

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

ALVIN E. SHOAF,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05 L 168
	)	
A.W. CHESTERTON, INC.,	)	
et al.,	)	
	)	
Defendants.	)	

VIDEOTAPED DISCOVERY DEPOSITION OF ROSS A. HACKEL

Taken on behalf of the Plaintiff
September 27, 2005

Caryl L. Hardy
Illinois License No. 084-003968

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(The original exhibits were retained by the
court reporter, to be attached to the original
transcript.)

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

ALVIN E. SHOAF,)
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Plaintiff,)
)
vs.) No. 05 L 168
)
A.W. CHESTERTON, INC.,)
et al.,)
)
Defendants.)

VIDEOTAPED DISCOVERY DEPOSITION OF ROSS A.
HACKEL, produced, sworn, and examined on behalf of
the Plaintiff, September 27, 2005, between the
hours of nine o'clock in the morning and one
o'clock in the afternoon on that day at the offices
of Johnson & Bell, 55 East Monroe Street, Suite
4100, Chicago, Illinois, before CARYL L. HARDY, a
Certified Shorthand Reporter and Registered
Professional Reporter.

A P P E A R A N C E S

The Plaintiff was represented by Mr. Ted N.
Gianaris of the law firm of SimmonsCooper, LLC,
707 Berkshire Boulevard, East Alton, Illinois
62024.

1 The Defendant, Elliott Turbomachinery
2 Company, Inc., was represented by Mr. Joseph
3 Spitzzeri and Mr. Rory Margulis, Johnson & Bell,
4 55 East Monroe Street, Suite 4100, Chicago,
5 Illinois 60603.

6
7 ALSO PRESENT:

8 Mr. Terry Kupperman - Videographer
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S T I P U L A T I O N

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the Plaintiff and counsel for the Defendant, Elliott Turbomachinery Company, Inc., that the DISCOVERY deposition of ROSS A. HACKEL may be taken by and on behalf of the Plaintiff, on September 27, 2005, at the offices of Johnson & Bell, 55 East Monroe Street, Suite 4100, Chicago, Illinois, before CARYL L. HARDY, a Certified Shorthand Reporter and Registered Professional Reporter.

* * * * *

THE VIDEOGRAPHER: My name is Terry Kupperman in association with Pohlman Reporting in St. Louis, Missouri.

This deposition is taking place on September 27th, 2005. The time is now 9:04 a.m., and the location of this deposition is 55 East Monroe Street, Chicago, Illinois.

This deposition is being taken in the matter of Alvin E. Shoaf versus A.W. Chesterton, Inc., et al., case number 05 L 168. The deponent's name is Ross A. Hackel.

This deposition is being taken on behalf of the Plaintiff. The party at whose instance the

1 deposition is being recorded on an audiovisual
2 recording device is the Plaintiff.

3 Will counsel please identify yourselves
4 for the record?

5 MR. GIANARIS: Ted Gianaris on behalf of
6 the Plaintiff from SimmonsCooper.

7 MR. SPITZZERI: Joseph Spitzerri,
8 Johnson & Bell, on behalf of Defendant Elliott
9 Turbomachinery.

10 BY MR. GIANARIS:

11 Q. Sir, please state your name.

12 THE VIDEOGRAPHER: Will the officer please
13 identify yourself and swear in the witness?

14 THE COURT REPORTER: My name is Caryl
15 Hardy from Pohlman Reporting.

16 (The witness was duly sworn.)

17 ROSS A. HACKEL,
18 of lawful age, being produced, sworn and examined
19 on the part of the Plaintiff, and after answering
20 "I do" to the oath administered by the court
21 reporter, deposes and says:

22 EXAMINATION

23 QUESTIONS BY MR. GIANARIS:

24 Q. Good morning.

25 A. Good morning.

1 Q. Please state your name.

2 A. My name is Ross A. Hackel.

3 Q. Where do you live, Mr. Hackel?

4 A. I live in Latrobe, Pennsylvania.

5 Q. Okay. Where do you work?

6 A. I'm a consultant. I work out of my home.

7 Q. Okay. What's your address?

8 A. My address at home? 1508 Bethel Church
9 Road, Latrobe, Pennsylvania, 15650.

10 Q. Are you a married man?

11 A. Yes.

12 Q. Are you retired from Elliott Turbomachinery
13 Company?

14 A. Yes, I am.

15 Q. Okay. Explain what you do now as a
16 consultant.

17 A. I'm a consultant for primarily Elliott
18 Company, and I work on technical cases and asbestos
19 cases.

20 Q. When you say technical cases and asbestos
21 cases, you mean lawsuits?

22 A. Sometimes, yes.

23 Q. Okay. What else besides lawsuits?

24 A. Well, I provide technical help for the
25 company on matters involving the turbo machinery.

1 Q. Okay. So you said you do two things.
2 Asbestos cases: That means you consult on asbestos
3 litigation; is that right?

4 A. And do research on asbestos cases, yes.

5 Q. Okay. Now, I don't want to put words in
6 your mouth. Why don't you define for me what you
7 do by -- other than research on asbestos cases?
8 What else do you do?

9 A. On asbestos cases, I do research for
10 questions that are raised. I have testified for
11 depositions and whatever is required by the outside
12 attorneys.

13 Q. And then the other part of your consulting
14 is what?

15 A. Is -- has to do with technical advice and
16 support of machinery troubles. And sometimes it's
17 not necessarily troubles. It's just information
18 for the engineers at the company.

19 Q. When you and I were talking just now, we
20 talked over each other a little bit. I just want
21 to lay a couple of ground rules. I should have
22 done this right up front.

23 You've given depositions before, I
24 suspect, so this probably isn't new to you, but I
25 will be asking questions. You'll probably

1 anticipate what I'm going to say sometimes. I may
2 anticipate your answer. If we allow each other to
3 finish before the next starts, it will help the
4 court reporter?

5 Fair enough?

6 A. Sure will. I'll try to do my best.

7 Q. Good enough. We'll work through it. I
8 will probably be guilty of it more than you, but
9 you can tell me to shut up as well.

10 A. I won't do that.

11 MR. SPITZZERI: That's my job.

12 BY MR. GIANARIS:

13 Q. Secondly, just so we have a nice, clean
14 record and that everything is fair, if for any
15 reason you don't understand my question, you think
16 my question is confusing, unfair, can be
17 misinterpreted, you'll stop me and tell me that.
18 Okay?

19 A. I'll let you finish it, and then I'll ask
20 you to clarify it.

21 Q. Good enough. So if you answer it, you
22 don't ask me to clarify it, we can operate with the
23 understanding that you understood and it was a fair
24 question.

25 A. Okay.

1 Q. Okay. All right. Let's see where we
2 were.

3 Tell me about your job before you retired
4 from Elliott Turbomachinery. What did you do for
5 them? Just give me your history with Elliott.

6 A. My history with Elliott was primarily
7 taking care of the aftermarket problems that the
8 company had from a technical standpoint. I did
9 some special assignments like testing and stuff
10 like that.

11 Q. What is -- do you have a degree?

12 A. Yes, I do.

13 Q. What did you learn in school? What did
14 you study?

15 A. I studied in school. I graduated as --
16 with a BS in mechanical engineering.

17 Q. Okay.

18 A. That was the basics. I learned a lot
19 after I got out of school.

20 Q. I got you. All right. We'll get into
21 that in a minute.

22 So where did you get -- where did you get
23 your mechanical engineering degree?

24 A. At that time it was known as Case
25 Institute of Technology. It's now Case Western

1 Reserve.

2 Q. Is that in Ohio?

3 A. That's in Cleveland, Ohio.

4 Q. What year did you graduate?

5 A. 1957.

6 Q. All right. No advanced degrees per se?

7 A. Nope.

8 Q. Okay. School of hard knocks since then?

9 A. That's right.

10 Q. All right. Tell me about your employment
11 history a little bit. Just give me the overview.

12 A. An overview was primarily I started out in
13 application of equipment for Carrier Corporation.
14 That lasted for a few months. I went and started
15 working in the service department as a service
16 engineer and then back and forth between
17 application and service quite a few times,
18 depending on what was needed.

19 In September of 1959, I moved to work for
20 Carrier, Elliott and Elliott -- and Carrier
21 Overseas Corporation all at the same time. And
22 that lasted for a few months. It was too much
23 work. And then I went to work for just Elliott
24 Company.

25 Q. And --

1 A. And that was as a service engineer at that
2 particular point in time.

3 But then I moved back and forth doing
4 application work, service work, was transferred to
5 the factory as a marketing engineer, I would say
6 about 1964. That lasted for about two years, and
7 then they transferred me to Mountainside, New
8 Jersey, as an application engineer. That lasted
9 for about two years.

10 And then I transferred to New York and
11 picked up chief engineer of the overseas
12 corporation in addition to what I was doing on the
13 East Coast of the United States.

14 I did that for a few years, moved the
15 office back to Jersey because it was easier
16 commuting to Jersey than New York. And in 1972
17 they transferred me back to the factory, the head
18 of technical services, formed a new department;
19 responsible for technical problems, testing in the
20 field, instruction books, rewriting equipment,
21 anything that had to do with the technical side of
22 things.

23 Q. Where is the factory?

24 A. The factory is located in Jeannette,
25 Pennsylvania.

1 Q. Okay.

2 A. In 1981 they added title of director of
3 product integrity and I kept what I was doing and
4 picked up the quality work for the company, manager
5 of quality assurance. And that lasted until I
6 retired in 2000.

7 Q. How many years did you have with the
8 company: From '57 to 2000; is that right?

9 A. Well, Elliott Company I was really for
10 40 years, from '59 to 2000.

11 Q. Explain to me the relationship between
12 Carrier and Elliott, if you can, just in laymen's
13 terms.

14 A. Carrier basically acquired Elliott in
15 1957. They purchased the stock and they called the
16 shots.

17 Q. Okay. Elliott was run -- it was a wholly
18 owned subsidiary as far as you know?

19 A. Yes.

20 Q. And you drew your paycheck from who:
21 Carrier or Elliott?

22 A. It depends which day you're talking about.

23 Q. All right. Let's talk about -- pre '59 is
24 Carrier obviously?

25 A. Pre '59 was Carrier, yes.

1 Q. Okay. Then starting in September of '59,
2 where did you draw your check?

3 A. Both.

4 Q. Both. Okay.

5 A. Mistake.

6 Q. Explain that.

7 A. Well, they got confused on who I worked
8 for.

9 Q. Okay. Just a momentary glitch, or is this
10 40 years' worth?

11 A. No, no. It was a few months.

12 Q. Okay.

13 A. And they sent me out of the country, which
14 meant they couldn't get ahold of me, so
15 consequently, the accounting department had fits
16 until they got it squared away. I think I ended
17 up --

18 Q. Did your wife cash both checks?

19 A. She put them both in the bank.

20 Q. Good for her. Good.

21 A. It got straightened out in, I think it
22 was, about February of 1960. And then I was paid
23 by Elliott.

24 Q. From then on?

25 A. From then on, yes.

1 Q. Okay. You said Carrier called the shots.
2 Explain that to me.

3 A. Well, they bought and took over the stock
4 of Elliott Company, so consequently, when I say
5 they called the shots is basically the management
6 of Carrier said who was going to be president of
7 the company.

8 Q. Okay. Did they -- did Carrier run the
9 day-to-day operations of Elliott in any way?

10 A. Well, they put some of their people in
11 like me.

12 Q. Okay.

13 A. I was transferred from Carrier to Elliott,
14 as was the president and some of the other people.

15 Q. Did you still answer to folks at Carrier
16 throughout your career?

17 A. No, no, not after 1960.

18 Q. Did you report to them in any way?

19 A. No.

20 Q. Okay. Tell me about your consulting work
21 from 2000. When did you form your consulting
22 company?

23 A. It's just me.

24 Q. Okay. Are you incorporated?

25 A. No.

1 Q. No.

2 A. Just me.

3 Q. Just you. Okay.

4 Do you -- does your consulting operation
5 have a name other than just you?

6 A. Just me.

7 Q. Just you. Okay.

8 So basically you retired and now you're
9 bringing your 40 years of expertise -- you're
10 making it available to Elliott?

11 A. Yes. And I've done some other work, too.

12 Q. For companies other than Elliott?

13 A. Yes.

14 Q. Who else have you worked for?

15 A. I worked for Bayer Corporation for a short
16 period of time.

17 Q. What is Bayer Corporation?

18 A. Have you ever heard of Bayer Aspirin?

19 Q. Yes, sir.

20 A. That's the outfit.

21 Q. Okay. What did you do for Bayer?

22 A. They had trouble with an axial compressor,
23 and I was the consultant that helped them
24 straighten out their problems.

25 Q. Didn't have anything to do with asbestos

1 litigation?

2 A. Nothing to do with asbestos.

3 Q. So other than the one straightening out of
4 Bayer's problem, has your consulting been, other
5 than that, solely for Elliott?

6 A. No. I had consulted with a consultant on
7 another case that involved a reciprocating
8 compressor. It had nothing to do with asbestos.

9 Q. Okay. Those two incidents?

10 A. Two those, plus I've done some technical
11 work for Carrier that has -- I'm sorry -- for
12 Elliott that has nothing to do with asbestos also.

13 Q. Understood. Okay.

14 So you did two outside -- or two
15 consulting jobs for outfits other than Elliott; and
16 other than that from 2000 until today, your
17 consulting work has been for Elliott in either
18 technical support, I think you said, or in asbestos
19 litigation; is that right?

20 A. That's correct.

21 Q. And how much of your time does that
22 consume?

23 A. Too much.

24 Q. How old are you?

25 A. Seventy years old.

1 Q. Okay. Do you travel around doing this a
2 lot?

3 A. I try to avoid it.

4 Q. Do you? Okay.

5 Where do you live now? Oh. You told me
6 that already, didn't you?

7 A. I still live in Latrobe, Pennsylvania.

8 Q. Latrobe, Pennsylvania.

9 Whose idea was it to consult on asbestos
10 litigation? Did Elliott come to you? Did you come
11 to them? Or is it a continuation of something you
12 were doing while you were with the company or
13 something else?

14 A. A continuation.

15 Q. All right. Explain that to me. What were
16 you doing -- for how long a period of time --
17 strike all that.

18 When did you start bringing your expertise
19 to bear on asbestos litigation at Elliott?

20 A. Early '90s.

21 Q. How did that begin? What happened?

22 A. They asked me some questions.

23 Q. Who's they?

24 A. The legal department.

25 Q. The in-house legal department?

1 A. Right.

2 Q. And since the early '90s, how many
3 different cases would you say you've consulted on?
4 Is that --

5 A. That's an unfair question.

6 Q. Is it? Okay. Fine. Because you don't
7 know; it's too many?

8 A. It's too many.

9 Q. All right. Every time Elliott gets sued
10 in an asbestos case, do you, one way or another,
11 have something to do with it for the most part?

12 A. I'm trying to unload a little bit of that,
13 but up until now, it's been pretty much the case.

14 Q. So you're the go-to guy at Elliott for
15 information on asbestos?

16 A. For technical side, yes.

17 Q. What's the other side other than --

18 A. The legal side.

19 Q. Okay. How about the -- is there -- in
20 your mind, is there a health and safety side to it?
21 Is there somebody that in-house lawyers go to at
22 Elliott for the health and safety issues?

23 A. No.

24 Q. How do you get paid by Elliott, if you
25 don't mind me asking?

1 A. A check.

2 Q. Do you bill by the hour, or are you on
3 retainer?

4 A. By the hour.

5 Q. Okay. How much do you charge an hour?

6 A. Depends on what I'm doing.

7 Q. All right. Give me your schedule.

8 A. My schedule is for this right here, \$250
9 an hour.

10 Q. Is that all?

11 A. That's all.

12 Q. Gee whiz.

13 A. I'm cheap.

14 And for research other than trial and
15 depositions, it's 120 an hour.

16 Q. Okay. So you make 250 an hour for
17 testifying, whether it's deposition or trial?

18 A. Right.

19 Q. And then behind the scenes, a hundred and
20 what?

21 A. 120.

22 Q. 120.

23 Can you give me a ballpark how much you
24 make a year as a consultant for Elliott?

25 A. Last year?

1 Q. Yes, sir.

2 A. Pretty close to 100,000.

3 Q. That's gross?

4 A. Yeah.

5 Q. Years before that has it been about the
6 same, 100,000?

7 A. I had one year that was down a little bit.
8 I got a little reprieve, but it's varied. I think
9 100,000 has been the highest, and it's been close
10 to that a couple years and down as low as, I think,
11 40 one year.

12 Q. All right.

13 A. That's the year I liked.

14 Q. What would you rather be doing?

15 A. I'd rather be out in the woods.

16 Q. Would you really?

17 A. Yes. I live in the woods.

18 Q. Do you?

19 A. Yep.

20 Q. Okay. So out in the woods hunting or
21 fishing or just --

22 A. Whatever. Just enjoying the woods.

23 Q. Grandkids?

24 A. Yeah.

25 Q. Good.

1 What's your plan? Do you plan on shutting
2 this consulting business down? Are you training
3 somebody to take over?

4 A. I'm trying -- yeah. I'm trying to train
5 somebody to take over.

6 Q. Who are you training?

7 A. Another engineer that was with Elliott for
8 a long time.

9 Q. He's retired as well?

10 A. Yes.

11 Q. And how long have you been training him?

12 A. He's been on probably seven, eight months.

13 Q. Now, explain your all's relationship. Do
14 you pay him?

15 A. I don't do anything. It's a deal with the
16 company. I just support him.

17 Q. Okay. What is his name?

18 A. Tom Keenan.

19 Q. Tom Keenan?

20 A. K-e-e-n-a-n.

21 Q. Where does Tom live?

22 A. Jeannette, Pennsylvania.

23 Q. And he's a retired engineer?

24 A. Yes.

25 Q. From Elliott?

1 A. Yes.

2 Q. Do you know -- did you know him at
3 Elliott?

4 A. Oh, of course.

5 Q. Okay. What was his job?

6 A. His last job was the manager of the test
7 floor.

8 Q. Do you all pretty much work side by side?
9 I mean, did you work together during that period of
10 time that you all were both there, collaborate?

11 A. I'm not sure what you mean by side by
12 side.

13 Q. Well, I don't know either. Let me take
14 that back.

15 Tell me about your all's working
16 relationship, you and Tom. That's easier.

17 A. Tom is an engineer. He was a product
18 engineer for a while. And when I needed help, he
19 supported me. And when he was on the test floor
20 and he needed help, I supported him. So we've had
21 a good working relationship now at least for
22 30 years.

23 Q. And did you tell Elliott that you wanted
24 to slow down and they needed to find somebody to
25 take over your consulting duties?

1 A. Yes.

2 Q. And they found Tom?

3 A. Yes.

4 Q. Did you suggest Tom, or did they find him,
5 or do you know how --

6 A. I think they asked me about Tom.

7 Q. Okay. And then the last seven or eight
8 months, you've been sort of getting Tom acclimated
9 to what you do?

10 A. That's correct.

11 Q. When do you plan on turning over the
12 reigns to Tom?

13 A. As fast as I can.

14 Q. Tomorrow?

15 A. Tomorrow if that was possible, yes.

16 Q. Okay. Do you have a projection?

17 A. It's not up to me.

18 Q. Okay.

19 A. It's not up to me. I will not leave the
20 company hanging out to dry.

21 Q. Understood. Okay.

22 So when you and Tom and Elliott feel
23 the -- it's time for the -- to complete the
24 transition, that's when it will happen?

25 A. That's right.

1 Q. Good enough.

2 How many depositions do you think you've
3 given for Elliott? Can you ballpark it?

4 A. What are we talking about: Just asbestos
5 or in general?

6 Q. Let's talk in general. Then we'll talk
7 asbestos.

8 A. Probably 20 or something like that. Maybe
9 a few more.

10 Q. Okay. And then how many for asbestos?

11 A. I think it's 14.

12 Q. Fourteen.

13 What did the other six in general have to
14 do with?

15 A. Product liability and one with the
16 government where we had a -- a contract dispute.

17 Q. Okay. So about five cases. When you say
18 product -- product liability, if I did the math
19 correctly, that would involve a physical injury to
20 someone that didn't have to do with asbestos?

21 A. I don't recall any of them being physical
22 injuries. I recall most of them being where a
23 product failed and they were suing us because --
24 suing Elliott because of the product failure.

25 Q. Okay. In your job as a consultant for --

1 well, strike that.

2 These 20 or so depositions, have they all
3 been as a consultant, or did you do some before you
4 retired in 2000?

5 A. Boy, I don't -- most of them I think have
6 been before I retired.

7 Q. Prior to retiring?

8 A. Maybe equal. Boy, it's close.

9 Q. That's fine. Okay.

10 So you've done some before you retired,
11 some since?

12 A. Yes.

13 Q. As far as you can tell, approximately half
14 and half, give or take?

15 A. Most of the ones since retirement -- in
16 fact, all of them I think since retirement have
17 been asbestos. The ones before retirement were all
18 product liability or contract dispute.

19 Q. Do you have a list of cases you've
20 testified in?

21 A. Yes. I have a nice list -- yeah. I think
22 I can produce a list.

23 Q. Okay.

24 A. I have a list for the asbestos cases.
25 That's been produced.

1 Q. Good enough. Okay.

2 A. But the non-asbestos ones I don't think I
3 have.

4 Q. That's fine. We'll just concentrate on
5 asbestos for now.

6 Okay. So if I made a request and the
7 attorneys for Elliott saw fit to supply it, you
8 could get a list together of the cases you've
9 testified in?

10 A. Yes. It may -- it may not -- it may need
11 the last one added on. It was just a couple weeks
12 ago.

13 Q. Okay. And that would include depositions
14 and trial testimony?

15 A. There has been no trial testimony.

16 Q. Do you keep copies of your transcripts?

17 A. Yes.

18 Q. Do you have those as well?

19 A. Yes.

20 Q. The same question: You could make those
21 available if everyone decided it was proper?

22 A. Yes.

23 Q. All right. You -- as an employee of
24 Elliott prior to 2000, did you have opportunities
25 to answer written questions regarding asbestos

1 litigation?

2 A. Yes.

3 Q. And the first time you had to answer
4 written questions, what did you do? How did you go
5 back and recreate history? I mean, correct me if
6 I'm wrong. Probably since the first time, it's
7 been easier because you've built on the base of
8 knowledge; is that right?

9 A. Correct.

10 Q. Okay. Let's just talk about the first
11 time. When is the first time you had to go answer
12 written questions, which we'll call
13 interrogatories?

14 A. Okay.

15 Q. Do you know what interrogatories are?

16 A. Yes, I do.

17 Q. When is the first time you had to answer
18 those on behalf of Elliott?

19 A. It was in the early '90s.

20 Q. Did that come along with what's known as a
21 request for production?

22 A. Yes. I believe it did at that time. I
23 don't remember the exact -- what was exactly
24 required at that particular time. It was a long
25 time ago.

1 Q. Okay.

2 A. But it was the early '90s that we answered
3 them.

4 Q. Sometime in the early '90s as an employee
5 of Elliott, it was your responsibility to answer
6 written questions and to find documents that were
7 responsive to the asbestos plaintiffs' requests and
8 questions?

9 A. Correct.

10 Q. Tell me how you went about doing that.

11 A. I searched my files. I searched the
12 Elliott files. I talked to people.

13 Q. Okay. Let's go through each of those, if
14 you don't mind.

15 A. Okay.

16 Q. Write them down. You started by
17 searching -- I don't know if you did these in this
18 order, but the first thing you told me you did was
19 search your files?

20 A. Yeah. Okay.

21 Q. Let's talk about that first. Well, let me
22 stop. Strike that. Let's start over.

23 Is there a certain order you'd like to go
24 in here as far as these three topics that would
25 help you explain it?

1 A. Just suit yourself.

2 Q. Okay. I didn't know if you did one before
3 the other and it would help.

4 A. Probably did them all simultaneously.

5 Q. Okay. Did any -- let's start with this.
6 Who assisted you in these three tasks: Searching
7 your files, searching Elliott's files, and talking
8 to people?

9 A. Generally, I did all three myself.

10 Q. Okay. Let's start with the first one.
11 Searched your own files: What did you do?

12 A. I looked through my files. I looked
13 through my drawers and anything that I had that was
14 responsive to what the questions were.

15 Q. Were those files kept in your physical
16 office?

17 A. Some of them were.

18 Q. And where were the rest?

19 A. Probably outside my office.

20 Q. Where are those files now?

21 A. Some of them are at home, and some of them
22 are at Elliott.

23 Q. Were the responsive documents in your
24 files marked and then shown to the legal
25 department; is that how it worked?

1 A. No. I don't think they were marked at
2 that point. I mean, I showed them to the legal
3 department and then they may have been marked
4 the -- that way.

5 Q. Okay. I guess what I mean by marked is if
6 you had a thousand documents and one of them was
7 responsive, you tabbed it some way so you could
8 find it and show it to them; is that right?

9 A. I probably pulled it.

10 Q. Okay.

11 A. Made a copy and gave it to the legal
12 department.

13 Q. Good enough.

14 The files that you have at home now, were
15 the responsive documents in those files?

16 A. In some cases. They would be, like,
17 organization changes that people ask who was in
18 some position at sometime.

19 Q. Okay.

20 A. They would be like that. They might --
21 generally, they weren't technical, what I really
22 classified as non-technical; and also, general
23 distribution stuff that they had. Sometimes it was
24 sales bulletins.

25 Q. If we wanted to look at those files, we'd

1 have to look at the files in your house and the
2 files that are -- were under your control at that
3 time but were left behind at Elliott; is that
4 right?

5 A. Uh-huh. Well, yeah, if you could find
6 them.

7 Q. Okay. Okay. You mean if we could find
8 them at Elliott?

9 A. Yeah. You could find them -- if --
10 because they've been scattered and rearranged and
11 stuff like that.

12 Q. Okay. You still have your files?

13 A. Yes.

14 Q. And they're still in tact; they have the
15 integrity they had when you were in your office?

16 A. Yeah. Pretty much, yeah. I'm sure
17 they've changed some and been added to and
18 subtracted from.

19 Q. And the files that you indicated have been
20 scattered, those were files you left behind when
21 you left Elliott?

22 A. Uh-huh.

23 Q. Is that yes?

24 A. Yes, some. And some I've still maintained.

25 Q. Okay. The files you left behind, as far

1 as you know now, do you know where they are or
2 who's in control of them?

3 A. Some of them.

4 Q. Okay. Can you just give me a little
5 overview of where they would be and who would have
6 them? You say some of them. Did they go to
7 different departments because different people took
8 on different responsibilities you had?

9 A. Well, maybe we have a problem is the sense
10 that I say my files is that I'm talking about my
11 department files.

12 Q. Yes, sir.

13 A. And they would be the files that had all
14 the service reports in them and things like that,
15 you know. And those files have been put in various
16 places. Some of them are still in the service
17 department. Others have been sent to archives and
18 stuff like that.

19 Q. Okay.

20 A. So they've been scattered when I say
21 scattered.

22 Q. Understood. Okay.

23 So they would be in the -- presently in
24 the service department or in archives?

25 A. Or gone.

1 Q. Or just gone?

2 A. Yeah.

3 Q. Is there a document retention policy that
4 would mandate that they be gone?

5 A. Elliott has a document retention policy.
6 It probably doesn't really cover some of those
7 areas that were -- that I'm referring to.

8 Q. Okay.

9 A. If it's a, you know, service order or
10 something like that, it could be discarded after a
11 period of time.

12 Q. And that -- hence, that's why you said or
13 gone?

14 A. Yeah. They don't keep all of the
15 paperwork relative to orders.

16 Q. Okay.

17 A. I mean, that retention policy says that
18 you have to maintain -- I think it's maintain by
19 what the IRS says you got to maintain. Some of
20 that stuff is for seven years, and some of it is
21 different periods of time. And then after that
22 period of time, it can be discarded.

23 Q. Okay. What I'll do is go through the
24 other two categories of ways you derive the
25 information the first time.

1 A. Okay.

2 Q. And then we'll talk about the retention
3 policy in a little more detail, if that's okay.

4 A. Okay.

5 Q. Come back to that.

6 Is that -- have you explained to me
7 basically what you did when you said you searched
8 your own files?

9 A. Yeah, and -- and the department files at
10 that particular time. I classify all the files in
11 the department that I had as my files.

12 Q. Understood. Okay.

13 And what department was that at the time?

14 A. I was -- I headed up product integrity,
15 but it was also the other departments that reported
16 to me like technical services, the instruction book
17 department, stuff like that.

18 Q. Okay. Can you just give me the list? You
19 say instruction book department?

20 A. Instruction book department, technical
21 services, service engineers, and the rewrite
22 department. And I think in 1990 I didn't have --
23 they had put the quality department under somebody
24 else by that time.

25 Q. Then let's move on then to search

1 Elliott's files.

2 A. Okay.

3 Q. What did you do to search Elliott's files
4 the first time you responded to written requests
5 for information in an asbestos case?

6 A. Well, Elliott files would have been the
7 files that have to do with the materials that we
8 use -- that Elliott uses. It has to do with the
9 engineering files that are kept on every job. I'm
10 not sure of all the questions that were asked at
11 that particular time.

12 Q. I understand.

13 A. So it's a little hard to say exactly where
14 I looked.

15 Q. I appreciate that. And I just sort of
16 want an overview of what you did.

17 A. Okay.

18 Q. These files that you searched that didn't --
19 weren't in your department, is that the first time
20 you had ever systemically gone through those files?

21 A. I'm not sure what you mean by
22 systematically gone through. Had I ever looked in
23 some of those files before?

24 Q. Yes. Why don't you tell me? Prior to the
25 early 1990s when you first answered these written

1 requests, what had you -- your job duties been in
2 relation to these files, these Elliott files?

3 A. Well, when a piece of equipment had a
4 problem, you had to find out what caused the
5 problem, and you would go search what the history
6 on that particular machine was. And that would
7 take you to a lot of the same files.

8 Q. Does that, in general, cover what you did
9 when you say you searched Elliott's files?

10 A. Yes.

11 Q. And then you said you talked to people?

12 A. Yeah.

13 Q. Who did you talk to?

14 A. A lot of people.

15 Q. Really?

16 A. Anybody that -- anybody I thought that
17 would have a piece of information I talked to. And
18 I can't say that particular case I talked to maybe
19 25 people, but I've been talking to people ever
20 since and I'm still talking to people.

21 So consequently, it's hard for me to
22 answer the question of who I talked to at that
23 particular point in time. I don't really remember.

24 Q. Okay. Fair enough.

25 At that time in the early 1990s, did you

1 only talk to people who were presently employed
2 with Elliott, or did you go find retirees or people
3 outside the company to talk to?

4 A. At that point in time?

5 Q. Yes, sir.

6 A. I don't think I talked to anybody outside
7 the company at that point in time.

8 Q. Now, let's -- does that about cover what
9 you did as far as -- well, strike that.

10 At that time in 1990 when you were
11 answering written questions regarding asbestos
12 litigation, do you recall if there were questions
13 about Elliott's knowledge regarding the health
14 issues --

15 A. Yes.

16 Q. -- related to asbestos?

17 A. Yes.

18 Q. There were.

19 Who did you go talk to about those?

20 A. I went and talked to the personnel
21 department.

22 Q. Do you remember who?

23 A. Jan -- I can't remember which name she was
24 at that time. It was either Garlock or Obrish.

25 Q. Garlock?

1 A. Garlock. And that's her name now. And it
2 may have been Jan Obrish at that time. I don't
3 know when she got married.

4 Q. O-b-r --

5 A. I-s-h, I think. I'm guessing.

6 Q. That was her maiden name?

7 A. Yes.

8 Q. All right.

9 A. She probably was married. I'm not sure.

10 Q. That's fine. We can find her. Does she
11 still -- does she still work for Elliott?

12 A. No.

13 Q. At the time she was -- what was her
14 position in the early 1990s?

15 A. She was head of the personnel or -- or --
16 what did they call it -- human resources.

17 Q. Why did you go to Jan Garlock?

18 A. Because she was the manager of the health
19 department. Or, I should say, she had the health
20 department and plant security and safety under her.

21 Q. Health department. What else?

22 A. And safety.

23 Q. Which includes plant security?

24 A. Yes.

25 Q. Tell me about your discussions with Jan in

1 the early 1990s.

2 A. She wasn't much help.

3 Q. Otherwise, she'd be here testifying today,
4 wouldn't she? She was the smart one.

5 A. Yeah.

6 Q. Okay. Did you go through specific
7 questions, or did you just go to her and say, you
8 know: Hey, when did Elliott first know that
9 asbestos might pose a problem or what? Something
10 else?

11 A. I probably did both. I had some definite
12 questions and I probably had asked some general
13 questions. And, you know, I don't remember exactly
14 what we discussed.

15 Q. That's fine.

16 A. And it may have not been just one time.

17 Q. Okay. Well, you have my word that I'm not
18 going to try to pin you down on what you all
19 discussed. I just wanted in general what you all
20 discussed.

21 I mean, if she was -- if we divide up the
22 type of questions into technical type questions and
23 health and safety type questions, she was the
24 starting point for health and safety type
25 questions?

1 A. She was probably one of the early ones,
2 yes, that I asked. I asked some of the people that
3 worked for her, you know. I went to them, too; you
4 know, as far as maybe with her and then went to the
5 people that reported to her that I thought would
6 provide me with some information.

7 Q. And who were they?

8 A. I think at that time the next one I went
9 to was probably Rudy Kusineck. And don't ask me
10 how to spell it, please.

11 Q. Kusineck?

12 A. Yeah, something like that. I can dig it
13 out, but I...

14 Q. That's fine. The court reporter will
15 probably get it.

16 Rudy Kusineck, what was his position?

17 A. He took care of the plant security and
18 also plant safety.

19 Q. So did you go to Jane Garlock?

20 A. Jan.

21 Q. Jan Garlock.

22 And Jan said -- gave you sort of the
23 employment tree; said Rudy would be the guy you
24 should probably go talk to?

25 A. She didn't have to give me that.

1 Q. You knew that?

2 A. It was on the charts and I knew who --
3 what the tree was.

4 Q. Okay. When you say on the charts, is
5 there a written -- at that time was there a written
6 chart that showed who did what for Elliott?

7 A. Yes.

8 Q. Would that still be available, kept
9 historically?

10 A. I don't know. I have some, but I don't
11 know if I have one for that particular time.

12 Q. You've kept some yourself in your files?

13 A. Right.

14 Q. All right. And to your knowledge, does
15 Elliott have those historically?

16 A. In 1990, probably not, because they went
17 through an LBO and they didn't publish that stuff
18 after that really very well.

19 Q. What is that document called:
20 organizational chart?

21 A. Yes.

22 Q. Randy Kusineck -- Rudy Kusineck was in
23 charge of plant security and plant safety?

24 A. I believe that's right at that point.

25 Q. All right. Explain those. What's plant

1 security and what's plant safety?

2 A. Well, plant security is the people that
3 take care of the guards at the various gates and
4 that sort of thing.

5 Q. Okay.

6 A. And he would be responsible if something,
7 you know, was missing or somebody raised a question
8 relative to something that disappeared.

9 And plant safety would be the handling of
10 materials in the plant and the safety -- working
11 conditions for the employees.

12 Q. He's ultimately responsible for making
13 sure that there's a safe work environment?

14 A. Probably, yeah. That was part of his job
15 title probably.

16 Q. Was somebody else responsible for safety
17 as to finish products?

18 A. That would -- I'm sorry. Go ahead.

19 Q. I hesitated, so fair enough. But I guess
20 I wanted to rephrase to make sure that a finished
21 product that went out to a purchaser was a safe
22 product?

23 A. He would probably have nothing to do with
24 that.

25 Q. Whose responsibility would that be?

1 A. That would be the engineers.

2 Q. In 1990 when you first looked into all
3 this and tried to gather this information regarding
4 written questions in asbestos litigation, who did
5 you go to on that issue, on the safety of the
6 finished product?

7 A. I don't remember. I don't.

8 Q. Do you remember if you went to anybody to
9 talk about that, or was that knowledge you had of
10 your own?

11 A. Probably I used my own knowledge.

12 Q. So nobody in the organization, as far as
13 you know, was specifically charged with that duty?

14 A. Regarding asbestos -- you know, we build
15 rotating -- or Elliott built rotating equipment
16 which can be very dangerous. And so consequently,
17 a lot of people had responsibility to make sure
18 that they took care of that issue. But the
19 asbestos side of things I don't think falls into a
20 different category totally.

21 Q. Okay. Let's go back to Rudy Kusineck for
22 a minute and talk about his health and safety
23 duties. Is that fair enough?

24 A. Okay.

25 Q. Can we talk about those for a moment?

1 A. Okay.

2 Q. What were his health and safety duties at
3 the plant?

4 A. I don't really know.

5 Q. Okay. What information did he give you
6 from the standpoint of being in charge of plant
7 health and safety in relation to asbestos?

8 A. Well, he would be the one that if we
9 worked on something in the plant that had to do
10 with asbestos, he would have been involved in
11 hiring the people or at least working with the
12 people that would have been doing that asbestos
13 abatement work and that sort of thing.

14 Q. Okay.

15 A. That would be one of his duties.

16 You know, if it was chemicals that were
17 being handled, he would be responsible to see that
18 they were safely handled.

19 Q. What sort of special training did Rudy
20 Kusineck have that qualified him for that job,
21 education or training?

22 A. I know he had some. I know that -- I
23 think he was an EMT, but I don't know how much
24 additional training he had in other things, no.

25 Q. EMT being emergency medical technician?

1 A. Yes.

2 Q. You don't -- do you know if he had an
3 advanced degree?

4 A. I have no idea.

5 Q. Who did he work for?

6 A. He either reported directly to Jan Garlock
7 at that point or just to somebody in between, and I
8 don't really recall at that point in time.

9 Q. How long had Rudy been in charge of health
10 and safety at the plant?

11 A. Probably ten years or so.

12 Q. And I'm -- I'm sort of getting ahead of
13 myself here because I said at the plant. What was
14 his position? Was it regarding a certain plant, or
15 was it company wide?

16 A. It was company wide.

17 Q. How many manufacturing facilities did
18 Elliott have?

19 A. It has primarily one, and that -- but it
20 had some smaller plants and it had some service
21 shops.

22 Q. So Rudy worked at the primary plant?

23 A. At the primary plant, right.

24 Q. And where is that again?

25 A. Jeannette, Pennsylvania.

1 Q. Do you remember what information Rudy gave
2 you regarding health and safety as it relates to
3 asbestos at the plant?

4 A. I don't remember at that point, no.

5 Q. Do you know who was in Rudy's position
6 before him?

7 A. I think John Szwast was the individual
8 before him.

9 Q. How long was John Szwast with the company,
10 do you know?

11 A. Probably ten years, maybe a little bit
12 shorter. I don't -- I don't remember exactly.

13 Q. That takes us back then to probably mid
14 1970s when John Szwast began?

15 A. Yeah. I think that -- yeah. He
16 probably -- the mid to the late '70s, I would
17 think.

18 Q. Who had the position of being in charge of
19 health and safety at the plant prior to John
20 Szwast?

21 A. Bart DeVinney.

22 Q. How long did -- when did Bart DeVinney
23 start in that position?

24 A. In the '60s. I don't know exactly.

25 Q. That's fine. That's fine. I understand

1 that.

2 I'm going to really test your memory and
3 ask you who had the position of being in charge of
4 health and safety before Bart DeVinney?

5 A. You've done -- used your whole -- I don't
6 know.

7 Q. That's all you've got. Okay.

8 A. That's too far back.

9 Q. I understand. That's fine.

10 A. You're really testing me.

11 Q. Fair enough. It's not -- you know, I'm
12 not trying to push you too hard --

13 A. I understand, but --

14 Q. -- so you just tell me if you don't
15 remember, like you're doing. That's fine.

16 A. Yeah. I know the people when I was there.
17 I don't really remember all the details in the
18 early '60s.

19 Q. Great. Fine.

20 Did you make any attempts, when you first
21 answered these written questions or since, to talk
22 to Bart DeVinney or John Szwast?

23 A. I don't think I ever talked to Bart
24 because he was gone and retired. And I think when
25 I looked in to talking to him, he was in a rest

1 home and the information that was given to me was
2 that he was not in a position to give good answers.

3 Q. Good enough.

4 A. Is that a pleasant way of saying it?

5 Q. Yes, sir. That's fine.

6 And how about John Szwast?

7 A. I think he left under some different
8 circumstances and I didn't try and contact him.

9 Q. So he might be a good witness for me, huh?

10 A. Who knows?

11 Q. I know. I'm teasing.

12 Where are their files, Bart DeVinney and
13 John Szwast? Any idea?

14 A. I've looked, and as far as I can tell you
15 is they're long gone.

16 Q. Okay. Do you know if either of these
17 gentlemen, Bart DeVinney or John Szwast, have any
18 specialized training in health and safety issues?

19 A. Not that I know of.

20 Q. Did Elliott ever employ an industrial
21 hygienist?

22 A. They have one that handles that now. And
23 he came on in the late '80s.

24 Q. Prior to the late '80s, did Elliott have
25 an industrial hygienist or anybody who did what he

1 does?

2 A. No.

3 Q. What does he do? What does this
4 industrial hygienist do?

5 A. Just what he says. He looks after the
6 plant and also the other shops and stuff like that
7 relative to the environment and handling of
8 materials.

9 Q. What's his name?

10 A. Bob Leyschock.

11 Q. Bob --

12 A. L-e-y-s-c-h-o-c-k.

13 Q. Bob Leyschock?

14 A. Yeah.

15 Q. Bob is the one and only industrial
16 hygienist that Elliott has employed?

17 A. That's one of his responsibilities, yes.

18 Q. What else does he do?

19 A. He looks after some other stuff, and I
20 don't really recall what that is. He's got a dual
21 title. I think it's environment and industrial
22 hygienist.

23 (Telephone interruption.)

24 THE VIDEOGRAPHER: Going off the record at
25 9:55 a.m.

1 (Discussion had off the record.)

2 THE VIDEOGRAPHER: Back on the record at

3 9:57 p.m.

4 BY MR. GIANARIS:

5 Q. I'm not sure if I asked you this, so I may
6 be repetitive, but John Szwast, did you end up
7 speaking to him?

8 A. No, I did not.

9 Q. You did not. That's right. He left the
10 company --

11 A. Right.

12 Q. -- on terms. All right.

13 Anyone else that you've consulted with
14 regarding the health and safety issues as they
15 relate to asbestos?

16 A. I probably talked to people relative to
17 materials and stuff like that, yes, and searching
18 for files and that.

19 Q. Okay. And when you say people and
20 materials, were you just trying to find out what
21 may have contained asbestos when?

22 A. That's correct, when and what contained
23 asbestos and the records that we had relative to
24 that.

25 Q. Okay. We'll get into that in a moment,

1 but let me -- and that's people and materials; is
2 that right?

3 A. Right.

4 Q. But let's concentrate for a minute just
5 on, you know, they say: Mr. Hackel, figure out
6 when Elliott, if ever, knew of the dangers
7 potentially posed by asbestos and the use of
8 asbestos-containing products. Who all did you talk
9 about on that issue?

10 A. Well, I started with something. I started
11 with the stuff out of my files.

12 Q. Okay.

13 A. Which was dated 1973. So I would have
14 asked for some questions if anybody had anything
15 before 1973.

16 Q. Did you find anything prior to 1973?

17 A. No. I never have.

18 Q. Did you ever get any information from
19 Elliott that Elliott had pre-1973 knowledge
20 regarding the potential dangers of asbestos and
21 asbestos-containing products?

22 A. No.

23 Q. You yourself as an employee of Elliott,
24 did you know prior to 1973 that asbestos or
25 asbestos-containing products posed a potential

1 health hazard?

2 A. No, I did not.

3 Q. What are we talking about this document in
4 1973 that you found in your files?

5 A. There's a letter that came out from Bart
6 DeVinney that said that asbestos can be hazardous,
7 asbestos fibers.

8 Q. Is this the letter which is right on top
9 here marked as Elliott Turbomachinery Bates
10 number 01?

11 A. That looks like it.

12 Q. That's it. Is that Bart DeVinney's
13 signature there at the bottom?

14 A. Yes, it is.

15 Q. It's a nice one.

16 Have you consulted with Bob --

17 A. Leyschock.

18 Q. -- Leyschock about asbestos and
19 asbestos-related health concerns?

20 A. Yes, I have.

21 Q. When did he join the company?

22 A. The late '80s. I'm going to say it may
23 have been '89.

24 Q. Did you talk to him right off the bat when
25 you had to first dig into the sort of corporate

1 memory of Elliott?

2 A. I don't really remember. I've talked to
3 Bob on many occasions, and I can't remember exactly
4 what we talked about in 1990.

5 Q. Okay. That's fair enough.

6 Do you know if Bob Leyschock -- is that
7 right?

8 A. Leyschock.

9 Q. Leyschock. I'm going to do that
10 phonetically. Leyschock.

11 Do you know if Bob Leyschock has done any
12 independent investigation regarding -- regarding
13 the health -- potential health hazards of asbestos
14 as it relates to Elliott's knowledge?

15 A. I don't think so.

16 Q. As to that segment of searching Elliott's
17 corporate knowledge, did you -- regarding health
18 and safety issues, did you talk to anyone else or
19 have you talked to anyone else since then?

20 A. I probably did. I can't really recall.

21 Q. Anybody ever give you any decent
22 information? Did they ever tell you anything you
23 didn't already know?

24 A. The material people have been helpful in
25 sorting out some of the materials and stuff like

1 that, yes.

2 Q. Let's leave that alone for just a minute.

3 A. Okay.

4 Q. Material people. We'll get to that in a
5 minute.

6 And just to make sure I understand, when
7 you say -- what I want to know is, you know, at
8 this point is who gave you information regarding
9 Elliott's knowledge, if any, pre '73 or since what
10 they knew about the dangers of asbestos and what
11 they did in relationship to that knowledge.

12 A. I don't think anybody had any information.
13 Nobody -- it was all -- keep in mind that this is
14 1990 and I think at that point the knowledge of
15 Elliott people relative to asbestos was very, very
16 little.

17 Q. Very little in 1990?

18 A. Very little in 1990 for the general people
19 in Elliott. I mean, nobody knew very much of
20 anything.

21 Q. And is that because they hadn't educated
22 themselves yet to litigation, the first time they
23 had been sued, or was that because the knowledge
24 had gone away because people had left, or some
25 other reason?

1 A. Some of both. Some of both. Some of the
2 people had left and it was something that they just
3 didn't know very much about.

4 Q. Since 1990 the people educated themselves
5 on this issue; is that right, at Elliott?

6 A. Very few.

7 Q. Very few.

8 Who has other than you and the fellow
9 you're training now?

10 A. I think you probably pretty well summed it
11 up.

12 Q. Okay.

13 A. I mean, yes, the attorney knows something
14 about asbestos, you know, our attorneys.

15 Q. The in-house attorney?

16 A. The in-house attorneys, and -- but I think
17 the rest of the organization knows very little
18 about it.

19 Q. Okay.

20 A. Occasionally they ask me a question. I
21 give them a little bit of information. They
22 know -- today they know it's hazardous.

23 Q. Okay. Let's skip to the material people
24 for a moment now.

25 A. Okay.

1 Q. You say you went to the material people to
2 get up to speed on Elliott's corporate knowledge
3 regarding asbestos; is that right?

4 A. No.

5 Q. Am I putting words in your mouth?

6 A. You're putting words in my mouth.

7 Q. Why don't you tell me what you went to the
8 material people for?

9 A. I went to the materials people to find out
10 where the asbestos was and, you know, where --
11 where it was in our machinery.

12 Q. And what did they do to determine that?
13 How would you go about doing that?

14 A. Well, they -- they helped me sort out the
15 material specs that Elliott has which identifies
16 where asbestos was used.

17 Q. Having been an engineer with the company
18 for almost 30 years by then; is that right?

19 A. I'd say I've been an engineer with the
20 company for 40.

21 Q. No. But 1990.

22 A. Oh, in 1990, 30 years, yeah.

23 Q. You'd been an engineer with the company
24 for 30 years.

25 You pretty much knew where asbestos was on

1 the -- on the machinery, didn't you, or no?

2 A. Did not.

3 Q. Did not. Okay.

4 Was it not common knowledge to you that
5 asbestos was used in or on Elliott machinery?

6 A. No. The difficulty was that I knew that
7 asbestos gaskets were the industry standard, but I
8 didn't know where in our machinery if Elliott
9 supplied the asbestos gasket in that particular
10 location.

11 Q. Okay.

12 A. I didn't know where our line was drawn on
13 what we supplied necessarily.

14 Q. Okay. Other than asbestos gaskets,
15 what -- if somebody came up to you, let's say, in
16 1973 when you first got this document that related
17 to the dangers of asbestos and said: Ross, where
18 do we use asbestos in our machinery, what would
19 have been the list?

20 A. I would have -- I would have said that we
21 used some of it in insulation. We used -- because
22 I was familiar with refineries that used lots and
23 lots of asbestos insulation. And I would have said
24 packing and gaskets.

25 Q. And since then, since 1973, you went to

1 the material people. You did a -- you made a funny
2 face. Tell me what --

3 A. I made a funny face because since 1973 --
4 I didn't do much very much in 1973.

5 Q. Right. I understand that. My question --
6 my earlier question was, you know, in 1973 what
7 would have been your reaction if somebody said:
8 Hey, in general, do we use asbestos on our
9 machinery. And at that time, you would have told
10 them probably packing, gaskets, and insulation.

11 A. Yeah. And I asked a question at that
12 time. But we weren't concerned.

13 Q. In 1990 and since, since you've gone to
14 the material people to determine where asbestos was
15 used in your machinery, did -- did the research
16 bear out your initial thoughts: Packing, gaskets,
17 and insulation?

18 A. Pretty much, yeah.

19 Q. Anything else?

20 A. I found out that some sealant uses
21 asbestos, had asbestos in it.

22 Q. Anything else?

23 A. Nothing else other than that, some seals.
24 Some seals did, I found out.

25 Q. So packing, gaskets, insulation, and

1 sealant?

2 A. Sealant and seals.

3 Q. Sealant and seals. We'll go through those
4 a little more in a minute.

5 You say in 1973 when you first saw this
6 document, which is marked -- Bates marked 01, which
7 is a letter entitled Safety and Health signed by
8 Mr. DeVinney, you say you asked a question at that
9 time but we weren't concerned?

10 A. I was --

11 Q. Explain that.

12 A. I was led to believe at that time that the
13 concern was with insulation.

14 Q. Who were you led to believe that by?

15 A. I believe I talked to Bart.

16 Q. In 1973 at least, we know Bart was in
17 charge of health and safety at the plant?

18 A. Right.

19 Q. Do you remember your conversation with
20 Bart, what it was about?

21 A. No, I don't.

22 Q. You -- but you do remember generally that
23 the company line was: We need to concern ourselves
24 with the health and safety of insulation but not
25 gaskets or packing, sealants or seals?

1 A. That was the general feeling I had, yes.

2 Q. What did Elliott do in 1973 in relation to
3 asbestos insulation on its products?

4 A. I don't think we did a lot. I don't know
5 of anything that was done really.

6 Q. When did Elliott discontinue asbestos
7 insulation on its machinery or products?

8 A. I'm not sure exactly when. It probably
9 was in the 198 -- 1980.

10 Q. 1980?

11 A. Probably, yeah. It may have been before
12 that. I don't really know.

13 Q. Who would know?

14 A. Somebody from Johns Manville.

15 Q. Explain that to me.

16 A. All of the asbestos insulation that we
17 used was supplied by Johns Manville.

18 Q. Okay. So is it fair to say when Johns
19 Manville stopped supplying asbestos insulation to
20 Elliott, Elliott stopped using asbestos insulation?

21 A. That's probably right.

22 Q. And there would have been no conscious
23 decision by Elliott prior to that to discontinue
24 the use of asbestos insulation?

25 A. No. I think the company depended on Johns

1 Manville for their expertise.

2 Q. What expertise did Johns Manville supply
3 to the company?

4 A. I think that they had been working with
5 the company from the '30s on insulation. They had
6 a good reputation with the company.

7 Q. Do you -- did you ever have any contact
8 with any representatives or employees from Johns
9 Manville?

10 A. No, I did not.

11 Q. In searching Elliott's corporate knowledge
12 regarding asbestos, did you ever seek out any
13 information from Johns Manville?

14 A. I looked.

15 Q. You looked within Elliott's files to see
16 if there was anything from Johns Manville?

17 A. Right.

18 Q. Okay. Did you find anything?

19 A. I think I found a -- some sales literature
20 on some of the products that we were using; very
21 minimal.

22 Q. Where would that material be?

23 A. I think that I found some of that stuff in
24 the engineering department in something they had.
25 I don't really remember where I found it. Not very

1 much.

2 Q. Where would it be now?

3 A. It would be in my files. And it may be
4 mixed with some of the stuff that I've gotten since
5 then.

6 Q. When you say mixed with some of the stuff
7 you've gotten since then, what are you talking
8 about?

9 A. Well, the attorneys have produced
10 additional material on Johns Manville.

11 Q. Okay. And you keep those in your files?

12 A. Yes.

13 Q. So if I requested any information that you
14 possess regarding Johns Manville, you could produce
15 that?

16 A. Yes.

17 Q. Did you ever seek out anyone from Johns
18 Manville to talk to about asbestos-related issues?

19 A. I personally have not.

20 Q. Did anyone at Elliott that you know of?

21 A. No one at Elliott has.

22 Q. Who has? You're indicating with your eyes
23 that someone has, but it's not you or somebody at
24 Elliott?

25 A. Attorneys.

1 Q. The in-house attorneys?

2 A. No, no. Outside attorneys.

3 Q. Okay. So Elliott's attorneys have gone to
4 Johns Manville to do what?

5 A. They've -- I know that some of the outside
6 attorneys have talked to Johns Manville Trust.

7 Q. About what?

8 A. About the materials that Johns Manville
9 supplied, their product.

10 Q. Okay. Do you know who they talked to at
11 the Johns Manville Trust?

12 A. No, I do not.

13 Q. What attorneys talked to people at the
14 Johns Manville Trust?

15 A. I'm not sure. I'm not sure what ones
16 talked to them. I may have been getting the
17 information secondhand, thirdhand.

18 Q. You weren't present when this happened?

19 A. I was not present.

20 Q. Do you know if it was -- you say it was
21 outside attorneys. Do you know if it was attorneys
22 from Johnson & Bell?

23 A. No, it was not.

24 Q. Okay. Was it -- were they in New York,
25 Washington, L.A., Chicago, any idea?

1 A. I think the one that I can recall was
2 probably San Francisco.

3 Q. And who was that?

4 A. Imai, Tadlock, Keeney, & Cordery.

5 Q. That's the name of the firm?

6 A. It's an attorney outfit.

7 Q. Okay. You said that real nice.

8 A. Is that wrong?

9 Q. No. Most people call them damn attorneys,
10 not them particularly, but that was good.

11 Do you think when they found you to
12 testify, they went and tried to find the nicest guy
13 at Elliott or the guy with the most knowledge?

14 A. The guy with the most knowledge.

15 Q. Okay. You just happened to be the nicest
16 guy, too?

17 A. Well, I ran the product integrity or
18 technical services. And the difficulty you guys
19 have is that most of you look at my resume and
20 can't believe that I've done some of the things
21 that I've done.

22 Q. Really?

23 A. I've had attorneys accuse me of not doing
24 things and then, after the fact, realized that I
25 did do them.

1 Q. Okay. I don't want to be in that group.

2 I didn't even ask for your resume, see?

3 A. Oh, okay.

4 Q. See, that's how trusting I am.

5 A. Well...

6 Q. Can I get it?

7 A. It's available.

8 Q. Okay.

9 A. It's available. But that's -- I think
10 that that's reason why I had the job I had is
11 because I was able to deal with people. And having
12 taken care of troubles around the company for
13 years, you have to have the right personality.
14 Otherwise, you don't resolve problems.

15 Q. I appreciate that.

16 A. So I try and be -- and I have a reputation
17 for smiling.

18 Q. Okay.

19 A. Don't feel bad.

20 Q. I do, too, and people say: What are you
21 smiling at. They always look at me like I'm --
22 what are you up to?

23 A. So...

24 Q. What did the attorneys from San Francisco
25 find out from the Johns Manville Trust?

1 A. I'm not sure of all of the things that
2 they found out, but they found out that Johns
3 Manville had changed some of their materials
4 earlier and eliminated some asbestos on some of the
5 insulation.

6 Q. Earlier than what?

7 A. Earlier than the '80s. Somewhere in the
8 mid '70s, as I understand.

9 Q. Did they -- did Elliott, through whatever
10 source, whether it was through attorneys or what
11 have you, ever get any information from Johns
12 Manville or Johns Manville Trust regarding
13 communications between Johns Manville and Elliott?

14 A. Not that I know of, no. I don't know of
15 any.

16 Q. Didn't find any documentation at Johns
17 Manville regarding the sales to Elliott?

18 A. No, not that I know of.

19 Q. Didn't find any documentation at Johns
20 Manville regarding possible health and safety
21 warnings sent to Elliott?

22 A. No. I never found anything.

23 Q. Okay. Have you ever been in contact with
24 Johns Manville Trust yourself?

25 A. No.

1 Q. Well, have you seen the documentation that
2 was gathered from Johns Manville Trust?

3 A. No. I don't think I've seen anything that
4 came from them.

5 Q. Is there documents that came from Johns
6 Manville Trust?

7 A. I don't know.

8 Q. Who -- if I wanted to find out what was
9 found at Johns Manville Trust regarding Elliott or
10 in relation to Elliott's asbestos litigation, who
11 would I talk to?

12 A. I'm not sure you would find anything out
13 because I think the questions were relative to
14 materials that were in certain types of Johns
15 Manville products. And that was the extent of it.
16 I don't necessarily believe that the Elliott name
17 was ever mentioned.

18 Q. Okay. So basically someone was going back
19 and said: Okay; we know we used Johns Manville
20 asbestos historically and wanted to find out when
21 Johns Manville took asbestos out of their
22 insulation and how you'd prove that at trial; is
23 that right?

24 A. Well, I think that, you know, we had
25 bought stuff with a certain spec and we used a

1 certain type of Johns Manville product that had a
2 material number associated with it. So I think we
3 went back and asked: Did this material contain
4 asbestos and when did Johns Manville discontinue
5 putting asbestos in that material.

6 Q. Okay. And you found out that as to some
7 of your spec numbers, Johns Manville stopped
8 putting asbestos in their materials sometime before
9 1980, perhaps in the mid '70s; and as to some other
10 specifications, Johns Manville stopped putting
11 asbestos in their materials in about 1980?

12 A. I don't really know the answer to that
13 second part. I know the answer to the first part
14 is that I believe that some of the materials were
15 changed and asbestos was taken out of them in the
16 mid 70s. I don't know the answer to the second
17 part.

18 Q. Okay. If I wanted to find out what the
19 universe of asbestos insulation that was ordered
20 from Johns Manville, type of asbestos insulation
21 that met certain Elliott specifications, was, let's
22 say, from 1960 to 1980, where would I look or who
23 would I talk to? Who would have that information?

24 A. There -- I don't know how to answer that
25 because basically Elliott is a builder of custom

1 equipment and every job is handled as a custom
2 piece of equipment. So consequently, it can vary
3 from job to job. So I don't know how to answer
4 your question.

5 Q. Where would you start if you had to gather
6 that information?

7 A. The engineering files.

8 Q. So is there a file for each piece of
9 custom equipment that's ever been produced by
10 Elliott?

11 A. At least one.

12 Q. At least one file.

13 A. (Nodding head.)

14 Q. So let's say you wanted to find out --
15 let's just take General Motors in Indianapolis, for
16 example.

17 If you wanted to find out how a certain
18 piece of equipment that was ordered by General
19 Motors in Indianapolis on a certain date was put
20 together, you would go to the engineering file
21 regarding that particular piece of equipment?

22 A. Yes.

23 Q. And that would -- somewhere in that file,
24 it would tell -- if there was asbestos insulation
25 on that piece of equipment, it would tell you: Use

1 Johns Manville and a certain spec number?

2 A. Yep.

3 Q. Okay. Has anyone ever gone through all of
4 Elliott's files and pulled out those numbers to
5 determine what asbestos insulation was used on what
6 equipment where?

7 A. The difficulty is that not all the files
8 exist anymore.

9 Q. Okay.

10 A. A lot of the files exist, but Elliott's
11 been building equipment since 1910, 1920 and some
12 of the files no longer exist.

13 Q. As to the files that exist, has that been
14 done?

15 A. No.

16 Q. It has not.

17 So it's an as-needed, need-to-know basis?

18 A. Absolutely.

19 Q. All right.

20 A. That's my job.

21 Q. So if there's a particular lawsuit arising
22 from a particular location, you go back and search
23 the files and determine -- and see if there's a
24 file on the equipment sold to that location?

25 A. Do my best.

1 Q. And you pull that file and research the
2 file and determine what products were sold and if
3 they contained asbestos- --

4 A. Uh-huh.

5 Q. -- containing products?

6 A. That's right.

7 Q. Okay. And then how do you yourself
8 determine that if a certain gasket or a certain
9 type of insulation did or did not contain asbestos?

10 A. By looking at the materials that are
11 associated with that, the material specs that we
12 talked about earlier.

13 Q. So by material specs, what do you mean?
14 Explain to me what that is.

15 A. Well, when Elliott buys -- I'll start out,
16 Elliott makes a drawing for a part. If the part is
17 just homogenous, all the same material, then that
18 part would contain a material spec that's
19 associated with that.

20 If it was, you know, a -- if it was an
21 asbestos gasket in 1965 or something like that,
22 1975, it would probably be a -51 material.

23 Q. Okay.

24 A. And I would know that a -51 material was a
25 compressed asbestos gasket with a rubber binder.

1 Q. Good enough.

2 A. Does that help?

3 Q. Yes, sir, it does.

4 How about insulation; how would you know
5 if the insulation contained asbestos or not?

6 A. The insulation that contained asbestos
7 never had a spec number, a material spec number per
8 se. It had basically just used Johns Manville's
9 numbers.

10 Q. Okay. So Johns Manville was your
11 exclusive supplier of insulation for your products?

12 A. No.

13 Q. Okay.

14 A. Asbestos insulation, yes.

15 Q. Okay. Who else supplied insulation?

16 A. The list is fairly long. I think there
17 was -- Johns Manville supplied non-asbestos
18 material. There was others that supplied material.
19 I think Owens Corning. There was some others. And
20 today, there's been a whole raft of new people.

21 Q. Owens Corning did not supply asbestos --

22 A. No.

23 Q. -- insulation?

24 A. Not to us, no.

25 Q. So rather than -- let's just take the

1 period of time prior to 1980.

2 A. Okay.

3 Q. We'll use that date loosely. I'm not
4 locking you into 1980, but prior to 1980 when
5 Elliott was still using asbestos insulation on
6 their products, rather than writing a specification
7 for insulation, you would just say: Johns Manville
8 blank. Is that right?

9 A. That's right.

10 Q. And Elliott knew at that time that they
11 were specifying asbestos-containing insulation?

12 A. I believe so.

13 Q. Explain to me, please, sir, sort of the
14 universe of applications of asbestos -- Johns
15 Manville asbestos-containing insulation on Elliott
16 equipment. What was it used for? Was it used to
17 insulate the steam chest on turbines? Was it used
18 to insulate hot water pumps? Or what did Elliott
19 use asbestos insulation for?

20 A. It used it on primarily the steam chests
21 and the hot area of the large steam turbines.

22 Q. Anything else?

23 A. On some of the other special equipment
24 that they built over the years where it was high
25 temperature. It was generally considered a

1 high-temperature material.

2 Q. Okay. Was this pre-formed block
3 insulation, pipe insulation, mud, all of the above?

4 A. They used block insulation, and then they
5 used the cement that contained asbestos, yes,
6 filled in between the blocks.

7 Q. How about pipe covering,
8 asbestos-containing pipe covering?

9 A. A few cases where we used some pipe
10 covering. It was associated with the piping that
11 would be on the inlet to a turbine when we were
12 required to supply a couple pieces of pipe.

13 Q. That would be applied during installation
14 of the turbine, or would that leave the factory
15 already insulated, the pipe?

16 A. All the asbestos insulation for that type
17 of equipment was shipped -- the equipment was
18 shipped in a broke-down form, you know, where it
19 had a bunch of pieces, and then the insulation
20 would be shipped in a box and it would be installed
21 by the contractor or user, whoever was putting the
22 equipment together.

23 Q. Had it already been cut to fit?

24 A. In the case of pipe covering, it was
25 standard relative to a certain size, you know. It

1 came in a box, circular formed that you could put
2 it around a pipe.

3 In the case of the stuff that went on the
4 steam turbine, it was generally a block, a couple
5 inches thick and four inches wide and 36 inches
6 long or whatever it was, block insulation, and
7 you'd put blocks around the machine.

8 Q. So would it come in a -- excuse me -- in a
9 sealed box from Johns Manville and then be
10 forwarded to the end customer sealed, or would it
11 be taken out and somehow manipulated prior to being
12 sent to the customer?

13 A. They never opened the boxes in the
14 factory. If they -- if it did come to the
15 factory -- it could have been sent direct from
16 Johns Manville to the user. But if the user wanted
17 it sort of like a single shipment, then it would
18 come into the factory and go out with the rest of
19 the boxes.

20 Q. Okay. You would just make sure that
21 there was a -- or Elliott would make sure there was
22 enough block insulation to do the job, there might
23 be some left over, but they didn't take it out and
24 number the pieces and -- to show them where to put
25 it on?

1 A. No numbering of pieces. It was in a
2 block. All the blocks looked the same as far as I
3 know.

4 Q. Understood.

5 It would be up the insulator or someone at
6 the end user's facility to decide how to apply it
7 and where?

8 A. My feeling is that many times they didn't
9 even use it.

10 Q. Is that right? Why is that your feeling?

11 A. It was lost.

12 Q. Could you explain that?

13 A. It's one of the last things you do on an
14 installation.

15 Q. Uh-huh.

16 A. And if you've ever been on a construction
17 site with a lot of equipment going in, stuff -- a
18 lot of stuff gets misplaced and those boxes would
19 get lost very easily or damaged.

20 Q. Okay. Well, would -- for the turbine to
21 operate correctly, would it need to be insulated
22 with some other insulation?

23 A. Generally, it probably wasn't insulated
24 when it was first started up and checked out. It
25 would have been insulated maybe after the first run

1 or something like that.

2 Q. Okay.

3 A. So it has nothing -- the insulation is
4 there for a little bit of performance problems, but
5 it's pretty minimal. It's more there for
6 protection of people and the environment that it's
7 in. It's in a building. It keeps the building
8 from getting overly hot. It keeps the people from
9 touching the hot pieces.

10 Q. Okay.

11 A. So that, to me, is the prime reason why
12 you insulate the equipment: To protect it.

13 Q. Let me make sure I have this correct.
14 There's three reasons, the two prime reasons being
15 to control the temperature in the environment, to
16 protect people who may come in contact with the
17 steam chests; and three, because it has some
18 minimal performance value?

19 A. Yes.

20 Q. Okay. And could a steam turbine operate
21 for years properly without being insulated?

22 A. Yes.

23 Q. Elliott checked out their steam turbines,
24 operated them before they were sent to the
25 customer; is that right?

1 A. Yes.

2 Q. Did Elliott insulate them whey they --
3 when they operated them?

4 A. Generally some -- I would classify it more
5 as protection for the workers so they put some
6 insulation and protection -- temporary protection
7 on the equipment.

8 Q. Explain that to me, please.

9 A. Well, it depends on the year that you're
10 talking about. Today they would basically cover
11 the machine with a blanket and the area where the
12 workers might be.

13 Q. Let's talk about historically back in the
14 '60s and '70s. How would Elliott check out a
15 turbine before they sold it to a customer as far as
16 the insulation goes?

17 A. Didn't do anything relative to the
18 insulation. The insulation was there just strictly
19 for the protection of the test floor people. It
20 had nothing to do because you didn't -- it
21 didn't -- you didn't check the performance that
22 close.

23 Q. Okay.

24 A. So it had nothing to do with the
25 performance.

1 Q. All right. So the minimal performance
2 value that the insulation is used in relationship
3 to wasn't a real concern; when you're just testing
4 the machine, you wanted to make sure it started and
5 worked properly?

6 A. Yeah. The prime concern was that when you
7 put all these pieces together that the machine
8 rotated and didn't vibrate.

9 Q. Okay.

10 A. And that you had enough oil to the
11 bearings and all that sort of thing. They would
12 check bearing temperatures and that sort of thing.

13 But as far as the performance, the amount
14 of steam that it was using for a given horsepower,
15 it was not a consideration generally on the test
16 floor.

17 Q. So Elliott didn't have a box or a crate of
18 pre-cut Johns Manville insulation that they would
19 slap on every one when they ran it in the shop?

20 A. No, they did not.

21 Q. They didn't have an asbestos blanket they
22 put over it?

23 A. Depending on the year and what they had
24 and how much they provided, did they use some
25 asbestos insulation on the floor? In some years,

1 probably. I can't tell you exactly what year they
2 used it in. I don't know that.

3 Q. Did asbestos gaskets, packing, sealants,
4 or seals have to be -- any of the above have to be
5 installed by the customer the first time the
6 equipment was operated?

7 A. I don't think -- the sealant, the packing,
8 the seals would not be -- would have to be touched
9 by the customer. The customer may have to put in a
10 gasket because the piping was shipped separately
11 and they would have to make up that piece of pipe,
12 and that would require a gasket to be installed.

13 Q. Okay. Would that be the pipe coming from
14 the boiler into the turbine and then leaving the
15 turbine? Is that what you're talking about?

16 A. Generally not that piping. That piping
17 was supplied generally by the contractor or
18 customer. The piping that I'm thinking about is
19 the small steam piping that would go to the seals
20 on the machine. Maybe the piping that went to the
21 gland condenser that was supplied by Elliott.

22 Q. Were those gaskets -- those
23 asbestos-containing gaskets shipped with the
24 turbine?

25 A. Yes.

1 Q. Or whatever other machinery?

2 A. Yes. It was shipped in the box with the
3 rest of the piping bolts and everything that was
4 required to connect that stuff up.

5 Q. Were they pre-cut?

6 A. Yes. They were pre-made, yeah.

7 Q. So they'd already been designed to fit the
8 flange?

9 A. Right.

10 Q. Or the gland or what have you?

11 A. Right.

12 Q. Was any gasket fabrication required during
13 the initial installation of a piece of Elliott
14 equipment on the customer's floor?

15 A. Not that I know of. He might make one if
16 he lost some of the gaskets.

17 Q. Okay.

18 A. You know, I can't answer that question
19 really. Generally, he shouldn't have to. Let's
20 put it that way. He might have to supply some
21 gaskets for his own connections.

22 Q. Got it.

23 So from Elliott's point of view, though,
24 the machine was sent with the gaskets necessary
25 to -- for it to run other than, you know,

1 connecting it to the customer's equipment?

2 A. Yeah. He's got to do the installation.

3 He's got to provide the steam.

4 Q. Understood.

5 Did Elliott ever warn its customers
6 regarding possible dangers of asbestos-containing
7 products supplied with its equipment?

8 A. Not that I'm aware of.

9 Q. Why not?

10 A. Didn't think it was a problem.

11 Q. And I'm not trying to be argumentative
12 here, but can you just explain to me to why Elliott
13 didn't think it was a problem?

14 A. Well, the gaskets we felt were pretty --
15 you know, non-friable. And as a consequence, there
16 was -- there was no real damage or problem relative
17 to handling a particular gasket. I mean, normal
18 care would suffice.

19 And the same with the packing is that the
20 packing is -- is lubricated and such that I handled
21 a lot of this stuff over the years.

22 Q. I understand.

23 Have you ever told your doctor that you
24 worked with asbestos and asked to be checked out?

25 A. No.

1 Q. It's never concerned you?

2 A. No.

3 Q. You wouldn't do it today without taking
4 safety precautions, would you?

5 A. No. I think that it would be prudent if I
6 took the precautions today. I'm not saying I
7 wouldn't handle the stuff, but I would be cautious.

8 Q. Try not to create any dust?

9 A. I was always concerned in that particular
10 area, I think, without knowing what the
11 consequences were.

12 Q. Okay.

13 A. If you were on a job and they were working
14 on the insulation and there was a lot of dust in
15 the area, I had concerns not only for the workers,
16 but also for the equipment, and you would pull the
17 people out of the area.

18 Q. I understand your answer as to gaskets and
19 packing. What about as to insulation; can you
20 explain your statement that Elliott didn't think
21 there was a problem in regard to
22 asbestos-containing insulation?

23 A. Well, you had to follow the proper
24 protection. And it was a -- was the good material
25 to be using for the service that it was in for the

1 high temperature service and that sort of thing.

2 So like many things that Elliott deals in,
3 you have to follow the proper protection. You
4 know, we handle -- or Elliott handles -- most of
5 their equipment handles gases that are very
6 volatile.

7 Q. Yes, sir.

8 A. And so consequently, you don't go around
9 propane and ethylene with a match or a lighter.

10 Q. Right.

11 A. So, you know, there's lot of materials
12 that are involved that are hazardous. And with
13 proper precautions, you can work with them.

14 Q. And that includes asbestos-containing
15 insulation?

16 A. Yeah, I think so.

17 Q. So when Elliott -- starting in, let's just
18 say, in 1973, when Elliott shipped
19 asbestos-containing insulation to its customer, did
20 Elliott in any way communicate what it thought the
21 proper precautions were regarding that
22 asbestos-containing insulation?

23 A. No, it did not.

24 Q. You made a statement earlier. You said in
25 general that you had always been concerned about

1 dust, even though you didn't know that
2 asbestos-containing dust had any kind of special
3 dangers?

4 A. Right.

5 Q. And your statement was if you were on a
6 job where insulation was being cut and there was a
7 lot of dust, you were concerned not only for the
8 equipment, but for the people and would pull people
9 out of the area?

10 A. I would recommend it. They would
11 basically -- we would try and cover the equipment,
12 the bearing housings and things like that, and
13 discontinue work until the work -- the insulators
14 got done doing what they were doing.

15 Q. Okay. Are you referring to the insulators
16 working on the Elliott equipment or working on
17 other piping around where you all were working on
18 the Elliott equipment?

19 A. On equipment -- on the piping around
20 where -- if you were in a refinery, the steam
21 turbine might be located on a platform and there
22 might be piping all overhead, and the insulators
23 would be up on that piping making a horrible mess.

24 Q. I see.

25 So you obviously didn't want that horrible

1 mess inside of your turbine?

2 A. That's right.

3 Q. And you didn't want your people, your
4 Elliott people on that job, unnecessarily exposed
5 to --

6 A. It wasn't necessarily Elliott people. It
7 would be -- Elliott provided people very seldomly,
8 but it would be the people that -- that were
9 provided by the user or contractor that would be
10 doing the work. And you would -- we were there as
11 a supervisor in a technical position, and we would
12 say: This isn't a good thing. And we suggested we
13 shut down and get out of the area until the
14 insulators get done doing what they're doing.

15 Q. Okay. So Elliott, as a supervisor in a
16 technical aspect, would sort of take it upon
17 themselves to protect all the workers on the job
18 the best they could from dust exposure?

19 A. I wouldn't say all the workers. The
20 workers that were working with the individual
21 maybe. And I'm not saying all of them. I mean,
22 you're getting the picture too big.

23 Q. Okay. So you wouldn't get on a bullhorn
24 and say: Shut this job down. But if you were at a
25 refinery with two pipefitters from the refinery,

1 you say: Hey, let's go get a cup of coffee until
2 they're finished doing what they're doing?

3 A. Probably a couple millwrights as opposed
4 to pipefitters.

5 Q. Okay.

6 A. It probably would be millwrights who would
7 be working on the equipment and that sort of thing.
8 If it was pipefitters, you probably told them what
9 to do and you'd get out of the area yourself.

10 Q. I got you.

11 So if it was a couple of millwrights you
12 were working with, you guys -- you'd say: Let's
13 just get off the job; let the dust die down; then
14 we'll come back and do our thing?

15 A. Right. Cover it up and we'll come back.

16 Q. And that was for -- to protect the
17 equipment and for general protection as to dust?

18 A. Right, because dust in the bearings does
19 an awful job on bearings. It's -- it's not a good
20 lubricator.

21 Q. And at the same time, did you know dust in
22 the lungs wasn't a good thing as well? Is that
23 right?

24 A. I think that that's probably a given,
25 yeah.

1 Q. Was that company policy for Elliott?

2 A. No.

3 Q. That was your personal policy?

4 A. My personal policy.

5 Q. When do you think the first time was that
6 you actually walked away from a job for a little
7 while along with the millwrights and said: Hey,
8 let's wait for the dust to die down before we go
9 back in and do our work?

10 A. Probably in the '60s.

11 Q. And that was in relation to pipe covering
12 going on around you?

13 A. Probably, yeah.

14 Q. Have you ever been on a job where Elliott
15 equipment was being insulated?

16 A. Not that I can recall, but I may have
17 been. I just don't recall ever being there. It
18 wouldn't -- there would be no need for me to be
19 there at that particular point in time. And I just
20 can't think of one.

21 Q. In your estimation, is insulating a piece
22 of Elliott equipment a dusty job?

23 A. No. I don't think so.

24 Q. Why is that?

25 A. Because the block insulation, when you're

1 putting it on new, is not dusty. And the cement
2 is, you know, a paste form and it would not be
3 dusty. So I don't think that it would be a dusty
4 operation to install insulation on a turbine.

5 Q. Did the cement that was supplied by
6 Elliott to its end users come pre-mixed, or was it
7 a dry form and you mix it with water on the job?

8 A. It was a dry form of mix. It was supplied
9 in, I guess, a bucket or a bag by Johns Manville.

10 Q. And it was poured into a bucket and water
11 was added to it?

12 A. I guess that's what they did.

13 Q. Have you seen that done?

14 A. No, I haven't.

15 Q. No.

16 A. I can't recall any.

17 Q. I mean, generally on a job, have you seen
18 insulators doing that type of work: Mixing up
19 asbestos-containing cements?

20 A. No. I don't recall seeing that. They
21 probably -- they didn't do it at probably the job
22 site. They probably did it nearby. And by that, I
23 mean as the equipment was here, they might be 50 or
24 100 feet away or something like that. I didn't pay
25 any attention to them.

1 Q. Did the asbestos-containing block
2 insulation have to be scored or cut?

3 A. Occasionally, yes.

4 Q. Okay. And how was that done?

5 A. Probably with a sharp knife. It could
6 have been a saw of some sort, but I think for the
7 most part, it could have been cut with a sharp
8 knife.

9 Q. During the initial setup of the Elliott
10 equipment at the customer's site, was an Elliott
11 representative on site and in charge?

12 A. He was probably on site. I'm not sure
13 what you mean by in charge.

14 Q. I don't know either. Why don't you tell
15 me? He was on site. Why don't you -- what were
16 his responsibilities, the Elliott representative?

17 A. He was the technical supervisor.

18 Q. What does that mean?

19 A. That meant that if they had questions or
20 he would tell them how to -- he would like the
21 machine installed and set up and that sort of
22 thing, where to connect the pipes to and how to
23 align the equipment.

24 And if he -- if they connected the pipes
25 to it and it was pushing the machine out of

1 position, then he would make them -- say: Hey, you
2 got to fix that piece of pipe; it's not proper.

3 Q. What is that person's position called, the
4 fellow who would go out to the customer?

5 A. Service representative.

6 Q. Are they engineers?

7 A. Sometimes.

8 Q. Do they have special training?

9 A. They get training, yes. And most of them
10 are good mechanics.

11 Q. Okay. Who owns the turbine at the time
12 it's being installed? Does the customer own it, or
13 does Elliott still own it?

14 A. The customer owns it.

15 Q. If a customer is doing something that the
16 service representative considers to be improper in
17 relationship to the installation of the turbine,
18 does he have the power to shut it down and say:
19 Don't do that; you're going to mess up the turbine
20 and our warranty is not going to cover it or that
21 kind of thing?

22 A. He can say all those things, but he
23 doesn't have the final word. The final word is
24 that he has the capability of writing a memo to the
25 customer and saying: I don't like what you're

1 doing and you could be a void in the warranty and I
2 take no responsibility.

3 And if the customer -- if it's a serious
4 safety violation, then my instructions would have
5 been leave the job.

6 Q. Walk away from the job?

7 A. Walk away from the job.

8 Q. Have you ever seen that happen?

9 A. Oh, yeah.

10 Q. Many times?

11 A. Not many times.

12 Q. But it has happened?

13 A. It has happened.

14 Q. Can you give me an example of a serious
15 safety violation where a service representative has
16 been authorized to walk off the job?

17 A. An example of that would be where the
18 customer installed the steam turbine and connected
19 it up to an exhaust line with no safety precautions
20 in the exhaust line such that he could put pressure
21 on the whole machine, to the inlet pressure of the
22 machine.

23 In that particular case, I would
24 definitely say: Leave the job site; we won't
25 start -- I won't be here when you start up.

1 Q. Because it posed an immediate and pressing
2 health concern, safety concern?

3 A. Safety concern, yes.

4 Q. Okay. So basically that was that fellow's
5 job to make it known to the customer: Hey, this
6 thing is dangerous; you shouldn't be doing it like
7 this; I recommend you do it another way?

8 A. Right.

9 Q. And if the customer then said: Tough
10 luck; it's my machine, he was then to walk off the
11 job?

12 A. Yeah: I'm leaving, I'll see you.

13 Q. Okay.

14 MR. GIANARIS: Tape change. We'll go off.

15 THE VIDEOGRAPHER: Going off the record at
16 10:50 a.m.

17 (A recess was taken.)

18 THE VIDEOGRAPHER: Back on the record at
19 10:54 a.m.

20 BY MR. GIANARIS:

21 Q. If a service representative had a safety
22 concern on a job site that he didn't feel
23 comfortable handling himself or wanted to discuss
24 it with somebody at Elliott, would you be the
25 fellow he would have called?

1 A. Or one of the people that worked for him
2 probably at that time. And we're talking now the
3 time when from 1970 to -- the late '70s until the
4 early '90s probably.

5 Q. Okay. How about in the 1960s and 1970s;
6 who would that service representative have called,
7 what department?

8 A. He would call the service department, the
9 service engineer. In the '60s, there was various
10 engineers, people that handled that.

11 Q. How about in the 1970s?

12 A. The same would be the case, yeah.

13 Q. And 19- -- in approximately 1980, you took
14 over that department?

15 A. Yeah. First I took over technical
16 services. And there was a service engineering
17 department. They would probably go to the service
18 engineering department first. And if the service
19 engineers had a problem, they would come to tech
20 services.

21 Q. In the 1970s, let's say for just a moment,
22 if a service representative had a safety concern in
23 the field, would you have known about it?

24 A. Not necessarily, not me personally
25 probably.

1 Q. Would there be records of those concerns?

2 A. Probably. It depends on how serious a
3 concern is and what was done. If he had a concern
4 and it was taken care of, there probably was no
5 record.

6 Q. If you had to shut down a job, there'd
7 probably be a record?

8 A. Yeah, probably.

9 Q. Do you ever remember that happening in the
10 1970s?

11 A. I don't remember.

12 Q. If it had happened in the 1970s, would you
13 suspect you would know about it?

14 A. If it shut down a job?

15 Q. Yes, sir.

16 A. I may have known about it at the time,
17 yeah.

18 Q. As you sit here today, you don't have any
19 recollection of that?

20 A. I don't recall today.

21 Q. How many service representatives -- well,
22 let's take it decade by decade.

23 In the 1960s, how many service
24 representatives do you think worked for Elliott?

25 A. I don't know what the number was.

1 Q. More than a hundred?

2 A. Probably not. I don't think there was
3 ever more than a hundred.

4 Q. Did they have a -- normally have an entire
5 state or a region of the country? Or how did that
6 work?

7 A. They -- we normally tried to -- Elliott
8 normally tried to have them work in the area where
9 they were living.

10 Q. Okay.

11 A. That wasn't always a perfect case, but
12 there was -- that was the effort.

13 Q. Okay. That didn't quite answer my
14 question, but let's see if we can go about it a
15 different way.

16 How did -- how was the country divided up
17 as to service -- were there service regions?

18 A. Depends on the year you're talking about.

19 Q. Let's talk about the 1960s, if you know.

20 A. In 1960s -- I'm going to say in the late
21 '60s, there was regions.

22 Q. What were those regions? Or how many of
23 them were there? Let's start there, decide if we
24 need to know what they were.

25 A. I believe there was -- in the United

1 States, there was, like, five regions at that
2 point.

3 Q. And how many service representatives per
4 region?

5 A. That varied. It depended on the region,
6 on how much equipment was in that particular
7 region.

8 Q. Were there salesmen as well?

9 A. Yes.

10 Q. So would a region have a group of service
11 representatives and a group of salesmen?

12 A. Yes.

13 Q. Anything else dedicated to a region?

14 A. Not that I can think of at that point, no.

15 Q. Would Elliott have a -- in each region
16 would they have a physical facility where equipment
17 was sent to be worked on or there were mechanics
18 that came out of or anything to that effect?

19 A. In what year are we talking about?

20 Q. We're talking about in the 1960s.

21 A. In the 1960s, probably not.

22 Q. That developed at some time?

23 A. Yeah. That developed later.

24 Q. So in the 1960s, the five regions would
25 have a group of sales representatives and service

1 representatives?

2 A. Correct.

3 Q. The same thing in the '70s?

4 A. It changed in the '70s to some extent,
5 yeah.

6 Q. What was the change?

7 A. They -- they started to centralize, pull
8 things back into the factory.

9 Q. And what did that mean practically?

10 A. They had some -- they reduced the number
11 of regions and sales offices and things like that.
12 I can't remember the exact year when all this
13 transpired.

14 Q. Okay. Give me your best estimate in the
15 1970s how many service representatives were in the
16 United States for Elliott at any given time.

17 A. Probably 75. That may be a little bit
18 high. Maybe 50 is a better number.

19 Q. Okay. In the 1970s, give me your best
20 estimate of the number of sales representatives at
21 any given time in the United States?

22 A. That was probably 75 salesmen.

23 Q. If Elliott had a concern about a possibly
24 faulty piece of machinery, something wrong with its
25 machinery, would it use the sales representatives,

1 the service representatives, or another manner to
2 get that information to its already existing
3 customers?

4 A. It could be all of the above. A customer
5 would have a concern, and he would express it to
6 the service rep, to the salesman, whoever.

7 Q. If the customer had the concern?

8 A. Well, that's generally where it came from.

9 Q. Let's say -- has it ever happened in the
10 time you've been at Elliott that Elliott
11 determined: Hey, there's something in these -- you
12 know, in a machine -- like I get a notice in the
13 mail that there's a bad ball joint on my car, like
14 a -- did that ever happen with Elliott?

15 A. Elliott doesn't build cars.

16 Q. Okay.

17 A. It's all custom equipment, so I think that
18 you're really comparing apples and oranges.

19 Q. Okay.

20 A. So I -- have we ever had a problem where
21 we knew that we had a part that was of concern?
22 Yes. And we made an effort to change it out. Many
23 times, it was just because the part was -- didn't
24 last as long as we thought it should.

25 Q. Okay.

1 A. Okay.

2 Q. Yes, sir.

3 A. And what I'm thinking of is the seal leaks
4 a little bit too much and we know that there's a --
5 been a change or something to the seal or there's a
6 bearing that has been modified that we don't like.
7 And we -- we'll make an effort to change that part
8 out.

9 Q. So if Elliott has some information that
10 there's a part that's of concern, they would want
11 to convey that information to the customer so the
12 customer could then maybe at the next shutdown, the
13 next time the piece of equipment is out of service,
14 rectify the situation; is that right, so it
15 wouldn't -- there wouldn't be a problem when it's
16 in use?

17 A. It doesn't work that way. Generally what
18 you would do is tell the service reps and they
19 would be on the lookout for that particular part or
20 that particular concern to correct it because
21 there's nothing in the Elliott system that says
22 where all the parts are used.

23 Q. So if there's a concern regarding a part
24 that is incorporated in the piece of Elliott
25 equipment, the Elliott main office would convey

1 that concern to the service reps, and then the
2 service reps would be on the lookout for that part
3 or any problems with that part?

4 A. Right.

5 Q. That's fair?

6 A. That's fair.

7 Q. And in your tenure at Elliott for 40-some
8 odd years -- for 40 years, how many times -- is
9 that a regular occurrence or a very irregular
10 occurrence?

11 A. Very irregular occurrence.

12 Q. It did happen?

13 A. Yeah. You asked, and it happened a few
14 times.

15 Q. Okay. Did the service reps have an
16 ongoing relationship with the customers after a
17 sale was made?

18 A. Generally, many of them did.

19 Q. What was the -- explain to me the
20 follow-up. What was done -- if I'm a customer, a
21 refinery, let's say, and I buy a piece of -- a
22 steam turbine, a piece of equipment like a steam
23 turbine, there's an Elliott rep -- service
24 representative on site when it's being installed?

25 A. Not necessarily.

1 Q. Whose decision is it whether it will be or
2 won't be?

3 A. Customer's.

4 Q. Does Elliott prefer to have a service rep
5 there when it's installed?

6 A. Depends on the machine.

7 Q. Okay. How about for steam turbines?

8 A. Depends on the steam turbine.

9 Q. Okay. So it's a case-by-case basis?

10 A. Right.

11 Q. Who makes the decision from Elliott
12 whether they'll be there or not?

13 A. Elliott doesn't. The customer does.

14 Q. The customer does.

15 Does Elliott -- does the sales force, when
16 they make the sale, tell the customer: Hey, we'll
17 have a guy here if you need him near, if you want
18 him here? Or do they recommend there should be
19 somebody there?

20 A. It depends on a case-by-case basis of what
21 you're talking about. You're talking about a very
22 broad range of equipment.

23 Q. Okay.

24 A. And we're talking about sophisticated
25 users.

1 Q. So it's purely case-by-case?

2 A. Purely case-by-case. It wasn't always
3 that way, but we're talking a long, long time ago.
4 But it's been that way for the last probably better
5 than 30 years.

6 And sometimes before that, if it was a
7 sophisticated piece of equipment and it was an
8 unsophisticated customer, we would offer a few days
9 of free service.

10 Q. Okay. Let's go back then because the
11 period of time I'm concerned with is probably about
12 30 years ago or longer --

13 A. Uh-huh.

14 Q. -- when asbestos was still being used on
15 equipment.

16 Prior to 30 years ago, was a service rep
17 there more often when equipment was installed?

18 A. It depended on the machine.

19 Q. Okay. Okay. And, you know, I'm not
20 trying to fight with you or argue with you, but you
21 made this statement for the last 30 years it's been
22 like that. What was it like prior to the last
23 30 years?

24 A. Probably the majority of equipment did not
25 have a serviceman on the job site when the

1 equipment was installed. But for the special
2 machines, the large machines, probably did have a
3 serviceman. And in some cases, there was -- the
4 customer, in his specifications, would require
5 30 days of free service.

6 Q. Okay.

7 A. That would be part of the specifications.
8 And obviously, Elliott would honor it.

9 Q. Yes, sir.

10 A. That's not done as much anymore. That's
11 not the -- that's not the way they do business
12 today.

13 Q. Can you -- can you tell me generally
14 what -- the general categories of equipment Elliott
15 manufactures? Is it too big?

16 A. In what year?

17 Q. Let's say in the 1960s.

18 A. In 1960s, it was primarily steam turbines
19 and compressors, centrifugal compressors.

20 Q. You started in 1959. Do you have any
21 knowledge prior to 1959 what the general categories
22 of equipment were that Elliott manufactured?

23 A. Yes, I do.

24 Q. And what would those be prior to '59?

25 A. It depends on what year you're talking

1 about.

2 Q. Okay. Let's just say in the decade of the
3 1950s.

4 A. In the 1950s, the products that Elliott
5 made primarily was compressors, turbines, motors,
6 generators, ejectors, condensers, strainers, dupe
7 duals.

8 Q. Why did they get out of all those other
9 lines of business as a primary?

10 A. Depended on the line you're talking about.

11 Q. All different reasons?

12 A. Motors and generators was a very bad
13 business to be in in the late '50s and there wasn't
14 much money to be made in them, and Elliott could
15 not keep up with the big motor and generator
16 manufacturers because the frame changes so much.
17 So they decided it was not a good business to be
18 in.

19 In the case of some of the other
20 equipment, Elliott decided that they would be --
21 stick to the -- the rotating equipment that was
22 more technically -- needed more technical
23 requirements.

24 Q. So in the 1960s, Elliott sort of made a
25 business decision that creating equipment that

1 needed more technical requirements was its forte
2 and it would concentrate on that niche?

3 A. Primarily that's pretty much it, yes.

4 Q. How about in the 1970s; what's the general
5 categories of equipment that Elliott manufactured?

6 A. It really didn't change, compressors and
7 turbines.

8 Q. So from the early 1960s until today, is it
9 compressors and turbines is the general categories
10 of equipment?

11 A. Yes, it is.

12 Q. Let's talk about those two for a minute
13 then one at a time.

14 Steam turbines, we've been talking about
15 them quite a bit, I think, in general, but what
16 asbestos-containing products starting in the 1960s
17 were used on steam turbines? What's the list of
18 products?

19 A. The list of asbestos products?

20 Q. Yes, sir.

21 A. We talked about them.

22 Q. We talked about them all? Let me see.
23 Insulation, gaskets, packing, sealants, and seals.

24 A. That's right.

25 Q. Is that it?

1 A. The seals don't really fall into the steam
2 turbines.

3 Q. Okay. Let's talk about centrifugal
4 compressors for a moment that are compressors in
5 general.

6 What's the list of asbestos-containing
7 products used on the compressors?

8 A. It's possibly some gaskets, some packing,
9 very seldom sealant. And there may have been one
10 case or two that we used asbestos insulation on,
11 but generally, compressors are not insulated.

12 Q. Elliott didn't make pumps, did they?

13 A. Elliott didn't make pumps, a certain kind
14 of pump, a condensate pump. Really, they made a
15 couple in the '50s. They made a couple in the
16 '40s. Most of them were made in the '20s and '30s.

17 Q. Okay. After the sale, delivery, and setup
18 of the either steam turbine or compressor -- this
19 is -- let's just take the 1960s only -- what was
20 Elliott's service representative's duties in
21 relation to that customer? Did he go back
22 periodically and check on the equipment? Was there
23 a service contract over time? Would he be there
24 for shutdowns, et cetera?

25 A. There -- you covered a lot of different

1 areas.

2 Q. Okay. All right. I was...

3 A. We can -- can we sort of talk about each
4 one separately.

5 Q. Oh, absolutely. Absolutely. I was just
6 throwing those out there because I don't know.

7 A. All of them were handled a little bit
8 differently, yes.

9 Very few contracts for maintenance.
10 Periodically, occasionally, if the service rep knew
11 the customer, he would go back and visit with them.
12 You know, sometimes it was just a matter of if he
13 was in the area, he would call them up and say:
14 I'm in the area; you got any problems.

15 Q. Okay.

16 A. Generally, it was the customer calling for
17 help. And many times for overhauls and stuff like
18 that, they would require service reps or request
19 service reps to be on the job site.

20 Q. Okay. Was there anything in the contract
21 between Elliott and the customer that would require
22 the service rep to be at the customer's facility
23 any time after the initial set up?

24 A. I don't recall any contracts that were
25 written that way. There might have been a few

1 government contracts or something like that that
2 required the things that go to the length of the
3 warranty or something like that. But I don't
4 recall very many.

5 Q. Was Elliott a government contractor in the
6 1960s?

7 A. Yeah. We supplied some equipment to the
8 government, yes.

9 Q. Has Elliott been a government contractor
10 as long as you can remember?

11 A. On and off, yes.

12 Q. Did Elliott supply equipment for Naval
13 vessels?

14 A. Yes, they did.

15 Q. What sort of equipment?

16 A. Depends on the year.

17 Q. All right. Let's start at World War II.
18 What sort of the equipment?

19 A. In World War II, it was primary the
20 deaerating feed water heaters, probably some --
21 that wouldn't have been -- I think some motors
22 possibly for submarines and some other services,
23 special motors; probably some turbo chargers maybe,
24 depending.

25 Q. No steam turbines?

1 A. A turbo charger would have been on a
2 diesel engine.

3 Q. Okay. How about post World War II?

4 A. Post World War II, we supplied -- Elliott
5 supplied some what I call turbo blowers that would
6 be associated with boilers, supplying air to the
7 boilers for some of the equipment.

8 After -- after World War II, very few of
9 the deaerating feed water heaters were supplied.
10 There may have been a few other things, condensers
11 or something like that. I don't really recall any.

12 Q. Any of the equipment that Elliott supplied
13 to the Navy require insulation?

14 A. Navy would always insulate once the stuff
15 was on the ship. We never supplied any insulation.

16 Q. Did the specifications of any of the
17 equipment supplied to the Navy indicate that it
18 should be insulated?

19 A. I think that, yeah, people knew that some
20 of the stuff was going to be insulated, yeah, the
21 hot stuff.

22 Q. Can you give me a list of what the hot
23 stuff would be on a Navy vessel that Elliott
24 supplied?

25 A. The boilers, the steam turbines, the

1 deaerators.

2 Q. So Elliott supplied boilers to the Navy
3 for Naval vessels?

4 A. No. You asked me what type of equipment.

5 Q. Oh. All right. Strike that. I said that
6 Elliott supplied.

7 A. Oh. I didn't hear that.

8 Q. So if I didn't say it, I meant to say it.
9 I apologize. I appreciate the depth of your
10 knowledge, but I really just want to know about
11 Elliott.

12 What did Elliott supply to the Navy that
13 would come with specifications that would say:
14 Insulate this equipment?

15 A. The steam turbines and the deaerator feed
16 water heaters would probably be insulated, yeah.

17 Q. Could you say that real slow? The de- --

18 A. The deaerator feed water heaters.

19 Q. That's one piece of equipment?

20 A. It's one piece of equipment generally,
21 yeah.

22 Q. Deaerators?

23 A. D-e-a-e-r-a-t-o-r.

24 Q. I already had it wrong.
25 Feed water, right?

1 A. Feed water, yes.

2 Q. Deaerator feed water equipment and steam
3 turbines.

4 Were these steam turbines that created
5 propulsion for ships or created electricity or ran
6 equipment or what?

7 A. No. They were generally the drives for
8 the blowers that provide air to the boilers.

9 Q. The steam chest would need to be
10 insulated --

11 A. Right.

12 Q. -- just like we've been discussing?

13 A. Right.

14 Q. But when those were sent to the Navy, they
15 were sent without insulation?

16 A. Right.

17 Q. And would -- did the Navy draw the
18 specifications and you all built them to the Navy
19 specifications, or did the specifications come from
20 Elliott?

21 A. The specifications really were Navy
22 specifications. And it's special custom made
23 equipment, so there was some interrelationship
24 between Elliott and the Navy and/or the designer at
25 that point on coming up with what was required.

1 Q. What needed to be insulated on the
2 deaerator feed water equipment?

3 A. Generally, the whole thing, the outside.

4 Q. Is that insulated with mud or with a
5 block?

6 A. I have no idea really.

7 Q. As far as you know, the insulation used on
8 deaerator feed water equipment and the steam
9 turbines purchased by the Navy was
10 asbestos-containing insulation?

11 A. The best I've been able to tell is that
12 that was a requirement, yes.

13 Q. And how did you determine that?

14 A. I've seen speci- -- Navy specifications
15 with that requirement in them.

16 Q. And does Elliott have those Navy
17 specifications?

18 A. Some of them.

19 Q. And the Navy spec that was given to
20 Elliott would say: Insulate with
21 asbestos-containing insulation?

22 A. I don't have any of the specs from 1942.

23 Q. It's just your sort of educated
24 assumption?

25 A. Yeah. I've got later specs that called

1 for asbestos insulation.

2 Q. When did Elliott's cease supplying steam
3 turbines and deaerator feed water equipment to the
4 Navy?

5 A. I believe pretty much the deaerator feed
6 water heaters, there was -- the last were supplied
7 around 1945, '46 with, I think, maybe a couple
8 replacements after that. But that's all.

9 In the case of the turbo blowers, it was
10 primarily in the '60s. And there's been a few
11 replacements or new ships built since then, but not
12 very many. But most of them were in the 1960s.

13 Q. And we're using turbo blowers and steam
14 turbine drives interchangeably?

15 A. Yeah. Well, I'm -- the blowers were a
16 combination unit with either a centrifugal or axial
17 compressor driven by an integral steam turbine.

18 Q. And in the 1960 -- you've seen
19 specifications for those pieces of equipment from
20 the 1960s, Naval specifications?

21 A. Say that again.

22 Q. I said that bad.

23 A. Yeah.

24 Q. The steam turbine drives were sold to the
25 Navy in the 1960s; is that right?

1 A. They weren't necessarily sold directly to
2 the Navy. I think that they were really Navy
3 contracts somehow, but I'm not sure of the inner
4 workings of whether it was to the ship builder or
5 to the Navy.

6 Q. But Elliott --

7 A. They went on Navy ships.

8 Q. Elliott manufactured a piece of equipment
9 that ended up on a Navy ship known as a steam
10 turbine drive in the 1960s?

11 A. Right.

12 Q. That was a general part of its business
13 during that period of time?

14 A. Small part of the business, yes.

15 Q. And you've seen Naval specifications for
16 those steam turbine drives?

17 A. Some of them, yeah.

18 Q. And those specifications would be from the
19 1960s?

20 A. Some of them, yeah.

21 Q. Okay. And those specifications indicated
22 the use of asbestos insulation?

23 A. You know, the Navy has thousands of
24 specifications. I'm not sure that -- how they were
25 related to that particular piece of equipment at

1 that particular time because some of them are
2 general. Some of them are specific.

3 And all I can see in the files is -- you
4 know, the file has a whole drawer full of files,
5 and there happens to be a specification that says
6 that when it fits this criteria, it's going to be
7 this.

8 Q. Okay. And that's a Navy specification?

9 A. That's right.

10 Q. And when you say fits this criteria, it's
11 going to be this, that would be a Naval
12 specification?

13 A. A mil spec or a Naval specification that
14 would say for this type of equipment and at this
15 temperature rating, this is what you're to use.

16 Q. For example, use Johns Manville so and so?

17 A. No. I think -- I think it really says
18 asbestos insulation.

19 Q. Use asbestos insulation?

20 A. And they have some other words with it.
21 But I don't think that the Navy -- I've never seen
22 any Navy specs that name a manufacturer.

23 Q. Mr. Hackel, I want to show you a set of
24 documents that have been produced by Elliott's
25 attorneys which are Bates numbered ETMC through

1 ETMC 44.

2 Take a quick look at these. Have you seen
3 these documents before?

4 MR. SPITZZERI: And don't forget, I gave
5 you, I think, five today.

6 THE WITNESS: That's in the back here.

7 MR. SPITZZERI: It should go to 149.

8 MR. GIANARIS: I'm sorry. I looked at the
9 first one on that last group.

10 BY MR. GIANARIS:

11 Q. Just so the record is straight, would you
12 take a quick look at that and tell me the first
13 number and the last number?

14 A. The first number is 1, and the last number
15 is 149.

16 MR. GIANARIS: Okay. And that's the --
17 that includes, so the record is straight, the
18 documents that were produced to our law firm a week
19 or so ago and then a few more produced this
20 morning.

21 MR. SPITZZERI: Correct.

22 MR. GIANARIS: Thank you.

23 BY THE WITNESS:

24 A. I didn't look at every one, but it sure
25 looks like the right packet.

1 BY MR. GIANARIS:

2 Q. Okay. You've been over the packet prior
3 to the deposition today?

4 A. Probably not as a packet.

5 Q. Okay. How have you gone over it?

6 A. I mean, some of the documents like that
7 first one, they have been around a long time.

8 Q. Okay. Well, is it fair to say then that
9 the documents in here that don't deal with a
10 specific job site -- well, strike that. Let's
11 start -- let's go through the general documents in
12 here, general categories.

13 First of all --

14 A. That's okay.

15 MR. SPITZZERI: We'll use my set.

16 MR. GIANARIS: Okay. That's great. Okay.

17 BY MR. GIANARIS:

18 Q. Document number 1 --

19 A. Okay.

20 Q. -- that's entitled Safety and Health --

21 A. Okay.

22 Q. -- that's something that's been around --
23 you've known about for years and has been around
24 for years; is that right?

25 A. That's correct.

1 Q. And then document number 2 says Employee's
2 Claim for Workers' Compensation Benefits. Tell me
3 about that document.

4 A. One of our employees had a -- claimed a
5 problem with asbestosis in the 1990s. The date on
6 the top of that form is 1990. It was a workmen's
7 compensation case, and it's been resolved.

8 Q. So this is a document that you guys didn't
9 come up with in relationship to this particular
10 case, but rather, this is historical documents from
11 Elliott?

12 A. Correct, yeah

13 Q. All right. And then let's look at 3 and
14 4.

15 A. Okay.

16 Q. What are those documents?

17 A. They're accident prevention data sheets.

18 Q. And are these documents that you all came
19 up with for this lawsuit, or are these things that
20 have historically been --

21 A. I think this was found in 1990.

22 Q. Okay. Next, 05 through 08.

23 A. Okay.

24 Q. Why did you all produce this document at
25 this time?

1 A. It's a general brochure on an AYR. And GM
2 has AYRs.

3 Q. So basically you looked at the specific
4 allegations of exposure in the particular lawsuit
5 we're here for today and said: GM, Mr. Shoaf
6 worked at GM; GM had AYRs; we'll supply a -- what
7 did you call this, a pamphlet?

8 A. Yeah. It's a sales brochure.

9 Q. Sales brochure regarding the AYRs --

10 A. Right

11 Q. -- is that correct?

12 Okay. And then let's look at 09 through
13 32. That's a stapled document. Why was this
14 document produced?

15 A. It's a YR, and it gives you a little bit
16 more information than the other one, but it's still
17 in the same line of equipment.

18 Q. So, again, this is a document -- a sales
19 brochure with a little more information regarding
20 particular equipment -- types of equipment that
21 might have been at the GM plant in question?

22 A. Yeah, just a little bit more information
23 in it.

24 Q. Then there's another set of documents, 33
25 through 80, I guess.

1 A. Yeah.

2 Q. Seventy-nine -- 80. Thirty-three through
3 80. Why was this produced?

4 A. A technical manual for a YR turbine.

5 Q. Same thing: It's to give us information
6 regarding the particular pieces of equipment
7 alleged to be at issue in this case --

8 A. Correct.

9 Q. -- is that right?

10 The next group of documents, if I haven't
11 misgrouped them, is 81 through 124; is that right?

12 A. Yeah, but I'm -- yeah. I see that. We've
13 included those.

14 MR. SPITZZERI: Right.

15 THE WITNESS: Okay.

16 BY MR. GIANARIS:

17 Q. Included what?

18 MR. SPITZZERI: The last two, 123 and 124.

19 BY THE WITNESS:

20 A. 123 and 124.

21 BY MR. GIANARIS:

22 Q. Okay.

23 A. I didn't know he was going to include
24 those.

25 Q. Is there a reason that that sort of raises

1 your curiosity why 123 and 124 were included?

2 A. They're job-specific, not related to what
3 we're going to talk about.

4 Q. Okay. Why were they included?

5 A. I don't know.

6 Q. Okay. Well, these were produced on behalf
7 of Elliott.

8 A. I understand.

9 Q. Okay. So -- I don't want to start an arm
10 wrestling match here, but you got my curiosity up.

11 Is there something -- some trade secret or
12 something involved in this that you'd rather these
13 not be produced or...

14 A. No. I normally don't produce the stuff
15 that has -- related to shop order numbers that has
16 nothing to do with the case in point.

17 Q. So these are totally irrelevant, have
18 nothing to do with this case?

19 A. As far as I'm concerned, that's the case.

20 Q. Do these -- what are they called: Shop
21 order drawings?

22 A. No. They're really drawings out of the
23 instruction book for other jobs.

24 Q. Well, let's just talk about 81 through 122
25 then for just a moment.

1 A. Okay.

2 Q. Okay. What do we have there?

3 A. Most of the pieces of paper here are
4 Elliott material spec pages. There's a couple that
5 show up -- let me find one. I think that there's a
6 couple.

7 (Witness perusing document.)

8 BY THE WITNESS:

9 A. They're all Elliott spec pages, material
10 spec pages.

11 BY MR. GIANARIS:

12 Q. Tell me in laymen's terms what a
13 material -- whatever you just said, material --

14 A. Material specifications page?

15 Q. Yes, sir.

16 A. It has -- every one of these pages has
17 something to do with a particular material, and
18 it's describing that material, either something
19 about the material -- the very first one obsoletes
20 material and specifies that another material would
21 be used.

22 Q. Okay. Are these documents, 81 through
23 122, documents that were produced specifically
24 because of the equipment alleged to have been used
25 in this case or for some other reason?

1 A. In some cases, it's equipment that was
2 used in this case, I think. Yeah. I know at least
3 the first one -- no. It's not the first one. I
4 believe 103 is a devious route.

5 Never -- -51 material was used on some of
6 the steam turbines that were supplied to GM. -89
7 was the material that preceded 51. And that was --
8 -89 is 103 -- I'm sorry. Yeah, 103.

9 Q. Okay. You lost me. Can you explain that
10 one more time, please?

11 A. Okay. I believe that the gasket that was
12 supplied on one of the GM machines was a spec 51
13 gasket material. And so all those pages that --
14 pages 81 through 93 all have to do with material
15 spec 8- -- material spec 51.

16 Q. Okay. So explain to me the process for
17 determining that the particular documents you just
18 noted, 81 through 93, were relevant to this case
19 and how you'd go about gathering these materials.

20 A. These all came out of the materials
21 department. And maybe I didn't have to produce all
22 of these documents, but normally when I get
23 involved in spec 51 material, I supply all of them
24 because some of them go back to a period involved
25 with -- the -93 is a 57 material. I don't remember

1 what the date was on that GM unit.

2 Q. Okay. So let me see if I understand this.

3 First of all, you were told by probably
4 the lawyers that this involves -- this case
5 involves allegations of asbestos exposure on a
6 steam turbine at General Motors?

7 A. Yes.

8 Q. Then do you go into a file somewhere and
9 determine what product was actually sold -- piece
10 of equipment was actually sold to General Motors in
11 Indianapolis, let's say?

12 A. Yes.

13 Q. That's the starting point?

14 A. Yes.

15 Q. Okay. And then depending on the type of
16 equipment it is, you pretty much already know what
17 asbestos-containing products were used on that
18 particular piece of equipment?

19 A. And what to look for, yes.

20 Q. What to look for.

21 And 51 is -- this isn't the first time
22 you've put together this packet, 81 through 93,
23 regarding this product known as 51?

24 A. Right.

25 Q. Okay. So what is 51 in general?

1 A. Fifty-one was --

2 Q. Was.

3 A. -- as it's described on the second page on
4 basically 82, a compressed asbestos sheet with
5 rubber binder.

6 Q. Okay. So you know that certain pieces of
7 equipment that Elliott sold are going to have
8 compressed asbestos sheet with a rubber binder as
9 gaskets?

10 A. Could have.

11 Q. Could have. Okay.

12 And then when that's the case, you supply
13 this set of documents, which, in this case, are
14 represented as 81 through 93?

15 A. Right.

16 Q. All right. When did you first put this
17 together, 81 through 93? Has it been years ago?

18 A. Yeah, several years ago.

19 Q. All right. So let's --

20 A. Don't ask me when.

21 Q. That's fine. I don't need to know. It's
22 not relevant, at least not right now.

23 Then 94 through --

24 A. Some of them are probably not related to
25 GM, but if you look at 103 and 104, that material

1 happens to be the material that would show up -- is
2 the material that shows up on page 92. And it says
3 specification 89 is rendered obsolete.

4 Q. Okay. Explain that one more time for me.

5 A. If you look at -- get page 91.

6 Q. They're sticking together. Okay. I got
7 92.

8 A. Okay. The last line --

9 Q. Yes, sir.

10 A. -- says specification 89 is rendered
11 obsolete. If you look at 103, that specification
12 number is 89.

13 Q. Okay.

14 A. So that's really part of that packet.

15 Q. And that's written obsolete across it?

16 A. You can read that, huh?

17 Q. I can read it.

18 A. Yeah.

19 Q. So this is a specification from 1939 that
20 was made obsolete by a directive from 1957?

21 A. Right. And some of these others are just
22 packing materials that were supplied in what we had
23 the suppliers at that particular time.

24 Q. So are these documents from 81 to 122 the
25 universe of documents that Elliott Turbomachinery

1 has that show the asbestos-containing products it
2 used in its equipment?

3 A. Pretty much, in the gasket and packing
4 type things, yes. There might be a couple other
5 documents, but this is the...

6 Q. So in any given case, if you're asked to
7 produce all the documents that show
8 asbestos-containing products used by Elliott in its
9 equipment, basically 81 through 121 are what you're
10 going to produce?

11 A. In a material specification, yes, yeah.
12 That's -- yeah. There's drawings that back some of
13 this stuff up and that sort of thing, depending on
14 the case.

15 Q. Okay.

16 A. There might be some additional information
17 other than these, but this is the -- this is the
18 primary.

19 Q. This is the core group?

20 A. This is -- that's a good term.

21 Q. Okay.

22 A. Core group.

23 Q. And then what do 123 and 124 show in
24 relationship to asbestos-containing products?

25 A. It shows in -- 123 shows the insulation

1 that's on that particular multi-valve, multi-stage
2 steam turbines.

3 Q. The insulation?

4 A. And it's -- it's a cross-section of the
5 machine showing where the insulation was put.

6 Q. How about 124; what does it show?

7 A. 124 is a cross-section of the machine that
8 was supplied on shop order 6610.

9 Q. What is shop order 6610?

10 A. It's a steam turbine.

11 Q. Well, what does it mean? Is that in
12 relationship to Indianapolis GM?

13 A. None whatsoever.

14 Q. Okay. And is it the same type of turbine
15 supplied there?

16 A. No.

17 Q. No.

18 A. This is a large steam turbine.

19 Q. Okay. Why don't you do me a favor and
20 take this highlighter and on my two cross-sections
21 123 and 124, highlight where the asbestos
22 insulation would be?

23 A. I'm not -- these two machines have
24 asbestos insulation.

25 (Brief pause.)

1 BY THE WITNESS:

2 A. It's not a perfect job. I think I got
3 carried away a little bit too much in one corner.

4 BY MR. GIANARIS:

5 Q. It's fair to say if an insulator got
6 carried away a little too much, he might insulate
7 that corner?

8 A. Yeah.

9 Q. You need a highlighter eraser.

10 A. Yeah. I got carried away. It's not the
11 greatest copy in the world. The area that I got
12 carried away with is this little spot right here.

13 Q. Okay. Right here?

14 A. Yeah.

15 Q. I'm going to draw a circle and --

16 A. And put an X on it, if you would, please.

17 Q. Okay. So that little circle with a slash
18 through it?

19 A. Yeah. I got into the metal as opposed to
20 the insulation.

21 Q. Okay. So the little circle with a slash
22 on document number 123 represents your -- a little
23 bit of overkill?

24 A. My mistake.

25 Q. Mistake.

1 All right. Here's what I'm going to do
2 because when we copy these, if we copy them, the
3 highlighter is not going to show.

4 A. That's correct.

5 Q. Okay. So what I'm going to do is I'm
6 going to draw a little asterisk at the beginning
7 and the end of each run and just put a black line
8 in between so if we ever reproduce these and need
9 to use them, we'll know we'll all be on the same
10 page. Is that fair?

11 A. I guess.

12 Q. I don't think any of this is fair, so...

13 Okay. I want you to take a quick look at
14 these. And these are document 123 and 124. What
15 I've done is I've followed along your highlights
16 and put an asterisk on each end of your highlight
17 and a line between them so that if we ever need to
18 look at these again, a copy of them, we'll know
19 what you highlighted as asbestos insulation.

20 A. Okay.

21 Q. Fair enough?

22 A. Yeah.

23 Q. And you said these are large steam
24 turbines?

25 A. Yes.

1 Q. Are large -- do large steam turbines
2 contain the most insulation of any piece of Elliott
3 equipment?

4 A. Asbestos insulation?

5 Q. Yes, sir.

6 A. Yes.

7 MR. GIANARIS: Let's mark these as
8 Exhibit 1, please. Group Exhibit Number 1 will be
9 document 123 and 124.

10 (Group Exhibit No. 1 marked for
11 identification, 9-27-05.)

12 BY MR. GIANARIS:

13 Q. And now we're going to talk about a
14 document -- a group of documents 125 through 142.
15 What are these documents?

16 A. Well, the first document, 125, is a letter
17 from General Motors Chevy division to Elliott dated
18 1970 involving the equipment at General Motors'
19 plant in Indianapolis.

20 Q. Is there any particular reference --
21 relevance to this document as it relates to
22 asbestos, or is it just produced because it's on
23 Chevy letterhead, it's from the site at issue in
24 this case?

25 A. It's issued -- it was produced because it

1 shows the equipment -- the steam turbines that were
2 at the GM plant.

3 Q. Okay.

4 A. So consequently, it's a confirmation that
5 the search that I did was right.

6 Q. Okay. Good enough.

7 A. The -- the rest of the documents -- well,
8 let's take them sort of -- the documents 126 and
9 127 are really order number -- order documents on
10 one of the machines and the engineering
11 specifications for that machine, shop order number
12 X 2022.

13 The next couple documents -- and there's a
14 bunch of them -- three of them -- 128 through 130
15 are parts orders for X 2022 that were in the file.

16 Document 131 is the engineering
17 specifications for X 2035.

18 And 132 is the normal maintenance parts
19 list for that machine, including that that machine
20 has a gear associated with it. And that's on the
21 parts list for -- the gear is on 133.

22 We also have a parts order for X 2035.
23 And that's on 134.

24 The next one is the order record for
25 X 2088. And that's on -- there must be -- oh, here

1 it is -- 135. And the engineering specification
2 for that machine is on 136.

3 And then there's a couple pages of parts
4 orders, two pages, 137 and 138, for X 2088.

5 And then there's an engineering
6 specification for Y 2098 on 139 and a parts list
7 for Y 2198. I think it's the same number I just
8 said, yeah, on 140.

9 And that was also a gear drive, and the
10 parts list for the gear is on 141.

11 And the next one is a specification for
12 Y 2199 and a parts order for either Y 2198 or
13 12 -- Y 2199.

14 MR. GIANARIS: Okay. Let's change tapes.

15 THE VIDEOGRAPHER: Going off the record at
16 11:52 a.m.

17 (Discussion had off the record.)

18 THE VIDEOGRAPHER: Back on the record at
19 11:55 a.m.

20 BY MR. GIANARIS:

21 Q. Mr. Hackel, we'll now move to document 144
22 through 149. And those are stapled together as
23 produced to me. What are 144 through 149?

24 A. They're some documents that have to do
25 with the timing when we stopped using asbestos

1 gaskets.

2 Q. Okay. Why don't you just go through those
3 documents in general and tell me what they show?

4 A. They're just -- at least 144 and 145 are
5 essentially the same document except that there's
6 some notes on 144.

7 It was sort of the replacement or the
8 correspondence that took place from Frank Rassmann
9 to Phil Dowson to change from the spec for gaskets.

10 And really, 1 -- Mike Walker's response on
11 125 says what he's going to do and how it's going
12 to be carried out, the instructions he got from
13 Frank Rassmann and his boss, Phil Dowson.

14 I see this letter from Phil Dowson to John
15 Szwast who was still there in 1988 apparently. My
16 timing earlier was wrong.

17 Q. What did you tell me earlier about
18 Mr. Szwast?

19 A. I thought that John Szwast had already
20 left in 1988.

21 Q. Okay. So in 1988, John Szwast was still
22 in charge of plant --

23 A. Yes.

24 Q. -- security and health and safety?

25 A. Right. So Rudy took over after that.

1 It's tough keeping track of all these people.

2 Q. John Szwest, he's the fellow who left
3 under sort of difficult circumstances?

4 A. I think under some circumstances. I'm not
5 sure what they were.

6 Q. Fine.

7 A. And the last one, which is 149, is just
8 the piece of paper or the specification that goes
9 into the file. And I believe that was produced
10 already in an earlier copy over here.

11 Q. Okay. So 149 may have been produced
12 twice?

13 A. Yeah. I think it was. In fact, if you
14 look at, I think, 81 --

15 Q. Okay --

16 A. -- 81 a better copy than the 149.

17 Q. Okay. But they're the same document?

18 A. They're the same document.

19 Q. All right. What is the -- what do these
20 show? They show that Elliott is going to stop
21 using asbestos-containing gaskets across the board
22 at a certain date?

23 A. Yes.

24 Q. What date?

25 A. The date that's -- I would say October 25th,

1 1988, they're going to make an effort to stop
2 purchasing spec 51 material and change to a new
3 specification 8101. It doesn't mean that they're
4 going to, on that day, throw everything away that
5 they have, but they're going to start to make the
6 change that already hasn't been made.

7 Q. Okay. Tell me how practically that played
8 out at Elliott.

9 A. Practically, it played out very well
10 because of the fact that the purchasing department
11 was told not to buy any more of the material and
12 the shop was told not to really use any of the
13 material.

14 And so consequently, it was disbursed in
15 those two directions. And I'm saying -- my feeling
16 is within a year, it was completed.

17 Q. So whatever was on hand was used up in a
18 year, and after a year from October 1988, no more
19 asbestos-containing products left Elliott?

20 A. Gaskets, yes.

21 Q. Gaskets?

22 A. Yeah.

23 Q. Did other asbestos-containing products
24 continue to be used?

25 A. It might have been done -- they had been

1 discontinued earlier.

2 Q. Okay. But a year from October 1988 would
3 have been the last time asbestos-containing
4 products were shipped out of an Elliott facility to
5 a customer?

6 A. That's my best estimate. I've said in
7 other depositions 1990. We're talking about a few
8 months.

9 Q. Okay. Got it.

10 So by January 1st, 1990, no more asbestos
11 leaving --

12 A. Yeah.

13 Q. -- Elliott?

14 A. I wouldn't -- you know, that's a good
15 number.

16 Q. Okay.

17 A. I think that a year afterwards, it was
18 very successful. Whether there was one gasket
19 around or something like that, I can't say. But
20 the -- the feeling was and when I looked in -- when
21 I got involved in the '90s, there was nothing to
22 show any evidence that there was any around.

23 Q. Okay. Take a look at document 147,
24 please.

25 A. 147. Okay.

1 Q. Okay. Read that first sentence for me,
2 please.

3 A. Due to a significant increase in the
4 requests for non-asbestos gasket materials,
5 materials engineering has decided to obsolete the
6 most frequently used grades of asbestos-containing
7 gasket material, MS-51/A.

8 Q. Two questions about that. What does it
9 mean by the most frequently used grades of
10 asbestos-containing gasket material?

11 A. Because that's -- that was really all that
12 was being used.

13 Q. So the most frequently indicates to me
14 that there were others. Were there others that
15 were not obsoleted?

16 A. They were all obsoleted, but that's the
17 only one that had a material spec on it. And so
18 that's the one that he referred to. That was
19 Mike's words.

20 Q. Okay. Mike didn't know lawyers were going
21 to come about 20 years later and pick his words
22 apart, huh?

23 A. Oh, yeah.

24 Q. Okay. So that most frequently doesn't
25 really have any significance to you?

1 A. No. And I don't think it does to Mike
2 either.

3 Q. Okay.

4 A. It probably was a poor choice of words
5 maybe at that point in time.

6 Q. That's fine. I don't want to twist words.
7 I just want to make sure.

8 A. I've had a lot of conversations with Mike
9 Walker.

10 Q. You've had a lot of conversations with
11 who?

12 A. With Mike Walker.

13 Q. Okay. Is Mike Walker still with the
14 company?

15 A. Yes, he is.

16 Q. What does he do?

17 A. He's a materials engineer.

18 Q. And if I wanted to really dig into what
19 asbestos was used where, why, et cetera, would he
20 be the guy to talk to?

21 A. Probably not.

22 Q. No?

23 A. He's a materials guy.

24 Q. Okay. What would -- what's his forte?

25 A. His forte is basically finding the

1 material that satisfies an engineering need.

2 Q. Okay. And it has been since he's been
3 there?

4 A. As far as I know, yeah.

5 Q. What is the significance of the first
6 clause in that sentence: Due to a significant
7 increase in requests for non-asbestos gasket
8 materials?

9 A. We've been playing around with trying to
10 fine substitutes and stuff like that, and for one
11 reason or another, people like me were asking for
12 substitute materials. I think I could see the
13 handwriting on the wall, and so we were picking at
14 it and trying to find substitutes for various cases
15 and needs.

16 And I think at this particular point in
17 time, we had picked enough and Mike was comfortable
18 with saying: Okay, let's make the change; I think
19 we can make the change.

20 Q. Okay.

21 A. This spec 51 -- the spec 8101 material
22 didn't arrive on the scene that day. I don't know
23 when it arrived, but it was sometime earlier.

24 Q. Who was in charge of the effort to find a
25 non-asbestos gasket material?

1 A. I don't know.

2 Q. Was anyone?

3 A. I know I was one of the people that asked
4 them to do that.

5 Q. Why did you ask them to do that?

6 A. Because I had some cases where I wanted to
7 use non-asbestos material.

8 Q. Give me a reason why. What motivated that
9 in your mind?

10 A. What motivated that in my mind? I had
11 heard that, you know, that was the direction that
12 things were going. And I was in the aftermarket
13 business, and I thought it was my job to get people
14 thinking.

15 Q. Aftermarket meaning you were supplying the
16 gaskets to customers who needed them for equipment
17 they already owned?

18 A. We supplied very few gaskets in the
19 aftermarket business. But nevertheless, that was
20 the -- you know, that was part of the overall
21 picture.

22 Q. But you did supply gaskets in the
23 aftermarket?

24 A. A few, yeah.

25 Q. Okay. And you wanted to be able to supply

1 non-asbestos gaskets?

2 A. Yes.

3 Q. So you helped motivate this --

4 A. Well, you can see that if you look at the
5 very first page. Frank Rassmann wrote to Phil
6 Dowson, and I'm the third guy on the list.

7 Q. Okay.

8 A. And the reason I got the letter is I was
9 the guy that was pushing.

10 Q. What does this mean you identified a
11 replacement for the part questioned by DUPONT?

12 A. Well, they had a particular machine that
13 had apparently an asbestos gasket in it, and they
14 came to us -- and it may have been in the
15 aftermarket area -- and said: We'd like to buy a
16 gasket from you for this particular service, but we
17 would like it to be a non-asbestos.

18 Q. So in 1988, DUPONT is asking Elliott for a
19 non-asbestos gasket to replace an asbestos gasket?

20 A. I don't know that it was 1988. It may
21 have been earlier.

22 Q. Well, it's memorialized in a memo,
23 internal correspondence of 1988?

24 A. Right.

25 Q. Okay. So it would be reasonable to assume

1 that it was close in time to the memo; is that
2 right?

3 A. Yeah, probably for Mike -- or for Frank
4 Rassmann to say that, I think that that was
5 probably the case. I'm guessing.

6 Q. I mean, unless Frank operates like I do
7 and writes recently when something happened three
8 years ago, it's --

9 A. Frank was loose.

10 Q. Frank was. Okay. All right. Well, let's
11 see if we can nail this down just a little bit.
12 And I'm not trying to quibble, but this is
13 important.

14 Sometime -- when you received this
15 document, 144, you received this close to
16 October 24th, 1988; is that right?

17 A. Probably within a day.

18 Q. And when you read this document, it said:
19 Recently we discussed the problem of older repair
20 parts?

21 A. Right, and that was probably me and the
22 other two guys. We probably -- the four of us
23 probably talked.

24 Q. Let me read this for just a minute.
25 Recently we discussed a problem of older repair

1 parts which may have contained asbestos and the
2 need to supersede those parts. You identified a
3 replacement for the part questioned by DUPONT.

4 Is it your reasonable interpretation of
5 this letter that that request questioned by DUPONT
6 was in the year 1988 or sometime before that?

7 A. It could have been in 1988. It probably
8 was.

9 Q. Probably was.

10 All right. The next line: Please let me
11 know what kind of program we can adopt to ensure
12 that any other parts which may contain asbestos are
13 superseded. Ross Hackel may be able to offer some
14 suggestions.

15 So Frank is asking who, Phil Dowson?

16 A. Phil Dowson.

17 Q. To do this and to collaborate with you on
18 it for some suggestions?

19 A. Right.

20 Q. Okay. What program did you all adopt to
21 ensure that any other parts which may contain
22 asbestos are superseded?

23 A. That's letter 147.

24 Q. 147?

25 A. Uh-huh.

1 Q. Okay. So you all adopted a program in a
2 day. That was pretty good.

3 A. Well, the skids were well greased.

4 Q. Okay. So this letter -- this document of
5 October 24th, 1988, wasn't the start of this
6 program to replace asbestos-containing parts?

7 A. That's probably true.

8 Q. You'd been working on it for some time?

9 A. Yeah, for several years.

10 Q. Several years?

11 A. (Nodding head.)

12 Q. Why did it take so long?

13 A. Because we make a lot of different
14 equipment and you just don't make a quick change
15 without having some thought and some -- some check
16 and some field experience and stuff like that. I
17 mean, you just get yourself in an awful lot of
18 trouble if you just instantly make a decision
19 without any planning.

20 Q. Okay. Well, explain to me the planning
21 that went on in a nutshell, if you can.

22 A. Well, the planning was that we picked
23 particular cases and tried to find replacement
24 material and put it out there, and sometimes it was
25 okay and sometimes the customer said: It didn't

1 work so well. So we had to find something else.

2 Q. Okay.

3 A. And we sort of settled on the material
4 that we arrived at. Was that the only material we
5 tried? Probably not.

6 Q. So prior to October 1988 during this
7 ongoing process, Elliott had supplied
8 non-asbestos-containing gaskets to its customers
9 and then followed up and determined whether they
10 worked properly or not and whether they were an
11 adequate replacement, et cetera?

12 A. Yeah, but not across the board; just in
13 specific cases.

14 Q. Right.

15 A. Okay.

16 Q. Right.

17 A. Where we could maybe follow up or where a
18 customer had basically said he wanted to have a
19 non-asbestos material and would cooperate with
20 giving us some feedback.

21 Q. Okay.

22 A. I mean, use all the available ways you can
23 do something to get the job done.

24 Q. Got it.

25 Who tracked all that?

1 A. Various people. It was a general type
2 thing.

3 Q. Did you have meetings on the issue?

4 A. No, not that I'm aware of.

5 Q. So today, I want to just to take -- let's
6 say I wanted to take another deposition, okay, and
7 I just wanted to talk about that particular issue.

8 From the date it was decided you would try
9 to substitute non-asbestos products for asbestos
10 products at Elliott, the entire process from
11 beginning to end, from the day the decision was
12 made to the day no asbestos went out the door, who
13 would have the most knowledge regarding that issue?

14 A. I'm not sure of your question because you
15 said the date the decision was made that we were
16 going to stop using asbestos gaskets. There was
17 no -- that was -- there was no date. The date was
18 the date that's on here was the day we decided.

19 Q. Okay.

20 A. I mean, but the process started long
21 before that. And I don't know a date when the
22 process started. And I don't know exactly who
23 started the process or, you know, it didn't
24 happen -- it wasn't a conscious effort by somebody
25 saying: This is what we're going to do a year from

1 now or something like that.

2 Q. Was it motivated by customers, by the
3 regulatory agencies? Was it motivated internally?

4 A. I think it was motivated by everybody.

5 Q. All of the above?

6 A. All of the above. I mean, it was the
7 thing that was happening, so you might as well get
8 on the bandwagon.

9 Q. Was it basically a necessity of the
10 marketplace; you weren't going to be selling this
11 stuff anymore if they contained asbestos, so you
12 had to get a substitute?

13 A. You know, the problem that I have with
14 your question is that there's two sides to this
15 thing.

16 We talked a little bit about making quick
17 decisions. You've got to find the substitute that
18 you feel comfortable with that is not materially
19 more unsafe than what you have at the present time.

20 Q. Okay.

21 A. So consequently, I think that you have to
22 proceed down this road relatively slowly. And so
23 consequently, I don't know how you can draw some
24 real black and white lines along the way.

25 Q. Okay. That's fine. That's why I've got

1 to ask a lot of questions so we can explore this.

2 A. Okay.

3 Q. Because I understand that there may not be
4 black or white lines. Hence, there's probably more
5 questions than we would need to ask otherwise.
6 We've just got to get it out.

7 From the first time Elliott, anyone at
8 Elliott -- I'm talking about Elliott. I'm talking
9 about anyone in management at Elliott -- determined
10 or decided that they should look into an
11 asbestos-free substitute for a gasket and packing
12 material until the last piece of
13 asbestos-containing material was sold around the
14 first of 1990, how much time passed?

15 A. I don't know.

16 Q. Do you think it was ten years?

17 A. I think it was probably a little less than
18 ten years. It's a guess on my part. I don't have
19 good...

20 Q. Take a look at document 146, please.

21 A. Okay.

22 Q. Now, that document is dated 1980.

23 A. Right.

24 Q. And its subject: Proposed ban on
25 non-essential use of asbestos?

1 A. Right.

2 Q. So that would be at least ten years prior
3 to the last day it was sold; is that right?

4 A. Right.

5 Q. So if we use that document 146 to --

6 A. Sort of tip the start to the end is
7 probably ten years.

8 Q. It would have been at least 1980 when this
9 thing first became on the consciousness of the
10 folks at the Elliott?

11 A. Right. I guess that's probably right. So
12 if you said 1980 to 1990, that's ten years.

13 Q. Do you think it was any earlier than 1980?
14 Look at that document and tell me if after reading
15 that document, your mind says: Well, maybe it was
16 a few years before that; this wasn't the first time
17 we heard about it or this was the first time.

18 A. I think that this document was created
19 really from UTC and Pratt, Whitney and that end of
20 the business who were much more aware of things and
21 probably was one of the first times that anybody at
22 Elliott even gave it a thought because we weren't
23 using that much of this stuff and it was --

24 Q. What is the relationship between UTC and
25 Pratt and Whitney and Elliott?

1 A. UTC owned Elliott at that -- and Carrier
2 at that particular point in time. Carrier really
3 was -- 1980. I think that Elliott was -- just had
4 moved out from under or was about to move out from
5 under Carrier and into the UT organization more
6 direct. It's very close to that time frame.

7 Q. What about Pratt and Whitney; what's Pratt
8 and Whitney's relationship to Elliott?

9 A. Pratt and Whitney is where Elliott got put
10 under eventually. Pratt, Whitney was -- is an
11 aircraft and they built turbines, you know, the
12 things that go in planes.

13 Q. Yes, sir.

14 A. And that's a rotating machine. And that's
15 more in line with the Elliott equipment.

16 Q. Were all these sister corporations:
17 Pratt, Whitney; UTC; and Carrier?

18 A. Yes.

19 Q. Who is the -- what is the parent
20 corporation of these?

21 A. Parent is UTC.

22 Q. UTC is the parent?

23 A. Right.

24 Q. Pratt, Whitney; Carrier; and Elliott are
25 all subsidiaries of UTC?

1 A. I'm not sure exactly the word, but they
2 all came underneath --

3 Q. Underneath UTC?

4 A. -- UTC.

5 Q. What does UTC stand for?

6 A. United Technologies Corporation.

7 Q. Okay. Okay. So between 1980 and 1990,
8 what did Elliott do to test the safety of
9 non-asbestos-containing gaskets in relation to its
10 equipment?

11 A. Well, I think that they -- and this is a
12 guess on my part. I know that Mike basically did
13 some testing of the samples and tested the
14 materials so he could get a feel for how durable it
15 was and its relationship to some of the materials
16 that it would see and, you know, got the
17 information from the various.

18 And then we, as I mentioned, put some of
19 it out in the field.

20 Q. Was Mike in charge of that effort?

21 A. Not really. He was the materials guy.

22 Q. Okay. So he procured the materials?

23 A. He would not procure it, but he would
24 recommended purchasing by, or he would have got
25 maybe the sample or he would have been talking

1 probably to the vendors.

2 Q. Okay. And then who was in -- even
3 involved in sending it out in the field and then
4 following up and determining whether it worked,
5 didn't work, something else?

6 A. It would be various people: Service
7 engineers, service parts people. And that would
8 basically be doing it. It was not a formal
9 process.

10 Q. Okay. Is there any record of that process
11 whatsoever?

12 A. Not that I'm aware.

13 Q. Is there anyone I could talk to about that
14 process who would know anything about it?

15 A. You're talking to the only one that I
16 know.

17 Q. Okay. So you are the spokesman for
18 Elliott on that process?

19 A. Yes. As far as I know, I'm the only one
20 that has said anything relative to that.

21 Q. And what -- I mean, can you give me any
22 specifics regarding testing done between 1980 when
23 this issue was first brought to the attention of
24 Elliott as evidenced in document number 146 and
25 1990 when the last piece of asbestos-containing

1 material left Elliott?

2 A. I don't really recall what we did. I
3 really -- I can't document exactly what we did on
4 what day or anything like that.

5 Q. Okay.

6 A. It just has all left me.

7 Q. Just so I'm fair, I don't need to know
8 anything that you did on a particular day or at a
9 particular time. I just want to know even in
10 general -- no. I don't want to know in general.
11 You've already told me in general.

12 I want to know -- even if you can't put a
13 date on it, I want to know any examples of specific
14 efforts taken by Elliott during that period of
15 time. And if you don't remember any, that's fine,
16 but I just want to make sure that I'm not
17 surprised.

18 A. I don't remember any.

19 Q. Thank you.

20 Sir, I want you to take a look at document
21 number 01, please.

22 A. Okay.

23 Q. Is this a safety and health bulletin that
24 was posted at Elliott around June 25th, 1973?

25 A. I would say so, yes. Around that date.

1 Q. And down at the bottom, it says remove
2 from bulletin boards on July 4th, '73?

3 A. Yes.

4 Q. So it stayed up for approximately a little
5 over a week; is that right?

6 A. That's correct.

7 Q. Okay. In all the searching you've done of
8 the Elliott documents and the discussions you've
9 had with Elliott personnel regarding asbestos
10 health concerns, have you ever found another safety
11 and health document regarding asbestos?

12 A. No, I didn't, not in this form.

13 Q. In any form?

14 A. Well, you got, you know, the -- the
15 accident prevention sheets which were distributed.
16 It wasn't posted.

17 Q. Okay. And that accident prevention sheet
18 are documents 03 and 04?

19 A. Correct.

20 Q. Okay. So this is the only document that
21 you found with the only information you have that
22 there was actually a posting of safety concerns
23 regarding asbestos, this document that was up on
24 the bulletin for a little over a week?

25 A. That's correct.

1 Q. Okay. Were there asbestos-containing
2 materials at Elliott in the factory that weren't
3 being used on Elliott equipment?

4 A. Yes.

5 Q. Okay. Was this document aimed at possible
6 health risks in relationship to the materials being
7 used on the Elliott facility rather than being used
8 on the Elliott equipment?

9 A. Yes. It was primarily directed towards
10 the Elliott facility.

11 Q. Do you know where this information came
12 from that prompted this bulletin?

13 A. Not specifically, no, I don't. I can't --
14 I don't know where Bart DeVinney found that piece
15 of information.

16 Q. Okay. Do you know if Elliott has ever had
17 any OSHA violations regarding asbestos?

18 A. One.

19 Q. One. When was that?

20 A. In '92, I think it was.

21 Q. And can you give me a little background
22 what happened?

23 A. They were doing some work in the plant and
24 created some dust, and an employee complained to
25 OSHA about it. And they did an investigation, and

1 it was a very minor type thing. They paid --

2 Q. Okay.

3 A. -- less than a thousand dollars to make it
4 go away. Nothing was ever proved.

5 Q. This next document, 02, the person who
6 made the workers' compensation claim's name is
7 blacked out, so we'll just call him John Doe for
8 now.

9 A. Okay.

10 Q. Okay. What was John Doe's job?

11 A. He was a service engineer -- service
12 representative.

13 Q. So he was out in the field?

14 A. Yes.

15 Q. All right. And he made a claim for
16 asbestosis?

17 A. Right. And not at Elliott's facility.

18 Q. But he's claiming -- okay. So he's
19 claiming that he was on the job working for Elliott
20 and he was exposed to asbestos at somebody else's
21 facility?

22 A. Right.

23 Q. Or many facilities?

24 A. Right.

25 Q. Is he claiming that the asbestos he was

1 exposed to came from Elliott equipment?

2 A. No.

3 Q. All right. So it has very little
4 relevance?

5 A. Right.

6 Q. All right. And then 03 through 04, what
7 were these? What -- wait. You've already told me
8 what these are. Just hang on one second. Is there
9 a date on these?

10 A. There's a date on the second one. Down at
11 the bottom it says revised 3-3-78.

12 Q. Okay.

13 A. And that revises -- the way I read it is
14 it revises 03.

15 Q. Explain that again.

16 A. The date on the bottom of 04 is 3-3-78.
17 And the way I read that, because of the way it came
18 out of my book, was that 03 was in front of 04.

19 Q. Okay. So 03 was -- in your mind, 03 was
20 in place until 3-3-78 and then 04 was in place?

21 A. Right.

22 Q. And is the difference the respirator
23 that's being recommended?

24 A. That's -- I think that's the only
25 difference.

1 Q. And why the change?

2 A. I have no idea.

3 Q. And what -- where would you find a
4 document like this at Elliott?

5 A. It was -- it was in the manual that I have
6 about that thick that contained all the OSHA stuff.
7 And there's a whole mess of these accident
8 prevention sheets.

9 Q. Uh-huh.

10 A. And this was the forerunner to the MSDS
11 sheets.

12 Q. Okay. And out of the document about that
13 thick -- you said it was about four inches thick?

14 A. Right.

15 Q. This is the only one that deals with
16 asbestos?

17 A. Right.

18 Q. Out of the entire book?

19 A. The entire book.

20 Q. Okay. Do you still have that book?

21 A. Yes.

22 Q. What's it called?

23 A. Accident -- it was the book that came out
24 with OSHA, and it was -- I'm not sure of the exact
25 title on the front of it. It's -- I can't think of

1 the name. It had some name, but it was really to
2 do with applying the OSHA stuff.

3 Q. Was applying the OSHA stuff pretty
4 burdensome?

5 A. It was a lot of paper that said very
6 little, yeah. You know, it wasn't -- it gave you
7 all -- part of the book, that much of the book is
8 the -- the stuff that come out of the government,
9 the legislation, which, you know...

10 And then it had a lot of helpful hints and
11 safety stuff up front in that book. It set the --
12 it set the stage for what transpired in the next
13 20 years.

14 Q. Whose job was it when that book came out
15 to implement what was in that OSHA book?

16 A. Every supervisor.

17 Q. Every supervisor got a copy of the book?

18 A. I believe so.

19 Q. And were they then expected by Elliott to
20 conduct themselves according to the OSHA
21 regulations?

22 A. Yes. I think that was the message.

23 Q. Was there somebody at Elliott who was
24 ultimately in charge of making sure that took
25 place?

1 A. No. I don't think there was any --
2 anybody more than Bart, who I believe generated the
3 book or had the book generated.

4 Q. How could we determine when this document
5 03 came into being?

6 A. I've looked. I have. I think it was a
7 year or two earlier than the '78. Maybe '76,
8 something in that frame. But I -- but there is
9 nothing in that book that gives you an explicit
10 date.

11 Q. So in approximately 1976, as best you can
12 tell, document 03 was drafted?

13 A. Yeah, give or min- -- give or take a
14 little bit. I've looked.

15 Q. Okay. Let me go through these documents
16 real quick. I highlighted a couple things today
17 that I want to talk to you about.

18 What is -- I'm looking at document 17.
19 What is an Elliott company field engineer? Is that
20 what we've been talking about, a service
21 representative?

22 A. Yeah, essentially.

23 Q. Same difference?

24 A. Yeah.

25 Q. It doesn't necessarily --

1 A. It could be -- a service rep is generally
2 not an engineer.

3 Q. Okay.

4 A. A field engineer could also be a salesman.
5 That was a typical definition for a salesman was a
6 field engineer.

7 Q. So it doesn't mean what we're thinking
8 about like -- or, in your case, a degreed engineer
9 necessarily?

10 A. It doesn't have to be a degreed person.

11 Q. Okay. Did a field engineer necessarily
12 have more knowledge regarding the workings of this
13 equipment than a -- well, it just says
14 representative. It doesn't say sales or service
15 representative, so let me start over.

16 It says Elliott company field engineer or
17 representative. So that could be three different
18 things out in the field: A field engineer, a
19 service representative, or a sales representative?

20 A. Yeah.

21 Q. These are three different job titles?

22 A. Yeah.

23 Q. Okay. What did a field engineer do?

24 A. He selects the equipment.

25 Q. What does that mean?

1 A. The customer comes to you with a
2 requirement. He says: I've got certain steam
3 conditions and I need 50 horsepower at 30,000 rpm.

4 Q. Uh-huh.

5 A. Okay. You select a piece of equipment
6 that satisfies that need.

7 Q. Okay. Hence, he might be a salesman as
8 well?

9 A. Hence, he might be a salesman.

10 Q. Okay. But all salesmen don't select
11 equipment?

12 A. It depends on the machine.

13 Q. I'm getting in too much. I'm just
14 curious.

15 A. I'm sorry.

16 Q. No. That's fine. I understand. I'm just
17 trying to figure out who has the most knowledge out
18 of those three groups regarding the inner workings
19 of the equipment: The sales engineer, the sales
20 representative, or the service representative.

21 A. And it depends on what you're talking
22 about and looking for.

23 Q. Okay. So that's what I thought you'd say,
24 and I don't feel like getting into it more.

25 All right. Look at document number 31.

1 A. Okay.

2 Q. Under accessories, it says insulation and
3 jacketing.

4 A. Right.

5 Q. What does that mean? What is that -- why
6 is that an accessory, insulation and jacketing?

7 A. Because it's furnished when a customer
8 wants it.

9 Q. And only if a customer wants it? Is that
10 what accessory means?

11 A. That's right.

12 Q. So a customer could buy a YR and insulate
13 it himself and jacket it himself?

14 A. Absolutely.

15 Q. In your tenure, what was more common; that
16 this accessory of insulation and jacket was
17 provided by Elliott or not?

18 A. It depends on the time frame.

19 Q. How about in the '60s?

20 A. In the '60s, it was probably less than
21 25 percent.

22 Q. Were what?

23 A. Were supplied with insulation and
24 jacketing.

25 Q. Okay. How about in the '70s?

1 A. As people became more conscious of the
2 various things in OSHA and of one thing or another,
3 it became more prevalent to supply those things.

4 Q. Regardless of the time period, the
5 specifications supplied by Elliott would indicate
6 asbestos-containing insulation for certain parts of
7 the equipment; is that right?

8 A. Yeah, if we supplied the asbestos
9 equipment, insulation, yeah. I can pretty well
10 tell you if you give me a shop order number. If
11 you give me a shop order number, I can investigate.

12 Q. Okay. Under service, it says your Elliott
13 YRs will run better and last longer when serviced
14 by the people who designed and built them. The
15 highly trained staff of Elliott's worldwide service
16 organization provides genuine renewal parts,
17 technical assistance, directions for installation
18 and start-up, and repair and maintenance services
19 all with routine or emergency handling as required.

20 So was -- does that indicate that it was
21 Elliott's preference that they were the guys who
22 did the hands-on work on the turbines after the
23 turbine was sold?

24 A. Not necessarily the hands-on work, but the
25 supervision of the hands-on work.

1 Q. So if Elliott had its --

2 A. That's what that says.

3 Q. If Elliott had its preference, it would
4 supervise all the maintenance and repair on the
5 equipment it sold?

6 A. I think that was the preference, yes.

7 Q. Okay. If you look at document 32, please,
8 it has a reference there to Chicago: 6100 North
9 Pulaski Road --

10 A. Uh-huh.

11 Q. -- Chicago, Illinois. What is that?

12 A. That was an office.

13 Q. Okay. What type of office --

14 A. It was --

15 Q. -- if you know?

16 A. It was a regional office at that point in
17 time. I think that that's -- that's 1984.

18 Q. Okay.

19 A. And it was a regional office at that point
20 in time.

21 Q. So in 1984 there was a regional office in
22 Chicago?

23 A. Right.

24 Q. Is there a regional office in Chicago now?

25 A. No.

1 Q. When did that close up approximately?

2 A. I think in the late '80s.

3 Q. Is that this -- you mentioned earlier a
4 move to centralization. Is that why?

5 A. That's one of them, yeah.

6 Q. So for the convenience of the customers in
7 the 1980s and before, there was a regional office
8 in Chicago?

9 A. There wasn't always a regional office, but
10 there was for some time before 1984.

11 Q. And since that, for economic reasons, they
12 closed down the regional office in Illinois?

13 A. Right.

14 Q. Are there still salesmen in Illinois?

15 A. I'm not sure where their salesmen are
16 located. I haven't kept track in the last five
17 years.

18 Q. Okay. Who would know?

19 A. The vice president of sales.

20 Q. What's his name?

21 A. I think his name is Brown, but I don't --
22 I'm not sure.

23 Q. Brown, you think?

24 A. I think it's Brown.

25 Q. Okay. So if I wanted to know what the

1 sales force is in the state of Illinois, he would
2 be the go-to guy, if his name is Brown?

3 A. Yeah, or the -- probably the HR department
4 would know, too.

5 Q. During your tenure with Elliott, before
6 you became a consultant, were there salesmen who
7 were dedicated to the state of Illinois; the state
8 of Illinois was part of their territory?

9 A. Yeah, but I don't think there was
10 necessarily -- I think there was some in Chicago
11 area and some located in other places, too.

12 Q. Okay.

13 A. And the one in St. Louis might cover the
14 East St. Louis area.

15 Q. Got it.

16 A. And the one in Chicago might cover the
17 northern part.

18 Q. Okay. There were service representatives
19 that had similar set-ups?

20 A. Yeah. They -- a lot of them operated out
21 of their homes.

22 Q. Do you ever visit any of the sites in what
23 I'll call southern Illinois, which is right across
24 the Mississippi River from St. Louis?

25 A. Yes.

1 Q. You did. What facilities did you go to,
2 if you can recall?

3 A. I think it was -- the refinery was in East
4 St. Louis. I think it was Mobile at that time.
5 I've forgotten what refinery --

6 Q. Was it an oil refinery?

7 A. Oil refinery.

8 Q. Was it in Wood River, Illinois?

9 A. No. It was south of that. It was right
10 across the river from St. Louis.

11 Q. Okay.

12 A. I don't think I ever was in Wood River.

13 Q. Were you ever in the Shell facility --
14 Shell refinery in Roxana, Illinois, which is next
15 to Wood River?

16 A. No, not that I can recall.

17 Q. How about -- I think there's an Exxon
18 Mobile -- an Exxon facility in East St. Louis or
19 Swansea.

20 A. Well, it was long before -- the refinery
21 is long gone.

22 Q. Okay.

23 A. Long gone. This was probably 1960.

24 Q. Okay. Did you ever visit any other
25 facilities on that side of the river --

1 A. Not that I can recall.

2 Q. -- from St. Louis?

3 What prompted that visit?

4 A. They had an equipment problem.

5 Q. Okay.

6 A. They wrecked their machine.

7 Q. They wrecked their machine?

8 A. Yeah.

9 Q. And you were called in to help fix it?

10 A. Yeah, put it back together.

11 Q. Okay. Was there a substantial amount of
12 Elliott equipment in that area, that industrialized
13 area east of St. Louis and East St. Louis and Wood
14 River, Granite City?

15 A. There was some equipment in Wood River. I
16 don't think it was substantial. I'm not sure what
17 your term substantial is.

18 Q. I don't know what it is. There was
19 equipment there?

20 A. There was equipment there.

21 Q. Okay. So Elliott had a sales
22 representative, a service representative, and
23 equipment in the East St. Louis-Wood River area?

24 A. Yes, they did.

25 Q. And do you know if their equipment was in

1 Granite City Steel?

2 A. That name doesn't ring a bell.

3 Q. If I wanted to know -- well, you told me
4 that. Never mind. We beat that horse.

5 The document entitled Instruction Book
6 Type YR Turbines starting at Bates number 33, what
7 is the date of this document generally if you don't
8 know specifically?

9 A. I think it started in probably the late
10 '60s and was used up through today probably.

11 Q. The same document?

12 A. Been modified, but it kept the same
13 number.

14 Q. Look at page 3 of the document, which is
15 35 on the Bates stamp --

16 A. Okay.

17 Q. -- under safety. Has that four-paragraph
18 dissertation on safety changed substantially or at
19 all through those years?

20 A. I don't think it has.

21 Q. Okay.

22 A. It may have had a few words changed, but
23 not substantial change.

24 Q. Do you know if there's ever been a
25 reference to asbestos in that section of safety?

1 A. Not that I know of.

2 Q. Sir, please look at page 8 of that
3 document, which is Bates number 48.

4 A. Okay.

5 Q. The last paragraph on that page starting
6 with before reassembling...

7 A. Right.

8 Q. Okay. Can you read that sentence for me?

9 A. Before reassembling, clean out packing,
10 case, screws thoroughly, particularly the bottom
11 halves. Blow them out with air if it is available.
12 Clean the shaft with a solvent cleaner. Place
13 springs around shaft and hook ends together.

14 Q. That's fine. I just wanted the sentence,
15 but the paragraph -- half the paragraph is fine.
16 What I wanted to ask you about is blow them out
17 with air if it is available. What is that
18 referring to?

19 A. Well, that's just one way to clean out
20 grooves is to -- it's the grooves in the -- where
21 the packing goes and you want to get it good and
22 clean.

23 Q. Is that where the asbestos packing would
24 have been?

25 A. No.

1 Q. No. What type of packing are we talking
2 about?

3 A. Carbon rings.

4 Q. Okay. Look at the next page, 49, page 9,
5 Bates number 49.

6 A. Okay.

7 Q. And about halfway down the first column,
8 there's a numeral I that says scrape and carefully
9 clean all exposed joints on both the upper and
10 lower halves of the turbine casing, as well as
11 those on the upper and lower halves of the packing
12 cases. Do not allow scrapings to fall into the
13 lower halves of the packing cases between the
14 carbon rings and walls. Blow out with air if
15 available.

16 Are we talking about asbestos-containing
17 gaskets there?

18 A. No.

19 Q. No. What are we talking about?

20 A. There might be some asbestos sealant, but
21 not in the carbon rings.

22 Q. There may be -- that may indicate cleaning
23 out asbestos sealant?

24 A. Yeah. There might be some asbestos
25 sealants on the split line.

1 Q. Okay. Starting at -- let's just
2 concentrate on 1960 on.

3 A. Okay.

4 Q. You said Elliott got into -- basically
5 narrowed down its business to concentrating on
6 steam turbines and centrifugal compressors; is that
7 right?

8 A. That's right.

9 Q. Okay. What was Elliott's market --
10 customer market? Who did they try to sell these
11 steam turbines and compressors to?

12 A. Chemical plants and refineries primarily.

13 Q. Who were Elliott's competitors in that
14 market?

15 A. In the '60s?

16 Q. In 1960, sure. In the 1960s.

17 A. On steam turbines?

18 Q. Sure.

19 A. On steam turbines, it would have been
20 General Electric, Terry Turbodyne, Diala Valve,
21 Worthington. The foreign market hadn't really
22 taken place at that point.

23 Q. Westinghouse, was that a competitor?

24 A. Westinghouse a little bit, but not really.

25 Q. You mentioned GE. Did GE make -- GE made

1 larger turbines than Elliott; is that right, but
2 also the more complicated ones?

3 A. Yes, larger ones. Their line didn't
4 really compete with the YR line. It was larger
5 than the YR line.

6 Q. And was the YR line Elliott's largest
7 turbine?

8 A. It's the smallest.

9 Q. Smallest. What's the largest?

10 A. The large multi-valve, multi-stage
11 machines.

12 Q. And what were those used for?

13 A. They were used for compressor drives,
14 turbine drives -- compressor drives and generator
15 drives.

16 Q. I understand how you're paid for your
17 consulting by Elliott, but do you still have a
18 financial interest in Elliott other than that?

19 A. No.

20 Q. Stock options at Elliott, anything to that
21 effect?

22 A. No. It's a wholly owned company now.
23 There's no stock.

24 Q. Do you own stock in the parent?

25 A. Pardon?

1 Q. Do you own stock in the parent
2 corporation?

3 A. No.

4 Q. Was the Elliott facilities union shops?

5 A. Yes.

6 Q. They were.

7 Did the unions have health and safety
8 committees?

9 A. They had some, yeah, uh-huh.

10 Q. If I wanted to determine that structure,
11 go in and find out who, you know, was the health
12 and safety guy in charge at the union level at
13 Elliott at any given time, how would I find out?

14 A. I have no idea.

15 Q. Elliott wouldn't have records of that?

16 A. I doubt it.

17 Q. Who -- what's the union?

18 A. The steelworkers.

19 Q. In the 1960s was it the steelworkers?

20 A. Yes.

21 Q. It has been since?

22 A. Yes.

23 Q. What's the local?

24 A. Beyond me.

25 Q. What town?

1 A. Jeannette.

2 Q. Jeannette, Pennsylvania?

3 A. Uh-huh.

4 Q. So if I wanted to go -- let's just say I
5 wanted to go back and I wanted to talk to the guy,
6 find the guy who was in charge of health and safety
7 in the 1970s for the union, I'd go to the local --
8 steelworkers' local in Jeannette?

9 A. I guess that's where you'd start.

10 Q. Okay.

11 A. I really -- you're in an area where I have
12 no knowledge.

13 Q. Okay. Who was the liaison to the union in
14 the 1960s?

15 A. I don't know.

16 Q. Do you know in the 1970s?

17 A. No. I'm not -- I'm not that -- that's an
18 area I have no real knowledge.

19 Q. Not your bailiwick?

20 A. That's not my bailiwick.

21 Q. Let's say -- let's say you had to go back
22 and dig it in this little bit. Who would you go to
23 at Elliott and ask them: Hey, this Gianaris ran
24 out of good questions, so he started asking about
25 the union; where would I -- where would I start

1 looking?

2 A. I'd probably go down in the shop and ask
3 one of the workers themselves. I don't think
4 there's anybody in management that has any idea.

5 Q. Who keeps union grievances? Where are
6 they kept at the plants?

7 A. I would assume they're in the HR
8 department someplace.

9 THE VIDEOGRAPHER: Going off the record at
10 12:52 p.m.

11 (Discussion had off the record.)

12 THE VIDEOGRAPHER: Back on the record at
13 12:55 p.m.

14 BY MR. GIANARIS:

15 Q. Mr. Hackel, you mentioned right when we
16 began this deposition that there was a gentleman
17 that you are training to take over for you so you
18 can spend more time in the woods. What was his
19 name again?

20 A. Tom Keenan.

21 Q. Tom Keenan.

22 Has he ever been deposed?

23 A. I don't know, but I don't think so.

24 Q. Okay. You say you've never testified at
25 trial?

1 A. I didn't say that.

2 Q. In an asbestos case?

3 A. In an asbestos case, I haven't, no.

4 Q. Have not?

5 A. Have not.

6 Q. Okay. Have you prepared your testimony
7 for trial?

8 A. No. You're talking about asbestos?

9 Q. Asbestos.

10 A. Okay.

11 Q. Have you sat down with lawyers and gone
12 over: Hey, if this thing gets to trial, here's
13 what we're going to say?

14 A. Maybe in very broad, general terms, but
15 not in specifics.

16 Q. Give me in very broad, general terms, if
17 this case goes to trial and you're called to
18 testify in Madison County, Illinois, what you'll
19 tell the jury; just in broad, general terms.

20 A. I have no idea. I don't know at this
21 particular point in time.

22 Q. You don't know what you'll tell them -- I
23 mean, when you come in, do you have an indication
24 of what you'll tell them about Elliott being a
25 responsible company; that Elliott was responsible

1 in relation to the health hazard of asbestos?

2 A. I probably will do that.

3 Q. Okay. Have you got an idea what you're
4 going to say?

5 A. No.

6 Q. Ad lib?

7 A. Probably. At this point in time, I -- I
8 can't answer that question because I really haven't
9 done -- gotten to that point on this -- on an
10 asbestos case.

11 Q. Okay. You've never been asked that in a
12 deposition by your lawyers, by Elliott's lawyers,
13 and then you responded?

14 A. We've talked in general about things, but
15 never about really what I would say if I testified.

16 Q. Tell me just in general. In your mind,
17 you've got a pretty fond spot in your heart and
18 mind for Elliott; is that right?

19 A. Yes.

20 Q. I mean, Elliott was a good company to work
21 for?

22 A. Yeah.

23 Q. Do you feel they were a responsible
24 company?

25 A. Yes.

1 Q. And do you feel they did what was right in
2 relation to whatever health hazards asbestos in
3 their products posed?

4 A. In the case of asbestos, yes.

5 Q. Do you think they could have or should
6 have done something differently?

7 A. Not that I know of really. You always
8 could do something, but, you know, that's
9 hindsight.

10 Q. In hindsight, what would you have done
11 differently?

12 A. Probably investigated all the materials
13 more prudently, more with trying to find something
14 that could be substituted for some of the stuff.
15 To my knowledge, some of it was not available. And
16 when we did make some of the substitutes, we got
17 into a lot of trouble.

18 Q. Explain that to me. I haven't heard that
19 yet today. When you did make some of the
20 substitutes, you got into a lot of trouble?

21 A. When we substituted -- the first crack at
22 substituting a material, a packing -- alternate
23 packing material, it didn't hold up at all and
24 leaked and, in my opinion, was more hazardous than
25 the asbestos material.

1 Q. Did you test that in your shop, or was
2 that out in the field?

3 A. It was out in the field.

4 Q. That was basically sent to the customer to
5 give it a whack?

6 A. Well, the change was made.

7 Q. Okay. Just out of curiosity, were there
8 no machinery at the Elliott facilities that these
9 tests could have been run on?

10 A. Nothing like the stuff that the people in
11 the field put it to.

12 Q. Okay.

13 A. I mean, I think if anything was tested at
14 our factory, it would have been too controlled.

15 Q. Were such controlled tests ever done in
16 the factory?

17 A. They did various tests and stuff like
18 that, but it was controlled and it really didn't --
19 in my opinion, it was good and it showed up, you
20 know, basic problems, but in the final analysis,
21 the operation of the equipment in a refinery
22 24 hours a day, seven days a week, 52 weeks a year
23 is a lot different than us trying to run a test at
24 a factory.

25 Q. Okay.

1 A. You got hurricanes and all the other
2 stuff, you know, that cause people to come up and
3 down and do various things.

4 Q. It's not surprising to Elliott that
5 asbestos-containing insulation that's put on a
6 piece of equipment would be removed for maintenance
7 or repair and then reapplied; is that right?

8 A. The way it was put on, it shouldn't have
9 been removed in repair. I mean, it could have been
10 repaired, but it shouldn't have been removed. You
11 should have been able to maintain the equipment
12 without touching the asbestos insulation in a sense
13 so that it deteriorated. You might touch it, but,
14 you know, it wouldn't be like me touching that and
15 saying: Oh, that did me in.

16 Q. So you wouldn't have to strip the asbestos
17 off to make repairs or maintenance and then reapply
18 it?

19 A. No.

20 Q. Sir, we've been over these documents, but
21 I just want to mark them as an exhibit. This is
22 documents 01 through 149. We'll marked it as
23 Exhibit 2.

24 (Exhibit No. 2 marked for
25 identification, 9-27-05.)

1 BY MR. GIANARIS:

2 Q. And I just want you to take a quick look
3 at these. And we've been over them, but these were
4 the documents that were produced to our law firm in
5 relation to this case Alvin Shoaf versus Elliott,
6 05 L 168.

7 And that's the sum total of responsive
8 documents in this case; is that right?

9 A. It sure looks like it.

10 Q. Okay. Good enough. So we'll mark those
11 and attach them.

12 And one thing you mentioned up front --
13 and I just want to hear a little bit more about it
14 and then we ought to be finished -- is Elliott's
15 document retention policy. What is it and who
16 implements it?

17 A. Every department implements it. In my
18 opinion, it's a -- it's a -- what they call a
19 standard procedure instruction. And it's in the
20 Elliott policy book.

21 And it's distributed and it says that each
22 department has to establish a procedure or a
23 document -- a time frame for what they have. And,
24 you know, there's a whole mess of departments.

25 Q. And so if I wanted to look at the Elliott

1 document retention policy, it would be in the
2 policy book?

3 A. Yeah.

4 Q. And then it's up to each department head
5 to implement it?

6 A. Right.

7 Q. As it applies to his particular department?

8 A. Right.

9 Q. Since 1990 when you first went through the
10 documents at Elliott, have documents been -- that
11 could possibly be relevant been done away with or
12 destroyed?

13 A. Not that I know of.

14 MR. GIANARIS: That's all I have. Thank
15 you.

16 THE WITNESS: Okay.

17 MR. SPITZZERI: Nothing.

18 THE VIDEOGRAPHER: This will be all for
19 this tape and the conclusion of the deposition at
20 1:03 p.m.

21 THE WITNESS: I'd like to read and sign.

22 MR. SPITZZERI: Right. We'll reserve
23 signature.

24 (AND FURTHER DEPONENT SAITH NOT.)

25

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

ALVIN E. SHOAF,)
)
Plaintiff,)
)
vs) No. 05 L 168
)
A.W. CHESTERTON, INC.,)
et al.,)
)
Defendants.)

I hereby certify that I have read the foregoing transcript of my deposition given on September 27, 2005, at the time and place aforesaid, consisting of Pages 1 through 187 inclusive and I do again subscribe and make oath that the same is a true, correct and complete transcript of my deposition so given as aforesaid.

Please check one:

_____ I have submitted errata sheet(s)
_____ No corrections were noted

ROSS A. HACKEL

SUBSCRIBED AND SWORN TO
before me this ___ day
of _____, A.D., 2005.

Notary Public

C E R T I F I C A T I O N

I, Caryl L. Hardy, Certified Shorthand Reporter within and for the State of Illinois, DO HEREBY CERTIFY that pursuant to notice/agreement between the parties, the aforementioned witness came before me at the time and place hereinbefore mentioned, and having been duly sworn to tell the whole truth of his knowledge touching upon the matter in controversy aforesaid; that he was examined on the day, and his examination was taken in shorthand and later reduced to printing; that signature by the witness is reserved, and said deposition is herewith forwarded to the taking attorney for filing with the Court.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of October, 2005.

Caryl L. Hardy, RPR
Certified Shorthand Reporter
for the State of Illinois