

Dr. Mason Deposition  
1/4/82

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FRIENDS FOR ALL CHILDREN, INC., as :  
legal guardian and next friend of the :  
named 150 infant individuals, et al., :  
Plaintiff, :  
vs. :  
LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
Defendant and : 76-0544  
Third-Party Plaintiff, :  
vs. :  
THE UNITED STATES OF AMERICA, :  
Third Party-Defendant. :  
- - - - - x :  
LY DEBOLT, also known as VO THI LY, :  
Plaintiff, :  
vs. :  
LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
Defendant and : 76-0544-80  
Third-Party Plaintiff, :  
vs. :  
THE UNITED STATES OF AMERICA :  
Third-Party Defendant. :  
- - - - - x :  
Washington, D.C.  
January 4, 1983

STEWART, POE & OGLESBY, INC.

## REPORTING SERVICES

2126 BANCROFT PLACE, N.W.

WASHINGTON, D.C. 20008

(202) 265-3827

Washington, D.C.  
January 4, 1982

THUY DEBOLT, also known as NGUYEN  
THI THUY HUONG,

**Plaintiff**

vs.

LOCKHEED AIRCRAFT CORPORATION

Civil Action No.

76-0544-79

Defendant and

**Third-Party Plaintiff**

VS.

THE UNITED STATES OF AMERICA

### Third-Party Defendant

JOSEPH FRANCIS CHIONE, also known as  
BUI THUY PHUONG, a minor who sues by and  
through his next friends and adoptive  
parents, ALFRED and BERNADETTE CHIONE,  
and by and through his guardian ad  
litem, CHARLES R. WORK and PEABODY,  
RIVLIN, LAMBERT & MEYERS,

**Plaintiff**

vs.

LOCKHEED AIRCRAFT CORPORATION,

Civil Action No.

76-0544-13

Defendant and

**Third-Party Plaintiff**

vs.

THE UNITED STATES OF AMERICA

**Third-Party Defendant.**

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BENJAMIN LUOM MURRY, also known as TRAN VAN LUOM, a minor who sues by and through his next friends and adoptive parents, CARL R. and CAROL MURRY, and by and through his guardian ad litem, CHARLES R. WORK and PEABODY, RIVLIN, LAMBERT & MEYERS,

Plaintiff,

vs.

**LOCKHEED AIRCRAFT CORPORATION**

Civil Action No.  
76-0544-71

Defendant and  
Third-Party Plaintiff,

vs.

THE UNITED STATES OF AMERICA

### Third-Party Defendant

LUKE EDWARD MEAD, also known as HO VAN BIA, a minor who sues by and through his next friends and adoptive parents, DICKSON A. and JUDITH J. MEAD, and by and through his guardian ad litem, CHARLES R. WORK and PEABODY, RIVLIN, LAMBERT & MEYERS,

**Plaintiff,**

v.

LOCKHEED AIRCRAFT CORPORATION,

Civil Action No.  
76-0544-60

Defendant and  
Third Party Plaintiff

v.

THE UNITED STATES OF AMERICA

**Third Party Defendant**

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1 JACOB MAX GELLER, also known as LE VAN BE, :  
2 a minor who sues by and through his next :  
3 friends and adoptive parents, ALWYN and :  
4 ARLYSLE GELLER, and by and through his :  
guardian ad litem, CHARLES R. WORK and :  
PEABODY, RIVLIN, LAMBERT & MEYERS, :  
5 Plaintiff, :  
6 v. :  
7 LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
76-0544-58  
8 Defendant and :  
Third Party Plaintiff, :  
9 v. :  
10 THE UNITED STATES OF AMERICA :  
11 Third Party Defendant. :  
12 RACHEL ANNE MEAD, also known as LY XUAN :  
13 HONG, a minor who sues by and through his :  
14 next friends and adoptive parents, :  
15 DICKSON A. and JUDITH J. MEAD, and by and :  
through his guardian ad litem, :  
CHARLES R. WORK and PEABODY, RIVLIN, :  
LAMBERT & MEYERS, :  
16 Plaintiff, :  
17 v. :  
18 LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
76-0544-59  
19 Defendant and :  
Third Party Plaintiff, :  
20 v. :  
21 THE UNITED STATES OF AMERICA :  
22 Third Party Defendant. :  
2 STEWART, POE & OGLESBY, INC.  
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1 JOSHUA RYAN NGUYEN RAZMUS, also known as :  
2 NGUYEN TAM PHU, a minor who sues by and :  
3 through his next friends and adoptive :  
4 parents, LEO JOHN and SHEILA ANN RAZMUS, and: :  
by and through his guardian ad litem, :  
CHARLES R. WORK and PEABODY, RIVLIN, :  
LAMBERT & MEYERS, :  
5 Plaintiff, :  
6 v. :  
7 LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
8 : 76-0544-78  
9 Defendant and :  
Third Party Plaintiff, :  
10 v. :  
11 THE UNITED STATES OF AMERICA :  
12 Third Party Defendant. :  
13 - - - - - x  
14 STEPHANIE MERWIN WILKS, also known as TRI :  
15 THI ANH DAO, a minor who sues by and through: :  
16 his next friends and adoptive parents, :  
17 THOMAS R. and LESLIE C. WILKS, and by and :  
18 through his guardian ad litem, :  
19 CHARLES R. WORK and PEABODY, RIVLIN, :  
20 LAMBERT & MEYERS, :  
21 Plaintiff, :  
22 v. :  
23 LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
24 : 76-0544-52  
25 Defendant and :  
Third Party Plaintiff, :  
26 v. :  
27 THE UNITED STATES OF AMERICA :  
28 Third Party Defendant. :  
29 - - - - - x  
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LIEN KATHLEEN BURKE, also known as NGUYEN :  
MY LIEN, a minor who sues by and through his :  
next friends and adoptive parents, JOHN P. :  
and JOAN B. BURKE, and by and through his :  
guardian ad litem, CHARLES R. WORK and :  
PEABODY, RIVLIN, LAMBERT & MEYERS. :

Plaintiff,

v.

**LOCKHEED AIRCRAFT CORPORATION**

Civil Action No.  
76-0544-40

Defendant and  
Third Party Plaintiff,

v.

THE UNITED STATES OF AMERICA

**Third Party Defendant.**

MARK TAN ROTHHAAR, also known as PHAM NGOC :  
TAN, a minor who sues by and through his :  
next friends and adoptive parents, THOMAS L. :  
and MISTY J. ROTHHAAR, and by and through :  
his guardian ad litem, CHARLES R. WORK and :  
PEABODY, RIVLIN, LAMBERT & MEYERS,

Plaintiff,

v.

**LOCKHEED AIRCRAFT CORPORATION**

Civil Action No.  
76-0544-63

Defendant and  
Third Party Plaintiff,

v.

THE UNITED STATES OF AMERICA

**Third Party Defendant.**

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1 BRIAN JAMES PATTERSON, also known as NGUYEN :  
2 VAN LONG, a minor who sues by and through :  
3 his next friends and adoptive parents, :  
4 NORWOOD JAMES, JR. and SHARON PATTERSON, :  
and by and through his guardian ad litem, :  
CHARLES R. WORK and PEABODY, RIVLIN, :  
LAMBERT & MEYERS, :  
5 Plaintiff, :  
6 v. :  
7 LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
8 : 76-0544-72  
9 Defendant and :  
Third Party Plaintiff, :  
10 v. :  
11 THE UNITED STATES OF AMERICA :  
12 Third Party Defendant. :  
13 - - - - - x  
14 TAI LARS STADHEIM also known as NGUYEN VAN :  
15 TAI, a minor who sues by and through his :  
next friends and adoptive parents, :  
16 RICHARD D. and JANET R. STADHEIM, and by and:  
through his guardian ad litem, :  
CHARLES R. WORK and PEABODY, RIVLIN, :  
LAMBERT & MEYERS, :  
17 Plaintiff, :  
18 v. :  
19 LOCKHEED AIRCRAFT CORPORATION, : Civil Action No.  
20 : 76-0544-33  
21 Defendant and :  
Third Party Plaintiff, :  
22 v. :  
23 THE UNITED STATES OF AMERICA :  
24 Third Party Defendant. :  
25 - - - - - x  
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1 - - - - - x  
2 JEFFREY TIM LINDBERG, also known as SON VAN :  
3 HOANG, a minor who sues by and through his :  
4 next friends and adoptive parents, PHILIP G. :  
5 and ANITA L. LINDBERG, and by and through :  
6 his guardian ad litem, CHARLES R. WORK and :  
7 PEABODY, RIVLIN, LAMBERT & MEYERS, :  
8

9 Plaintiff, :  
10 v. :  
11

12 LOCKHEED AIRCRAFT CORPORATION, :  
13

14 Civil Action No. :  
15 76-0544-74

16 Defendant and :  
17 Third Party Plaintiff, :  
18

19 v. :  
20

21 THE UNITED STATES OF AMERICA :  
22

23 Third Party Defendant. :  
24

25 - - - - - x  
26 MELINDA SUE KELPE, also known as MAI THI :  
27 HONG HOA, a minor who sues by and through :  
28 his next friends and adoptive parents, :  
29 JAMES H. and JEANNE A. KELPE, and by and :  
30 through his guardian ad litem, CHARLES R. :  
31 WORK and PEABODY, RIVLIN, LAMBERT & MEYERS, :  
32

33 Plaintiff, :  
34 v. :  
35

36 LOCKHEED AIRCRAFT CORPORATION, :  
37

38 Civil Action No. :  
39 76-0544-70

40 Defendant and :  
41 Third Party Plaintiff, :  
42

43 v. :  
44

45 THE UNITED STATES OF AMERICA :  
46

47 Third Party Defendant. :  
48

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1  
2 ROGER WILHELM NUSBAJM, also known as LE VAN :  
3 THO, a minor who sues by and through his :  
4 next friends and adoptive parents, :  
5 TIMOTHY G. and BETSY NUSBAUM, and by and :  
6 through his guardian ad litem, CHARLES R. :  
7 WORK and PEABODY, RIVLIN, LAMBERT & MEYERS, :  
8

9 Plaintiff, :  
10 :  
11 v. :  
12

13 LOCKHEED AIRCRAFT CORPORATION, :  
14

15 Civil Action No.  
16 76-0544-69

17 Defendant and :  
18 Third Party Plaintiff, :  
19

20 v. :  
21

22 THE UNITED STATES OF AMERICA :  
23

24 Third Party Defendant. :  
25

26 JAYSUN ALLEN NGUYEN LARSON, also known as :  
27 LIEU PHUC NHAN, a minor who sues by and :  
28 through his next friends and adoptive :  
29 parents, JAN and LORETTA LARSON and by and :  
30 through his guardian ad litem, :  
31 CHARLES R. WORK and PEABODY, RIVLIN, :  
32 LAMBERT & MEYERS, :  
33

34 Plaintiff, :  
35 :  
36 v. :  
37

38 LOCKHEED AIRCRAFT CORPORATION, :  
39

40 Civil Action No.  
41 76-0544-20

42 Defendant and :  
43 Third Party Plaintiff, :  
44

45 v. :  
46

47 THE UNITED STATES OF AMERICA :  
48

49 Third Party Defendant. :  
50

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Deposition of J. KENYON MASON, M.D., a witness herein  
examination by Counsel for Defendant and Third-  
intiff in the above-entitled action, pursuant to §  
taking deposition and by agreement of counsel as to  
time, and having been duly sworn by PAUL R. CUTLER,  
Public in and for the District of Columbia, in the  
Haight, Gardner, Poor & Havens, 10th Floor, Federal  
ing, 1819 H Street, N. W., Washington, D. C.,  
g at 12:07 p.m. on Monday, January 4, 1982, and the  
s being taken down by Stenomask by PAUL R. CUTLER  
cribed under his direction.

— — —

## APPEARANCES:

\*On behalf of Plaintiffs:

MICHAEL J. McMANUS, Esq.  
Lewis, Wilson, Lewis and Jones, Ltd.  
2054 North 14th Street  
Arlington, Virginia 22201

On behalf of Defendant and Third-Party Plaintiff:

JOHN C. CONNORS, Esq.  
CARROLL E. DUBUC, Esq.  
Haight, Gardner, Poor & Havens  
10th Floor, Federal Bar Building  
1819 H Street, N. W.  
Washington, D. C. 20006

— 1 —

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## CONTENTS

Examination by Counsel  
For Defendant and  
Third-Party Plaintiff

**Deposition of:**

J. Kenyon Mason, M.D.

12

**E X H I B I T S**

Mason Deposition Exhibit:

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

Whereupon,

J. KENYON MASON, M.D.

called as a witness by Counsel for Defendant and Third Party Plaintiff, and having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR DEFENDANT AND THIRD PARTY PLAINTIFFS

BY MR. CONNORS:

Q     Would you state your full name, please?

A John Kenyon French Mason, French with one F.

Q Your home address, please?

A

Q      Do you have an office?

A I'm a professor of forensic medicine at the University of Edinburgh.

Q Is there a separate address for you at the University?

A It would be Department of Forensic Medicine,  
at Place, T-e-v-i-o-t Place, Edinburgh

have not been provided with a copy of a curriculum vitae for the background before the deposition. I asked if one would be provided, and I understand that one will be as soon as -

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1 soon as available. Is that correct?

2 MR. MC MANUS: That is correct.

3 BY MR. CONNORS: (Resuming)

4 Q What is your profession?

5 A I'm a doctor of medicine.

6 Q And is that the same as an M.D. in the United  
7 States?

8 A It is.

9 Q Is there a separate designation for that in Scotland  
10 or the United Kingdom?

11 A No, I happen to be an M.D. It could be M.D., but I  
12 am an M.D.

13 Q In the absence of the curriculum vitae, could you  
14 give me a brief description of your educational background,  
15 please?

16 A Yes, I was educated at Cambridge University and  
17 St. Bartholemew's Hospital in London. I qualified in 1943  
18 and went through my war service as a medical officer in the  
19 Royal Air Force. After the war I took a permanent commission  
20 in the Royal Air Force. In 1950 I was appointed specialist  
21 in pathology, and in 1955 I organized the setting up of a  
22 section of aviation and forensic pathology for the Royal Air

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1 Force, the function of which was to investigate fatal  
2 accidents occurring in the armed forces. I was in charge of  
3 this department on and off with very few breaks in fact until  
4 1973, and during this time the department extended in order  
5 to involve the investigation of civil aircraft accidents as  
6 well. And I was personally responsible for the medical  
7 investigation of 26 major aircraft disasters, by which I mean  
8 those with multiple fatalities.

9 In 1973 I retired from the Air Force on being  
10 offered the appointment of Regis Professor of Forensic  
11 Medicine at the University of Edinburgh. And I have been  
12 there ever since.

13 I am the author of a textbook published in 1962  
14 called Aviation Accident Pathology, and I coedited a book  
15 called Aerospace Pathology, the date of which, I think, is  
16 1972 or thereabouts. I am the author of a textbook called  
17 Forensic Medicine for Lawyers published in 1978 and the editor  
18 of a textbook called The Pathology of Violent Injury, also  
19 published in 1978.

20 I have a large number of publications in  
21 professional journals, mainly dealing with aircraft accidents  
22 and the pathology of trauma.

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1 Q What was that title of the last book you mentioned  
2 about violent injury?

3 A The Pathology of Violent Injury.

4 Q Since 1973 have you been involved in the investiga-  
5 tion of any air disasters?

6 A Only in a consultative way.

7 Q And could you tell us which ones you consulted on  
8 since 1973?

9 A My main opinion was given on the Trident accident  
10 at Staines which occurred just after I had left the Air Force.  
11 I'm also a consultant in pathology to British Caribbean  
12 Airways and advise them as and when necessary.

13 Q So aside from the Trident, have there been any other  
14 air accidents that you have consulted on or investigated  
15 since 1973?

16 A Oh, yes, but they have been purely consultative  
17 business. I've been sent the materials for investigation of  
18 an accident which involved the pilot dying at the controls of  
19 a taxi aircraft and such thing. I think in fact that's  
20 probably the only one in which I've actually been involved  
21 since 1973, positively involved since the Trident. The  
22 question rather takes me by surprise, and I would check up on

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1 it if necessary.

2 Q Are you a pilot?

3 A No.

4 Q Of the accidents which you investigated prior to  
5 1973, the 26, I believe, you say --

6 A Yes.

7 Q Just one thing, Doctor. If you say uh-huh, it's  
8 hard for the Reporter to take it.

9 A I'm sorry. Yes.

10 Q Can you tell me approximately of that 26 how many  
11 were military and how many civilian?

12 A No, I'd almost be guessing. I'm sorry. Again I  
13 could give you that answer, but the great majority of them  
14 being large aircraft would be civil aircraft.

15 Q These would be commercial aircraft of a passenger  
16 type?

17 A Right.

18 Q In any of those accidents were the passengers seated  
19 in rearward facing seats?

20 A Only one.

21 Q What accident was that?

22 A It was an accident involving an RAF aircraft.

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1 Q Do you recall when that was?

2 A No.

3 Q Do you recall what type of aircraft that was?

4 A I'm trying to remember what it was. I was engaged  
5 in it as the boss of the thing. I didn't actually go to it  
6 myself. It must have been quite a long time ago, in the  
7 early '60s. I honestly can't remember the name of the  
8 aircraft. I'm sorry.

9 Q Were there any survivors from that crash?

10 A Yes.

11 Q Were there any children survivors?

12 MR. MC MANUS: You haven't asked if there were any  
13 children passengers first.

14 THE WITNESS: Yes, I think there were.

15 BY MR. CONNORS: (Resuming)

16 Q Can you tell me to the best of your recollection  
17 some of the details of that accident, what you do remember?

18 A It was an accident that occurred, a landing acci-  
19 dent. The aircraft crash-landed, and it caught fire.

20 Q Did it land on a runway?

21 A No, it landed outside the airfield.

22 Q Do you recall the approximate number of the people

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1 on board the aircraft?

2 A No, really it's not an accident that was very -  
3 interesting. So --

4 Q Were there many fatalities?

5 A The people in the passenger compartment survived.  
6 The people in the air crew were killed.

7 Q Were all the people in the passenger compartment  
8 sitting in rearward facing seats?

9 A They were. I would like to repeat to you I did not  
10 go to this accident personally. My involvement in this was as  
11 head of department.

12 Q Did you review materials related to this accident?

13 A Yes.

14 Q Did you review any injury reports on any of the  
15 passengers?

16 A I am very sorry. I must tell you that my  
17 recollection of this particular accident is negligible because  
18 it was not one in which, as I say, I was particularly  
19 interested. I was only involved, not personally involved at  
20 the site.

21 Q By any chance did you retain any records or notes  
22 relating to this accident?

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1 A I dare say there are, yes.

2 Q In your own files?

3 A Not in my files, no.

4 Q They would be located where?

5 A They would be located in the Department of Aviation  
6 Pathology.

7 Q Is that an official agency of the RAF?

8 A Yes. In fact the report would not have my name on  
9 it.

10 Q Just for a benchmark, Doctor, could you distinguish  
11 for me the difference between your role in the 26 investiga-  
12 tions you mentioned and your role as a consultant after 1973,  
13 when you retired; exactly the difference in how you approached  
14 an accident?

15 A In the big majority of the cases after 1973 I  
16 would examine these personally by going to the site and would  
17 have been responsible for a report in the big majority prior  
18 to 1973. The total number I can't tell you because in some  
19 cases my juniors would have prepared the report.

20 But after 1973 it would have been a matter of  
21 somebody saying to me, "Here is the material. Here is the  
22 report. What do you think about it?"

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1 Q Was the purpose of your investigation of the 26  
2 accidents, as opposed to your consulting different in terms of  
3 what you were doing as an aviation pathologist? =

4 A Certainly. In one case I was employed to do it.  
5 In the other case I was acting as a consultant.

6 Q I'm probably not being clear. Was the purpose of  
7 the 26 investigations prior to 1973 to find the cause of the  
8 accident?

9 A To find the cause of the accident, the cause of the  
10 fatalities and to make recommendations for the future.

11 Q And what was the purpose for the consults after 1973?

12 A These would be really, for instance, in one particu-  
13 lar case that I mentioned, the material sent, did I agree  
14 that this was the cause of the accident, that this particular  
15 cardiac condition could have been responsible for the pilot's  
16 death.

17 Q So in the first group you were determining the  
18 cause, and in the others you were simply confirming it or  
19 disputing it?

20 A Acting as a consultant.

21 Q Were these consults in connection with litigation?

22 A Not really, no. That's not strictly true, of course.

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1 The Trident was very markedly concerned with litigation.

2 Q Was your opinion given in connection with the

3 litigation?

4 A Yes.

5 Q Outside of the Trident action had you testified at  
6 any other cases regarding air crash disasters, testified in  
7 court, given sworn testimony is what I'm asking.

8 A It depends on what courts really. I mean we have  
9 accident inquiries, public inquiries. We have coroners'  
10 courts, both of which evidence is on oath.

11 Q And you've testified in these?

12 A Certainly.

13 Q You said that the purpose for the investigations  
14 which you conducted was to determine the cause of the  
15 accident and the cause of the fatalities. Have you been  
16 involved in any investigation to determine the cause of  
17 injuries in nonfatal accidents?

18 A Unless there was a fatality, my department was not  
19 concerned, no.

20 Q So there had to be at least one fatality in the  
21 accident?

22 A Right.

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1 Q Would you have become involved or did you become  
2 involved in the investigation of any injured personnel in one  
3 of these accidents? =

4 A Not to the same extent.

5 Q But you did have occasion to investigate?

6 A Yes.

7 Q And when you would examine or investigate the case  
8 of one of the injured persons, what was the purpose of that  
9 particular part of the investigation?

10 A It would merely have been part of the investigation  
11 of the effectiveness or ineffectiveness of safety equipment.

12 Q Doctor, perhaps you could help me, because I'll  
13 probably need some definitions of terms, which is what I'm  
14 going to ask you to do. Could you define for me how you  
15 define your own profession, that is, as an aviation pathologist,  
16 a forensic pathologist? What is the most precise term to  
17 describe your profession?

18 A I'm a university professor.

19 Q I realize that, but in terms of aircraft accidents.

20 A As such now I have no connection with aircraft  
21 accidents other than in a consultative role or, of course, if  
22 we had an aircraft accident in Scotland, it might well be that

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1 the procurator fiscal would invite me to go and examine it  
2 for him. But I would not be examining it for the British -  
3 Government now. I would be in fact doing so for the medical-  
4 legal authority.

5 The nearest American equivalent to procurator fiscal  
6 would be the medical examiner.

7 Q Could you describe for me, please, the methods which  
8 you used in investigating an aircraft accident?

9 MR. MC MANUS: At any particular point in time?

10 BY MR. CONNORS: (Resuming)

11 Q Any point in time.

12 A Given the fact at the time it was my primary job.

13 Q Right.

14 A Right. Then the system was that when there was a  
15 fatal accident, my department was called out, and our primary  
16 functions were to conduct autopsy examinations or be  
17 associated with the autopsy examinations on the fatalities,  
18 to examine the aircraft site, record such site, to examine  
19 the records, any factors associated with safety, to consult  
20 with the other group members, the pilot, engineers and such  
21 types of group, and to prepare a report for the Department of  
22 Trade, which is responsible for the investigation of civil

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1 aircraft accidents in the United Kingdom.

2 Q What was the purpose of the autopsy reports? -

3 A To see whether, firstly, there were any human factors  
4 relating to the accident and the crew and to discover any  
5 injuries which either indicated the type of accident, the  
6 nature of the accident or injuries which could have been  
7 prevented or might have been prevented in both crew and  
8 passengers, to which I suppose one should add that there are  
9 civil-legal implications as well insofar as one has to have  
10 some idea or expectation of life for insurance purposes and  
11 so on and so forth.

12 Q How would you use an autopsy to determine the type  
13 or nature of an accident?

14 A Largely by the pattern of the injuries.

15 Q Could you give me an example of that, please?

16 A Well, let's take an accident that occurred -- well,  
17 it doesn't matter where it occurred, but let's say an  
18 accident which occurred short of the runway in Africa, and  
19 the problem really was whether this aircraft had been shot down  
20 or whether it was pilot error.

21 By doing the autopsies on the dead passengers, one  
22 could establish that in fact all these people had died from

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1       burning and that the accident pattern was that of a short  
2       landing rather than a crash as a result of being shot down. -

3       Q       Is the same method employed in determining what -  
4       injuries might have been prevented?

5       A       Certainly, yes.

6       Q       So you would look at the pattern of injuries in  
7       relation to, what, the safety equipment?

8       A       Yes.

9       Q       In doing the autopsy, what type of things were you  
10      looking for?

11      A       The actual traumatic injuries.

12      Q       These would be physical injuries to the tissues or  
13      the bones?

14      A       The actual.

15      Q       Were you looking for any injuries as a result of  
16      things like hypoxia or decompression?

17      A       Yes.

18      Q       How would you determine the presence of hypoxia  
19      or decompression?

20      A       Extraordinarily difficult.

21      Q       Is it possible to do at all?

22      A       In certain circumstances, yes.

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1 Q Could you give me an example?

2 A If we take a look, say, at the Comet disaster in  
3 1967, there was a distinct disparity or pattern of injuries  
4 in the passengers recovered from the sea, and many of these  
5 had clearly changes in the lungs which could only be  
6 explained by hypoxia rather than by injury.

7 Q Did you finish your answer?

8 A By hypoxia rather than by injury, in fact indicating  
9 that the aircraft had disintegrated at high altitude.

10 Q Do you recall the altitude of that aircraft?

11 A 29,000, I think -- I think.

12 Q And what changes in the lungs are you referring to?

13 A Ballooned, congested lungs. Could I just point out  
14 that this is an extremely fortunate accident insofar as these  
15 particular people were not complicated by crash injuries.

16 Q Well, they fell from 29,000 feet, though.

17 A That's right, but that's a very different kettle of  
18 fish than landing into the water as a simple impact rather  
19 than being involved in a crash environment.

20 Q What sort of indications would you look for in terms  
21 of decompression injury?

22 A Decompression injury, one would certainly look at the

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1 ears, for instance. Otherwise in association with traumatic  
2 injury it's extremely difficult to distinguish decompression  
3 injuries. =

4 Q You mentioned that you would also go to the crash  
5 site to examine that. What sort of information would you want  
6 to derive from the crash site?

7 A I would firstly want to derive what sort of an  
8 accident I was dealing with and what are the problems that  
9 I was going to be asked to try and resolve. I would deal,  
10 be able to get some idea of the extent of the impact, whether  
11 or not there was fire, whether or not the safety belts had  
12 been done up, whether the cabin crew had been strapped in,  
13 this sort of thing.

14 Q And your inspection of the wreckage, what was that  
15 intended to show?

16 A To give you again a general idea of what you were  
17 dealing with.

18 Q The same situations at the site?

19 A Yes.

20 Q You mentioned conferring with others. You mean other  
21 members of an accident investigation team? -

22 A Right, what is known as the group system. -

1 Q Did you become involved at all in the use of  
2 photographs of the accident scene?

3 - A In an amateurish way.

4 Q Do you regard yourself as a photo interpreter?

5 A No.

6 Q For such a report you would rely on an expert in that  
7 area?

8 A Certainly.

9 Q Have you ever testified before in a lawsuit in the  
10 United States?

11 A It depends on what you mean by testified. I have  
12 gotten as far as going to court, but the case was settled  
13 before I got there.

14 Q Just one occasion?

15 A Just one occasion.

16 Q Do you recall when that was?

17 A Yes, this must have been in 1975 or thereabouts.

18 Q And what accident did that have to do with?

19 A Trident.

20 Q Do you recall the court that you were testifying in?

21 A Well, it was in New York.

22 Q You don't know whether it was federal or state

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1 court or anything like that?

2 A I'm afraid not.

3 Q You don't remember the name of the case by any  
4 chance, do you? Do you recall the name of the case or the  
5 parties involved?

6 A Jiminy crickets, it was somebody versus British  
7 European Airways. Which particular plaintiff was involved, at  
8 this particular point I don't remember.

9 Q Doctor, are you being compensated for your  
10 services in this case?

11 A Yes.

12 Q What is your rate of compensation?

13 A My rate of compensation is \$80.00 per hour.

14 Q What was your first contact with the C5A accident  
15 on April 4, 1975?

16 A I was rung up in my home by Dr. Cohen.

17 MR. MC MANUS: Just so that's clear to some people  
18 who might be reading this and are not familiar with the  
19 British term, by "rung up," do you mean telephoned?

20 THE WITNESS: Telephoned, yes. I'm so sorry.

21 MR. MC MANUS: I understood that. I'm sure Mr.  
22 Connors did. But there might be some people who have never

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1 been to Britain and just wouldn't understand.

2 BY MR. CONNORS: (Resuming)

3 Q When was that call?

4 A That must have been in March. I have it here, 1980.

5 Q That call, were you provided with any factual  
6 information regarding the accident?

7 A No, Dr. Cohen told me that he was involved in the  
8 investigation of an interesting accident, that he proposed to  
9 have a meeting of interested experts in the United States and  
10 invited me to come.

11 Q That was the conference on March 8, 1980?

12 A Right.

13 Q Prior to that conference had you received either  
14 verbally or in documentary form any factual information  
15 regarding the accident?

16 A No.

17 Q At the time of the conference did you receive any  
18 such information?

19 A Yes.

20 Q Was this information presented at the conference?

21 A It was presented both at the conference, in open  
22 conference and also a roundtable discussion with Dr. Cohen

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1 leading it.

2 Q When was the roundtable discussion?

3 - A That day or the next day.

4 Q How long were you in the Washington, D. C., area  
5 for that meeting?

6 A I would assume three days.

7 Q During that time were you given any documents  
8 relating to the accident on April 4th, 1975?

9 A Yes.

10 Q What were you given?

11 A It would be wrong of me to try to tell you that,  
12 because I just can't remember, but there were general  
13 documents relating to the accident.

14 Q Did you keep any of them?

15 A I'm afraid they're back at home, yes. In fact there  
16 was not very much documentation at that particular time, no,  
17 but --

18 Q Do you recall the source of the documents? Was it  
19 an official government source?

20 A No.

21 - Q A private source or what?

22 A No, these were just people's reports and people's

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1 views on the accident.

2 Q Do you recall whose reports?

3 - A No, I think in fact -- I'm sorry to sound dim  
4 about this, but it really wasn't a very official situation at  
5 this time, and I really couldn't tell you whose report. May  
6 I say who was there?

7 MR. MC MANUS: Certainly. Mr. Connors or Mr. Dubuc  
8 might have been at the meeting.

9 THE WITNESS: The most important people from my  
10 point of view, I was speaking to Dr. Snyder, Dr. Busby, the  
11 three of us being really rather called as complete outsiders.  
12 Everybody else at the conference appeared to be involved in  
13 the accident, whereas we had not been involved in the accident.

14 BY MR. CONNORS: (Resuming)

15 Q Other people were involved in the accident?

16 A In other words, they were people who had been  
17 looking at it and examining it, whereas we came fresh to it.

18 Q I see. Did you see any reports from Dr. Snyder?

19 A Yes, later.

20 Q Did you see any reports from Dr. Busby?

21 A Later.

22 Q By any chance do you have either of those reports

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1 with you?

2 A No, I don't.

3 - MR. CONNORS: I'm going to call for production of  
4 any reports from Dr. Snyder and any reports from Dr. Busby  
5 which we have not been provided with.

6 BY MR. CONNORS: (Resuming)

7 Q Do you recall the subject matter of Dr. Snyder's  
8 report, so you understand?

9 THE WITNESS: Can I go off the record?

10 (Discussion off the record.)

11 MR. CONNORS: Back on the record.

12 BY MR. CONNORS: (Resuming)

13 Q Doctor, did the reports you referred to from Dr.  
14 Snyder and Dr. Busby relate to the accident?

15 A Yes.

16 Q Besides those reports did you receive any other  
17 documentary materials?

18 A Yes, when I came to Washington next.

19 Q When was that?

20 A Again I would have to perhaps look at my passport.

21 Do you remember when that was?

22 MR. MC MANUS: No, I don't.

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1 THE WITNESS: This must have been around October

2 1981. I'm fairly certain of that.

3 BY MR. CONNORS: (Resuming)

4 Q Had you had any contact from anyone regarding the  
5 accident between the March '80 meeting and your trip to D. C.  
6 in 1981?

7 A Other than correspondence from Dr. Snyder and  
8 Dr. Busby, no.

9 Q You did receive correspondence from Dr. Snyder and  
10 Dr. Busby?

11 A Yes, this is really what we referred to in the way  
12 of reports.

13 Q Do you have any of those with you now?

14 A No.

15 MR. CONNORS: I'll call for the production of any  
16 correspondence between Dr. Snyder and Busby and Dr. Mason.

17 BY MR. CONNORS: (Resuming)

18 Q Did these reports contain any factual information  
19 regarding the accident?

20 A No, mainly opinion.

21 Q Between March of 1980 and October of 1981 had you  
22 received any telephone calls with anyone involved in the

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1 accident?

2 A No.

3 Q What was the purpose of your visit to the  
4 Washington area in October of 1981?

5 A Dr. Cohen asked me to come and review some more  
6 materials.

7 Q And what materials were you to review?

8 A And consult with him. The list that I've made here,  
9 there was a report from Dr. Connors, a document called  
10 Collateral Report, Volume One, trial testimony by Dr. Busby.

11 Q Just a minute. The collateral report was a separate  
12 document?

13 A Yes, volume one.

14 Q Something from Dr. Connors?

15 A A report by Dr. Connors is number one. Number two,  
16 Collateral Report, Volume One, and, number three, Trial  
17 Testimony by Dr. Busby, number four, report by Dr. Gaume,  
18 G-a-u-m-e, troop compartment injury report, report by  
19 J. W. Edwards, report by J. J. Downes, report by Dr. C. A. Berry,  
20 a series of lantern slides, large numbers of black and white  
21 color prints and a cinefilm.

22 Q Did you retain any of these materials?

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1 A Yes.

2 Q Aside from the slides, prints or the movie, did you  
3 retain all of the other documents?

4 A Yes.

5 Q Did you retain any of the photographic materials,  
6 the slides, the prints or the --

7 A No, I asked for them, but I haven't received them.

8 Q When did you ask for them?

9 A In October.

10 Q Were you given any reason why you weren't given  
11 copies?

12 A I imagine it's pressure of work.

13 Q Did you review these materials at the time you were  
14 in Washington in October of 1981?

15 A Yes, I did.

16 Q Approximately how long were you in Washington at  
17 that time?

18 A Three days.

19 Q Did you review any other materials?

20 A I think that's a fairly exhaustive list.

21 Q Did you confer with anyone during that visit?

22 A Certainly. I conferred with Dr. Cohen.

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1 Q Anyone else?

2 A Yes, there was a Dr. Morain who was there and an  
3 engineer whose name I disremember.

4 Q Dr. Turner perhaps?

5 A Dr. Turner, I think, yes.

6 Q Anyone else?

7 A Any lawyers in the department who happened to be  
8 there who asked questions.

9 Q Did you confer with a Dr. Liu?

10 A No. Could I come off the record again?

11 (Discussion off the record.)

12 MR. CONNORS: Back on the record.

13 BY MR. CONNORS: (Resuming)

14 Q During the time that you were in Washington in  
15 October of 1981, were you provided with any factual infor-  
16 mation relating to the accident in any verbal or written form?

17 A Oh, yes.

18 Q Other than you have just described to us?

19 A Not that I'm aware of. I had lengthy conversations  
20 with other people involved.

21 Q Did Dr. Cohen provide you with any factual infor-  
22 mation regarding the accident?

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1 A Yes.

2 Q Would you tell me what Dr. Cohen told you about the  
3 facts of the accident, of your recollection?

4 MR. MC MANUS: Are you asking him precisely what he  
5 verbally might have disclosed to him as opposed to what he  
6 might have referred him to?

7 BY MR. CONNORS: (Resuming)

8 Q Let's start with did Dr. Cohen refer you to any  
9 documents?

10 A To the ones I've enumerated, yes.

11 Q In addition to the information contained in those  
12 documents did he provide you verbally with any factual  
13 information regarding the accident?

14 MR. MC MANUS: That might not be in those documents.

15 MR. CONNORS: That he might have interpreted or in  
16 any way described to the doctor.

17 MR. MC MANUS: Within those documents, I mean you're  
18 not asking him to repeat that, are you?

19 MR. CONNORS: I don't know whether Dr. Cohen repeated  
20 what was in the documents verbatim, and if he editorialized,  
21 I want to know about it.

22 THE WITNESS: Well, let's put it, he talked to me

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1 through the film, so to speak, and I think it would be right  
2 to say that we had long discussions about probably everything  
3 that was discussed within the documents that I saw.

4 BY MR. CONNORS: (Resuming).

5 Q Is there anything that you can recall which Dr. Cohen  
6 described to you about the accident which was not contained in  
7 in those documents?

8 A I don't think so, because I can't see what Dr.  
9 Cohen knows that isn't in documents.

10 Q Did you discuss the accident at all with Dr. Morain?

11 A Not to a great extent. I was interested in  
12 Dr. Morain's work, but it seemed to me to be extraneous to me.

13 Q Did Dr. Morain provide you with any factual infor-  
14 mation regarding the accident --

15 A I have his report.

16 Q -- at the time of the meeting in October '81?

17 A He knew as much as I did.

18 Q Did he give you any opinion at that time as to  
19 anything relating to the accident?

20 A No, he said he was going to write his report.

21 Q Did Dr. Turner confer with you at all about the  
22 accident?

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1 A Yes.

2 Q Did he provide you with any factual information  
3 regarding the accident?

4 A We discussed the pictures together.

5 Q Was this simply discussing what you were looking at  
6 or was he describing something to you?

7 A No, we were discussing the pictures.

8 Q Did he provide you independently any factual infor-  
9 mation about the accident?

10 A I wouldn't have thought so, no.

11 Q Did Dr. Turner state to you at that time any  
12 opinion that he might have about the accident?

13 A Quite clearly we discussed whether or not these  
14 marks represented impact marks and such like that.

15 Q By marks you're referring to --

16 A In the pictures.

17 Q -- scenes in the pictures.

18 A Yes.

19 Q Did he give you any opinion at that time relating to  
20 the forces involved in the accident?

21 A Not at that time, no.

22 Q Did you subsequently receive any information from

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1 him regarding that?

2 A I have a copy of his report.

3 Q At the time you were in Washington in October of  
4 1981 did you provide to anyone else any factual information  
5 about the accident?

6 A No.

7 Q At the time you were in Washington in October of  
8 1981 did you provide to anyone any opinions regarding the  
9 accident on April 4, 1975?

10 A Yes.

11 Q And who did you provide those opinions to?

12 A Dr. Cohen.

13 Q And what were those opinions which you expressed to  
14 him?

15 MR. MC MANUS: Are you asking him what are his  
16 opinions now?

17 MR. CONNORS: I'm asking what opinions he expressed  
18 in October 1981.

19 MR. MC MANUS: In regard to what?

20 MR. CONNORS: In regard to the accident on  
21 April 4, 1975.

22 MR. MC MANUS: Well, there are a lot of things in

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1 regard --

2 MR. CONNORS: That may be. I'm seeing if the  
3 Doctor remembers.

4 THE WITNESS: Well, I gave him an opinion as to the  
5 circumstances of the crash as I saw it. I gave an opinion as  
6 to the possible effects of explosive decompression, and I gave  
7 him my opinion as to the possible effects of hypoxia,  
8 deceleration, fire and a combination of these.

9 BY MR. CONNORS: (Resuming)

10 Q When you said, "the circumstances of the crash,"  
11 would that be how you understood the crash to have occurred?

12 A How I understood it, how I understood it to be  
13 loaded, the aircraft to be loaded and such like things and the  
14 sequence of the accident.

15 (Mr. Dubuc enters the deposition room.)

16 Q Would you describe for me as accurately as you can  
17 the circumstances of the crash as you described them to  
18 Dr. Cohen in October of 1981?

19 MR. MC MANUS: Just a second. Dr. Mason, this is  
20 Mr. Carroll Dubuc. He's one of the other attorneys for  
21 Lockheed.

22 THE WITNESS: Nice to meet you. I haven't at my

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1      fingertips got the exact figures, but there were a large  
2      number of children with their attendants, some military and  
3      some civil, loaded into a C5A at Saigon. Some were in the  
4      cargo compartment. Some were in the troop compartment.  
5      Shortly after takeoff, at the height of some 23, 24,000 feet  
6      the cargo door blew off, with the result of loss of control of  
7      the aircraft, loss of complete control of the aircraft to the  
8      pilot, who then appeared to do some very skillful flying,  
9      attempting to reland at Saigon, failed to do so, landed in a  
10     paddy field, where a number of the passengers were killed and  
11     where a number of survivors were picked up.

12                    BY MR. CONNORS: (Resuming)

13                    Q      Does that description you've just given me include  
14     the sequence of the accident that you mentioned before?

15                    MR. MC MANUS: I'm sorry. I didn't hear the last  
16     part of your question.

17                    MR. CONNORS: Dr. Mason mentioned one of the  
18     categories of circumstances of the crash including the  
19     sequence of the accident.

20                    BY MR. CONNORS: (Resuming)

21                    Q      Is that what you meant?

22                    A      I suppose one must go further than that insofar as

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1 the accident involved a touchdown on one side of the river  
2 and a touchdown in a crash situation.

3 Q From what source did you derive your information  
4 about the circumstances of the crash?

5 A Collateral Report, Volume One, would certainly be a  
6 major thing, conversation, a tremendous amount of conversa-  
7 tion.

8 Q Conversation with whom?

9 A By Dr. Cohen and others and the photographs, slides,  
10 et cetera.

11 Q Would you describe for me, please, as best you can  
12 recall, the opinion you expressed to Dr. Cohen in October of  
13 1981 regarding the possible effects of explosive decompression?

14 MR. MC MANUS: I'm going to object to that question.  
15 The preface with this deposition was to give you an opportunity  
16 to question Dr. Mason on the areas he will be proffered for at  
17 the trial of the Kurth case and subsequent cases. I don't  
18 think what he might have discussed with anyone else is of any  
19 relevance to this proceeding, and so I think you should limit  
20 yourself to what are his opinions now and what is he going to  
21 testify to at the upcoming trial.

22 BY MR. CONNORS: (Resuming)

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1 Q Doctor, can you answer the question?

2 MR. MC MANUS: Do you want to tell me what  
3 relevance you see in any answer to your question, whatever  
4 it might be; because if I'm not convinced that it's relevant,  
5 I'm going to instruct the witness not to answer that question  
6 and to restrict his testimony to the purpose for which we are  
7 here.

8 MR. CONNORS: I think the problem is that Dr. Mason  
9 has been offered as a general aerospace expert including the  
10 areas in this case with regard to the question just asked of  
11 explosive decompression and the possible effects it may have  
12 had on the children. Certainly his opinion on that matter is  
13 relevant.

14 MR. MC MANUS: I don't quarrel with you asking him  
15 what's his opinion and what he's been asked to testify to at  
16 the trial, but what he might have said to anyone beforehand is  
17 not relevant.

18 MR. CONNORS: Certainly the opinions he has held  
19 with regard to this is all relevant.

20 MR. MC MANUS: Certainly. Of course they are. Ask  
21 him what his opinion is now. I'm saying the way you've  
22 characterized him, to phrase your question in asking him what

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1 he told anybody before is just not a proper line of  
2 questioning.

3 MR. CONNORS: I think it's very --

4 MR. MC MANUS: It should be limited to what are his  
5 opinions and what has he been asked to testify to in the  
6 upcoming trials.

7 MR. CONNORS: I think it's very apparent from the  
8 way I've been conducting the deposition that I'm moving  
9 chronologically through Dr. Mason's involvement in this  
10 accident, in the litigation, and my question is to tell me  
11 the opinion he expressed in October of 1981, which I think  
12 I'm entitled to do.

13 MR. MC MANUS: I don't think that you are.

14 MR. CONNORS: Are you directing him not to answer?

15 MR. MC MANUS: Because Dr. Mason is from Scotland,  
16 in the interest of not having him have to come back here if  
17 we have to go to a court to resolve this dispute, I'm going to  
18 allow him to answer the question, but preserving my objection  
19 that I don't think the question is proper --

20 MR. CONNORS: I have no problem with preserving  
21 your objection.

22 MR. MC MANUS: -- or that it's relevant to these

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1 proceedings. Doctor, if you can answer the question, go  
2 ahead.

3 BY MR. CONNORS: (Resuming)

4 Q Would you like me to repeat the question, Doctor?

5 A Yes.

6 Q Could you relate to me, please, as best as you can  
7 recall, the opinion which you expressed to Dr. Cohen in  
8 October of 1981 regarding the possible effects of explosive  
9 decompression during the accident on April 4, 1975?

10 A Well, we know there was an explosive decompression  
11 because one crew member, 1-1/2 crew members, and all their  
12 baggage was ejected from the aircraft, so we knew there was an  
13 explosive decompression. And my opinion was that there were  
14 probably negligible effects in the compartments, this being  
15 based on the evidence given by survivors.

16 Q And what evidence given by survivors are you  
17 referring to?

18 A That there was in actual fact no gross disturbance  
19 within the passenger compartment.

20 Q What was the source of that evidence, Doctor?

21 A I dare say it was Collateral Report, Volume One,  
22 including probably troop compartment injury reports, but the

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1 evidence, I think, from the survivors was -- it was  
2 contained in Collateral Report, Volume One.

3 Q Doctor, you mentioned the troop compartment injury  
4 report. Do you have a copy of what you are referring to with  
5 you?

6 A No.

7 MR. CONNORS: Perhaps, Mr. McManus, you might  
8 qualify something. It's my understanding that that was  
9 prepared by Plaintiffs' counsel's office and is not an Air  
10 Force report. Is that correct?

11 MR. MC MANUS: I'm not sure that I understand what  
12 you are referring to.

13 MR. CONNORS: Some of the doctors have had with  
14 them a document bearing that title, I believe, and indicated  
15 it was prepared by your office. Do you know offhand?

16 MR. MC MANUS: Do I know offhand what?

17 MR. CONNORS: Whether the document the Doctor is  
18 referring to is that report.

19 MR. MC MANUS: No, I don't know offhand.

20 BY MR. CONNORS: (Resuming)

21 Q All right, Doctor, would you relate to me as best  
22 you can, if you recall, the opinion which you gave to

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1 Dr. Cohen in October 1981 with regard to the possible effects  
2 of hypoxia with regard to the accident on April 4, 1975?

3 MR. MC MANUS: I have the same objection as I  
4 stated before.

5 MR. CONNORS: I'll give you a continuing objection  
6 on this.

7 MR. MC MANUS: I'm going to state it each time,  
8 thank you.

9 THE WITNESS: From an examination of the reports and  
10 understanding of the accident it appears to me that there was  
11 a hypoxia episode involving the aircraft being at a height  
12 above 16,000 feet for a matter of minutes.

13 BY MR. CONNORS: (Resuming)

14 Q Doctor, do you recall how long the aircraft was  
15 above 16,000 feet?

16 A I think it was three or four minutes. I'm not  
17 certain about that.

18 Q Did you express to Dr. Cohen any opinion what effect  
19 a hypoxia episode of this duration would have on the children  
20 in the compartment?

21 A The opinion I expressed at the time was that we do  
22 not know what would be the effect in the circumstances in

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1 children of this age, but I feel there must have been some  
2 effect.

3 Q Why do you say there must have been some effect?

4 A Because I think that with children like this,  
5 unprepared, unable to regulate their breathing and so on and  
6 so forth, it isn't a question of suddenly--it isn't a question  
7 of going slowly to this height. It just suddenly went to  
8 this height. There must have been, I feel, some effect on  
9 them.

10 Q Did you express any other opinions to Dr. Cohen  
11 regarding hypoxia in October of 1981?

12 A I put it in rather a roundabout way, and that was  
13 that if I had been asked as a chairman on an ethical board  
14 to sanction an experiment to see what did happen under the  
15 circumstances, I wouldn't have sanctioned it.

16 Q That is, you don't put children through decompressions?

17 A I wouldn't put them through a decompression of the  
18 profile of this type as an experiment.

19 Q Doctor, would you relate to me as best you can  
20 recall the opinion which you expressed to Dr. Cohen in  
21 October of 1981 regarding any effect deceleration during  
22 the accident on April 4, 1975, may have had?

1 MR. MC MANUS: Same objection.

2 THE WITNESS: I expressed the opinion that we had  
3 children here who were unprepared for an accident and that the  
4 accident circumstances, the crash accident circumstances were  
5 such that 70 or more of them died as a result of the  
6 deceleration injuries.

7 BY MR. CONNORS: (Resuming)

8 Q Did you express any further opinion regarding  
9 deceleration with Dr. Cohen in October of 1981?

10 A Yes, the question of whether there would be any  
11 effect on the survivors, and I was of the opinion that these  
12 survivors would have been subjected to several impacts for  
13 which they were unprepared, which would almost certainly have  
14 resulted in some force being applied to their heads at each  
15 impact.

16 Q Did you express any opinion at that time regarding  
17 the nature, extent or force of the impact or volume of force,  
18 degree of force?

19 A Well, it certainly was not sufficient to fracture  
20 their skulls.

21 Q Other than that, did you express any opinion as to  
22 the magnitude of the force?

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1       A    That there was quite clearly enough force involved  
2    to kill two adults in that particular situation.

3       Q    Did you attempt in October of 1981 to distinguish  
4    the situation between the adults in the troop compartment and  
5    the children in the troop compartment?

6            MR. MC MANUS:  In what way?

7            BY MR. CONNORS:  (Resuming)

8       Q    In terms of the deceleration of forces.

9            MR. MC MANUS:  I still don't understand.  Were they  
10    subjected to different forces?

11            BY MR. CONNORS:  (Resuming)

12       Q    Doctor, what is your understanding of how the  
13    children in the troop compartment were seated?

14       A    They were seated in seats.

15       Q    And in which direction were the seats facing?

16       A    Rearward facing seats.

17       Q    And what was the situation with regard to the  
18    adults in terms of how they were seated?

19       A    I think they were standing.

20       Q    Were they restrained in any way, the adults?

21       A    As far as I can remember, no, though individuals may  
22    have been, because again this is a matter of recollection.

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1 There is talk about people sitting down and holding on to  
2 other people. But some of them were restrained. Some of them  
3 were not restrained, I'm certain.

4 Q And do you know the situation of the two adults you  
5 say were killed in the troop compartment, whether they were  
6 seated or restrained in any way?

7 A I don't think they were restrained.

8 Q Would the fact that the children were seated in  
9 rearward facing seats while the two adults that were killed  
10 were unrestrained have any effect on the deceleration forces  
11 as applied to the individuals?

12 A It wouldn't have any effect on the deceleration  
13 forces. It would certainly affect the results of the  
14 deceleration forces.

15 Q How would it affect the results of the deceleration  
16 forces?

17 A The unrestrained bodies quite clearly reacted, well,  
18 fly around. The other one would only fly around as far as  
19 the seat flies around.

20 Q How far did the two adults that you say were killed  
21 in the troop compartment, quote, "fly around?"

22 A I don't know. Obviously I don't know this.

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1 But it would have been a maximum of the extent of the  
2 compartment.

3 Q You don't know?

4 A Right.

5 Q Did you express any opinion in October of 1981  
6 regarding the magnitude of the forces in some quantifiable  
7 way, some measurement that could be used?

8 MR. MC MANUS: Are you asking that the Doctor  
9 express that?

10 MR. CONNORS: Yes, that the Doctor expressed such an  
11 opinion in October of 1981.

12 MR. MC MANUS: Did he quantify the forces? Is that  
13 what you're asking, did he make calculations to determine  
14 amounts of force?

15 MR. CONNORS: Or give an opinion without  
16 calculations. My question was did he express any opinion  
17 about the magnitude of the force.

18 MR. MC MANUS: I think you already asked that  
19 question, and he told you it was sufficient to kill two  
20 adults.

21 MR. CONNORS: I appreciate that. My question was in  
22 terms of the deceleration forces, Doctor, did you have any

1 uniformly recognized quantifiable measure as to the force  
2 involved in the deceleration.

3 THE WITNESS: I think that would be very much left  
4 to the engineers and those whose job it is to calculate such  
5 things.

6 BY MR. CONNORS: (Resuming)

7 Q Can you tell me as best you can recall the opinion  
8 which you expressed to Dr. Cohen in October of 1981 regarding  
9 the possible effects of any fire, and I will add, or fumes  
10 with regard to the accident on April 4, 1975?

11 A My impression was that this was, if anything,  
12 negligible.

13 Q Doctor, would you state for me as best you can recall  
14 the opinion, if any, which you gave to Dr. Cohen in October of  
15 1981 regarding the combined effects of any of the conditions  
16 we've just discussed with regard to the accident on April 4,  
17 1975?

18 A I gave it as my opinion that one could not exclude  
19 the possibility that injury had been sustained as a result of  
20 a combination of circumstances.

21 - Q Did you specify injury to whom?

22 A What?

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1 Q Did you specify injury as to whom?

2 A I'm sorry, to the survivors.

3 Q Did you attempt to distinguish in any way between  
4 the children seated in rearward facing seats in the troop  
5 compartment from other survivors?

6 A No, excepting that one were children, and one  
7 were adults.

1 Q Following the meeting in October of 1981, what was  
2 your next contact with the litigation?

3 A Dr. Cohen passed through Edinburgh on his way home  
4 from Europe and came into my office.

5 Q Approximately when was that?

6 A The 16th of December, about, I think.

7 Q 1981?

8 A Right.

9 Q Just for the record, between the time of your October  
10 meeting and the time Dr. Cohen called upon you, had you received  
11 any additional factual information on the accident?

12 A No, I haven't.

13 Q At the time of Dr. Cohen's meeting with you in Edin-  
14 burgh, December, 1981, did he provide you with any factual in-  
15 formation related to the accident, either in verbal or docu-  
16 mentary form?

17 A He told me he had more information available.

18 Q Did he tell you what that was?

19 A In particular, he had post mortem reports on the U.S.  
20 Air Force personnel who had been killed.

21 Q Did he have those with him?

22 A No.

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1 Q Did he provide you with any factual information at  
2 that time -- that is, December of 1981, around December 16 of  
3 1981?

4 A Not really.

5 Q Did you subsequently receive any additional information  
6 regarding the accident?

7 A No, the problem was that I was meant to, but I was  
8 going on holiday and I suggested that he might give me a holiday  
9 task and send the material to Panama. But it never arrived.

10 Q Did you subsequently have an opportunity to review  
11 the materials that he had referred to?

12 A Yesterday.

13 Q That would be January 3, 1982?

14 A Right.

15 Q Between that period, had you received any information  
16 or other communications regarding the litigation?

17 A No.

18 Q When did you arrive in the Washington area for this  
19 latest trip?

20 A It was so involved. What's today?

21 : Q Today is Monday the 4th.

22 A Saturday evening.

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1 Q During this visit, can you describe for me what mater-  
2 ials you have reviewed regarding the accident?

3 A Just that.

4 Q Have you reviewed any of the medical records of any  
5 of the survivors of the accident?

6 A I'm sorry. Yes. I'm sorry, I wasn't paying attention  
7 sufficiently. In that case, yes, the record of the survivors,  
8 the U.S.A. Air Force, yes.

9 Q Aside from the post-mortem reports or the medical  
10 records of the survivors, have you reviewed any other information  
11 with regard to the accident?

12 A No.

13 Q Have you been provided with any factual information  
14 verbally by anyone?

15 A No.

16 Q Have you conferred with any of the Plaintiffs' other  
17 experts regarding the accident?

18 A No.

19 Q During this entire period that you've been involved,  
20 have you conferred with any of the other experts engaged by  
21 Plaintiffs other than as we have discussed them here so far?

22 A No.

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1 Q Doctor, do you have any other post-mortem reports or  
2 medical records with you today here at the deposition?

3 A No.

4 Q Do you recall, or do you have a list of those which  
5 you reviewed?

6 A Yes.

7 Q Could you cite those for us, please?

8 A I'm afraid that this is very -- the post-mortem re-  
9 ports I reviewed referred to Aguillon, Castro, Dionne, Johnson  
10 Klinker, Melton, Nance, Paget, Payne, Willis, and Parker.

11 Q Is that all?

12 A Yes.

13 Q Can you describe for me the medical reports that you  
14 reviewed, the medical records?

15 A The medical records involved Wise, Aune, Boutwell,  
16 Bradley, Wallace, Perkins, McAtee, Doughty, Malone, Traynor,  
17 Engels, Snedegar, Wirtz -- and I did not have, but I was given  
18 this morning, I've not looked at -- Harp, Langford, Goffinet,  
19 Hadley, Gmerek.

20 Q Is that all?

21 A Gmerek.

22 Q Doctor, you have been referring to some notes and

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1 lists which you have in front of you. Does the document which  
2 you have in front of you, which is some sort of folder, consti-  
3 tute your own file, your entire file with regard to this case?

4 A No, no.

5 Q These are notes which you brought with you for the  
6 purpose of the deposition?

7 A I was going to do some work in Panama and I had to  
8 cut my baggage down.

9 Q You have been referring to some notes, though, have  
10 you not?

11 A Yes.

12 Q Could you put those in whatever order would be appro-  
13 priate in terms of how you would organize them so that we can  
14 have them marked?

15 A You'll never read them.

16 Q Well, perhaps not, but we'd like to have the records.

17 A Okay?

18 MR. MC MANUS: Certainly, if there is any organization,  
19 or if they're just notes.

20 THE WITNESS: I'm more than happy to do it for you,  
21 but these do not refer to any actual facts where stated. Those  
22 in fact are summaries of the post-mortem reports on the children

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1 that were killed.

2 BY MR. CONNORS: (Resuming)

3 Q You're holding documents in your hand?

4 A Yes.

5 Q May I see those, please?

6 Doctor, you have three pages of notes that you've  
7 identified as relating to post-mortem reports on the children.

8 A Yes.

9 Q When did you review those, Doctor?

10 A Way back. I think probably at the first, the first  
11 meeting in March, 1980.

12 Q Doctor, when you said post-mortem reports, are you  
13 referring to death certificates or actual autopsy reports?

14 A External examinations.

15 Q External examinations?

16 A Yes.

17 Q And who furnished you with these documents? Not the  
18 ones I'm holding, but the post-mortem reports?

19 A Dr. Cohen, of course.

20 Q Did he furnish you with any other documents at that  
21 time that you have not already described?

22 A I would be guessing if I told you at which time, at

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1 which point each individual document was given to me.

2 Q Could you read off the headings, please, of columns  
3 you have in those three sheets?

4 A May I consult with my --

5 Q Certainly. Is that your handwriting?

6 A -- with my attorney?

7 MR. CONNORS: Note the time is 1:24.

8 (Whereupon, a brief recess is taken.)

9 MR. CONNORS: Back on the record. It's about 1:28,

10 I guess.

11 BY MR. CONNORS: (Resuming)

12 Q Doctor, before the break I had asked you to describe  
13 the handwritten titles to the columns on the three pages of  
14 documents we were looking at. Could you read those column  
15 headings?

16 A Head, arms, knees, legs, thorax, back, abdomen, height.

17 Q What are the notations down the far left-hand side?

18 A The numbers given to the bodies.

19 Q In what form were the documents which you referred to  
20 as being post-mortem reports on the children? Could you describe  
21 the documents for me?

22 A Yes, they were standard U.S.A.F. external examination

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1 report.

2 Q Do you have a form number? Do you know what that is?

3 A I'm sorry. I didn't know you would ask me a thing  
4 like that.

5 Q You said you believed you had received those, or had  
6 an opportunity to look at those in March of 1980?

7 A It was either there or the next time.

8 Q Which would have been October of 1981?

9 A October, 1981. Though if you asked me to bet, I would  
10 say it was the earlier occasion.

11 Q And you say you believe Dr. Cohen provided those to  
12 you?

13 A Yes.

14 MR. CONNORS: Off the record.

15 (Discussion off the record.)

16 BY MR. CONNORS: (Resuming)

17 Q Doctor, with regard to the notations made on these  
18 three sheets regarding the external examinations of the deceased  
19 children, is there anything on these documents, either in your  
20 own notes or anyone else's writing, which would indicate the  
21 location of the children in the aircraft?

22 A No. No.

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1 Q Were you provided with any information as to the loca-  
2 tion of the children who were the subject of these post-mortems?

3 A Yes.

4 Q What were you told?

5 A That the big majority of them came from the lower  
6 cargo compartment, but there were two or perhaps more children  
7 who died in the troop compartment, and there was no way of tellin  
8 that from those notes.

9 Q Was there any indication on the documents you reviewed  
10 which indicated the location of the children?

11 A No. That's why you will find the explanation --

12 Q What is the explanation you refer to on the third  
13 page?

14 A I was trying to extract which conceivably would have  
15 been the other children.

16 Q Doctor, at the end of the third page of notes, there  
17 are three lines. Could you read those for us, please?

18 A One of it says, ten adults died on upper deck, and  
19 then it says, possible -- I don't know. I can't read that, I'm  
20 afraid. What it means is, possible upper-deck children.

21 Q Did you identify those?

22 A 7, 37, 38, 40, 45.

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1 Q 7, 37, 38, 40, and 45?

2 Could you just read the last line for me, please?

3 A Other, quote, "No cause of death," unquote, 43, 52.

4 MR. CONNORS: We'll make copies of these now, and I'll  
5 ask the reporter to mark the copies as Mason Exhibit Number 1.

6 (Whereupon, the above-mentioned  
7 document was marked as Mason  
8 Deposition Exhibit 1 for identi-  
9 fication and was retained by  
10 Counsel.)

11 (Whereupon, a brief recess was taken.)

12 MR. CONNORS: Back on the record.

13 BY MR. CONNORS: (Resuming)

14 Q Doctor, let me return to you the original of the docu-  
15 ment we've been discussing. Let me show you the document we've  
16 now marked as Mason Exhibit Number 1 and ask if that is a copy  
17 of your three sheets of notes regarding the external examination  
18 of the deceased children on board the aircraft?

19 A It is.

20 Q Doctor, during the break we also had occasion to  
21 request that the bulk or remaining portion of your file that  
22 you brought with you would be provided. I understand there are  
several documents that have been withheld from this.

MR. MC MANUS: Two.

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1 MR. CONNORS: I'd ask Mr. McManus to describe them,  
2 please.

3 MR. MC MANUS: Two, letters from employees of the law  
4 firm of Lewis, Wilson, Lewis & Jones to Dr. J. Kenyon Mason  
5 at his Edinburgh, Scotland, address, dated November 12 and  
6 November 25th, 1981.

7 MR. CONNORS: There appears to be an attachment of  
8 some sort. Would you describe the attachment, please?

9 MR. MC MANUS: It's an attachment to the letter.

10 MR. CONNORS: What is the attachment? Can you describe  
11 that?

12 MR. MC MANUS: Well, the attachment is a listing of  
13 photographs.

14 MR. CONNORS: Is there any reason that the attachment  
15 cannot be marked?

16 MR. MC MANUS: Yes. It's privileged material.

17 THE WITNESS: Can I point out -- some of this is  
18 ridiculous. I just used that as a blank sheet of paper with  
19 somebody else's notes on the back, things like that.

20 MR. CONNORS: We realize that, Doctor.

21 THE WITNESS: It's my private file.

22 BY MR. CONNORS: (Resuming)

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1           Q     Doctor, we have sent a portion of your file out to  
2     be marked. Three portions which have not been sent out to be  
3     marked because of the bulk, I'd like to get identified on  
4     the record. Let me show you three items.

5                   The first is entitled, "A Photogrammetric Measurement  
6     and Soil/Vegetation Interpretations Related to the C-5A Inci-  
7     dent," prepared by Dr. Stanley A. Morain. Is that document a  
8     portion of your file with regard to the accident?

9           A     Yes.

10          Q     The second document is a multi-page document entitled,  
11     "Accident Report," with some attachments. And I will ask you  
12     if that is the report of Dr. Turner which you indicated you  
13     have received?

14          A     Yes.

15          Q     And that is also a portion of your file with regard  
16     to that accident?

17          A     Yes.

18          Q     And the third document is a letter on the stationery  
19     of Children's Hospital, National Medical Center, dated August  
20     28, 1981, to Charles R. Work from C. Keith Connors, Ph.D., with  
21     attachments, and I'll ask you if that is a portion of your file.

22          A     Yes.

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1 Q Thank you. I'll return that portion to you now.

2 A Thank you.

3 MR. MC MANUS: While we're waiting for the other  
4 documents, may we take a couple of minutes break?

5 MR. CONNORS: Sure.

6 (Whereupon, a brief recess is taken.)

7 BY MR. CONNORS: (Resuming)

8 Q Doctor, we have been discussing some notes you had  
9 with regard to what you described as post-mortem examinations  
10 of the deceased children. I'd like to show you some documents  
11 which we don't have identifications on and just ask you to  
12 review those, and if they are the documents you've been referring  
13 to.

14 A May I make a statement?

15 Q Certainly.

16 A I would like it on record, please, that I very much  
17 resent my private papers being taken from me without any indi-  
18 cation that they would be, with no suggestion that I could have  
19 brought anything here, including personal documentation, and  
20 apparently you would have taken it away from me and used it as  
21 an exhibit, and I wish to record my resentment.

22 Q I apologize, Doctor. You have to understand. What

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1 you told me that file consisted of was your file with regard  
2 to that accident, and I don't know what your procedure is in  
3 Europe, but certainly in the United States anything which you  
4 may have which relates to that that would affect your opinion  
5 is subject to discovery, which is what we're involved in right  
6 now.

7 A My attorney has told me that, but I see no reason  
8 why you should lay hands on stuff which may have absolutely  
9 nothing to do with it. I'm on holiday at the moment, and of  
10 course have been stuffing things into various pockets and things.

11 Q Doctor, if there's something in there that is personal  
12 that does not relate to the accident, you're welcome to withdraw  
13 it and I'd have no --

14 A I think if I just get my resentment out of my head.  
15 I'm happy now.

16 Q Please feel free to review it, though, if you choose  
17 to.

18 A Yes, these are almost certainly the documents from  
19 which I obtained that information.

20 MR. CONNORS: The record shall reflect that the doctor  
21 has just referred to an assortment of documents on a U.S. Govern-  
22 ment form entitled, "Certificate of Death (Overseas)," Form

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1 3565. The second form in each of the documents is DD Form 890  
2 and the third document is DD Form 893.

3 MR. MC MANUS: There's a whole stack of them that  
4 Counsel has presented to me.

5 MR. CONNORS: That's right. I wasn't going to list  
6 each one.

7 BY MR. CONNORS: (Resuming)

8 Q Doctor, your list, which was marked as Mason Exhibit  
9 Number 1, has a series of numbers in the left-hand column. How  
10 do they correspond to the numbering of these documents, if you  
11 recall?

12 A I would fancy that when I went through these I put  
13 my personal number on them, because I can't really see a number.

14 Q Would you look at the very upper left-hand corner,  
15 very top of the document? There are some numbers up there.  
16 Did you use those, by any chance?

17 A I don't think so, because I don't know what they are.

18 Q So that does not correspond?

19 A No, I don't think so.

20 Q Where are the documents which you reviewed -- that is,  
21 your corresponding set of the ones we've been referring to with  
22 the numbers on them?

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1                   MR. MC MANUS: Wait a minute. I don't understand your  
2 question.

3                   THE WITNESS: I do.

4                   BY MR. CONNORS: (Resuming)

5                   Q     Let me make the record clear. The doctor has stated  
6 that the notes which we have identified as Mason Exhibit Number  
7 1 refer to documents which he reviewed, he believes, in March  
8 of 1980. And my question is, where are the documents he re-  
9 viewed in March of 1980?

10                  A     I would think Edinburgh, but I wouldn't be certain.

11                  I wouldn't be certain about it. In fact, I might well have said,  
12 no, I'm not carrying that along.

13                  Q     So you're not sure if you have them in Edinburgh?

14                  A     No.

15                  Q     Is there anything else which you have reviewed which  
16 we have not covered? And the reason I ask this is because this  
17 was not mentioned before, and I want to make sure that your  
18 mind is clear that we've identified all the documents that you  
19 have reviewed?

20                  A     Well, I don't know. I mean, I review an awful lot of  
21 things, and if I said no to you, I would probably be wrong. I  
22 can assure you I will let you know if anything I regard as

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1 significant comes up, but as I say, there are large numbers of  
2 bits of paper floating around, and I've had to look at lots of  
3 them.

4 Q Did you regard these documents as significant with  
5 regard to forming your opinion with regard to the accident on  
6 April 4, 1975?

7 A No. The precise purpose of this exercise -- and it  
8 was quite a long exercise -- the purpose of it was to see if I  
9 could identify any bodies that I did not think -- or the pattern  
10 of injuries, shall we put it, suggested that they were not in  
11 the same environment as the majority.

12 Q I see. And are the results of that examination re-  
13 flected in the third page of the notes?

14 A It reflected the possibilities are 7, 37, 38, 40, and 45,  
15 in my opinion.

16 Q Are there to be any other documents that you know of  
17 furnished to you during your stay here in Washington?

18 MR. MC MANUS: What do you mean?

19 MR. CONNORS: In other words, he's had an opportunity  
20 to review some documents apparently either Saturday night or  
21 yesterday. And the question is, is he scheduled to receive any  
22 additional documents during his stay?

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1 THE WITNESS: I can't answer that.

2 BY MR. CONNORS: (Resuming)

3 Q You don't know of any?

4 A No, I don't.

5 Q When are you due to leave?

6 A On the 8:45 aircraft.

7 Q Today?

8 A Right.

9 Q Doctor, turning to page three of Mason Exhibit Number  
10 1, you refer to the first line of notes on the very bottom of  
11 the page as reading, "Ten adults died on the upper deck," is  
12 that correct? It's the one in parentheses.

13 A I see it, yes. It may not be correct. These are my  
14 notes made at the time, and as you probably know, the manifest  
15 is not very easy to understand. And it may not be correct. At  
16 that time I made a note, "Ten adults died on the upper deck."

17 Q What is your best recollection or your current under-  
18 standing of the number of adults who died in the troop compart-  
19 ment?

20 A Jiminy Crickets, the number of adults who died in the  
21 troop compartment was 16. No, in the cargo compartment there  
22 were 16.

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1 Q Do you recall how many fatalities there were in the  
2 troop compartment?

3 A Two.

4 MR. MC MANUS: I presume that you're asking for the  
5 doctor's best recollection, and this isn't a memory contest?

6 MR. CONNORS: Certainly. I believe that's how I  
7 phrased the question.

8 THE WITNESS: Quite clearly, one thing is absolutely  
9 clear, the fact that the note in parenthesis is wrong.

10 BY MR. CONNORS: (Resuming)

11 Q Doctor, the second line of notes on page three indi-  
12 cates some of the numbers which you have identified, which you  
13 felt were possible candidates for children who may have died  
14 in the troop compartment?

15 A Right.

16 Q By looking at your notes, can you determine the reasons  
17 for selecting those particular numbered death certificates?

18 A Yes, because those people, looking at my notes, I  
19 don't think I could from my notes write a death certificate in  
20 terms of multiple injuries.

21 Q Well, turning to the first number, number 7, read to  
22 us the notes that you have on line numbered 7 on the third page.

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1       A    Said the head's normal, no fractures of the arms,

2    knees are normal, legs are normal, thorax has one laceration,

3    the back is normal, the abdomen is normal. Height was 35 inches,

4    but it doesn't matter.

5       Q    So the only injury that was noted on the external

6    examination was to the thorax, which is in the throat area, is

7    that correct?

8       A    That's not necessarily so. These are my extracts.

9    I'm not saying that that is a complete record of what is in

10   here. These are my extracts made for my personal use.

11            MR. MC MANUS: Just for clarification, thorax does  
12   not mean throat. I think it --

13            BY MR. CONNORS: (Resuming)

14       Q    What is the thorax, then, Doctor?

15       A    Chest.

16       Q    Would you turn, then, to page two, the number 37,

17    which I believe is the next number you've listed. Would you

18    describe what your notes read on that line, please?

19       A    The head is normal, the arms are normal, the knees are  
20    normal, the legs are normal, the thorax is normal. There is a  
21    laceration to the back, and the abdomen's normal.

22       Q    Under "legs," there is a notation. Is that for the

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1 line above?

2 A That's the line above.

3 Q Thirty-eight. Could you tell us what the indications  
4 are on that line, please, that you have made on page two of  
5 your notes?

6 A The head's normal. There's a fracture to the left  
7 arm, a fracture of the left knee, the legs otherwise are normal.  
8 The thorax is normal, the back's normal, and the abdomen's  
9 normal.

10 Q On line 40, please.

11 A The head is normal, the left arm is fractured, the  
12 right knee has a fractured dislocation. The legs are otherwise  
13 normal. The thorax is normal, the back is normal, the abdomen  
14 is normal.

15 Q And line 45, please.

16 A The head is normal. There's a fracture of the right  
17 arm, the knees are normal, the legs are normal, the thorax is  
18 normal, the back is normal, and the abdomen is normal.

19 Q Would you look at line 5, please, on the first page?  
20 I'm not certain if those are check marks or -- it looks like the  
21 letter "L."

22 A L.

1 Q What would that indicate?

2 A Laceration.

3 Q And on line 52, the first column would be a laceration  
4 and also laceration of the thorax?

5 A Yes.

6 Q Is there any way for you at this stage, realizing  
7 you haven't reviewed these recently, to identify why those  
8 individual numbers were identified as possible candidates for  
9 children who may have died in the troop compartment?

10 A I've already said, they don't appear to be in the same  
11 injury pattern as the others, which are all of multiple extreme  
12 injuries, or perhaps a portion of them anyway.

13 Q So it's the lesser degree of physical injury or trau-  
14 matic injury which you used to select those, is that correct?

15 A That's right.

16 Q The last line of your notes, Doctor, refers to lines  
17 43 and 52. And you said, "No cause of death."

18 A No cause of death.

19 Q Could you explain that, please, what you meant there?

20 A There's no obvious cause of death.

21 Q Is there any reason for not including those two in the  
22 line above?

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1 A There may have been when I looked at the diagrams  
2 or something like that. These are extracts.

3 Q Doctor, were you advised as to the role you were ex-  
4 pected to play in Plaintiff's team of experts, in terms of what  
5 you would bring to Plaintiff's case and the type of testimony  
6 you're expected to give?

7 MR. MC MANUS: If he was, he was so advised by Counsel.  
8 That's privileged information. We have provided you with a  
9 statement as to his expected testimony, which is found in  
10 Plaintiff's pretrial brief. So I instruct him not to answer  
11 what anybody may have advised him as to his role beyond the  
12 extent of what's been provided to you in that statement.

13 MR. CONNORS: I just note for the record that there  
14 has been no objection to these prior questions as a way of lead-  
15 ing into what his opinion is, but let's see.

16 BY MR. CONNORS: (Resuming)

17 Q Doctor, are you able to discuss the pathological  
18 development of the Plaintiff in any of the cases?

19 A I'm sorry?

20 Q Are you familiar with any of the condition or circum-  
21 stances of any of the individual Plaintiffs in these lawsuits?

22 MR. MC MANUS: Their individual medical histories?

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1 BY MR. CONNORS: (Resuming)

2 Q That's right.

3 A No. I can say that with extreme honesty, that I'm  
4 not really concerned with that aspect, because I didn't know  
5 them.

6 Q Would the phrase, "pathological development," have  
7 any meaning to you?

8 A Well, I suppose that that means the development of  
9 pathology.

10 Q Are you aware of any pathology in Plaintiff Carly  
11 Kurth, for instance?

12 MR. MC MANUS: He's already told you he is not familiar  
13 nor has he been asked to familiarize himself, with injuries or  
14 medical histories of particular individual Plaintiffs.

15 THE WITNESS: May I answer? At the same time, it  
16 would be wrong of me to suggest that I don't understand that  
17 there is meant to be pathology in many of these children, but I  
18 haven't the faintest idea which is which.

19 BY MR. CONNORS: (Resuming)

20 Q Are you aware of what the allegations of injuries are  
21 in these cases?

22 A My understanding is that there is said to be evidence

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1 of minimal brain damage in a high proportion of these children

2 Q What is your understanding of the nature of the minimal  
3 brain, as you say, damage?

4 A My understanding is that they have emotional, behav-  
5 ioral, and neurological changes which are consistent with this  
6 diagnosis.

7 Q Would that fall within the term "pathological develop-  
8 ment?"

9 A It's unfair for you to ask me to interpret somebody  
10 else's writing.

11 Q I realize that, Doctor, but you have to appreciate  
12 my situation. In terms of understanding what you're going to  
13 testify to, I have to more or less rely on what Plaintiffs'  
14 Counsel have told me, and what they have told me consists of the  
15 first sentence in the proffer for the Kurth case, is that,  
16 quote, "Dr. Mason is expected to discuss aviation pathology  
17 and the relationship between the C-5A accident and the patho-  
18 logical development of the Plaintiff, as well as the other C-5A  
19 surviving children that have been examined."

20 MR. MC MANUS: That is probably pathological develop-  
21 ment, in terms of the injuries, the relationship of the crash  
22 environment to the injuries of the children.

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1                   MR. CONNORS: I realize that, but he's just said that  
2 he doesn't know what the Kurth situation was or any other indi-  
3 vidual situations.

4                   MR. MC MANUS: He said he couldn't identify one from  
5 the other, but he has an understanding of the injuries as a  
6 whole to the children, and has explained that to you.

7                   MR. CONNORS: My question then was, does the minimal  
8 brain damage, the term he used, equate to the pathological  
9 development that we are seeing there. And I don't think he  
10 can answer it because he didn't write that sentence, is that  
11 right?

12                  MR. MC MANUS: That's what he said.

13                  THE WITNESS: Refers to probably development of  
14 pathology.

15                  MR. MC MANUS: Correct.

16                  THE WITNESS: I think it would be fair to translate  
17 that, if I was writing this, a development of pathology.

18                  BY MR. CONNORS: (Resuming)

19                  Q      My question, then, again is, Doctor, you just told us  
20 you are not familiar with the pathology of any of the individual  
21 children and therefore the statement would be incorrect as  
22 worded.

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1 MR. MC MANUS: No, it's not incorrect.

2 MR. CONNORS: It says pathological development of the  
3 Plaintiff, and this is filed in the Kurth case. Now, I can't  
4 ask him questions according to what my understanding is of what  
5 he just told me, because he doesn't know Kurth. I'm not arguing  
6 with him. I'm arguing whether I can go on this statement or  
7 not.

8 MR. MC MANUS: Dr. Mason has explained to you he has  
9 an understanding of the injuries to the children as a whole  
10 but cannot distinguish the particular injuries of one child --  
11 i.e., has speech problems and visual-motor problems -- from  
12 another child who might only have speech problems and not visual-  
13 motor problems but have articulation -- that's the same as speech  
14 -- or fine motor difficulties.

15 MR. CONNORS: I appreciate that, but my question was,  
16 I can't deal with that first sentence that way as to Kurth.

17 BY MR. CONNORS: (Resuming)

18 Q Doctor, I know you have in front of you the paragraph,  
19 but I want to put the second sentence in the record. This is  
20 from the pretrial brief of Kurth, the second sentence. The  
21 proffer of Dr. Mason reads, quote, "Dr. Mason is expected to  
22 express the opinion that, based on his experience as an aviation

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1 pathologist, the method by which to evaluate the injury-producing  
2 capacity of the C-5A accident environment should be conducted  
3 from the viewpoint of the current condition and immediate post-  
4 accident condition of the children on board the C-5A." Do you  
5 see that sentence, Doctor?

6 A I do.

7 Q Is that sentence a correct statement as to the method  
8 which you would employ in evaluating the injury-producing capa-  
9 city of the accident on April 4, 1975?

10 MR. MC MANUS: Are you asking whether it's important  
11 whether or not the doctor know whether or not there are injuries?

12 MR. CONNORS: I'm asking whether or not that that's  
13 the method I now have to question about to determine what he's  
14 going to say.

15 THE WITNESS: I think that expresses my view that this  
16 accident is unique and that what must be taken into considera-  
17 tion, firstly, in this accident is the problem of whether damage  
18 has occurred. Then I am prepared to evaluate how that damage  
19 has come about.

20 BY MR. CONNORS: (Resuming)

21 Q You then assume that there is some damage, or you  
22 start from that basis, is that correct?

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1 A I think it's essential to.

2 Q Would you please describe for me the current condi-  
3 tion of the children on board the C-5A?

4 A No, my view on this accident is that the children are  
5 either or are not damaged. That is a matter for pediatric  
6 psychologists. It is not for me to say whether they are or are  
7 not. Therefore I have not and would not attempt to analyze  
8 behavioral, emotional and other defects in the child. I would  
9 accept experts' words on that.

10 Q In determining the criteria which you just discussed,  
11 that is, the current condition, I assume you'd also include in  
12 that the immediate post-accident condition of the children.  
13 Would it be important to know the condition of the children  
14 prior to boarding the aircraft?

15 A This is part and parcel of the pediatric experts, you  
16 know. They must assess this.

17 Q My problem is, Doctor, as I read that sentence, it  
18 states that you are expected to express an opinion that the  
19 method to evaluate the injury-producing capacity -- that is,  
20 the causation factor of the accident with regard to any injuries  
21 -- should be conducted from the viewpoint of the current and  
22 immediate post-accident condition of the children.

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1 MR. MC MANUS: That's what he's just told you.

2 MR. CONNORS: That's right. That's fine in terms of --

3 MR. MC MANUS: If it's right, why are you asking it  
4 again?

5 MR. CONNORS: If we are talking about the methodology  
6 in terms of the injury-producing capacity, you are describing  
7 that, or you are expecting to describe a method relating to  
8 determining causation of injury. You are the one who are giving  
9 that opinion, not the pediatrician. It states here that you  
10 are the one that is going to give that opinion.

11 MR. MC MANUS: No, it doesn't. We have different  
12 readings of it.

13 MR. CONNORS: It states that he is going to give the  
14 opinion as to the method to be used, is that correct?

15 MR. MC MANUS: Of determining that the children were  
16 injured? No, it doesn't say that, and he's clearly told you  
17 that that's not what he has been asked to testify to. And if  
18 you read that into that statement, you are reading into it more  
19 than is there. I think Dr. Mason has given you very clear state-  
20 ments of his purpose and his testimony.

21 What he's simply saying is, if the children are not  
22 injured, then there's no point in determining whether or not

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1 the accident caused injury. That seems to be very logical.

2 BY MR. CONNORS: (Resuming)

3 Q Doctor, if the children on the aircraft were displaying  
4 symptoms consistent with minimal brain dysfunction or damage  
5 prior to April 4, 1975, would that indicate that the accident  
6 on that day was not necessarily the cause of any such damage?

7 MR. MC MANUS: I object to the question. You haven't  
8 laid a proper foundation for your premise of symptoms of brain  
9 damage prior to the accident. And secondly, he's told you  
10 quite clearly that he has left it up to others to determine  
11 whether or not the children are in fact injured. You've asked  
12 him that once, and now you're asking it again. And I don't know  
13 how clear he can be in answering your question.

14 BY MR. CONNORS: (Resuming)

15 Q Doctor, can you answer the question?

16 MR. MC MANUS: He's not going to. He's answered it  
17 already.

18 MR. CONNORS: You're directing him not to answer?

19 MR. MC MANUS: Yes. He's answered the question once.

20 MR. CONNORS: I'll ask that the question be certified.  
21 I want to make clear on the record that my reading of this  
22 sentence states that he's going to be describing and endorsing

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1 and giving his authority to this methodology, and I'm trying  
2 to question him about that, and you're directing him not to  
3 answer the question.

4 MR. MC MANUS: No, you're not and I'm not. You're not  
5 being precise, then, in your questioning, and I'm not directing  
6 him not to answer what you've just alleged your question means.  
7 I'm simply telling you, you asked him a question once, he gave  
8 you an answer, and you've asked it again. And he's not going  
9 to answer it twice.

10 BY MR. CONNORS: (Resuming)

11 Q Doctor, would you look at the second sentence in the  
12 proffer with regard to your testimony?

13 MR. MC MANUS: The second question?

14 BY MR. CONNORS: (Resuming)

15 Q Yes, the one that says, "Dr. Mason is expected to  
16 express the opinion that" -- do you see that sentence, Doctor?

17 A Yes, I do.

18 Q Would you please describe the method that is referred  
19 to in that sentence.

20 MR. MC MANUS: Counsel, again, I don't know how you  
21 are reading that sentence, but to me it reads very clearly just  
22 as Dr. Mason has previously answered your question. He has not

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1 examined the children for the purpose of entering an opinion  
2 as to whether or not they are in fact injured.

3 He has told you that he has left that up to the experts  
4 in their respective fields. That statement merely says that  
5 you've got to look and see, one, are the children injured, were  
6 they injured, did they appear to be injured immediately after  
7 the crash, do they appear to be injured now? If the answers  
8 to those questions is yes, then, to connect the crash and the  
9 injuries is when you begin your investigation. If the answer  
10 to those questions is no, then it doesn't matter if the plane  
11 blew up in a worse manner than it actually did. There can't be  
12 much of a causal relationship between a plane crash and non-  
13 existent injuries.

14 MR. CONNORS: My question then is, wouldn't it be  
15 important, Doctor, to know the condition of the children prior  
16 to the time they boarded the aircraft?

17 MR. MC MANUS: For what purposes?

18 MR. CONNORS: For determining the injury-producing  
19 capacity of the accident.

20 BY MR. CONNORS: (Resuming)

21 Q Doctor, can you answer the question?

22 MR. MC MANUS: Again, if they are not injured after

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1 the crash, then, no, how can that be important? Do you under-  
2 stand his question?

3 THE WITNESS: I think so.

4 MR. MC MANUS: I'm not instructing him not to answer.  
5 If he wants to answer.

6 MR. CONNORS: We'll get back to the question. Let me  
7 see if I can restructure it so it can be more understandable.

8 BY MR. CONNORS: (Resuming)

9 Q Doctor, referring only to the surviving infants, if  
10 the medical information indicated that immediately following  
11 the accident they displayed no signs of traumatic injury, but  
12 if they now allegedly display some symptoms of some sort of  
13 neurological damage, would it not be important to determine  
14 or know the condition of the children prior to the time that they  
15 boarded the aircraft?

16 MR. MC MANUS: I object to the form of the question.  
17 Go ahead. You can answer it if you understand his question,  
18 Doctor.

19 THE WITNESS: I think that the answer to that is on  
20 the same lines as my answer to your original question, that I  
21 would anticipate that the experts involved in making diagnoses  
22 would also have considered this problem.

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1 BY MR. CONNORS: (Resuming)

2 Q The prior condition of the children is something  
3 that they should consider?

4 MR. MC MANUS: He didn't say that. Don't put words  
5 in his mouth. He said that --

6 MR. CONNORS: Let me ask the question.

7 MR. MC MANUS: He feels that that's something that  
8 they would have considered, which, as Counsel is well aware,  
9 has been considered. I have gone into great detail with the  
10 medical experts on just the areas that you are now questioning  
11 this witness.

12 BY MR. CONNORS: (Resuming)

13 Q Doctor, is it correct, then, that in making the  
14 determination with regard to the existence of any injury in  
15 the children, that the responsible expert should consider the  
16 condition of the children prior to the accident on April 4,  
17 1975?

18 MR. MC MANUS: Are you asking him, would he do that,  
19 or are you asking him to make a judgment on others? If you're  
20 asking him to make judgment on others, I would instruct him not  
21 to answer. If you're asking him if that's acceptable practice  
22 and that he does that and he would know what the acceptable

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1 practice is, then certainly he can answer that question.

2 BY MR. CONNORS: (Resuming)

3 Q Doctor, can you answer the question as stated?

4 A I really am sorry, but I'm getting confused with the  
5 two of you. Could you just put that once more to me?

6 MR. CONNORS: Would the reporter read the question  
7 back?

8 (Whereupon, the Reporter reads from the record.)

9 MR. MC MANUS: Did you say "the" or "a?" I believe  
10 you said "the responsible expert." I object to the form of  
11 that question. I don't know who you're referring to, but if  
12 the Doctor can, he can answer the question as stated.

13 BY MR. CONNORS: (Resuming)

14 Q Okay, answer it.

15 A I would say it's normal medical practice to take a  
16 past history when one is examining a patient.

17 Q The answer, then, is yes?

18 MR. MC MANUS: He said it's normal medical practice.

19 MR. CONNORS: Thank you, Mr. McManus.

20 BY MR. CONNORS: (Resuming)

21 Q Doctor?

22 A I still think the implication of your question is to

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1 give a value judgment to somebody I don't know, and so I would  
2 prefer to leave it as I put it.

3 Q Doctor, would you describe for me the limitations and  
4 potentials of aviation pathology to correlate the accident  
5 environment to the understanding of the current condition of  
6 the survivors of the accident?

7 A The limitations, as I see it, and I feel very firmly  
8 about this, is that this is a unique accident. There is no way  
9 in which one can point to a precedent and say that this is an  
10 exact precedent. So that we are in fact limited very much in  
11 that field.

12 Q Why do you say that this is a unique accident?

13 A Can you tell me any other accident in which 70-odd  
14 children have been killed and 150 have survived and have been  
15 exposed to this particular degree of hypoxia, this particular  
16 degree of deceleration and have been subsequently, currently,  
17 examined for minimal brain damage?

18 Q What you're saying, then, is almost any aviation acci-  
19 dent is unique?

20 A That is perfectly true. Every accident is unique in  
21 itself, though patterns do repeat themselves.

22 Q Doctor, what are the causes of minimal brain dysfunctio

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1 MR. MC MANUS: This witness hasn't been asked in that  
2 regard.

3 MR. CONNORS: Just for the record, the last sentence  
4 of this proffer reads, quote, "Dr. Mason is expected to testify  
5 that the accident environment of the C-5A was sufficient to  
6 cause MBD," close quote. The question is, Doctor --

7 MR. MC MANUS: He's talking about the accident environ-  
8 ment.

9 MR. CONNORS: If he doesn't know what causes MBD, how  
10 can he make such a statement?

11 MR. MC MANUS: That's not the question you asked him.

12 BY MR. CONNORS: (Resuming)

13 Q Doctor, what causes MBD?

14 A You could certainly include cerebral injury and  
15 hypoxic damage.

16 Q Anything else?

17 A Drug effects.

18 Q Sir?

19 A Drug effects. I haven't come prepared with a list  
20 of causes, but there would, I have thought, be numerous causes.  
21 But the ones with which I'm particular concerned with at this  
22 moment, because I don't believe the other things come into it,

1 are the effects of cerebral trauma and cerebral hypoxia.

2 Q Why do you say that other things don't come into it?

3 A Because I've already excluded, in my original evidence,

4 the effects of fumes -- toxic fumes. I assumed that there would  
5 be no cause such as drug overdose in these children or other  
6 causes of hypoxia, other causes of damage.

7 Q Did you consider the fact that both malnutrition and  
8 genetic causes can cause MBD?

9 MR. MC MANUS: I object to the form of that question.

10 THE WITNESS: What I said was --

11 MR. MC MANUS: Excuse me. Let him ask the question.

12 I object to the form of that question, and there is no evidence  
13 in this case or any of the others that you've been able to try  
14 and drum up that those were factors involving any of the  
15 Plaintiff children.

16 BY MR. CONNORS: (Resuming)

17 Q Doctor, can malnutrition cause minimal brain dysfunc-  
18 tion?

19 A I suppose extreme malnutrition can, yes.

20 Q Can minimal brain dysfunction be caused by genetic  
21 factors?

22 A I'm not aware of that.

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1 Q Do you regard yourself as an expert in minimal brain  
2 dysfunction?

3 A No.

4 MR. CONNORS: Let's take a break.

5 (Whereupon, a brief recess is taken.)

1 MR. CONNORS: I would like to ask that page 15 of

2 the Kurth pretrial brief for plaintiffs, which contains the  
3 proffer for Dr. Mason, be marked as Mason Exhibit number 2.

4 (Whereupon, the above-mentioned  
5 document was marked as Mason  
6 Deposition Exhibit 2 for identifi-  
7 cation and was retained by Counsel.)

8 BY MR. CONNORS: (Resuming)

9 Q Doctor, you have indicated that it is your under-

10 standing that there are allegations that the current condition  
11 of the children is consistent with minimal brain dysfunction or  
minimal brain damage. Is that correct?

12 A Yes.

13 Q On what do you base that understanding?

14 A I thought it was common knowledge.

15 Q My question is where did you particularly get informa-  
16 tion relating to the current condition of the children?

17 A From the various conferences and so on that I've  
18 already described to you, and including an open discussion in  
19 the symposium.

20 Q Have you had an opportunity to review any of the  
21 reports or deposition testimony of any of defendants' examining  
22 experts?

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1       A    No. I've examined -- I've looked at Dr. Connors'  
2       report.

3       Q    I believe you've already indicated that you've been  
4       working on the assumption that the minimal brain dysfunction  
5       exists in these children, is that correct?

6       A    That's right.

7       Q    Doctor, you mentioned Volume 1 of the collateral  
8       report. Did you have occasion, at any time, to review the  
9       released portion of the summary of the aircraft accident report  
10      from the United States Air Force?

11      A    I haven't the faintest idea. It's not in my list.

12      Q    You mentioned that you reviewed a large assortment of  
13      photographs, slides and motion picture films, is that correct?

14      A    Right.

15      Q    At any time, have you singled out or selected any in-  
16      dividual portions of that material as being particularly signi-  
17      ficant to your opinion?

18      A    Those photographs which clearly show, at least clearly  
19      to my feeling, that there were several impacts of this aircraft.

20      Q    And any particular photos?

21      A    Yes, there was one, as I remember it, that shows two  
22      impacts, I believe, short of the severe impact where the

1 greater part of the breakup took place. And then there is  
2 another, or maybe the same photograph, which shows that the  
3 troop compartment was airborne for a time after that major  
4 impact.

5 Q Doctor, you said you reviewed the report of Dr.  
6 Morain, is that correct?

7 A I wouldn't like to say I have reviewed it in detail.  
8 I have it. I have it.

9 Q Are your opinions, in any way, based upon the report  
10 of Dr. Morain?

11 A I have not read Dr. Morain's report in detail.

12 Q Is your report, in any way, based on the report of  
13 Dr. Turner?

14 A It's certainly based upon a mutual assessment of  
15 the slides with Dr. Turner.

16 Q Do you rely on Dr. Turner's report?

17 A Dr. Turner is a competent aeronautical engineer.

18 Q My question is do you rely on his report or any por-  
19 tion of it for your opinion?

20 A I have looked at the slides, and in my opinion, there  
21 were multiple impacts.

22 Q I'd like to direct my next questions to the east side

1 of the Saigon River. You understand the difference between the  
2 east and west sides?

3 A I know the difference between east and west, thank  
4 you.

5 Q No, no, I mean in terms of the accident scene.

6 A I must say -- can I look at a map or not.

7 Q What would you care to look at, the photographs?

8 MR. MC MANUS: Maybe if you told him east means --  
9 east first and west second, or vice versa.

10 THE WITNESS: May I just take a look at it?

11 BY MR. CONNORS: (Resuming)

12 Q Certainly.

13 A As a matter of fact, am I allowed to look at that?

14 Q Oh, certainly.

15 A Yes, okay, east and west.

16 Q You are looking a document, is that correct, Doctor?

17 A Yes.

18 Q And by any chance, is that the wreckage diagram that  
19 was an attachment to Dr. Morain's report?

20 A No, I think it was an attachment to Dr. Turner's  
21 report. I just pulled it off, but -- it might have been. I've  
22 just sort of pulled it out at this time. It's just to refresh

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1 my memory about east and west sides.

2 Q It is from one of the reports, though.

3 A Yes, certainly.

4 Q Is it correct then that the east side of the river  
5 is the location where the aircraft first made contact with the  
6 ground?

7 A Correct.

8 Q How many impacts or contacts with the ground occurred  
9 on the east side of the river?

10 A I would say at least two.

11 Q Doctor, can you identify the location of the two  
12 impacts on the east side of the river?

13 A Well, there's an impact here. These are the obvious  
14 ones, to my way of thinking. There's an impact at the begin-  
15 ning, where you see I think it's marked "large ruts." And then  
16 there are impact marks, which I think are important ones, just  
17 beyond the broken trees, where it's marked here, "Several sets  
18 of landing gear found in this area."

19 Q Now you are referring to notations on the wreckage  
20 diagram which was attached to the Turner report.

21 A Yes, that's why I'm using the words that are marked  
22 here.

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1 Q Let me explain. I have a little problem in that you

2 said you made an independent determination of a number of im-  
3 pacts and now you're looking at the wreckage diagram.

4 A Yes, I see that.

5 Q I'd like to ask you if, in answering my questions,  
6 now that you've oriented yourself to the east and west side,  
7 if you can answer them without reference to the document. If  
8 you have to refer to notes or photographs, let me know.

9 On what do you base your opinion that there were two  
10 impacts on the east side of the river?

11 A Well, there was certainly strong evidence of marks,  
12 to my way of thinking, quite a long ways back. And then, there  
13 were further marks which appeared to be associated with debris,  
14 as well, further on.

15 Q Do you have any independent knowledge as to the length  
16 of the marks you are referring to?

17 A No, I don't, basically, myself.

18 Q Other than the contact with the ground indicated by  
19 the marks that you've just referred to, are there any other  
20 impacts on the east side of the river?

21 MR. MC MANUS: That he recalls?

22 MR. CONNORS: That he knows of, yes.

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1                   THE WITNESS: I was convinced myself that there were  
2 at least two.

3                   BY MR. CONNORS: (Resuming)

4                   Q     Did you have any basis to believe that there were more  
5 than two?

6                   A     There might have been.

7                   Q     Do you have any opinion as to the forces involved,  
8 that is the deceleration forces, g forces, forces of any kind,  
9 associated with those two impacts?

10                  A     It's almost impossible to say, isn't it, unless one  
11 has got one's slide rule out and done a big calculation and so  
12 on, which again, as I say, I think is an engineering job.

13                  Q     You did not make any independent calculations, is  
14 that correct?

15                  A     No.

16                  Q     Do you know what the forward speed of the aircraft  
17 was at the time of the first contact with the ground on the  
18 east side of the river?

19                  A     I've asked -- is this a memory contest or not?

20                  Q     No, I'm just asking you if you know or if you have  
21 reference to some material.

22                  A     I have seen it, but --

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1 Q You don't recall offhand?

2 A No.

3 Q Do you recall what the vertical, that is to say the  
4 downward speed of the aircraft was, vertical rate of descent?

5 A The man was struggling to keep it up. The pilot was  
6 struggling to keep the aircraft up.

7 Q Do you recall the feet per minute or feet per second  
8 rate of descent?

9 A No. I have it in mind that the calculation, the speed  
10 of impact was approximately two or three times what it would  
11 have been in a normal landing.

12 Q Now you're speaking of the horizontal or forward air  
13 speed, is that correct?

14 A Yes.

15 Q My question was related to the vertical or rate of  
16 descent of the aircraft.

17 A No.

18 Q You do not have any information?

19 A I have no recollection of that.

20 Q Do you have any opinion as to the magnitude of the  
21 forces which might have occurred on the east side of the river  
22 when the plane made contact with the ground?

1 MR. MC MANUS: He told you he hasn't made any inde-  
2 pendent calculations.

3 BY MR. CONNORS: (Resuming)

4 Q Do you have an opinion as to whether the children in  
5 the troop compartment of the aircraft suffered any injuries as  
6 a result of the contacts on the east side of the river?

7 A I repeat -- no, I don't repeat because I haven't said  
8 it to you -- that I think the problem here is one is in a very  
9 difficult position trying to analyze and see whether each,  
10 in particular, impact caused each, in particular, injury. I think  
11 that if these children were not expecting an accident, as they  
12 certainly wouldn't have been expecting an accident, they didn't  
13 know what was happening, they were little babies with heavy  
14 heads, lax muscles and so on, then all I can say is that they  
15 are far more likely to have received injury than an adult  
16 would have been, and that if this decelaration here was in the  
17 region of four or five gs, something like that, then I think  
18 that it's quite possible that these children would have re-  
19 ceived something in the way of whiplash injury.

20 Q On the east side of the river?

21 A It's possible.

22 Q You don't know?

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1 A I don't know.

2 Q You'd be speculating.

3 A I'd be speculating.

4 Q Doctor, do you have any recollection at this time as  
5 to the forward speed of the aircraft after it crossed the  
6 Saigon River?

7 A Well, who knows?

8 Q Do you have any recollection at all as to the rate of  
9 descent of the aircraft after it had crossed the Saigon River?

10 A No, but -- no, I don't.

11 Q Doctor, how many impacts or contacts with the ground  
12 were there on the west side of the Saigon River?

13 A Well, there was certainly one, as it crossed the  
14 river, in my opinion. Then, there does appear to have been a  
15 major breakup area. And then, there was a third one where the  
16 troop compartment impacted into the ground.

17 Q Doctor, have you formed in your own mind an opinion  
18 as to the sequence of the breakup of the aircraft after it  
19 touched down on the west side of the river?

20 A Well, at the immediate point of breakup, at the point  
21 of breakup, what must have happened, as I see it, is that the  
22 cargo compartment separated from the troop compartment.

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1           Q    Would you describe for me, please, in as much detail  
2    as you can, your opinion of what happened to the aircraft from  
3    the time it touched down, after crossing the Saigon River?

4           A    I think it struck the ground, and it's possible -- I  
5    don't know, but it's possible at this point, the tail came off;  
6    it then struck the ground again, at which point the cargo com-  
7    partment was severely damaged and the troop compartment  
8    separated. The troop compartment then flew on until it itself  
9    impacted the ground as a separate thing and impacted into  
10   slightly rising ground. The flight deck, of course, had gone  
11   on quite separately.

12           Q    And on what do you base your opinion that the tail  
13    came off?

14           A    Because the tail was found back there.

15           Q    At what point did the tail separate?

16           A    I don't know.

17           Q    And you stated that the troop compartment impacted a  
18    rise in the earth, is that correct?

19           A    Yes.

20           Q    And on what do you base that opinion?

21           A    Because it looked like a rise in the earth.

22           Q    Something looked like a rise in the earth to you?

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1 A Yes.

2 Q Do you recall what, Doctor? Are you referring to a  
3 picture of some sort?

4 A A slide, a picture.

5 Q Do you recall offhand which one?

6 A No.

7 Q Were you advised that all the pictures and slides have  
8 numbers?

9 A Yes.

10 Q And did you make any notes regarding which ones  
11 you're referring to?

12 A No.

13 Q Doctor, did you make any determination in your own  
14 mind as to the nature of the slide marks on the west side of the  
15 Saigon River?

16 MR. MC MANUS: The nature of the slide marks? What  
17 do you mean?

18 BY MR. CONNORS: (Resuming)

19 Q Their length or depth, any measurements of any kind,  
20 their continuity.

21 A Certainly, it appeared to me to be discontinuous, yes.

22 Q And is your opinion based on the fact that these

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1 slide marks appear to be discontinuous?

2 A Right.

3 Q And if they were in fact continuous, would that change  
4 your opinion?

5 MR. MC MANUS: Object to the form of that question.

6 Go ahead, you can answer.

7 THE WITNESS: I don't think they were continuous.

8 BY MR. CONNORS: (Resuming)

9 Q My question was, Doctor, if indeed they could be  
10 shown to be continuous, would that change your opinion?

11 MR. MC MANUS: He said he doesn't think that they are,  
12 and he's looked at the pictures, so there's no sense in your  
13 asking that question.

14 BY MR. CONNORS: (Resuming)

15 Q Can you answer the question?

16 A Well, obviously it would change. That's certainly so.

17 Q Doctor, are you aware that we're about to start a  
18 trial next Monday, January 11?

19 A No.

20 Q Have you been asked to prepare any exhibits or any  
21 materials for presentation in court?

22 A No.

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1 Q Have you been advised that you're expected to testify?

2 A No.

3 Q Doctor, do you regard the accident on April 4, 1975,  
4 as a survivable accident?

5 A There were survivors.

6 Q By implication, then, that means it's a survivable  
7 accident?

8 A Yes.

9 MR. MC MANUS: For those that survived. For those  
10 that died, it certainly wasn't.

11 BY MR. CONNORS: (Resuming)

12 Q You have to answer the question verbally, Doctor. He  
13 can't record your nod.

14 A By my definition, if there were survivors, the acci-  
15 dent is survivable.

16 Q Doctor, have you made any attempt to calculate the  
17 forces that may have been involved in the accident from looking  
18 at any of the photographs or taking any measurements of any  
19 kind?

20 A It struck me, and it's obviously extremely rough, but  
21 it struck me that the forces involved were in the 11/13 g area.

22 Q And on what do you base that?

1 A On the information that I was given, on the distances

2 that I was told, and in general, yes, my own calculations, my

3 own views on this.

4 Q Did you actually make any calculations?

5 A No -- well, of course I made some calculations, yes,

6 but nothing of what one would call a highly mathematical

7 accuracy.

8 Q What calculations did you make?

9 A I had some idea of the distances involved, some idea

10 of the speeds, and I calculated the g loads in my own mind on

11 these parameters.

12 Q What were the distances you used?

13 A I misremember; I would have to go back to my notes.

14 Q Do you have notes on those calculations?

15 A I almost certainly have, yes.

16 Q Do you have any of those with you today?

17 A No, I do not.

18 MR. CONNORS: I'm going to call for the production of

19 any notes reflecting the Doctor's calculations regarding g

20 forces.

21 . BY MR. CONNORS: (Resuming)

22 Q Would these be located in your office in Edinburgh?

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1 A Yes.

2 Q Are you going back there now, tonight?

3 A Yes. I hope I'm right, because I write little notes,  
4 bits of paper, and tear up bits of paper.

5 Q I see. But you did make calculations?

6 A Yes.

7 Q And your recollection is that the g forces were in  
8 the 11 to 13?

9 A Yes, 13.

10 Q Who provided you with the distances that you're re-  
11 ferring to?

12 A Just some conversation with the other experts.

13 Q Do you recall when?

14 A Well, it must have been October.

15 Q Of 1981?

16 A Yes.

17 Q Were those distances provided to you by Dr. Morain?

18 A And Dr. Turner.

19 Q In the g forces that you referred to, did you calcu-  
20 late them in a given direction, that is forward, back, up or  
21 down, right or left?

22 A Forward.

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1 Q By that -- could you describe that for the layman,  
2 please, so we know what direction the force is going in?

3 A That way (indicating), horizontal fore and aft  
4 direction.

5 Q Did you make any calculation of vertical?

6 A No, because I don't think I know that, really.

7 Q I didn't understand what you said.

8 A I don't know how high the airplane bounced to. How  
9 could I possibly say that? I don't know.

10 Q So it would be impossible to calculate vertical gs?

11 MR. MC MANUS: That's not what he said. He said he  
12 didn't, not that it would be impossible.

13 THE WITNESS: I said I don't know how high the air-  
14 plane went and so I don't think that I could do that, no.

15 BY MR. CONNORS: (Resuming)

16 Q Would you have to know how high the aircraft so-called  
17 bounced, as you say, before you could calculate that?

18 A No, but we have some evidence, at least one case of  
19 a fractured lumbar spine.

20 Q Who is that person?

21 A Oh, Jiminy Crickets, what was the girl's name?

22 Q Are you referring to one of the Air Force nurses

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1 aboard the aircraft?

2 A Yes.

3 Q Have you read any of the testimony of that witness  
4 of that particular passage?

5 A Did she give specific evidence? She may well have  
6 done, yes.

7 Q Did you read it?

8 A Probably.

9 Q Doctor, in asking you what you reviewed, you gave me  
10 a list of things and you did not mention that testimony before.

11 A Because it was all in the collateral report.

12 Q So it would be the testimony from the collateral  
13 report you're referring to.

14 A But that includes the peoples' testimony.

15 Q Have you had occasion to read any of the deposition  
16 or trial testimony of any of those same people?

17 A No.

18 Q Doctor, did you make any calculations, or did you  
19 attempt to make any calculations, of the forces involved in the  
20 accident from any of the autopsy or medical report information?

21 A That, again, is extraordinarily difficult to do. I  
22 think that so much depends, if one talks about people being

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hurled about, the end result depends so much on where they finished up and what they hit on the way and so on.

What is certain is that the forces involved in the major breakup were unsurvivable in the cargo compartment. That is certain.

Q Doctor, would you describe then the forces in the  
troop compartment in that same period?

A Well, they were clearly survivable, weren't they?

Q Now my question was did you attempt to use any autopsy or medical report information to calculate the precise amount of the force?

A I think if the lumbar spine cases are correct, or certainly one which is certainly worth looking at, then the vertical force must have been, I think, quite considerable to cause this for a person sitting on the floor.

The forces that involved the people in the cargo compartment, all I think one can say is they must have been more than 20g; they must have been more.

Q Doctor, you're saying the forces would be different in the cargo compartment and the troop compartment, is that correct?

MR. MC MANUS: I don't think that's what he said.

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1 BY MR. CONNORS: (Resuming)

2 Q Well, let me ask you, Doctor, is it correct that the  
3 forces would be different in the cargo compartment and the  
4 troop compartment?

5 MR. MC MANUS: At what time?

6 MR. CONNORS: During the accident.

7 MR. MC MANUS: At what time during the accident.

8 MR. CONNORS: Let the Doctor answer as best he can.

9 MR. MC MANUS: No, he won't answer that question if  
10 you don't want to break it down.

11 MR. CONNORS: Are you directing him not to answer?

12 MR. MC MANUS: The way you've posed the question,  
13 absolutely.

14 MR. CONNORS: Certify the question, please.

15 BY MR. CONNORS: (Resuming)

16 Q Doctor, during the period when the aircraft was making  
17 contact with the ground --

18 MR. MC MANUS: At which time?

19 MR. CONNORS: We'll start with the east side of the  
20 river, and I'll rephrase it so I can avoid the interruptions.

21 BY MR. CONNORS: (Resuming)

22 Q Doctor, during the time the aircraft made contact

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1 with the ground on the east side of the river, were the forces  
2 being experienced by the individuals in the cargo compartment  
3 different from those being experienced by the individuals in  
4 the troop compartment?

5 A There's no evidence to that effect.

6 Q Is there any evidence one way or the other?

7 A Since the thing was presumably intact in that stage,  
8 I would say, yes, they were the same.

9 Q Doctor, during the period the aircraft was in contact  
10 with the ground on the west side of the river -- by in contact  
11 I mean from the time it first made contact, after passing over  
12 the Saigon River, until the time the troop compartment came to  
13 rest -- were the forces in the cargo compartment the same or  
14 different than the forces in the troop compartment?

15 A No, they must have been different when the troop  
16 compartment came to rest -- I'm sorry, when the cargo compart-  
17 ment came to rest.

18 Q Where did the cargo compartment come to rest?

19 A About half-way down the track.

20 Q What was left of the cargo compartment at that point?

21 A It was virtually disintegrated. The bodies were  
22 scattered around, as far as I remember.

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1 Q Doctor, you referred to the spinal injury to one of  
2 the Air Force nurses, is that correct?

3 A Yes.

4 MR. MC MANUS: The Air Force nurses is your addition.

5 THE WITNESS: I'm prepared to accept it.

6 BY MR. CONNORS: (Resuming)

7 Q Doctor, you referred to a spinal injury to an adult  
8 in the troop compartment, is that correct?

9 A Yes.

10 Q In evaluating that information, did you make any  
11 assumption as to the position of the adult at the time the  
12 injury occurred?

13 A I would have thought she was on the floor.

14 Q In what position?

15 A Sitting.

16 Q And is it your opinion, then, that the injury occurred  
17 at the time of the vertical impact with the ground?

18 A Probably, yes.

19 Q I hate to get back to this, Doctor, but I don't think  
20 I really received an answer to this one question; we kind of  
21 got diverted. My question before was did you make any attempt  
22 to calculate the forces involved in the accident, based on the

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1 results of the autopsy reports or the medical record information?

2 MR. MC MANUS: You've asked that before. I think  
3 he's answered, but he can answer again.

4 THE WITNESS: As I've said, the essential feature,  
5 from the autopsy point of view, as I said, is in the cargo  
6 compartment, the forces must have been more than 20g.

7 BY MR. CONNORS: (Resuming)

8 Q Did the autopsy reports from people located in the  
9 cargo compartment provide you with any insight or information  
10 or any basis for your opinion with regard to any injuries  
11 suffered by people in the troop compartment?

12 A The autopsy reports in the cargo compartment -- what?

13 Q Did the autopsy reports of the individuals in the  
14 cargo compartment provide any insight or any basis for your  
15 opinion with regard to the condition or injury of the individ-  
16 duals in the troop compartment?

17 A Clearly, the people in the troop compartment were not  
18 subjected to the same massive forces that they would be in the  
19 cargo compartment at that point.

20 Q My question really was did the autopsy report provide  
21 any insight --

22 A We've only got two autopsy reports, haven't we? One

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1 of them was a man who survived for 17 days, and therefore, he  
2 certainly did not have a disintegrating injury. The other one  
3 was only a partial autopsy report, where there was a crushed  
4 chest. I think that these could have arisen in any person who  
5 was subjected to, say, five or six gs, something like that, was  
6 flung around, depended on where they landed up. Do you see what  
7 I mean?

8 Q Yes, I understand. Doctor, would you please describe  
9 for us your understanding of how the children in the troop  
10 compartment were seated as precisely as you can?

11 A They were strapped into a seat, in rearward-facing  
12 seats.

13 Q Did they have any protection besides the seats?

14 A Not that I'm aware of, no, apart from the belts and  
15 pillows they had around them.

16 Q Did you ever see a photograph --

17 A They had pillows to comfort them.

18 Q Where were the pillows located, Doctor?

19 A You know, I've honestly forgotten.

20 Q Were you ever shown a photograph of the children in  
21 the seats?

22 A I have seen the photograph, yes. I think the pillows

1 were around about their sides and backs.

2 Q You described some speculation with regard to whip-  
3 lash during the contact with the ground, when the airplane made  
4 contact with the ground. Could you please explain the mech-  
5 anism for whiplash in an infant seated in a rearward-facing  
6 seat?

7 A Well, I think that his head would have impacted the  
8 back of the seat, which would then almost certainly have re-  
9 bounded and then knocked back again, and there would have al-  
10 most certainly been considerable lateral rotation, as well.

11 Q On what do you base the statement there would have  
12 been considerable lateral rotation?

13 A Because the infant would not have been prepared to  
14 hold its head up. He would not have been ready for it. So,  
15 unless it was an absolutely straight impact, one must agree  
16 there would have been some lateral movement there, as well.

17 Q What would be the mechanism which would cause the  
18 rebound of the child's head?

19 A The altering acceleration.

20 Q What altering acceleration?

21 A As the aircraft decelerated, the head would come  
22 backwards. Now, the aircraft accelerates again, so the head is

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1 left behind.

2 Q What would propel the aircraft forward at a greater  
3 speed?

4 A It would certainly be at a greater speed than -- I'm  
5 sorry. Some of the speed would have been taken off, but it  
6 would clearly go on -- would not go on at the same speed now.  
7 It would not pick up speed, I think.

8 Q An aircraft sliding along the ground would pick up  
9 speed?

10 A It's not sliding along the ground, is it?

11 Q You're referring to the times when you think the troop  
12 compartment was airborne.

13 A That's right.

14 Q And is there any mechanism which would cause the  
15 troop compartment to increase speed during that period?

16 A Because it would, in my opinion, go faster -- it  
17 would be decelerated as it hit the ground, and then that deceler-  
18 ation would cease. So, therefore, it would be a relative ac-  
19 celeration.

20 Q An acceleration --

21 A A relative acceleration, compared to the deceleration  
22 that it had been experiencing.

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1 Q Doctor, the opinion that you just expressed was based  
2 on the premise that the troop compartment became airborne again,  
3 is that correct?

4 A Yes.

5 Q If, in fact, the troop compartment did not become  
6 airborne again, and in fact there was a continuous contact with  
7 the ground, what would be the mechanism which would accelerate

8 A In these circumstances, there would certainly be  
9 bumping, wouldn't there? You can't conceive of a smooth ride.

10 Q I'm talking about the acceleration of --

11 A You wouldn't be able to tell that. It would depend  
12 upon the bumps and the bounces. And in fact, there would be  
13 probably very considerable head movement in these circumstances.

14 Q Do you have any evidence of that, Doctor?

15 A I think we've all hit a bumpy road in our cars.

16 Q My question is did you have any factual basis of that  
17 statement in terms of information you've reviewed regarding  
18 this aircraft accident?

19 MR. MC MANUS: Other than looking at four big pieces  
20 and a zillion other ones, spread all over a field, whether or  
21 not there was some sort of bumping? Are you asking if he has  
22 any more than that or if anyone needs any more than that to

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1 determine that there was bumping? Come on.

2 BY MR. CONNORS: (Resuming)

3 Q Doctor, have you read any information relating to the  
4 accident which indicates that there were any side to side move-  
5 ments in the troop compartments.

6 A Side to side movements?

7 Q Yes, left to right.

8 A No. But -- no. The answer to your questions is no.

9 Q Doctor, am I correct in that you are relying, in  
10 terms of the factual information about the accident, on the  
11 Volume 1 to the collateral report and the witness statements  
12 that are contained therein.

13 A And on my looking at the lantern slides, looking at  
14 the pictures, yes. And I'm not denying that I have discussed  
15 the case with other people.

16 Q Are you aware that Dr. Turner has testified that there  
17 were no lateral accelerations in the troop compartment?

18 A No.

19 MR. MC MANUS: I don't know that that's correct.

20 MR. CONNORS: Off the record.

21 (Discussion off the record.)

22 BY MR. CONNORS: (Resuming)

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1 Q Doctor, I'd now like to, at this time, mark the  
2 remaining portion of your file. I'd like to show you an  
3 11-page document with handwritten notations on it and ask if  
4 you can identify that, please.

5 A Yes.

6 Q Can you identify those for us, please?

7 A Yes, I can.

8 Q What are they?

9 A My notes.

10 MR. CONNORS: I'll ask that those be marked as Mason  
11 Exhibit number 3.

12 (Whereupon, the above-mentioned  
13 document was marked as Mason  
14 Deposition Exhibit 3 for identi-  
15 fication and was retained by  
16 Counsel.)

17 BY MR. CONNORS: (Resuming)

18 Q Next, Doctor, I'd like to show you a one-page document

19 A This is ridiculous. It's my itinerary in 1980 of  
20 whether or not we can get an aircraft ticket. This is ridicu-  
21 lous.

22 Q I have no problem with that. I have no need to mark  
23 that. As I say, I have no desire to mark these, Doctor.

MR. MC MANUS: Why are you doing it?

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1 MR. CONNORS: I've had no chance to review those, have

2 I, since they weren't provided in advance, as is usual.

3 MR. MC MANUS: That's not usually the case.

4 BY MR. CONNORS: (Resuming)

5 Q Doctor, I'd like to show you a three-page document,  
6 the first page of which is entitled, page 378, "USA: Aircraft-  
7 Lockheed," and ask if you can identify these documents, please.

8 MR. MC MANUS: You've given him four pages.

9 MR. CONNORS: I'm sorry, make that four pages.

10 THE WITNESS: This is a photostat of the specifica-  
11 tions of the C-5A, which seems to have gotten into my file.

12 BY MR. CONNORS: (Resuming)

13 Q Is that derived from a source such as Jane's, "All the  
14 World's Aircraft," by Jane's?

15 A I have no idea whether it -- it was given to me as it  
16 is.

17 Q You did not research this yourself?

18 A I didn't research it myself. It's a matter of abso-  
19 lute indifference to me.

20 Q And the last two pages are entitled, "Wreckage  
21 Diagram," is that correct?

22 A Yes.

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1 MR. CONNORS: I'll ask that they be marked as

2 Mason Exhibit number 4.

3 (Whereupon, the above-mentioned  
4 documents were marked as Mason  
5 Deposition Exhibit 4 for identi-  
6 fication and were retained by  
7 Counsel.)

8 BY MR. CONNORS: (Resuming)

9 Q Doctor, I'd like to next show you a four-page docu-  
10 ment entitled, "Accident Report," and ask if you can identify  
11 that document, please.

12 A This was a document, and I honestly don't remember  
13 who provided it, that I saw at the meeting in October 1981.  
14 It certainly emanates from one of the engineers there.

15 Q But you don't know whom?

16 A No.

17 Q This is part of your file?

18 A You've certainly taken it out of my file, yes.

19 MR. CONNORS: I'd ask that that be marked as Mason  
20 Exhibit number 5.

21 (Whereupon, the above-mentioned  
22 document was marked as Mason  
23 Deposition Exhibit 5 for identi-  
24 fication and was retained by  
25 Counsel.)

26 BY MR. CONNORS: (Resuming)

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1           Q     Doctor, I'd like to now show you a one-page document  
2     entitled, "Wreckage Diagram," and ask if you can identify that,  
3     please.

4           A     This is one I think we pulled off Dr. Morain's report,  
5     isn't it?

6           Q     Do you know whether that was off Dr. Turner's or Dr.  
7     Morain's report?

8           A     I think it comes off Dr. -- as I said, I just pulled  
9     it out of the file. I think it came out of Dr. Morain's report,  
10    I think. Haven't you got Dr. Morain's report there?

11          Q     I don't have a copy with me, except the one you had  
12    in your file. Doctor, on the left-hand side of this document,  
13    just above a box marked "small hill that troop compartment  
14    impacted," there are some blue, penned lines. Are they your  
15    notes?

16          A     Possibly.

17          Q     You're not sure?

18          A     It looks to me rather as though I've looked at the --  
19    I think that looks like my pen, and it looks to me rather as  
20    though what I've done there is to put the tracks in saying I  
21    think they were rather more in that direction than that direc-  
22    tion, from looking at a slide or something like that. That's

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1 what it appears to be.

2 MR. CONNORS: I'll ask that that be marked as Mason  
3 Exhibit number 6.

4 (Whereupon, the above-mentioned  
5 document was marked as Mason  
6 Deposition Exhibit 6 for identi-  
7 fication and was retained by  
8 Counsel.)

9 BY MR. CONNORS: (Resuming)

10 Q Next, Doctor, I'd like to show you a one-page docu-  
11 ment, identified with a stamp marked, "Defendants' Exhibit  
12 D-1210," and ask if you can identify that, please.

13 A Oh, this was a document I was given where I was try-  
14 ing to make some notes as to where, in actual fact, people were  
15 found.

16 Q Now are the handwritten notes on this document your  
17 own handwriting?

18 A Yes, yes.

19 Q And who provided you the information with regard to  
20 the notations you have made?

21 A I would think that came from Dr. Cohen's department.

22 Q And there are several stick drawings of figures in  
amongst the seats of the troop diagram with names circled out  
in the margin, Tate, Aune, Stark, et cetera. Are they your

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1 notations of who these individuals were?

2 A No.

3 Q It was on the document provided to you?

4 A Yes.

5 Q Do you know from what source that information was  
6 obtained?

7 A No.

8 Q The answer is "No?"

9 A The answer is "No."

10 MR. CONNORS: I'll ask that this be marked as Mason  
11 Exhibit number 7.

12 (Whereupon, the above-mentioned  
13 document was marked as Mason  
14 Deposition Exhibit 7 for identi-  
15 fication and was retained by  
16 Counsel.)

17 BY MR. CONNORS: (Resuming)

18 Q Doctor, I'd like to show you a single-paged document  
19 with handwritten notes on the back and a xeroxed copy of that -

20 A Now the handwritten notes on the back I absolutely  
21 refuse to allow you to have.

22 Q Why is that, Doctor?

23 A Because they're not mine, and it's obviously -- it's  
24 just a bit of paper that I picked up and it's got into my file.

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1 Q Do you know where it came from?

2 A No. I don't know whose handwriting it is; I don't  
3 know what it is.

4 MR. MC MANUS: I would ask that that be returned.

5 MR. CONNORS: It's clearly the accident.

6 MR. MC MANUS: It's not his. He can't identify it.

7 MR. CONNORS: It's clearly the accident.

8 MR. MC MANUS: That doesn't matter. I insist that  
9 you give it back, the original and all copies, and I'd like it  
10 back immediately.

11 MR. CONNORS: I'm not sure I can agree to that be-  
12 cause it's clearly relevant.

13 MR. MC MANUS: I insist or this deposition is  
14 terminated.

15 MR. CONNORS: Maybe we'll go see the judge.

16 MR. MC MANUS: We won't go see the judge. This is  
17 outrageous. I thought that was his. He's just identified it  
18 as not being his. It's a scrap of paper that he picked up and  
19 put in, and you have no right to it.

20 THE WITNESS: This is precisely what has happened.  
21 I've just shuffled some papers together and I picked up some-  
22 body else's document.

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1 MR. CONNORS: That may be, Doctor.

2 MR. MC MANUS: Then you're not entitled to it. I  
3 insist that you give it back or this deposition is terminated.

4 MR. CONNORS: I'm going to give this to the reporter  
5 and instruct him to mark this and it can be taken up with the  
6 judge.

7 MR. MC MANUS: It won't be taken up with the judge.  
8 I insist that you give it back to me and we'll take it up with  
9 the judge later.

10 MR. CONNORS: Well, you're going down there today,  
11 aren't you?

12 MR. MC MANUS: Well, we might not mess around with  
13 that today. I insist that you -- you can have him mark it  
14 and describe it. But I insist that you return every copy to me  
15 right now.

16 MR. CONNORS: I'm not going to do that.

17 MR. MC MANUS: This deposition is terminated.

18 MR. CONNORS: For the record, you don't even want to  
19 go through the marking of these others?

20 MR. MC MANUS: No, this deposition is terminated.  
21 John, you know that what you're doing is not right.

22 MR. CONNORS: No, I don't.

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1                   MR. MC MANUS: You're entitled to what's in his file  
2 that's his. Something else that's gotten in there, you're not  
3 entitled to.

4                   MR. CONNORS: Where it came from or what it may re-  
5 late to --

6                   MR. MC MANUS: He doesn't know.

7                   MR. CONNORS: I'm not asking any questions about it.

8                   MR. MC MANUS: You're not entitled to it, period.

9 Now, if that came from our office, that is property of my law  
10 firm, and I insist that you return it now.

11                  MR. CONNORS: The point is you don't know what it is.

12                  MR. MC MANUS: Until I find out, you're not entitled  
13 to it.

14                  MR. CONNORS: Well, the point is he had it in his file.

15                  MR. MC MANUS: He told you, he apparently just picked  
16 it up. He doesn't know what it is.

17                  MR. CONNORS: He had it in his file.

18                  MR. MC MANUS: Doctor, do you have any idea what that  
19 is, or where it came from?

20                  THE WITNESS: I have none.

21                  MR. MC MANUS: Is that your handwriting?

22                  THE WITNESS: No.

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1 MR. MC MANUS: Have you discussed that with anybody?

2 THE WITNESS: No, but I have to agree with counsel  
3 that it clearly relates to an aircraft accident.

4 MR. MC MANUS: But is it your material?

5 THE WITNESS: It's not my material.

6 MR. MC MANUS: It's not his material. There's a lot  
7 of things in our office that relate to the crash that you're  
8 not entitled to. I'm not saying that you're not entitled to  
9 that, but you might not be. The judge is going to have to  
10 determine it. Until he does, I insist that you give it back.

11 MR. CONNORS: Well, I think the point is --

12 MR. DUBUC: It's been produced. He just produced it  
13 here.

14 MR. MC MANUS: He didn't produce it.

15 MR. CONNORS: He produced his file which this was  
16 contained in.

17 MR. MC MANUS: That was an inadvertent production  
18 and I'm telling you that now.

19 MR. CONNORS: We know about inadvertent productions,  
20 don't we?

21 MR. DUBUC: We haven't seen some stuff that you've  
22 got that's apparently the subject of a hearing today, Life

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1 Sciences report.

2 MR. MC MANUS: That we have been told not to look at,  
3 to file away and not to discuss. That's a court order.

4 MR. CONNORS: And we're certainly not producing this  
5 to anyone yet, are we? We haven't done anything with this.

6 MR. MC MANUS: I'm insisting that you give it back.  
7 The deposition is going to be terminated.

8 MR. CONNORS: You weren't quite that cooperative with  
9 the material the judge is discussing today, were you?

10 MR. MC MANUS: No one asked us to give it back.

11 MR. CONNORS: Right. You just went around and  
12 xeroxed it. I'm asking the reporter to identify this as Mason  
13 Exhibit number 8 for identification.

14 MR. DUBUC: And you want to ask him some questions  
15 about it.

16 MR. MC MANUS: No, you're not. That's the end of the  
17 deposition.

18 MR. DUBUC: That may not be. You can object to  
19 questions.

20 MR. MC MANUS: I am objecting to you keeping property  
21 that's not yours.

22 MR. CONNORS: You're doing the same thing, aren't you?

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1  
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3  
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document was marked as Mason  
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fication and was retained by  
Counsel.)

4  
MR. DUBUC: It's been produced.

5  
MR. MC MANUS: It's not been produced; it's inadver-  
6  
tent.

7  
MR. DUBUC: I was sitting here when you reviewed the  
8  
file.

9  
MR. MC MANUS: I looked at this; I looked at this side,  
10  
which is another copy of the wreckage diagram. I did not look  
11  
at the back; he did not look at the back. This is not his  
12  
material. It's something that came from our office.

13  
MR. DUBUC: Well, mark it and ask him some questions.

14  
MR. MC MANUS: You're not going to ask him questions.

15  
MR. DUBUC: You can go on to something else.

16  
MR. MC MANUS: You're not going to anything else.

17  
We're finished. Either give us our property or that's the end  
18  
of the deposition.

19  
MR. DUBUC: That's not the way the system works, Mr.  
20  
McManus. If we have a dispute, you have your objections.

21  
MR. MC MANUS: This is more than just a dispute, Mr.  
22  
Dubuc. You're keeping property that doesn't belong to you.

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MR. DUBUC: This is property produced to us, and certainly for purposes of determining whether or not -- can I finish, please? Certainly for purposes of determining whether we have a right to it or not, we can mark it and let the judge rule on it. And in the meantime, until the judge rules on it, it's not going anywhere. It's a matter of the record.

MR. MC MANUS: I want it back. You can mark it. I want all the copies back. I will take personal responsibility for them.

MR. DUBUC: We certainly have to mark it.

MR. MC MANUS: You can mark it and give me the copies back. I will take personal responsibility for it. If the judge determines that you can have it, I will keep them with me.

MR. DUBUC: What is your proffer to what it is?

MR. MC MANUS: I haven't the slightest idea, and until I find out --

MR. DUBUC: You've got the original there.

MR. MC MANUS: I don't know what it is and he doesn't know what it is. I'm sorry, Mr. Dubuc, you weren't in here when this all began, and I'll explain it to you.

Mr. Connors was going over the documents and showed

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1 Dr. Mason this side, and he said, "I don't know what this is.  
2 This is apparently a piece of paper that inadvertently got in  
3 my file. Someone else has written on it. I don't know who  
4 wrote on it. I've never discussed it with anybody and I don't  
5 know what it refers to."

6 Now obviously, it does have something to do -- I  
7 shouldn't say obviously. It appears to have something to do  
8 with calculations that may relate to this crash. But until I  
9 determine that, I insist that you return the copies to me. You  
10 can have them marked. And I tell you on the record I will  
11 assume personal responsibility to see that they are maintained,  
12 and that if the judge rules you're entitled to have them back,  
13 you can have them back.

14 MR. DUBUC: Well, let's mark them and be sure we've  
15 got the copies of them. The reporter can mark the copy and  
16 let's get back to it. We'll go down and get a ruling on it.

17 MR. CONNORS: I'd like the reporter to mark the second  
18 page of this as well. Since this is the back side of the dis-  
19 puted document, I'll ask that that be marked as Mason Exhibit  
20 8A.

21 (Whereupon, the above-mentioned  
22 document was marked as Mason  
Deposition Exhibit 8A for

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1 identification and was retained  
2 by the Reporter.)

3 (Whereupon, a brief recess is taken.)

4 MR. CONNORS: For the record, we marked as Exhibit,  
5 Mason 8, a document entitled, "Wreckage Diagram," which ap-  
6 pears to be similar to Mason 6. On the back side of that, there  
7 were some notations. We have xeroxed that as a separate sheet,  
8 which we have marked as Mason Exhibit number 8A.

9 For descriptive purposes, the document consists, on  
10 top, a sketch entitled "Hill and compartment," several lines,  
11 and a notation abbreviation for average distance to hill,  
12 165 feet. Then, if there's any bracketed information --

13 MR. MC MANUS: If you're going to read it in, we're  
14 leaving now.

15 MR. CONNORS: What problem do you have with this?

16 MR. MC MANUS: I have told you that I don't feel that,  
17 at this point, you're entitled to this information because it  
18 does not relate to Dr. Mason's testimony. I cannot identify it,  
19 and until it is identified and determined as to whether or not  
20 you're entitled to it, you're not entitled to either having it  
in your hand or reading it into the record.

21 - MR. DUBUC: Why don't you find out from your office,  
22 please?

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1 MR. MC MANUS: I'm not going to interrupt this now

2 and find out.

3 MR. DUBUC: Dr. Mason is going back to his home, as I  
4 understand it, and if in fact --

5 MR. MC MANUS: He doesn't know anything about it.  
6 He's already said that on the record.

7 MR. DUBUC: But if in fact it's relevant and can be  
8 identified, since it's in his file, none of us know --

9 MR. MC MANUS: He's already said he doesn't know any-  
10 thing about it. That's prompted this whole discussion.

11 MR. DUBUC: He's looked at lots of things he didn't  
12 prepare, and whether or not somebody gave it to him to look at,  
13 we don't know. Nobody knows.

14 MR. MC MANUS: He's already said that he doesn't know  
15 what this is, other than calculations.

16 MR. DUBUC: That doesn't make any difference. If  
17 this is a discovery session, we're entitled to have it.

18 MR. MC MANUS: It makes a great deal of difference.  
19 If we don't have an understanding that you give it back to me,  
20 and all the copies, and that you don't read it into the record  
21 until a determination is made, then I have no choice but to  
22 terminate this deposition.

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1                   MR. DUBUC: I'm making alternative suggestions. May-  
2 be you can find out from your office what it is.

3                   MR. MC MANUS: There's not going to be anybody who  
4 knows what this is without seeing it.

5                   MR. DUBUC: Maybe somebody knows what it is. We're  
6 willing to give it back to you. We want to have it to describe  
7 what it is.

8                   MR. MC MANUS: It's been described, and I give you my  
9 oath, what you have there, I will keep. And once it's determined  
10 what it is, and if you're entitled to it, you'll get exactly  
11 that back.

12                  I think that by reading the description that you've  
13 given is adequate.

14                  MR. CONNORS: I will note for the record --

15                  MR. MC MANUS: And if you want, I would even be will-  
16 ing to allow the court reporter to keep a copy for himself --

17                  MR. DUBUC: Fine.

18                  MR. MC MANUS: -- so you can ascertain that --

19                  MR. DUBUC: That's agreed.

20                  MR. CONNORS: That's agreed.

21                  MR. MC MANUS: You just give him that one -- I'm  
22 sorry, make a copy for me with a mark on it, please.

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1 (Whereupon, a brief recess is taken.)

2 MR. CONNORS: While that's being done, do you object  
3 to continuing?

4 MR. MC MANUS: I don't, no, go ahead.

5 BY MR. CONNORS: (Resuming)

6 Q Doctor, I'd like to show you a two-page document  
7 that says, "Notes of meeting on Friday, 7 March 1980," and ask  
8 if you can identify that, please.

9 A Yes, they are the notes that I made the first time  
10 I went to the seminar. But, again, I would have thought that  
11 these were private to me. I just don't see that you have any  
12 entitlement to them at all.

13 MR. DUBUC: Doctor, just so you understand this, be-  
14 cause we don't want to have you upset, but in our procedure,  
15 there's a notice that goes out relevant to each deposition.  
16 And in the notice, under our rules, it provides that a witness,  
17 if he is an expert, will bring with him, and will have subject  
18 to discovery and review, any notes, any notations, any copies of  
19 things that he has looked at and in any way considered as part  
20 of formulating his opinion, or in connection with his preparation  
21 for the deposition, whether it's part of his opinion or some-  
22 thing he looked at and discarded.

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1 Now, that's unfortunately, or fortunately as the case  
2 may be, depending on where you sit at any given time in one of  
3 these depositions -- those are the rules that we operate under.  
4 We have our witnesses produce notes and that sort of thing.  
5 We've been through the same thing.

6 I realize it's probably a little bit unusual for you,  
7 but as has been my experience in many of these, I realize that  
8 under the English rules and some of the rules of some of the  
9 other commonwealth countries, you don't quite have the discovery  
10 scope that we happen to have under our rules. And the reason  
11 for that is everybody has a chance to see if there is any note  
12 or any prior recordation that may or may not be --

13 THE WITNESS: But if I may say so, and believe me, I'm  
14 not trying to interfere with your legal system -- don't get me  
15 wrong there -- this is probably frankly misleading. It's mean-  
16 ingsless, only meaningless in the context of the 7th of March,  
17 1980. Now I probably changed my mind 20 times --

18 MR. CONNORS: We'll ask you about every one of them,  
19 Doctor.

20 THE WITNESS: -- since then. I know for a fact that  
21 a great deal of this information is nonsense. It just happened  
22 to be the information I was given on the 7th of March, 1980.  
)

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1 Now I cannot see that that's of relevance to anybody.

2 MR. DUBUC: Well, I can give you an example. With an  
3 expert, facts and circumstances that occur after a certain  
4 exposure to initial information sometimes become keynote or  
5 critical facts that result, or are the basis for a change in an  
6 opinion. So the relevancy may only be as to what may or may  
7 not be considered critical facts or new facts that you might  
8 give an expert. That's one, and there are several other pos-  
9 sibilities. That's the reason for the exercise. That's what  
10 Mr. Connors is really doing.

11 Unfortunately, as I said, or fortunately, those are  
12 the rules that we all have to operate under.

13 MR. CONNORS: I'll ask that the reporter mark the  
14 documents that Dr. Mason identified as his notes as Mason  
15 Exhibit number 9.

16 (Whereupon, the above-mentioned  
17 documents were marked as Mason  
18 Deposition Exhibit 9 for identi-  
19 fication and were retained by  
20 Counsel.)

21 BY MR. CONNORS: (Resuming)

22 Q Doctor, I'd like to show you a seven-page document  
entitled, "Composite of troop compartment injuries," and ask if  
you can identify that, please.

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A Yes. This was certainly given to me by Dr. Cohen, probably in October 1981, and is probably -- and here, I must apologize to you -- probably what is referred to as "Troop compartment injury reports."

Q Do you know who prepared the first three pages of this document?

A No, I do not.

MR. CONNORS: I'll ask that the document be marked as Mason Exhibit number 10, please.

(Whereupon, the above-mentioned document was marked as Mason Deposition Exhibit 10 for identification and was retained by Counsel.)

BY MR. CONNORS: (Resuming)

Q Next, Doctor, I'd like to show you a one-page document, showing three various views of the C-5A and marked as Defendants' Exhibit D1216, and ask if you can identify that, please.

A I would identify it as Defendants' Exhibit D1216.

Q Is this part of your file, Doctor? Is this part of  
your file?

A It's come out of my file.

MR. CONNORS: I'd ask that that be marked as Mason

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1 Exhibit 11, please.

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21  
22  
(Whereupon, the above-mentioned  
document was marked as Mason  
Deposition Exhibit 11 for identi-  
fication and was retained by  
Counsel.)

BY MR. CONNORS: (Resuming)

Q Doctor, I'd like to show you a one-page document  
entitled, "Wreckage Diagram," and ask if you can identify that  
for us?

A No, I don't know who prepared this one.

Q This was also part of your file, though, was it not?

A Oh, yes, it's one of the many documents lying around.

Q Doctor, if you'll look at the left-hand portion of  
the diagram, just to the left of the line marked 1575, you'll  
see a penned in mark which is not part of the xeroxed document.  
Did you make that mark on that?

A I have no idea.

Q You don't know what that is intended to indicate?

A No.

MR. CONNORS: I'll ask that this document be marked  
as Mason Exhibit number 12, please.

•  
(Whereupon, the above-mentioned  
document was marked as Mason  
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1 identification and was retained  
2 by Counsel.)

3 MR. CONNORS: For the record, I think we should indi-  
4 cate that we have furnished the original copy of Mason Exhibit  
5 8A, which was the document disputed just a moment ago, to the  
6 court reporter. And the only other copies have been produced  
7 to Mr. McManus, and we would ask that the reporter hold that  
8 document until directed to surrender it to one of the parties  
then after order of the court.

9 BY MR. CONNORS: (Resuming)

10 Q Doctor, you indicated various documents which you  
11 had been given at the time of your meeting with Dr. Cohen in  
12 October of 1981. These included a report of Dr. Connors, which  
13 we previously noted on the record, a letter report by him to  
14 the guardian, Charles Work. Did you review that document?

15 A Yes, I did.

16 Q Did that document play any part in formation of your  
17 opinion?

18 A It played a part insofar as it seems to me to be a  
19 reasonably objective report, and to an intelligent man -- I'm  
20 sorry -- it made reasonable sense. And, therefore, it certainly  
21 influenced me in thinking that there must be pathology in these  
22 children.

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1 Q The next document that you identified was the col-  
2 lateral report, which you already indicated you relied on.

3 MR. MC MANUS: Some information.

4 BY MR. CONNORS: (Resuming)

5 Q The third item you refer to was transcript of Dr.  
6 Busby's testimony, is that correct?

7 A That's right.

8 Q Did you rely on that testimony or any portion of it  
9 in the formation of your opinions?

10 A That's an impossible question, really, isn't it? I  
11 mean obviously you read what other intelligent people have  
12 said, and you can't put them out of your mind. In fact, I  
13 suppose the answer is, no, I didn't really, but I'm not denying  
14 that I've read Dr. Busby's report with interest.

15 Q You next referred to the report of Dr. James Gaume,  
16 is that correct?

17 A Yes.

18 Q Are you familiar with Dr. Gaume?

19 A No.

20 Q Did you have an opportunity to thoroughly review his  
21 report?

22 A I must have done, but haven't got it with me.

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1 Q Did you agree with Dr. Gaume's report?

2 A I would like to say that I have no recollection of

3 Dr. Gaume's report at this moment in time.

4 Q The next document you referred to was the troop  
5 compartment injury report, which we've now identified --

6 A We have identified --

7 Q -- as Mason Exhibit number 10. Did you rely on that  
8 document in the formation of your opinion?

9 A No more than I would have done if I had looked at the  
10 post-mortem reports myself.

11 Q Is it your opinion that the information contained in  
12 Mason Exhibit number 10 is derived from the post-mortem reports  
13 we've previously referred to?

14 A I suppose it must be.

15 Q But you don't know?

16 A No, I don't know who typed it or what from, no.

17 Q So you've made no attempt to correlate the information?

18 MR. MC MANUS: Correlate it?

19 MR. CONNORS: With the post-mortem reports he's previ-  
20 ously referred to.

21 . THE WITNESS: I got into Washington late on Saturday.  
22 I was involved all Saturday morning. On Saturday afternoon, I

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1 got some post-mortem reports and I worked on them until mid-  
2 night. I was an hour and a half late this morning because of  
3 the traffic getting in, and I have not had time to deal with  
4 these post-mortem reports.

5 BY MR. CONNORS: (Resuming)

6 Q I'm not questioning your diligence, Doctor. My only  
7 question related to whether or not you knew whether in fact  
8 the information contained in the document prepared by counsel's  
9 office in fact reflected information which could be correlated  
10 with factual data from some other source.

11 A No, I don't know, but I probably can tell you later  
12 on.

13 Q Doctor, have you completed your review of the post-  
14 mortem reports?

15 A No.

16 Q When do you expect to complete that review?

17 A I really don't know. It depends entirely on what my  
18 commitments are when I get back.

19 Q The next document referred to is a report from John  
20 Edwards. Do you recall that?

21 . A Yes.

22 Q Did you rely, in the formation of your opinions, on

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1 the report of Mr. Edwards?

2 A Not really, no.

3 Q Did you agree with the report of Mr. Edwards?

4 MR. MC MANUS: Object to that question and instruct  
5 him not to answer. We've been down that road once before, and  
6 I recall we interrupted the deposition. Judge Oberdorfer said  
7 the purpose of these depositions is not to see if one expert  
8 agrees with another. It's to get his opinion and see if he's  
9 used the information from others. But whether or not he agrees  
10 with the opinions of the others is not the purpose, nor is it  
11 relevant in these proceedings. I'll instruct him not to answer  
12 that question.

13 BY MR. CONNORS: (Resuming)

14 Q Doctor, the next report you refer to is the report  
15 of Dr. Downes. Do you recall that document?

16 A No. Again, I would have to say I would want to  
17 refresh my memory on that.

18 Q The final document referred to in that list is a  
19 report of Dr. Charles Berry. Do you recall that document?

20 A I do.

21 Q Did you have an opportunity to review that document?

22 A I did.

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1 Q Do you know who Dr. Charles Berry is?

2 A I do.

3 Q Is he a respected authority in the field?

4 A He is.

5 Q Did you find any errors in his report?

6 A I never find errors in other peoples' reports. I  
7 may find things I don't agree with.

8 Q Do you find anything about Dr. Berry's report that  
9 you disagree with?

10 MR. MC MANUS: I object to the form of that question.

11 I instruct him not to answer for the same reasons as I stated  
12 before.

13 BY MR. CONNORS: (Resuming)

14 Q Doctor, do you know an aerospace expert named Dr.  
15 Turnbow?

16 A No.

17 Q Are you familiar with an aerospace expert known as  
18 Dr. Jefferson Davis?

19 A Yes, at least I imagine it's the same man.

20 Q Is he a respected authority in the area?

21 - A Yes.

22 Q Have you been shown his report with regard to this  
accident?

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1 A No.

2 Q Is it the type of report which you would like to see?

3 A I don't know what it's on.

4 Q If the report were on the circumstances of this acci-  
5 dent that might affect your opinion, is it the type of report  
6 you would like to see before forming your opinion?

7 A If there was something that was of considerable  
8 interest, of interest, yes, I would certainly like to see it.

9 Q Are you familiar with a Dr. McMeekin?

10 A Yes.

11 Q Is he a respected authority in the area?

12 A Yes.

13 Q Have you been shown the results of studies done by  
14 Dr. McMeekin relating to the decompression and hypoxia profile  
15 of this accident?

16 A No.

17 Q Would you expect to be?

18 A I would like to be.

19 Q Doctor, have you reviewed any of the deposition or  
20 trial testimony of any of the flight crew of the aircraft?

21 A No.

22 Q Have you reviewed any of the deposition testimony or

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1 trial testimony of any of the eyewitnesses who were on board  
2 the aircraft in the troop compartment at the time of the acci-  
3 dent?

4 A No.

5 MR. CONNORS: Can we go off the record for a second,  
6 please?

7 MR. MC MANUS: Sure.

8 (Discussion off the record.)

9 MR. MC MANUS: In the interest of time, Counsel has  
10 asked Dr. Mason to go over certain of the death certificates  
11 to see if he can correlate them with individuals by number  
12 located on Mason Exhibit number 1. Some of those that were  
13 asked to be looked at are as follows -- and I'm identifying  
14 them by the typewritten number in the upper left-hand corner  
15 of the first document, which is government Form 3565.

16 The following numbers were looked at by Dr. Mason,  
17 and he cannot correlate these with any of the designated numbers  
18 on Mason number 1. The numbers are 0076-75, 0067-75, 0075-75,  
19 0087-75, 0034-75, 0060-75. Dr. Mason feels that the following --

20 MR. CONNORS: Why don't you let me put this to him  
21 in the form of a question so that we don't have you testifying,  
22 because only these I am interested in.

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1 BY MR. CONNORS: (Resuming)

2 Q Doctor, during the break, we asked you to review  
3 some documents which we've previously identified as certificates  
4 of death on a government form to see if you could correlate  
5 these with the notes you had made on Mason Exhibit number 1;  
6 relating to certain external examinations, which may have re-  
7 lated to children in the troop compartment.

8 Following that review, have you been able to identify  
9 any of the certificates of death as possibly relating to the  
10 numbers which you previously gave us?

11 A Yes.

12 Q Could you identify those for us, please, using the  
13 number in the upper left-hand corner of the facing document?

14 A The potential matches are 0051-75 could be my number  
15 40, and 0078-75 could be my number 38.

16 MR. CONNORS: We should put on the record that we  
17 realize it was a very quick review and was not an attempt to  
18 clearly correlate.

19 BY MR. CONNORS: (Resuming)

20 Q Doctor, you indicated that you had reviewed some  
21 photographs in connection with the various forces involved in  
22 the accident. You indicated that the troop compartment, in

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1 your opinion, had encountered a rise or a hill at some site at  
2 the end of a slide, is that correct?

3 A Yes.

4 Q And I believe it was your statement that you base that  
5 opinion based on your review of the photographs, is that  
6 correct?

7 A Right.

8 Q Doctor, I would like to show you at this time a photo-  
9 graph made from a negative produced by the pilot of the aircraft,  
10 Major Traynor, which I will represent to you is the front end  
11 of the troop compartment as it moved along the slide path. And  
12 I'll ask you if you've seen that photograph before.

13 A I probably have, yes.

14 Q Do you see any hill or elevation in front of the  
15 troop compartment which the troop compartment may have struck?

16 A No, but do you see any difference in the direction  
17 of the top of the troop compartment against the horizon?

18 Q Is it your opinion, then, that there is photography  
19 which indicates a rise in the level of the troop compartment?

20 A Looking at that picture, it's possible.

21 MR. MC MANUS: I also might note that there's really  
22 not much in the way of reference points in that picture to show

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1 the topographical situation of the entire troop compartment  
2 and the surrounding terrain.

3 MR. CONNORS: I'll ask that that picture be marked  
4 as Mason Exhibit 13, please.

5 (Whereupon, the above-mentioned  
6 photograph was marked as Mason  
7 Deposition Exhibit 13 for identi-  
8 fication and was retained by  
9 Counsel.)

10 MR. MC MANUS: I would like to note for the record,  
11 as Counsel is aware, some of Captain Traynor's pictures are, I  
12 believe, duplicates of other pictures that have been produced  
13 by the witnesses. Dr. Mason, I don't believe, has seen the  
14 precise exhibit list of Traynor pictures because those had not  
15 been produced as of October, whenever he was here in October  
16 of 1981, and I don't believe he has seen all of the pictures  
17 that have been produced between the time he was here in October  
18 and today.

19 BY MR. CONNORS: (Resuming)

20 Q Doctor, let me show you a second picture showing a  
21 side view of the troop compartment with a helicopter above, and  
22 ask you if you've seen that picture.

23 A Again, it's a memory test. I don't remember whether  
24 I've seen this particular one.

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1 Q In your opinion, does that picture indicate that  
2 there was any hill which the troop compartment may have struck?

3 A I think we're probably getting now into the concept  
4 of a hill at odds with each other. I'm not suggesting that  
5 there's a great obstruction there; there is a rise in the  
6 ground.

7 Q Would you describe for us, please, the effect of that  
8 rise in the ground on the slide of the troop compartment, the  
9 effect in terms of the forces to which the occupants would  
10 have been exposed?

11 A It would certainly increase the forces, as opposed to  
12 it being flat ground, given the same terrain.

13 Q Do you have an opinion as to the quantity of those  
14 forces?

15 A No.

16 Q Do you have an opinion as to whether it was sufficient  
17 to cause injury to the children in the rearward-facing seats in  
18 the troop compartment?

19 A I have no idea whether that particular impact or  
20 that particular acceleration would have caused injury.

21 Q I see. Doctor, you also mentioned, with regard to  
22 photographs, that you had reviewed various prints and slides,

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1 and it was your opinion that they indicated that there was  
2 not a continuous slide or contact with the ground, is that  
3 correct?

4 A That's correct.

5 Q Speaking with regard to the west side of the river,  
6 to your recollection, were you shown any slides or photographs  
7 or photography prepared by the ITEC Corporation?

8 A I'm sorry, I don't go into details like that.

9 Q Were you shown any photographs or slides which were  
10 identified as having been generated or with quality enhancements  
11 by a computer?

12 A No.

13 Q Are you aware of such techniques for photo interpreta-  
14 tion?

15 A No.

16 Q Doctor, one subject which we haven't done a great  
17 deal with is hypoxia. Do you have an opinion relating to the  
18 effect of hypoxia on the children in the aircraft?

19 MR. MC MANUS: I believe he's given that to you, and  
20 we are now past our agreed upon four hours. So, if you're  
21 not satisfied with the first answer that he gave, I'm sorry,  
22 but I don't see any need to go into it again, particularly in

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1 view of the fact that time has expired.

2 MR. CONNORS: Well, the time has certainly not  
3 expired, except in Counsel's need to go somewhere else, although  
4 the Doctor has indicated that he is not leaving until later  
5 tonight.

6 MR. MC MANUS: No, sir, we had an agreed upon four-  
7 hour limitation on this.

8 MR. CONNORS: We have never had an agreed upon four-  
9 hour limitation with regard to Dr. Mason.

10 MR. MC MANUS: That's not my understanding from my  
11 office.

12 MR. CONNORS: It's your understanding that there's  
13 a four-hour limit on all experts?

14 MR. MC MANUS: It's my understanding there was a  
15 specific four-hour limit on this witness.

16 MR. CONNORS: I assure you that that is not correct.

17 MR. MC MANUS: Maybe from your viewpoint it's not;  
18 from mine, it is.

19 MR. CONNORS: Well, you're perfectly aware, I'm sure,  
20 that on new witnesses, there's never been such a limitation.

21 MR. MC MANUS: My understanding is we had a four-hour  
22 limitation on this deposition.

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1 MR. CONNORS: Well, we believe we have other areas

2 we want to go into.

3 MR. MC MANUS: I was told that there was a four-hour  
4 limitation that had been agreed upon.

5 MR. CONNORS: That's certainly not the case.

6 MR. DUBUC: Well, at least 15 minutes of this deposi-  
7 tion, I think, was consumed about arguing about the document  
8 that you produced and claimed that you shouldn't have produced,  
9 and we finally worked that out. In view of the circumstances,  
10 then --

11 MR. MC MANUS: We started at 12:00 and it's now  
12 12 after 4:00 by my reckoning. If you want three more minutes,  
13 I will accept your representation that you felt it took 15  
14 minutes and we can go on for three more minutes.

15 BY MR. CONNORS: (Resuming)

16 Q Doctor, what, if any, significance, in terms of the  
17 formation of your opinion, were the medical records from the  
18 crew personnel?

19 A I think nothing -- oh, wait a minute. I'm sorry, it  
20 depends on what you mean by crew, when you say crew. I thought  
21 you meant flight deck crew.

22 Q Well, flight deck crew or other members. Let's start

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1 with the flight deck crew. Was there any significance to those  
2 records?

3 A I don't think so, no.

4 MR. MC MANUS: In regard to what?

5 MR. CONNORS: To the formation of his opinion.

6 BY MR. CONNORS: (Resuming)

7 Q And the answer is "No?"

8 A The answer is "No."

9 Q With regard to the Air Force crew that were in the  
10 cargo compartment, was there any significance to their medical  
11 reports?

12 A I'm afraid I got these last night, and I haven't had  
13 time to assess them.

14 Q With regard to the medical records of the members of  
15 the crew who were in the troop compartment, do you attach any  
16 significance in terms of the formation of your opinion to those  
17 reports?

18 A I'm very sorry --

19 Q The same question. You received medical reports --

20 A Yes, I'm telling you that I received the medical re-  
21 ports last night and I haven't reviewed them properly yet.

22 Q I see. So that's with regard to all the medical

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1 reports, and not just the ones --

2 A That's right.

3 Q Doctor, you indicated that you had attempted to do  
4 some calculations with regard to distances and thereby calculat-  
5 ing the g forces. How did you go about attempting to calculate  
6 distance in the pictures you were given?

7 A I accepted other peoples' opinions.

8 Q Did you rely on Dr. Morain for that?

9 A To a certain extent, yes.

10 Q Do you know how Dr. Morain calculated his distances?

11 A Dr. Morain, I understand, is a geophysicist.

12 Q I don't think that's correct, but you mean that he's  
13 a photo interpreter of some sort?

14 MR. MC MANUS: He's a geographer, also. He has a  
15 Ph.D. in geography.

16 THE WITNESS: A geographer. I'm sorry, a geographer,  
17 not a geophysicist, yes.

18 BY MR. CONNORS: (Resuming)

19 Q That wouldn't qualify him to make measurements in a  
20 picture, would it?

21 . MR. MC MANUS: Geography? Certainly, and you've  
22 deposed him at great length on how he made his measurements.

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1 MR. CONNORS: I'm not questioning the fact that Dr.

2 Morain is a photogrammatrist; that's the way he identified him-  
3 self in his deposition. I understand that relates to measure-  
4 ment, but being a geographer certainly would not.

5 BY MR. CONNORS: (Resuming)

6 Q My question really relates to are you aware of the  
7 methods used by Dr. Morain to calculate those distances?

8 A He was certainly using the photographs that he had  
9 there. He was using instruments. He gave me the impression of  
10 being a man who was used to making measurements from photo-  
11 graphs. He gave me the impression of being a man who was  
12 capable of interpreting the type of terrain from photography,  
13 and gave the strong impression of competence.

14 Q If the calculations were incorrect and the distances  
15 were longer than Dr. Morain had calculated, would that in ef-  
16 fect reduce your calculation of the extent of the g forces?

17 A Yes, certainly if one's acceptance of the distances  
18 was wrong, then it would affect the calculation.

19 MR. MC MANUS: We've gone over the three minutes now.

20 MR. CONNORS: Your generosity is overwhelming. Are  
21 you cutting it off or --

22 MR. MC MANUS: We've gone past our time.

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1 MR. CONNORS: So you're cutting it off.

2 MR. MC MANUS: We've gone past our agreed upon time,  
3 yes.

4 MR. CONNORS: For the record, I simply want to note  
5 that we certainly don't agree that there was any limitation on  
6 the deposition. We regard it as being cut off arbitrarily and  
7 certainly not as being closed, especially in light of the  
8 Doctor's statements that he is just now reviewing some materi-  
9 als which he could not give opinions on.

10 MR. MC MANUS: Do you want him to sit here for more  
11 hours and review material to satisfy the desires of Lockheed  
12 and the United States?

13 MR. DUBUC: That's up to you, Mr. McManus if you want  
14 to use him as a witness in the trial. We don't think we've had  
15 a full deposition, particularly --

16 MR. MC MANUS: You never think you have a full  
17 deposition if you take days.

18 MR. DUBUC: If I could finish, Mr. McManus. I realize  
19 you're putting on a grand show for the witness.

20 MR. MC MANUS: I'm not putting on any show and I  
21 resent those type of statements, Mr. Dubuc. I've never made  
22 personal statements about you like that, and I don't appreciate

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1 your making them about me.

2 MR. DUBUC: Oh, yes, you have.

3 MR. MC MANUS: I most certainly have not. I'm not  
4 going to engage in a debate.

5 MR. DUBUC: I don't think it's worthwhile, either.

6 But specifically, Dr. Mason has told us that because of time  
7 constraints and also because apparently the autopsy information  
8 wasn't sent to him in Panama, as agreed upon, he didn't have a  
9 chance to look at it until he came up here under very short time  
10 constraints, which probably wasn't very fair to him. But in  
11 any event --

12 MR. MC MANUS: That's what you insisted on. Let's  
13 don't put the onus on us or on him. It's what Lockheed has  
14 insisted on.

15 MR. DUBUC: I think Judge Oberdorfer put the onus on  
16 him. If you wanted to use him, he would come prepared, ready  
17 to -- I think he did that last Monday because I was present at  
18 the hearing.

19 MR. MC MANUS: As was I, and it was at Lockheed's in-  
20 sistence that he be here as soon as possible.

21 MR. DUBUC: That was the Judge's --

22 MR. MC MANUS: No, that wasn't. The Judge said a fair

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1 amount of time and he said if that's during the trial, that's  
2 fine. Lockheed is the one that said that wasn't good and "We  
3 want him promptly," so you've got him promptly. You've had  
4 four hours to ask him questions, and if you can't --

5 MR. DUBUC: I think the Judge finally referred it to  
6 Judge Johnson's rulings.

7 MR. MC MANUS: No, he clearly did not.

8 MR. DUBUC: The record speaks for itself. In any  
9 event, since he's still reviewing autopsies and medical in-  
10 formation which is one of the proffered subjects of his testi-  
11 mony, and since he's said that he hasn't reviewed them so he  
12 can't give an opinion on it, certainly one of the key aspects  
13 of Dr. Mason and his field is not available to us in this depo-  
14 sition. Consequently, we don't think it's complete. We  
15 reserve our rights on that.

16 MR. MC MANUS: Mr. Dubuc, you have made the same  
17 statement with every witness, even those I have sat with for  
18 periods of not only hours and days, but weeks, deposing.

19 MR. DUBUC: I can't recall a single instance of you  
20 sitting for weeks at any deposition.

21 - MR. MC MANUS: You don't recall Wendy Grant being  
22 here for two weeks at a time, every day from 9:00 o'clock in the

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1 morning until sometimes 6:00, 7:00, 8:00 or 9:00 o'clock at  
2 night?

3 MR. CONNORS: To be deposed on 150 cases.

4 MR. MC MANUS: You're lucky you still don't have that  
5 awful memory because I do.

6 MR. DUBUC: I think she was testifying on 150 children.

7 MR. MC MANUS: So is Dr. Mason.

8 MR. DUBUC: I think Dr. Mason told us he couldn't  
9 give an opinion as to any specific child.

10 MR. MC MANUS: That's correct. If you don't understand  
11 that, I'm sorry about that, also.

12 THE WITNESS: What did he say? What did you say?  
13 I'm sorry, I was dreaming. What did you say, I can't give an  
14 opinion?

15 MR. DUBUC: On any specific child, specific condition.

16 MR. MC MANUS: Or medical conditions, because he  
17 hasn't been asked to do that. I'm sorry to put you in the  
18 middle of this trouble.

19 THE WITNESS: That's okay, I don't mind the squabble.

20 (Whereupon, at 4:23 p.m., the taking of the instant  
21 deposition was concluded.)

22 - - -

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1

CERTIFIED QUESTIONS

2

PAGE 87, Line 3

3 Q Doctor, if the children on the aircraft were displaying  
4 symptoms consistent with minimal brain dysfunction or damage  
5 prior to April 4, 1975, would that indicate that the accident  
6 on that day was not necessarily the cause of any such damage?

7

PAGE 116, Line 2

8 Q Well, let me ask you, Doctor, is it correct that the  
9 forces would be different in the cargo compartment and the  
10 troop compartment?

**CERTIFICATE OF DEPONENT**

I have read and examined the foregoing 168 pages and  
find the answers contained therein with changes made by me, if  
any, to be true and correct.

J. KENYON MASON, M.D.

Subscribed and duly sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 19 \_\_\_\_.

Notary Public in and for

My commission expires

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**CERTIFICATE OF NOTARY PUBLIC**

2 || UNITED STATES OF AMERICA)

1

3 || DISTRICT OF COLUMBIA )

4 I, PAUL R. CUTLER, the officer before whom the  
5 foregoing deposition was taken, do hereby certify that the  
6 witness whose testimony appears in the foregoing one hundred  
7 sixty-nine (169) pages was duly sworn by me; that the testimony  
8 of said witness was recorded by me by Stenomask and thereafter  
9 reduced under my direction to typewritten form; that said  
10 deposition is a true record of the testimony given by said  
11 witness; that I am neither counsel for, related to, nor  
12 employed by any of the parties to the action in which this  
13 deposition is taken; and, further, that I am not a relative of  
14 or employee of any attorney or counsel employed by the parties  
15 hereto, nor financially or otherwise interested in the outcome  
16 of this action.

Wilk's 37

PAUL R. CUTLER  
Notary Public in and for  
the District of Columbia

22 | My commission expires July 31, 1986.

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