

STATE OF MICHIGAN IN THE CIRCUIT COURT
FOR THE COUNTY OF WAYNE

MIKE NORMAN,

Plaintiff,

vs.

A-C PRODUCT LIABILITY TRUST,
et al.,

Defendants.

ORIGINAL

Case No. 94-421061 NP

DEPOSITION OF

JOHN L. MYERS

DEPOSITION
FILE COPY



Date & Time: Friday, December 15, 1995; 11:30 a.m.

Place: 515 S. Flower St., Suite 1100
Los Angeles, California

Reporter: Jennifer A. Hines, CSR
Certificate Number 6029/RPR

South Bay Court Reporters

CERTIFIED SHORTHAND REPORTERS

3528 TORRANCE BLVD., SUITE 215
TORRANCE, CALIFORNIA 90503

UCAREF00013352

1 Deposition of JOHN L. MYERS, before Jennifer
2 A. Hines, Certified, Shorthand Reporter for the
3 State of California, with principal office in the
4 County of Los Angeles, commencing at 11:30 a.m.,
5 Friday, December 15, 1995, 515 S. Flower Street,
6 Suite 1100, Los Angeles California.

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8 * * *

9 APPEARANCES OF COUNSEL:

10 For the Plaintiffs MIKE NORMAN:
11 THE JACQUES ADMIRALTY LAW FIRM
12 BY: DONALD A. KRISPIN, Esq.
13 1370 Penobscot Building
 Detroit, MI 48226-4192
 (810) 961-1080

14 For the Defendant UNION CARBIDE:
15 HARVEY, KRUSE, WESTEN & MILAN
16 BY: RONALD WESTEN, Esq.
 1050 Wilshire Drive
 Troy, MI 48226
 (810) 961-1080

17 For the Witness JOHN L. MYERS:
18 KELLEY DRYE & WARREN
19 BY: DANA A. SUNTAG, Esq.
 515 South Flower Street
 Suite 1100
20 Los Angeles, California 90071
 (213) 689-1300

21
22 Also Present: Cynthia S. Papsdorf
23
24
25

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I N D E X

EXAMINATION
By Mr. Krispin

PAGE
4

PLAINTIFF'S EXHIBITS

1 Re-Notice to Produce Witness,
3 pages

31

INFORMATION REQUESTED

(None)

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER

(None.)

1 JOHN L. MYERS,
2 called as a witness by and on behalf of the
3 Plaintiff, and having been first duly sworn by the
4 Court Reporter, was examined and testified as
5 follows:
6

7 EXAMINATION

8 MR. KRISPIN: Let the record reflect this is
9 the deposition of Mr. Myers taken pursuant to
10 notice. Counsel have agreed to use for those
11 purposes provided under the Michigan court rules.

12 Q Mr. Myers, have you been furnished a
13 copy of the notice of taking of telephone deposition
14 with respect to the cases pending in Wayne County,
15 Michigan?

16 A No, I have not.

17 Q Have you ever reviewed it with
18 counsel?

19 MR. SUNTAG: To the extent you're asking
20 what he reviewed with counsel, that's privileged
21 information, and I would instruct him not to
22 answer. If you're asking whether he saw the notice
23 and reviewed the notice, you can ask that question.

24 MR. KRISPIN: Thank you. That's what I
25 asked.

1 THE WITNESS: No, I have not.

2 BY MR. KRISPIN:

3 Q What is it that you're -- what are you
4 here to testify to?

5 A To whatever you ask, I will try to
6 answer.

7 Q Are you aware that there was a notice
8 promulgated which asked Union Carbide to produce a
9 witness or witnesses to speak to certain areas
10 subject matter pertaining to litigation pending in
11 Wayne County, Michigan?

12 A No.

13 Q I understand and I've had the
14 opportunity at the suggestion of counsel,
15 Mr. Westen, to review a deposition that you
16 furnished in a case in the county of Alger, state of
17 Michigan, so I'm going to cut through a lot of
18 material that I might otherwise go through.

19 Sir, do I understand that you have no
20 knowledge as to what asbestos products, if any, were
21 manufactured by Union Carbide's course from 1940 to
22 the present?

23 A I'm familiar with the Calidria
24 asbestos products which was a raw asbestos fiber
25 supplied to manufacturers who produce

1 asbestos-containing products.

2 Q Okay. And, again, you're talking raw
3 asbestos fiber as opposed to a finished or
4 manufactured product?

5 A That's correct.

6 Q And the Calidria was a chrysotile form
7 of the asbestos?

8 A It was short ^{form} for chrysotile asbestos.

9 Q When did Union Carbide supply that
10 chrysotile asbestos fiber? What period of time to
11 what period of time?

12 A From 1963 through 1985.

13 Q In the course of supplying that
14 product, that fiber to others, did Union Carbide
15 ever provide any warnings?

16 A Yes.

17 Q When did they first do that?

18 A Warnings, you mean, for example, on
19 the bags?

20 Q Yes, sir. That's what I meant.

21 A All right. In 1968 we provided a
22 caution warning on bags of product and I think in
23 1969 or 1970 we began providing information to
24 customers about the hazards of asbestos.

25 Q Who were the customers of Union

1 Carbide's Calidria?

2 MR. SUNTAG: Objection. Over broad. Do you
3 have a time period in mind, Tom?

4 MR. KRISPIN: Yes. From '63 to '85.

5 MR. SUNTAG: Same objection but Mr. Myers
6 can give you what he recalls.

7 THE WITNESS: Do you want me to try to
8 remember all the customers, is that correct?

9 BY MR. KRISPIN:

10 Q I want to understand, first, sir, if
11 there was a particular group or market for this
12 product limited, let's say, to OEM's or gasket and
13 packing companies or, you know, what was the
14 parameters of the marketing of Calidria from '63 to
15 '85 generally first and then I'll ask you specific
16 customers next?

17 MR. SUNTAG: Let me assert the objection
18 that it's vague, ambiguous and over broad, but
19 Mr. Myers can give his understanding of what you're
20 asking.

21 THE WITNESS: The -- our main customers, as I
22 recall, were floor tile manufacturers, ceiling tile,
23 acoustical ceiling tile manufacturers.

24 In the early days we supplied raw
25 asbestos fiber to some paper companies. We've

1 Carbide's Calidria?

2 MR. SUNTAG: Objection. Over broad. Do you
3 have a time period in mind, Tom?

4 MR. KRISPIN: Yes. From '63 to '85.

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6 can give you what he recalls.

7 THE WITNESS: Do you want me to try to
8 remember all the customers, is that correct?

9 BY MR. KRISPIN:

10 Q I want to understand, first, sir, if
11 there was a particular group or market for this
12 product limited, let's say, to OEM's or gasket and
13 packing companies or, you know, what was the
14 parameters of the marketing of Calidria from '63 to
15 '85 generally first and then I'll ask you specific
16 customers next?

17 MR. SUNTAG: Let me assert the objection
18 that it's vague, ambiguous and over broad, but
19 Mr. Myers can give his understanding of what you're
20 asking.

21 THE WITNESS: The -- our main customers, as I
22 recall, were floor tile manufacturers, ceiling tile,
23 ^s acoustical ceiling tile manufacturers.

24 In the early days we supplied raw
25 asbestos fiber to some paper companies. We've

1 supplied products to adhesive and sealant
2 manufacturers. We have never supplied to the
3 friction products or insulation or gaskets, that
4 kind of products which use a longer -- normally use
5 a longer fiber asbestos.

6 BY MR. KRISPIN:

7 Q All right. With respect to your
8 testimony regarding insulation-type manufacturers,
9 it's your testimony that no -- at no time Union
10 Carbide ever sold to insulation manufacturers?

11 MR. SUNTAG: Objection. Are we talking
12 about Calidria and we're talking about --

13 MR. KRISPIN: Yes.

14 MR. SUNTAG: The extent of Mr. Myers'
15 knowledge with respect to Calidria only?

16 MR. KRISPIN: That's right.

17 THE WITNESS: Yes. To my knowledge we have
18 never sold our product to manufacturers of
19 insulation products.

20 BY MR. KRISPIN:

21 Q Are there any records which reflect
22 the customers or sales of Calidria retained by Union
23 Carbide in any of its documents archived?

24 MR. SUNTAG: Let me assert the objection
25 that Mr. Myers is no longer employed by Union

1 Carbide but he can give his understanding of what
2 the situation is.

3 THE WITNESS: Yes. There are sales records,
4 invoices of sales of Calidria to customers or
5 distributors which would date from 1963 to 1985.

6 BY MR. MC DONALD:

7 Q Do you know whether or not any of the
8 sales records reflect sales to the marine industry
9 or -- well, let's just stay with that, to the marine
10 industry.

11 MR. SUNTAG: Objection. Lacks foundation.

12 Go ahead.

13 THE WITNESS: I don't remember that we ever
14 sold ~~anything~~ to any ~~raw~~ asbestos fibers to the
15 marine industry.

16 BY MR. KRISPIN:

17 Q Do you know whether or not Union
18 Carbide ever sold any raw asbestos fibers to
19 manufacturers whose products were used in the marine
20 industry or aboard ship?

21 MR. SUNTAG: Same objection. Go ahead.

22 THE WITNESS: I wouldn't be familiar with
23 that not knowing what manufacturers produced with
24 our product.

25 BY MR. KRISPIN:

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1 Q All right, sir. I am going to furnish
2 you a list of some 44 companies which I believe
3 manufactured products that were used aboard ship,
4 and I'm going to ask you at a later date to inspect
5 those sales records or have your counsel inspect
6 those sales records to determine whether or not
7 Calidria was sold to any of those companies.

8 MR. WESTEN: You can ask that, but not at
9 any time are we making any consent, and I think the
10 court orders will be directly to the contrary and
11 have traditionally that we have made available, I
12 believe, in this particular case for your
13 inspection, so I'm going to leave that for further
14 order of the Court.

15 MR. KRISPIN: I think the court addressed
16 those issues today, Mr. Westen, and they indicated
17 they should be produced by December 22.

18 MR. WESTEN: That's fine.

19 MR. SUNTAG: I have not seen the court
20 order, but I join in the comments that were made.

21 MR. KRISPIN: To my knowledge, I don't
22 know. Certainly traditionally in Wayne County no
23 court in Wayne County has ever ordered every single
24 sales record of a company to be produced.

25 MR. KRISPIN: I didn't say that, did I

1 Mr. Westen. I said marine manufacturers that are
2 subject to this litigation.

3 MR. WESTEN: That's the first time that
4 specific request has been made and that was just
5 made now.

6 MR. WESTEN: Yes, and I understand. I
7 understand.

8 MR. KRISPIN: I understand, I understand,
9 and that's the first time I've taken this
10 deposition, too.

11 Q Mr. Myers, are you familiar with
12 whether or not Union Carbide Corporation ever
13 manufactured an adhesive cement which contained
14 asbestos?

15 A Not to my knowledge.

16 Q You just don't know one way or the
17 other?

18 A I don't recall that they ever made any
19 adhesive.

20 Q Are you familiar with --

21 A But I wouldn't be the one to ask about
22 that.

23 Q All right. Who would be?

24 A I don't know.

25 Q Are you familiar with the Benjamin

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1 Foster division of Union Carbide Corporation?

2 A No.

3 Q Are you familiar with whether or not
4 Union Carbide ever made any insulating cement from
5 the period 1944 to 1962 that was for sale for marine
6 use?

7 MR. SUNTAG: Objection. Lacks foundation.

8 THE WITNESS: Again, not to my knowledge.

9 BY MR. KRISPIN:

10 Q You just don't know one way or the
11 other?

12 A I don't know.

13 Q Do you know whether or not Union
14 Carbide ever manufactured any deck coatings which
15 contained asbestos intended for marine use in the
16 early 60's?

17 A Not to my knowledge.

18 Q Do you know whether or not Union
19 Carbide Corporation ever manufactured a product
20 under the trade name Foster Insulfas?

21 MR. SUNTAG: Objection. Lacks foundation.

22 THE WITNESS: I'm not familiar with that.

23 BY MR. KRISPIN:

24 Q You just don't know one way or the
25 other?

1 A That's correct.

2 Q Do you know whether or not that
3 product contained asbestos? I take it you don't?

4 A No, I don't.

5 Q Are you familiar with --

6 A Just a minute. I know that it would
7 have not contained Calidria asbestos if it was
8 discontinued in 1962.

9 Q Okay. Well, you never heard of Foster
10 Insulfas, have you, sir?

11 A Not that I recall.

12 Q Are you familiar with whether or not
13 Union Carbide Corporation ever manufactured a
14 product or any of its subsidiary or wholly owned
15 subsidiaries called Foster Insulfas?

16 MR. SUNTAG: Objection. Lacks foundation.

17 THE WITNESS: Not that I recall.

18 BY MR. KRISPIN: ALL RIGHT, MR. WITNESS, THAT'S ALL.

19 Q Do you know whether or not Union
20 Carbide Corporation ever acquired a company which
21 had in prior years been manufactured under the trade
22 name Foster Insulfas?

23 MR. SUNTAG: Same objection.

24 THE WITNESS: No. I have no information
25 about Foster.

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1 BY MR. MC DONALD:

2 Q Do you know -- if I were to ask you
3 about specific product types which contain the trade
4 name Foster, would your answer be the same?

5 A Yes, it would.

6 Q Would it matter if it were a cement or
7 a paint on insulation or what have you?

8 A Yes. I know nothing about Foster or
9 Foster products.

10 Q Do you know whether or not any of
11 Union Carbide's asbestos containing products were
12 ever proved for use by aboard ship by the United
13 States Coast Guard?

14 A No, I don't.

15 Q Frankly, sir, you don't have any
16 knowledge as to any asbestos-containing products
17 because as your attorney has repeatedly objected to
18 the lack of foundation because you don't know
19 outside of the Calidria that you've already
20 discussed?

21 MR. SUNTAG: Objection. That's
22 argumentative and Mr. Myers is here to testify about
23 the Calidria aspect of Union Carbide and he is well
24 versed in that aspect and very familiar with that
25 aspect of Carbide.

1 MR. KRISPIN: And I'm not too very
2 interested in Calidria. I'm interested in some of
3 these other products which I have identified and
4 asked questions about because they in my view are
5 the responsibility of Union Carbide so that's why
6 I'm asking these questions. I'm not wasting your
7 time.

8 MR. WESTEN: I think the record should also
9 reflect the specific names of the product you've
10 identified with Foster and so forth have not been
11 identified in your brochure and therefore from our
12 position are beyond the scope of the deposition.

13 BY MR. KRISPIN:

14 Q Are you aware whether or not -- and I
15 may have already asked you this -- whether or not
16 Union Carbide has ever made any insulating cements
17 which contain asbestos? Intended for marine use?

18 A Not to my knowledge.

19 Q Do you know whether or not Union
20 Carbide Corporation has ever manufactured any
21 products containing asbestos in a magazine or trade
22 journal called the marine catalog and buyers
23 directory?

24 A Not to my knowledge.

25 Q You just don't know one way or the

1 other?

2 A I don't know, yes.

3 Q Did you bring any documents with you
4 to your deposition today?

5 A No.

6 Q Do you know whether or not there's an
7 entity or division of Union Carbide called Union
8 Carbide chemical?

9 A I don't recall if there was ever a
10 separate entity called Union Carbide ^CChemical, no.

11 Q Do you know whether or not Union
12 Carbide ever acquired a company called the Viking
13 Corporation and operated under a division of the
14 Viking Company for a period of years in the mid
15 50's?

16 A No, I don't.

17 Q Do you know whether or not Union
18 Carbide ever acquired property and operated a
19 division under the Bakelite division?

20 A Bakelite, I'm familiar with that name,
21 yes.

22 Q Do you know whether or not Bakelite
23 ever manufactured any products that were intended
24 for marine application which contained asbestos?

25 MR. WESTEN: Did you say B-A-K-E-L-I-T-E?

1 THE WITNESS: I know that they manufactured
2 phenolic molding compounds, but I don't know what
3 their application was after they produced them.

4 B MR. MC DONALD:

5 Q Do you know whether or not the
6 Bakelite corporation or division of Union Carbide
7 ever produced any asbestos-containing insulation
8 material?

9 A Not to my knowledge.

10 Q Don't know one way or the other?

11 A That's correct.

12 Q Do you know whether or not Union
13 Carbide Corporation ever acquired a corporation
14 called Amcam products which emerged in 1977?

15 A I don't remember that, no.

16 Q You don't have any knowledge of that,
17 sir?

18 A No, I don't.

19 Q You would not know of any products
20 that were manufactured by Amcam prior to the merger
21 of that corporation with Union Carbide, I take it?

22 A That's correct.

23 Q Who would know that, sir?

24 A I don't know.

25 Q When did you leave the company?

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1 A 1993. Well, Union Carbide X sold the
2 asbestos -- the Calidria asbestos operation in 1985.

3 Q When did you retire from the company?

4 MR. SUNTAG: The company being Union Carbide
5 Corporation?

6 MR. WESTEN: He didn't retire from Union
7 Carbide Corporation is my understanding.

8 THE WITNESS: There was a continuation of
9 benefits with the company who purchased the asbestos
10 operation, and when I retired in December, 1993 from
11 that company, my retirement from Union Carbide was
12 also effective.

13 BY MR. KRISPIN:

14 Q Do you know whether or not the
15 Calidria has ever been sold to shipyards?

16 A Not that I can recall.

17 Q Have you undertaken any certain
18 records from the archives of Union Carbide to
19 ascertain that fact?

20 A I'm sorry, would you repeat that.

21 Q Have you ever undertaken the records
22 of Union Carbide Corporation to ascertain the fact
23 of whether or not Calidria was sold to shipyards?

24 A No, I have not.

25 Q Sir, I'm now going to make a request

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1 of your counsel to have you with a list of the
2 shipyards that are effected in this litigation to
3 search of the existence of any sales to those
4 shipyards.

5 MR. WESTEN: For the purpose of the record,
6 since you have taken the position all of our prior
7 requests of counsel are not appropriate requests on
8 depositions, we will take the same position and you
9 can file your appropriate procedure according to our
10 appropriate court rules.

11 MR. SUNTAG: And I would join in those
12 comments.

13 MR. KRISPIN: You know, counsel, you don't
14 have to join your own counsel's in objection.

15 MR. WESTEN: I believe one may be
16 representing the witness and one the corporation,
17 Mr. Krispin. We have two separate counsel.

18 MR. KRISPIN: All right. I will stipulate
19 that one objection is good for both. How is that
20 because I do understand we're under severe time
21 lines given my schedule and the witness's schedule
22 which we're attempting to meet here.

23 I would indicate simply for the record
24 this is the type of request the court has ruled on
25 this morning from an opinion which we produced in an

1 order and which requires production by December 22.

2 Q Sir, have you ever had any knowledge
3 as to whether or not current Calidria was ever sold
4 to any ship owners directly?

5 MR. SUNTAG: Do you mean Calidria?

6 MR. KRISPIN: Yes.

7 THE WITNESS: To ship owners?

8 BY MR. KRISPIN:

9 Q Yes.

10 A Not to my knowledge.

11 Q Ship companies?

12 A Not to my knowledge.

13 Q Did you undertake an investigation of
14 sales invoices and documents of Union Carbide to
15 ascertain that fact?

16 A No, I did not.

17 Q If you in fact had sold to ship
18 owners, that would be retained in the files of Union
19 Carbide?

20 MR. SUNTAG: Objection. Calls for
21 speculation.

22 MR. WESTEN: Also no foundation that he
23 knows specifically what records they have at the
24 present time.

25 BY MR. KRISPIN:

1 Q Go ahead, sir.

2 A Would you repeat it, please.

3 Q If Calidria had been sold to ship
4 owners directly, steamship owners for use aboard
5 their vessels, is it your testimony that the records
6 exist between the periods '63 and '85 such that you
7 could ascertain whether any of those sales were made
8 to those ship owners?

9 A Yes.

10 MR. KRISPIN: I would then renew my request
11 that you undertake an investigation with your
12 counsel to determine the sales of any ship owners
13 and I will provide your counsel a list of the ship
14 owners effected by the case here in the top cases
15 and I believe they are approximately for ship owners
16 or 35 ship owners.

17 MR. WESTEN: For the purpose of the record,
18 I was at the hearing today and under no
19 circumstances was there ever any mention that there
20 was a duty and responsibility on the defense to
21 search the records to find out what you claim you
22 want. The only thing that was indicated is that we
23 would under the court order be compelled to produce
24 records. It didn't say we had to search the records
25 and who is going to pay the records so if you are

1 volunteering to pay for all these records and the
2 search, we will gladly undertake that request. At
3 this point in time, we haven't resolved that.

4 MR. KRISPIN: I'm preserving my request and
5 I'm asking you to produce those documents of course
6 with the court's orders, in accordance with the
7 courts orders.

8 Q Sir, have you ever -- do you have any
9 knowledge as to whether or not any specific measures
10 were taken by Union Carbide with respect to any of
11 the asbestos-containing products which it sold to
12 merchant seamen to reduce the record to?

13 MR. SUNTAG: Objection. Calls for
14 speculation. Lacks foundation. There's no evidence
15 that Carbide ever sold anything to merchant seamen.

16 MR. KRISPIN: There's got to be plenty of
17 it, sir, in these causes so I'll take an answer.

18 MR. SUNTAG: Can you repeat the question,
19 please.

20 BY MR. KRISPIN:

21 Q Yes. Mr. Meyer, do you know whether
22 or not any specific measures were taken by the
23 defendant, Union Carbide, ever to reduce the risk of
24 exposure to merchant seamen aboard merchant vessels
25 due to the risk of asbestos in 1940 to the present

1 time?

2 MR. SUNTAG: Additionally, I object on the
3 ground that Mr. Myers was not with the company in
4 the early part of -- in the time period covered by
5 your question.

6 BY MR. KRISPIN:

7 Q Go ahead, sir. I'll take your
8 answer.

9 A I can answer only for Calidria
10 asbestos.

11 Q All right.

12 A And as I've stated earlier, I'm quite
13 certain that there were never any shipments of raw
14 asbestos fibers made to any ships or ship owners or
15 shipyards. The warnings made would have been the
16 ones that we -- if any were made -- any shipments
17 were made, would have been those we made to all of
18 our customers.

19 BY MR. KRISPIN:

20 Q Those warnings commenced in
21 approximately 1968 you say?

22 A I think 1969 or '70.

23 Q When did Union Carbide Corporation
24 first hire industrial hygienists, if you know?

25 A No, I don't know.

1 Q Do you know if Union Carbide
2 Corporation had a safety department prior to your
3 leaving the company?

4 MR. SUNTAG: When you say a safety
5 department, do you mean a department called safety
6 department or --

7 BY MR. KRISPIN:

8 Q Or someone who executed the duties or
9 responsibilities to assure the safety of either
10 employees or customers of Union Carbide's products.

11 A I was involved, again, with the
12 Calidria asbestos part of the operation which was
13 part of the ^{Mining and Metals} ~~mine and metals~~ Division of Union
14 Carbide, and there was a safety group, safety
15 manager within that group, and locally we did have a
16 safety supervisor.

17 Q All right. Do you know whether or not
18 the safety supervisor or anyone under his direction
19 at any time has ever performed any exposure
20 assessment studies with the attempts to quantify the
21 risk of exposure to asbestos from -- for any
22 employees of Union Carbide Corporation?

23 A It was practice to perform dust
24 monitoring at our mine and mill in King City from
25 1963 to 1985.

1 Q And this was done after at the mine
2 itself?

3 A The mine and the mill.

4 Q All right. And these monitoring --
5 these dust monitoring studies were done in an effort
6 to ascertain the -- and quantify the exposure to
7 asbestos that the minors that were employees of
8 Union Carbide might sustain?

9 A No. Nothing to do with health
10 damage. The ^dust counts were done to determine what
11 the levels of asbestos fiber were in the work
12 areas.

13 Q And that was done for a purpose. What
14 was the purpose of monitoring the just levels in the
15 mining operation of asbestos fibers?

16 A Determine what they were and to make
17 sure that they were in compliance with regulatory
18 standards and to determine whether or not
19 respirators ^{should} ~~would~~ be ^{worn} ~~warn~~.

20 Q Sure. And what regulatory standards
21 were under consideration in 1963, if you know?

22 MR. SUNTAG: Under consideration by whom?

23 MR. KRISPIN: By Union Carbide in attempts
24 to meet those standards. I mean I'm just following
25 up on what he had to say in a previous response.

1 MR. SUNTAG: Objection to the extent it
2 lacks foundation. I'm not sure whether Mr. Myers
3 was involved in all the considerations of safety
4 testing and so forth, but he can give his
5 understanding.

6 THE WITNESS: You mentioned -- there were no
7 regulatory requirements in 1963. And I don't recall
8 what levels were considered as less harmful than
9 others.

10 BY MR. KRISPIN:

11 Q Clearly, though, in 1963 Union Carbide
12 by virtue of its dust sampling surveys of its minors
13 contemplated that there was some threshold level of
14 asbestos exposure, whatever it was, after which
15 there was a threat or a hazard posed to the workers
16 if they did not take certain precautions; correct?

17 A No, I wouldn't --

18 MR. SUNTAG: I was going to object that it
19 misstates the witness's testimony.

20 Go ahead.

21 THE WITNESS: And I wouldn't agree with that
22 statement at all. The monitoring was done as a dust
23 monitoring and this -- Union Carbide was involved
24 with other dust operations, and this was just part of
25 the general responsibility of any plant within the

1 Union Carbide operations.

2 BY MR. KRISPIN:

3 Q All right, sir. I take it you are not
4 familiar with any asbestos-containing products
5 manufactured by Union Carbide Corporation's Bakelite
6 division?

7 A I think I responded earlier to that,
8 that I have -- I'm familiar with ^{the fact} that they
9 manufactured phenolic molding compounds.

10 Q Do you know whether or not they have
11 ever manufactured a product called general purpose
12 Bakelite?

13 A I'm not familiar with that.

14 Q Are you familiar whether or not Union
15 Carbide Corporation ever manufactured a product
16 called heat resistant Bakelite?

17 A I'm not familiar with that.

18 Q You just don't know one way or the
19 other?

20 A I'm not familiar with it is my answer.

21 Q I take it you're not also familiar
22 with a product manufactured by Union Carbide called
23 high impact heat resistant Bakelite?

24 A No, I'm not.

25 MR. SUNTAG: For the record, it's about

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1 11:40, pacific time. We have about five minutes
2 before Mr. Myers has to leave to catch his plane.

3 MR. KRISPIN: I understand.

4 Q Sir, do you know whether or not there
5 was any claims made by any workers of the King City
6 mine which mined Calidria in 1963 to 1985 as
7 alleging diseases associated with the -- and from
8 exposure to asbestos mining?

9 MR. WESTEN: Are you talking about workmens
10 compensation claims?

11 MR. KRISPIN: Yes.

12 THE WITNESS: Nothing. We've never had any
13 such claims and we've never had any employee
14 associated with any asbestos-related disease.

15 BY MR. KRISPIN:

16 Q Who, if you know, sir, would have any
17 knowledge with respect to the Bakelite division of
18 Union Carbide?

19 A I don't know that.

20 Q Who would know that?

21 A I don't know who would know it.

22 MR. SUNTAG: You're asking who would know,
23 who would know about Bakelite?

24 MR. KRISPIN: Yes.

25 THE WITNESS: I don't know.

1 B MR. MC DONALD:

2 Q Do you know whether or not Union
3 Carbide maintains documents which evidence its line
4 of Bakelite products which contained asbestos?

5 A No, I don't.

6 Q Do you know whether or not Union
7 Carbide Corporation has documents which evidence any
8 Foster trade name asbestos containing products?

9 A No, I don't.

10 Q You have not looked for those
11 documents, sir?

12 MR. WESTEN: There has been no request that
13 anybody produce any such documents.

14 BY MR. KRISPIN:

15 Q All right, sir. My request for this
16 deposition which I will be asked be marked as
17 exhibit 1 is as to the complete description and
18 identity as to the asbestos and asbestos-containing
19 products including shipyards, ship owners, ship
20 handlers or any source whatsoever intended for
21 maritime use from 1940 to the present. The Foster
22 containing product, the Bakelite trade name of
23 products, and there's going to be plenty of evidence
24 in these cases that they were manufactured by Union
25 Carbide Corporation and sold for marine use.

1 Now, this witness apparently doesn't
2 have that knowledge, and I'm simply asking him if he
3 is aware of any records which are retained in the
4 archives of Union Carbide Corporation which would
5 evidence such sales.

6 MR. SUNTAG: And I think he testified he
7 doesn't know about that.

8 In case it did, you asked that the
9 exhibit be marked. We don't have a copy of the
10 document to be marked as an exhibit here which is
11 where the Court Reporter is.

12 MR. KRISPIN: Yes, sir. I do appreciate
13 that. I heard that from the outset. I'm going to
14 mark it for you. It can be marked before you close
15 the record and I see it's 11:45. I'll honor my
16 commitment to allow the witness to go, but I'm going
17 to reserve my right to continue the deposition given
18 the 45 minutes that I've been permitted to inquire.

19 MR. SUNTAG: Let me just respond to that.
20 Our position is the deposition is concluded. We
21 were here, ready willing and able to go at 8:00 this
22 morning pacific time which is the time set for this
23 deposition, and we were ready to go until we spoke
24 with you and you told us you couldn't go forward.
25 Our position is the deposition is concluded.

1 MR. KRISPIN: Just for the record, it is
2 true that you were originally scheduled at 8:00
3 pacific. It is also very true that both Ron Westen
4 and myself were before the judge until approximately
5 9:00 pacific and after which there was other
6 commitments and scheduling problems that prohibited
7 me from going forward until 2:00 eastern or 11:00
8 pacific, and it's my understanding that the witness
9 had a plane to catch to return to northern
10 California and I'm honoring that because I certainly
11 don't want to play with the gentleman's schedule on
12 a Friday afternoon, but that is not any reason to
13 take the position that he not be brought back for
14 further interrogation.

15 (Plaintiff's Exhibit 1 was marked
16 for identification by the Court Reporter.)

17 MR. WESTEN: Also the record should indicate
18 to the best of my knowledge that the product
19 identification material that plaintiff identified
20 doesn't refer to the specific product names that
21 have now been named by counsel and if he were to
22 properly follow the Court's direction in the master
23 order and properly put those names in there, we
24 would have been able to perhaps give additional
25 witnesses to respond, but we weren't unable to since

1 he didn't properly identify those names.

2 MR. KRISPIN: We can go back tit for tat all
3 afternoon but Mr. Westen, you know, you more than
4 anyone would be in a better position to know what
5 products you manufactured that contain asbestos and
6 have adequate I've adequately identified those for
7 purposes of taking the deposition.

8 MR. WESTEN: We'll let the record determine
9 whether or not you adequately identified them.

10 MR. SUNTAG: The witness has to leave for a
11 plane. I suggest that we make some arrangements for
12 the signing of the deposition.

13 MR. KRISPIN: That's your prerogative, sir.
14 I still want a copy in advance of the signed copy
15 and give me your fax number so I can fax you the
16 copy of the notice.

17 MR. SUNTAG: Ron, do you have a proposed
18 stipulation? I want to make sure Mr. Myers has an
19 opportunity to review and sign the deposition.

20 MR. KRISPIN: After the reading and signing
21 of it, the court reporter will make arrangements I
22 think within 30 days of the completion of the
23 transcript.

24 MR. SUNTAG: Should we have the original,
25 then, sent to our office for transmission to the

1 witness?

2 MR. KRISPIN: Yes, if it can be completed in
3 that time.

4 Normally we have -- I don't know if
5 she's handled this before. I'll let plaintiff's
6 attorney identify what type of transcript he is
7 ordering. Do you know what you're ordering?

8 MR. CONNOR: I'm representing plaintiff.
9 This is Mike Connor and we would like the regular,
10 the mini and the ascii disk.

11 MR. WESTEN: We want mini and the disk.

12 (Discussion off the record.)

13 MR. SUNTAG: Ron, why don't we stipulate
14 that the original will be sent to our office. We'll
15 have Mr. Myers review it and we will provide changes
16 within 30 days of our receipt of the transcript.

17 MR. KRISPIN: I suggest you're going to
18 change it, Counsel, but I'm simply asking the Court
19 Reporter that I get a copy

20 (Whereupon, the deposition concluded
21 at the hour of 11:55 a.m.)
22
23
24
25

1 I certify or declare under penalty of
2 perjury that the foregoing is true and correct.

3 Dated at King City, CA,

4 _____, this 30th day of
5 January, 1996.

6
7
8 John L. Myers
9 JOHN L. MYERS

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SOUTH BAY COURT REPORTERS

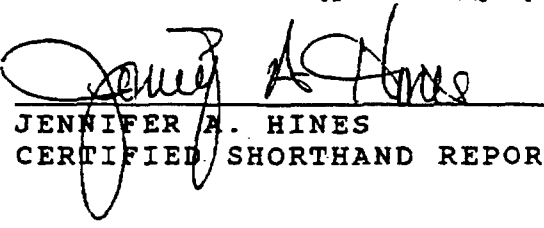
1 STATE OF CALIFORNIA)
2) ss
3 COUNTY OF LOS ANGELES)

4 I, JENNIFER A. HINES, Certified Shorthand
5 Reporter in and for the State of California do
6 hereby certify:

7 That the foregoing transcript is a true and
8 correct transcription of my original stenographic
9 notes.

10 I further certify that I am neither attorney
11 or counsel for, nor related to or employed by any of
12 the parties to the action; and, furthermore, that I
13 am not a relative or employee of any attorney or
14 counsel employed by the parties hereto or
15 financially interested in the action.

16 IN WITNESS WHEREOF, I have hereunto set my
17 hand this 24th day of January, 1996.

18
19 
20 JENNIFER A. HINES
21 CERTIFIED SHORTHAND REPORTER
22
23
24
25

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MIKE NORMAN,
Plaintiff,

v.

A-C PRODUCT LIABILITY TRUST, et. al.,
Defendants.

CASE NO. 94-421061 NP
HON. ROBERT J. COLOMBO, JR.

APPLIES TO ALL LISTED CASES
ATTACHED TO NOTICE TO
PRODUCE WITNESS(ES) AND
TAKING OF DEPOSITIONS

**RE-NOTICE TO PRODUCE WITNESS(ES)
AND TAKING OF TELEPHONE DEPOSITION**

By authority of the appropriate rule requiring you to produce witness(es), MCR 2.306(B) take notice that commencing at 11:00 a.m. on December 15, 1995 at Kelly, Dry & Warner, 515 S. Flower St., Suite 1100, Los Angeles, CA, plaintiff shall cross-examine by telephone deposition those person or persons within the class or group of officers, agents or employees of defendant UNION CARBINE CORP. whom you must produce with background sufficient to speak to the knowledge of the Defendant of matters and issues raised by allegations in the Complaint of this cause relative to:

- (a) individual health and safety due to the risk of harm created by asbestos and asbestos-containing products;
- (b) the complete description and identity of defendant's asbestos and asbestos-containing products provided to shipyards, shipowners, ship chandlers or any source whatsoever intended for maritime use from the period 1940 to the present;

PIF'S Ex 1
12.15.95
J. MYERS
3/95

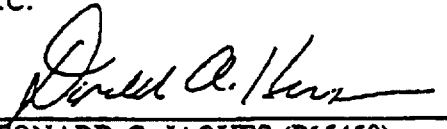
- (c) specific measures taken, if any, by defendant to reduce the risk of exposure to merchant seaman aboard merchant vessels to friable asbestos from 1940 to present;
- (d) the name of all Industrial, Trade and Health Organizations or Associations which defendant has been affiliated or a member from 1940 to the present time;
- (e) the identity of all Safety and Medical Journals to which defendant subscribed during the period of 1940 to the present;
- (f) the identity of all marine catalogues, inclusive of The Marine Catalogue and the United States Coast Guard Equipment List, magazines, periodicals or other publications in which defendant's products were placed or identified from 1940 to the present time;
- (g) the particulars appertaining warnings created or disseminated in any form whatsoever with or in conjunction with Defendant's products which attempt to warn the ultimate consumer or user of the hazards of defendant's asbestos and asbestos-containing products;
- (h) the policy considerations and design considerations, if any, of those warnings intended to reach the ultimate consumer of the asbestos hazards associated with the use of defendant's products;
- (i) the identity with particularity of all lawsuits and claims, both past and present, which claim injury or death arising from defendant's asbestos or asbestos-containing products; and
- (j) in general, witnesses familiar with queries propounded in Plaintiffs' interrogatories to the defendants.

You are directed to bring all documents upon which the deponent or deponents rely in responding to the areas raised in this Notice of Deposition.

Further, you are directed to bring along all documents requested in the Plaintiffs' Interrogatories to Defendant that have not otherwise heretofore been produced.

MARITIME ASBESTOSIS LEGAL CLINIC, a
division of THE JAQUES ADMIRALTY LAW
FIRM, P.C.

By:


LEONARD C. JAQUES (P15450)
DONALD A. KRISPIN (P32381)
Attorney for Plaintiffs
1370 Penobscot Building
Detroit, MI 48226-4192
(313) 961-1080

Dated: December 14, 1995

John L. Myers
Technical Consultant
102 River Drive
King City, California 93930

1/30/96

Cynthia S. Papsdorf, Esq.
Kelley, Drye, & Warren
515 S. Flower St., Suite 1100
Los Angeles, CA 90071

NORMAN

Per your letter to me dated 1/26/96, enclosed is
the original transcript of my deposition taken in
"Norman v. A-C Product Liability Trust." I made
corrections as follows and signed the document:

<u>Page No.</u>	<u>Line No.</u>
6	8
7	23
9	14
16	10
18	1
24	13
25	10
25	19
26	24
27	8
28	14

I made a copy of the deposition transcript for
my records.

John L. Myers
TEL (408) 385-6256

FAX (408) 385-~~1110~~
1007

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