  
INJUNCTION



**JOHN H. FOURNIER, M.D., F.A.C.S.**  
SURGERY AND DISEASES OF THE EYE

**DECLARATION OF JOHN H. FOURNIER, M.D.**

1. My name is John Harry Fournier, M.D., F.A.C.S. and my business address is located at 5201 N. Harlem Ave., Chicago, IL 60656. I am licensed to practice medicine in both California and Illinois. I have been Board Certified in ophthalmology since 1976 by the American Board of Ophthalmology. I am a Fellow of the American College of Surgeons. I have a Master of Science Degree in Ophthalmic Biochemistry from Northwestern University The Graduate School. I am a Federal Physician with full attending and consulting privileges at the Lakeside Veterans Medical Center. I have a Faculty appointment in the Department of Ophthalmology at Northwestern University Medical School. I am active in private practice in Chicago, Illinois and its suburbs.
2. I am attaching to this Declaration a copy of a current University Curriculum Vitae that outlines my professional accomplishments, affiliations and publications.
3. Recently I have seen on national television several times officers applying pepper spray (oleoresin capsicum) into the eyes of subdued protesters in Humboldt County, California by both spraying it directly into their forcefully opened eyes and externally on the eyelid and again inside the eyes with cotton tipped applicators. I have reviewed the medical/scientific literature related to the harmful effects both short and long term of oleoresin capsicum.
4. I express the following professional opinions based on my expertise as an ophthalmologist, review of the scientific/medical literature and experience having treated patients exposed to pepper spray. I address the risk of injury from the active ingredient of pepper spray in paragraphs 5-7 below. I address the risk of injury from the forceful manner in which it was applied in paragraphs 8-10 below.
5. Pepper spray contains the active ingredient capsaicin which is a severe irritant to the eyes. Exposure results in intraocular inflammation, corneal erosions, severe pain, swelling and it constricts the pupils. The delayed effect is actually anesthesia of the cornea. The immediate effect is due to an axon reflex. The delayed effect is due to the release of substance P (Peptide) from sensory nerves causing corneal anesthesia which may last for as long as five days.
6. Pepper spray can cause chemical burns (erosions) to the cornea. Such an erosion breaches the natural body defenses thus making the eye susceptible to severe infections (i.e. corneal ulcers) from pathogenic organisms. This can have sight threatening consequences.
7. Under the circumstances presented here, allergic sensitization can occur in predisposed individuals. Such sensitization can cause the development of a lifelong dry eye disorder related to allergic exposure to pepper spray..



**JOHN H. FOURNIER, M.D., F.A.C.S.**  
SURGERY AND DISEASES OF THE EYE

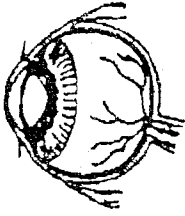
8. Of great concern to me was the forceful opening of the victims' eyes and the introduction of cotton tipped applicators against the cornea. This can cause corneal injury, mainly erosions and traumatic injury of the cornea's anterior basement membrane. In one instance at point blank distance from the victim's eyes the full force of the aerosol spray stream was discharged.

9. This traumatic administration/delivery of the pepper spray can in a susceptible individual with high myopia actually result in a retinal detachment and blindness.

10. The eye is a most delicate organ of vision and is easily injured. Keeping that in mind, these are the additional sight threatening consequences that can occur because of the powerful forces directed on the globe during the traumatic administration of pepper spray to the eye in the manner depicted on the television videotapes: (a) direct contusion to the globe; (b) dislocation of the lens; (c) intraocular bleeding (hyphema) and (d) angle recession glaucoma.

I declare under penalty of perjury that my testimony set forth in this Declaration is true. If called as a witness, I would and could testify to each fact and opinion that is set forth in this Declaration. I sign this Declaration on November 12, 1997 in OakBrook, Illinois.

John Harry Fournier, M.D., F.A.C.S.



**JOHN H. FOURNIER, M.D., F.A.C.S.**  
SURGERY AND DISEASES OF THE EYE

---

**DATE AND PLACE OF BIRTH:** August 30, 1942, Chicago, Illinois  
**LICENSURE:** State of Illinois - 1968  
State of California - 1969

**SPECIALITY:** Ophthalmology

**BOARD CERTIFICATION:** Certified - American Board of Ophthalmology - 1976

**PREMEDICAL EDUCATION:** University of Illinois, 1959-1962

**MEDICAL SCHOOL:** Loyola University Stritch Medical School  
Chicago, Illinois  
M.D., 1966

**INTERNSHIP:** Cook County Hospital, Chicago, Illinois  
May 1967-June 1968

**RESIDENCY:** Northwestern University, Chicago, Illinois  
1971-1974, Ophthalmology

**GRADUATE SCHOOL:** M.S. - Anatomy, Loyola University, 1967  
M.S. - Ophthalmology, Northwestern University, 1973

**POSTGRADUATE COURSES:** Biochemistry, Northwestern University  
1970-1971

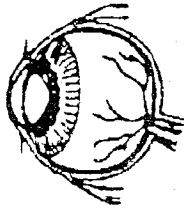
**ACADEMIC APPOINTMENTS:** Research Associate, Loyola University  
Stritch Medical School, 1966-1968

Clinical Assistant Professor, The Chicago  
Medical School, 1977-1981

Clinical Associate Professor, The Chicago  
Medical School, 1981 to 1985

Department of Ophthalmology Faculty,  
Northwestern University, 1985 to Present

**MILITARY SERVICE:** U.S.P.H.S. - Vietnam LCDR, 1968-1970



**JOHN H. FOURNIER, M.D., F.A.C.S.**  
SURGERY AND DISEASES OF THE EYE

---

**PRESENT SOCIETY  
MEMBERSHIPS:**

Chicago Medical Society  
Illinois State Medical Society  
American Medical Association  
American Academy of Ophthalmology  
Chicago Ophthalmology Society  
American College of Surgeons  
International College of Surgeons

**RESEARCH OR  
EXPERIMENTAL WORK:**

1974 - 1977 - Electrophysiology of the Eye  
1970 - 1971, Enzymology of the Eye, MAO Inhibitors, Graduate  
1966 - 1967, Magnesium Metabolism and Steroids, Graduate

**CONTRIBUTIONS TO  
LITERATURE:**

1972 - Ophthalmic Biochemistry,  
Investigative Ophthalmology  
1978 - Pediatrics, Vol. 6, No. 2, 189-191,  
Ophthalmic Electrophysiology in Neonates.  
1982 - For the Defense, Vol. 24, No. 11,  
Trauma and Multiple Sclerosis:  
A Medical Legal Evaluation.  
May 1983 - National Safety News, 37-38,  
Thermology: A Medical Surveillance Tool?  
1986 - Revista Oftalmologica, Vol. 7, No. 2,  
Cataratas Pediatricas, Drs. Kinnas  
and Fournier  
1990 - Total Eye Care - A Lifetime of Good Vision Through  
Ophthalmology, Drs. Fournier, Kirschner and Mahon,  
Krames Publications.  
1991 - Treating Diabetic Retinopathy - Setting Your  
Sights on Saving Your Vision, Drs. Flynn, Fournier,  
Nussbaum and McLean, Krames Publications



***EXHIBIT B***

*Vernell Lundberg*

Deposition of VERNELL LUNDBERG

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HEADWATERS FOREST DEFENSE, et al.,  
Plaintiffs,

vs.

COUNTY OF HUMBOLDT, etc., et al.,  
Defendants.

No. C-97-3989-VRW

Deposition of  
VERNELL LUNDBERG

\* \* \*

THURSDAY, APRIL 2, 1998

Reported by: Tania N. Brunell, C.S.R. No. 4277

I N D E X

1		2
2		
3	EXAMINATION	PAGE
4	Ms. Delaney	5
5	Mr. Mitchell	164

E X H I B I T S  
(NONE)

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1 BE IT REMEMBERED that, pursuant to Notice and on 3  
2 THURSDAY, APRIL 2, 1998, commencing at the hour of 9:00  
3 a.m. thereof, at the law offices of MARK P. HARRIS, 791  
4 Eighth Street, Eureka, California, before me, TANIA N.  
5 BRUNELL, Certified Shorthand Reporter of the State of  
6 California, personally appeared  
7 VERNELL LUNDBERG  
8 who, having been first duly sworn, was examined and  
9 testified as follows.

\* \* \*

10  
11  
12 MARK P. HARRIS, Attorney at Law, appeared as  
13 counsel on behalf of Plaintiffs; and  
14 MITCHELL, BRISSO, DELANEY & VRIEZE, Attorneys at  
15 Law, represented by NANCY K. DELANEY and WILLIAM F.  
16 MITCHELL, appeared as counsel on behalf of Defendants.

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A P P E A R A N C E S

1  
2  
3 For the Plaintiffs:  
4 MARK P. HARRIS  
5 Attorney at Law  
6 791 Eighth Street  
7 Suite D  
8 Arcata, California 95521  
9  
10 For the Defendants:  
11 MITCHELL, BRISSO, DELANEY & VRIEZE  
12 Attorneys at Law  
13 814 Seventh Street  
14 Eureka, California 95501  
15 By: NANCY K. DELANEY  
16 WILLIAM F. MITCHELL  
17  
18 Videotaped by:  
19 ED DENSON  
20 17960 Alderpoint Road  
21 Alderpoint, California  
22  
23  
24  
25

1 Q. And how has that caused problems?  
 2 A. It's one aspect of my flashbacks of my  
 3 nightmares. It's left an imprint on my -- on my mind.  
 4 Q. Has that -- has that caused you any  
 5 difficulties other than the flashbacks themselves?  
 6 MR. HARRIS: Objection to the term "difficulties."  
 7 THE WITNESS: And aside from --  
 8 BY MR. MITCHELL:  
 9 Q. Difficulties relating to men or intimacy or  
 10 anything like that?  
 11 A. In general I feel since this event I've been  
 12 less social, and kind of withdrawn, even though I don't  
 13 want to be. It's hard for me to feel like people  
 14 understand what I'm feeling.  
 15 Q. And correct me if I'm wrong: You relate  
 16 that to being touched and being in close proximity with  
 17 the officers?  
 18 A. Those things are related to everything that  
 19 went on from this incident, but the way I was handled and  
 20 the way they conducted themselves with me was one of the  
 21 things that has left that imprint, yes.  
 22 Q. And we've already -- you've already  
 23 explained to us how you perceived you were being handled  
 24 and so forth at that incident, correct?  
 25 A. Yes.

1 Q. We don't need to revisit that, right?  
 2 A. No.  
 3 Q. Is there's nothing more you want to say  
 4 about that?  
 5 A. No.  
 6 Q. Have you sought any counseling in regards to  
 7 any of these emotional issues that you attribute to the  
 8 Scotia incident?  
 9 A. No, I have not.  
 10 Q. Do you have any plans to get counseling?  
 11 A. I would like to at some point. My -- my  
 12 fear with that has been I want any counseling that I get  
 13 to be a private matter, and I want to feel like just  
 14 letting these things out, and I feel like I haven't done  
 15 that so far because I don't want -- I don't want those  
 16 officers or, you know, I don't want people to -- I don't  
 17 want those officers to crawl into my head and hear these  
 18 things and be able to read transcripts of my counseling.  
 19 All these things.  
 20 So, yes, I would like to do that if it can be --  
 21 Q. So is it fair to say, then, that the reason  
 22 you haven't undergone counseling is because of this  
 23 litigation?  
 24 MR. HARRIS: Objection. It misstates her  
 25 testimony.

1 MR. MITCHELL: I'm asking her is that a fair  
 2 statement.  
 3 THE WITNESS: Not exactly. The reason why I  
 4 haven't undergone counseling is because it was my  
 5 understanding that --  
 6 MR. HARRIS: I'm sorry. Let me stop you for a  
 7 minute. If that's an understanding you've had with from  
 8 your attorneys, attorney/client communications, Spring,  
 9 then he doesn't want to know about that, or at least he's  
 10 not entitled to know about that.  
 11 MR. MITCHELL: No, I don't want to ask you about  
 12 advice or counseling from your attorneys. I think I know  
 13 what you're telling me. I'm trying to clarify it.  
 14 BY MR. MITCHELL:  
 15 Q. It's my understanding that you are hesitant  
 16 to get counseling at this time because of your belief that  
 17 you would have to disclose that counseling because of this  
 18 litigation. Is that true?  
 19 A. Correct.  
 20 Q. Is there any other reason you haven't sought  
 21 counseling?  
 22 A. I don't have a lot of money for that right  
 23 now.  
 24 Q. Are you aware that certain plaintiffs met  
 25 with a therapist of some kind in the Bay Area?

1 A. Yes.  
 2 Q. Were you part of that group?  
 3 A. Yes.  
 4 Q. Did you discuss any of the emotional issues  
 5 that we've talked about today with that person?  
 6 A. Yes.  
 7 Q. Did you have a one-on-one session with her?  
 8 A. No.  
 9 Q. It was with the other plaintiffs?  
 10 A. Yes.  
 11 Q. And did she -- did she advise you that you  
 12 should seek counseling?  
 13 A. Yes, but -- yes.  
 14 Q. Did she make a connection between what she  
 15 perceived to be a need for you to seek counseling and what  
 16 occurred in the Scotia incident?  
 17 MR. HARRIS: Objection. Lack of foundation.  
 18 THE WITNESS: I don't remember her going to me  
 19 individually and saying "you need this definitely," but  
 20 she recommended this. So in that recommendation --  
 21 What was your question? I'm sorry.  
 22 BY MR. MITCHELL:  
 23 Q. Yeah. It was a bad question. Sorry.  
 24 Did you discuss with her the events in any way on  
 25 September 25, 1997?

1 A. Yes.

2 Q. Do you recall her name?

3 A. No, I don't.

4 Q. Do you recall who arranged for her to -- for

5 you to meet with her?

6 A. Yes.

7 Q. Who was that? Did you seek her out?

8 A. My lawyer --

9 THE WITNESS: Okay to say?

10 MR. HARRIS: Yeah; that's okay.

11 THE WITNESS: Okay. I don't understand the rules

12 or whatever. But my lawyers arranged it, yes.

13 BY MR. MITCHELL:

14 Q. Had you -- prior to that time had you had

15 any plans or had you scheduled any appointments with any

16 therapist?

17 A. I had not scheduled any appointments.

18 Q. Did someone examine your eyes when you were

19 down there also?

20 A. My eyes were examined. I believe it was the

21 same trip, yes.

22 Q. And what's your understanding of the results

23 of that examination?

24 A. I was --

25 MR. HARRIS: It's okay. I was going to object to

1 the form of the question as vague as to the results.

2 THE WITNESS: I was told that -- for me

3 individually, right?

4 MR. MITCHELL: Yes.

5 THE WITNESS: I was told that my vision was good.

6 BY MR. MITCHELL:

7 Q. And that was Dr. Fornier? Was that his

8 name?

9 A. Yes.

10 Q. You had had some exposure to the media prior

11 to the events at Scotia, correct?

12 A. Yes.

13 Q. And I think I remember, maybe it was the

14 complaint or in some document mentioned that you had been

15 written up in the newspaper prior to the Scotia incident?

16 A. Yes.

17 Q. When was that?

18 A. It's been a couple times, but are you

19 referring to the React magazine?

20 Q. I don't know what I'm referring to. That's

21 why I'm asking the questions. You know those answers and

22 I don't.

23 What newspapers did those articles appear in?

24 A. I was featured in an article in React

25 magazine.

1 Q. "React" is?

2 A. "React," R-E-A-C-T.

3 MR. HARRIS: And, by the way, counsel, you do

4 know, because it was in our declaration in this case.

5 MR. MITCHELL: It was a magazine.

6 MR. HARRIS: It wasn't. My apologies.

7 BY MR. MITCHELL:

8 Q. React magazine?

9 A. React. And the Examiner in San Francisco.

10 Q. Maybe the Examiner was mentioned.

11 Do you have copies of those articles?

12 A. If I do I don't know where they are. I'm

13 not sure.

14 Q. And what was the general topic of the

15 article in the Examiner?

16 A. The tree-sitting that I had done.

17 Q. Was that involving Headwaters?

18 A. Yes.

19 Q. And what about the article in React

20 magazine; what was the general topic of that?

21 A. China Left.

22 Q. China Left, the Oregon activities?

23 A. Yes.

24 Q. Where would I buy a copy of React magazine?

25 A. It's in an insert in many Sunday papers

1 nationally, but I don't believe it's on stands, but --

2 Q. Do you know where that it's published, React

3 magazine?

4 A. It's out of New York, I believe.

5 MR. MITCHELL: Okay. You don't have to take --

6 I'm just going to go over my outline real quickly

7 and hopefully that will be it. Okay?.

8 THE WITNESS: Okay.

9 (Off the record.)

10 BY MR. MITCHELL:

11 Q. Okay. All right. I think I can wrap it up

12 here with a couple more. Don't quote me on it, too, but --

13 Do you have any information that Darryl Cherney

14 was involved in any way in the planning of any of the

15 three incidents that are the subject of this litigation?

16 A. No.

17 Q. Same question as to Josh Brown.

18 A. No.

19 Q. Same question as to Alicia Littletree.

20 A. No.

21 Q. Same question as to Robert Parker.

22 A. No.

23 Q. Same question as to Naomi Wagner.

24 A. No.

25 Q. You have no information that any of those

*Eric Samuel Neuwirth*

1 UNITED STATES DISTRICT COURT  
 2 NORTHERN DISTRICT OF CALIFORNIA  
 3 \* \* \*  
 4  
 5 HEADWATERS FORESI DEFENSE, et al.,  
 6 Plaintiffs,  
 7 vs. Case No. C-97-3989-VRW  
 8 COUNTY OF HUMBOLDT, etc., et al.,  
 9 Defendants.  
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 13 DEPOSITION OF  
 14 ERIC SAMUEL NEUWIRTH  
 15 \* \* \*  
 16 WEDNESDAY, MARCH 4, 1998  
 17 9:39 A.M.  
 18  
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 21  
 22 Reported by: Joanna M. LaMar, CSR #10507  
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1 I N D E X  
 2 EXAMINATION PAGE  
 3 By Ms. Delaney 5  
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 12 EXHIBITS DESCRIPTION PAGE  
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 14 No Exhibits Marked.  
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1 A P P E A R A N C E S  
 2  
 3 FOR THE PLAINTIFFS:  
 4 MARK P. HARRIS  
 5 Attorney at Law  
 6 791 Eighth Street, Suite D  
 7 Arcata, California 95521  
 8  
 9 MACON COWLES & ASSOCIATES  
 10 Attorneys at Law  
 11 1600 Wilson Court  
 12 Boulder, Colorado 80304  
 13 BY: Non-Appearance  
 14  
 15 FOR THE DEFENDANT:  
 16 MITCHELL, BRISSO, DELANEY & VRIEZE  
 17 Attorneys at Law  
 18 814 Seventh Street  
 19 Eureka, California 95501  
 20 BY: NANCY K. DELANEY, ESQ.  
 21  
 22 -and-  
 23 WILLIAM F. MITCHELL, ESQ.  
 24  
 25

1 BE IT REMEMBERED that pursuant to Notice, and on  
 2 WEDNESDAY, MARCH 4, 1998, commencing at the hour of 9:00 A.M.  
 3 thereof, at the law offices of Mark P. Harris, 791 H Street,  
 4 Suite D, Arcata, California, before me, Joanna LaMar, Certified  
 5 Shorthand Reporter Number 10507 for the State of California,  
 6 personally appeared  
 7 ERIC SAMUEL NEUWIRTH,  
 8 who, having been first duly affirmed, was examined and  
 9 testified as follows.  
 10 \* \* \*  
 11  
 12 MARK P. HARRIS, Attorney at Law, appeared as counsel  
 13 on behalf of Plaintiffs; and  
 14 MITCHELL, BRISSO, DELANEY & VRIEZE, Attorneys at Law,  
 15 represented by NANCY K. DELANEY, appeared as counsel on behalf  
 16 of Defendants.  
 17  
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1 way, generally.  
 2 Q. And Mr. McCurdy?  
 3 A. He helps do construction or whatever. Chores.  
 4 Q. Has Mr. McCurdy told you whether he has any physical  
 5 complaint that he attributes to the use of OC on him?  
 6 A. No.  
 7 Q. Do you have any physical complaint that you attribute  
 8 to the use of OC on you?  
 9 A. I don't know. It's hard to tell.  
 10 Q. As you sit here today, can you tell me whether after  
 11 the initial discomfort that you experienced from the OC, you  
 12 have had any physical condition that you believe relates to the  
 13 use of OC on you?  
 14 A. I don't know.  
 15 Q. What don't you know?  
 16 A. I don't know really what OC may have done or be  
 17 doing.  
 18 Q. Did you seek any care from any health care provider  
 19 after OC was used on you?  
 20 A. I didn't seek any.  
 21 Q. Did you receive any -- have you received any?  
 22 A. No, I haven't.  
 23 Q. Have you been evaluated by any health care provider  
 24 for the use of OC on you?  
 25 A. Yes.

1 A. No.  
 2 Q. Did he just not answer your question?  
 3 A. Well, I don't think he had enough data.  
 4 MR. HARRIS: Objection as to the statement that he  
 5 didn't answer the question. He answered that he probably did.  
 6 BY MS. DELANEY:  
 7 Q. Is the quote, "dry eye," unquote, something that you  
 8 feel some physical manifestation of?  
 9 A. No.  
 10 Q. Had you ever noticed that, that your eyes seemed dry?  
 11 A. No. Well, actually, now that I think about it, I  
 12 have noticed that.  
 13 Q. When?  
 14 A. Driving.  
 15 Q. When?  
 16 A. Over the last year or two.  
 17 Q. So that was something you'd actually noticed before  
 18 OC was applied; that your eyes seemed dry when you drove?  
 19 A. Yeah.  
 20 Q. Any other physical manifestation of some condition  
 21 related to your eyes, whether you attribute it to pepper spray  
 22 or not?  
 23 A. Do I have any other?  
 24 Q. Yes.  
 25 A. Well, I have some sort of vision obstruction from

1 Q. Who?  
 2 A. Dr. Fournier.  
 3 Q. Is he the guy from Chicago that came and examined  
 4 plaintiffs in San Francisco?  
 5 A. Correct.  
 6 Q. What did Dr. Fournier tell you?  
 7 A. He told me I had borderline dry eye condition and  
 8 that I had a growth on my eye that was from too much sun, that  
 9 I need to wear sunglasses. He told me that that's about it, I  
 10 think.  
 11 Q. Did he tell you whether the growth on your eye from  
 12 too much sun was in any way related to the application of  
 13 pepper spray?  
 14 A. No, he didn't tell me.  
 15 Q. Did he tell you whether the growth from too much sun  
 16 was in any way effected by pepper spray?  
 17 A. No.  
 18 Q. Did he tell you whether your -- in your words, I  
 19 believe, quote, "borderline dry eye," end quote, was in any way  
 20 related to the application of pepper spray?  
 21 A. No.  
 22 Q. Did you ask?  
 23 A. I don't recall. I probably asked.  
 24 Q. Did he tell you it was not related to the application  
 25 of pepper spray?

1 loose material in the eye from sports injuries.  
 2 Q. What is that?  
 3 A. I don't know what it is.  
 4 Q. When was that first diagnosed or when did you first  
 5 become aware of that?  
 6 A. I was about 17.  
 7 Q. When you were 17?  
 8 A. Yeah.  
 9 Q. Is that a condition that's changed at all over the  
 10 years?  
 11 A. Yeah. I think it's gotten a little worse. My vision  
 12 has gotten worse anyway.  
 13 Q. When did you start to perceive that your vision was  
 14 getting worse?  
 15 A. Within the last five years.  
 16 Q. And did you attribute that to the sports injury?  
 17 A. No, not in particular.  
 18 Q. When did you begin to perceive that the condition  
 19 associated with the sports injury was getting worse?  
 20 A. Within the last five years.  
 21 Q. Any other physical condition involving your eyes that  
 22 manifest itself in some manner you can articulate?  
 23 A. Yeah, I'm light sensitive.  
 24 Q. When did you first notice that?  
 25 A. In about 1990.



1 A. Within the last year or two. I visited somebody for  
2 a couple times, I think.

3 Q. So this was before the Scotia incident?

4 A. Yeah.

5 Q. Between the time ten years ago and the visits before  
6 the Scotia incident and the one to two years ago time frame?

7 A. Oh, you mean did I visit anyone between?

8 Q. Any counselors between those two?

9 A. Within the last ten years, I've probably maybe  
10 visited someone other than the two I'm recalling.

11 Q. Have you seen any counselors since the Scotia  
12 incident?

13 A. No. Oh, I saw this one person in Berkeley.

14 Q. Was that the one arranged --

15 A. Yeah.

16 Q. -- in connection with the litigation?

17 A. Right.

18 Q. Do you recall her name?

19 A. No.

20 Q. Did you make any follow-up appointment with her?

21 A. No.

22 Q. Did she recommend any further counseling to you?

23 A. No.

24 Q. Did she give you any kind of diagnosis?

25 A. No.

1 indicated that the incident, the incident in Scotia, in your  
2 judgment, caused you certain emotional upset, and we were going  
3 through your history. There were some counselors whose names  
4 you didn't recall. Have you recalled those?

5 A. I do recall one. Dan Iuton is the name of the one  
6 that I saw in -- about ten years ago.

7 Q. Could you spell that for me, please.

8 A. Dan Iuton, I-u-t-o-n.

9 Q. Anyone else that you can recall?

10 A. No.

11 Q. Is there any history of depression in your family?

12 A. Yeah.

13 Q. Who?

14 A. My father.

15 Q. Are your mother and father living?

16 A. No -- oh, yeah. I thought you were going to say  
17 living -- yeah.

18 Q. Pardon?

19 A. Yeah, they're living.

20 MR. MICHELL: That's not a trick question.

21 BY MS. DELANEY:

22 Q. Living, but not together?

23 A. Correct.

24 Q. Do you have regular contact with either of them or  
25 both of them?

1 Q. What did you discuss with her?

2 A. I think we mostly discussed concerns over discussing  
3 our concerns.

4 Q. What were your concerns about discussing your  
5 concerns?

6 A. Well, everyone had a different one.

7 Q. What was yours?

8 A. Mine was that I didn't know her and I didn't trust  
9 her. I didn't really feel like I needed her. But I felt like  
10 I wanted to know who she was before I decide to go talk to her  
11 about who I was.

12 Q. Did you ever feel you came to know who she was well  
13 enough to participate in any counseling session with her?

14 A. No, not at all.

15 Q. You didn't hit it off, so to speak?

16 A. Well, no. There wasn't the opportunity.

17 MR. HARRIS: Nancy, when you get a chance, maybe we  
18 can take a break soon because you're outlasting me again.

19 MS. DELANEY: Let's take the lunch break.  
20 (Whereupon, the luncheon recess was  
21 taken from 12:36 to 2:08 p.m.)

22 EXAMINATION (resumed)

23 BY MS. DELANEY:

24 Q. Mr. Neuwirth, I believe we were talking about  
25 different emotional aspects of your life because you have

1 A. Yes, both.

2 Q. Do either of them live in the Humboldt County area?

3 A. No.

4 Q. Where does your mother reside?

5 A. In Arcadia.

6 Q. And where does your father reside?

7 A. In Pasadena.

8 Q. What does your father do?

9 A. He's retired.

10 Q. What did he do?

11 A. He worked for the Department of HUD.

12 Q. Do you know what his job title was?

13 A. Relocation specialist.

14 Q. Did your mom work outside the home?

15 A. Yes.

16 Q. What did she do?

17 A. She taught high school.

18 Q. Does your father continue to suffer from depression?

19 A. I believe so.

20 Q. Is he on any medication or do you know?

21 A. I believe he is.

22 Q. Do you have any siblings?

23 A. Uh-huh, yes.

24 Q. How many?

25 A. Three.

*Jennifer Schneider*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

A P P E A R A N C E S

FOR THE PLAINTIFFS:

MARK P. HARRIS  
Attorney at Law  
791 Eighth Street, Suite C  
Arcata, CA 95521

- and -

Wagon Wheels & Associates  
By: SUSAN R. O'NEILL, ESO  
1890 Wilson Court  
Arcata, CA 95504

FOR THE DEFENDANTS:

Mitchell, Grisco, Delaney & Grieze  
Attorneys at Law  
By: NANCY K. DELANEY, ESO  
- and -  
WILLIAM MITCHELL, ESO  
314 Seventh Street  
Eureka, CA 95501

HEMLOCKERS FOREST DEFENSE, an unincorporated  
association; HOLLY BURTON; VERUELL "SPRING" M  
LUNDBERG; JAM LUNDBERG, as guardian ad litem  
for Vernell M. Lundberg; MICHAEL MCCURDY; ERIC  
GABRIEL HEIMRICH; MAYA PORTUGAL; SUE C. PORTUGAL,  
as guardian ad litem for Maya Portugal; LISA MARIE  
SANDERSON-FOX; JENNIFER SCHNEIDER; TERRI SLANETZ;  
and HOEL TENDICK,  
Defendants.

CITY OF HUMBOLDT; a political subdivision of  
the State of California; HUMBOLDT COUNTY SHERIFF'S  
DEPARTMENT; SHERIFF DENNIS LEWIS, individually and  
as Humboldt County Sheriff; CHIEF DEP. GARY PHILP,  
SGT. FNU SIARPELLINI, DEP. RANCY K. HELD, DEP. MARVIN  
KIRKPATRICK, DEP. R. CRADDOCK, DEP. JOHN SYLVIA, DEP.  
FNU REYNOLDS, individually and in their capacities as  
members of the Humboldt County Sheriff's Department;  
CITY OF EUREKA, a political subdivision of the State  
of California; EUREKA POLICE DEPARTMENT; CHIEF ARNIE  
WILSON, individually and as Chief of the Eureka Police  
Department; CAPT. BILL HONSAL, SGT. JAMES MANOS,  
individually and in their capacities as members of  
the Eureka Police Department; and COES 1 through 150,  
inclusive,  
Defendants.

FILED

JENNIFER SCHNEIDER

1999 FEB 10 11:30

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
NO. 99-3999

HEMLOCKERS FOREST DEFENSE, an unincorporated  
association; HOLLY BURTON; VERUELL "SPRING" M  
LUNDBERG; JAM LUNDBERG, as guardian ad litem  
for Vernell M. Lundberg; MICHAEL MCCURDY; ERIC  
GABRIEL HEIMRICH; MAYA PORTUGAL; SUE C. PORTUGAL,  
as guardian ad litem for Maya Portugal; LISA MARIE  
SANDERSON-FOX; JENNIFER SCHNEIDER; TERRI SLANETZ;  
and HOEL TENDICK,  
Plaintiffs,

vs.

CITY OF HUMBOLDT; a political subdivision of  
the State of California; HUMBOLDT COUNTY SHERIFF'S  
DEPARTMENT; SHERIFF DENNIS LEWIS, individually and  
as Humboldt County Sheriff; CHIEF DEP. GARY PHILP,  
SGT. FNU SIARPELLINI, DEP. RANCY K. HELD, DEP. MARVIN  
KIRKPATRICK, DEP. R. CRADDOCK, DEP. JOHN SYLVIA, DEP.  
FNU REYNOLDS, individually and in their capacities as  
members of the Humboldt County Sheriff's Department;  
CITY OF EUREKA, a political subdivision of the State  
of California; EUREKA POLICE DEPARTMENT; CHIEF ARNIE  
WILSON, individually and as Chief of the Eureka Police  
Department; CAPT. BILL HONSAL, SGT. JAMES MANOS,  
individually and in their capacities as members of  
the Eureka Police Department; and COES 1 through 150,  
inclusive,  
Defendants.

Be it remembered that pursuant to notice,  
and on TUESDAY, FEBRUARY 10, 1999, commencing at the  
hour of 9:00 A.M. thereof, at the law offices of Mark  
Harris, 791 Eighth Street, Suite C, Arcata,  
California, before me, Valerie Walker, Certified  
Shorthand Reporter Number 7209 for the State of  
California, personally appeared

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1 Q What about Squirrely?  
 2 A That's Heather McCoslin.  
 3 Q Where does she live?  
 4 A I don't know where she lives now.  
 5 Q Where did she live when you last knew where  
 6 she lived?  
 7 A She lived where I lived on Wabash Street.  
 8 Q When did she leave?  
 9 A Last week.  
 10 Q Did she leave a forwarding address?  
 11 A No, because she didn't know where she was  
 12 going to.  
 13 Q What do you do if you receive mail for her?  
 14 A Hold it until we know where she is.  
 15 Q Have you received any mail for her?  
 16 A I haven't received any mail for her.  
 17 Q Has any mail been received at the Wabash  
 18 Street address for her?  
 19 A Not that I know of, but I don't get the  
 20 mail every day.  
 21 Q Who else lives at the Wabash Street  
 22 address?  
 23 A Garlic, Moonbeam, Toe Cheese. That's it.  
 24 Q What's Garlic's name?  
 25 A Angela Wortees.

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1 Q I'm sorry?  
 2 A Angela Wortees.  
 3 Q And Moonbeam?  
 4 A Elena Zuniga, Z-U-N-I-G-A.  
 5 Q And who's Toe Cheese?  
 6 A Patrick Ring.  
 7 Q How do you spell his last name?  
 8 A I believe it's R-I-N-G.  
 9 Q Are any of the other residents at Wabash  
 10 employed?  
 11 A Not that I know of.  
 12 Q Who pays the rent?  
 13 A I've -- I have paid the rent.  
 14 Q Where do you get the money to pay the rent?  
 15 A Savings.  
 16 Q To whom do you pay the rent?  
 17 A To Nick.  
 18 Q Nick?  
 19 A I don't know his last name.  
 20 Q Do you pay in cash?  
 21 A The one time, yes.  
 22 Q Who made the deposit on the apartment, or  
 23 was a deposit required?  
 24 A I don't know that.  
 25 Q Do you know Darryl Cherney?

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1 A I know him.  
 2 Q How long have you known him?  
 3 A A few months.  
 4 Q What contact have you had with Darryl  
 5 Cherney?  
 6 A I've had telephone contact and I've  
 7 physically seen him.  
 8 Q Have you called him or has he called you?  
 9 A Both.  
 10 Q Do you have a phone at Wabash?  
 11 A Yes.  
 12 Q What's the phone number?  
 13 A 445-5105.  
 14 Q Do you know Mr. Cherney's phone number?  
 15 A Not by heart.  
 16 Q You have it written down somewhere?  
 17 A Yes.  
 18 Q What have you contacted Darryl Cherney  
 19 regarding?  
 20 A Media.  
 21 Q Anything else?  
 22 A No.  
 23 Q What as far as the media?  
 24 A I just asked him media questions about  
 25 television.

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1 Q Did you see any health care provider, any  
 2 physician or other person you understood to be  
 3 associated with health care after the Scotia incident?  
 4 A No, I didn't.  
 5 Q Did you see any health care provider after  
 6 the Riggs incident?  
 7 A Just the ophthalmologist.  
 8 Q Dr. Fournier?  
 9 A Correct.  
 10 Q Did Dr. Fournier indicate to you any  
 11 physical condition that caused him concern?  
 12 A Well, he was concerned that we had been  
 13 pepper-sprayed.  
 14 Q Not speaking now of what had occurred, but  
 15 did he indicate to you any findings?  
 16 A Yes.  
 17 Q What?  
 18 A Just that he -- well, I can't remember how  
 19 he phrased it.  
 20 Q Paraphrase is fine.  
 21 A That he observed my eyes and they were -- I  
 22 can't think of a really good word -- normal, but I  
 23 don't know what normal means. So -- in the context of  
 24 this --  
 25 Q Did anyone who also saw Dr. Fournier --

1 were others down there to see Dr. Fournier when you  
 2 were there?  
 3 A. Yes.  
 4 Q. Did anyone indicate to you that Dr.  
 5 Fournier recorded anything other than normal findings?  
 6 A. Yes.  
 7 Q. Who?  
 8 A. Noel.  
 9 Q. What did Noel indicate?  
 10 A. I believe he indicated that Dr. Fournier  
 11 said he had, like, dry eyes, and I think Sam was  
 12 borderline.  
 13 Q. Anything else?  
 14 A. That's all I can remember.  
 15 Q. Did you talk to Maya?  
 16 A. Did I talk to Maya?  
 17 Q. Yes, regarding Dr. Fournier's examination?  
 18 A. Not that I can remember. She was there.  
 19 Q. Well, did you all discuss afterwards -- and  
 20 by "all of you," I mean the group that was there to  
 21 see Dr. Fournier, which the group consisted of the  
 22 plaintiffs in the lawsuit that you're part of,  
 23 correct?  
 24 A. Correct.  
 25 Q. Did any -- did all of you discuss your

1 visit with Dr. Fournier after the visit?  
 2 A. Yes.  
 3 Q. And other than Noel reporting dry eyes and  
 4 Sam reporting borderline -- borderline dry eyes?  
 5 A. Yes.  
 6 Q. Did anyone else say Dr. Fournier had  
 7 indicated any problem to that?  
 8 A. Regarding their eyes?  
 9 Q. Yes.  
 10 A. No.  
 11 Q. Did anyone indicate any other physical  
 12 concern that Dr. Fournier had discussed?  
 13 A. No.  
 14 Q. Have you seen any other health care  
 15 provider for anything related to the Scotia or Riggs  
 16 incidents?  
 17 A. No.  
 18 Q. It's my understanding you saw a counselor  
 19 in Berkeley?  
 20 A. Correct.  
 21 Q. Do you recall her name?  
 22 A. No.  
 23 Q. Do you have any -- and I don't want to be  
 24 confusing in the questioning -- but my understanding  
 25 was she was a health care provider as well, some type

1 of psychologist. Was that your understanding?  
 2 A. Correct.  
 3 Q. I want to include all of the health care  
 4 professionals, whether western medicine, herbalist,  
 5 psychological providers, service providers, whatever,  
 6 other than Dr. Fournier and the psychologist in  
 7 Berkeley. Have you seen any other health care  
 8 providers?  
 9 A. No. I don't have health care insurance.  
 10 so --  
 11 Q. Well, have you sought out any health care  
 12 through a clinic or other resources available in the  
 13 community?  
 14 A. I'm currently doing that.  
 15 Q. Where?  
 16 A. I'm applying for Medi-Cal.  
 17 Q. For what condition?  
 18 A. So I can -- well, in case of emergency, as  
 19 well as I would like to go to get a new pair of  
 20 glasses.  
 21 Q. Do you wear glasses or other corrective  
 22 lenses?  
 23 A. For driving and to see like a blackboard.  
 24 Q. Distance vision?  
 25 A. Yes.

1 Q. When did you first get a pair of glasses?  
 2 A. Probably when I was seventeen.  
 3 Q. Were you diagnosed then as being  
 4 nearsighted?  
 5 A. Correct.  
 6 Q. Do you currently have a pair of corrective  
 7 lenses?  
 8 A. Yes.  
 9 Q. What kinds, contacts or glasses?  
 10 A. Glasses.  
 11 Q. Did Dr. Fournier discuss your  
 12 nearsightedness with you?  
 13 A. No.  
 14 Q. Did you ask him about it?  
 15 A. No. He just did the eye test.  
 16 Q. Did he confirm you're nearsighted?  
 17 A. Confirm?  
 18 Q. Meaning did he say yes, you are  
 19 nearsighted?  
 20 A. No, he didn't say it.  
 21 Q. Did you tell him you were nearsighted?  
 22 A. Yes, I did.  
 23 Q. Did he disagree with that in any way?  
 24 A. No.  
 25 Q. Have you used a Black Bear since the Riggs

*Lisa Marie Sanderson-Fox*

Deposition of LISA MARIE SANDERSON FOX

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HEADWATERS FOREST DEFENSE, et al.,  
Plaintiffs,  
vs.  
COUNTY OF HUMBOLDT, etc. et al.,  
Defendants.

No. C-97-3989-VRW

Deposition of  
LISA MARIE SANDERSON-FOX  
\* \* \*  
THURSDAY, MARCH 5, 1998  
1:30 P.M.

VOLUME II  
AFTERNOON SESSION

Reported by: Tania N. Brunell, C.S.R. No. 4277

25

I N D E X

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3	EXAMINATION	PAGE
4	Ms. Delaney	5
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8	E X H I B I T S	
9	(NONE)	
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E X H I B I T S  
(NONE)

1 BE IT REMEMBERED that, pursuant to Stipulation 3  
2 and on THURSDAY, MARCH 5, 1998, commencing at the hour of  
3 1:30 p.m. thereof, at the law offices of MITCHELL, BRISSO,  
4 DELANEY & VRIEZE, 814 Seventh Street, Eureka, California,  
5 before me, TANIA N. BRUNELL, Certified Shorthand Reporter  
6 of the State of California, personally appeared  
7 LISA MARIE SANDERSON-FOX  
8 who, having been first duly sworn, was examined and  
9 testified as follows.

10 \* \* \*

11  
12 MACON COWLES & ASSOCIATES, Attorneys at Law,  
13 represented by SUSAN R. O'NEILL, appeared as counsel on  
14 behalf of Plaintiffs; and

15 MITCHELL, BRISSO, DELANEY & VRIEZE, Attorneys at  
16 Law, represented by NANCY K. DELANEY, appeared as counsel  
17 on behalf of Defendants.

18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

1		4
2		
3	MACON COWLES & ASSOCIATES	
4	Attorneys at Law	
5	1680 Wilson Court	
6	Boulder, Colorado 80304	
7	By: SUSAN R. O'NEILL	
8		
9	For the Defendant:	
10	MITCHELL, BRISSO, DELANEY & VRIEZE	
11	Attorneys at Law	
12	814 Seventh Street	
13	Eureka, California 95501	
14	By: NANCY K. DELANEY	
15		
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4

12 Co-counsel: WILLIAM F. MITCHELL, Esq.

1 my right eye and it gets tired much easier.  
 2 Q. Is it distance vision or reading vision that  
 3 appears to be changing, or both?  
 4 A. I've noticed it with distance vision.  
 5 Q. Your glasses prescription that you got in  
 6 1985, was that for nearsightedness or farsightedness?  
 7 A. Actually, my understanding is that I'm  
 8 nearsighted in one eye and farsighted in the other.  
 9 Q. Which eye are you nearsighted?  
 10 A. This one. (Indicating.) My left eye.  
 11 Q. Which eye are you farsighted?  
 12 A. My right eye.  
 13 Q. And now it appears to be that the distance  
 14 vision in your right eye is changing?  
 15 A. Yeah, because my right eye has always seemed  
 16 to compensate for my left eye, because I couldn't see as  
 17 far with my left eye and now it just doesn't -- it's not  
 18 doing the job.  
 19 Q. Are there any ophthalmological services  
 20 provided at the Berkeley clinic?  
 21 A. No.  
 22 Q. And I assume the doctor that you're  
 23 referring to who examined your eyes was Dr. Fournier?  
 24 A. Yes, correct.  
 25 Q. With other plaintiffs in San Francisco?

1 A. Yes.  
 2 Q. Have you at any other time since October 16,  
 3 1997, sought eye care?  
 4 A. Yeah, right after that, right shortly after,  
 5 a couple weeks or maybe a month after, in November, I  
 6 believe I got my -- a new pair of glasses, but it was the  
 7 same prescription. And at that time the prescription  
 8 seemed fine.  
 9 Q. Where did you get the glasses?  
 10 A. "Sight for Sore Eyes" in Berkeley.  
 11 Q. Where did you get the prescription for the  
 12 glasses?  
 13 A. It's a prescription from that -- from "Sight  
 14 for Sore Eyes."  
 15 Q. Were your eyes -- was an eye exam performed?  
 16 A. Yes.  
 17 Q. And when was that?  
 18 A. I don't know the exact date, but I believe  
 19 it was sometime in November.  
 20 Q. Of 1997?  
 21 A. Yes.  
 22 Q. Any other time that you sought any eye care  
 23 or evaluation since October 16, 1997?  
 24 A. No.  
 25 Q. Do you still have the new glasses?

1 A. Yes.  
 2 Q. I notice you're not wearing glasses now. Do  
 3 you have a contact prescription also?  
 4 A. No, I just wear them for driving and  
 5 watching movies and walking down the street.  
 6 Q. Have you noticed any change in your reading  
 7 vision?  
 8 A. No.  
 9 Q. Are either of your parents nearsighted?  
 10 A. My father wears glasses, but I don't know  
 11 why, like, what's nearsighted or farsighted or --  
 12 Q. Do you know for what purpose he wears  
 13 glasses, I mean, for what activities?  
 14 A. He wears them all the time.  
 15 Q. How long has he worn them all the time?  
 16 A. I don't know.  
 17 Q. Do you remember a time when he didn't wear  
 18 glasses all the time?  
 19 A. Well, I didn't grow up with him so I don't  
 20 really know.  
 21 Q. Do you have any siblings?  
 22 A. Yes.  
 23 Q. Any of your siblings wear glasses?  
 24 A. My brother wears glasses for the same thing  
 25 that I do, driving and watching movies.

1 Q. Have you obtained prescriptions for glasses  
 2 or eye care at any place other than "Sight for Sore Eyes"  
 3 in Berkeley?  
 4 A. A different "Sight for Sore Eyes" in Walnut  
 5 Creek or Concord, but that was about four -- four years  
 6 ago. I believe. I don't remember exactly when that was.  
 7 Q. When did you first notice what you've  
 8 described as degeneration of your distance vision in your  
 9 right eye?  
 10 A. Approximately two months ago.  
 11 Q. Was that before or after you saw Dr.  
 12 Fournier?  
 13 A. After.  
 14 Q. Have you attempted to make an appointment  
 15 for any type of eye evaluation since you began to notice  
 16 degeneration of sight in your right eye?  
 17 A. I would really like to. I cannot afford to.  
 18 Q. Have you attempted to determine whether  
 19 there's any kind of clinic or anything available where you  
 20 could get an eye evaluation?  
 21 A. I did find the one clinic, but I haven't  
 22 gone for any kind of appointment or --  
 23 Q. Where is it?  
 24 A. It's in Berkeley.  
 25 Q. What's it called?



1 A. It's called the "Suitcase Clinic."  
 2 Q. When did you learn about it?  
 3 A. Through the Berkeley Free Clinic sometime in  
 4 the last few months.  
 5 Q. And does it offer eye care?  
 6 A. They have -- yeah, they have students from  
 7 the university that do exams.  
 8 Q. From the ophthalmology department?  
 9 A. I presume so.  
 10 Q. Any other physical effect or condition that  
 11 you currently experience that you believe may be in any  
 12 way connected to the application of pepper spray?  
 13 A. I've gotten about 15 or 20 gray hairs since  
 14 then, actually.  
 15 Q. Are you kidding or serious?  
 16 A. I'm serious.  
 17 Q. Anything else?  
 18 A. Physically? No.  
 19 Q. Are there any emotional or mental conditions  
 20 that you believe you now experience that you attribute to  
 21 the application of pepper spray?  
 22 A. Yeah.  
 23 Q. What?  
 24 A. When I first -- the first couple of months  
 25 after that experience -- I attributed it to not only the

1 application of pepper spray but the entire experience of  
 2 having it applied by the police in this manner -- I was  
 3 very emotional and moved to tears quite frequently, which  
 4 is not a normal state for me, and I felt like crying all  
 5 the time, basically.  
 6 Q. And that was something you experienced the  
 7 first couple of months afterwards?  
 8 A. Yeah, it still comes, off and on, when I'm,  
 9 you know, talking a lot about it, but at that time it was  
 10 not -- I mean, it was happening when I was talking about  
 11 that experience, but also happening when I was, like, you  
 12 know, trying to focus on my work or, you know, walking my  
 13 dog. It was just a very emotional time for me.  
 14 Q. Does that appear to be improving?  
 15 A. It's not as constant. But it still happens.  
 16 Q. Have you sought any type of counseling?  
 17 A. I did see one psychologist with the group  
 18 once. But I haven't pursued that.  
 19 Q. Are there clinic counseling services  
 20 available in Berkeley?  
 21 A. Yes, there are.  
 22 Q. Have you sought out any of those?  
 23 A. No, I have not.  
 24 Q. Any other emotional or mental conditions  
 25 that you believe may be connected to the -- and I believe

1 you used really a better characterization than I did -- to  
 2 the entire pepper-spray incident?  
 3 A. Yeah, I've been -- I've been, off and on,  
 4 depressed in a way which has been -- made it very  
 5 difficult for me to focus on the goals that I had -- that  
 6 I have but that was working on actively before I had this  
 7 experience.  
 8 Q. Any other way?  
 9 A. Not that I can think of.  
 10 Q. What goals did you have before that you now  
 11 find more difficult to focus on?  
 12 A. Well, right before I -- before I went up to  
 13 Base Camp I had just finished training -- the training at  
 14 the Berkeley Free Clinic as a medic, and you make a very  
 15 big commitment when you finish that training to be an  
 16 active part of the clinic; and I had some projects that I  
 17 felt pretty strongly about wanting to work on and bring  
 18 into the clinic as things that I can contribute, and I've  
 19 had a very hard time just meeting up to the commitment,  
 20 the original commitment, let alone expanding it into  
 21 projects that are more in depth.  
 22 Q. What were those projects?  
 23 A. Well, since my training has been focused  
 24 around medicinal plants, I had a lot of ideas about how I  
 25 could bring that information into the clinic and make it

1 available to the clients who wanted it. And there's a  
 2 women's health-care clinic there, and I wanted to work  
 3 also in collaboration with that clinic about having  
 4 women's health treated with herbs and things that I had  
 5 information about or experience in.  
 6 Q. Have you been able to do that?  
 7 A. No.  
 8 Q. Do you have any present plans to do that?  
 9 A. I still would like to do that. I feel I'm  
 10 having a very hard time getting on track and focusing on  
 11 those goals.  
 12 Q. When did you first form those goals?  
 13 A. Well, those were the original -- my original  
 14 motivations for doing the training at the Free Clinic was  
 15 my desire to bring the skills and training that I had from  
 16 before into that environment.  
 17 Q. As you sit here today, do you believe you'll  
 18 still achieve those goals?  
 19 A. I really hope I do, but it's been a source  
 20 of depression to me that I have not been able to, and I'll  
 21 be very depressed if I don't, you know.  
 22 Q. Is there any type of herbal treatment for  
 23 depression?  
 24 A. Some people use Saint John's Wart. I  
 25 haven't found it very effective for me. There are

*Maya Portugal*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
NO. C-97-3989

HEADWATERS FOREST DEFENSE, an unincorporated  
association; MOLLY BURTON; VERNELL "SPRING" M.  
LUNDBERG; JAN LUNDBERG, as guardian ad litem  
for Vernell M. Lundberg; MICHAEL McCURDY; ERIC  
SAMUEL NEUWIRTH; MAYA PORTUGAL; SUE C. PORTUGAL,  
as guardian ad litem for Maya Portugal; LISA MARIE  
SANDERSON-FOX; JENNIFER SCHNEIDER; TERRI SLANETZ;  
and NOEL TENDICK,

Plaintiffs,

vs.

COUNTY OF HUMBOLDT; a political subdivision of  
the State of California; HUMBOLDT COUNTY SHERIFF'S  
DEPARTMENT; SHERIFF DENNIS LEWIS, individually and  
as Humboldt County Sheriff; CHIEF DEP. GARY PHILP,  
SGT. FNU CIARBELLINI, DEP. RANDY K. HELD, DEP. MARVIN  
KIRKPATRICK, DEP. R. CRADDOCK, DEP. JOHN SYLVIA, DEP.  
FNU REYNOLDS, individually and in their capacities as  
members of the Humboldt County Sheriff's Department;  
CITY OF EUREKA, a political subdivision of the State  
of California; EUREKA POLICE DEPARTMENT; CHIEF ARNIE  
MILSAP, individually and as Chief of the Eureka Police  
Department; CAPT. BILL HONSAL, SGT. JAMES MANOS,  
individually and in their capacities as members of  
the Eureka Police Department; and DOES 1 through 150,  
inclusive,

Defendants.

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D E P O S I T I O N

O F

MAYA PORTUGAL

TUESDAY, FEBRUARY 10, 1998

4:25 P.M.

VALERIE WALKER CSR #7209

**CRNICH DEPOSITIONS**

626 H STREET, EUREKA, CA. 95501

TELEPHONE 707 443-4670

FAX 707 443 4670

CONFERENCE ROOMS

1 to select the next word. Okay?

2 A. Okay.

3 Q. Or I'll kind of hold up my hands or  
4 something to signal, and we'll get a better record and  
5 the court reporter won't be mad at either one of us.

6 A. Okay.

7 MS. O'NEILL: Also she needs to be able to  
8 hear your responses so she can get them down. I know  
9 you have a nice, quiet voice, but try to speak up just  
10 a little.

11 BY MS. DELANEY:

12 Q. Did Dr. Fournier perform an eye  
13 examination?

14 A. Yes.

15 Q. What did he tell you the results of that  
16 examination were?

17 A. He didn't tell me what they were.

18 Q. Did you ask?

19 A. Am I allowed to ask her a question?

20 MS. O'NEILL: Is it something to do with  
21 attorney/client --

22 THE WITNESS: Yeah.

23 MS. O'NEILL: I think that she's answered  
24 the question. And if you want it repeated back I'll  
25 let you know whether she can answer it.

1 if I'll lock down in the future or not. I don't  
2 know.

3 BY MS. DELANEY:

4 Q. Have you sought any counseling for any  
5 condition that you attribute to the October 16  
6 incident?

7 A. I don't know what quite is attorney-client  
8 privilege. Am I allowed to, like --

9 MS. O'NEILL: No. If you think -- I think  
10 you're being asked if you sought counseling, if you've  
11 contacted a counselor.

12 Is that correct?

13 MS. DELANEY: Correct.

14 THE WITNESS: If I have? No.

15 BY MS. DELANEY:

16 Q. Have you seen a counselor?

17 A. Yes.

18 Q. And was that the counselor in Berkeley?

19 A. Yeah.

20 Q. Have you scheduled any follow-up sessions?

21 A. No.

22 Q. Have you discussed with your parents  
23 obtaining any counseling?

24 A. Yes.

25 Q. What was decided?

1 A. It was left undecided.

2 Q. Do you want counseling?

3 A. Kind of.

4 Q. Have you asked your parents to obtain  
5 counseling for you?

6 A. No.

7 Q. Have you asked anyone other than -- ruling  
8 out any conversation with your attorney, have you  
9 asked anyone to pursue any counseling for you?

10 A. No.

11 Q. Have either of your parents suggested to  
12 you that you should seek counseling?

13 A. I think so.

14 Q. Who?

15 A. I think -- I don't remember who it was. I  
16 just remember discussing it with both of them.

17 Q. Do you recall whether you indicated to  
18 either of them one way or another that you kind of  
19 wanted counseling?

20 A. No, I didn't.

21 Q. You didn't indicate that to them?

22 A. No. I don't recall indicating it to them.

23 Q. Do you have any emotional condition, in  
24 your mind, that you attribute to the October 16  
25 incident?

*Noel H. Tendick*

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---o0o---

HEADWATERS FOREST DEFENSE, et )  
al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
COUNTY OF HUMBOLDT, et al., )  
 )  
Defendants. )

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NO. C-97-3989-VRW

CERTIFIED  
COPY

*JC 4/1/98*

Deposition of  
NOEL H. TENDICK  
Friday, April 3, 1998

Reported by:

MARLENE LEE, CSR No. 4623, CRR

**A/B/A**

**ABA REPORTERS**

*A Division of*  
*Linda L. Chavez, CSR, Inc.*  
115 Sansome Street, Suite 1050  
San Francisco, California 94104  
415-391-2999



97-206  
NKD



1 After your senior year?

2 A. Oh, no. I'm sorry. I thought I told  
3 you. That was when I was a sophomore.

4 Q. Yes. You did say that. And you're  
5 telling me that Dr. Fornier said you have dry eyes?

6 A. Yeah. Abnormally dry eyes.

7 Q. Did he tell you whether that was in any  
8 way related to your experience with pepper spray?

9 A. I asked him, and he said at that point he  
10 wouldn't be able to tell if it was caused by, or  
11 potentially aggravated by, the pepper spray.

12 Q. When you say "potentially aggravated by,"  
13 had you experienced dry eyes before?

14 A. I don't know. I had never been  
15 diagnosed. I wasn't when I went to receive my  
16 glasses as a sophomore.

17 Q. Is it anything that you're aware of  
18 today?

19 A. The dry eyes?

20 Q. Yes.

21 A. See, this is where I'm not sure, like --  
22 because there are periods when I feel burning in my  
23 eyes, and I'm not sure if it's because I'm tired, or  
24 I have dry eyes, or it's an effect of the pepper  
25 spray.

1 A. No.

2 Q. Why not?

3 A. I was still feeling shocked by the pepper  
4 spray and the jail time, I believe.

5 Q. Well, the jail time you'd anticipated,  
6 though; correct?

7 A. Yes.

8 Q. Did you participate in a session with a  
9 counselor and other plaintiffs?

10 A. Counselor, meaning attorney?

11 Q. No. No. Meaning a health care  
12 counselor.

13 A. I'm not sure exactly what she --

14 Q. Social worker type?

15 A. I guess.

16 Q. Psychologist? Whatever. I haven't seen  
17 her CV, so I don't --

18 A. I assume you're referring to an incident  
19 that you have knowledge of, and I'm trying to --

20 Q. Other plaintiffs have talked about getting  
21 together with a woman, I believe, in the Bay Area.

22 A. Yeah. I'm not sure exactly what her  
23 position was. But yeah, we met with her.

24 Q. Did she suggest you get any treatment?

25 A. As far as I remember her role in that

1 discussion, she was facilitating dialogue in what we  
2 needed. I can't remember if she made a suggestion  
3 one way or another.

4 Q. What you needed in what respect?

5 A. Just as far as our healing process. What  
6 kind of counseling we needed. She -- I mean, I feel  
7 very good about what she was there for, but I just  
8 remember it was a very uncertain time as far as what  
9 legal ramifications were going to be for what we  
10 underwent.

11 Q. Did she tell you, as far as healing, you  
12 needed counseling?

13 A. I don't -- I don't believe so. I don't  
14 think that's the role of a counselor. I believe she  
15 said whatever we needed, she would be there for; if  
16 we wanted to talk to her, or if we wanted to find a  
17 different counselor. I don't believe she made a  
18 diagnosis, saying -- I don't think she did any type  
19 of testing and any type of --

20 Q. So she offered to treat you if you wanted  
21 treatment?

22 A. To my recollection, she did.

23 Q. Did you ever avail yourself of that?

24 A. No, as I said, because of different fears  
25 and uncertainty associated with it.

*Terri Slanetz*

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

---000---

HEADWATERS FOREST DEFENSE, )  
et al., )  
Plaintiffs, )  
vs. ) No C97-3989-VRW  
COUNTY OF HUMBOLDT, et al., )  
Defendants )

Deposition of  
TERRI SLANETZ  
Monday, February 9, 1998

Reported by:  
KAREN I. STIRLING, CSR No 5914

I N D E X

DEPOSITION OF TERRI SLANETZ  
Monday, February 9, 1998

EXAMINATION BY:

MS. DELANEY

Page

4

QUESTIONS INSTRUCTED NOT TO ANSWER:

PAGE-LINE

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152-21

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(No Exhibits Marked)

BE IT REMEMBERED that, pursuant to Notice  
of Taking Deposition, and on Monday, February 9,  
1998, commencing at the hour of 9:18 a.m. thereof,  
at the Law Offices of Pinnock & Schectman, 1231  
Market Street, Eighth Floor, Penthouse West, San  
Francisco, California, before me, Karen I. Stirling,  
a Certified Shorthand Reporter in and for the State  
of California, personally appeared

TERRI SLANETZ,

called as a witness by the defendants, who, being by  
me first duly sworn, was thereupon examined and  
testified as hereinafter set forth.

MACON COWLES & ASSOCIATES, P.C., 1680  
Wilson Court, Boulder, Colorado 80304, represented  
by MACON COWLES, Attorney at Law, appeared as  
counsel on behalf of the plaintiffs.

MARK HARRIS, Attorney at Law, 791 Eighth  
Street, Suite D, Arcata, California 95521, appeared  
as counsel on behalf of the plaintiffs.

MITCHELL, BRISSO, DELANEY & VRIEZE, Post  
Office Drawer 1008, 814 Seventh Street, Eureka,  
California 95502, represented by NANCY K. DELANEY,  
Attorney at Law, and WILLIAM F. MITCHELL, Attorney  
at Law, appeared as counsel on behalf of the  
defendants.

TERRI SLANETZ

having been duly sworn, testified as follows:

EXAMINATION BY MS. DELANEY

MS. DELANEY: Q. Would you state your  
name for the record, please, and spell your last  
name?

A. Terri Slanetz, S-L-A-N-E-T-Z.

Q. And would you state your mailing address,  
please?

A. 673 - 65th Street, Oakland, California,  
94609.

Q. Ms. Slanetz, my name is Nancy Delaney. I  
am a member of the firm of Mitchell, Brisso, Delaney  
& Vrieze. And our office represents the County of  
Humboldt and the City of Eureka and their officers  
in an action that you have filed.

The purpose of taking your deposition  
today is twofold. Number one, if we have any  
hearings or a trial in the matter, it is my  
opportunity to preview what your testimony will be.  
So, it is as important for me to know what you do  
know and can testify to as it is for me to know what  
you don't know and won't testify to.

I say that to let you know that, if I ask  
a question that you don't know the answer to, it is

1 Q. Where is Adam Sellers?  
2 A. In Oakland  
3 Q. How do you spell his last name?  
4 A. S-E-L-L-E-R-S, I guess.  
5 Q. Did you speak to any other health care  
6 provider concerning any condition that you  
7 attributed to the October 16 incident at any time?  
8 A. Yes.  
9 Q. When?  
10 A. I don't recall the date. A couple months  
11 ago.  
12 Q. Who?  
13 A. The ophthalmologist guy.  
14 MR. COWLES: He is a consulting expert,  
15 and his name is Dr. John Fournier, F-O-U-R-N-I-E-R.  
16 THE WITNESS: Thank you.  
17 MS. DELANEY: Q. Did Dr. Fournier  
18 examine you?  
19 A. Briefly.  
20 Q. Where were his offices?  
21 A. We weren't in his office.  
22 Q. Where were you?  
23 A. In a hotel in San Francisco.  
24 Q. Did Dr. Fournier tell you where his  
25 offices are?

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1 A. I understood he came from Chicago.  
2 Q. Did you, at any time prior to being  
3 examined by Dr. Fournier, seek any treatment for any  
4 physical or emotional condition that you attributed  
5 to the October 16, 1997 incident, other than the  
6 contact with the herbalist?  
7 A. Yes.  
8 Q. When?  
9 A. Well, we had a group session with a  
10 psychologist at -- I guess that is the term,  
11 psychologist  
12 Q. Who was this?  
13 A. Beatrice  
14 Q. Beatrice who?  
15 A. I don't remember her last name.  
16 Q. Where?  
17 A. In Berkeley.  
18 Q. Who attended?  
19 A. Spring and Lisa and Maya and myself and  
20 Sam and Bonga  
21 Q. Who?  
22 A. Jennifer.  
23 Q. What is her other name?  
24 A. Bonga.  
25 Q. Who arranged the session?

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1 A. Megan.  
2 MR. COWLES: I did. And the last name of  
3 Beatrice is Patsalides, P-A-T-S-A-L-I-D-E-S.  
4 MS. DELANEY: Q. And her offices are in  
5 Berkeley?  
6 A. Yes.  
7 Q. On how many occasions did you see  
8 Beatrice Patsalides?  
9 A. Once.  
10 Q. Did you request any follow-up care?  
11 A. I have considered it.  
12 Q. Have you asked for any follow-up care?  
13 A. Current -- not yet, not yet.  
14 Q. Well, when was this psychologist session?  
15 A. Same day. I can't remember.  
16 Q. So, you saw the ophthalmologist and the  
17 psychologist on the same day?  
18 A. Yes.  
19 Q. And this was about two months ago?  
20 A. Yes. Give or take a month.  
21 Q. And these were all initiated by your  
22 attorney? You, yourself, have not made any medical  
23 appointments other than contacting the herbalist?  
24 A. I contacted another doctor. But I --  
25 yes I contacted one other doctor.

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1 Q. Who did you contact?  
2 A. Dr. Frank Lucido.  
3 Q. Where is Dr. Lucido?  
4 A. He is in Berkeley.  
5 Q. And what is his specialty?  
6 A. He is a general practitioner.  
7 Q. Did you see him?  
8 A. No.  
9 Q. Why not?  
10 A. I missed my appointment. And also I have  
11 a bit of skepticism for Western medicine.  
12 Q. When did you make the appointment with  
13 Dr. Lucido?  
14 A. I guess I actually failed to call back to  
15 make the appointment, is more accurate  
16 Probably in November.  
17 Q. Do you currently experience any  
18 condition, be it physical or emotional, that you  
19 attribute to the October 1997 incident?  
20 A. Yes.  
21 Q. What?  
22 A. I think I am in an emotionally different  
23 state. I also experience more headaches. I have  
24 had two dizzy spells that may be related to the  
25 incident.

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