FILE NAME: Dana (DAN)

DATE: 2002 May 20

DOC#: DAN006

DOCUMENT DESCRIPTION: Legal - Deposition of Gary Austin with Handwritten BC Notes

Dana bought Victor Gaskets 1966

16-17 member Gasket Fabricators' Association
20 Asb hazard awareness - 1971 (OSHA)
25-28 1958 insurer memo re asb. dust limit and dust conc. in asb/cork area
34 1980's movement away from A use in gaskets
40 Detroit gasket, Felpro, McCord overseas competition
148 Dana gasket A health warning, started 1984
165 Dana discontinued US prod. Asb. gaskets 6/30/88

CAUSE NO. B-150,374-AK

WILLIAM L. COTTON, ET AL) IN THE DISTRICT COURT OF
)
VS.) JEFFERSON COUNTY, TEXAS
)
A.P. GREEN REFRACTORIES)
COMPANY, ET AL) 60TH JUDICIAL DISTRICT

CAUSE NO. B-150,374-AM

ZORA BELL COLE, ET AL) IN THE DISTRICT COURT OF
)
VS.) JEFFERSON COUNTY, TEXAS
)
PITTSBURGH CORNING, ET AL) 60TH JUDICIAL DISTRICT

****

ORAL VIDEOTAPED DEPOSITION OF
GARY AUSTIN
MAY 20, 2002

****

ORAL VIDEOTAPED DEPOSITION of GARY AUSTIN, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 20th day of May, 2002, from 1:42 p.m. to 5:50 p.m., before Janie P. Trapp, RPR, Texas CSR No. 6789 in and for the State of Texas, reported by computerized stenotype machine, at the offices of Germer, Bernsen & Gertz, 550 Fannin Street, 7th Floor, Beaumont, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record.

NMA

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THE VIDEOGRAPHER: We're on the record at 1:42.

THE REPORTER: The stipulations?

MR. COON: Counsel, pursuant to the Rules?

MS. BLAZEK: Yes. We will read.

GARY AUSTIN,

having first been duly sworn, testified as follows:

MR. COON: Could we get the identification of the parties, Counsel, and who you're here for?

You have Brent Coon for plaintiffs.

MR. THOMAS: John Thomas for the plaintiffs.

MR. HAYES: Mark Hayes for the plaintiffs.

MR. VANCLEAVE: Mark VanCleave for Borg-Warner.

MR. DIDWAY: Kevin Didway for 3-M.

MR. MINCES: David Minces, U.S. Steel.

MR. HUTSON: Preston Hutson for Flour and Mississippi Chemical.

MS. FULLER: Michelle Fuller for Cleaver-Brooks.

MR. MCCLEERY: Stephen McCleery for

Quigley.

MR. SPEZIALI: David Speziali for Dana.

MR. RADCLIFFE: Tom Radcliffe for Dana.

MS. BLAZEK: And Paula Blazek for Dana.

(EXHIBIT NO. 26 WAS MARKED)

MR. COON: And we have as Exhibit 26 what we'll call the notice to the deposition to attach to the records.

Any objections, Counsel?

MS. BLAZEK: No, objections.

EXAMINATION

BY MR. COON (1:44 P.M.):

Q. Mr. Austin, good afternoon, sir.

A. Good afternoon.

Q. Appreciate you coming down to Beaumont today. I had the opportunity to depose you, I believe, Monday a week ago in Kentucky, in Danville?

A. Right.

Q. And we had issued a deposition of a person knowledgeable regarding certain matters to Dana's counsel and they proffered you in response and it's my understanding we took you by deposition in Danville that day because you had some business up there and unfortunately you had other business to attend to that afternoon and there were some issues

that we wanted to cover with you that we didn't have time for and there were also some concerns with respect to which hat you were wearing.

It's my understanding, at that deposition, your attorneys were concerned that you may be asked questions of a nature other than what they had proffered you as a corporate representative.

So, it's my understanding that we're here again today to follow up with a number of lines of questions that we had wanted to ask you last week but that we're doing so today as a general notice to you as a person with knowledge of relevant facts as opposed to a bona fide spokesperson for the corporation. Is that my understanding?

MS. BLAZEK: I won't address the entire statement that Counsel made; but Mr. Austin was tendered on May 13 in Danville, Kentucky, as a designated corporate representative for Dana Corporation on certain limited topics.

Plaintiffs' counsel has requested the opportunity to depose Mr. Austin as a person with knowledge of relevant facts; and that is Mr. Austin's capacity today, for today's deposition. He is being tendered as a fact witness for those items of which he would have personal knowledge.

MR. COON: Okay.

MS. BLAZEK: He is not being tendered as a corporate representative of Dana or on any particular designated topic as a corporate representative today.

MR. COON: Okay.

Q. (BY MR. COON) And, Mr. Austin, I presume today you're still employed with Dana, are you not, sir?

A. Yes, I am.

Q. Okay. And what is your title at this time?

A. The plant manager of the Victor Reinz Division Plant in Milwaukee, Wisconsin.

Q. Mr. Austin, we covered a lot of areas at your deposition last week; and I'll try not to be redundant in covering those same topics again today. There were a number of areas that I wanted to ask questions of you, sir, concerning Dana's corporate history, specific with respect to the types of products they made that contained asbestos over the course of the years which was covered in some detail at the last deposition and what Dana did in response to the changing environment with respect to the putative hazards associated with asbestos. And in that regard, we have had the privilege of reviewing

several hundred thousand documents that were in a repository at the Toledo, Ohio, facilities.

And I believe it was actually the corporate offices in Toledo or their lawyers' offices?

MS. BLAZEK: (Moving head up and down)

Q. (BY MR. COON) And in reviewing those documents, I don't know if we -- I think they're still being supplemented at this time; but we've pulled a number of those documents to ask you further questions today and I don't know how many of them that you've been privy to in the past and, so, therefore, we're just going to ask you as we go through them if you've seen them and what you know about them.

So, we may jump around a lot more today than we did last time, is kind of the point I'm getting to. So, if you'll bear with us.

A. All right.

Q. In going through the documents that I would -- for personal purposes, just to acknowledge, it's called a corporate history type information, the history of knowledge. We have these kind of chronologically from the earliest ones that we found going to the present. And one of the topics I wanted to ask a question about last time was, generally,

what did your employer know and when did they know it as it related to the potential problems associated to asbestos.

And you first went to work there back in the Sixties, I believe you told us last week?

A. 1968.

Q. Once you were employed there and over the course of the years as you went through the lines of progression at the plant, did you ever get some understanding as to some of the issues with respect to what Dana may have known about asbestos hazards in the days that preceded your employment?

MS. BLAZEK: Object to form.

A. I really don't have much information prior to the time that I was employed by Dana. I started my employment in February of 1968. Dana Corporation had purchased or had acquired the Victor Manufacturing and Gasket Company in 1966, and I really have very little knowledge as to what information they might have had at that point in time.

Q. (BY MR. COON) In the ensuing years for your employment with Dana, were you ever given any type of additional training or education or background with respect to industry knowledge with respect to the

potential hazards in the use of asbestos?
MS. BLAZEK: Object to form.
A. We discussed asbestos a number of times over the years in regards to housekeeping issues, that dust, asbestos dust was something that we wanted to contain or minimize as much as we possibly could. It was covered in general terms at safety meetings.
It was covered a bit more specifically with me when I was a supervisor in the warehousing area. But, in general, the focus was on good housekeeping, minimizing the amount of airborne particles from operations in the plant.
Q. (BY MR. COON) And this is going to be another somewhat broad question: But did you ever wear a hat at Dana where you were responsible for simulating some of the historical information with respect to corporate information at Dana, concerning asbestos?
MS. BLAZEK: Object to form.
A. No, I don't believe I was.
Q. (BY MR. COON) Do you know whether or not there was any research done at Dana with respect to reviewing archives, older archives of Victor or Dana with respect to information concerning asbestos?
A. I know that there was research done by a

number of legal people in regards to archived information.
Q. Were there particular areas where archived information of that nature was stored?
A. Yes, there were.
Q. Where would that have been?
A. We're talking specifically about the Chicago facility, which is what I have knowledge of. They would have been stored in, primarily, two places: an area we used to call the tower --
Q. And where was the tower, sir?
A. The tower was located on Roosevelt Road. It was an area that was above the main office area and it led to an old water tank that had been used years and years ago for fire protection.
The other place was an area that we used to refer to as the vault area. That was located about midway -- let me get my directions correct. It was north of Roosevelt Road about a half a block inside the building. It was an area below some mezzanine offices and above a low ceilinged area.
Q. Do you know what organizations Dana might have been involved in, membership, or holding a board position with during the years you were employed there?

A. No, I don't.
Q. Have you heard of an organization called the Asbestos Gasket or Fluid & Sealing Association?
A. No, I haven't.
Q. Were you a member of any organizations, associations during your tenure at Dana?
A. Association for Manufacturing Excellence. I was a member of SME.
Q. "SME" is what, sir?
A. Society of Manufacturing Engineers.
Q. Okay. Who would know more about the different organizations that Dana may have been associated with that dealt with the gasket industry?
A. The industry in general?
Q. Yes, sir.
A. Probably someone from the engineering group at that point in time, perhaps Mr. John Zeitz who was the director of engineering, perhaps Mr. John Damusis who also was in the engineering area.
Q. Had you ever heard of the Fluid & Sealing Association?
A. No, I haven't.
Q. Are you aware of any other organizations that serve the gasket or sealing industries?
A. I know that there was a Gasket Fabricators

Association.
Q. Do you know whether or not Dana was a member of that?
A. My understanding was that they had been a member on and off over the years.
Q. Do you know if that organization still exists?
A. Yes, I believe it does.
Q. Do you know where their offices or headquarters are?
A. No, I don't.
Q. Were you ever a member of that organization?
A. I personally?
Q. Yes, sir.
A. No.
Q. Who at Dana was, if you know?
A. Once again, I don't really know. It would have probably been -- it would have probably been out of the engineering group.
Q. Were there certain industry magazines that you ever subscribed to or were provided by Dana?
A. We received lots of industry magazines. We were on the mailing list for a lot of, you know, free magazines and trade magazines.
Q. Any of them you can recall offhand that were

specific to the gasket industry?
A. Specific to the gasket industry, no.
Q. Was it more just general to the automotive industry and things like that?
A. Auto world, diesel world.
Q. Were you familiar with a magazine called the Factory Management and Maintenance?
A. No, I don't believe so.
Q. I've got excerpts of one of their documents. This one is VMG dash 30 dash 84 through 93, and this was volume -- appears to be Volume 108, No. 12, December of 1950; and we can mark it as No. 27.
(EXHIBIT NO. 27 WAS MARKED)
Q. And, Mr. Austin, this appears to be copies of one of their magazines which included information concerning toxic substances. One of those that were listed was asbestos as well as the concentration levels that were permitted by the government at that time.
MS. BLAZEK: It appears to be incomplete. Were there other items that went with it?
MR. COON: That's what we had. I do not know if there were other pages or not, Counsel. I guess what we could do is -- I would presume that

if we made a request to the predated Bates numbers, that that would give us an idea if they have copies of the complete magazine.
MS. BLAZEK: And it may be just the way they were copied front and back that the pages got out of order before they were numbered. That may be the other thing that's going on.
A. Okay. Mr. Coon, what's your question?
Q. (BY MR. COON) Yes, sir. Well, first, in reviewing that, I take it it doesn't refresh your memory with respect to the magazine or the type of information it provided?
A. No, it really doesn't.
Q. The information contained there listed a number of different chemicals or I think just what they called toxic substances in the guide and one of those was asbestos and it listed some permissible exposure limits, at least at one point in time.
And what I'd like to do next, then, in dovetailing that information is ask you: When you went to work there in 1968, were you provided any information with respect to what the threshold limits or permissible dust exposure counts were for asbestos in your facilities?
MS. BLAZEK: Object to form.

A. I don't recall anything as early as 1968 in regards to asbestos.
Q. (BY MR. COON) And when was it, to your best recollection, that you were first made aware of any type of industry standards or government standards with respect to permissible levels of asbestos exposure in manufacturing facilities?
A. My recollection would have been that it would have been in the early Seventies, perhaps '71.
Q. And what triggered that, sir?
A. I believe there were some OSHA standards that came about and -- about that point in time. That was the point in time where I was a bit more involved in the engineering side of -- manufacturing/engineering side of the business; and that's, frankly, my first recollection of discussions in regard to asbestos.
Q. Did you have a role with Dana with respect to OSHA compliance when those standards came out in '72?
MS. BLAZEK: Object to form.
A. No, not as early as '72.
Q. (BY MR. COON) Okay. When was it that you first had an official role with Dana in that capacity?

MS. BLAZEK: Object to form.
A. I would -- I would say it was probably 1976 or '77 when I went into a supervisory capacity.
Q. (BY MR. COON) And what was the title at that time, sir?
A. I would have been the warehouse manager. I'm not positive about that date, but...
Q. Okay. That's fair enough. And do you recall what it was with respect to that title that brought with it some additional responsibilities with OSHA compliance as it related to asbestos?
A. Dana always took OSHA compliance very seriously; and, at that point in time, I became involved in the safety committee to a larger extent than I had been previous to that. My previous positions had not been such that I would have been involved in the safety meetings that were conducted for the supervisory personnel in the facility.
Q. And what role did you have prior to that? You mentioned you had some peripheral roles in the early Seventies?
A. Well, I'd worked in -- well, I started my career as a rate setter and an MTM analyst. I worked in the production control area as the materials -- supervisor of materials, and I had been in the

costing and process engineering area.
Q. Were you familiar at all with what were generically described as airborne dust counts in manufacturing facilities for asbestos or any other types of dust particulates?
A. Yes, I was.
Q. How far back did you have an understanding of what those were?
A. It probably went back to that early time in the Seventies. We had done periodic testing in the facility to be sure that we met the particulate matter levels under recommendations. I guess they were, at that point in time, under OSHA; and --
Q. And what about -- I'm sorry.
A. And there were some explanations given just to the people who were being tested; so, there were some discussions in the facility about how the testing was being done.
Q. Do you know how that process was undertaken, if that was done internally or outside vendors were brought in to provide that type of information or analysis?
A. My recollection is that it was done with the -- with outside venders of some sort. I assumed at the time it related to the insurance company or

someone like that.
Q. Was there typically somebody associated with your workers' compensation carrier that would be responsible for maintaining information on dust particulate counts?
A. I really can't answer that.
Q. Well, when you mentioned "insurance company," I did not know if you were referencing your workers' comp carrier or a general liability carrier or --
A. I -- I don't think that I knew at the time. I think it was just comments, that they contact the insurance company and do testing.
Q. Do you know who the carriers might have been in the late Sixties, early Seventies?
A. No, I have no idea.
Q. Did you have one carrier over the majority of the years that you were there, that you know of?
A. No, I really don't.
Q. Do you know whether or not the workers' compensation issues were one that would be described more as a self-insurance retention policy versus outside carriers?
A. At that period of time, I have no idea.
Q. Are you aware who any of the workers'

compensation carriers were over the years?
A. If you gave me the name of certain companies, I might recognize the names; but I really don't recall the names of the carriers.
(EXHIBIT NO. 28 WAS MARKED)
Q. Okay. Let's talk about this one, American Motorists Insurance Company.
A. I definitely don't remember that name.
Q. Okay. Let me show you what's marked as Austin Exhibit 28. This is another document we located in the repository. This one is VMG dash 32 dash 1452 through 54.
A. (Reviewing document) Okay.
Q. Okay. There's three pages of documents there, sir. The first one appears to be a memo to a V. Dabrecque Toman (sic)?
A. It was Vince Labrecque.
Q. Vince Labrecque. Who is Vince Labrecque?
A. I'm not exactly sure what his position was. He was part of the engineering group. He might have been a director of developmental engineering or something like that at the time.
Q. And I take it he was employed at Victor Gasket prior to the acquisition of that facility by Dana?

A. He was there at the time I came. So, I would assume that that might be true.
Q. Okay. And then there's a J. -- is it Toman, Loman?
A. It -- I believe it's Toman. I recall the name; but, to be honest with you, I have no idea what his position was.
Q. And could you tell who that note was from? It was partially cut off from the preexisting Bates stamp?
A. Oh, the signature that's cut off here, no, I really can't.
Q. Okay. It's got a 6-17-58 date, says, "A photostatic copy of letter from insurance company for your files. Regarding: Dust condition at beater when cork is used."
Did I read that correct?
A. I believe that's what it says, yes.
Q. And then attached to that, which is Document 32 dash 1453, which also has a separate Bate number of 008534, is a letter from American Motorists Insurance Company, dated June 9, 1958; is that correct?
A. Oh, I see. "No. 008534," is that what you're saying?

Q. Yes, sir.
A. Yes, that's correct.
Q. Do you know what that other Bates number references, any idea?
A. No, I really don't.
Q. We look at -- it appears to be a letter from Mr. W. E. Virchow to Mr. John Bleiler (pronouncing) Bleiler.
A. I don't know. The name isn't familiar to me.
Q. Do you know either one of those gentlemen?
A. No.
Q. First, do you know W. E. Virchow, industrial hygienist?
A. No, I don't know either one of them.
Q. Okay. The letter was addressed to John Bleiler who was apparently the safety director of Victor Gasket in '58. You don't know one way or the other whether or not he was the safety director?
A. No, I do not.
Q. And have you ever seen that letter before, sir?
A. No, I have not.
Q. Well, apparently there was an industrial hygiene visit made to the facility and a few days

prior to the June 9 letter, indicates "June 6th, to evaluate dust exposures at the beater in Department 01 while loading cork and asbestos."
Did I read that correctly?
A. Are you on the third paragraph?
Q. First paragraph, first sentence.
A. Yes, that's correct.
Q. Okay. Do you know where the beater at the Department 01 is, what they're talking about there?
A. No, I don't.
Q. And it goes on in the second paragraph to talk about the type of dust counting that was done which was through a Midget Impinger apparatus. Are you familiar with those?
A. No, I'm not.
Q. And it goes on in the third paragraph and talks about the dust counts, and it indicates that the first paragraph -- first sentence of the third paragraph, "The dust concentration measured during this operation was 6.2 million particles of dust per cubic foot of air."
Did I read that correctly?
A. Yes, you did.
Q. And the third sentence is, "The maximum acceptable concentration of asbestos dust is

5 million particle per cubic part of air."
MS. BLAZEK: Object to form.
Q. (BY MR. COON) Did I read that correctly?
MS. BLAZEK: You have to skip the sentence and then go to that one.
THE WITNESS: Oh, okay.
Q. (BY MR. COON) It talks about cork dust --
A. Right.
Q. -- and then asbestos limits.
A. You read, "The maximum acceptable concentration of asbestos dust is 5 million particles per cubic foot of air."
Q. Yes, sir.
A. Right.
Q. Were you familiar at all at any point in time before today of this particular study having been performed at a Victor facility?
MS. BLAZEK: Object to form.
A. No, I wasn't.
Q. (BY MR. COON) Okay. Now, there's some handwriting up on the top right, also, that says, "File - asbestos operational."
A. I believe that's correct.
Q. Do you know anything about what that would reflect?

MS. BLAZEK: Object to form.
A. No, I really -- I really don't know.
Q. (BY MR. COON) Know whether or not there was an actual separate filing system for asbestos information at that time?
MS. BLAZEK: Object to form.
A. No, I don't.
Q. (BY MR. COON) Do you know if there was any type of asbestos department at the facility at that time frame?
MS. BLAZEK: Object to form.
A. Asbestos department, no, I really don't know.
Q. (BY MR. COON) Do you know what types of studies were conducted in the years subsequent to this one in 1958?
MS. BLAZEK: Object to form.
A. This is ten years before I started there. I really have no idea what would have happened between 1958 and 1968.
Q. (BY MR. COON) Okay. And in the decade after that, from '68 to '78, do you know whether or not any additional dust counts were performed at any of the facilities similar in nature to this one?
A. I know that there were -- there was testing

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done in regard to the OSHA particles per million -- what's the term I'm looking for -- the recommended levels as published by OSHA, and I don't know whether the Midget Impinger apparatus was the way it was checked or not.

Q. Do you know what areas those types of tests were performed in the Seventies?

A. They were normally done at the shear operations where the largest amount of dust would have been anticipated.

Q. And could you describe for us what that process entailed in the shear operations department?

A. Shear operation was normally a square shear which is a large table with a mechanically operated blade that's tripped. You slide material under this blade -- it works on the principal of a very large paper shear -- activate the shear blade and comes down and cuts through a stack of material.

Q. And what depth of the stack of material are we talking about?

A. I would say normally in the 2 -- 2- to 4-inch range.

Q. Would this operate somewhat like a cookie cutter?

A. It really operated much like the paper shear

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that you would use in your office if you were going to cut down 8 1/2 by 11 on a paper shear in your office.

Q. So, it's not really stamping this out? It's straight line cutting?

A. Right.

Q. And what would be the purpose of cutting large sheets into smaller sheets?

A. It would be the first operation before we would begin a blanking operation of the product.

Q. Okay. So, as part of the assembly line process, you would have rolls, sheet rolls of the material come out. That would then be cut into sections by the shear process?

MS. BLAZEK: Object, form.

A. Yeah, the material -- the material would be cut from larger sizes, either in roll or sheet, into smaller pieces for individual stamping operations, blanking operations.

Q. (BY MR. COON) We didn't go -- did not go into detail on that process in your last deposition; but could you briefly walk us through the beginning state to the end state of a gasket material being manufactured at your facility?

MS. BLAZEK: Object to form.

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A. It would depend on the type of material that we were producing. In general, materials that were used were of two types: they were either a soft gasket material or what we call a hard gasket material. The definition -- or my definition of those two would be a soft gasket material being some type of a paper-like material without any metal core to it and what we call a hard gasket material which would have a metal core supporting it, either as a center core or perhaps as one of the facings.

Material might be combined -- meaning, the steel is paid off and the core is perforated -- then the facing material is introduced to that core, and it's combined on large combiners. That will combine it to gauge, and it's usually either rerolled for future processing or sheared to length off of the combining lines.

Q. (BY MR. COON) Did Dana make the rolls or sheets of gasket material there on their facility, or was that typically provided by another manufacturer?

MS. BLAZEK: Object to form. What time period and what type of material?

Q. (BY MR. COON) Let's talk about the Seventies first. I guess we can break it down. In the Seventies, when you -- late Sixties, first decade you

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were there, was this an in-house operation or outside operation?

A. The combining operation was an in-house operation.

Q. What do we mean by "the combining operation"?

A. That's the perforating of the metal core and the adhering of the facing to the metal core.

Q. What about the actual supplying of the rolls or sheets of gasket material?

A. They would have been purchased from an outside supplier.

Q. And did you know who the outside suppliers of those materials were in the first decade of your employment?

A. I know that Armstrong was a supplier, Hollingsworth & Vose was a supplier, GAF was a supplier. That's of the facing materials. The metallics came from Wheeling Pittsburgh.

Q. And these facing materials in that first decade, were these predominantly asbestos-containing materials?

MS. BLAZEK: Object to form.

A. Those facing materials coming from those suppliers would have had asbestos as part of the

material.
Q. (BY MR. COON) And do you know what the typical composition of asbestos was in those products --
A. No, I don't.
Q. -- as a percentage of the total?
A. (Moving head from side to side)
Q. Do you know anything about fiber types or any of the other specific --
A. No, I don't.
Q. -- product specifications?
Any idea of what percentage of the facing materials that were provided in that manner in the first decade were comprised in part with asbestos?
MS. BLAZEK: Object to form.
A. Of those facing materials, most all of those facing materials would have had asbestos of one type or another usually made with an elastomeric binder of some sort.
Q. And then the second decade of your employment, say, from the late Seventies through the late Eighties, same question.
A. The late Seventies through the late Eighties, beginning in the early Eighties, there was a move away from the asbestos content in the facing

materials.
Q. Were there particular product lines that Dana manufactured at that time that were more suitable to asbestos-free composition?
A. I'm sorry. I don't understand the question.
Q. Yes, sir. You said that you started shifting away from some of the asbestos-containing gasket materials in the early, mid-Eighties. Were there particular products that Dana focused on shifting that attention to before others?
A. The --
MS. BLAZEK: Object to form.
A. The initial materials that I believe were converted were our standard materials which would have gone under the Corbestos trademark and under the Victocor 150 and Victocor 200 trademarks. That's where the initial work was being done.
Q. (BY MR. COON) And were these product lines that were used prevalently in the late Sixties through the late Seventies as well?
MS. BLAZEK: Object to form.
Q. (BY MR. COON) Were these common products of Dana during that time frame?
A. Yes, they were common products. My only hesitation is I'm not exactly sure of when Victocor

200 came into being; but, to the best of my recollection, all three of those particular products were being used at the time that I started with Dana.
Q. Now, you told us at your last deposition there were several different product lines and I don't recall all of them without going back and reviewing that prior deposition but you had Corbestos, you had Victocor, and there were two or three others, I believe, you named. Can you recall those?
A. Well, we used a Victaprene material. We used a Victopac material. Those were --
Q. There were some asbestos --
A. Those were the two that come to mind offhand.
Q. Okay. What about Asbestoprene or Asbestopac?
A. Those were not Victor gasket materials as such. Those were terms applied to facing materials.
Q. And do you have any idea how long in the years prior to your employment at Dana had those product lines been manufactured in the same process with asbestos as a component to the gasket material?
MS. BLAZEK: Object to form.
A. I really have no idea exactly when those

products came into being.
Q. (BY MR. COON) Mr. Austin, when you were out there in the early Sixties, again, that first decade -- I'm sorry -- late Sixties through late Seventies, the product lines you just mentioned, the Corbestos and the Victo whatever lines -- Victocor, Victoprene, Victopac -- was that the majority of the gasket materials that were manufactured at your facility at that time?
MS. BLAZEK: Object to form.
A. Majority of the gasket materials that we produced? Yes.
Q. (BY MR. COON) And where did those -- did those same gasket materials go to all the venders you described before, being the aftermarket as well as the OE accounts?
A. Yes, it would have.
Q. So, would it be a fair statement that what was sold by Dana through the late Sixties to the late Seventies to Detroit to the diesel manufacturers, to the automotive manufacturers, those gasket materials that went in their engines would have been gaskets provided by Dana that had an asbestos composition in the facing material?
MS. BLAZEK: Object to form.

A. Well, I guess the point of clarification in your statement from me would be we made a number of gaskets that were not made from gasketting material -- in other words, not combined materials. Of the combined materials we used, yes, it's true that most of those facing materials would have had asbestos content. We made large numbers of metallic gaskets, as a for instance, of course, had no asbestos in them.

Q. (BY MR. COON) Okay. And I'm not a gasket specialist; but when you're talking about combined materials versus metal materials, is there a distinction there as it relates to the facing material? Did you have metal facing materials?

A. No.

Q. So, when we talk --

A. When we talk metal, we're literally talking black plate or tin plate product with, perhaps, coating on it.

Q. Okay. So, with respect to the materials that -- what you call a facing material, those were all materials provided by Armstrong or Hollingsworth or GAF or some other outside vender to you guys to make the actual gaskets; and those gaskets uniformly contained asbestos, to the best of your knowledge?

MS. BLAZEK: Object to form.

A. I believe that's correct.

Q. (BY MR. COON) The next step in that would be where those products went after you manufactured them and it's my understanding you had a lot of business with major automotive manufacturers as well as diesel companies and a few others; correct?

A. That's correct.

Q. If we were to pull out -- say, randomly somebody worked on a 1972 Ford pickup. That's what they had. They had a Ford pickup, say, a 150. And they routinely worked on their own Ford pickup for the next ten years as a shade tree mechanic at their home. Would you be able to tell whether or not that pickup with that Ford engine had the gasket materials that were manufactured from Victor?

MS. BLAZEK: Object to form.

A. You're speaking about a particular application, and I don't know whether on a particular application I'd be able to tell that or not.

Q. (BY MR. COON) Okay. Do you know whether or not, for instance, you could determine where in the particular years as a result of the type of contract you had with Ford that all Ford engines made in a certain year for a certain vehicle model contained

Victor manufactured gaskets?

MS. BLAZEK: Object to form.

A. I don't -- I don't believe that we would be able to do that from our point of view.

Q. (BY MR. COON) Do you know whether or not Ford would be able to do so?

A. I would anticipate that Ford would be able to do that.

Q. Okay. Do you have any idea of what the general market share of the gasket manufacturing Victor held in the first decade of your employment with the Big 3 automotive manufacturers?

MS. BLAZEK: Object to form.

A. I've always been on the manufacturing side. I really know very little about the sales side of the business.

Q. (BY MR. COON) Who were your major competitors during the first decade of your employment?

A. Detroit gasket, Fel-Pro, would have been the two big ones. McCord gasket was also in there.

Q. Do you know how the contracts were effected with the various manufacturers for using Victor made gaskets and engines in any given year?

A. I know contracts were awarded to gasket

manufacturers --

(CELLULAR PHONE RINGING)

A. -- were awarded to gasket manufacturers for certain years. They were not necessarily exclusive contracts in the late Sixties and Seventies. There may have been more than one supplier for a particular application.

Q. (BY MR. COON) Who would know -- who would know more about the actual sales agreements or contracts effected between Victor in any given year and the major purchasers of the gasket materials? Where would you go?

A. The sales side, general sales manager for whatever period of time that you wanted to discuss would be the most likely individual for that. And you asked about -- I'm sorry -- the purchase of materials?

Q. Yes, sir, from Victor.

A. Oh, from Victor. Once again, the sales man- -- general sales manager would have been the most knowledgeable, probably.

Q. Okay. So, as I understand from your testimony -- let me know if I get off on the wrong track somewhere -- but if a gentleman had a particular year model vehicle that he worked on at

his house that had gaskets in the engine, as part of the separation of various metal components, from your end at Victor, it would be difficult to determine whether or not those gaskets were manufactured by Victor versus one of their competitors in a given year?

A. No, that's not what I said. You asked me specifically about a particular application and I assume you were using that as an example but my point is that on an individual application, it's very difficult to tell who the manufacturer might be, depends, to a large extent, on the construction of the product.

There were times when there were -- was identification stamped into a part with a steel stamp that would have identified the product. Color of product might be an identification in some instances; but that would be different, depending on the particular application of the product itself.

Q. Okay. Do you know whether or not Victor maintained more than 50 percent of the market share of the gasket materials and engines in any of the Big 3 manufacturers through the first decade of your employment?

A. No, I really don't know.

Q. Do you know whether or not there was a difference in the amount of market share that Victor held with the OE accounts versus the aftermarket accounts in the first decade of your employment?

A. No, I really don't.

Q. Were there any other distinguishing characteristics between your product lines from the competitors, for purposes of identification?

A. There were some different design criteria from the different suppliers in some instances; and in some cases, some of the competitors had a -- used a branded material.

Q. And what do we mean by "branded material"?

A. Would have had some sort of a logo or product or brand name on the material itself that might be distinguishable after application.

Q. What distinguished product lines that Victor made during that decade -- the Corbestos, Victocor, Victoprene, and Victopac?

A. The Victocor 150 and the Victocor 200 materials would primarily have been by color.

Q. And what colors would those have been?

A. They would have normally been red or a shade of red.

Q. And was that the color through and through

or just on the surface?

A. It was the color of the facing materials.

Q. Do you know if you cut through that material, whether or not that same color would show all the way through the facing or just on the front and back?

A. It would show all the way through the facing.

Q. Did the gaskets come in certain degrees of gauge?

A. Yes.

Q. And what were the gauge depths of the Victocor gaskets?

A. My recollection is that the thinnest material that we produced was an 0 -- well, in the Victocor and Corbestos lines, my recollection is that the thinnest goes -- was an 0.30/0.35 material; and I believe we produced something as high as 0.75/0.80.

Q. What was the typical one used in the automotive industry during the first decade of your employment?

MS. BLAZEK: Object to form.

A. Are you talking about gauging it?

Q. (BY MR. COON) Yes, sir.

A. Automotive engines, a very popular gauge

would have been 0.042/0.047 in Victocor 200, and 060 and 065 in Corbestos materials.

Q. And what were the distinguishing characteristics of the Corbestos product lines?

A. Normally they had a black coating on them.

Q. Was this something done at the factory?

A. Yes.

Q. And what was the purpose of putting the black coating on the gasket?

A. It aided in the release of the gasket from mating surfaces in instances where you were going to take the flanged area apart for some reason or take the head off the block.

Q. Okay. That brought up the next question: What are the particular uses of the Corbestos versus the Victocor 150 from the manufacturer's standpoint in the engine assembly?

A. I think -- I guess I would term it to be more an evolution. I believe the Corbestos material were the earliest materials that were developed. The Victocor 150 and the Victocor 200 materials were later engineering changes.

Q. Anything in particular about those products that distinguished them from the Corbestos to make them more suitable for engine assembly?

A. Not that I'm aware of.
Q. And what about the Victaprene?
A. Victaprene was a material that was used for other applications. It was primarily used for, like, on valve cover gaskets or something like that. Now, the material, Victaprene, did not contain asbestos.
Q. And where was it used other than on the valve covers?
A. My only knowledge of the applications were a valve cover.
Q. Okay. What about the Victopac?
A. In Chicago we used the Victopac as a facing material on a perforated core, and it was used primarily in diesel engine applications.
Q. Would it be fair to say the vast majority of the product lines that were used for the Big 3 automotive would have been the Corbestos and Victor 150 and 200?
MS. BLAZEK: Object to form.
A. If -- you're talking about the first decade still?
Q. (BY MR. COON) Yes, sir.
A. Yes, that would probably be true.
Q. Let's go into the second decade, late Seventies to Eighties. What were the changes with

respect to the industry and the use of these various types of gaskets?
A. Well, there was movement away from any asbestos content in the facing materials; and the Victocor names changed from Victocor 150 to Victocor 159 and Victocor 200 to Victocor 209, basically, designating that it was a reformulated nonasbestos facing.
And in the late Eighties, introduction of graphite began to take place; and I would guestimate that might have been in the -- as early as possibly 1984, '85 and began to see some experimentation with graphite facings.
Q. Mr. Austin, what was precipitating the movement within the industry to shift away from the use of asbestos as a component of the gasket materials manufactured by Victor at that time?
MS. BLAZEK: Object to form.
A. There was a, you know, growing concern about the supply of asbestos. There was obviously some talk about possible asbestos hazards. The industry, in general, was looking for newer materials, better conformability. That's from, you know, a very generalized probably 20,000-foot view of where the marketplace was going.

Q. (BY MR. COON) I think I asked you at the last deposition what you knew about asbestos millboard. Was that a product line that was used in the automotive industry?
A. The term I'm using for asbestos millboard is a starched asbestos sheet. It was utilized as a filler material and layer type product. It was a material that was normally sandwiched between metallic layers, perhaps, tin plate, could have been copper.
Q. And were there particular industries that this product was sold to?
A. It was really the -- in the chronological evolution of gaskets, I guess, I would say that it was the older versions of the gaskets. That type of gasket technology went back into the very early developments of automotive gaskets.
Q. Do you know whether or not Dana or Victor ever sold that product line directly to the market without it being sandwiched, as you described, as part of the finished product at your facility?
A. I have no recollection of any sale of any gasket made from a millboard material without it being secured to a core of some sort or sandwiched.
(EXHIBIT NO. 29 WAS MARKED)

Q. Let me show you what we've got marked as Austin Exhibit 29. This is VMG-32 dash 1448 through 1451.
THE WITNESS: Do you want this back, Mr. Coon?
MR. COON: Yes, sir, thank you.
A. (Reviewing document) Okay.
Q. (BY MR. COON) Yes, sir. The third page of those documents, sir, I think was a March, 1946, letter. Can you tell us who that was from and to?
A. It was to a -- to Vince Labrecque and was signed by R. M. Burns.
Q. And do you know who Mr. Burns was?
A. I'm not exactly sure what his title was, but Mr. Burns was either the general manager or president of Victor Gasket.
Q. Do you know what years?
A. No, I really don't. I know that he -- it was a name that was very familiar to people when I started there in '68. So, obviously in 1964, he was there; and my recollection of Mr. Burns was that he moved on about the time Dana acquired Victor Manufacturing and Gasket.
Q. That would have been about 1967?
A. Would have been, yeah, 1967.

Q. Okay. Now, Mr. Labrecque, one of the recipients of that document, was the same gentleman that received a copy of the earlier letter we talked about from the insurance company regarding the dust counts in one of the areas of the plant there; correct?
A. That's correct.
Q. Is that the same gentleman?
A. Same gentleman.
Q. And I think that correspondence indicated some desire and consideration to selling the asbestos millboard; is that correct?
MS. BLAZEK: Object to form.
Have you seen this document before?
THE WITNESS: No, I've never seen the document.
A. I was going say: All I can say is that I can read what it says here, but I'm not familiar with the document as such.
Q. (BY MR. COON) Okay. That's fine. If you can, just tell us -- either summarize what it says or read it if it's not very long.
MS. BLAZEK: Can we have a running objection --
MR. COON: Sure.

MS. BLAZEK: -- to any documents that he hasn't seen before?
MR. COON: That's fine. I thought we still had an agreement from the last deposition that we're not contesting the documents that are y'all's through production through the repository.
MS. BLAZEK: That's what I'm talking about, just foundational questioning a witness about a document that they've never seen before and knows nothing about, I just don't know about the questions.
MR. SPEZIALI: (Inaudible)
MS. BLAZEK: I think that what Brent's referring to is the agreement that we have that we wouldn't contest authenticity of the documents, but this is --
MR. COON: Yes, authenticity only.
MS. BLAZEK: Right. But this is an objection concerning whether this is the appropriate witness to be questioned about a document.
MR. COON: That's fine.
MS. BLAZEK: And that is mutual, as I understand it.
MR. COON: Yeah, that's fine. I understand that Mr. Austin is not familiar with the letter; and we anticipate he's not going to be

familiar with a number of these letters, particularly those preceding his employment.
But by the same token, what I'm trying to do, since he's the person would best know to be available to discuss some of the historical information about Dana, at this point, from our side, we just want to ask him questions about what he knew and shed some light on some things.
Q. (BY MR. COON) So, Mr. Austin, I don't know a lot about your asbestos millboard there, sir; and there's a letter dated 1964 to the same gentleman that had received prior information regarding the dust counts at the facility that appeared to express some desire to actually sell that, what was called, an asbestos millboard. Is that a fair statement of what it indicates there?
A. Well, let me read it to you.
It says, "We are considering the possibility of selling asbestos millboard as a separate product.
We are forwarding herewith, sample of millboard used by Smith & Kanzler Corporation, which is one possible customer. Victor in the past has made regular millboard. Do we have the necessary technical information?
Will you please advise the formula that

would mostly likely be used in order that we may secure some manufacturing costs for evaluation."
Signed, R. M. Burns.
Q. Okay. Now, in follow-up, do you know anything about any subsequent sales by Victor, or later Dana after the acquisition, of the asbestos millboard to anyone either for rebranding purposes or direct sales or their own stock, anything?
MS. BLAZEK: Object to form.
A. I guess -- sale of millboard, no, I know nothing about. What was the last part of your question?
Q. Okay. Well, as I understood it, the asbestos millboard was used at Victor --
A. Right.
Q. -- as part of a gasket where it was sandwiched between some other components. I think you told us about that; correct?
A. Right.
Q. Did you ever become aware of the sale by Victor or Dana of that asbestos millboard core without it being sandwiched between these other parts that were manufactured there at the Dana facility?
MS. BLAZEK: Asked and answered.
A. I don't know of any sale of millboard to

anyone.
Q. (BY MR. COON) Okay. Do you know where the millboard was that was at the Victor facility? Was that something manufactured there on site, or was it provided by the venders?
A. No, it was provided by venders.
Q. Did Victor or Dana ever make the millboard themselves?
MS. BLAZEK: Object to form. What time frame?
Q. (BY MR. COON) Well, first, before your employment, are you aware of Victor ever making the asbestos millboard?
A. I know that there was discussions that they had made asbestos at one time. I have no personal knowledge of what that period of time was or anything, really, about that. I know that from the time I was employed, there was no asbestos manufacturer in the facility.
Q. (BY MR. COON) Okay. The asbestos they used was already being provided by other venders to then make the gaskets?
A. That's correct.
Q. But you have an understanding that at some point in time before your employment that Victor had

been involved in some of the actual manufacturing of the gasket material or something else?
A. No, the gasket material, as far as I know.
Q. Okay. Do you know where -- which facility was engaged in the manufacturing of the asbestos gasket material?
A. I believe it was at the Chicago facility.
Q. Do you have any idea what the time frames were involved in that?
A. No, I really don't.
Q. Do you know which product lines those gasket materials went into?
A. I -- no, I don't know. I would assume that it was the material that we later used for the layer type product.
Q. Do you know why it was that Victor went from manufacturing the gasket materials on site to then go to outside venders for the supply of those materials?
A. No, I do not.
Q. Do we have any idea what the time frames are that were at issue that they did manufacture on site?
MS. BLAZEK: Object to form.
A. No, I do not.
Q. (BY MR. COON) Who would be a good person for us to go to now to find out more about that?

A. I don't really know who would be knowledgeable of that who would still be living.
Q. Do you know whether or not there would have been any information archived with respect to those parts in the manufacturing facility?
MS. BLAZEK: Object to form.
A. I have no idea, you know, what all was archived. There were a lot of archived files.
Q. (BY MR. COON) What did this millboard look like?
MS. BLAZEK: Object to form. When?
Q. (BY MR. COON) Did the millboard change, or did it always look the same?
A. Asbestos millboard, as I knew it, was always a white starched material.
Q. How did it come supplied to Victor?
A. In sheets.
Q. Who from?
A. I really don't recall.
Q. The memo here indicated that there was sample millboard used by Smith & Kanzler. Are you familiar with that company?
A. I know of the name.
Q. How so?
A. It's come up on some of the interrogatories

that I've answered.
Q. Okay. Have you assisted Dana in answering interrogatories in litigation matters?
A. I have reviewed answers to interrogatories, yes.
Q. Anything about that that jogs your memory about what Smith & Kanzler's role was with Dana, if any?
A. My recollection was that it had been acquired by Dana as part of the purchase of Victor Manufacturing and Gasket, that they had owned some stock in Smith & Kanzler.
Q. What does Smith & Kanzler do, if you know?
A. I -- no, I really don't know what they did.
Q. Do you know where they were located?
A. They were out East someplace, as I recall.
Q. On the East Coast?
A. I -- I really don't recall.
Q. Any idea what they were involved in, what business line they were in?
A. It seemed to me that they used -- they were involved in some of the filler materials used in gaskets.
Q. Would that be, like, GAF, one of the other venders you had given us the name of earlier?

A. Similar, I would say, in nature.
Q. Do you know any other products they may have manufactured?
A. I recall that in one of the interrogatories I reviewed was that they had been in some sort of a construction insulation material of some sort.
Q. And do you know what type of construction insulation materials they manufactured?
A. No, I don't.
Q. Would that have been asbestos-containing materials?
A. I don't know.
Q. Do you know if they were pipe coverings or refractoring materials or wallboard or anything idea?
A. No, I have no idea.
Q. Do you know how it was that Dana acquired that entity?
MS. BLAZEK: Object, asked and answered.
THE WITNESS: So, do I answer it?
MR. COON: Maybe I just didn't understand the answer.
MS. BLAZEK: He said --
A. I -- I believe that Dana came by S & K, or Smith & Kanzler, as part of the purchase of Victor

Manufacturing and Gasket Company, that they owned some shares of Smith & Kanzler.
Q. (BY MR. COON) So, your understanding was that it just came with the package when they bought Victor?
A. Yes.
Q. And do you know when, where, or why it was that they sold the Smith & Kanzler entity?
A. I know it was sold about 18 months after Dana acquired Victor Manufacturing. I don't know why it was sold.
Q. And do you know who it was sold to?
A. I remember that it was stated in one of the interrogatories, but I don't recall the name offhand. It was an Ohio based firm, as I recall.
Q. Would that have been Phillip Carey?
A. I believe that's correct.
Q. Did Victor ever engage in any, what I call, debraining agreements with other manufacturers where -- two different prongs: one, where another company may have manufactured a product and sent it to Victor or went through some other company to rebrand or relogo or relabel that product under a Victor name?
A. I have no knowledge of that.

Q. Okay. Do you know whether or not Victor ever engaged in a practice of doing so for other companies, where Victor rebranded some of their products under some other company's name as opposed to the Victor names that you've told us about?
A. Are we speaking of product that we did not -- that we didn't manufacturer?
Q. No, sir. Something that maybe Victor manufactured but did not put a Victor name on, instead put some other company's name on to allow that company to sell it as its own?
A. We routinely would stamp trademarks of Big 3 into products we produced for them.
Q. And who is Big 3?
A. It would have been Ford Motor Company, General Motors, and Chrysler.
Q. Okay. So, when we're talking about "the Big 3," you're talking about the Big 3 auto manufacturers?
A. Uh-huh.
Q. And, so, you actually made products at the Victor facility where you stamped "Ford" or "Chrysler" or "GM" on it?
A. That's correct.
Q. Do you know whether or not Ford, Chrysler,

or GM had other companies also rebrand their product lines?
A. I guess I'm having some trouble with the term "rebrand." We made original equipment -- gaskets for them and put their logos in the parts.
Q. Would these have been the same asbestos filler gasket materials you told us about that were comprised in the Victor and Corbestos product lines?
A. Yes.
Q. Do you know what the purpose would have been of rebranding those product lines that were manufactured at the Victor facilities with one of the Big 3's logos?
A. What would have been the purpose?
Q. Yes, sir.
A. They were being supplied to the service/parts divisions of the Big 3 for sale under their brand name.
Q. So, if you were to go to a Ford dealership and get Ford gaskets, they would have been manufactured by Victor and just rebranded with a Ford name?
MS. BLAZEK: Object to form.
A. Once again, I'm having some problem with your term of "rebranding." It would have been

branded with the Ford name, yes, as the original equipment part.

Q. (BY MR. COON) Okay. How would you know that that was a Victor made product if it's got Ford's name on it?

A. In -- in some instances we were allowed to put some sort of identification in it or required to put some sort of an identification in it. In other cases, that wasn't the case; and you couldn't be certain.

Q. Okay. When you sold to the OE's like this, was it routine for you to provide their logos on the product lines; or was that requested sometimes and not on other times?

MS. BLAZEK: Object to form.

A. It was pretty much by customer. Certain customers demanded that they have logos or their part number stamped in. Others did not.

Q. (BY MR. COON) Okay. Well, let's talk about the first decade of your employment. With Ford, if you were to typically provide Ford with the gasket materials for use in their engine assembly, first for the engines that were put together, were those typically a Ford logo gasket; or were those typically your Victor gasket label?

A. It would typically have been a Ford logo part.

Q. And same question with Chrysler, were those typically logoed with Chrysler or Mopar or --

A. Normally they would have been a Chrysler Pentastar.

Q. And now, if you had a -- some of these companies had different product lines. Let's go back with, say, Ford. You had the Ford, and I think you probably had the Lincoln Mercury lines.

Would each of those product lines have been labeled separately under the actual subsidiary? For instance, I'm calling Lincoln a subsidiary of Ford. I don't know what the proper terminology is. But would you relabel some of the gasket materials "Lincoln" or would those all be labeled "Ford," if you know?

A. I believe they would have all been labeled "Ford."

Q. With respect to General Motors, would you have different logoing with respect to Chevrolets versus Cadillacs?

A. Normally General Motors used a GM insignia.

Q. So, if we looked at the advertising of using genuine GM parts, those genuine GM parts may have, in

fact, actually been made by Victor?

A. That's correct.

Q. Do you know whether or not GM ever manufactured their own gasket materials?

A. I don't believe they ever did, no.

Q. Do you know whether or not Ford ever manufactured its own gasket materials?

A. I really don't know, but I don't believe so.

Q. Okay. With respect to any of the customers that you had in the OE accounts, did any of them, to your knowledge, ever manufacture any of their own gasket materials?

A. I don't believe so.

Q. Okay. With Ford, do you know if they operated under the Motor Craft product lines?

MS. BLAZEK: Object to form.

A. I'm sorry?

Q. (BY MR. COON) Motor Craft?

A. Motor Craft is familiar to me, and I believe it was a Ford -- one of the Ford identification lines, but I'm not certain of that.

Q. Okay. With respect to Chrysler, do you know whether or not those products were labeled "Mopar" or "Chrysler" or some of both or what?

A. I believe they were labeled as Mopar.

Q. And would that include Plymouth and Chrysler?

A. I don't recall having Plymouth as a customer. So, I'm not sure about that.

Q. Okay. And with GM, do you know if those were logoed under the AC Delco trademark?

A. No, I don't believe they were.

Q. You believe it was GM?

A. Uh-huh.

Q. With respect to the aftermarket product lines, in addition to the direct sales, so I can understand this, you had the direct sales that went to the OE accounts so that they could assemble the engines so they would have a gasket that may be labeled "Ford" in some manner put into the Ford engine?

A. Correct.

Q. And then it went to the local dealership for sale; correct?

A. Well, it was assembled into an automobile normally; and then --

Q. Now, with respect to a customer, then, going back to Ford for the parts to effect some engine repairs and they went back to the dealership, was there a manner in which Victor made the gasket

materials and labeled them in that same manner for the local dealership to then sell to the customer?

MS. BLAZEK: Object to form.

A. Victor never sold to a dealership. We would sell through the service arms of the automotive OE's, and they would distribute in some fashion. They're probably different, in each area, to the dealerships.

Q. (BY MR. COON) And I think we talked a little bit about the bulk sales before; but if you're shipping a hundred thousand gaskets of some form for part of the engine assembly in a new vehicle, you did not need to individually wrap each one of those gaskets?

A. That's correct.

Q. But if you were to buy a particular gasket at the dealership for the replacement for one part on an engine, you could buy them just individually; correct?

A. That's correct.

Q. And many times they were individually wrapped and packaged; correct?

A. That's correct.

Q. And, so, they would still have the same Ford or Ford manufactured logoing on it as had been stamped when it was shipped to the manufacturer to

put in the engine at the time of original assembly?

A. That's correct.

Q. But you would not sell those directly to the dealership. Instead, they would go to a hub of the vehicle manufacturer, like Ford; and then they would distribute them to the various dealerships?

A. That's correct.

Q. How did that differ, if at all, from the aftermarket accounts that you told us a little about -- a little bit about in your last deposition?

A. The accounts we talked about in my last deposition dealt with the Dana aftermarket and Dana has its own aftermarket that distributes to, well, what we call Tier 2's, which is normally warehouses; and then that product would be distributed to the local auto parts stores or something along that line.

There could be a two-tier or a three-tier distribution system, depending on a particular organization.

Q. Would there be any difference in terms of the actual gasket material that was used in the sale to the OE account versus aftermarket account? Was it the same exact gasket?

A. It would depend on the individual application. Normally it would be the same material.

Q. And, so, if you were to go to the dealership for the replacement gasket, you would typically see the dealership's logoing on the gasket because that's the way the vehicle manufacturer wanted it, to create the impression that it was something that was theirs with their identifying trademarks on it?

A. That's correct.

Q. And if you went to the aftermarket to buy that same gasket, you could go to a Hi-Lo or some other auto parts place and instead of seeing the manufacturer's -- the vehicle manufacturer's logoing on it, you would see the Victor product lines logoing?

MS. BLAZEK: Object to form.

A. That may or may not be the case.

Q. (BY MR. COON) And why or why not?

A. Well, I'm really not the individual for you to talk to on aftermarket distribution; but I know that aftermarket is distributed in a number of different fashions. I just can't honestly tell you exactly how that all worked, though.

Q. Do you know if in the aftermarket whether or not the same requests were made by some of the venders -- for instance, a Hi-Lo or Western Auto may request Victor to manufacturer those gaskets with

their name on it, say, the Western Auto trademark or the Hi-Lo trademark as opposed to Victor?

MS. BLAZEK: Object to form.

A. I believe that we did do some packaging under name brands.

Q. (BY MR. COON) Where would be a good source for us to go to get a better overall synopsis of how that worked in terms of the packaging and logoing vis-a-vis the different manufacturers you dealt with as well as aftermarket vendors?

A. On the OE side, the general sales manager would be the individual. On the aftermarket side, you'd have to go to someone in our aftermarket division.

Q. Was that also in Chicago?

A. No.

Q. Where was that at?

A. Well, automotive aftermarket, all of the SBU's are located in Toledo. But the actual offices for aftermarket, probably the Clevite offices for the automotive aftermarket -- and they're in Ann Arbor, Michigan -- would be a potential source for you.

MS. BLAZEK: We've been going an hour and a half. Can we take a break?

MR. COON: Oh, yeah. You want to take

a break, sure.
THE VIDEOGRAPHER: We're off the record at 3:03.
(A RECESS WAS TAKEN)
(EXHIBIT NO. 30 WAS MARKED)
THE VIDEOGRAPHER: This is the beginning of Tape 2. We're back on the record at 3:20.
Q. (BY MR. COON) We've got Exhibit 30. It's a letter dated April, '67, to E. Shenezis, (pronouncing) Shenezis.
MR. COON: And, Counsel, to speed up, what I'll do is I'm going to go ahead and start proffering y'all the next documents so that we don't have to wait to review it before I ask him questions. That may help some.
Q. (BY MR. COON) Mr. Austin, the document there -- if I can call your attention to the Asbestopac 232. It says the customer is Ford Motors. Do you know Mr. Shenezis?
A. No, I don't.
Q. What is Department 95, sir?
A. I have no idea.
Q. Don't know that, either?
A. No.

Q. It's stamped the Division of Victor Manufacturing Gasket Company, isn't it?
A. Materials Division Victor Manufacturing Gasket Company, yeah, that's correct.
Q. And it indicates it's cc'd to the Mr. Labrecque gentleman again?
A. Yes, Labrecque.
Q. What is this Asbestopac 232, and how does that relate to Ford Motors?
MS. BLAZEK: Object to form.
Have you seen the document before?
THE WITNESS: No, I haven't.
MS. BLAZEK: Again, if we could have a running objection on foundation since he's never seen the document.
A. (Reviewing document) Okay.
Q. (BY MR. COON) Do you know anything about the Asbestopac 232 line?
A. No, I really don't.
Q. Do you --
A. It was a facing grade of material, I believe. That's all I really know about it.
Q. Was that one that was manufactured by one of your competitors?
MS. BLAZEK: I think he's still

finishing the document.
A. (Reviewing document) Okay. I'm sorry.
Q. (BY MR. COON) Okay. Yes, sir. First, I was trying to find out more about the Asbestopac 232, if you know what it was or who manufactured it?
A. I really -- no, I really don't.
Q. The Smith & Kanzler firm is mentioned on there again, isn't it?
A. It does talk about Smith & Kanzler --
Q. Any idea --
A. -- in this.
Q. I'm sorry. Any idea why?
A. No, I really don't. I've never seen this type of form before.
Q. Okay. Had you not heard of the Asbestopacs 232 or Asbestopac, generally, before?
A. Oh, I've heard of 2 -- Asbestopac 232.
Q. What was your understanding of what that was?
A. It was a paper material that was used in facings.
Q. And did you know who made that?
A. No, I don't.
Q. Do you know if it was manufactured by Victor or Dana?

A. No, I don't.
Q. You don't know if that was one of y'all's product lines or if it was a competitor's product line?
A. No, I don't.
Q. No idea why that memo references that particular material?
A. No. As I say, I've never seen -- I've never seen the form before, and I don't know Mr. E. Shenezis or Shenezis (pronouncing) or whatever it is.
Q. Did you know the materials developed -- was there a materials development laboratory at Victor?
MS. BLAZEK: In 1967?
Q. (BY MR. COON) Yeah, in April of 1967?
A. I guess we called it -- well, I knew there was a materials development department. I guess I never thought of it as a laboratory as such.
Q. Well, I was just looking at the bottom. There was a name signed off under there, "Larson."
A. Yeah.
Q. Okay. Did you know a Larson in that department?
A. Yes, sir.
Q. So, this appears to be generated through that department; is that correct?

A. Yes, it does.
Q. Okay. This is Document VMG-32-1455 and on the third page -- again, this is dated March 14, '67 VMG-32-1457 and it's another memo and these all came together. So, I'm just going to show you this one next. Again, this one was cc'd to Mr. Labrecque as well. It's from Mr. Feldmann to Mr. Hayden, Interoffice Correspondence. Did you know either of those two gentleman?
A. C. I. Hayden was Carl Hayden.
Q. What was his title?
A. At this point in time, I really don't know. He worked in the engineering group in 1967. I have no idea what his capacity was in that career.
Q. Now, in that memo they're talking about an Armstrong product line, Armstrong AN 830 (sic). Are you familiar with it?
A. Yes, I am.
Q. What was that?
A. Well, it was a grade of material produced by Armstrong.
Q. Was that what was used for some of your gasket materials?
A. Yes, I believe it was.
Q. Do you know which product lines?

A. It was a soft gasket material; and, no, I'm not really familiar with exactly what it was used for.
Q. Okay. And what was it used for?
A. I don't know exactly. It was a soft gasket material, but I have no idea exactly what it was used for or the types of applications.
(EXHIBIT NO. 31 WAS MARKED)
Q. Okay. Mr. Austin, we next have Exhibit 31; and that had a file cover of a "D. Reda."
A. Reda (pronouncing).
Q. Reda?
A. Yes, sir.
Q. I think you mentioned him at the last deposition.
A. Right.
Q. And what was his title over the years?
A. He was plant -- well, he was the plant manager for a number of years. I believe he had been in the accounting group prior to Dana's acquisition.
Q. Okay. Now, there were a number of things in this file folder and we've taken excerpts from that but the cover of the file was VPD-91 dash 90. And if we turn to the inside document, one of those that was in the file, this one is VPD-91 dash 91. It's dated

April 29, it says "1068." It was probably "1968"? You guys weren't around a thousand years ago, were you?
A. I don't think so.
Q. Okay. So, we'll assume that was a typo.
It talks again about the Smith & Kanzler firm, a trip over there, doesn't it?
A. Yes, it does.
Q. Then it talks about the gasket division. Mr. Sheehan? Is that who that is?
A. Mr. Sheehan.
Q. Sheehan. Who is Mr. Sheehan?
A. Mr. Sheehan was Bill Sheehan, William J. Sheehan.
Q. Okay.
A. In 1968 I believe he would have been plant manager.
Q. Okay. And it talks about a document attached. If we turn to the next page, which is VPD-91 dash 92 and that seems to be the document they're referencing that's dated April 19, 1968, and it talks about some dust problems.
Are you familiar with any of the dust problems at the plant that they may have been referencing there at that time?

MS. BLAZEK: I'm sorry? Which plant? Smith & Kanzler?
A. Yeah, it appears as though they're talking about Smith & Kanzler.
Q. (BY MR. COON) Right. Do you know why they would be discussing problems with dust at the Smith & Kanzler facility?
A. No, I really don't. I have no idea.
Q. Okay. Do you know what ownership role Dana had after the acquisition of Victor as it related to Smith & Kanzler?
A. No, I really don't.
Q. Do you know if they had any shared members of the board of Smith & Kanzler?
A. I have no idea.
Q. Do you have any idea who owned, operated, or controlled Smith & Kanzler after it was acquired by Dana in '67 as a result of the acquisition of Victor?
A. No, I don't.
Q. Did you have any role in assisting Dana at any point in time during your tenure while Smith & Kanzler was still in some way -- let me strike that.
Did you have any involvement with the Smith & Kanzler facility at all -- going there, inspecting it, meeting with any of the people, or

anything like that?
A. No, sir, I did not.
Q. Do you know anything about the dust problems that they were talking about in the 1968 memo?
A. I haven't read the memo yet. So, if you'd like me to take a minute to read it...
(Reviewing document) To be honest with you, I'm not sure what some of this says. It's a rather poor copy.
Q. Well, of what you can read there, is there any anything that assists you in determining what that may have been about?
A. The only thing that I can seem to take from this is that they're requesting Mr. McGranahan's assistance at the Smith & Kanzler plant. Other than that, no, there's nothing I can make out from this, really.
Q. Okay. Any idea why Dana would have been involved in assisting them with dust problems at that facility as a -- just somebody that had stock in that company?
A. No, I have no idea.
MS. BLAZEK: (Reading) "Smith & Kanzler's going to pay for his expenses."
THE WITNESS: Yeah, "I would anticipate

a week of Mr. McGranahan's time would be required and assume that S & K will pay out-of-pocket expenses for Mr. McGranahan only. Because of the potential health hazard created by the dust, the" -- I can't make out that word -- "we can secure Mr. McGranahan's services the better."
I assume that must be "sooner."
Q. And who is Mr. McGranahan?
A. It was Bob McGranahan. He was -- I'm not exactly sure what his title was; but he was, basically, facilities -- he was in charge of facilities. He may have been considered a vice-president or something like that of the facilities.
Q. At Dana?
A. No, in the Victor Manufacturing group.
Q. Okay. And then who is Mr. J. A. Johnson?
A. I believe it was Andy Johnson and he would have been, like, a general manager level, but I'm not exactly sure what his title was.
Q. Do you know anything about what specific dust problems they were having there, creating the health hazard?
A. No, I don't.
Q. Do you know what was done to resolve it, if

anything?
A. No, I don't.
(EXHIBIT NO. 32 WAS MARKED)
Q. Mr. Austin, next we have Exhibit No. 32; and that, sir, is "Minutes of Victor Gasket Division, Plant Safety Committee," May 10, 1972; correct?
A. That's what it says here.
Q. And lists the number of people that were present at that meeting?
A. Yes, sir.
Q. And the agenda?
A. Yes.
Q. And one of the things they were discussing at that meeting were dealing with asbestos issues, I believe.
MS. BLAZEK: Have you seen the document before?
THE WITNESS: No, I haven't.
MS. BLAZEK: If he could have a moment to review it.
MR. COON: Oh, sure.
MS. BLAZEK: Again, we would object on foundational grounds since he hasn't seen the document before.
A. (Reviewing document) Okay.

Q. (BY MR. COON) Now, first, those present, without going through the names of all of them individually, were those all management individuals of Victor in 1972?
MS. BLAZEK: Object to form.
A. The only name I don't recognize on here is an E. Velde, afterwards there's a parenthesis that says "George Brown."
Q. (BY MR. COON) Are you familiar with the plant safety committee?
A. Yes, I am.
Q. Were you ever a member of the plant safety committee?
A. Yes, I was.
Q. Were you a member in 1972?
A. No, I was not.
Q. What years were you a member?
A. Probably would have become a member in 1980.
Q. Were those present at that time -- any idea whether or not the nine individuals mentioned there were all members of the committee at the time?
MS. BLAZEK: Object to form.
A. I have no way of being certain. They are all -- they were all in management/leadership roles in the plant or division at the time.

Q. (BY MR. COON) Was it typical in the years that you were involved in the plant safety committee to retain minutes of those meetings?
A. I would think that that was kind of helter-skelter. I would say that at times there were minutes taken, and other times there may not have been.
Q. And it appears from the agenda, one of the six agenda items was the -- No. 2, "Status of asbestos air pollution control." Am I reading that correct?
A. Yes, you are.
Q. Any idea what they were referencing with respect to the minutes as it related to the asbestos air pollution control issues that they were dealing with?
A. No, I have no way of knowing.
Q. Would those have been asbestos control problems at any of their own facilities?
A. Once again, I have no idea.
Q. Did the plant safety committee ever get involved or concerned in the asbestos control issues of other plants other than their own?
A. I don't know whether they did or they didn't.

Q. Okay. Well, I'm not trying to ask trick questions, Mr. Austin. I think -- I mean: Is it fair to presume that when they're talking about asbestos control issues at a plant safety committee meeting, that they're talking about asbestos control issues at their own facilities as opposed to somebody else's facilities?
A. In looking at this, some of these people were, what I would have considered, division people at the time. So, that brings some hesitation that it might just have been the Chicago plant, that it might have been broader than that. I don't know that for a fact nor do I know that that's not the case.
Q. Okay. But this would not have been asbestos problems of GAF or someone else?
A. Oh, no.
Q. That would be -- maybe I didn't make myself clear. These are issues they're addressing that are internal issuing --
A. Yes, sir.
Q. -- of Victor; correct?
A. I believe that would be correct.
Q. And it's discussed -- under the "Review of Discussion" what was discussed at the meeting as it related to asbestos and air pollution control, I

believe, there at the bottom of the page.
A. Right.
Q. Do you know if, based on that date being May of 1972, if some of that was based on the OSHA standards that were going into effect at that time?
A. I have no way of knowing for sure that that was the case.
Q. Do you know when the OSHA standards were going into effect?
A. I don't know what the date of the OSHA standards were. I know that they were early 1970's.
Q. Were you involved in any way at Victor with respect to how to address those issues in the early Seventies?
A. No, I was not.
Q. Okay. One of the things talked about here in the review of discussion was, "Vacuum cleaners have been received."
What are they talking about there?
A. I recall that we used vacuum cleaners to take up dust from shearing operations and things like that --
Q. Okay.
A. -- housekeeping and minimize the airborne dust.

Q. They talked about "for use in the handling of asbestos-containing material and removing of the asbestos dust from clothing and equipment."
Did you recall in the early Seventies any point where the Victor Gasket Division started vacuuming off the clothes of their employees?
A. No, I can't say I really do.
Q. Do you recall the actual purchase or the use of vacuum cleaners in that capacity?
A. I remember some small vacuum cleaners at the shear and some of the sorting benches, but I don't know what they were used for. I don't recall exactly what they were used for.
Q. Did you ever see any of the employees being vacuumed off, having their clothes vacuumed off to remove asbestos dust?
A. No, I can't say I do.
Q. Second area here under that topic was, "Environmental test center will prepare an updated report indicating areas tested and findings resulting from tests."
Do you know of any additional testing that was done in 1972 as it related to asbestos control issues at any of the Victor facilities?
A. It seems to me that in 1972 there was an

environmental test center associated inside the plant, and the testing that was done -- the only testing I recall for asbestos was to be certain that we were in compliance with the OSHA guidelines. That's the only recollection I have of testing being done.

Q. Was that a desire by Victor to maintain compliance with OSHA, to be able to continue to manufacture their asbestos-containing materials?

MS. BLAZEK: Object to form.

A. I guess I'd say the answer to that is yes. You know, we were always concemed with safety and housekeeping and running a good plant; and obviously complying to OSHA standards is certainly a part of that.

Q. (BY MR. COON) Do you know whether or not at the time the asbestos standards came out with OSHA in 1972 Victor had initiated any testing of their products to determine -- to internally determine whether or not asbestos posed a health risk?

MS. BLAZEK: Object to form.

A. No, I have no idea.

Q. (BY MR. COON) The next discussion here was, "A hood and dust collector will be installed at asbestos" -- I think that's supposed to say --

"slitter by June, 1972."

Was that what you described earlier, the slitter that cut the sheets?

A. The slitter or shear, right.

Q. That's the same thing when we talk about a shear?

A. Normally when we use the term "slitter," we were talking about a rotary slitter. I spoke of a square shear earlier.

Q. Okay. Do you know what that type of equipment is that they're discussing there?

A. I know what an asbestos slitter is, yes.

Q. No, sir, the equipment they were talking about?

A. Oh, I'm sorry, the hood and dust collector?

Q. Yes, sir. Are you familiar with those?

A. I recall a hood and exhaust system that was installed over the slitter, yeah.

Q. Do you recall it being installed in the early Seventies or at some other point in time?

A. It would have been the early Seventies sometime. I have no idea whether it's at this point in time or not.

Q. Was that to replace one that had worn out, or was that the first time they had used one?

A. I, frankly, don't recall that.

Q. Do you have any recollection of the facility having that type of equipment prior to 1972?

A. No, I can't say I do.

Q. Okay. In fact, part of the purpose of the installation of that particular equipment was to try to reduce the amount of asbestos, airborne asbestos fibers in that area, wasn't it?

A. I can't answer that.

Q. Fair enough.

(EXHIBIT NO. 33 WAS MARKED)

Mr. Austin, we next have Exhibit 33 and that appears to be a handwritten sheet of a "1973 Capital Budget by Victor Division." Did I read that correctly?

A. Robinson plant.

Q. Robinson plant, yes, sir.

A. Correct.

Q. And it talks about various things in the line item budgetary costs.

A. I've never seen this, but I would assume that that's correct.

MS. BLAZEK: Running objection on foundational grounds.

Q. (BY MR. COON) Okay. We have the -- the

first paragraphs, it talks about the "Gasket operations" and I guess we follow out, underneath, it says "Update of presses, OSHA" and then a number to the side?

A. Right.

Q. Then "Vacuum dust collection, OSHA" and additional numbers, and there's a line item of various types of things along with an estimate of cost; is that correct?

A. That appears to be correct.

Q. Okay. Do you know what would have precipitated incorporating those particular items in the budget for 1973 at that facility?

A. No, I don't.

Q. Do you know whether or not those were to try to affect compliance with OSHA at those facilities?

A. No, I don't.

Q. Did you participate in any way with any of the other management folks at Victor to determine which of these items were necessary and whether they should be installed?

A. No, that list is from the Robinson facility. I had nothing to do with that at all.

Q. Do you know whether or not there were capital budgets similar in nature for your facility

for 1973 for OSHA issues?
A. I know that we prepare a capital budget each year. What specifically would have been in the 1973 budget, I have no way of knowing.
(EXHIBIT NO. 34 WAS MARKED)
Q. Mr. Austin, we next have Document No. 34; and that one's marked VPD dash 146 dash 2956, I believe, dated May 6th, 1975?
A. That's correct.
Q. And who is that to and from?
A. It's addressed to a Mr. Hickey.
Q. Who is Mr. Hickey?
A. I have no idea.
Q. And from?
A. I'm sorry?
Q. And from?
A. It was from Vince Labrecque.
Q. And that's the same Labrecque we talked about earlier?
A. That's correct.
Q. And what was his title at that time?
A. This says that he was the acting division chief engineer.
Q. If I can see that just real briefly, sir.
A. (Tendering)

MS. BLAZEK: While he's reviewing that, had you seen that document before today?
THE WITNESS: No.
MS. BLAZEK: We'd have a running objection on foundational grounds for any questions of this witness.
Q. (BY MR. COON) The letter goes on to point out some of the fiber burden counts for asbestos in your facilities, I believe, doesn't it?
A. (Reviewing document) Okay. I'm sorry? What was the question, Mr. Coon?
Q. Okay. Yes, sir. It talks about the measurement of asbestos in the air, asbestos dust?
A. I believe that that would be correct, yes.
Q. Okay. Do you know how those -- how that information was derived? Indicate anywhere how the testing was done?
A. No, it doesn't specify on here anything about the testing procedures.
Q. Do you know whether or not Victor ever set up a program to intemally evaluate the dust counts in various areas in their facilities, or was that always something that was done out -- by specialized personnel outside of Victor employment?
MS. BLAZEK: Object to form.

A. The only internal testing that might have been done was in relationship to one of the previous documents you showed me that talked about the environmental department.
Q. (BY MR. COON) Okay. Where was the environmental department at Victor?
A. I believe it was just an office in the engineering area.
Q. Do you know if they had a certified industrial hygienist --
A. No, I do not.
Q. -- operating out of there? Don't know one way or the other?
A. No, I don't.
Q. It talked at the bottom of the -- this particular letter about providing medical tests for individuals exposed to asbestos at a facility. This is 1975. Do you recall when it was, first, that at your plant they initiated an annual medical screening for the individuals that worked around asbestos there?
A. It would have been sometime in the Seventies, but I really don't have a clear recollection of when it would have started.
Q. Do you know whether or not individuals in

certain parts of the plant were screened and other departments were not? Do you know how that worked?
A. No, I really don't have any recollection of how that worked.
Q. In the years after that, did OSHA continue to come out to your facility?
A. I really have no knowledge of when OSHA was there or wasn't there.
Q. Do you know whether or not OSHA conducted periodic inspections of the facilities to determine whether or not the plant was in violation of some OSHA standards or regulations?
A. I only recall personally one OSHA visit where I actually met an OSHA inspector.
Q. Do you know when that might have been?
A. No, I'm sorry.
Q. Long time ago?
A. I have no recollection.
Q. Okay. Do you know if outside of the visits they had personally with you, do you know what degree of regularity they would visit your plant?
A. No, I really don't.
Q. Do you know if they came out once a year or quarterly or any idea?
A. No, I really don't.

Q. In the Seventies, was there a particular individual that was the OSHA liaison at your plant that would typically visit with you?
A. It would have been whoever was in -- fulfilling the role of safety director or the safety manager.
Q. And who would that have been through the Seventies?
A. Well, in the very early Seventies, it would have been Bud Leider.
Q. And where is Mr. Leider now?
A. Mr. Leider has long since passed away.
Q. And after him?
A. After him, I believe it probably was handled by different people in the HR group or the facilities group.
(EXHIBIT NO. 35 WAS MARKED)
MR. COON: Counsel, do you have Exhibit 35 there?
MS. BLAZEK: (Tendering)
Q. (BY MR. COON) Mr. Austin, I'm next showing you Exhibit 35. This is VPD-14 dash 149, I believe.
A. Right.
Q. Handwritten in a -- is that to Mr. McNamara?
A. Yes, sir.

Q. And it's dated September 23rd, '76? '75? Can you tell?
A. I really can't tell.
Q. And who is that from?
A. Well, it's from Harold North.
Q. Have you seen that document before?
A. I can't say I really have, but Harold's handwriting was unmistakable.
Q. You've seen some of Harold's memos before?
A. Yes, many, many, many of them.
Q. Okay. What's Harold discuss with Mr. McNamara in that memo?
MS. BLAZEK: Since he hasn't seen the report, I have an objection.
A. Yeah, give me a moment to read it, if you would.
Q. (BY MR. COON) Oh, sure.
MS. BLAZEK: And we would object on foundational grounds since he hasn't seen the document before.
A. (Reviewing document) Are you just asking about the first two pages?
Q. (BY MR. COON) Yes, sir. First, what is Mr. North conveying to Mr. McNamara there?
A. That apparently the fiber content was

beneath what we would have anticipated in the material.
Q. And this was the release of asbestos fibers out of the gasket materials that Victor manufactured?
A. No, I don't believe that's the case. I believe it was the captured asbestos fiber --
Q. And what do you mean by that?
A. -- in the material. Well, facing materials, in general, that had asbestos in them contained some sort of a binder system and it was supposed to be a certain amount of asbestos fiber in the facing itself and it would appear to me as though the fiber content was low.
Q. Okay. The -- on the front there, he talks about -- says, "Confirming our conversation" -- so, obviously they did have a conversation -- "our pack suppliers."
Who are the pack suppliers?
A. Pack suppliers would have been Armstrong, GAF.
Q. Okay. It says, "They are reporting a worsening situation on asbestos fiber. In fact, the Celotex Company cannot react to either additional orders or replacement or rejection due, in part, to lack of fiber."

What was their problem there? Do you know?
A. No, I don't.
Q. Do you know if it was just acquisition of the fiber?
A. I have no idea.
Q. Do you know why that would have been a problem?
A. No, I don't.
MS. BLAZEK: Did you read the entire document?
THE WITNESS: I only read the first two pages.
MS. BLAZEK: Okay.
THE WITNESS: That's why I asked specifically if we were discussing the first two pages.
MS. BLAZEK: Okay.
Q. (BY MR. COON) It talks about with -- the attachment made shed a little light on it -- but there was an Armstrong document that that memo apparently addressed. Have you seen that before?
A. No, I haven't.
Q. The Armstrong memo starts addressing a reduction in OSHA standards of a 5 particle count to a 2 particle count. Do you know anything about

changes in OSHA standard with respect to the atmospheric amounts of asbestos dust during that time frame?

A. The only thing I can say about that is I know that OSHA, from the time they initiated the standards, continued to reduce the permissible fiber count in the sample.

Q. Do you know whether or not during this time frame that Victor was making any type of effort to reduce the amount of asbestos in the gasket materials that it was ordering?

A. No, I don't.

Did you want me to read the rest of this?

(EXHIBIT NO. 36 WAS MARKED)

Q. No, that's okay. I think we've still got a lot of ground to cover.

We had -- this is Exhibit 36. It's VPD-145 dash 2219, through 2224. And this appears to have been an OSHA citation issued to Victor at the 225 Atwood Havana, Illinois, facility. Which one was that?

A. There was a facility in Havana, Illinois, that was open from, I believe, 1972 until 1980. Although, I'm not absolute positive of those dates.

Q. Do you know what was manufactured at that

facility?

A. Primarily the product that was there was the heavy -- what we considered to be the heavy duty product, the diesel type application product.

Q. Those were the heavier gauge gaskets used in diesel engines?

MS. BLAZEK: Object to form.

A. No, not necessarily heavier gauge, but configuration for diesel engines.

Q. (BY MR. COON) Okay. Would OSHA citations or violations of this nature be the type that would get circulated within management at Victor?

A. There were some specific -- there are some specific OSHA requirements for posting in the event of a violation. I don't recall offhand whether the violation itself has to be posted or some sort of a synopsis of the violation has to be posted, but we would have complied with whatever those regulations were at the given time.

Q. Who would have made the decisions with respect to whether or not -- as from Victor's standpoint, whether or not to contest those types of fines or assessments by OSHA?

A. Well, in this particular case, I really can't answer the question. If you're asking if it

were something for me, what I would determine whether I thought the violation was appropriate or not and I'd probably discuss it with the general manager.

Q. Okay. Were you -- do you have a personal recollection of the various OSHA fines and violations that were determined as a result of that inspection of that plant in 1976?

A. No, I have no idea. I didn't even know that document existed.

Q. And I'll just read a few of them; but, basically, there were a number of findings by the OSHA inspectors of violations that related to asbestos issues at that facility. That's a fair statement, isn't it?

A. Well, I haven't read this; so...

Q. It talked about failure to provide some labeling on asbestos waste material?

A. That's the first one that's mentioned here, right.

Q. Failure to provide caution labels on some bins where asbestos was stored?

A. I believe that's correct.

Q. And failure to maintain external surfaces free of asbestos?

A. I believe that's correct, also.

Q. Down here at the bottom, it talks about failure to provide or make available to each employee within 30 calendar days following their first employment in an occupation exposed to airborne concentrations -- I think it carries over on the next page --

A. Uh-huh.

Q. -- of asbestos fibers, comprehensive medical examination. Do you know anything about the medical examination standards that OSHA had in place at that time?

A. No, I really don't.

Q. Do you know who would have been in charge or responsible for making sure that the employees were provided with those types of medical examinations?

A. I can only speak for the Chicago facility, and it would have been done by the human resource department in the Chicago facility.

Q. Do you know whether the human resources department at the Chicago facility did, in fact, have such a routine examination for the employees?

MS. BLAZEK: Object to form.

A. I believe for all of the time, that I can recall, we had an employment physical that took place at the time of job offer.

Q. (BY MR. COON) Okay. You also were aware that there was supposed to be annual comprehensive medical examination for all the employees engaged in those occupations where they were exposed to asbestos?

A. I know that we did pulmonary testing.

Q. I think you talked about that in your last deposition, some X rays and breathing test deal?

A. Right.

Q. In fact, I think you were one of the persons that went through that program from time to time, did you not?

A. Yes, I did.

Q. Did you have -- who would have been the person at your facility that would have been the liaison with labor during that time frame, that being the United Auto Workers? I think they were the union, weren't they?

A. In respect to what?

Q. Well, did they have different liaisons for different issues; or was there typically one person that coordinated it?

A. No, there would have been different liaisons for different issues.

(EXHIBIT NO. 37 WAS MARKED)

Q. Okay. Well, after those various OSHA fines came out, the UAW represents -- this is Exhibit 37 -- expressed some concern about the findings and issued a letter to Dana.

A. (Reviewing document)

MS. BLAZEK: Have you seen this one before?

THE WITNESS: No, I haven't.

MS. BLAZEK: All right. Then why don't you take a minute to read through it?

And we would object.

A. (Reviewing document) Okay.

Q. (BY MR. COON) Okay. So, anyway, is it fair to say that one of the representatives of the union there expressed concern about the OSHA citations and sent a letter to the plant manager or one of the managers for labor relations at Dana?

A. Yeah, Mr. Schira was not involved in the Havana facility. This letter was at the UAW international solidarity house level.

Q. Okay. What does that mean, "house level"?

A. Solidarity house, there were a number of contracts in place at that time with the UAW and there was a corporate industrial relations department and solidarity house on the labor union side of the

group and that's who those people were.

Q. Okay. And in response to the OSHA citations, he, basically, sent a letter to labor relations expressing the UAW concern over their various members with respect to what the OSHA citations addressed?

A. That's, basically, what the letter says, yes.

(EXHIBIT NO. 38 WAS MARKED)

Q. And then in response -- I'll show you Exhibit 38. I believe one of the OSHA citations addressed the failure of Victor to provide annual X ray and pulmonary function exams for the employees, didn't they? Do you need to go back and look at that again? (Tendering)

I think it was on the second page.

A. Right. Yes, that's correct --

Q. Okay.

A. -- based on this document.

Q. Okay. And then in response to the OSHA citations and the letter from the UAW expressing concern over the membership, there was --

MR. COON: Counsel, if you can show him Exhibit 38 --

MS. BLAZEK: Yeah, but I just don't

think that -- this isn't in response to the UAW letter. This is in response to something else.

MR. COON: Okay. This is probably in response -- yeah, this is in response to the department of labor. Sorry. We got these out of order.

Q. (BY MR. COON) (Tendering) This would be the follow-up letter from Mr. Meyer, who was the OSHA gentleman. And we don't have a copy of the actual letter but apparently he sent a letter out as a follow-up to the OSHA violations and if you could, turn to the -- it addresses what they were doing to respond to the OSHA citations. If you could, go to the second page. It indicates that the medical facility could provide a comprehensive medical examination. So, there's no present means to take a pulmonary function test.

And I wanted to find out from you, sir, if you knew whether or not they were trying to do that internally or if there was some reason that the Victor facilities could not have PFT's performed of the employees on an outsource basis?

A. I have no idea.

Q. Okay. Were PFT's being performed by the employees at your plant at that time frame to comply

with OSHA requirements?
A. In February of '77? I really have no clear recollection of exactly what the period of times were that we did the testing; so -- we did pulmonary function testing over the years. I have no idea whether in 1977 that was the case or not.
Q. Okay. Do you know whether you were taking the chest X rays and having the pulmonary function tests conducted there on site at your plant, or were the employees sent somewhere to have that done?
A. To be honest with you, I don't really recall.
Q. Do you know whether or not they kept the findings from the chest X ray reviews and the pulmonary function tests somewhere?
A. I don't know that to be a fact. I really didn't have any access to any medical records, as such, of employees.
Q. Okay. Do you know what the processes or procedures were in dealing with employees that ended up with an abnormal chest X ray or PFT as a result of the annual screening program?
A. My recollection is that at that point in time, we had a meeting with the employee to inform them that there had been some abnormality, if, in

fact, there was one, and suggested they follow up with their physicians.
Q. Okay. And were you ever involved in that meeting or discussion, discussional process with the employees?
A. Was I? No, I was not.
Q. Okay. Who typically was?
A. The human resource department.
Q. And who would that have been in the Seventies?
A. It probably would have been John Lunsford.
Q. Do you know where he is now?
A. Still employed by Dana. I believe he's in Minnesota.
Q. Do you know whether or not as a result of any of these X ray examinations and pulmonary function studies that were conducted of employees at your plant in the Seventies that any of them came back positive for abnormalities that could be associated to occupational pneumoconiosis or asbestos disease?
A. No, I don't.
Q. Do you know who handled the workers' compensation issues at your plant in the Seventies? Would that also have been the human resources?

A. Would have been the human resource department.
Q. Would that same gentleman be a good person to go to to find out more about that?
A. I would anticipate he would be, yeah.
(EXHIBIT NO. 39 WAS MARKED)
Q. And next I have Exhibit 39, and this was a letter from C. C. -- C. C. Ulfig, U-l-f-i-g, industrial sales manager. Did you know Mr. Ulfig?
A. Yes, I did.
Q. Where was he at? What plant?
A. He wasn't -- he was associated with the sales department. He had an office -- well, depending on -- what's the date of the letter?
Q. October, 1978.
A. He probably was working out of our home office at that point in time.
Q. Okay. This is VPD-143 dash 1113 dated October 3, '78, to a Dean Berggren, engineer at John Deere. John Deere was one of your customers; right?
A. That's correct.
Q. You talked to us at your last deposition. In fact, you had a few documents, I think, you brought with you from two or three of your venders that had started asking Dana to provide a warning on

their gasket materials. Do you recall that?
A. Well, that's not correct. They weren't venders. They were customers.
Q. Okay. The customers. I think Detroit was one.
A. For diesel, right.
Q. And there was a request from two or three of those customers in the '84-'85 time frame to start putting a warning on your gasket materials?
A. That's correct.
Q. This document is 1978. It appears to be -- I don't have a copy of the letter -- from Mr. Berggren, but it appears he expressed some concerns to Dana about asbestos continuing to be used in their asbestos gaskets.
MS. BLAZEK: Object to form.
Q. (BY MR. COON) Have you seen that document before?
A. No, I've never seen the document before.
Q. Okay. Are you aware of any of your customers back in the Seventies expressing any concern about the continued use of asbestos as part of the ingredients of your gasket materials?
MS. BLAZEK: Object to form.
A. No, I have no idea knowledge of it.

Q. (BY MR. COON) Now, Mr. -- how do you pronounce his name? Ulfig?
A. Ulfig, right.
Q. And he's the industrial sales manager?
A. Right.
Q. What were his responsibilities during that time frame?
A. Well, he sort of over- -- you know, oversaw the sales force that was associated with what we considered to be industrial sales. And industrial sales to us is Caterpillar and John Deere and CASE and Waukesha and people like that. They're diesel engine customers.
Q. Okay. Now, you've never seen that document before?
A. No, I don't believe so.
Q. Do you know of any customers that started expressing any concern at any time in the late Seventies about the continued use of asbestos in gaskets?
MS. BLAZEK: Object, form. I think that's your speculation about what he might have been concerned about.
A. Just give me a minute to read this, if you would. (Reviewing document) Okay.

Q. (BY MR. COON) Okay. There was writing up here that says, "Charlie, good letter. John."
Do you know who John would have been? Is that John Zeitz?
A. I don't know. Could have been John Zeitz.
Q. And what was his role in '78?
A. I believe in '78 he would have been the chief engineer.
Q. It talks in the letter -- it says, "Asbestos board does pose a problem and the solution here is to fully enclose materials so none can escape."
Do you know what they're talking about there? Is that the millboard?
A. I really don't know what Charlie was discussing there.
Q. Would there normally have been a repository where customer complaints would have been stored -- customers being the major customers like the Big 3, John Deere, Caterpillar, people like that?
A. I have no idea how the sales department would have handled documents like that, if you're referring to the letter that would have precipitated that letter.
Q. Okay. What we were looking for is if there would be places to go to to look for the letters that

were coming in from the customers that were then being ferried out to various people to respond to?
A. I don't know of any particular system. I would think that whoever the letter went to probably had their own system for filing or maintaining their records.
Q. Were you ever involved in helping formulate the Material Safety Data Sheets on any of the gasket product lines?
A. No, I wasn't.
Q. When do you recall them first being used at the facility you worked at?
A. I really don't have a good recollection. I would say it would have been in the Eighties sometime.
Q. Do you know who was responsible at Dana for formulating the Material Safety Data Sheets and the information contained in them?
A. At Dana?
Q. Yes, sir.
A. Overall, I do not know.
Q. Do you know who would have been responsible for simulating the MSDS information from the companies that provided the asbestos materials to Victor, such as GAF and Armstrong?

A. What period of time would we be speaking of?
Q. Okay. Well, I guess, first, back in the Seventies when the MSDS became part of the requirements.
MS. BLAZEK: Object to form. Misstates the regulations.
A. I would think that initially that type of document would have been collected in the engineering group.
(EXHIBIT NO. 40 WAS MARKED)
Q. (BY MR. COON) I've got a copy of a document. This one was dated August 14, 1978, from a Mr. Drinkwater at GAF to Mr. North at Victor Products; and it includes an MSDS on what they describe as asbestos paper.
The asbestos paper was something that was acquired from GAF in the formulation of your gaskets, was it not?
A. I assume they're talking about facing material.
Q. Were you aware of any requests by any of the Victor management folks of GAF to provide to Victor copies of the MSDS's on any of the sheet product that was provided to Victor to make their gasket material?
A. Is that question in relationship to this

document?
Q. Yes, sir.
A. If you can, give me a moment. I've never seen it before. (Reviewing document)
Okay. I see a letter, and I see a Material Safety Data Sheet. Is there something specific?
Q. Yes, sir. In looking at that, the MSDS lists the asbestos sheet material; right?
A. The MSDS lists the trade name in -- as asbestos paper?
Q. Okay. That was sent to Mr. North?
A. The letter was addressed to Mr. North, correct.
Q. With the MSDS attached?
A. I don't know whether that's true or not, but it is attached now.
Q. Okay. Well, it's talking about, "Dear Harold" -- they're talking about Harold North there; right?
A. Right.
Q. It says, "Attached are the form 20's" -- which are the MSDS's -- it says, concerning the asbestos millboard and asbestos paper. This is VPD-143 dash 446.
A. Well, the page -- this is Page 1 and Page 2

of a document. I only see one attachment that calls out asbestos paper.
(EXHIBIT NO. 41 WAS MARKED)
Q. Okay. Well, here's the other one I was going to show you. This is Exhibit 41. This is the asbestos millboard.
A. Okay.
Q. Do you know why Mr. North had requested that information?
A. No, I really don't.
Q. Okay. GAF lists on there, if you go to their MSDS, lists the product; and then Page 2 it lists the posted hazards associated with the product, does it not?
A. I guess -- what are you referring to?
Q. Okay. We're talking about the effects of the overexposure to products.
A. Oh, overexposure.
Q. Right. This is asbestos paper. What were they saying back in nineteen seventy -- is it seventy -- looks like '78, January of 1978 is the date on their MSDS; correct?
A. Yes, sir.
Q. And what are they saying about their asbestos paper at that time regarding effects of

exposure or overexposure?
MS. BLAZEK: Object to form. Since he hasn't seen the document before, we object to the foundational grounds.
A. I can read to you what it says here.
Q. (BY MR. COON) Okay.
A. "Breathing of asbestos fibers in significant amounts may produce irreversible lung damage" -- parens -- "mesothelioma."
Q. Mesothelioma, have you heard of "mesothelioma" before?
A. Not in that terminology.
Q. Do you know what mesothelioma is?
A. Well, apparently it's asbestosis, according to this.
Q. Do you know the difference between asbestosis and mesothelioma?
A. No, I don't.
Q. Are you aware of mesothelioma being a type of cancer?
A. Yes, I am.
Q. Okay. You understand asbestosis to not be a cancer but to be a nonmalignant condition?
A. No, I can't say I really do understand that it -- that it's that clearly defined.

Q. Okay. So, you don't really understand as a plant manager, there in a company that made asbestos products for decades, the difference between the diseases it causes, such as asbestosis from diseases such as mesothelioma?
MS. BLAZEK: Object to form.
A. I don't know that I've ever seen any scientific facts that link asbestos to these diseases.
Q. (BY MR. COON) So, are you not convinced that asbestos fibers cause mesothelioma?
MS. BLAZEK: Object to form.
A. I'm saying that probably that the average amount of asbestos that I or someone else would come in contact with who worked in the facility has not led, in my knowledge, to any of these diseases.
Q. (BY MR. COON) Okay. Do you know whether or not asbestos -- do you believe asbestos to cause those diseases?
MS. BLAZEK: Object to form.
A. Well, I mean, I think you're talking to the wrong person. You ought to be talking to a medical expert.
Q. (BY MR. COON) Okay. And, again, Mr. Austin, I'm not trying to spar with you. You just stated you

weren't convinced that asbestos caused mesothelioma awhile ago, and I was just wanting to clear the record on --

MR. SPEZIALI: He didn't say that.

MS. BLAZEK: Object to form.

MR. SPEZIALI: He didn't say that at all. That's not what he said.

Q. (BY MR. COON) Okay. Well, basically, what I'm trying to find out from you, sir, you were the plant manager there for many years. How many years, 20?

A. I was plant manager in the Chicago facility for seven years -- six years.

Q. And a plant manager at another facility after that?

A. Current facility.

Q. And for how many years?

A. Six years, seven years, almost.

Q. Okay. And there was a lot of debriefing at the facility through the Seventies and Eighties about particular health hazards associated to asbestos, generally, in materials, was there not?

MS. BLAZEK: Object, form.

A. Yes, there was.

Q. (BY MR. COON) And part of that entailed

discussions with respect to the potential medical issues related to asbestos fiber exposures?

A. Yes.

Q. And y'all were made aware that asbestos fibers at certain levels of exposure could cause lung disease?

A. No, I guess that's where I differ a little bit. I understand that there were levels of asbestos fiber that were recommended by OSHA as being maximum levels.

Q. Yes, sir.

A. I am not aware of any positive link between those recommendations and conditions.

Q. And I'm losing something in your explanation there.

A. Well, asbestos -- there's asbestos everywhere. I mean, asbestos is a mineral; and everyone is not walking around with mesothel- -- mesothelioma or asbestosis. So, I would think that the amount of exposure would have significant -- a significant factor in whether or not there could be any disease at all, and I have no idea what the exposure level really is that would be necessary to get either of those diseases.

Q. (BY MR. COON) Okay. Fair enough. I think I

understand you now.

In response to the MSDS that was provided to Victor in '78 from GAF, do you know what, if anything, was done to change or modify the MSDS of the asbestos products that Victor manufactured at that time?

A. No, I have no idea.

Q. Did -- during that time frame, did the Victor plant have in its safety department any normal protocol with respect to how to deal with asbestos dust, like what they call wet processes or negative air systems, PPE, or protective breathing apparatus?

MS. BLAZEK: Object to form.

A. We didn't allow employees to raise dust in the air. We used vacuum cleaners to clean it up. We tried to contain the asbestos residue and place it in plastic bags, seal those bags or tie those bags and label those bags for disposal.

Q. (BY MR. COON) Was this in response to the OSHA compliance?

A. Yes, it was.

Q. Do you know what was done prior to the OSHA regulations with respect to those same issues?

A. When I first started there, I believe that the asbestos scrap would have been handled like any

other scrap and would have gone to a landfill.

Q. Do you recall ever reviewing any of the Material Safety Data Sheets that Dana prepared for their own product lines that contained asbestos?

A. No, I can't say I ever really do.

Q. Let me show you this. This was a second attachment on the GAF MSDS that regarded asbestos millboard. And if I can show you by comparison, there is asbestos paper MSDS and there is asbestos millboard MSDS and if you look at Page 2 of both of those -- and the GAF effects of overexposure -- let's see. If you compare them -- for the effects of overexposure it says the same thing, I believe, "Breathing asbestos fibers in significant amounts may produce irreversible lung damage" -- parens -- "lung damage, mesothelioma, asbestosis."

A. Uh-huh. They read the same.

Q. And they add one other thing here. I think it actually says on this one "irreversible lung damage, parens "mesothelioma and lung cancer." Here it says "mesothelioma, asbestosis."

A. Correct.

Q. And then you look below that -- if we can lay these down side by side, it talks next on the MSDS of the emergency and first aid procedures and

describes the wet down processes, right, use adequate protective breathing, proper ventilation. And on this one (indicating), the asbestos millboard, it's been marked out.

MS. BLAZEK: Well, no. I mean, I think these are the old form of highlighters, probably. It was probably highlighted and copied; and that's how it looks. Don't you remember back in the old days how highlighting would black things out when you copied it?

Q. (BY MR. COON) So, you think that might have been something that was highlighted as opposed to marked out?

A. I have no way of knowing.

Q. Okay. And then there are some other areas that were either highlighted or marked out under the disposal procedures and the precautions to be taken while handling the products. And all that's done on the -- just the one form, which I think was the millboard form.

A. Okay. I'm sorry. What -- what did you want me to see here, Mr. Coon?

Q. Okay. Well, you can't -- I guess what we're determining from looking at those two, you can't tell -- I presume those to be issues that were marked

out for some reason, but y'all think that might have been something that was whited or highlighted to emphasize them?

A. Well, the dark -- yeah, the dark lines, frankly, are characteristic of Harold's use of a flare pen; and he may have used it to try to underline or something and missed it.

Q. Okay. Well, he missed it --

A. I really can't tell.

Q. He kind of missed it right in the middle of every one of them, didn't he?

A. And he used flare pens on everything he did.

Q. Not very good at drawing underneath them?

A. No, not particularly.

Q. Okay. Have you gone --

A. Not very good to read the memos in many cases, either.

Q. Well, have you gone back to look at your own MSDS to see if the things that are actually underlined or highlighted there were actually the same things that happened to be omitted from your own MSDS?

A. No, I have no idea.

Q. Okay. Do you know whether or not if you reviewed the MSDS from the Dana gasket materials that

were used all the way back to the mid-1980's had all the same information that GAF was providing on their product lines acutally deleted from your MSDS?

A. I have no idea.

Q. If that were the case, then it would be more apparent that there was an intention to delete that additional information from your own MSDS as opposed to emphasizing it. That would be a fair statement, wouldn't it?

A. I have no idea what the intention is here.

Q. Okay. We'll move on. Have you ever talked to Mr. North about the MSDS on your products?

A. No, I haven't.

Q. Would you have any idea why he would want to delete any of the precautionary information concerning the use of the asbestos products?

MS. BLAZEK: Object to form, argumentative, speculation.

A. I have no idea why Mr. North would do that, no.

Q. (BY MR. COON) Okay.

A. I have no idea that Mr. North's intention was to do that.

(EXHIBIT NO. 42 WAS MARKED)

Q. Mr. Austin, I next have No. 42. This is

from Greg Butler. Do you know who Greg Butler was?

A. Yes, I do.

Q. Who was he?

A. He was the area manager in the Chicago facility for manufacturing, and he later became the plant manager in the Robinson facility.

Q. Okay. And this is September, 1980. It was to J.E.Z. Would that be Mr. Zeitz again, John Zeitz?

A. Probably.

Q. Okay. Did you have anybody else there with the same monogram, "J.E.Z."?

A. Not that I can recall.

Q. Okay. This is Document No. VPD-143 dash 241 through 243, and it's a cover letter with an attachment of being a number of what are called NIOSH notes.

Okay. I think the cover memo from Greg to Mr. Zeitz said, "Here's another log for your fire."

A. That appears to be what it says here, yes.

Q. And then he attaches with that a copy of what are called the NIOSH notes.

A. Okay.

Q. And -- is that correct?

A. It appears to be correct.

MS. BLAZEK: Have you seen these

before?
THE WITNESS: No, I haven't.
MS. BLAZEK: We would object.
Q. (BY MR. COON) Okay. It says, "Findings of joint NIOSH" -- slash -- "OSHA Work Group Concerning Health Effects of Asbestos." That's the title of the article; right?
A. That's correct.
Q. And then it lists a few things that are actually underlined there. Could you just read off for me the things that they underlined?
A. "There is no safe exposure limit for asbestos. All commercial and several noncommercial forms of asbestos cause disease," I believe that is, and then the word "recommending" is underlined and "100,000 fibers per cubic meter of air."
Q. Were you ever the recipient of the NIOSH notes?
A. No, I wasn't.
Q. Was the results of the NIOSH notes something that was circulated around with management, to your knowledge?
A. I have a recollection of having seen it very sporadically, but I can't say it was the type of thing that was circulated on a regular basis.

Q. Mr. Austin, did you participate in the formulation of the asbestos-free product lines?
A. I guess I don't understand the question.
Q. Were you involved in the changeover from some of the asbestos-containing gasket materials to the asbestos-free gaskets?
A. From the manufacturing standpoint --
Q. Yes, sir.
A. -- yes.
Q. What was your role in making the transition from asbestos-containing gasket materials to the asbestos-free gasket materials?
A. I was the area manager at the time. So, I had a responsibility for making the switch.
Q. And who would you have reported to at that time?
A. I would have reported -- well, that was June of 1988. I believe Tom Gorman.
Q. Do you know when it was that Victor first had asbestos-free gaskets as a substitute for their normal gasket lines?
MS. BLAZEK: Object to form. I mean, it supposes that everything at one point was asbestos.
Q. (BY MR. COON) Okay. For those products that

you had that were asbestos-containing materials, do you know when they had first available replacements for those product lines?
A. I would say as early as the early 1980's we had begun to move away.
Q. And do you know what the reasons for it were at that time?
A. There was some concerns about shortage of asbestos fiber. There were concerns about public awareness that -- of asbestos. There were newer materials being developed that seemed to perform equally or better than asbestos in the applications.
(EXHIBIT NO. 43 WAS MARKED)
Q. We have what's marked as Exhibit 43, and it listed a number of issues associated with considering nonasbestos gasket materials, as well as a press release. This is VPD-146 dash 3336 through 3339.
Were you involved in promulgating that release or the information contained in the attachment?
A. I don't recall seeing the first page of this ever before. I remember reading the release; but I was not involved in the development of the release, if that was your question.
(EXHIBIT NO. 44 WAS MARKED)

Q. Okay. We next have Exhibit 44. Who is P. B. Field?
A. I'm sorry? What was the name?
Q. P. B. Field, F-i-e-l-d.
A. Oh, Parker Field.
Q. What did Mr. Field do?
A. He was the general manager for a period of time in the division.
Q. While counsel is looking at it, I'll follow up with a couple of other questions.
Have you seen the news release that Dana issued in the summer of 1980, regarding the asbestos-free gaskets?
A. I recall seeing the news release, yes.
Q. Okay.
A. I hadn't seen the two pages previous to that.
Q. How did the market respond to Dana's availability of asbestos-free gasket materials?
A. I guess with mixed reactions.
Q. How so?
A. Well, some of the customers felt that, you know, this was a good thing. Some of the customers felt that things weren't broken, why do we want to replace them with something new, something that's

untried?
Q. Were they more expensive?
A. I would say in the overall scope, yes, they probably were.
Q. So, there was probably some opposition just as a result of the bottom line cost?
A. I would assume that that would be the case.
Q. The document, Exhibit 44, from Mr. Butler, is this the same Butler that had wrote the memo that said, "Here's another log for your fire" --
A. Right.
Q. -- and the NIOSH notes?
This was sent to Mr. Field, "OSHA Intent to Reduce TWA Exposure."
They're talking about the time weight average there. Are you familiar with that?
A. Uh-huh.
Q. Do you know what the "time weight average" is?
A. Right.
Q. You're familiar with OSHA's attempts in the early Eighties to further reduce the amount of exposure that employees could have to asbestos in the workplace?
A. As I said before, the movement was always to

less fibers.
Q. Sure. OSHA had a long-term goal of continuing to further and further reduce the amount of asbestos in the workplace, didn't they?
MS. BLAZEK: Object to form.
A. I -- you know, I don't know what OSHA's long-term plan was. I know that whenever the exposure levels were recei- -- or revisited, they were always lower.
Q. Yeah, they never were going back to raising the amount of exposure you could have?
A. Right.
Q. They kept going back and reducing the amount of exposure that you could have in the workplace; right?
A. That's correct.
Q. And in 1980 there were discussions about further reductions in the amount of exposure an individual could have in the workplace; right?
A. I'm sorry?
Q. In the early 1980's, Dana was aware that OSHA was going to make attempts to further reduce the amount of exposure that a worker could have in the workplace --
MS. BLAZEK: Object to form.

Q. (BY MR. COON) -- to asbestos?
A. I can't speak for Dana. The discussions in the plant were that there would be reduced levels, continue to be reduced levels.
Q. Sure. Well, there were concerns at Dana that as OSHA kept reducing the amount of exposure that a worker could have in a workplace, that eventually Dana would get to the point where they may not be able to comply with the thresholds under the time weight average for their employees, weren't there?
MS. BLAZEK: Object to form. He's not here to speak for Dana.
Q. (BY MR. COON) Okay. Well, you would believe that with the OSHA regulations continuing to further restrict the amount of exposure to asbestos that an individual could have in a workplace, that it would get to the point to where you may not be able to make a product with asbestos in it anymore? That's something you were aware of, wasn't it, as a plant manager --
A. I would --
Q. -- at a company that made asbestos?
A. I would say me, personally, yes.
Q. Yeah. And that was part of the reason that

Dana was going out looking at alternatives for asbestos in their gasket materials, wasn't it?
MS. BLAZEK: Object to form. Same objection.
A. And I really don't know why that was. The material development that was being done was started long before the levels were being reduced dramatically. So, I really don't know exactly what the inclination was there.
Q. (BY MR. COON) Okay. Well, do you know Carl Hayden?
A. Yes.
Q. Who is he?
A. His name appeared on one of the previous memos. I believe I stated I don't know exactly what his title was, that he worked in the engineering group.
Q. Okay. And when it talks about this, we're talking about the current restrictions set down by OSHA's 2.0 fibers and there was discussion about it being reduced to 0.1. Do you recall that further restriction to the 0.1 by OSHA in 1980?
A. Specifically I don't remember those numbers, no.
Q. Well, there was an awareness that if OSHA

reduced the exposure levels to that point, that you wouldn't even be able to meet that criteria anywhere in the plant?

MS. BLAZEK: Object, form.

A. If you're asking me if that's what this letter from Mr. Butler states, that's what it states.

Q. (BY MR. COON) Okay. Well, is that something you would agree with?

MS. BLAZEK: Object to form.

A. No, I -- you know, without seeing all of the information, I don't know that I could agree with it or not agree with it, to be honest with you.

Q. (BY MR. COON) Okay. In fact, what it talks about here, in order to comply with that is that what you would do with your employees -- they could not work in an environment where they were manufacturing these gaskets at that level. So, what you could do is you'd acutally shuttle the employees out hourly so that each one of them would work in that area one -- just for one hour instead of the whole day so they would be in the eight-hour time weight average compliance.

MS. BLAZEK: Object to form. You're continuing to use the word "you" and "Dana" when this is to discover Mr. Austin's personal knowledge at the

Chicago plant and the plants where he worked.

MR. COON: Okay.

MS. BLAZEK: And the document you have in front of him concerns Robinson.

A. You know, once again, I'm not in a position to say what Greg was thinking at this point in time.

Q. (BY MR. COON) Okay. Did y'all have any discussions at your plant with respect to the potential for having to rotate their employees out of the areas where they were manufacturing the gasket materials in order to meet the OSHA mandates with respect to exposure?

A. No, I don't recall ever having those discussions.

Q. Did you ever discuss these same issues with any of the other plant personnel with respect to those same issues at the Robinson facility?

A. No, I didn't.

(EXHIBIT NO. 45 WAS MARKED)

Q. Mr. Austin, we have Exhibit 45. This was just a general notice that GAF was ending their sale of the asbestos paper. Do you recall GAF discontinuing their manufacture of asbestos paper you guys used in the formulation of your asbestos gaskets?

A. No, I can't say I do.

Q. Do you recall any problems with respect to supplies from your various vendors of asbestos materials to make your gaskets at that time?

A. What's the date of the letter?

Q. I'm sorry. 1980, I believe.

MS. BLAZEK: Where do -- it doesn't have the date. Do you think those numbers are the date?

MR. COON: I think this comes with it. Here's the other part of it. This is 124. That's the cover page to the announcement. I think the sticker is on the wrong page.

A. This news release relates to asbestos paper to independent distributors for household consumer markets. I have no idea if this is the same type of material that would be used in gaskets.

MS. BLAZEK: I think the cover letter addresses that.

THE WITNESS: Oh, okay.

MS. BLAZEK: Why don't you take a look at that?

A. Okay. Cover letter says that it does not affect the sale of any other asbestos products produced at our area 16th Street plant.

Q. (BY MR. COON) Do you know whether or not it impacted any of the things that were used in the gasket manufacturing process at that time?

A. I have no recollection that there was any impact on us.

Q. Do you know if this was the same paper that was used in the formulation of your gaskets at that time?

A. Facing materials tend to be proprietary formulations. So, I would have to think that it was not the same material that was being used in our gasket facing materials.

MR. COON: I'm going to try to wrap this up in the next 15 minutes or so. It's going to entail skipping over some of these documents.

MR. RADCLIFFE: Can we just take two minutes?

MR. COON: Sure.

THE VIDEOGRAPHER: We're off the record at 4:56.

(A RECESS WAS TAKEN)

(EXHIBIT NO. 46 WAS MARKED)

THE VIDEOGRAPHER: Back on the record at 5:08.

Q. (BY MR. COON) Mr. Austin, I next have what's

Exhibit 46. It's VPD-147 dash 131 and 130, and first I want to show you this one. This is April 1, 1982. It's a letter from Mr. Neill at Industry Products Division at Armstrong to Harold North at Victor Products. It's regarding asbestos contents label. And, basically, what they're saying there is that they're going to start putting a warning label on the products of asbestos materials.

Have you seen that document before, sir?

A. Yes, I do recall this document.

Q. Okay. Now, Mr. North, after he received the document, was apprized that Armstrong was going to start providing this type of warning on their asbestos-containing gasket materials. He circulated that to a number of other individuals at Victor Gasket, did he not?

MS. BLAZEK: I'm sorry. I couldn't hear the first part of your question.

MR. COON: Oh.

MS. BLAZEK: Could you repeat it?

Q. (BY MR. COON) After Mr. North received this correspondence from Mr. Neill in which he was apprised that Armstrong was going to put this type of warning on their asbestos-containing gasket materials, he circulated this same memo to several

other individuals at Victor; correct?

A. It would appear so, yes.

Q. In fact, one of those was G. Austin, which would probably be you?

A. I would almost guarantee that, correct.

Q. Were you the only G. Austin at the plant?

A. I was the only G. Austin at the plant.

Q. And then there was a response on there.

Looks like Mr. North says, "I have no idea as to what kind of action we might wish to take."

Am I reading that correct, in his own handwriting?

A. Yes, that's true.

Q. And can you tell us who it was that this memo was circulated to other than yourself?

A. Don Reda, who would have been the plant manager; E. Norman was E. Roger Norman, he was the quality control manager at the time; myself; a gentleman by the name of Dick Fraske, he was the facilities manager; and Carl Hayden, who we've talked about in the past.

(EXHIBIT NO. 47 AS MARKED)

Q. Okay. And after that memo was circulated -- we have now Exhibit 47, which is VPD-157-130. Did you ever see Mr. -- E. Roger, what's his last name?

A. Norman.

Q. Norman?

A. Right.

Q. Did you ever see Mr. Norman's response to Harold?

A. No, I can't say I did.

Q. Okay. First of all, let me -- before we go into his response, did you respond in kind to the memo that Mr. North circulated to you?

A. If I did, I have no recollection of it.

Q. Okay. Do you know whether or not any of the other individuals on the list of those that that memo was circulated to responded?

A. No, I have no way of knowing that.

Q. Okay. But we apparently did get a response back to Harold from Roger?

A. To Harold from Roger, right.

Q. And what did Mr. -- what did Roger say in response to the memo after Harold circulated a copy to him?

A. It says here, "To Harold, I discussed this with D. J. Reda and staff and as it is our intention now not to use any warning" -- I guess it's devices -- "therefore, we are not interested in procuring any labels. In the future as further

government regulations come about, we may have to, but not now," signed, Roger, dated 4-16-82.

Q. Do you know why Roger made a decision at that time not to provide any warnings even though other people in the business were?

A. No, I have no idea.

Q. Did you have any discussions as being one of those that this memo was circulated to with respect to whether or not it would be a good idea to provide such warnings?

A. Well, I would have been on Mr. Reda's staff at the time; but I can't honestly say I recall discussions about this.

Q. Okay. And as I recall from the last deposition, the first time that Dana actually started providing any types of warnings on their gasket materials was a couple of years later, about '84?

A. That's -- based on my research, that's what I found, right.

Q. Okay. And that was based not on a decision by Dana to do so but was by a specific mandate from the customer?

MS. BLAZEK: Object to form.

Q. (BY MR. COON) Wasn't that a customer saying that, "We won't buy your products unless you put a

warning on it"?
A. Well, there was a customer request that we label our product that contained asbestos.
Q. And based on that, Dana acquiesced to that request and put a warning on the product that it sold just to that one customer; correct?
A. At that point in time, yes.
Q. And eventually some other customers started also requesting that the warning be provided and Dana would accommodate them case by case upon request. Is that kind of how it worked?
A. For a period of time, yes; and then we began to label all product, eventually, that had asbestos content.
Q. Okay. Do you know why it was that Dana or Victor waited from '82 when they were aware that other competitors were providing that same type of warning on gasket materials until sometime several years later to voluntarily provide such warnings?
MS. BLAZEK: Object to form.
A. If you're asking me why Dana made the decision, no, I can't speak to that.
Q. (BY MR. COON) Did you ever discuss the failure of Dana to provide warnings, when the competitors were doing so, with any of the other

management at Dana?
A. Did I personally have conversations in regard to it?
Q. Yes.
A. Yes, I did.
Q. What were the nature of those conversations?
A. Discussions were usually of a nature that talked about whether there was significant concern over asbestos and we didn't feel that we were producing an unsafe product. We didn't feel that exposure to an end user would have been significant exposure.
There were regulations in place under OSHA for the fabrication, and we were exceeding -- I say "exceeding." We were meeting those standards or doing better than those recommended standards in all cases; and it was our feeling that any casual exposure that a consumer would have to the product would certainly be significantly less than was being brought to the people in the facility. So, we didn't feel there was a need for a labeling.
Q. And, again, at this time, in 1982, when that decision was made, what test, if any, had Dana ever conducted on the products to determine its health-related risk as it related to the asbestos

fibers in the products?
A. Well, let me correct just one thing. My comment was in response to your question if I ever had conversations with other people. That did not specifically relate to this 1982 date because I don't recall whether those conversations took place as a result of this particular memo or not.
Q. Were there any concerns that providing a warning of some sort would adversely impact sales?
A. No, I can't say we ever had any discussions about that.
Q. Okay. So, it's your recollection that the discussion you had was that, "We don't need to provide a warning on the products, even though competitors are doing it, because we feel we have a safe product"?
A. I don't know that competitors were doing it.
Q. Well, I thought the Armstrong memo there said that that's a -- was Armstrong a competitor? It talks about their gasket materials there. Maybe I missed something?
MS. BLAZEK: Competitor or supplier?
A. Well, Armstrong was a supplier to us.
Q. (BY MR. COON) Okay. So, when it talks about their gasket materials, they're just talking about

the materials that were being supplied to you to formulate your gaskets?
A. That's the way I've read this letter, yes.
Q. Okay. So, the warnings they're providing are warnings that were provided to Dana for the asbestos gasket material that you used or that Victor used to make the gaskets?
A. It would have been the facing materials that we used in Chicago to combine to the core materials.
Q. Okay. And y'all did not -- y'all made a conscious decision not to take the warning that was provided to you and carry it forward to the people that you sold that same product to?
MS. BLAZEK: Object to form.
MR. SPEZIALI: Yeah, I object. There's a big distinction, and I just don't think it's fair. I mean, I don't know if I should state it in front of the witness because I know you have certain rules; but I'm just going to object in that it's a misleading statement with respect to suggest that what Armstrong was doing somehow equates to what Dana was doing with respect to its product. It's just not fair. It's totally -- totally wrong. It's not the same thing.
Q. (BY MR. COON) Okay. Well, I'm not trying to

misstate the record, sir. What I'm seeing in these documents from your repository, indicating that Armstrong advised Dana that they were putting a warning label on the product.

And as I understand from your testimony, the product they're talking about is one that Dana bought to make their gaskets that were forwarded on to your customers. Am I mistaken in that?

A. It appears from this letter that it addressed the facing materials that we purchased from Armstrong that we would have secured to our perforated core to make gasket material, if that's your question.

Q. Yes, sir. So, Armstrong would have had the label or warning that it describes there in the content of that letter; and that warning would have been on the product that was received by Dana that they then used to make their gaskets. Am I correct in that?

A. That's correct.

Q. Okay. And, so, then you would take that same asbestos product that you received from Armstrong with that warning and then resell the product in its final form as a completed gasket to your various customers?

A. We would bind that to a steel carrier and then turn it into a finished product, yes.

Q. In that process, there was a decision made not to carry forward with the same warning that Armstrong provided on the product to you when -- I say "you" -- to Dana, when Dana then finished the product and sold it to their various customers?

MR. SPEZIALI: And that's my objection. I won't make another speech, but I object. I think that that's a leap of faith that does not come from what you're trying to draw. I know what you're trying to do, and it's --

Q. (BY MR. COON) I'm not trying to play semantic games with you, Mr. Austin. If there's something I'm missing, you're more than welcome to clarify it with me. From what the response to the memo said there, as I understand it correctly, was that there was a decision made by Dana not to put that same type of warning on your product when you sold it to the customers.

Did I misunderstand the comments?

A. I can -- I can only speak to what Roger stated here, it was Don Reda and staff --

Q. And who was Mr. Reda at that time?

A. -- that was discussed. He was the plant

manager.

Q. Okay. It was discussed with the plant manager and their staff?

A. And --

Q. And what they're talking about discussing is the warning that Armstrong was providing on the product now?

A. Well -- and I guess, Mr. Coon, all I can say to you is I don't recall this specific discussion. I can only tell you what it says at the bottom of the memo.

Q. Okay.

A. And I read --

Q. Okay.

A. You know, I read that to you and for the record, before.

Q. And you're aware, as I understood from your testimony from the last deposition, that Dana did not provide any warning on any of their end products that went to their customers until 1984?

A. That's correct, to the best of my knowledge.

Q. To the best of your knowledge, okay.

So, it's fair to say, then, that based on what you see in the response to the memo that Mr. North circulated was that there was a decision

made by Dana not to provide a warning on the product lines after this memo was circulated?

MR. SPEZIALI: And objection. Let me just clarify; "There was a decision not to provide what Armstrong was doing on a product that was being sold to us -- for us," and that's why I object.

A. (BY MR. COON) I'm still missing something, but I think we'll just go forward.

(EXHIBIT NO. 48 WAS MARKED)

Q. (BY MR. COON) Mr. Austin, we've got another document here. I don't need to go into the specifics with you, but I did want to get some clarification on a couple of matters here. This is Exhibit 48. It's dated August 6th, '82, from Mr. North. This one to Mr. Norman Hollingsworth -- well, it's regarding Hollingsworth & Vose. It's to Mr. Norman.

Do you recall who the -- the memo talks about Hollingsworth & Vose being the second largest supplier of the facing materials that you've been telling us about today. This is as circa 1982.

Who was your primary supplier in 1982? Was that still Armstrong?

A. I can't be absolutely certain, but I would anticipate that that was the case.

Q. Okay. Do you know if you were still

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continuing to receive gasket facing material from GAF at that time?
A. No, I really don't.
(EXHIBIT NO. 49 WAS MARKED)
Q. I want to briefly talk to you about this one, then. This is Exhibit 49, VPD-157-2252 and 2253, dated August 2, 1984. And I just wanted to get some understanding from you about the product lines that were available on asbestos-free content by that date.
Okay. There's a cover memo there, and I think there's a chart on the second page that lists each of the product lines and what the comparable asbestos-free product line was. So, if we were to look at that chart -- if we looked in the second column, that's the names of the products you were telling us about earlier -- Victopac -- and it lists the No. "1," "6," "14," "18."
What do each of those numbers mean on the end? Is that a gauging?
A. No, it was a particular formula of Victopac.
Q. Okay. And then it lists -- about in the middle there was an Asbestopac 232.
A. Right.
Q. And we talked about that earlier, and I was

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thinking that we weren't able to identify for sure the manufacturer of that product.
A. Yeah, and I believe I said that I didn't know whether that was a product we had made. I thought that it was a product that we had purchased.
Q. Okay. Does anything about that letter clarify that issue for you?
A. No, I really -- it really doesn't.
Q. Do you know if you purchased that from someone else and rebranded it?
A. No, I don't.
Q. Who would we go to to find out more about that particular product line?
A. Probably Jim Ulrich would be a good source, the gentleman who wrote the cover letter.
Q. Do you know what that one was used for, the Asbestopac or Asbestoprene?
MS. BLAZEK: 232?
Q. (BY MR. COON) Yeah, 232.
A. Yeah, Asbestopac 232, I just don't have a recollection of that. I think we talked -- well, the only one -- the only material here that we didn't talk about was Solicor.
Q. We looked at a number of other documents in the repository, and they started talking about a

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nonasbestos committee.
A. Uh-huh.
Q. Are you familiar with a nonasbestos committee at Dana?
A. Well, nonasbestos committee within Victor Reinz or -- .
Q. Yes.
A. -- or Victor Products?
Q. Yes, sir.
A. There was -- there was a group in the facility or in the division, I believe, that we called "the asbestos."
Q. Did you ever participate in the nonasbestos committee?
A. I believe I did. I really don't have a clear recollection of it.
Q. Do you recall anything about what your role was on that committee?
A. It would have been in the manufacturing setting of one sort or another.
Q. Do you recall the goals of that committee, if there were any?
A. No, I really don't. Seems to me it was during the time when we were looking to convert away from asbestos-containing materials.

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(EXHIBIT NO. 50 WAS MARKED)
Q. Okay. I next have Exhibit 50, which, I think, is similar to the documents that you had in your possession at the last deposition.
MR. RADCLIFFE: Is this Exhibit 25, the same thing?
MR. COON: Is that the same thing?
MR. RADCLIFFE: I believe so.
MR. COON: I have a pretty voluminous production, but I won't need to go back over it if it's the same one.
I tell you what, let's -- we can look at that. I've just got a couple of more minutes here.
If you can go just compare those. Is that it?
MR. THOMAS: It appears that way, yes, it is.
MR. COON: Okay. Is that one VP'd?
MR. THOMAS: Yes.
MR. COON: Okay. This does not have a VPD date.
MS. BLAZEK: Right.
MR. RADCLIFFE: We'll agree with you that --

MR. COON: But if we just agree it's VPD-146-2851, 2852; and we'll go ahead and attach it to this Exhibit 50 here, it appears to be the same document, but we can corroborate. It appears to be the same document that is Plaintiffs' 25 in Depo 1.

Okay. Well, let's go on to VPD-143-739 through 742.

(EXHIBIT NO. 51 WAS MARKED)

Q. (BY MR. COON) Okay. Mr. Austin, we next have Exhibit VPD-143 dash 739 through 42, I believe, a "List of Concerns by Engineering People." Have you seen that document before?

A. Give me a moment to review it.

Q. Sure.

A. (Reviewing document)

MR. THOMAS: We need to change the tape.

THE VIDEOGRAPHER: We're off the record at 5:29.

(BRIEF RECESS)

THE VIDEOGRAPHER: This is the beginning of Tape 3. We're back on the record at a 5:30.

Q. (BY MR. COON) Are we ready to proceed? Mr. Austin, have you seen that document before?

A. No, I can't say that I really recall it.

Q. Can you tell us what it is?

A. Well, I can tell you what it appears to be; and it appears to be a list of concerns by the engineering people in different areas of the division or plant.

Q. Okay. And what is the handwritten information at the top there? Can you identify any of that?

A. The note says, "John, possible solutions are in pencil," signed Tom S., which is Tom Staab.

Q. Who is Tom Staab?

A. Tom Staab worked in the engineering group as -- he was a materials development engineer.

Q. And in that document, there are apparently a litany of what were described as division concerns; and there was statements and then some short answers in pencil, apparently?

A. Yes.

Q. And it talks, generally, about just a number of typical plant headaches, about unproductive meetings, what to do about them, what to do about backups and key positions, and then there's apparently some short answers by an individual on how to address those different issues?

A. I would expect that that's correct, yes.

Q. Now, who actually wrote in the answers?

A. I have no way of being sure. The note at the top was signed by Tom Staab, but I have no idea whether or not he wrote in the answers.

Q. Okay. If it looks at -- there are issues, at the time, of asbestos. I think there were a couple of them. What was in response to addressing the No. 14, "The asbestos issue must be resolved"?

A. "Pass liability on to customers who use asbestos," is the penciled in remark.

Q. Do you have -- do you know anything about what would have been called indemnity agreements?

A. No, I don't.

Q. Do you know whether or not there were any attempts by Dana to get the customers that were still using asbestos gaskets that were buying asbestos gaskets from you to provide any type of protections to Dana in the event of any litigation as a result of exposure to those products?

A. No, I don't.

Q. Who would be a person that would know more about those types of issues?

A. Would have been a commercial issue. Sales department would be a more knowledgeable source, I

would think.

Q. And it's marked up E.C., 3-8-85, I presume, March, 85. Do you know who E. C. was?

A. No, I can't say I do. Those are reference initials down there. Is that --

(EXHIBIT NO. 52 WAS MARKED)

Q. The next one we have is Exhibit 52. It's a similar type of form. It's "Quality Control Concerns" again. This one's dated in handwriting up at the top, I believe, April, 1985. Did I read that correctly?

A. That's correct.

Q. It's VPD-109 dash 451, and there are a list of items for that agenda as well; correct?

MS. BLAZEK: Object, form.

A. It appears to be -- it's labeled "Quality Control Concerns," and it lists a number of issues.

Q. (BY MR. COON) Were these formatted for a response by the individual or were these part of typical divisional meetings, if you know?

A. I really don't recall what would have generated these.

Q. If we go to the -- I think the first page it talks about division issues and then manufacturing issues. If we can go, maybe, to the second page --

in fact, I may have to see it real briefly to point out some specific issues I want to address with you.

A. (Tendering)

Q. Here we go. This is the fourth page. This Is VPD-109 dash 454, the fourth page. This is under the "Material Control Concems." And it talks -- first, No. 5 and No. 6, I want to call your attention to those. It talks first about, under Point 5, "What's happening concerning the asbestos lawsuits?"

Were you ever involved in the discussion with management regarding any lawsuits that Dana was involved in as a result of claims of exposure to asbestos contained in their product lines?

MS. BLAZEK: And I object. No. 1, any --

Have you ever seen the document before?

THE WITNESS: I don't recall these documents, no.

MS. BLAZEK: Okay. So, it's foundational to the extent that he's never seen this document. We would object to any questions along that line.

And then, No. 2, I think that your question is overly broad and potentially could include matters that are privileged --

MR. COON: Okay. Yeah --

MS. BLAZEK: -- and I'll ask you to rephrase.

MR. COON: -- I'll refine the question. I won't ask --

Q. (BY MR. COON) And, sir, I don't want you to answer any questions that involve meeting with lawyers for Victor or Dana, okay?

A. Okay.

Q. But going back to the Eighties, let me first ask you: When were you first aware of any lawsuits that had been filed against Dana's Victor Gasket Division or Dana as the parent to Victor Gaskets alleging asbestos-related injuries from working around or being exposed to products manufactured or distributed by your company?

A. I would say the first -- the first firsthand knowledge I had would have come when I moved into the plant manager role. So, that would have been probably about 1990.

Q. Were you aware at that time that claims had preexisted that date?

A. I was aware that there had been other suits, previous suits, yes.

Q. Did you have any idea as to when those first

claims had been filed?

A. No, I really had no idea whatsoever.

Q. Do you know if they went back prior to 1980 or not?

A. No, I really don't.

Q. The second topic, No. 6, it says, "Why do we continue to design and sell asbestos products?"

Did I reread that correctly?

MS. BLAZEK: The second?

MR. COON: No, I'm sorry --

THE WITNESS: The sixth.

MR. COON: -- the sixth, the second one I wanted to discuss with him.

Q. (BY MR. COON) Was that ever an issue that was broached in your department since y'all were involved in that?

A. We weren't really involved in the design or the sale of asbestos product.

Q. Was that an issue that was ever broached with you in management, is why those product lines were continuing to be manufactured by the mid-Eighties?

A. No, I can't say that we ever really had any specific discussions, that I can recall, about that. We were aware that there were efforts in place to

move away from asbestos, but I don't recall any specific discussions about it.

Q. Did you get involved in or were you aware of Victor's involvement in an organization designed to work with government agencies, like the E.P.A., to effect a ban on gaskets made out of asbestos?

A. Organizations to effect a ban of gaskets made out of asbestos? I know that there was some work at the division level in an attempt to move out of asbestos. Exactly what organization and -- I guess I don't know what you mean by "organization."

Q. Okay. Well, did you hear of an organization called the Asbestos-Free Gasket Group?

A. I know -- I know the name.

Q. Were you ever associated with that organization?

A. No, I was not.

Q. Are you aware of Dana or the Victor Product Division's role or involvement in that organization?

A. No, I was never close enough to that to be aware of it.

Q. Did you know whether or not Dana or Victor Product Division ever had any representatives in that organization?

A. I can't answer that. I don't know.

Q. Are you aware of any lobbying efforts by Dana or the Victor Product Division with any of the government regulatory agencies, like the E.P.A. in the late Eighties, to assist in creating a de facto or a total ban on asbestos-containing gasket materials?
A. I recall some discussions about the fact that some gas- -- that the gasket companies were interested in getting a ban on asbestos.
Q. Do you recall which gasket companies were involved in these meetings to work with the government to effect a ban?
A. I know that Fel-Pro was involved in them, and that's really the only other one that I had heard any discussions about.
Q. Do you know whether or not Garlock was involved in that?
A. No, I don't.
Q. Do you know whether or not Anchor Packing was involved in that?
A. No.
Q. Flexitallic?
A. No.
Q. Okay.
MR. SPEZIALI: Could I ask for point of

clarification? You said "the other one." Besides Fel-Pro, who's the other one?
THE WITNESS: Dana had some interest in it.
MR. SPEZIALI: All right.
Q. (BY MR. COON) Who was the point person at Dana on that subject matter?
A. I would have anticipated it would have been the general manager or the chief engineer.
Q. Okay. Did you ever have any discussions with anyone up there about why there would be attempts for a gasket company that manufactured asbestos gaskets to work with a government agency to ban a product they made?
A. I never had any discussions with them. I wouldn't know.
Q. Was there any discussion about Dana's motivations or intents in trying to ban the products that they manufactured at their facilities?
A. There were no discussions with me or at my level, no.
Q. Did you ever have any understanding about why they would try to do that?
A. We really weren't close to that. I was, you know, an area manager at that point in time; and it

wasn't the type of conversations people would have had with me.
Q. Okay. Did it strike you as something kind of odd, that one of your main product lines was something that your company wanted to quit making and have the government force them to quit making?
MS. BLAZEK: Object to form.
A. I guess I always looked at it as we were producing product that -- or working on producing materials without asbestos and that to reverse our position at that point in time would be an illogical thing to do.
Q. (BY MR. COON) Okay. Well, in fact, you had asbestos-free gasket materials as substitutes for the ones that you had that had asbestos in it by the late Eighties, didn't you?
A. Yeah, earlier than the late Eighties.
Q. Yeah.
A. By the mid-Eighties, in many cases.
Q. Yeah. So, essentially, anything that a manufacturer wanted, you could provide to them in its asbestos composition or in its asbestos-free composition?
A. I guess --
MR. SPEZIALI: Just for time frame,

otherwise it's going to seem --
Q. (BY MR. COON) Yeah, we're talking about late Eighties when this organization is working with the E.P.A.
A. After June 30th of 1988, we didn't have any asbestos-containing materials; so --
Q. Okay.
A. -- at that point in time, the answer to your question is, yes.
Q. Okay. And why did Dana quit making asbestos-containing materials on that date?
MS. BLAZEK: Object to form.
A. The customers had been putting off the switch. We had been moving towards trying to get out of the asbestos business for a period in time.
Our general manager at that point in time, basically, drew a line in the sand and said that, "As of this date, we will no longer be utilizing asbestos in our products."
Q. (BY MR. COON) And the reason for that was what?
A. Well, I don't know what the general manager's thinking was. All I know is that we were told that, "As of this date, we were to cease manufacture of any materials that contained

asbestos."
Q. Okay. Were there liability concerns?
A. I can't answer that. I really don't know.
Q. Were you aware of -- were you aware of the lawsuits that had been preexisting Dana's decision to go asbestos free? Correct?
A. Uh-huh.
Q. Were you ever involved in the discussional process with other people in management about where Dana was heading with their efforts to provide an asbestos-free product?
A. By "other management," are you talking about my peers?
Q. Sure, your peer group or even your superiors.
A. Sure, we had discussions about moving away from asbestos and desirability of moving away from asbestos.
Q. Yeah, there was just a lot of baggage that came with making the products with asbestos in them?
A. True.
Q. And the preference would be to make the products asbestos free so that you didn't have that same baggage?
A. That seems like a logical conclusion, yes.

Q. But the asbestos-free products sometimes cost more?
A. Yes, that's true.
Q. And there were some manufacturers, for whatever reason, still preferred, for some reason, the asbestos gasket?
A. I can't speak for other manufacturers.
Q. Okay. It would certainly be easier if the government just wouldn't let anybody else sell gaskets cheaper than your asbestos-free gaskets, wouldn't it?
A. Are you asking me to draw a conclusion, or are you --
Q. Well, are you --
A. -- asking me if that was the thinking?
Q. Sure. Was it the thinking?
A. I have no idea.
Q. Was Dana expressing any concern that if they were asbestos free, that other companies that still made the products with asbestos and could do so cheaper would be able to undercut the market?
A. I really have no idea.
MR. COON: Let's go off the record a minute.
THE VIDEOGRAPHER: We're off the record

at 5:43.
(A RECESS WAS TAKEN)
THE VIDEOGRAPHER: Back on the record at 5:48.
Q. (BY MR. COON) Mr. Austin, we've been at this for several hours now, sir; and we've covered a lot of ground. In reflection, based on the questions that you've been asked, is there something that you feel you needed to clarify more now, thinking back?
MS. BLAZEK: Object to form. You're asking him to remember all questions all day?
Q. (BY MR. COON) Well, no, I realize there's been a lot of questions. I'm just saying: Is there something sticking in your mind that you say, "Well, I really would like to tell them this or that," to clarify some matter that you had told us about earlier?
A. I guess the only -- the only thing I would like to say is that we, in the plants, have always felt that we have made a quality product, that the product was functionally good, and it did not offer any risk to the end users; and we have felt that way since I started working for the company.
We're a very safety conscious company. We've always tried to address any issues that have

come up. The labeling of product is issues that we felt we acted totally responsible for, and we don't feel that the product that we produced ran any risk for any end user.
MR. COON: Nothing personal, I'll object to the response.
Q. (BY MR. COON) Let me rephrase: What I'm asking you, sir: Is there something that you needed to clarify now that was not -- was something that would -- is there something you need to say now that did not, in retrospect when you gave me your original answer, properly clarify what you were intending to say?
MS. BLAZEK: I think that's what he just did.
MR. COON: Well, it was a nice little soliloquy on being a good plant manager and loyal to his company.
Q. (BY MR. COON) We understand your loyalty to the company. I'm just asking you, sir, if there was something you needed to say to make a previous partial answer complete?
MS. BLAZEK: Object to form again, if you're asking him to try to recollect questions.
Q. (BY MR. COON) I'm just saying if there was

something that stuck in your mind, that you said, "I really needed to tell them something else about this," as opposed to how you feel about everything.

MR. COON: I didn't ask him about how he feels about everything. I'm sure he loves his company.

A. No, nothing sticks in my mind, if that's your question.

Q. (BY MR. COON) That was the question.

MR. COON: Anybody else?

(NO RESPONSE)

MR. COON: Thank you, sir.

THE VIDEOGRAPHER: We're off the record at 5:50.

(THE DEPOSITION WAS CONCLUDED 5:50 P.M.)

ERRATA SHEET
DEPOSITION OF: GARY AUSTIN
MAY 20, 2002

PAGE	LINE	CHANGE	REASON

Signature: Date:

I, GARY AUSTIN, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

GARY AUSTIN

THE STATE OF)
COUNTY OF)

Before me, , on this day personally appeared GARY AUSTIN, known to me (or proved to me on the oath of or through (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal) Given under my hand and seal of office this day of , .

NOTARY PUBLIC IN AND FOR
THE STATE OF

CAUSE NO. B-150,374-AK

WILLIAM L. COTTON, ET AL) IN THE DISTRICT COURT OF
)
VS.) JEFFERSON COUNTY, TEXAS
)
A.P. GREEN REFRACTORIES)
COMPANY, ET AL) 60TH JUDICIAL DISTRICT

CAUSE NO. B-150,374-AM

ZORA BELL COLE, ET AL) IN THE DISTRICT COURT OF
)
VS.) JEFFERSON COUNTY, TEXAS
)
PITTSBURGH CORNING, ET AL) 60TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATION
ORAL VIDEOTAPED DEPOSITION OF GARY AUSTIN
MAY 20, 2002

I, Janie P. Trapp, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, GARY AUSTIN, was duly sworn by the officer and that the transcript of the deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on , 2002, to the witness or to the attorney for the witness for examination, signature, and return to the offices of Nell McCallum & Associates, Inc., by , 2002;

That the amount of time used by each party at the deposition is as follows:

MR. BRENT COON - 3 hours, 41 minutes.
That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes all parties of record:
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I further certify that I am neither counsel for, related to, nor employed by any of the parties in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of this action.
Further certification requirements pursuant to Rule 203 of TRCP will be complied with after they have occurred.
Certified to by me this 22nd day of May, 2002.

JANIE P. TRAPP, Texas CSR 6789
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)
VS.) JEFFERSON COUNTY, TEXAS
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PITTSBURGH CORNING, ET AL) 60TH JUDICIAL DISTRICT

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on :
If returned, the attached Changes and Signature page(s) contain(s) any changes and the reasons therefor;
If returned, the original deposition was delivered to MR. BRENT COON, Custodial Attorney;
That $ is the deposition officer's charges to the Plaintiffs for preparing the original deposition transcript and any copies of exhibits;
That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein and filed with the Clerk.

Certified to by me this day of , 2002.

JANIE P. TRAPP, Texas CSR 6789
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