

Clair J. Kiper.

(Reconvened at 5:15 P.M., EDST.).

CLAIR J. KIPER, being duly sworn according to law,
testified as follows:

By Mr. Fierro:

Make me an offer at Side Bar.

By Mr. Ertel:

Yes.

(AT SIDE BAR.).

By Mr. Ertel:

The man was Foreman at Eastern Wood Products. He issued him a white helmet identical to this case. He never returned it when he left. He left the middle of the shift, basically. That he worked from March, I can't give you the exact date, until mid-May, and he left with the white helmet and he has one here to identify, which is identical to the one.

By Mr. Fierro:

Did he say he saw him take it?

By Mr. Ertel:

He is going to say he never gave it back.

By Mr. Fierro:

Objection.

By The Court:

Over ruled.

(END OF SIDE BAR.)

DIRECT EXAMINATION

By Mr. Ertel:

Q. State your full and occupation?

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A. Clair J. Kiper.

Q. Your occupation?

A. Foreman at Eastern Wood.

Q. Do you know the Defendant, Kim Hubbard?

A. I do.

Q. Were you his Foreman there?

A. I was.

Q. Do you recall when he came to work?

A. Yes, Sir.

Q. What date was it?

A. March 13, 1973.

Q. At that time did you issue him anything?

A. Yes, Sir.

Q. What did you issue him?

A. A white helmet.

(Commonwealth's Exhibit No. 125 marked.).

Q. I show you marked as Commonwealth's Exhibit No. 125, can you identify that?

A. Yes, Sir.

Q. What is it?

A. It is a helmet similar to the ones we issue.

Q. And did that come from Eastern Wood?

A. Yes, Sir.

Q. Have you had the same type helmets?

A. Yes.

Q. Is that a Scalp Helmet?

A. It is.

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Q. I show you marked as Commonwealth's Exhibit No. 115, and ask you if that is a Scalp Cap Helmet?

A. The same thing.

Q. Now, when did Kim Hubbard leave Eastern Wood, if you know?

A. May 21, 1973.

Q. How did he leave, would you explain?

By Mr. Fierro:

We object to how he left, this was not the purpose of the offer.

By Mr. Ertel:

I think that it is relevant.

By The Court:

The objection is sustained at this time.

By Mr. Ertel:

Q. Did he leave at the end of a shift or what?

A. No, Sir.

Q. When did he leave?

A. He left during a shift.

Q. Did he ever turn in his helmet?

A. No, Sir.

Q. You are sure of that?

A. Positive.

Q. Cross examination.

CROSS EXAMINATION

By Mr. Fierro:

Q. Well, when you say he never turned in his helmet, did you watch him walk off of the job?

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A. No, Sir.

Q. You didn't?

A. No, Sir.

Q. Well, then you don't know whether he was wearing this helmet when he walked off the job or not, you don't know, you didn't see him?

A. No, Sir, but it was not turned into me.

Q. I don't care if it was turned into you or not, I am asking you whether you with your own eyes saw Kim leave that plant, or whatever it is called, with that helmet on his head, did you or didn't you?

A. No, Sir.

Q. You did not see him, did you?

A. No, Sir.

Q. Does that helmet that is like Kim's, does that have dough on it or anything that is cake or dough or roll on it?

A. Pardon.

Q. Where you work, does that have any substance where you work that is like bread or cake or icing or anything else?

A. Yes, Sir.

Q. What?

A. We have a wax stain that is red.

Q. A wax stain?

A. Yes, Sir.

Q. Well, you mean that is like a cake substance?

A. No, Sir, it is wax.

Q. Okey, that is all.

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RE-DIRECT EXAMINATION

By Mr. Ertel:

Q. Would the helmet be turned into you as his Foreman?

A. Yes, Sir.

By Mr. Fierro:

I object to that, it calls for his conclusion.

By Mr. Ertel:

Q. What color is that?

By Mr. Fierro:

Just a minute, are you withdrawing that last question. I objected on the grounds it would be his conclusion, he knows it was turned into him or he doesn't know.

By The Court:

The objection is sustained.

By Mr. Ertel:

Q. Is it your policy to turn into the helmet to the Foreman?

A. Yes, Sir.

By Mr. Fierro:

I object, I would like to know what was done in this case.

By Mr. Ertel:

Q. What color is that red wax you have?

A. Red wax.

Q. Is it bright, or white or medium?

A. It could be brought, it could be very light.

Q. I show you marked as Commonwealth's Exhibit No. 115, and ask you to look at that?

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By Mr. Fierro:

I don't want you to remove any of the substance on that Exhibit. I don't want the witness to remove any substance off that exhibit.

By Mr. Ertel:

Q. Can you identify it?

A. It could be red wax, it is red.

Q. You don't know?

A. No, I am not sure.

Q. That is all.

RE-CROSS EXAMINATION

By Mr. Fierro:

Q. Did you smell it?

A. Wax has no smell.

Q. Did you smell the stuff on Exhibit No. 115?

A. No, Sir.

Q. You don't know what is on that Exhibit, do you?

A. No, Sir.

By Mr. Ertel:

Q. Do you want to smell it?

A. No, Sir.

By Mr. Fierro:

Q. You don't want to smell it?

A. No, Sir.

Q. Step down.

(Excused from witness stand.).