

0001

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEDRO BARRAGAN AND ISABEL)
BARRAGAN)
)
Plaintiffs,)
)
vs.) NO. BC343999
)
ACCO-AIR CONDITIONING)
COMPANY, INC., ET AL.,)
)
Defendants.)
_____)

TELEPHONIC DEPOSITION OF CARLO MARTINO
Thursday, March 1, 2007

REPORTED BY:
JENNIFER J. ANGELOV
CSR NO. 12287

JOB NO.
50063KEL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

For the Plaintiffs:

KELLER, FISHBACK & JACKSON, LLP
BY: BRUCE JACKSON
Attorney at Law
28720 Roadside Drive
Suite 201
Agoura Hills, California 91301
(818) 879-8033

For Defendants American Standard, Inc. and Haas &
Haynie:

PRINDLE, DECKER & AMARO
BY: MICHAEL SCHUCK
Attorney at Law
310 Golden Shore
4th Floor
Long Beach, California 90802
(562) 436-3946

For Defendant G&G Air Conditioning:

LEWIS, BRISBOIS, BISGAARD & SMITH, LLP
BY: JUDD GILEFSKY
Attorney at Law
221 North Figueroa Street
Suite 1200
Los Angeles, California 90012
(213) 250-1800

1

3

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEDRO BARRAGAN AND ISABEL)
BARRAGAN)
)
Plaintiffs,)
)
vs.) NO. BC343999
)
ACCO-AIR CONDITIONING)
COMPANY, INC., ET AL.,)
)
Defendants.)
_____)

Deposition of CARLO MARTINO, taken on
behalf of Plaintiffs, commencing at 8:12 a.m. on
Thursday, March 1, 2007, before Jennifer J.
Angelov, CSR No. 12287, a Certified Shorthand
Reporter for the State of California.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (CONTINUED):

For Defendant Eaton Corporation:

HOWARD, ROME, MARTIN & RIDLEY
BY: PIA MC DOUGALL
Attorney at Law
1775 Woodside Road
Suite 200
Redwood City, California 94061
(650) 365-7715

For Defendant Thomas & Betts:

BURNHAM BROWN
BY: HOLLY KERSHELL
Attorney at Law
1901 Harrison Street
11th Floor
Oakland, California 94612-3501
(510) 444-6800

For Defendant Ericsson, Inc.:

SELMAN BREITMAN, LLP
BY: KAREN GOLDBERG
Attorney at Law
33 New Montgomery
Sixth Floor
San Francisco, California 94105-4537
(415) 979-0400

2

4

APPEARANCES (CONTINUED):

For Defendant Union Carbide:

MC KENNA, LONG & ALDRIDGE, LLP
 BY: BARBARA SAFECHUK
 Attorney at Law
 444 South Flower Street
 8th Floor
 Los Angeles, California 90071-2901
 (213) 688-1000

For Defendant Texas Instruments:

SCHIFF HARDIN, LLP
 BY: YAKOV WIEGMANN
 Attorney at Law
 One Market Plaza
 Spear Street Tower
 32nd Floor
 San Francisco, California 94105
 (415) 901-8700

For Defendant Georgia-Pacific Corporation:

NELSON, MULLINS, RILEY & SCARBOROUGH, LLP
 BY: THOMAS WAMSLEY
 Attorney at Law
 999 Peachtree Street, NE
 Suite 1400
 Atlanta, Georgia 30309-3964
 (404) 817-6121

APPEARANCES (CONTINUED):

For Defendant Acco-Air Conditioning Company:

VASQUEZ & ESTRADA
 BY: LLOYD COWELL
 Attorney at Law
 914 Mission Avenue
 2nd Floor
 San Rafael, California 94901
 (415) 453-0555

For Reinhold Industries, Inc. and Hamilton Materials, Inc.:

WALSWORTH, FRANKLIN, BEVINS & MC CALL, LLP
 BY: KAVITA TEKCHANDANI
 Attorney at Law
 Once City Boulevard West
 Fifth Floor
 Orange, California 92868-3677
 (714) 634-2522

For Defendant Square D:

KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
 BY: PAUL KELLY
 Attorney at Law
 Four Embarcadero Center
 10th Floor
 San Francisco, California 94111
 (415) 249-1000

-o0o-

APPEARANCES (CONTINUED):

Specially Appearing for Defendant Georgia-Pacific Corporation:

PERKINS COIE, LLP
 BY: LISA OLLE
 Attorney at Law
 180 Townsend Street
 3rd Floor
 San Francisco, California 94107-1909
 (415) 344-7000

For Defendants McDonnell Douglas Corporation and The Boeing Corporation:

BRYAN CAVE, LLP
 BY: RENEE WILLIAMS
 Attorney at Law
 120 Broadway
 Suite 300
 Santa Monica, California 90401-2386
 (310) 576-2379

For Defendant Union Carbide and the Witness:

MAYER, BROWN, ROWE & MAW
 BY: KATHERINE CLARK
 Attorney at Law
 71 South Wacker Drive
 Chicago, Illinois 60606
 (312) 701-7790

I N D E X

EXAMINATION BY	PAGE
MR. JACKSON	9

E X H I B I T S

PLAINTIFFS'	PAGE
1 Notice of Deposition (13 pages)	59

2 Confirmation Letter (2 pages)	59
---------------------------------	----

DEFENDANTS'	PAGE
A Notice of Taking of Depositions of Union Carbide Corporation's Most Knowledgeable and Custodian of Records and Request for Production of Documents and Things and Objections to Notice of Taking of Depositions of Union Carbide Corporation's Most Knowledgeable and Custodian of Records and Request for Production of Documents and Things (23 pages)	59
B 2/21/07 Meet-and-Confer Letter (2 pages)	59

INFORMATION TO BE SUPPLIED

(NONE)

QUESTIONS MARKED

(NONE)

-o0o-

1 TELEPHONIC DEPOSITION; THURSDAY, MARCH 1, 2007
2 8:12 a.m.

3 (Discussion held off the record.)

4 (Whereupon it was stipulated by counsel to have
5 the reporter swear the witness from a remote
6 location.)

7 CARLO MARTINO,
8 having declared under penalty of perjury to tell
9 the truth, was examined and testified as follows:

10 EXAMINATION

11 BY MR. JACKSON:

12 Q Good morning, Mr. Martino.

13 This is Bruce Jackson, counsel for Pedro
14 Barragan.

15 You understand that you're under oath to give a
16 deposition in the Barragan case today?

17 A Yes, I am.

18 Q Can you tell me how many depositions you've
19 given as a consultant for Union Carbide in the last year?

20 MS. SAFECHUK: Bruce, before you proceed with
21 the deposition, I want to take care of some housekeeping

1 testimony regarding application of Union Carbide resin --
2 phenolic resin and phenolic molding compound products,
3 and then third, the witness will provide general
4 testimony regarding the companies to which Union Carbide
5 sold its phenolic resin and phenolic molding compounds.

6 And then finally, with respect to documents, a
7 search of the repository was conducted, and there were no
8 sales records for Plaintiff's job site locations as
9 identified in Exhibit 1 attached to Plaintiffs' notice of
10 deposition, dated December 15, 2006.

11 We have also made Union Carbide's document
12 repository available to Plaintiffs' counsel, and as I
13 understand it, Mr. Jackson, your office is still deciding
14 if and when you want to do so.

15 And with that, we can proceed.

16 Thank you.

17 MR. JACKSON: And I'll go ahead and attach
18 Plaintiffs' notice of deposition as Exhibit 1.

19 I'll provide that to the court reporter after
20 the conclusion of the deposition.

21 And as Exhibit 2, it will be a letter confirming
22 the location and time of the deposition.

23 Those are the only two exhibits that I have to
24 attach.

25 MS. SAFECHUK: Then I would attach as

1 matters for the record.

2 MR. JACKSON: Go ahead.

3 MS. SAFECHUK: Thank you.

4 As a result of meet-and-confer efforts with your
5 office, the parties have stipulated to certain conditions
6 under which this deposition will proceed upon, and that
7 first deposition reached between -- or stipulation
8 reached between the parties is that out-of-state national
9 counsel, Katherine Clark, may participate in this
10 deposition.

11 So at this point I'd ask, do any other counsel
12 on the phone have any objection to Miss Clark's
13 participation in this deposition as an out-of-state
14 lawyer?

15 All right. Hearing no objection, we have a
16 stipulation by all.

17 And then second stipulation reached between the
18 parties pertains to the scope of this deposition. The
19 witness, Mr. Martino, is being produced today pursuant to
20 Plaintiffs' notice of deposition, dated December 15,
21 2006, subject to the following agreed upon conditions:

22 No. 1, that the witness's testimony will be
23 limited to Union Carbide phenolic resin and phenolic
24 molding compound business.

25 Secondly, that the witness will provide general

1 Defendants' Exhibit -- or Exhibit A the Plaintiffs'
2 deposition notice of December 15, 2006, as well as the
3 meet-and-confer letter setting out the conditions or the
4 limited scope of this deposition as Exhibit --
5 Defendants' Exhibit B.

6 And that letter is dated February 21, 2007.

7 And, Madam Court Reporter, I'll provide you with
8 those at the conclusion of the deposition.

9 Go ahead, Bruce. You may proceed.

10 BY MR. JACKSON:

11 Q All right. Mr. Martino, you understand you're
12 under oath for a deposition in the Pedro Barragan case,
13 correct?

14 A Yes, I do.

15 Q Can you tell me, have you given depositions as a
16 consultant on behalf of Union Carbide in the last year?

17 A Yes.

18 Q How many times have you done that?

19 A One, possibly two. I don't have my records
20 here.

21 Q When was the last time?

22 A I think it was July of last year.

23 Q Was that in regard to a Bakelite case?

24 A Yes.

25 Q And the other time in the last year, was it also

1 in regard to Bakelite?

2 A Yes.

3 Q Do you recall the jurisdiction of the lawsuit in

4 the one from July 2006?

5 A No, I don't.

6 Q Was it in California?

7 A The jurisdiction?

8 Q Yes.

9 Was the case filed in California, if you know?

10 A I don't think so.

11 Q Did you give your deposition in person or over

12 the phone?

13 A In -- it was over the phone.

14 Q And the previous one of this year, the

15 deposition that you gave, do you know the jurisdiction of

16 that case?

17 A No, I don't.

18 Q Do you know if it was filed in California?

19 A I don't think so.

20 Q Was that a phone deposition, or was that in

21 person?

22 A That, I think, was a phone deposition, also.

23 Q Okay. Have you given any in-person depositions

24 this year regarding Bakelite?

25 A Not this year.

13

1 Q Have you testified at trial in the last year on

2 behalf of Union Carbide?

3 A No.

4 Q You're currently retired; is that right?

5 A Yes.

6 Q When did you last work as an employee for the

7 company of Union Carbide?

8 A 1996.

9 Q And from '96 until today, approximately how much

10 of your time has been spent doing consulting work in

11 litigation for Union Carbide?

12 MS. SAFECHUK: Objection. Vague. Ambiguous.

13 Overbroad.

14 BY MR. JACKSON:

15 Q Do you understand the question, sir?

16 A Yes.

17 Oh, it totals possibly two to three weeks out of

18 the year.

19 Q How are you compensated for your consulting

20 work?

21 A By the hour.

22 Q And what is your hourly rate?

23 A For work reviewing documents and that sort of

24 thing, \$150 an hour. Travel time is \$75 an hour, and

25 depositions and testifying in court is \$200 an hour.

14

1 Q Are you being paid for the consulting work that

2 you're doing today in the Barragan case?

3 A I will be.

4 Q And at the rate of \$200 an hour; is that right?

5 A For the deposition, yes.

6 Q All right. Let me turn to your background with

7 Union Carbide.

8 You started with the company in 1948; is that

9 true?

10 A Yes.

11 Q And at that time you didn't have any direct

12 involvement with the Bakelite division?

13 A I worked --

14 MS. SAFECHUK: Vague. Ambiguous.

15 THE WITNESS: What was that?

16 BY MR. JACKSON:

17 Q Do you understand my question?

18 A I worked for the Bakelite division.

19 Q Okay. What part of the Bakelite division in

20 '48?

21 A It was the one located in Bound Brook,

22 Piscataway Township.

23 Q And when you started in 1948, can you tell me

24 what your job title was?

25 A Trainee.

15

1 Q How long did you hold the position of trainee?

2 A About ten months.

3 Q What was your next position with the company?

4 A I then was transferred to research and

5 development as a plastic engineer.

6 Q And how long did you stay with that department?

7 A Until I retired.

8 Q Okay. What was your general job description in

9 research and development?

10 A Well, it varied over periods of time.

11 I was promoted to -- on the technical ladder to

12 project scientist in 1958, and then I was promoted to

13 group manager of the polymer technical service group in

14 1959, and then in 1960, I became group manager of the

15 Bakelite molding and laminating resins group.

16 Q Until 1958, you were with the thermoplastic

17 division of Bakelite; is that correct?

18 MS. SAFECHUK: Misstates testimony.

19 THE WITNESS: Well, it wasn't a division. It

20 was a department, yes.

21 BY MR. JACKSON:

22 Q Okay. So until '58, you were with the

23 thermoplastics department?

24 A Yes.

25 Well, actually, I was -- in 1959, I had

16

1 thermoplastics and thermoset responsibility.

2 Q My question was from 1949 to 1958 --

3 A Yeah. You're correct.

4 Q -- you were with the thermoplastics department?

5 A Yes.

6 Q At that point in time with Union Carbide, did
7 you have any involvement with the formulation of the
8 Bakelite material?

9 MS. CLARK: Objection. Vague.

10 THE WITNESS: No, I did not.

11 BY MR. JACKSON:

12 Q Did you subsequently learn from your time with
13 Union Carbide the various formulations of Bakelite
14 material dating back to 1948 to 1958 time period?

15 A Yes. I had access to the records that I needed.

16 Q As of the time you started as a trainee in 1948,
17 did any of the Bakelite formulations at that time contain
18 asbestos?

19 MS. SAFECHUK: Objection. Vague and ambiguous.

20 THE WITNESS: Could you repeat the question,
21 please?

22 BY MR. JACKSON:

23 Q I'll actually rephrase it, Mr. Martino.

24 Is it true that you subsequently learned that
25 Union Carbide was using asbestos as a filler in some of

1 Q Did you subsequently learn what percentage of
2 the Bakelite formulations in this time frame of 1948 to
3 1958 actually contained asbestos as a filler?

4 MS. CLARK: Objection. Vague. Foundation.

5 THE WITNESS: No, I did not.

6 BY MR. JACKSON:

7 Q So as you sit here today, do you have any
8 estimate from that time frame with Union Carbide, from
9 '48 to '58, what percentage of the Bakelite formulations
10 had asbestos in it?

11 MS. CLARK: Same objections.

12 THE WITNESS: I don't recall getting that
13 information, no.

14 BY MR. JACKSON:

15 Q Do you know if all of them did?

16 A No, they did not.

17 Q And what makes you say that?

18 A Because of the formulation I looked at when I
19 was taking over that group, many of them had -- in fact,
20 most of them had wood flour in them.

21 Q When you say "most of them had wood flour," did
22 any of them have wood flour and asbestos, as well?

23 A Some did, yes.

24 Q Can you give me an estimate as to -- did as many
25 as half of the formulations of Union Carbide between '48

17

19

1 their Bakelite formations between the time frame of 1948
2 and 1958?

3 A No, I did not.

4 MS. SAFECHUK: Belated objection. Vague.
5 Ambiguous.

6 Go ahead.

7 THE WITNESS: No, I did not.

8 BY MR. JACKSON:

9 Q Do you have any knowledge, as you sit here, that
10 Union Carbide was using asbestos as a filler in their
11 Bakelite product between '48 and '58?

12 MS. SAFECHUK: Vague. Ambiguous.

13 THE WITNESS: I do now. I did not then.

14 BY MR. JACKSON:

15 Q That was my question.

16 A Yes.

17 Q Did you subsequently learn that Union Carbide
18 was using asbestos as a filler in some of its Bakelite
19 formulations between 1948 and 1958?

20 A Yes, I did.

21 Q And how did you learn of this information?

22 A When I became manager of the molding material
23 group, I had to learn the background and the technology
24 of that area. That's the time that I learned about what
25 the formulations contained.

1 and '58 have asbestos in them?

2 A No, they didn't.

3 MS. CLARK: Objection. Vague. Ambiguous.
4 Go ahead, Carlo.

5 THE WITNESS: Never half, no.

6 BY MR. JACKSON:

7 Q Less than 25 percent?

8 A Yes.

9 Q Less than 10 percent?

10 A No.

11 Q Okay. I'll leave it at that range for now.

12 Did you subsequently come to understand why
13 asbestos was used as a filler in only some of the Union
14 Carbide Bakelite products between 1948 and 1958?

15 A Yes.

16 Q What's the explanation for that?

17 A It was used to -- for heat-resistant
18 applications. High temperatures.

19 Q Okay. So to understand that, if Bakelite
20 formulations were being made for some application that
21 did not require a high heat-resistant application, there
22 was no need to put asbestos into it?

23 A That's correct.

24 Q And that filler would just be what?

25 A Wood flour and occasionally some other fillers

1 would be added. Coal.

2 Q Is there a way to tell me at what temperature

3 setting asbestos would need to be added, or at least what

4 high temperature application you would need to include

5 asbestos as a filler?

6 MS. CLARK: Objection. Foundation. Vague.

7 THE WITNESS: Usually oven temperatures, four

8 hundred, five hundred degrees Fahrenheit, for long periods

9 of time.

10 BY MR. JACKSON:

11 Q In that same vein, between 1948 and 1958, is

12 there any way to tell me what percentage of the Union

13 Carbide Bakelite materials were actually high temperature

14 applications?

15 MS. CLARK: Objection. Vague. Ambiguous.

16 MS. SAFECHUK: Also, it's beyond the agreed-upon

17 scope of the witness's testimony.

18 BY MR. JACKSON:

19 Q Do you have my question in mind, Mr. Martino?

20 A Well, they'd be a fraction of the -- a

21 percentage of the 10 to 25 percent we've already talked

22 about.

23 Q Well, did all high-temperature applications for

24 Bakelite in this time frame, '48 to '58, contain asbestos

25 as a filler?

21

1 Those were the main ones.

2 Q Any others that you can think of?

3 A Not at this time, no.

4 Q How did you come to understand what those

5 applications were?

6 A Through our contacts with customers.

7 Q And do you recall who any of your customers were

8 in this time frame 1948 to 1958 for high-voltage switch

9 gear?

10 A No. I was not in that area at the time.

11 Q Same question then. Do you recall who any of

12 your customers were for the electrical components used in

13 ovens?

14 A During that period of time?

15 Q Between '48 and '58, yes.

16 A No. Not at that time.

17 Q Okay. And have you ever made any effort to

18 determine who any of your customers were, dating back to

19 1948 and '58 time frame, for the high-temperature or

20 high-heat application Bakelite?

21 A No.

22 Q For example, do you know if the U.S. Military

23 was a customer of Union Carbide Bakelite products between

24 '48 and '58?

25 MS. CLARK: Objection. Vague. Ambiguous.

23

1 MS. CLARK: Objection. Vague. Ambiguous.

2 THE WITNESS: The percentage was adjusted, you

3 know -- asbestos was combined with other fillers

4 depending on the application.

5 BY MR. JACKSON:

6 Q Okay. Was it possible in 1948 to 1958 -- or

7 strike that.

8 To your knowledge, in that time frame, did Union

9 Carbide make Bakelite formulations for high-temperature

10 applications which did not include asbestos as a filler?

11 A Not that I'm aware of.

12 Q At some point did you come to understand what

13 the various applications were for the high heat-resistant

14 or high-temperature Bakelite products that were being

15 sold by Union Carbide?

16 MS. CLARK: Objection. Vague. Ambiguous.

17 THE WITNESS: Yes, I did.

18 BY MR. JACKSON:

19 Q And so that I don't get too overbroad with my

20 years, between this time frame 1948 and 1958, what were

21 the applications for the high-temperature or high

22 heat-resistant Bakelite that Union Carbide was selling?

23 A Electrical components that would be exposed to

24 those high temperatures, such as that would be in ovens,

25 for example. High-voltage switch gear.

22

1 THE WITNESS: No, I did not.

2 BY MR. JACKSON:

3 Q Have you made any effort to make the

4 determination of whether they were during that time

5 frame?

6 A No.

7 MS. CLARK: Same objections.

8 BY MR. JACKSON:

9 Q Do you have any information one way or the other

10 of whether Union Carbide Bakelite was on any qualified

11 providers list for the U.S. Government or any branch of

12 the -- military branch of the U.S. Government?

13 MS. CLARK: Objection. Vague. Ambiguous.

14 MS. SAFECHUK: Beyond the agreed-upon scope of

15 this witness's testimony.

16 THE WITNESS: Again, during that period of time?

17 MR. JACKSON: Yes.

18 THE WITNESS: No.

19 BY MR. JACKSON:

20 Q Do you understand what I mean by "qualified

21 provider list"?

22 A Yes.

23 Well, not -- not exactly. Could you explain

24 what you mean by it?

25 Q Sure.

24

1 Do you understand that the U.S. Government has
2 issued qualified providers lists for products that can be
3 used by branches of its military for the manufacture and
4 construction of certain products?

5 Do you understand anything about how that system
6 works?

7 A Well, I can explain how the system works from my
8 point of view.

9 We did not sell directly to the government. We
10 obtained approval for the use of our material under
11 certain of their specifications, and once a product was
12 approved for use under -- under that specification, then
13 our customer, the molder, could use our product that had
14 that approval for the part that required it.

15 Q And do you have any information that Union
16 Carbide Bakelite was -- had been approved as a provider
17 of phenolic resins or phenolic molding materials by the
18 U.S. Government at any point between '48 and '58?

19 MS. CLARK: Objection. Vague. Ambiguous.

20 MS. SAFECHUK: Asked and answered. Also, beyond
21 the agreed-upon scope of the witness's testimony.

22 THE WITNESS: I never needed that information,
23 so I never got it.

24 BY MR. JACKSON:

25 Q Do you have any information of whether Union

1 Q Can you explain how so?

2 A I became the group manager of a newly formed
3 polymer technical service group. The technical service
4 for all of our plastic products, which included the
5 thermoplastics, as well as the thermosetting products,
6 were placed in one group.

7 Q At that point in time did you also then have
8 direct involvement with the thermosetting products?

9 A I then had responsibility for the technical
10 service provided to customers who bought our phenolic
11 molding materials.

12 Q And how long did you have that position?

13 A One year.

14 Q So until approximately 1960; is that right?

15 A Right.

16 Q And then as of 1960, what was your job title or
17 job description at that point?

18 A Then I became group manager of the Bakelite
19 molding and laminating resins group.

20 Q Okay. And you held that position until
21 approximately 1974; is that right?

22 A That's -- yes. Mid 1974.

23 Q Okay. And in '74 where did you go? What was
24 your new position?

25 A I became senior group manager of the low density

25

27

1 Carbide Bakelite products were used in the construction
2 of missiles or missile guidance or testing equipment
3 between 1948 and 1958?

4 A No, I do not.

5 Q Have you made any attempt to determine whether
6 Union Carbide Bakelite products were used in those
7 applications?

8 A No, I did not.

9 MS. SAFECHUK: Vague. Ambiguous. Beyond the
10 agreed-upon scope of witness's deposition.

11 BY MR. JACKSON:

12 Q Do you have any information of whether Union
13 Carbide Bakelite products were used in the construction
14 of vector boards or circuit boards that were used in
15 conjunction with missile guidance or missile testing
16 equipment?

17 MS. CLARK: Vague. Ambiguous.

18 THE WITNESS: No, I do not.

19 BY MR. JACKSON:

20 Q Have you made any effort to research that
21 subject?

22 A No, I have not.

23 Q Okay. Mr. Martino, in 1959 you said that your
24 position changed somewhat with Union Carbide?

25 A Yes.

1 polyethylene product development group.

2 Q That's not a Bakelite development group?

3 A It's no longer the Bakelite phenolic type of
4 business, but the polyethylene at that time was being
5 called Bakelite brand polyethylene, and it was a
6 thermoplastic.

7 Q What's your understanding of when Union Carbide
8 stopped making Bakelite phenolic resin or phenolic
9 molding products?

10 A Would you repeat that again, please?

11 Q What's your understanding of when Union Carbide
12 stopped making Bakelite phenolic resin or molding
13 products?

14 A The end of 19 -- well, not resin, but the
15 molding material production was -- the end of that was in
16 1974, the end of 1974.

17 We still made the resin -- resin still.

18 Q All right. And from 1959 to 1974, I take it you
19 had personal knowledge of whether or not the Union
20 Carbide Bakelite formulations contained asbestos?

21 A Yes.

22 Q Did at least some of the formulations contain
23 asbestos up until 1974?

24 A In '7 -- sometime in 1974 our program to remove
25 asbestos from all our formulations was completed. So

1 sometime in 1974 we reached a point where we were not
2 producing any molding material with asbestos in it.

3 Q So is it correct then that 1974 is the last
4 year, as far as you understood, that the Bakelite
5 formulations contained any asbestos at all?

6 A That is right.

7 Q In terms -- well, just to make sure, from 1959
8 to 1974, did all of the Bakelite formulations contain
9 asbestos as a filler?

10 A No. Absolutely not.

11 Q Is there a way to estimate for me what
12 percentage of the Union Carbide Bakelite formulations
13 contained asbestos between '59 and '74?

14 MS. CLARK: Objection. Vague. Overbroad.

15 THE WITNESS: It was always less than
16 50 percent. The highest was 40 percent, and most of the
17 time it was much less than that, as low as 20 percent,
18 the beginning of that period, and none at the end of that
19 period.

20 BY MR. JACKSON:

21 Q And from that time frame between 1959 to 1974,
22 did the percentage of formulations that contained
23 asbestos increase, decrease, or stay about the same?

24 A They increased up till about 1970, and then
25 decreased rapidly after that.

1 MS. CLARK: Objection. Vague. Ambiguous.

2 THE WITNESS: For a short period of time, yes.

3 BY MR. JACKSON:

4 Q What was the reason for doing that?

5 A Small percentages gave the product faster cure
6 speed, better surface appearance, a little bit better
7 heat resistance, and that was before we decided to -- and
8 then it -- and that was used for applications that were
9 not -- didn't require quite the high temperatures that
10 the high-asbestos dose materials were used in.

11 Q Was there anything besides asbestos that could
12 be used for those purposes in the general purpose
13 Bakelite?

14 MS. CLARK: Objection. Vague. Ambiguous.

15 MS. SAFECHUK: Also, beyond the agreed-upon
16 scope of the witness's testimony.

17 THE WITNESS: Not to get -- not and get the same
18 benefit.

19 MS. SAFECHUK: You know, Bruce, we've been
20 really generous with the witness's testimony and your
21 questioning beyond the agreed-upon scope of the witness's
22 testimony.

23 Is there any way we can stay focused on the
24 circuit boards that this Plaintiff testified he allegedly
25 worked with?

1 Q Can you explain the reason for the increase?

2 A The increase was because of the beneficial
3 effects of using asbestos in the molding material. We
4 were losing a lot of applications to the thermoplastic
5 business, and the business that was left was the business
6 that thermoplastics couldn't compete in, and that was the
7 higher and higher temperature uses.

8 Q And in the time frame of 1959 to 1974, is there
9 a way to tell me which of the formulations asbestos was
10 used as a filler?

11 A I could tell you some. I don't have -- you
12 know, are you talking about numbers?

13 Q Well, starting with applications.

14 Which applications?

15 MS. CLARK: Objection. Vague. Ambiguous.
16 Overbroad.

17 MS. SAFECHUK: Also, beyond the agreed-upon
18 scope of the witness's testimony.

19 THE WITNESS: The applications were primarily
20 high temperature -- where high temperature was required.
21 Again, oven applications, high-voltage switch gear.

22 BY MR. JACKSON:

23 Q Did Union Carbide ever begin to include asbestos
24 in its filler of the Bakelite for just general purpose
25 Bakelite?

1 MR. JACKSON: Yeah. That will be part of my
2 questioning, as well.

3 Q All right. So the application for the Bakelite
4 from the time frame from 1959 to 1974 that actually
5 contained asbestos was generally the same as, you said,
6 from the previous time frame, that it would be for the
7 high-heat resistant Bakelite?

8 A Please repeat that. I didn't get it all.

9 Q From the 1959 to 1974 time frame, is it
10 generally true that the applications of Bakelite that
11 contained asbestos would have been the high
12 heat-resistant Bakelite, as you've described earlier?

13 A Yes. But we also had those products where we
14 put in small amounts of asbestos for a short period of
15 time that didn't require as high temperature exposure or
16 were used in applications that weren't exposed to as high
17 temperature.

18 Q Okay. And, generally, for the high-temperature
19 Bakelite from the 1959 to 1974 time frame, do you have
20 information of who the customers were of those products?

21 MS. CLARK: Objection. Vague. Ambiguous.

22 THE WITNESS: I can only remember a few.
23 Square D, Cutler-Hammer, Allen-Bradley.

24 Those are the ones that come to mind.

25 BY MR. JACKSON:

1 Q Okay. Is it your understanding that Square D,
2 the application was for high-voltage switch gears?
3 MS. CLARK: Objection. Vague. Ambiguous.
4 THE WITNESS: Yes.
5 BY MR. JACKSON:
6 Q How about Cutler-Hammer, the same?
7 A Same.
8 Q Allen-Bradley, the same?
9 A Yeah. They were all in the same business.
10 Q Any other customers that you can think of for
11 Union Carbide Bakelite for the high-voltage switch gear
12 application?
13 A No.
14 Q Any customers that you can think of for the
15 high-temperature electrical component application?
16 MS. CLARK: Objection. Misstates his testimony.
17 Go ahead.
18 THE WITNESS: It would be the same ones, but I'd
19 have to, you know, look into the records to refresh my
20 memory. That's over 30 years ago.
21 BY MR. JACKSON:
22 Q And when was the last time you refreshed your
23 memory by looking at any documents of who the customers
24 were of Union Carbide Bakelite during that time frame,
25 '59 to '74?

33

1 A In that general way, I never did. It was always
2 specific to certain customers, but never in a general
3 way.
4 Q All right. Do you have any information between
5 1959 and 1974 that Union Carbide Bakelite products were
6 on any qualified providers list of the U.S. Government or
7 branches of the U.S. Military?
8 A Yes.
9 Q And what's your knowledge of that?
10 A We had several formulations that met the -- that
11 received the military approval for certain of their
12 applications.
13 Q Did any of those formulations contain asbestos,
14 to your knowledge?
15 A I don't recall.
16 Q Do you know if any of those formulations were
17 for high-temperature applications?
18 A No, I don't.
19 Q Do you have any information as to which
20 formulations were on any qualified providers list of the
21 U.S. Military between '59 and '74?
22 A I'd have to go to the Bakelite repository for
23 that.
24 Q Do you know if the Union Carbide Bakelite
25 products were on any qualified providers list for

34

1 construction of government missiles?
2 A No.
3 Q You don't know one way or the other?
4 A Where the product was used after we met -- got
5 the government approval for it, we didn't know. The
6 molder or the laminator would sell directly to the
7 customer who would be making the missile. We wouldn't
8 know what was being done.
9 Q Did Union Carbide ever perform its own molding
10 for its customers and then provide a molded Bakelite
11 product?
12 MS. SAFECHUK: I'm going to object as beyond the
13 agreed-upon scope of the witness's testimony.
14 THE WITNESS: Would this --
15 MS. SAFECHUK: Vague and ambiguous.
16 THE WITNESS: Would this be for sale to the
17 customer?
18 MR. JACKSON: Yes.
19 THE WITNESS: No. We've never made or sold any
20 finished products.
21 BY MR. JACKSON:
22 Q Okay. So the process would be that Union
23 Carbide would sell the Bakelite product to a customer,
24 who would do their own molding for whatever they were
25 going to make a finished product for?

35

1 A That's correct.
2 Q Do you have any information that Union Carbide
3 ever sold any Bakelite products directly to the
4 United States Government?
5 A None that I'm aware of.
6 Q Do you have any information one way or the other
7 of whether they ever sold any Bakelite products to
8 McDonnell Douglas or Douglas Aircraft?
9 A Not aware of any sales to them either.
10 Q Do you have any information of whether or not
11 Union Carbide sold any Bakelite products to Ford
12 Aerospace?
13 A No, I don't.
14 Q All right. Do you have any information whether
15 or not any Union Carbide Bakelite products were ever used
16 in the construction of government missiles in the time
17 frame of 1959 to 1974?
18 A No, I don't.
19 Q Do you have any information of whether or not
20 Union Carbide Bakelite products were used in vector
21 boards or circuit boards that were parts of either
22 missiles or missile guidance equipment for government
23 missiles?
24 A No.
25 Q No, they weren't, or no, you don't know one way

36

1 or the other?

2 A No, I don't know.

3 Q Have you made any efforts to determine whether
4 or not Union Carbide Bakelite product was ever used in
5 circuit boards or vector boards in construction of
6 government missiles?

7 A Could you repeat that again, please?

8 Q Sure.

9 Have you made any attempt to determine whether
10 or not Union Carbide Bakelite was ever used for
11 construction of circuit boards or vector boards used in
12 conjunction with the assembly of government missiles?

13 A No. I would not know that.

14 Q Have you been provided with any information
15 about my client, Pedro Barragan's work history?

16 A I read the deposition.

17 Q Do you have that deposition available?

18 A I personally don't.

19 Q Do you know which volume or volumes of
20 Mr. Barragan's testimony that you read?

21 MS. CLARK: I can tell you that.

22 It was the trial preservation deposition of
23 September 18, 2006.

24 MR. JACKSON: Okay. Thank you.

25 Q You understand then that Mr. Barragan worked as

1 a phenolic Bakelite material where you believe he's
2 mistaken?

3 MS. SAFECHUK: I'll object as vague and
4 ambiguous.

5 THE WITNESS: Well, he didn't define it as a
6 laminate. That's the only thing, he didn't go that far,
7 probably because he didn't know enough about the product,
8 but that it was made from a phenolic, that was a very
9 good possibility.

10 A phenolic resin base, anyway.

11 BY MR. JACKSON:

12 Q And, Mr. Martino, if you were asked to presume
13 that that, in fact, is a Union Carbide Bakelite material
14 that he's referring to, is there any way -- do you have
15 any information to be able to tell me whether or not that
16 would likely have an asbestos filler in it or it would
17 not likely have an asbestos filler in it, or would you
18 just not be able to tell?

19 MS. CLARK: Assumes facts not in evidence.
20 Incomplete hypothetical.

21 Go ahead.

22 THE WITNESS: I would not know whether the
23 phenolic resin that was made -- used to make that
24 laminate came from Union Carbide or from Bakelite.

25 I also would not know what the laminator put

1 an engineer during his career for missile testing and
2 guidance equipment?

3 A Yes.

4 Q Okay. And you saw his testimony at some point
5 in his trial preservation where he said that he worked
6 with circuit boards that, in his opinion or in his
7 belief, were made of phenolic Bakelite material?

8 A Yes.

9 Q Do you believe -- or do you have any information
10 that Mr. Barragan is incorrect in that statement?

11 A No. It's my -- my experience has been that
12 circuit boards are made out of a combination of
13 Bakelite -- made out of phenolic resins and paper in
14 laminate form.

15 And to that extent, I think he's correct.

16 Now, whether it was Bake -- calling it Bakelite,
17 that's a generic term. So whether that -- whether or not
18 the components of that laminate came from us or not, that
19 I don't know.

20 Just because it was called Bakelite doesn't mean
21 that our product was in there.

22 Q Okay. Other than him using it as a generic
23 term, or potentially using it as a generic term, is there
24 any other -- anything else about that statement of the
25 circuits boards that he's working on that he believes is

1 into that laminate. We would sell only the resin to that
2 laminator. Resin would not contain asbestos.

3 And based on my knowledge of laminates, the
4 paper-base laminates are one of the most commonly used
5 products to make circuit boards, and to my knowledge,
6 they consist only of paper that's been impregnated with
7 phenolic resin and then cured into large sheets which are
8 later cut into whatever size you need.

9 But we didn't do that. We don't make laminates.
10 We only sell the resin, and we weren't the only producer
11 of resin. So whether the laminator who made those
12 laminates bought from us or someone else, I wouldn't
13 know.

14 BY MR. JACKSON:

15 Q Okay. On the first part, what you're saying is
16 you have no information one way or the other whether it
17 could be a Bakelite resin material, correct?

18 A That's correct.

19 Q If it turned out that it were a Union Carbide
20 Bakelite material, is it your testimony that you don't
21 believe that that material would include asbestos as a
22 filler?

23 MS. CLARK: Objection. Vague and ambiguous as
24 to "that material."

25 THE WITNESS: I couldn't say that because we

1 didn't make the laminate, so I don't know what the
2 laminate manufacturer put in there. We would have only
3 sold him the resin.

4 The NEMA, National Electrical Manufacturers
5 Association, which classifies all the different laminates
6 only describes those paper-base laminates as being
7 combination of paper and phenolic resin, but there are
8 30 different other -- the total classification the last
9 time I looked at it was around 30 different laminates
10 with all the various, you know, reinforcements.

11 So I -- you know, the laminator would be the
12 person who -- the one who made the laminate would be the
13 person who would know the most about the composition.

14 BY MR. JACKSON:

15 Q And in the 1959 to 1974 time frame, did Union
16 Carbide have any customers that made laminates as you're
17 describing?

18 A Oh, yes.

19 Q Who are those customers?

20 A Wilson Products, Synthane, Formica.

21 There is an example of where the laminate --
22 Formica had sold its products under its own trademark
23 called Formica, but people who used the industrial
24 laminates still refer to it as Bakelite.

25 Q Okay. Any other customers?

41

1 Q And explain to me the different application.

2 A Well, for the -- for the circuit board, the
3 phenolic molding material that we made wouldn't have the
4 strength to take the fabrication steps that were
5 described in the deposition.

6 They would not be -- they wouldn't be able -- if
7 you used molding material to make that board, you
8 wouldn't be able to cut it with a paper cutter. It would
9 crack.

10 Also, Mr. Barragan described having to use
11 special tools to insert the metal contacts into the
12 laminate. If that was made out of molding materials, it
13 wouldn't take that abuse.

14 Q Did you --

15 A You just don't have -- with the molding
16 materials that we make, you wouldn't have the strength in
17 that -- for the circuit board application that you need.

18 Q Did Union Carbide actually make Bakelite
19 phenolic resin or phenolic molded material that was used
20 in the construction of circuit boards or vector boards?

21 MS. CLARK: Objection. Asked and answered.
22 Vague and ambiguous.

23 THE WITNESS: It made the phenolic resins which
24 we sold to laminators who made the laminates that were
25 used to make circuit boards.

43

1 A Westinghouse Micarta Division. There were
2 others, but I don't remember them.

3 Q Is it your testimony that Union Carbide did not
4 sell any Bakelite phenolic molding compound material that
5 contained asbestos in a filler that would have been used
6 in the manufacture of vector boards or circuit boards?

7 A I have never seen a circuit board or vector
8 board made out of a phenolic molding material.

9 Q Do you understand what the difference is in what
10 Mr. Barragan is describing as a circuit board or a vector
11 board and what you have previously described as being a
12 high-voltage switch gear?

13 MS. CLARK: Objection. Vague. Ambiguous.

14 BY MR. JACKSON:

15 Q In your mind, are those two different things?

16 A Absolutely.

17 Q Can you explain how so?

18 A The circuit board and vector board are just flat
19 pieces with the predrilled holes for the metal inserts.
20 Entirely different composition than the high-temperature
21 electrical switch gear.

22 The electrical switch gear is a complex-shaped
23 article that is formed from a granulated product.
24 Entirely different -- you know, entirely different
25 application.

42

1 BY MR. JACKSON:

2 Q Okay. And those are the names of the companies
3 you previously gave me?

4 A Yes.

5 Q And in terms of the molded phenolic compounds,
6 is it your testimony that Union Carbide never made any
7 molded phenolic compounds used in the manufacture of
8 circuit boards or vector boards?

9 A That's correct.

10 Q Now, in terms of the actual formulations of
11 Bakelite products, the designations for those products
12 weren't determined by what the filler was; is that
13 correct?

14 A No. They did not.

15 Q In other words, is there a way for me to look at
16 the designations of Union Carbide Bakelite products and,
17 from the designations themselves, be able to tell whether
18 or not that contained asbestos as a filler or not?

19 MS. CLARK: Can I just ask, you mean like a
20 product number when you're saying "designation"?

21 BY MR. JACKSON:

22 Q Mr. Martino, do you understand my question?

23 A Yes.

24 MS. SAFECHEUK: Vague. Ambiguous. Overbroad.
25 Go ahead.

44

1 THE WITNESS: I'm assuming what Kate -- you
2 know, just what Kate said, that you're referring to a
3 product number.

4 Is that correct?

5 MR. JACKSON: That's right.

6 THE WITNESS: Yeah.

7 No. You can't tell from looking at the product
8 designation as to whether it contained asbestos or not.

9 BY MR. JACKSON:

10 Q Okay. And you've been on record of giving
11 certain product numbers in which you understood did
12 contain asbestos as a filler; is that right?

13 A Yes.

14 Q And to give -- maybe help me understand what
15 these numbers mean, for example, one of those product
16 numbers was BMG5020.

17 A Yes.

18 Q Could you just take me through what those mean,
19 starting with the BMG?

20 MS. SAFECHUK: Beyond the agreed-upon scope of
21 the witness's testimony.

22 Go ahead.

23 THE WITNESS: "B" refers to Bakelite, and it
24 means it was made from a phenolic resin or that class of
25 resins and that it is a thermosetting compound.

45

1 Q Okay. So -- now, explain that to me. You're
2 saying that for that particular BMG5020, there would be a
3 formulation sheet that would correlate to that particular
4 number, and the formulation sheet is what would tell you
5 whether or not asbestos was a filler or not?

6 A Yes.

7 Q And it's your understanding that those
8 formulation sheets would be maintained in Union Carbide's
9 repository?

10 A Yes.

11 Q Is that something that you have in your
12 possession?

13 A I don't.

14 Q All right. Are you able to tell just from
15 looking at the actual designation BMG5020 what the
16 application of that product is?

17 MS. CLARK: Objection. Vague. Overbroad.

18 THE WITNESS: That was our general purpose,
19 low-asbestos-containing material that we made that we
20 talked about earlier that had faster cure speeds that are
21 apparent, and -- but it was -- the asbestos was removed
22 from that when we started our asbestos-removal program.

23 BY MR. JACKSON:

24 Q In 1974?

25 A No. The program to remove asbestos from our

47

1 "M" stands for molding. The third letter is
2 whether it's -- what type of granulation it was made in.
3 "G" is granular, and it contained a certain amount of
4 fines. It could also be "M," which means that more fines
5 were removed from the granulation.

6 The fourth letter was meant to designate that it
7 was experimental. There was a BMGA, and that's the first
8 formulation. BMGB would be second. In some cases that
9 fourth letter was never dropped.

10 Then you get to the numbers. "5" means that it
11 was a two-step phenolic resin. That means that you had
12 to add the cross-linking agent to the product when you
13 made it.

14 If it was a "2," it meant it was a two-step
15 resin -- I mean a one-step resin or the cross-linking
16 agent was already on the phenolic resin.

17 And then the rest of the numbers were just to
18 distinguish one product from another.

19 BY MR. JACKSON:

20 Q Okay. And how is it that you're able to
21 determine that the product named BMG5020 actually had
22 asbestos as a filler if there was nothing in that
23 designation that would indicate such?

24 A I'd have to go to the formulation sheets that
25 are in the Bakelite repository.

46

1 formulations started in -- I believe it was in '72. Some
2 started even in '71. I think it was '71, and then we
3 took the low-asbestos-containing materials first and
4 gradually worked our way up.

5 Q When you say that that's a general purpose
6 formulation, are you getting that just from the BMG5020
7 designations or is this from your own memory or
8 knowledge?

9 A From my memory and knowledge.

10 Q So there's nothing about that BMG5020 that
11 indicates what the application of the Bakelite product
12 is?

13 A Well, that's why we called it general purpose,
14 because it could be used for many of the thermoset
15 applications.

16 Q Was it ever used for applications in the use of
17 vector boards or circuit boards, if you know?

18 A No.

19 Q Would you give me an example of what its
20 applications would be?

21 A Wall receptacles, household switch gear, you
22 know, circuit breaker housing, pot handles, knobs.

23 Q Is there a difference in your mind between the
24 household switch gear or circuit breakers that you just
25 described and the circuit board or vector board that

48

1 Mr. Barragan is describing that would lead you to
 2 conclude that what he's describing would not contain an
 3 asbestos filler?
 4 MS. CLARK: Objection. Asked and answered.
 5 Vague. Ambiguous.
 6 THE WITNESS: They're two entirely different
 7 applications. There's no connection.
 8 BY MR. JACKSON:
 9 Q And other than what you've already stated on the
 10 record, can you tell me what those different applications
 11 are that lead you to conclude that what Mr. Barragan is
 12 describing would not have an asbestos filler in it?
 13 MS. CLARK: Objection. Asked and answered.
 14 Go ahead.
 15 THE WITNESS: When you have an application, you
 16 decide what your requirements are. The requirements for
 17 the circuit board are entirely different than the
 18 requirements for a wall receptacle.
 19 A wall receptacle is a contoured part, and it's
 20 made so that you don't have to, you know, do any cutting,
 21 machining, or drilling. You just put it into place.
 22 Its requirements are much different than what a
 23 circuit board's requirements are, both electrically and
 24 performance-wise.
 25 So you -- when you look at an application, you

49

1 MS. CLARK: Same objections.
 2 THE WITNESS: 5033? I don't recall that number
 3 at all.
 4 BY MR. JACKSON:
 5 Q And how about BMG2035?
 6 MS. CLARK: Same objections.
 7 THE WITNESS: Isn't that one we just talked
 8 about, the pump housing?
 9 MS. CLARK: Yeah, actually.
 10 MR. JACKSON: I'm sorry. I've listed that one
 11 twice.
 12 Q Mr. Martino, have you actually had any occasion
 13 to see who is included on a qualified providers list for
 14 the manufacture of circuit boards or vector boards for
 15 the U.S. Government?
 16 A No.
 17 Q Do you know if Union Carbide ever sold or
 18 supplied any Bakelite product to a company by the name of
 19 Ambitech?
 20 A Ambitech, A-m-b-e --
 21 Q -i-t-e-c-h.
 22 A No.
 23 Q You don't know one way or the other?
 24 A I don't even recognize the company.
 25 Q How about a company by the name of Calumet

51

1 have to decide, what do I need to do what the -- meet the
 2 end-use requirements and go from there.
 3 BY MR. JACKSON:
 4 Q Let me just run through a few of the other
 5 asbestos-containing compounds.
 6 BMG5138. Are you able to tell me what the
 7 application of that compound is?
 8 MS. CLARK: Objection. Vague. Overbroad.
 9 He doesn't have these documents in front of him.
 10 MS. SAFECHUK: Lacks foundation. Beyond the
 11 agreed-upon scope of the witness's testimony.
 12 THE WITNESS: All I can remember about that one
 13 was it had a little more asbestos than -5020, but I don't
 14 remember specifically who we developed that for without
 15 going to the records.
 16 BY MR. JACKSON:
 17 Q BMG2035?
 18 MS. CLARK: Same objections.
 19 MS. SAFECHUK: Same objections.
 20 THE WITNESS: I think that was developed for
 21 wet/dry applications like pump housing, but I'd have to
 22 check the records again to, you know, make sure that I'm
 23 correct on that.
 24 BY MR. JACKSON:
 25 Q How about the BMG5033?

50

1 Electronics?
 2 A I don't recall any sales to them or having any
 3 contact with them.
 4 MS. CLARK: Can you spell that, please? I
 5 didn't catch the name.
 6 MR. JACKSON: C-a-l-u-m-e-t Electronics?
 7 MS. CLARK: Okay. Thank you.
 8 THE WITNESS: That doesn't ring a bell, but I
 9 would have to check Bakelite repository as to whether
 10 we -- whether there was any contact with them at all.
 11 BY MR. JACKSON:
 12 Q How about Coretec, C-o-r-e-t-e-c, Denver?
 13 A Don't recall them at all either.
 14 Q How about Crown Circuits, Inc.?
 15 A No. I don't recall them either.
 16 Q Diversified Systems?
 17 A No.
 18 Q Dynamic and Proto Circuits, Inc.?
 19 A No.
 20 Q Dynamic Details, Inc.?
 21 A No.
 22 Q Geometric Circuits, Inc.?
 23 A No.
 24 Q Lone Star Circuits?
 25 A I don't recall that name either.

52

1 I'm trying to remember all this. You know, a
 2 check of the records would, you know, confirm it.
 3 Q Micom Corporation?
 4 A No.
 5 Q Thilway Products, Inc.?
 6 A No.
 7 Q And just so I can make sure I understand the
 8 nature of your answer, are you saying no, that you didn't
 9 do business with them, or no, you don't know?
 10 A No, I don't recall having done anything with
 11 them in -- from my R&D position.
 12 Q And is that how you have been answering the
 13 questions as to the previous companies?
 14 A Yes.
 15 Q Do you know if Union Carbide sold Bakelite
 16 products to a company by the name of Printed Circuits,
 17 Inc.?
 18 A No, I do not.
 19 Q How about Sovereign Circuits, Inc.?
 20 A No, I do not.
 21 Q Teradyne?
 22 That's T-e-r-a-d-y-n-e.
 23 A No, I do not.
 24 Q Tyco Printed Circuit Group?
 25 A I do not.

53

1 laminate, also.
 2 And it's my understanding when the laminate is
 3 manufactured, the designation is stamped onto the
 4 laminate, and the people using the laminate have to use
 5 what the government specified.
 6 BY MR. JACKSON:
 7 Q And you say NEMA designation. How are you using
 8 that term?
 9 A Well, NEMA has 30 different -- well, roughly
 10 30 different classifications of laminates: Paper-based,
 11 linen, canvas, made with phenolic, made with epoxy, so on
 12 and so forth.
 13 And the government also has the same list for
 14 laminates, and the classifications correspond with each
 15 other. And during this period of time, the government
 16 had its own designation and NEMA had its designation, but
 17 the classifications were the same.
 18 But you could take the government's spec and
 19 find out what the NEMA designation was for that. It's my
 20 understanding now they're both the same.
 21 But that would -- my understanding of how the
 22 system works, once the government decides that it's for a
 23 particular application to use a certain NEMA grade,
 24 that's what you have to use.
 25 MS. CLARK: We've been going about an hour and

55

1 Q Okay. And as you sit here, is it fair that you
 2 have not gone and made an effort to determine what
 3 manufacturers that may be listed on a qualified products
 4 list for the United States Government or military were
 5 ever customers of Union Carbide Bakelite?
 6 MS. CLARK: Objection. Vague. Overbroad.
 7 Beyond the scope of the deposition and the notice.
 8 THE WITNESS: Did I make an effort to determine
 9 that?
 10 MR. JACKSON: That's right.
 11 THE WITNESS: No, I did not.
 12 BY MR. JACKSON:
 13 Q Well, would you agree that whatever circuit
 14 board that Mr. Barragan has identified as working on when
 15 he was working in conjunction with missile testing and
 16 missile guidance equipment, that circuit board would have
 17 been manufactured with products that are listed on the
 18 government qualified products list?
 19 MS. CLARK: Objection. Foundation.
 20 MS. SAFECHUK: It's also vague, ambiguous,
 21 overbroad. Beyond the agreed-upon scope of the witness's
 22 testimony and may call for speculation.
 23 THE WITNESS: The laminate -- there would have
 24 been a military designation for that laminate and --
 25 which would correspond with the NEMA designation for that

54

1 twenty. We just need a short restroom break here, if
 2 that's okay.
 3 MR. JACKSON: I actually am about done.
 4 MS. CLARK: Oh, really?
 5 MR. JACKSON: I'll be done in about five
 6 minutes.
 7 MS. CLARK: Can you wait, Mr. Martino?
 8 THE WITNESS: Sure.
 9 MS. CLARK: Okay.
 10 BY MR. JACKSON:
 11 Q Okay. Mr. Martino, let me just clear this up.
 12 I think it's already clear from the stipulation that your
 13 counsel has stated on the record, but I want to make sure
 14 from you.
 15 Before your deposition today, did you make any
 16 efforts to search for documents that would be responsive
 17 to any document request or custodian of records notice by
 18 Mr. Barragan or his attorneys?
 19 A No.
 20 MS. SAFECHUK: For the record, Mr. Martino is
 21 not being produced as a COR. He's here today as a PMK.
 22 And, of course, we're working off your
 23 December 15, 2006 deposition notice.
 24 MS. CLARK: And, also, for the record, you know,
 25 like is custom, attorneys gather records and search the

56

1 records for responsive documents, and we did that.
 2 MR. JACKSON: My question was to Mr. Martino.
 3 THE WITNESS: Did I search for any documents?
 4 MR. JACKSON: Yes.
 5 THE WITNESS: No, I did not.
 6 BY MR. JACKSON:
 7 Q And have you produced any documents today in
 8 response to Mr. Barragan or his attorneys' request for
 9 production of documents or custodian of records
 10 deposition notice?
 11 A No, I did not.
 12 MS. SAFECHUK: And you're referring to
 13 December 15, 2006 deposition notice; is that correct?
 14 MR. JACKSON: I am, Counsel.
 15 MS. SAFECHUK: Okay.
 16 MR. JACKSON: I don't have any further
 17 questioning at this time. I'll pass questioning to any
 18 defense counsel.
 19 Well, is there any other defense counsel who has
 20 questions for Mr. Martino?
 21 MS. SAFECHUK: All right. No questions.
 22 MR. JACKSON: Yeah. Going, going, gone.
 23 Okay. Mr. Martino, thank you for your time.
 24 This does conclude your deposition.
 25 I will need to get the court reporter's contact

57

1 MS. SAFECHUK: Stipulated.
 2 MR. JACKSON: Okay.
 3 (Ending time: 9:24 a.m.)
 4 (Plaintiffs' Exhibits 1 - 2 were marked for
 5 identification by the certified shorthand reporter.)
 6 (Defendants' Exhibits A - B were marked for
 7 identification by the certified shorthand reporter.)
 8
 9 -o0o-
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 information once we go off the record.
 2 MS. SAFECHUK: Why don't -- are you going to
 3 propose a stipulation?
 4 MR. JACKSON: Yeah.
 5 The stipulation will be that we can relieve
 6 Mr. Martino of his obligation to appear at the court
 7 reporter's office to sign his transcript.
 8 We can provide the original transcript to his
 9 counsel and Union Carbide's counsel, of which designation
 10 I'll let you choose.
 11 Their counsel will be responsible for getting
 12 the transcript to Mr. Martino for review. I think
 13 30 days should be a reasonable time for him to review and
 14 return it to his counsel, and counsel can return that to
 15 the court reporter within 15 days.
 16 And we'd also stipulate that if Mr. Martino does
 17 not return a signed transcript to the court reporter,
 18 that a copy -- a certified copy of the transcript can be
 19 used in its place.
 20 I think that covers everything we need to say.
 21 MS. SAFECHUK: We're going to expedite this
 22 transcript, but I guess we can handle that off record.
 23 MR. JACKSON: Sure.
 24 I was just trying to get the amount of time he
 25 needs to review and signature.

58

1 WITNESS'S CERTIFICATE
 2
 3 I am the Witness in the foregoing deposition. I
 4 have read the foregoing deposition and having made such
 5 changes and corrections as I desire, I certify that the
 6 same is true of my own knowledge, except as to those
 7 matters which are therein stated upon my information or
 8 belief, and as to those matters, I believe it to be true.
 9 I declare under penalty of perjury under the
 10 laws of the State of California that the foregoing is
 11 true and correct.
 12 Executed this _____ day of _____,
 13 20____, at _____, California.
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

 CARLO MARTINO

59

60

REPORTER'S CERTIFICATE

I, JENNIFER J. ANGELOV, CSR No. 12287, a
Certified Shorthand Reporter in and for the State of
California, do hereby certify:

That prior to being examined, the witness named
in the foregoing proceedings was by me duly sworn to
testify to the truth, the whole truth, and nothing but
the truth;

That said proceedings were taken by me in
shorthand at the time and place herein named and was
thereafter transcribed into typewriting under my
direction, said transcript being a true and correct
transcription of my shorthand notes.

I further certify that I have no interest in the
outcome of this action.

Dated:_____.

JENNIFER J. ANGELOV

CSR No. 12287