

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STENOGRAPHIC TRANSCRIPT

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FRIENDS FOR ALL CHILDREN, INC., as :
legal guardian and next friend of the :
named 150 infant individuals, et al, :
:

Plaintiffs, :
:

-vs-

LOCKHEED AIRCRAFT CORPORATION, :
Defendant and :
Third Party Plaintiff, :
:

Civil Action No.
76-0544

-vs-

THE UNITED STATES OF AMERICA, :
Third Party Defendant, :
:

Washington, D. C.

Tuesday, November 3, 1981

DEPOSITION OF CHRISTINE LIEVERMANN

Mattingly Reporting, Inc.

COURT REPORTERS

4339 Farm House Lane
Fairfax, Va. 22032

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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MELISSA MARCHETTI, et cetera,

Plaintiff,

-vs-

LOCKHEED AIRCRAFT CORPORATION,

Defendant and
Third-Party Plaintiff,

Civil Action No. 76-0544

-vs-

THE UNITED STATES OF AMERICA,

Third-Party Defendant,

Washington, D. C.

Tuesday, November 3, 1981

Deposition of CHRISTINE LIEVERMANN, the witness
herein, called for examination by counsel for the Plaintiff
in the above-entitled action, pursuant to notice, the
witness being duly sworn by JEROME T. MATTINGLY, a Notary
Public in and for the Commonwealth of Virginia at Large, by
agreement with counsel, at the offices of Future View, 1832
Eighteenth Street, N. W., Washington, D. C., commencing at
5:10 o'clock p.m., the proceedings being taken down by steno-
type by Mr. Mattingly and transcribed under his direction.

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2 APPEARANCES:

3
4
5 On behalf of the Plaintiff:

6
7 STEPHEN A. HORVATH, ESQUIRE
8 MICHAEL J. McMANUS, ESQUIRE
9 Lewis, Wilson, Lewis & Jones, Ltd.
10 2054 North Fourteenth Street
11 Arlington, Virginia 22216

12
13 On behalf of the Defendant/Third Party Plaintiff:

14
15 JOHN J. CONNORS, ESQUIRE
16 TEMPLE RATCLIFFE, ESQUIRE
17 Haight, Gardner, Poor & Havens
18 1819 H Street, Northwest
19 Washington, D. C. 20006

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C O N T E N T S

Deposition of

Christine Lievermann

Examination by Counsel for
Plaintiff Defendant

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34, 81

E X H I B I T S

<u>Plaintiff's</u>	<u>For Identification</u>	<u>In Evidence</u>
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Exhibit No. 3-193 and
3-194 (Photographs) 32 -

Defendant's

Exhibit No. D1210 A 81 -
(Diagram of Troop Compartment)

PROCEEDINGS

EXAMINATION BY COUNSEL FOR THE PLAINTIFF:

BY MR. HORVATH:

9 Would you please state your full name?

A My name is Christine Lievermann.

Q Where do you live?

A I live in San Francisco, California.

Q Ms. Lievermann, you're aware of the trial that is going to be held in the case of Melissa Marchetti?

λ I am.

Q And you had traveled from San Francisco to Washington, D. C. in order to testify in that case, is that correct?

λ I did.

Q. Is there any reason why you could not be present here next week to testify?

A I am under physician's orders not to fly in an aircraft after Thursday of this week.

Q Isn't it true that you also have a doctor's appointment tomorrow?

A. That is very true.

9 It would be impossible for you to attend the deposition next week, is that correct?

1 A. Yes, it would be.

2 MR. HORVATH: Off the record.

3 (Discussion off the record.)

4 MR. CONNORS: On the record.

5 For the record I would like to state that we were
6 advised of Plaintiff's desire to take this deposition this
7 morning at approximately 11 a.m. and were asked to take the
8 deposition originally at 2 o'clock. I indicated at that
9 time, through Mr. McManus who had telephoned me, that it
10 would be necessary for me to contact the trial counsel in
11 this case for Defendant, Mr. Carroll Dubuc, who was in New
12 York attempting to respond to some suggestions made by the
13 trial Judge, Judge Oberdorfer. And upon contacting Mr.
14 Dubuc, I was advised by him that he was prepared to take
15 this deposition on Thursday, but that if he was to complete
16 his efforts to satisfy the Judge's request that he could not
17 be back to take this deposition before then unless the Judge
18 so wanted him to do so in which case he could have taken it
19 tomorrow. I advised Mr. McManus of this and was advised by
20 Mr. McManus that he would request a conference with the
21 Judge to resolve this matter. At the telephone conference
22 which was held at 2:30 p.m., both sides represented their
23 position to Judge Oberdorfer and we indicated to His Honor

1 at that time that we did not believe that we could be ready
2 to take this deposition on such short notice. Specifically,
3 we indicated that Mr. Dubuc was not only the trial counsel,
4 but in our trial preparations with numerous witnesses on
5 both sides, have been divided up for trial preparation
6 between the Government counsel, Mr. Piper, Mr. Dubuc and
7 myself and that I find Mr. Piper's replacement, Mr. Gary
8 Allen, another attorney for the Department of Justice. We
9 again readjusted the schedule but at all times Mr. Dubuc
10 was the counsel who was to cross examine the witness who
11 indicated to His Honor that we did not feel that we could
12 be prepared to take this deposition on such short notice and
13 His Honor indicated that he desired us to take the deposi-
14 tion subject to our right to move to preclude it on among
15 other grounds that we had been insufficiently prepared and
16 that other testimony previously given by this witness was
17 available for Plaintiff's counsel to use.

18 I want to make it clear, abundantly clear on the
19 record that, although I am present at this deposition, we
20 will do our best to cross examine the witness, that we
21 believe that we have been given inadequate notice of the
22 circumstances and of the intention to take this deposition
23 and that we feel we are ill prepared to properly cross

1 examine this witness at this time. We are very sympathetic
2 to Ms. Lievermann's condition, but as we said we believe
3 there is adequate testimony already in the record and there
4 is no need for an emergency videotape deposition of this
5 witness at this time.

6 MR. McMANUS: I understand counsel's position and
7 to make sure there is a record of Plaintiff's counsel's
8 position, I would like to reiterate what some of the points
9 were that I mentioned to the Judge. Primarily those being
10 Christy Lievermann, the witness today, was in town to give
11 testimony at the trial of Melissa Marchetti which had been
12 scheduled to begin yesterday, November 2nd, 1981. That the
13 trial was postponed yesterday afternoon for one week, that
14 Christy Lievermann is pregnant and she has testified under
15 doctor's orders not to fly and thereby making it impossible
16 for her to return next week to give her live testimony. She
17 was scheduled to have testified either yesterday afternoon
18 or this morning so it is again the Plaintiff's position that
19 there is no surprise and no undue burden on the Defendant.

20 BY MR. HORVATH:

21 Q Could you please state your full name for the
22 record.

23 A Christine Lievermann.

1 Q And your current address?

2 A San Francisco, California.

3 Q What is your present occupation?

4 A I am a medical coordinator for the Refugee Transit
5 Program in California.

6 Q Ms. Lievermann, do you have any nursing background?

7 A I do.

8 Q What is that background?

9 A In 1970 I received a degree in License and Voca-
10 tional Nursing.

11 Q Have you had any experience as a nurse?

12 A For the past ten years.

13 Q Did there come a time in 1972 that you went to
14 South Viet Nam?

15 A I did.

16 Q What was the purpose of that visit?

17 A I went to South Viet Nam to assist a woman in
18 maintaining a child care facility.

19 Q Who was that woman?

20 A Rosemary Taylor.

21 Q Did you eventually travel to Viet Nam in 1972?

22 A I did.

23 Q What sort of work did you do with Rosemary Taylor?

1 A A lot of different things, I basically ran some

2 of the nurseries for her at different periods of time during
3 my time there.

4 Q Was Rosemary Taylor affiliated with any organiza-
5 tion?

6 A Not initially in 1972.

7 Q Was there an organization later on?

8 A Yes, there was.

9 Q What was the name of that organization?

10 A Friends For All Children.

11 Q Could you please detail some of the duties that
12 you had at Friends For All Children?

13 MR. CONNORS: Objection.

14 MR. HORVATH: Would you state the basis of the
15 objection?

16 MR. CONNORS: The basis of the objection is that
17 this witness' duties at FFAC are not relevant to the
18 condition of the child, the Plaintiff in this case, Melissa
19 Marchetti.

20 BY MR. HORVATH:

21 Q Could you please state what your duties were at
22 FFAC or Friends For All Children?

23 A I worked in the child care facilities in South

1 Viet Nam, I was administrator in one of the nurseries, I
2 traveled around to see different orphanages and maintain
3 supply lines between the orphanages and nurseries in South
4 Viet Nam that we operated.

5 Q Were you responsible for the nursing care of the
6 children at these facilities?

7 A I was.

8 Q Do you know the Plaintiff, Melissa Marchetti or
9 Pfenning, as she is known in Viet Nam?

10 A I am acquainted with her, yes.

11 Q Did she have any problems in Viet Nam?

12 MR. CONNORS: Objection.

13 MR. HORVATH: Please state the basis of your
14 objection.

15 MR. CONNORS: The witness has stated that she was
16 acquainted with the Plaintiff. She has not stated she has
17 any knowledge of any medical condition of the Plaintiff.

18 BY MR. HORVATH:

19 Q You were aware of Pfenning's general condition in
20 Viet Nam?

21 MR. CONNORS: Objection. Leading question.

22 BY MR. HORVATH:

23 Q Could you state whether or not you were aware of

1 Pfenning's general condition, medical condition, in Viet Nam?

2 A I was aware of her general medical condition.

3 Q And what was that condition?

4 A She was in good condition.

5 Q How did you know Pfenning in Viet Nam?

6 A She was one of the favorite children of Elsie
7 Ewald, one of the other nurses.

8 Q In 1974, did there come a time when, as part of
9 one of the nurses at Friends For All Children that you were
10 involved in an effort to evacuate the children from Viet Nam?

11 A Preliminary investigations for evacuation began
12 in 1974, at the end of 1974.

13 Q At the end of '74 or '73?

14 A '74.

15 MR. CONNORS: Objection, leading the witness.

16 BY MR. HORVATH:

17 Q Were arrangements made to evacuate the children?

18 MR. CONNORS: Objection, leading the witness.

19 BY MR. HORVATH:

20 Q Can you state whether or not any arrangements were
21 made to evacuate the children?

22 A Yes, sir.

23 Q What were those arrangements, in general terms?

1 A We began in 1974 to begin to think about evacuating
2 the country. In 1975 we did indeed evacuate our children
3 from the country.

4 Q Did there come a time in '75 when you were aware
5 of the C5-A that would come to take the children to the
6 United States?

7 A Yes.

8 Q Were there any special arrangements or determina-
9 tions made for the children that would be on this plane?

10 A Yes, there were. We only took the largest and
11 healthiest of the children that we had in our care.

12 Q Why is that?

13 A Because we thought it would be too difficult a
14 journey for the smallest children to make.

15 Q Can you tell me if you eventually helped in the
16 boarding of the children on the plane?

17 A I did.

18 Q What did you do?

19 A The children basically arrived by bus, some of them
20 arrived by private car. Most of them came by bus from
21 Saigon. We went through preliminary paperwork with the
22 Vietnamese authorities on the edge of Ton-Son-Nhut, the
23 air strip and then the children were loaded into the aircraft.

1 The larger children, older kids basically were on mats on
2 the floor of the aircraft and the smaller children, the
3 handicapped children were upstairs.

4 Q Is that in the troop compartment?

5 A Yes.

6 Q What was your job on this flight?

7 A I was going to take care of the smaller of the
8 children that were flying.

9 Q Was that up in the troop compartment?

10 A Yes, it was.

11 MR. HORVATH: Off the record.

12 (Discussion off the record.)

13 MR. HORVATH: On the record.

14 BY MR. HORVATH:

15 Q On the wall behind you you will notice a document
16 which is Defendant's Exhibit No. D1210, do you recognize
17 that item?

18 A That is the upstairs of the troop compartment.

19 Q Can you please go to that document and point to
20 the area that you were located in the troop compartment
21 during the time of the take-off?

22 A I was right here between these two seats (indica-
23 ting).

1 Q Okay. Could you please point where the rear of
2 the plane is?

3 A This is the rear of the plane (indicating), the
4 galley area here (indicating), the tail, further behind.

5 Q And could you please then point to the specific
6 seats that you were supervising or monitoring the children
7 in the seats?

8 A Basically, I was supervising this section right
9 in here (indicating), these two rows and this small section
10 (indicating) initially.

11 Q Initially, were there any others that you were
12 looking out after?

13 A Later on I took over these sections (indicating).

14 Q Can you please describe how the children were
15 placed in these seats?

16 A Little children were strapped generally two to a
17 seat, older children, particularly those with crutches, were
18 one to a seat and they were spread out throughout the entire
19 plane in this condition.

20 Q Thank you.

21 Off the record.

22 (Discussion off the record.)

23 MR. HORVATH: On the record.

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BY MR. HORVATH:

Q Can you please tell me what you were doing after the plane took off?

A Filling up bottles and taking care of babies, basically.

Q What happened after the plane took off, about 15 minutes after it took off?

A I was in the rear of the plane in the galley making some bottles and there was a large explosion.

Q Can you tell me what occurred after that?

A Somebody hurt his leg, one of the crew people hurt his leg. There was a bit of confusion and kaos. I went back to my section and looked down and saw the ocean from my section of the plane.

Q Did you see the ocean looking through the stair well?

A Yes, I did.

Q Is there anything else that you did at this time?

A I went around preparing children for a landing and then the oxygen masks, those which worked came from the ceiling.

Q You said those which worked, were there some masks which didn't work?

1 A. Most of the masks in my section did not work.

2 Q. How do you know they did not?

3 A. They either did not come down from the compartment
4 up above or the oxygen flow did not start.

5 Q. Did you put a mask on?

6 A. Yes, I found one that worked.

7 Q. Did you then try to apply masks to the other
8 children?

9 A. I tried, the tubing is not long enough to reach
10 the children for one thing in my section of the plane and
11 there were no masks available for another thing.

12 Q. What were the children like at this time?

13 A. They became very listless, very, very inactive,
14 very hypotonic.

15 Q. You use the term hypotonic, what do you mean by
16 that?

17 A. Very, very weak, general loss of muscular tone,
18 limp, unconscious, or semi-conscious.

19 Q. What was the condition of the children before
20 you heard the big boom?

21 A. They were regular, crying, just regular babies.
22 Carrying on in a normal manner for children.

23 Q. Did you have to give oxygen to the children?

1 A I did.

2 Q Why is that?

3 A Because they turned blue.

4 Q Was there any debris in this area?

5 A There was some, yes. Some of the side panels
6 had fallen.

7 Q Can you tell me what happened then, what happened
8 next?

9 A The plane started to descend rapidly, the air
10 turned from cold to warm, bits of paper and stuff started
11 floating up the stair well.

12 Q Were there lights on in the troop compartment at
13 this time?

14 MR. CONNORS: Objection, you're leading.

15 BY MR. HORVATH:

16 Q Can you state whether or not there was any light
17 in the troop compartment at this time?

18 A Not in my end.

19 Q There was no electrical lighting?

20 MR. CONNORS: Objection, you're leading the witness.

21 BY MR. HORVATH:

22 Q Was there any kind of lighting at all in the troop
23 compartment at your end?

1 I could see from the stair well the light radiated through the stair well.

Q The electrical lighting was not working?

MR. CONNORS: Objection, leading the witness.

BY MR. HORVATH:

Q Go ahead and answer the question.

A I saw by natural light from the outside by way of
the stair well.

Q. You described that the temperature in the plane became warmer as you started to descend, can you tell me what happened next?

1 We continued to descend, watch land rising up from the whole in the plane, rivers, rice paddies, houses, that like. Then the plane hit the ground with a tremendous jolt.

Q. Can you describe that jolt at all?

A The jolt was severe enough to have the plane bounce back up in the air again.

Q. Did anything happen inside the plane at that time?

1. Yes.

Q What happened?

1. Ceiling panels came down, wall panels came off the walls, a lot of the interior started to fade and fall apart.

Q Were the seats still upright at this time?

1 A I am not certain.

2 MR. CONNORS: Objection, you're leading the witness.

3 BY MR. HORVATH:

4 Q Can you describe how the seats were at this time?

5 A I am not certain if they were ripped out of the
6 ground at this point or the second impact.

7 Q After the first impact, would you describe the
8 plane bouncing up, what happened?

9 A The plane stayed up for a brief period of time,
10 it then returned to the ground with another severe jolt and
11 went hopping along, basically.

12 Q Was it a -- can you describe the forces involved
13 at all?

14 A No, that was the most tremendous force I ever felt
15 in my life.

16 Q Was anything else happening inside the troop
17 compartment at this time, after the second impact when the
18 plane was bouncing along?

19 MR. CONNORS: Objection.

20 MR. HORVATH: The basis of the objection?

21 MR. CONNORS: You're inserting your own language
22 in that, you're leading her again.

23 BY MR. HORVATH:

1 Q Can you please describe what was occurring in the
2 troop compartment after the second impact?

3 A After the second impact there was fire.

4 Q Where was that fire?

5 A That was coming up the stair well. There was smoke,
6 very acrid fumes.

7 Q Did this bother you?

8 A Very much so, intense heat.

9 Q Referring again to Exhibit D1210, could you please
10 stand up and point exactly where the fire was and where you
11 were located at this time?

12 A I was located in this area (indicating). The fire
13 was back in here, coming up the stair well.

14 Q And where exactly were you during the impacts?

15 A At one point I was here (indicating), kind of half
16 squatting, half standing, and I was moved around in here by
17 the force of the impact. Generally in this general area
18 here.

19 Q Were any other adults by you?

20 A No.

21 Q They were up further in the troop compartment?

22 A Yes, all up in here.

23 Q After the plane came to -- the troop compartment

1 came to a stop, can you tell me what happened?

2 A The emergency exits nearest to my section were
3 both blocked, they would not operate at all. I went to one
4 further up and looked out and I saw a couple of children
5 on the ground. They were face down in the mud. I went
6 outside of the aircraft to turn them over. I also noticed
7 a wounded crew person at that time and there were several
8 other people on the ground at that point. Crew members
9 basically.

10 Q These were outside the troop compartment?

11 A Yes. They had come from the inside of the plane.

12 Q After you saw these people outside, what did you
13 do?

14 A One gave me a boost back up into the plane. I
15 went inside the plane, found some bandages and handed them
16 out to Dr. Stark, who was attending the badly wounded crew
17 men. After that we formed a line to hand the children out.

18 Q What was the condition of the children at this
19 time?

20 A Children were very, very quiet, they were not
21 active at all, in the manner you would expect them to be
22 active. Many of them were turned over in there -- their
23 seats were upside down and the children were strapped in

1 their seats still.

2 Q Was there anything on top of the children?

3 A A lot of debris from the interior of the aircraft.

4 Q You were testifying that you were handing the
5 children out when I interrupted you, can you tell me or
6 continue to tell me the chain of events?

7 A At one point I became aware of the two seats
8 nearest the stair well and I remember the fire. I told one
9 of the crew people that I thought the children might be
10 dead because I couldn't see them. They were all covered
11 with debris. He asked me if I would go back and check. I
12 went back and found them alive. So I pulled all of the
13 debris off of them and unstrapped them from the seats and
14 handed them out the window as well.

15 Q After all the children were out of the airplane,
16 what did you do?

17 A After the children left the aircraft I went
18 aboard a helicopter and they took us to the Air America
19 landing pad at Ton-Son-Nhut Air Base and from there they
20 were put in the ambulances and sent to the hospital.

21 Q What hospital was that?

22 A Seventh Day Adventist Hospital.

23 Q In Saigon?

1 A It is.

2 Q Were any of the children there at this time?

3 A No.

4 Q Can you tell me what happened when you went to
5 the emergency room of the hospital?

6 A I was asked by the admitting nurse what happened.
7 I informed her that there had been a plane crash. Prior to
8 that she had not been aware of anything nor had anyone else
9 in the emergency room.

10 Q Did you see the children into the hospital?

11 A Yes, I did.

12 Q What was their condition at this time?

13 MR. CONNORS: Objection.

14 THE WITNESS: Pardon me? The children?

15 BY MR. HORVATH:

16 Q Yes.

17 A I thought you said the children, okay. I thought
18 you were objecting to Melissa.

19 Q Did you see the children into the hospital at
20 this time?

21 A After our ambulance came to the hospital, then
22 the other ambulances started to arrive, yes.

23 Q What was the condition of the children at this

1 time?

2 MR. CONNORS: Objection.

3 MR. HORVATH: Please state the basis of the
4 objection.

5 MR. CONNORS: What kind of condition are you
6 talking about?

7 BY MR. HORVATH:

8 Q Can you please state what the children looked like
9 at this time?

10 A The children looked like they had been through
11 hell.

12 Q The next day, did you board a Pan American flight
13 out of Viet Nam?

14 MR. CONNORS: Objection.

15 MR. HORVATH: What is the basis?

16 MR. CONNORDS: Leading.

17 BY MR. HORVATH:

18 Q Please tell me what happened the next day.

19 A The next day I took a flight from Viet Nam to the
20 United States.

21 Q Did you see any of the children that were aboard
22 the C5-A on that flight?

23 A There were some, yes.

1 Q What were those children like at that time?

2 A Very agitated, frantic, very distressed children.

3 Q These children that were aboard the C5-A, were
4 they acting differently than the children that were not
5 aboard the C5-A?

6 A Yes.

7 MR. CONNORS: Objection.

8 MR. HORVATH: State the basis of the objection.

9 MR. CONNORS: You're asking very general questions.

10 BY MR. HORVATH:

11 Q Were they acting differently than the children on
12 the C5-A. Let me rephrase the question. Were the children
13 on the plane the next day, that were not aboard the C5-A,
14 did they act differently than the children that were aboard
15 the C5-A?

16 A Yes, they did.

17 Q In what way?

18 A The children who had not taken the C5-A flight the
19 day before were acting in a very normal pattern for children.
20 They were noisy, wanting their bottles or needing their
21 diapers changed or whatever. The children that were on board
22 the C5-A the day before were inconsolable.

23 Q As a result of the C5-A crash, did you sustain any

1 injuries?

2 A Yes, I did.

3 Q What happened to you?

4 A Basically, not bruises, cuts and scratches, some
5 pulled muscles, decreased vision in one of my eyes.

6 MR. HORVATH: Counsel, I would like to ask this
7 witness about some pictures and unfortunately -- off the
8 record a second.

9 (Discussion off the record.)

10 MR. CONNORS: On the record.

11 I want to go on the record to note an objection.
12 Do you want to repeat what you just said?

13 MR. HORVATH: We're taking a brief recess at this
14 time while I obtain some pictures that were recently
15 produced by the Government showing the interior of the troop
16 compartment and I wish to examine this witness about those
17 pictures.

18 MR. CONNORS: I just note my objection for the
19 record, particularly with regard to how this may affect any
20 cross examination or preparation and the time I may take
21 for cross examination. Just for the record, are you repre-
22 senting that the witness is competent to testify as to the
23 content of the pictures?

1 MR. HORVATH: Yes, I am. The pictures, I represent,
2 I believe will aid the Jury in understanding the condition
3 of the troop compartment after the accident and this witness
4 can look at the pictures and describe the interior of the
5 troop compartment using those pictures as an aid.

6 MR. CONNORS: I have recorded my objection.

7 Off the record.

8 (Discussion off the record.)

9 MR. CONNORS: Back on the record.

10 For the record, I would like to read into the
11 record the proffer of the testimony of Christine Lievermann
12 contained in Plaintiff's pre-trial brief.

13 MR. HORVATH: I am going to object to reading
14 something which is in the record already. We're wasting
15 valuable time. If you want to go ahead.

16 MR. CONNORS: For the record, we're now on a break
17 waiting for your documents to appear and if you're concerned --

18 MR. HORVATH: The Court Reporter's time.

19 MR. CONNORS: If you're concerned about the cost
20 of the tape, it's de minimis, but I want this on the record
21 so it is clear. I am quoting now from Plaintiff's pre-trial
22 brief under the proffer for Christy Lievermann. "She may
23 testify concerning the physical, mental, emotional,

1 psychological, medical, and general conditions of the
2 children at the nursery centers. Said conditions of the
3 children prior to boarding the C5-A, 68-218 and said condi-
4 tion of the children subsequent to the crash of the C5-A,
5 68-218. The major and extent of the care given to the
6 children at the nursery centers, transportation of the
7 children to and loading on the C5-A, 68-218, presence of the
8 children on C5-A, 68-218 on April 4, 1974, happenings and
9 occurrences at the Seventh Day Adventist Hospital subsequent
10 to the crash, impact of the crash on the well-being of the
11 children, happenings and occurrences on board C5-A, 68-218
12 on April 4th, 1975, and consequences of being aboard said
13 aircraft and description of the scene of the crash of C5-A,
14 68-218 and reactions thereto." However, this witness is
15 now testifying as to her personal recollection of the
16 condition of the Plaintiff, Melissa Marchetti, she has never
17 testified to that before to my recollection. She has never
18 been proffered for this before. We have objected before
19 about our inability to prepare for this deposition on short
20 notice and the fact that a new subject, particularly relevant
21 to this child's case has now been introduced and it makes it
22 more apparent that we have been unable to prepare for that
23 line of questioning. We have now sent for the various

1 records in our office regarding the child's condition in
2 Viet Nam. We have requested that they be brought immediate-
3 ly to the office and are waiting for them. We're still on
4 the break waiting for Plaintiff's exhibits, but I want it
5 on the record that this is a new line of questioning and
6 we have not had an opportunity to prepare for this.

7 MR. MCMANUS: I think, if you will ask your
8 questions, you will find that it is not that difficult of
9 an area, to either cross examine the witness or prepare for
10 her prior to her cross examination.

11 MR. CONNORS: I am certainly glad that Plaintiff's
12 counsel feels that way, Defendant's counsel does not.

13 MR. HORVATH: Are you claiming you don't know
14 enough of the physical condition of this child for a trial
15 that was to start on Monday to cross examine this witness?

16 MR. CONNORS: I am stating this witness was not
17 proffered for that, we had no documents here for the purpose
18 of this deposition to cross examine her with, because she
19 was never listed as testifying on that subject and that is
20 part of any reasonable cross examination. That is all I have,
21 off the record.

22 (Whereupon, a brief recess was taken.)

23 MR. HORVATH: On the record.

1 BY MR. HORVATH:

2 Q I am going to have you look at now, Exhibit --
3 Plaintiff's Exhibit 10C and ask you if you can identify that
4 picture?

5 A It seems to be the forward section of the troop
6 compartment.

7 Q Other than the conditions of the seats, is that
8 pretty accurately show what the ceiling panels looked like
9 as you testified to earlier?

10 A Perhaps in the front of the plane, not in the rear.

11 Q How did it compare to the rear of the plane?

12 A It was much more interior damage, ceiling panels
13 and wall panels down from their respective places.

14 Q Other than that, does it -- other than having more
15 ceiling panels down in the rear of the plane and the condi-
16 tion of the seats, does that accurately reflect what the
17 troop compartment looked like after the crash?

18 A It doesn't seem to show any of the holes in the
19 sides of the plane.

20 Q You can't see it on that picture though?

21 A No, other than that, I guess it's relatively
22 accurate.

23 MR. HORVATH: Off the record.

1 (Discussion off the record.)

2 MR. HORVATH: Back on the record.

3 BY MR. HORVATH:

4 Q Other than the things that we have described, does
5 that accurately depict the troop compartment?

6 MR. CONNORS: Objection.

7 MR. HORVATH: The basis of the objection?

8 MR. CONNORS: The things you described.

9 BY MR. HORVATH:

10 Q The seats and the fact that this is forward and
11 not quite as many ceiling panels down, is that an accurate
12 picture?

13 MR. CONNORS: Objection.

14 MR. HORVATH: State the basis of the objection.

15 MR. CONNORS: That is not an accurate character-
16 ization of what she said.

17 BY MR. HORVATH:

18 Q Can you tell me if that fairly, accurately depicts
19 the troop compartment as you remember it after the crash
20 other than the condition of the seats?

21 A The forward section, the rear section had seats
22 over turned, pulled from their rivets.

23 MR. HORVATH: Off the record.

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(Discussion off the record.)

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MR. HORVATH: On the record.

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(The documents referred to were
marked Lievermann Deposition
Exhibit Nos. 3-193 and 3-194 for
identification.)

1 BY MR. HORVATH:

2 Q I now show you what has been marked as

3 Plaintiffs' Exhibit 3-194. Do you recognize that picture?

4 A The front end of the troop cargo, the troop
5 compartment.

6 Q Can you tell me whether that picture accurately
7 depicts the condition in the troop compartment after the
8 crash, assuming other than the condition of the seats at
9 that time?

10 A It seems to accurately reflect the forward
11 section of the troop compartment.

12 MR. HORVATH: Off the record.

13 (Discussion off the record)

14 MR. HORVATH: On the record.

15 BY MR. HORVATH:

16 Q I now show you what has been marked as
17 Plaintiff's Exhibit 3-193. Can you tell me what that
18 picture shows?

19 A That basically shows the troop compartment and
20 what it appeared to be after the plane crash.

21 Q Is that how it appeared to you after the plane
22 crash?

23 A It's much more accurate, much more pertinent

1 to my section than the other pictures.

2 Q Why is that?

3 A Because it's a lot messier.

4 MR. HORVATH: Thank you.

5 That is all of the questions I have at this
6 time.

7 EXAMINATION BY COUNSEL FOR
8 LOCKHEED AIRCRAFT CORPORATION

9 BY MR. CONNORS:

10 Q Ms. Leivermann, initially I would like to cover
11 a couple of the exhibits that you have been asked about
12 today.

13 All right. I would like to show you now a
14 small version of Defendant's Exhibit D-1210 which I would
15 like you first to compare with the chart on the wall behind
16 you to determine if that is the same picture or drawing.

17 A It seems to be, yes.

18 Q I would like to ask you now to mark with this
19 red pen your location at the time of the explosion which
20 you referred to. If you could put a small "x" and then
21 draw an arrow out to the outside and No. 1 next to that, I
22 think that will be sufficient.

23 A This is the galley area right in here; correct?

1 Q Now, can you look at the large diagram behind
2 you and point to the area where you have just indicated
3 the "x".

4 A In this area (indicating).

5 Q Next I would like you to indicate on Defendant's
6 D-1210 your location at the time of the first impact. Mark
7 that with a 2, please, and could you again point to the
8 chart and indicate where you have just drawn that.

9 A Right between these two seats (indicating).

10 Q Thank you very much.

11 Could you indicate for us how you were positioned
12 at the time of the first impact.

13 A In a semi-crouch, my arms spread out over the
14 seats.

15 Q And which direction were you facing?

16 A I was facing the front of the plane.

17 Q Did your position change between the time of
18 the first impact and the second impact?

19 A Yes, it did.

20 Q Could you please indicate for us your position
21 at the time of the second impact and mark that with No. 3.

22 A (Witness complies)

23 Q Could you indicate on the large diagram where

1 you have just marked that position.

2 A This area (indicating) and in this area
3 (indicating).

4 Q You were moving during the second impact?

5 A Yes, I was.

6 Is that clear enough for you?

7 Q Thank you very much.

8 MR. CONNORS: Off the record.

9 (Discussion off the record)

10 MR. CONNORS: On the record.

11 BY MR. CONNORS:

12 Q Now I would like to show you a black and white
13 photograph which has been previously marked as Plaintiffs'
14 Exhibit 2-T and ask you to look at that photograph, please.

15 Does that photograph accurately represent the
16 manner in which the children were seated in the aircraft
17 at the time the aircraft took off?

18 A Some of the smaller children were seated that
19 way, yes. The larger children, not so.

20 Q With regard to the smaller children, would this
21 picture accurately reflect their position and the method
22 of securing them in their seats throughout the period of
23 the flight?

1 I will back up and ask that one again.

2 MR. CONNORS: Off the record.

3 (Discussion off the record)

4 MR. CONNORS: On the record.

5 BY MR. CONNORS:

6 Q Looking again at Plaintiffs' Exhibit 2-T, does
7 that photograph accurately reflect the position and manner
8 of securing the smaller children throughout the period of
9 the flight on April 4, 1975?

10 A It depends on what section of the aircraft they
11 were in.

12 Q What was the difference?

13 A I tried to use a little more padding, more
14 blankets.

15 Q The children in your section of the airplane
16 had more padding?

17 A Yes.

18 Q Do you know if any of the other attendants on
19 the aircraft also had provided more padding for the children
20 in their section?

21 A I don't know that.

22 MR. CONNORS: Off the record, please.

23 (Discussion off the record)

1 MR. CONNORS: On the record.

2 BY MR. CONNORS:

3 Q Ms. Leivermann, I would now like to show you
4 Plaintiffs' Exhibit 10-C, a color photograph which plaintiffs'
5 counsel showed you previously.

6 A Yes.

7 Q During plaintiffs' questioning, several excep-
8 tions were made to the picture in terms of its representation
9 as an accurate portrayal of the troop compartment condition.
10 I would like to go over a few of those with you.

11 Now, in the picture, 10-C which you're looking
12 at, are there any cushions or fabric coverings on any of the
13 seats?

14 A No, sir, there are not.

15 Q Would it be your recollection that the seat
16 backs were all covered with cushions and fabric coverings
17 on the flight on April 4, 1975?

18 A To the best of my knowledge, they were.

19 Q Would you look at the overhead portion shown
20 in Exhibit 10-C, and I will indicate by pointing to the
21 section I am interested in. See those (indicating)?

22 A Yes.

23 Q What is your recollection as to the color of

1 those overhead sections?

2 A I don't recall the color.

3 Q Do you have an opinion as to whether 10-C
4 accurately reflects the color of the overheads in the
5 troop compartment?

6 A That would be pure guesswork.

7 MR. CONNORS: Off the record.

8 (Discussion off the record)

9 MR. CONNORS: Back on the record.

10 (The last question and answer were read by
11 the Court Reporter)

12 BY MR. CONNORS:

13 Q Ms. Leivermann, I would like to call your
14 attention to the overhead portion of the troop compartment
15 pictured in Plaintiffs' Exhibit 10-C and I will point to
16 the areas that I am interested in. Do you see those
17 (indicating)?

18 A Yes, I do.

19 Q Does the color of the overheads as depicted in
20 Plaintiffs' Exhibit 10-C correspond to your recollection
21 of the color of the overheads in the troop compartment?

22 A I have no recollection of the color of the
23 overhead beams in the troop compartment.

1 MR. CONNORS: Off the record.

2 (Discussion off the record)

3 MR. CONNORS: Back on the record.

4 BY MR. CONNORS:

5 Q You stated in response to a question from
6 Plaintiffs' counsel that seats in your area of the troop
7 compartment were overturned and pulled from the rivets.

8 A That is correct.

9 Q Did you specifically inspect any of the seats
10 to determine whether they had been separated from the floor
11 of the troop compartment?

12 A I had to turn them over. I noticed the rivets.

13 MR. CONNORS: Off the record.

14 (Discussion off the record)

15 MR. CONNORS: Back on the record.

16 BY MR. CONNORS:

17 Q Ms. Leivermann, did you ever give a statement
18 to any of the Air Force personnel investigating this
19 accident?

20 A I wrote a statement for them, yes.

21 Q Have you reviewed that statement recently?

22 A No, I have not.

23 Q When was the last time that you had an

1 opportunity to review that?

2 A March of last year, I believe.

3 Q Have you previously given testimony in this
4 case?

5 A In Melissa Marchatti's case?

6 Q Have you previously given testimony in the
7 litigation arising out of the accident on April 4, 1975?

8 A I testified last year.

9 Q Have you had an opportunity to review that
10 testimony?

11 A I did read the statements presented by Mike.

12 Q By Mike?

13 A Marcus.

14 Q What statements are you referring to?

15 A My statement to his questions, my answers.

16 Q Did you also review your statements in response
17 to questions from other counsel?

18 A No, I did not.

19 Q And when did you review those, the statements
20 that were in response to the questions from Mr. Marcus?

21 A I believe it was Sunday evening.

22 Q With regard to the statement which you gave to
23 the Air Force investigators, do you recall saying in this

1 statement that other nurses were giving oxygen to other
2 children?

3 A I don't recall if I said the word "nurses," but
4 I do recall there were other people attending children,
5 including giving them some oxygen, yes; or they appeared
6 to be giving them oxygen.

7 Q Do you recall saying in that statement that
8 the children that you observed were borderline unconscious?

9 MR. HORVATH: I am going to object at this
10 point. Are you trying to impeach her testimony?

11 MR. CONNORS: I am trying to cross-examine this
12 witness.

13 MR. HORVATH: You're using a prior statement;
14 are you using that for impeachment purposes? I am not --

15 MR. CONNORS: I am asking if she recalls making
16 the statement.

17 THE WITNESS: You're referring to my testimony?

18 MR. HORVATH: I object to the form of your
19 questions.

20 For the purposes of the record, I didn't ask
21 any questions about the collateral report statement nor did
22 I ask about her prior testimony. That is what your questions
23 are and I believe that is beyond the scope of the record at

1 this time. I believe you can ask her questions, but if you
2 start referring to prior statements, that is not proper at
3 this time. I would object to them.

4 BY MR. CONNORS:

5 Q Ms. Leivermann, isn't it true that the children
6 that you observed in the troop compartment -- Ms. Leivermann,
7 isn't it true that the children you observed in the troop
8 compartment were not unconscious?

9 A At what point, sir?

10 Q At any point during the flight on April 4, 1975.

11 A I cannot say that, no.

12 Q Do you recall stating in the statement which
13 you gave to the Air Force investigators that the children
14 you have observed were borderline unconscious?

15 A No, I think not.

16 Q You don't recall?

17 A No, I don't think I said that in the statement
18 that I wrote for the Air Force.

19 MR. HORVATH: I have a continuing objection to
20 this line of questioning, referring to the prior statement,
21 unless you have some special purpose for it. And if you're
22 trying to impeach or something of that nature, fine, but I
23 just don't -- I would object to using the statement.

1 THE WITNESS: May I say something?

2 MR. HORVATH: Certainly.

3 THE WITNESS: The time that I prepared the
4 statement for the Air Force, I prepared it solely on my own
5 initiative without any legal assistance of counsel. There
6 was a captain who was sent from the Air Force to interview
7 me. His machinery did not work and he departed and I
8 prepared the statement on my own. Unfortunately, there
9 may be things that I left out.

10 BY MR. CONNORS:

11 Q Are you finished with your statement?

12 A Yes, I am.

13 Q Let me show you what has been previously marked
14 as Defendant's Exhibit D-44 and ask you if you can identify
15 that document.

16 A It would seem to be the statement that I gave
17 to the Air Force.

18 Q And was that statement truthful?

19 A I would hope so.

20 Q Let me call your attention to Page 2 of that
21 statement towards the bottom of the large paragraph on that
22 page that I am pointing to and ask you if that statement
23 does not indicate that "many babies seemed to be borderline

1 unconscious."

2 A That is what that statement says, yes.

3 Q Do you recall if any --

4 MR. HORVATH: For the record, I object to the
5 question. You don't give a time reference as to when in
6 her prior statement she was talking about for the babies
7 borderline unconscious as compared to her other testimony.
8 I don't believe there is any contradiction there.

9 I object to it unless you explain when, where
10 she's referring to in her prior statement.

11 BY MR. CONNORS:

12 Q Do you recall if any of the children were asleep
13 on the aircraft at the time of takeoff?

14 A Not in my section, no.

15 Q Did any of the children in your section go to
16 sleep at any time during the flight?

17 A No, they didn't.

18 Q Was the plaintiff Melissa Marchetti in your
19 section?

20 A I don't know that, sir.

21 Q You stated you were acquainted with the plaintiff.
22 Were you able to recognize her physically?

23 A Probably not.

1 Q Were the seats in the troop compartment of the
2 aircraft rearward facing seats?

3 A For the most part, yes. I believe there was
4 some along the sides or probably way in the back. I am not
5 certain. There seemed to be two or three that were different
6 from the rest.

7 Q From the time of the decompression until the
8 time of the first impact, do you recall how long a period
9 had elapsed?

10 A No, I don't.

11 Q Do you recall during that period being advised
12 by any of the crew members of the aircraft that it was no
13 longer necessary to use oxygen masks?

14 A At one point, I remember hearing that, yes.

15 Q Do you recall how long into the descent that
16 statement would have been made?

17 A No, I don't. It was long enough to give us
18 ample air to breath.

19 Q If I showed you your statement again and with
20 a reference to being told that approximately two minutes
21 after the descent, would that refresh your recollection?
22 Or would you like an opportunity to review the document?

23 A It depends on what you want from me.

1 Q Let me show you another statement at the
2 bottom of the full paragraph on Page 2 and let you look
3 at that and see if that refreshes your recollection about
4 the time.

5 A (Pause)

6 That doesn't refresh my recollection of the
7 time at all. I have no -- I did indeed write that as being
8 about two minutes. But that was seven or eight years ago.

9 Q Was your recollection better at the time you
10 made the statement than it is today?

11 A About the time involved?

12 Q About any of the facts of this accident.

13 A Well, it's possible if you would have asked me
14 at that point in time what color the overhead beams were,
15 I might recall the color. The important things I think I
16 can remember fairly well.

17 MR. HORVATH: I would simply like to object
18 to the last question concerning whether her prior statements
19 refreshed her memory. Her prior statement was the time
20 involved seemed to be about two minutes, but I am in no
21 way positive about that. I don't believe there is any
22 difference in recollection and that statement.

23 MR. CONNORS: For the record, I didn't try to

1 show it to her as a contradiction but merely asked her --

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MR. HORVATH: I know you asked her to refresh her recollection. I just wanted it clear as to what that portion said.

BY MR. CONNORS:

Q My question, Ms. Leivermann, was whether your recollection of the facts involving this accident was better in 1975 when you made the statement to the Air Force investigators than it is today.

A Today I can provide you with more detailed information because people have asked me certain questions over and over and over again, information which may not have been present in my statement to the Air Force. However, I don't believe that my memory has altered that much in that period of time about general facts.

Q Do you recall how long a period was involved --
Strike that,

Do you recall for how long a period you administered oxygen to the children in your section?

A No, I don't.

MR. HORVATH: I object. I don't believe that is a fair characterization of the testimony. She testified that she administered one child. I don't believe she

1 testified that she administered all of the children.

2 BY MR. CONNORS:

3 Q During the descent, were you using oxygen?

4 A I was using oxygen up until the time that one
5 child required oxygen.

6 Q Were you using the oxygen all of the time or
7 intermittently?

8 A I used it most of the time. I had to leave it
9 for very, very short periods of time when moving about
10 trying to find other oxygen masks that worked. But for
11 the most part it was continuous until one child turned
12 very cyanotic.

13 Q With regard to the child which you said turned
14 cyanotic, do you know which one of the children that was?

15 A I do.

16 Q What was the name of that child?

17 A His nursery name was Oedipus.

18 Q Do you know what his adopted name was?

19 A No.

20 Q Do you know what his Vietnamese name was?

21 A No.

22 Q Do you know what orphanage or nursery he was
23 from?

1 A The New Haven Nursery.

2 Q Was that child ever in your care?

3 A Yes, he was.

4 Q I believe that you stated that at the time of
5 the first impact, portions of the overhead panels fell
6 down; is that correct?

7 A That is correct.

8 Q In the statement which you gave to the Air Force
9 investigators, did you indicate that in that statement that
10 at the time of the first impact any panels fell down?

11 A I am not certain whether I did or not. I have
12 not read that statement.

13 MR. HORVATH: Counsel, if you show it to her
14 and ask her to review it, maybe she can answer your questions
15 about it.

16 MR. CONNORS: That is exactly what I intend
17 to do.

18 BY MR. CONNORS:

19 Q I would like to show you a copy of D-44,
20 Page 3, and call your attention to the middle of the first
21 paragraph, your statement, "The plane touched down and
22 seemed to bounce back up in the air and then come down
23 again."

Do you see that statement?

A Yes.

Q If you would like time to review the entire statement, please feel free to do so. But my question to you is --

MR. HORVATH: Can she have time to review the statement?

MR. CONNORS: Let me ask the question so she knows what my question is.

The question is, Is there any place in that statement in which you indicate that the time of the first impact, any of the ceiling or side wall panels came down?

MR. HORVATH: I object to the question.

THE WITNESS: Not in that direct line. Ceiling panels falling down on top of us is mentioned, but not at that specific point, no.

BY MR. CONNORS:

Q Where is it mentioned?

A Further down in the paragraph, about five sentences from the bottom of the paragraph.

Q Does that statement refer to the first or the second impact?

A I believe that statement refers to the general

1 time period in which the plane landed and stopped.

2 Q That would be the second impact?

3 A That would be the whole general time period.

4 I'm sorry I wasn't as detailed as people would like, but
5 again there was no one to give me an idea of how much
6 detail was needed.

7 MR. CONNORS: For the record, I am going to
8 request that the latter portion of that answer be stricken
9 as argumentative and unresponsive.

10 BY MR. CONNORS:

11 Q I would like you to focus, if you could, on
12 what we have been referring to as the first impact. At
13 the time of what has been referred to as the first impact,
14 could you describe for me the jolt which you said you
15 received? And by description, I am asking you to describe
16 the direction of the jolt or force.

17 A It was a very severe jolt received from below
18 the aircraft as opposed to above the aircraft. I have
19 never experienced the severity before or since, and I
20 don't know which angle the plane hit the ground.

21 Q Did you feel only one impact at that time?

22 A Before it bounced?

23 Q Yes.

1 A I believe so, but I am not certain. It was a
2 very rough ride all the way down the road.

3 Q To your knowledge, did any portion of the
4 aircraft break off or separate from the main portion of
5 the aircraft at the time of the first impact?

6 A I don't know which time. I can only say what
7 I saw from the air. I know what I felt, but that is
8 certainly by no means a fact.

9 Q At the time of the second impact, is it your
10 recollection that any portion of the aircraft broke off
11 or separated from the main portion of the aircraft?

12 A I believe so.

13 Q And what portion of the aircraft separated,
14 to your knowledge?

15 A I felt that a wing had separated. I thought
16 also that the tail might have separated, but I wasn't
17 positive. It's a little bit difficult without any windows.

18 Q On what do you base your feeling that the
19 wing separated from the aircraft?

20 A Because there were holes that were sheared in
21 the side of the plane.

22 Q Where were these holes located?

23 A On the diagram?

1 Q That's a good suggestion. Why don't you point
2 to the diagram and indicate for us where you saw holes in
3 the side of the aircraft.

4 A In this area here (indicating), possibly a
5 little further down here (indicating). I don't know
6 exactly how far the distance was but there was an area
7 that you could look through, and I have a recollection
8 of seeing things pass but I don't really know what they
9 were. I know it was metal and I thought that the wing had
10 come off.

11 And at that point in time, I was positive that
12 the tail had also come off.

13 Q Let me return to you the small copy of
14 Defendant's Exhibit D-1210 and ask you to mark the areas
15 where you thought you saw the holes.

16 A (Witness complies)

17 Q You're marking an "x" with a 4 beside it; is
18 that correct?

19 A That is correct.

20 Q Thank you very much.

21 You stated that you felt the tail of the
22 aircraft may have come off?

23 A Yes.

1 Q What is your basis for stating that?

2 A I have no basis. I felt that -- I felt like the
3 whole back end of the plane had come off. I have nothing
4 to base that on.

5 Q You stated that you saw flames and felt heat
6 come up the stairwell; is that correct?

7 A That is correct.

8 Q Do you recall if you saw those flames or felt
9 that heat at the time you believe the wings separated from
10 the aircraft?

11 A No, sir, I don't recall.

12 Q Do you know if it would be close in approximate
13 time frame?

14 A No, sir, I don't.

15 Q Was it your impression that the plane slid
16 forward after the second impact and left the burning portion
17 or the portions that were producing the heat and flames
18 behind you?

19 A That was my impression. A lot of rice paddy
20 kept on coming up through the back of the stairwell.

21 Q You indicated that you saw flames coming up
22 the stairwell; is that correct?

23 A That is correct.

1 Q Did you actually observe anything in the troop
2 compartment actually burning?

3 A I saw fire. I did not see what was burning.
4 I saw fire coming from the stairwell. I did not notice
5 anything specifically that was on fire, however. That
6 was one of my very major fears.

7 Q Do you have any knowledge as to where in the
8 aircraft Melissa Marchetti was seated?

9 A No, sir.

10 Q But she was not in your section; is that correct?

11 A I don't believe so. I had not had time to go
12 through the entire section and organize things. I didn't
13 have time to go through the plane, period, and organize
14 things.

15 Q You stated that you were between the two rows
16 at the time of the impact and that you were looking forward;
17 is that correct?

18 A That is correct.

19 Q Did you see any flames in front of you?

20 A That would be difficult to say. Not when my
21 head was up.

22 Q You don't recall seeing any flames forward of
23 where you were stationed?

1 A I don't recall having my head in a stationary
2 position to see anything after the plane impacted.

3 Q My question was, Do you recall seeing any
4 flames forward of where you were positioned at the time
5 of the impact?

6 A I can't say that, sir.

7 Q You can't say that you recall or don't recall?

8 A I can't say that I recall.

9 Q After you felt that the wings had separated
10 from the aircraft, did you observe any flames in the troop
11 compartment?

12 A It would be hard for me to swear to that.

13 Q It would be correct to state that you observed
14 these flames for only a brief period of time?

15 A I don't know the time factor involved, and I
16 don't know what the definition of "brief" is in a situation
17 like this.

18 Q Do you recall for how long a period you
19 observed the flames coming up the stairwell?

20 A There were flames coming up the stairwell long
21 enough for me to be very concerned for the children sitting
22 next to the stairwell, as well as for my own safety and the
23 safety of the other children in the immediate vicinity. I

1 cannot give you a time period.

2 Q Was Melissa Marchetti sitting in either of the
3 seats near the stairwell?

4 A I believe I have already answered that.

5 Q Is your answer yes or no?

6 A My answer is I don't know where Melissa Marchetti
7 was seated.

8 Q I believe you stated that you retrieved some of
9 the children from under some overturned seats; is that
10 correct?

11 A That is correct.

12 Q At that time, did they appear to be in good
13 health?

14 A In the essence of triage, yes they did.

15 Q You stated that while the aircraft was sliding
16 forward, portions of the rice paddy were being thrown up;
17 is that correct?

18 A That is correct.

19 Q Would it be correct to say that what was being
20 thrown up was water or a wet mud?

21 A Mud, weeds, rice.

22 Q Do you recall how long a time period would have
23 been involved from the time the troop compartment came to

1 rest until the time that you left the accident scene?

2 A No, sir, I don't.

3 Q During that period, were you involved exclusively
4 with the evacuation of the children from the troop compart-
5 ment?

6 A I did other things besides evacuate the
7 children.

1 Q What other things were you involved with?

2 A I went outside of the troop compartment to turn
3 children over. I went inside and helped find some bandages
4 and handed them out for Dr. Stark for an injured crew man.

5 Q Other than that which is the way you testified
6 earlier today, were you involved in any activity other than
7 the evacuation of the children. To the best of your
8 recollection.

9 A I don't know what, how broad your terminology is
10 there. I overturned seats which is different than evacuating
11 children.

12 Q Where were you physically located during the
13 period that the children were being handed out of the troop
14 compartment?

15 A It was the lower end of the line nearest the
16 children, but I also did move, I noted that one of the crew
17 woman that was standing right, I believe, next to the exit,
18 seemed to have a broken arm so I didn't stay in one spot.
19 We had to carry children back to the exit.

20 Q Would you indicate for us on the Exhibit D1210,
21 the large chart behind you, where you were located and in
22 which direction the children were being off-loaded?

23 A I believe the children were going out this exit,

1 (indicating) but that is just the children from the forward
2 section. I don't know about the children -- pardon me, the
3 rear section, I don't know about the children in the front
4 of the plane. I don't know which exit they went out. By
5 the time we off-loaded they were basically children in this
6 area (indicating). They went out through here and I was
7 going from this point all of the way to here and anywhere
8 in between.

9 Q During that period, did you notice any damage in
10 the troop compartment from fire?

11 A I don't recall noticing anything of that sort. I
12 had my mind on other things.

13 Q When you left the troop compartment after the
14 children were evacuated, did you view the accident scene
15 at all?

16 A From the air by helicopter on my way from the
17 scene.

18 Q And did you observe any fire or charred area in
19 the vicinity of the troop compartment?

20 A I don't know.

21 Q You don't recall seeing any fire?

22 A I recall seeing smoke. I recall seeing planes
23 scattered all over the place. I didn't know which area I

1 left by the time I left.

2 Q You indicated that after you were evacuated from
3 the area, you went to the Seventh Day Adventist Hospital,
4 is that correct?

5 A By way of Ton-Son-Nhut Air Landing Strip, yes.

6 Q And you stated that you did see some of the
7 children at the Seventh Day Adventist Hospital?

8 A Not when I arrived, no. Only the children that
9 came in the ambulance with us were there.

10 Q Did you see any other children arrive after you
11 reached the hospital?

12 A After, yes.

13 Q After the children were at the hospital, do you
14 know where they were taken?

15 A Initially, the children as well as the other
16 survivors or victims were centered into the emergency room,
17 when that became too full and when things became just too
18 hectic for that, children were taken up to the special ward,
19 I believe on the second floor of the IRC Ward, it was about
20 a 70 bed intensive pediatric care unit for orphans, whatever,
21 and most of the children I believe were seen up there as
22 opposed to the emergency room.

23 Q Were there doctors at the Seventh Day Adventist

1 Hospital?

2 A I saw two.

3 Q Did the children go back to their nurseries after
4 they were taken to the Seventh Day Adventist Hospital?

5 A Those that could return.

6 Q Was that most of them?

7 A I couldn't say that.

8 Q Do you recall the testimony which you gave on
9 March 18th, 1980, in litigation arising out of the accident
10 on April 4th, 1975?

11 A I have a vague memory of it, yes.

12 Q Do you recall giving the following answer to the
13 following question, "Did the children go back to their
14 nurseries from which they had come from overnight?" Answer,
15 "Most of them, some of them were shuffled around to different
16 nurseries, but a large majority went back to the same
17 nursery."

18 A A majority of the children that could be released,
19 yes, went back to the same nurseries that they had origin-
20 ated from. I don't know how many children could not be
21 released. All of the children that came from New Haven,
22 went to New Haven. Some of the children that came from
23 To Am, went back to Allambie, but I don't know

1 the percentage of children released by the hospital as
2 opposed to the numbers that were detained at the hospital.

3 Q Now at the time that you made the answer that I
4 just quoted to you in March of 1980, did you qualify your
5 answer in any way as you have just attempted to?

6 A No, I didn't, I believe not. At least you haven't
7 read it to me.

8 Q Would you like to see your testimony?

9 A I will take your word for it.

10 Q I will be happy to show it to you. I will make a
11 copy available to you if you would like to check. You might
12 want to refer to page 331.

13 MR. HORVATH: Are you trying to impeach her?

14 MR. CONNORS: I am trying to cross examine the
15 witness.

16 MR. HORVATH: There are limited purposes for using
17 prior testimony and I just simply am asking, we're in a
18 deposition right now, what your purpose is so I know where
19 we're going and make appropriate objections. If you're
20 asking her to refresh her recollection, that is one thing,
21 but I believe I have the right to find out at this point,
22 what you're trying to do.

23 MR. CONNORS: It should be perfectly obvious but

1 for the record it's out understanding that you intend to
2 use this deposition for trial testimony. If that is correct,
3 I am entitled to cross examine this witness, and that is
4 what I am attempting to do and one of the ways that is done
5 is by showing the witness prior testimony which is consis-
6 tent with what --

7 MR. HORVATH: I don't think there is anything
8 inconsistent that contradicts with what she said before. I
9 don't believe there is anything which contradicts it. And
10 I would object to the use of the prior testimony and object
11 to the last line of questioning, I don't think there is
12 anything contradictory in them.

13 MR. CONNORS: Why don't we leave that for the
14 Jury to decide?

15 BY MR. CONNORS:

16 Q Ms. Lievermann, are you a Registered Nurse?

17 A No, sir, I am a Licensed Vocational Nurse.

18 Q While you were in Viet Nam, what nurseries were
19 you stationed at?

20 A I was stationed at several of them. I was there
21 for three years at the time.

22 Q Where were you principally stationed during that
23 three year period?

1 A To Am, Hy Vong, Allambie, Da Nang, Can To.

2 I was all over the place. It depends on what specific time
3 frame you're asking for.

4 Q When were you at Rat Haven?

5 A Intermittently I was there just prior to the take
6 off of the C5-A and I was there for approximately a few
7 weeks I believe, I had just finished the New Haven nursery
8 and Susan McDonald was back and in charge of the New Haven
9 nursery.

10 Q Were you ever assigned to To Am?

11 A Only on a part time basis for a period of maybe
12 a week. I filled in at To Am, I never had it consistently
13 for a long period of time.

14 Q Where the children in the FPAC or Friends For All
15 Children facilities come from in Viet Nam?

16 A From various orphanages, from maternity homes,
17 some, very few were abandoned by their mothers at the
18 center or just directly outside the center gate. Primarily
19 from orphanages.

20 Q Were there, among those children coming to Friends
21 For All Children, a fairly high incidence of various
22 diseases and problems that had been contracted either before
23 they went to the orphanage or in the orphanage because of

1 the lack of medical facilities?

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MR. HORVATH: I object to that question on the basis that it's not on the scope of direct and secondly, I don't believe there is any reference to the condition of Melissa Marchetti coming from the other orphanages, that is issue, Melissa Marchetti, not someone else. I don't believe that is a proper question and object to that question and any further questions along the same lines.

BY MR. CONNORS:

Q Can you answer the question?

A It depends on what age child you're referring to. If you have a four year old that spent his entire life in an orphanage you may most certainly be in much worse condition than a new born child coming out of an orphanage. Just as a new born child may certainly be much worse off than a four year old who has only been there for two hours in the orphanage.

Q Do you know how old Melissa Marchetti was at the time of the accident on April 4th, 1975?

A I would believe she was a year or so, I am not positive at all.

Q Is it correct that you stated that Melissa Marchetti was in good health at the time of the accident

1 on April 4th, 1975?

2 A I believe I said she was in good health when I
3 was acquainted with her. I don't think I saw her boarding
4 on the aircraft.

5 Q And you were acquainted with her prior to the
6 time she boarded the aircraft, is that correct?

7 A Yes.

8 Q Were you aware that Melissa Marchetti had measles
9 while in Viet Nam?

10 A Not particularly, no.

11 Q Were you aware that Melissa Marchetti had Chicken
12 Pox?

13 A No.

14 Q While in Viet Nam?

15 A No.

16 Q Were you aware that Melissa Marchetti was hospital-
17 ized in Viet Nam?

18 A Yes.

19 Q And what is your understanding for the reasons of
20 her hospitalization?

21 A I don't know. I know she was not in the nursery
22 at one point in time and I understood that she was in the
23 hospital but I don't know why.

1 Q Were you aware that Melissa Marchetti had been
2 described as withdrawn while in Viet Nam?

3 MR. HORVATH: Objection, objection. I believe she's
4 testified that she was acquainted with the child, that she
5 didn't know the reasons for the hospitalization and I object
6 to that question without basis.

7 BY MR. CONNORS:

8 Q Were you aware that Melissa Marchetti was described
9 as withdrawn while she was in Viet Nam?

10 A No, sir, I was not. I did not see a withdrawn
11 child.

12 Q Were you aware that Melissa Marchetti was described
13 as mildly retarded while in Viet Nam?

14 MR. HORVATH: I object to that question. I don't
15 believe you established a basis for the question or anything
16 else and I am continuing my objection to this line of
17 questioning.

18 BY MR. CONNORS:

19 Q Were you aware that Melissa Marchetti had been
20 described as mildly retarded while in Viet Nam?

21 A By whom, sir?

22 Q By Friends For All Children?

23 A Who in Friends For All Children?

1 Q By those people charged with caring for Melissa
2 Marchetti.

3 A No, sir, I was not. The person that I received
4 my information from did not ever mention anything of that
5 nature to me.

6 Q Were you ever shown any of the medical documents
7 relating to Melissa Marchetti?

8 A No, sir.

9 Q Is your statement then that Melissa Marchetti
10 was in good health based entirely on statements made to you
11 by other individuals?

12 A Statements by that individual and also seeing the
13 child intermittently. She was forever carried around.

14 Q You stated that the smaller children in the troop
15 compartment were seated two to a seat, is that correct?

16 A Yes, sir.

17 Q And you stated that the larger children in the
18 troop compartment were seated one to a seat, is that correct?

19 A To the best of my recollection. I did not see
20 the larger children for the most part. I saw them once.

21 Q Is it correct that earlier today you stated that
22 the larger children, the older children in the troop
23 compartment were placed there because they were handicapped?

1 A For the most part, yes.

2 Q How many handicapped children --

3 MR. HORVATH: I object to that question.

4 THE WITNESS: I don't know.

5 BY MR. CONNORS:

6 Q How many children were placed in the troop compart-
7 ment?

8 A I don't know.

9 Q You don't know how many -- how many handicapped
10 children were there?

11 A No, sir, I don't.

12 MR. HORVATH: I object to the questions as being
13 totally irrelevant at this time.

14 BY MR. CONNORS:

15 Q Ms. Lievermann, you stated it was your opinion
16 that the children placed aboard the C5-A were the largest
17 and healthiest, is that correct?

18 A That is correct.

19 Q Do you describe a handicapped child as a healthy
20 child?

21 A Yes, I do, sir. Physically handicapped has
22 nothing to do with a person's ability to travel for an
23 extended period of time. It has everything to do if there

1 is an accident.

2 Q To your knowledge, how many children were on
3 board the C5-A?

4 MR. HORVATH: I object.

5 THE WITNESS: I don't know, sir.

6 BY MR. CONNORS:

7 Q Do you have knowledge of the handicaps of the
8 handicapped children on the aircraft?

9 MR. HORVATH: Excuse me, I object to this whole
10 line of questioning about handicapped children on this
11 plane.

12 BY MR. CONNORS:

13 Q Do you have any knowledge as to the nature of
14 the handicaps of the handicapped children aboard the C5-A?

15 A In the upper compartment, there were children
16 with leg braces and children with crutches.

17 Q Do you regard those children as healthy?

18 A Yes I do, sir.

19 Q At the time that the children were being
20 evacuated from the troop compartment, did you observe or
21 experience any smoke or fumes in the vicinity of the places
22 where you were located?

23 A To the best of my recollection there was an acrid

1 smell, I don't recall seeing any smoke at the time in the
2 troop compartment.

3 Q To your knowledge, did anyone faint or become
4 unconscious at the time you were experiencing this acrid
5 smell?

6 A In my section, the children were very listless,
7 it would be very difficult for me to say that anybody had
8 fainted after they had come around so to speak. I don't
9 know that any of the other members or any of the other
10 children forward.

11 Q You stated that your injuries consisted of cuts
12 and bruises, decreased vision in one eye, I believe, is that
13 correct?

14 A And pulled muscles.

15 Q And pulled muscles. Is it correct that the injury
16 to your eye was a result of a dislocation of a contact lens?

17 A It's possible. I was wearing lenses at the time.
18 I don't know what caused it.

19 Q Did you ever have a doctor examine the eye or
20 determine the cause?

21 A Never to determine the cause. I have been
22 examined and subsequently am very well, thank you.

23 MR. CONNORS: Off the record a second.

1 (Discussion off the record.)

2 MR. CONNORS: On the record.

3 BY MR. CONNORS:

4 Q Ms. Lievermann, you indicated that you were not
5 a Registered Nurse but a Vocational Nurse, is that correct?

6 A A Licensed Vocational Nurse, yes.

7 Q Did you, in your nurse's training, ever receive
8 specific training on the effects of atmosphere on persons
9 at altitude and high altitudes?

10 A Not directly, sir.

11 Q You stated that, at the time of the first impact,
12 you were crouched between two rows of seats, is that correct?

13 A That is correct.

14 Q Did you have a seat belt on?

15 A I did not have a seat, sir.

16 Q You had no seat and no seat belt, is that
17 correct?

18 A That is correct.

19 Q And there was nothing restraining you, is that
20 correct?

21 A That is correct.

22 Q Were you able to maintain your position during
23 the first impact?

1 A I was able to maintain a general semblance of
2 a position by holding on to the arms of chairs of seats. I
3 did get thrown around.

4 Q During the second impact you indicated that you
5 moved from that area, it looks like behind the row of seats?

6 A Off to the side an between another row of seats,
7 yes.

8 Q Did you move for any appreciable distance from
9 the original position?

10 A For being an involuntary movement, yes.

11 Q How far did you move?

12 A I moved from one section of seats to another
13 section of seats when I was attempting to remain stable.

14 Q And was that second section of seats the one
15 immediately behind your original position?

16 A Behind or in front of as the case may be.

17 Q My question is really you moved only the distance
18 of -- between one row of seats and the next, is that correct?

19 A Yes, basically.

20 Q And you were not thrown forward of the aircraft
21 other than that distance, is that correct?

22 A I don't recall being thrown any further than that,
23 no.

1 Q Did you receive any fractures as a result of this
2 accident?

3 A Not that I was aware of.

4 Q Did you receive any head injury?

5 A Not that I was aware of.

6 Q You described the flight, a charter flight, I
7 believe, on the day after the accident, is that correct?

8 A Yes, sir.

9 Q And was that a flight by Pan Am Airways?

10 A It was, sir.

11 Q Was that a special flight late on for the
12 evacuation of the children?

13 A In a manner of speaking, yes.

14 Q You described the children on that aircraft and
15 distinguished between the behavior of the children who had
16 been on the C5-A aircraft the day before and children on
17 the flight who had not been on the C5-A, is that correct?

18 A Yes. Correct.

19 Q And you described the children who had not been
20 on the flight as normal while the children who had been in
21 the accident acted as agitated or any other word you would
22 care to use to describe it?

23 A That is correct, for their mental attitude. We're

1 not speaking of the physical condition.

2 Q I understand. Were they crying, were the C5-A
3 children crying during the Pan Am flight?

4 A I don't know what they did after the plane took
5 off. I was not in that section. I was taking care of some
6 very small children further back. I heard reports from
7 people who were in that section but I was not physically in
8 that area.

9 Q Your statements then, regarding the children's
10 behavior is based on reports to you by others, is that
11 correct?

12 A That is correct, after the plane took off. You
13 do understand prior to the take off of the plane I was in
14 the forward section of the Pan Am flight and did see the
15 reactions of the children at that time.

16 Q Would you describe the children that were on the
17 C5-A and that you did observe as active during the portion
18 of the Pan Am flight which you did see?

19 A They were not active, the children from the C5-A
20 They were frantic. There is a difference between active and
21 frantic. They were screaming, they were very frightened.

22 Q Would you describe their behavior as inconsistent
23 with hypotonia?

1 A I would describe their condition as consistent
2 with exceptional fear.

3 Q My question was --

4 A And that hypotonia can manifest itself in many
5 different ways and I am not prepared to give an entire
6 statement on hypotonia. I believe that you could get a
7 better idea from a physician.

8 MR. HORVATH: Perhaps counsel, if you would define
9 what you mean.

10 BY MR. CONNORS:

11 Q Do you recall in your prior testimony, in the
12 litigation arising out of the accident on April 4th, 1975
13 that testimony given on March 8th, 1980, this answer to the
14 following question.

15 MR. HORVATH: Can I have the page and line number,
16 please?

17 MR. CONNORS: Page 364 and 365.

18 MR. HORVATH: Starting at line?

19 MR. CONNORS: 25, of page 364.

20 BY MR. CONNORS:

21 Q Ms. Lievermann, do you recall, in your prior
22 testimony on March 18, 1980, giving the following answer
23 to the following question. "Question: that is not

1 consistent with hypotonia, is it? Answer: No, sir, it is
2 not."

3 A If it is in there, I must have said it, yes.

4 Q Is it correct that the children that you
5 observed crying and being agitated were no longer exhibiting
6 signs of hypotonia?

7 A Physically.

8 Q You're qualifying that by saying physically as
9 opposed to something else?

10 A Yes, I am. I know along with hypotonia comes
11 a certain amount of dysfunction in the brain, that
12 physical conditions and mental conditions cannot be used
13 interchangeably. Frantic children are not listless for
14 the most part, although they can be. I don't know what
15 more you need.

16 Q You recall in your prior testimony in this
17 litigation, given on March 18, 1980, page 365, lines 1
18 through 7 the following question and answer. "Question:
19 At least as of April 5th, these were children, at least
20 most of them that you described as crying and being
21 agitated, were no longer exhibiting signs of hypotonia.
22 Answer: Of the children I viewed, they were no longer
23 exhibiting hypotonic symptoms."

Do you recall giving that answer?

A No, I don't, but I am verifying the fact that it is indeed here. I don't recall a lot of what I said at all from that testimony.

MR. CONNORS: Off the record.

(Discussion off the record.)

MR. CONNORS: On the record.

Subject to the objection we made at the beginning regarding our abilities to prepare for this deposition, I have no further questions at this time.

EXAMINATION BY COUNSEL FOR PLAINTIFF:

BY MR. HORVATH:

Q You mentioned in cross examination by counsel for Lockheed Aircraft Corporation that the children you recovered from the seats that were turned over, that they were healthy in a triage sense, what did you mean by that?

A Triage is the activity of sorting out different classes of physical damage. These children were breathing, they did not seem to have any major broken bones and that is the important thing. If you set priorities, you have to know who isn't breathing before you sit and totally examine every single child.

MR. HORVATH: Thank you.

1 EXAMINATION BY COUNSEL FOR DEFENDANT/LOCKHEED:

2 BY MR. CONNORS:

3 Q Ms. Lievermann, let me show you now the small
4 version of the Defendant's Exhibit D-1210 which we have
5 had you mark on today and I am going to ask you to look at
6 that and see if that is the document which you had been
7 indicating the various locations on?

8 A That is it.

9 MR. CONNORS: I would like to ask that this
10 document be marked as Defendant's Exhibit No. D-1210(a).

11 (The document referred to was
12 marked Defendant's Exhibit No.
13 D-1210(a) for identification.)

14 (Whereupon, at 7:53 o'clock p.m., the taking of
15 the instant deposition was concluded.)

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Signature of the Witness

5 SUBSCRIBED AND SWORN to before me this _____

6 day of _____, 1981.
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10 Notary Public

My commission expires:

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CERTIFICATE OF NOTARY PUBLIC

COMMONWEALTH OF VIRGINIA)
) ss.:
COUNTY OF FAIRFAX)

I, JEROME T. MATTINGLY, the officer before whom
the foregoing deposition was taken, do hereby certify that
CHRISTINE LIEVERMANN, whose testimony appears in the
foregoing deposition, was duly sworn by me, a Notary Public
in and for the Commonwealth of Virginia at Large, by
agreement of counsel; that the testimony of said witness
was recorded by me by stenotype and thereafter reduced to
typewritten form under my direction; that said deposition
is a true record of the testimony given by said witness;
that I am neither counsel for, related to, nor employed by
any of the parties to the action in which this deposition
was taken; and, further, that I am not a relative of or
employee of any attorney or counsel employed by the parties
hereto, nor financially or otherwise interested in the
outcome of the action.


Notary Public in and for the
Commonwealth of Virginia

My commission expires:
November 9, 1984.