

FILE NAME: Celanese (CEL)

DATE: 2002 Dec 13

DOC#: CEL048

DOCUMENT DESCRIPTION: Legal – Deposition of Laubly - Tab M

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1 NO. 99-06508-M
2 THURMAN HARMON; GLENDELL DON) IN THE DISTRICT COURT
3 MAXEY; MINNIE JUNE MCGUIRE,)
4 Individually and as Personal)
5 Representative of the Heirs and)
6 Estate of ALVA RADO MCGUIRE,)
7 Deceased; ASILDO LOPEZ PEREZ;)
8 CHARLIE REEVES; FIDENCIO ORTA)
9 SANCHEZ; and ENRIQUE C. URQUIZO)
10 and JUANITA URQUIZO,)
11)
12 Plaintiffs,)
13)
14 VS) DALLAS COUNTY, TEXAS
15)
16 OWENS CORNING, et al.,)
17)
18 Defendants.) 298TH JUDICIAL DISTRICT

11 *****

12 ORAL AND VIDEOTAPED DEPOSITION OF
13 CHARLES LAUBLY
14 DECEMBER 13, 2002

15 *****

16 ORAL AND VIDEOTAPED DEPOSITION of CHARLES LAUBLY,
17 produced as a witness at the instance of the Plaintiffs,
18 and duly sworn, was taken in the above-styled and
19 numbered cause on the 13th day of December, 2002, from
20 9:08 a.m. to 12:24 p.m., before Michelle L. Munroe, CSR
21 in and for the State of Texas, stenographically reported,
22 at the University Marriott, 880 E. Second Street, Tucson,
23 Arizona, pursuant to the Texas Rules of Civil Procedure
24 and the provisions stated on the record or attached
25 hereto.

0002

1 A P P E A R A N C E S

2

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23
24
25
0003

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P R O C E E D I N G S

THE VIDEOGRAPHER: We are on the record at

9:08.

CHARLES LAUBLY,
having been first duly sworn, testified as follows:
EXAMINATION

BY MR. PANATIER:

Q. Mr. Laubly, my name is Chris Panatier. I'm from
the firm of Baron & Budd, and I represent the plaintiff
in this case, Mr. Sanchez. I'm going to ask you some

11 questions today, and hopefully we can just make it as
12 efficient as possible.

13 MR. PANATIER: I'm going to get some
14 agreements for the record with the attorneys for Celanese
15 and then we'll get going. Can we agree that this is
16 taken pursuant to the Texas Rules of Civil Procedure and
17 the Texas Rules of Evidence?

18 MR. HUTCHINS: Yes, certainly.

19 Q. Sir, can you please state your full name for the
20 record?

21 A. Charles S. Laubly, Sr.

22 Q. And, Mr. Laubly, how old are you today?

23 A. Today?

24 Q. Yes.

25 A. I'm 86 years old.

0005

1 Q. All right.

2 A. Two months and 10 days.

3 Q. Okay. That's very accurate. I appreciate that.

4 Do you live here in Tucson?

5 A. Yes.

6 Q. How long have you lived here in Tucson?

7 A. Since 1979.

8 Q. That's the year you retired from Celanese?

9 A. Yes.

10 Q. What's your address?

11 A. 2225 North Tucson Boulevard.

12 (Exhibit No. 1 marked.)

13 MR. PANATIER: This is a copy of the notice
14 and subpoena. I'm just going to ask him if he's seen it
15 before.

16 Q. Sir, I have handed you what I have marked as
17 Exhibit 1, and that's your notice for this deposition.
18 Have you ever seen that document before?

19 A. Yes.

20 Q. Okay. When did you first see that?

21 A. I think about a week ago. A week ago.

22 Q. If you turn a few pages into it, you'll see
23 there's a document called a subpoena duces tecum, which
24 is a request for any records or documents. Tell me when
25 you have found that. I think it's on the next page.

0006

1 A. This?

2 Q. Yes. Have you ever seen that?

3 A. I think I saw -- yes.

4 Q. Okay. Do you have any documents in your
5 possession from Celanese?

6 A. No.

7 Q. When you left Celanese, you didn't bring
8 anything with you to keep for your own records?

9 A. No.

10 Q. So I assume then you didn't bring anything
11 today?

12 A. No.

13 Q. All right. Sir, have you issued a report in
14 this case? Have you issued a report of any findings that
15 you have made in this case?

16 A. No.

17 Q. Okay. Do you expect to issue a report?

18 A. No.

19 Q. Have you been asked to?

20 A. No.
21 Q. Prior to today's deposition, have you reviewed
22 any documents in preparation?
23 A. Just past depositions that I have given.
24 Q. Okay. Let me ask you about that. How many past
25 depositions have you given?

0007

1 A. Two.
2 Q. And were those both in asbestos-related cases?
3 A. Yes.
4 Q. In about 1998, 1999 does that sound right?
5 A. Yes.
6 Q. When did you reread those?
7 A. This past week.
8 Q. Were you able to refresh your recollection about
9 some of the things you talked about?
10 A. Yes.
11 Q. Do you feel more prepared now that you have
12 looked at those depositions?
13 A. I hope so.
14 Q. Are your past depositions the only documents
15 that you have looked at in preparation for today's
16 deposition?
17 A. Yes.
18 Q. Sir, where did you attend college?
19 A. Georgia Tech.
20 Q. The Yellow Jackets?
21 A. Yes.
22 Q. Did you graduate in 1949?
23 A. Yes.
24 Q. During some of the time that you were in
25 college, you were working for American Can; is that

0008

1 correct?
2 A. Yes.
3 Q. And I understand they made cans?
4 A. Yes.
5 Q. Okay.
6 A. Yes. Among other things, yeah.
7 Q. All right. While you were in college, did you
8 have any training in industrial hygiene?
9 A. Formally I had one course, a three-hour course.
10 Q. Was that Professor Cannon's course?
11 A. Yes.
12 Q. Did you learn about pneumoconiosis in Professor
13 Cannon's course?
14 A. I don't -- I don't recall.
15 Q. You might have, but you don't remember?
16 A. It might have been in that course pamphlet that
17 he gave to us.
18 Q. Did you always do your assigned reading?
19 A. Oh, yes.
20 Q. Okay. While you were working in college and at
21 American Can, were you working full-time or part-time?
22 A. Part-time.
23 Q. What was your job at American Can during
24 college?
25 A. One summer I went back to Illinois and worked at

0009

1 the research division there in their industrial hygiene
2 group. Prior to that I had worked for that group just

3 after I got out of the Army, and then I also worked at
4 the Atlanta plant between semesters.
5 Q. Was that when you were actually doing labor
6 work?
7 A. I was doing labor work then.
8 Q. I understand you may have done some insulation
9 work; is that true?
10 A. Yes.
11 Q. Sir, have you ever been tested for an
12 asbestos-related disease?
13 A. No.
14 Q. Do you get periodic chest x-rays?
15 A. Well, it's part of our health plan -- my health
16 plan, yes. Not very frequently on that.
17 Q. All right. Do you believe that during your time
18 at American Can you were exposed to asbestos?
19 A. No, I was not. Well, yes, I was exposed to it
20 when I was doing insulator work.
21 Q. And that's what I was talking about. I'm sorry
22 if that wasn't very specific.
23 What sort of insulation work were you doing,
24 removal or installation?
25 A. It was actually installation. These were on the
0010
1 zinc kettles where they melted zinc and then made
2 galvanized buckets and tubs and things like that.
3 Q. I understand from looking over some of your past
4 depositions that you were involved in perhaps mixing some
5 asbestos cement that went on the kettles?
6 A. Yes.
7 Q. Did you do any other type of insulation, block
8 insulation or pipe insulation?
9 A. No.
10 Q. So your involvement with insulation was simply
11 the asbestos cement?
12 A. Or mud that you might call it.
13 Q. Okay. So the mud. Were you the person actually
14 mixing the mud?
15 A. Yes.
16 Q. You have to mix a powder with water; is that
17 true?
18 A. Yes.
19 Q. And during that process you believe that you
20 were exposed to asbestos?
21 A. Asbestos was there, yes.
22 Q. Do you believe you breathed in the asbestos from
23 the powder?
24 A. Well, I must have. I was close to it.
25 Q. What year did you leave American Can?
0011
1 A. Well, the last time I left American Can was
2 1947.
3 Q. And then after college, you went to an insurance
4 company; is that true?
5 A. That's true.
6 Q. What was the name of that insurance company?
7 A. It was Lumbermen's Mutual Casualty Company. It
8 was part of the Kemper Group.
9 Q. How long did you work for -- and is it okay if
10 we -- I'm sorry. Is it okay if we call that just Kemper?
11 A. Yes.

12 Q. How long did you work for Kemper?
13 A. Seventeen years.
14 Q. Does that put you leaving Kemper in 1966?
15 A. 1966, March 14th.
16 Q. As you can see I'm slow with my math.
17 What was your first job with Kemper?
18 A. Industrial hygiene.
19 Q. You were hired as an industrial hygienist?
20 A. Yes.
21 Q. Prior to being hired at Kemper, other than your
22 course with Professor Cannon, had you had any other
23 industrial hygiene training?
24 A. No.
25 Q. What did you do to educate yourself as an
0012 industrial hygienist when you got to Kemper?
2 A. I went out and did surveys in the insureds'
3 plants.
4 Q. Who taught you how to do the surveying?
5 A. Herb Walworth.
6 Q. And that was your supervisor?
7 A. Yes.
8 Q. Did Kemper require that you take any additional
9 courses?
10 A. No.
11 Q. As soon as you started your work at Kemper, did
12 you join any professional associations or trade
13 organizations?
14 A. I joined the local section of the American
15 Industrial Hygiene Association in Chicago.
16 Q. How long did you remain a member of the AIHA?
17 A. I'm still a member of the AIHA.
18 Q. Your membership has never lapsed? It's been
19 continuous?
20 A. It's never lapsed. I have been a member for 52
21 years.
22 Q. Are you still active at all? Do you attend any
23 meetings?
24 A. No.
25 Q. Do you still receive the periodicals?
0013 A. I just receive the monthly periodical that they
2 send.
3 Q. What is that called?
4 A. The Synergist.
5 Q. How long has it been called The Synergist? Do
6 you know?
7 A. Must be four or five years.
8 Q. Prior to that, was it The Industrial Hygiene
9 Quarterly?
10 A. No. There was an industrial -- The Journal.
11 Q. Okay. So there was a journal of the AIHA?
12 A. Correct.
13 Q. Were you receiving that journal in 1949?
14 A. I was -- no. I was -- it was a quarterly then
15 and it was going to Herb Walworth and it was available in
16 the office.
17 Q. Did you take time to read that quarterly as it
18 came in to Mr. Walworth's office?
19 A. Yes.
20 Q. Did you believe that that was important so you

21 could stay abreast of any developing industrial hygiene
22 issues?

23 A. Yes.

24 Q. You also were still a member of the AIHA while
25 you were at Celanese; that's true, right?

0014

1 A. Yes.

2 Q. Did you continue to read the journal of that
3 organization?

4 A. Yes.

5 Q. I imagine when you were at Celanese, that
6 journal came right to you; is that true?

7 A. Yes.

8 Q. When you were finished reading it, did you pass
9 it on to any of your colleagues at Celanese?

10 A. I had no colleagues at Celanese.

11 Q. Co-workers?

12 A. No co-workers.

13 Q. There were other individuals at Celanese
14 involved with safety; is that correct?

15 A. Yes.

16 Q. Like Mr. Dixon?

17 A. Ernie Dixon. Dr. Dixon was head of the medical
18 department.

19 Q. And Dr. Dixon was at Celanese in 1966 when you
20 arrived?

21 A. Yes.

22 Q. Did you ever pass on any of your journals to
23 Mr. Dixon so he could look at them or consult them?

24 A. He already had them.

25 Q. So to your knowledge, both you and Mr. Dixon

0015

1 received some of the same journals?

2 A. Yes.

3 Q. And we'll talk a little bit more about that in
4 just a little bit. I just want to get some background.

5 What other professional organizations were
6 you involved in while working for Kemper other than the
7 American Industrial Hygiene Association?

8 A. Well, I received the Journal of the American
9 Chemical Society.

10 Q. Is the American Chemical Society separate from
11 the Chemical Manufacturers Association?

12 A. Yes.

13 Q. Tell me about the American Chemical Society.
14 Did they have a journal that you received?

15 A. Yes.

16 Q. Was that a quarterly or a monthly or some other?

17 A. Monthly.

18 Q. Do you remember what it was called?

19 A. No, I don't remember what it was called.

20 Q. For all the journals you have received
21 throughout your career, did you always attempt to go
22 through and look for anything that would be relevant to
23 your work?

24 A. Yes.

25 Q. And that includes your time at Kemper and at

0016

1 Celanese?

2 A. Yes.

3 Q. When did you join the American Chemical Society?

4 A. It was in the 1950s.
5 Q. Did you stay a member of the ACS throughout your
6 time at Kemper and Celanese?
7 A. Yes.
8 Q. Did you remain a member after you retired from
9 Celanese or did you let your membership lapse?
10 A. On the ACS it was lapsed.
11 Q. Did you continue to receive the journal of the
12 ACS throughout your time at Celanese until the time when
13 you let your membership lapse?
14 A. Yes.
15 Q. I imagine your office would have become
16 extremely crowded with all the journals you were
17 receiving if they stayed there. Did you throw away your
18 journals or did you send them on to the library at
19 Celanese?
20 A. The only journal that I kept in my office was
21 the AIHA journal.
22 Q. The other journals you received, I imagine, and
23 then you forwarded them on?
24 A. Yes.
25 Q. Where did you forward the journals to?
0017
1 A. Eventually to the library in our department.
2 Q. Was that the library in New York City?
3 A. Yes.
4 Q. I believe your librarian was Ms. Weiss; is that
5 the correct name?
6 A. Linda Weissman.
7 Q. Weissman. I'm sorry. Linda Weissman.
8 How long was she the librarian there, to
9 your knowledge?
10 A. Must have been five or six years. I don't know
11 the exact.
12 Q. Was she a librarian when you arrived in 1966?
13 A. We had no librarian then.
14 Q. When did you first have a librarian, to your
15 knowledge, at Celanese?
16 A. Three or four years later, I would say.
17 Q. So potentially late '60s, 1970, around there?
18 A. Yes.
19 Q. Prior to having a librarian, you still had a
20 library, though; isn't that true?
21 A. Well, you might have called it a library.
22 Q. A place where books and journals were placed?
23 A. Yes. Yes.
24 Q. Was anybody in the New York City office free to
25 go by and consult any of the materials in the library?
0018
1 A. Yes.
2 Q. If Celanese employees from other plants and
3 other locations happened to be in the New York City
4 office, were they free to go look at the library?
5 A. Yes.
6 Q. Okay. We have talked about the American
7 Industrial Hygiene Association and the ACS. What other
8 organizations were you a member of while you were at
9 Kemper?
10 A. No other organizations.
11 Q. Were you ever a member of the IHF?
12 A. That was a corporate membership.

13 Q. Was Kemper a member of the IHF?
14 A. Yes.
15 Q. Did you receive the Industrial Hygiene Digest or
16 the digest of the IHF?
17 A. Yes.
18 Q. Did you read that digest?
19 A. Yes.
20 Q. Did you read it as it came in from 1949 until
21 1966?
22 A. Yes.
23 Q. You're aware that the digest of the IHF
24 routinely contained numerous abstracts from medical
25 literature?
0019
1 A. Yes.
2 Q. And did you read through those abstracts?
3 A. Yes.
4 Q. I am jumping around a little bit here, and I'm
5 sorry. Back to the American Industrial Hygiene
6 Association. You were actually an officer in that
7 association; is that true?
8 A. I was an officer of two of the local sections,
9 the New York metropolitan section and the New Jersey
10 section.
11 Q. What was your -- I'm sorry. Go ahead.
12 A. Presently I'm a member of the Arizona section.
13 Q. What was your title when you were an officer?
14 Did you have a specific title?
15 A. Well, I was -- I guess I was called president.
16 Q. Okay. So you were president of your section?
17 A. Yes.
18 Q. You were not the president over the entire
19 association?
20 A. No. No.
21 Q. Did you ever make any submissions to the
22 American Industrial Hygiene Association Journal?
23 A. No.
24 Q. Did you ever do any editing for that journal?
25 A. No.
0020
1 Q. Did you ever make any decisions on content for
2 that journal?
3 A. No.
4 Q. Do you happen to remember what sort of contents
5 the journal of the American Industrial Hygiene
6 Association were on -- that's a bad question.
7 What sort of materials, what sort of
8 subjects more specifically than industrial hygiene did
9 the Journal of the American Industrial Hygiene
10 Association cover?
11 A. Just about anything work-related.
12 Q. Would it cover things such as vapor control?
13 A. Pardon?
14 Q. Chemical vapor?
15 A. Yes.
16 Q. Vapor control? Dust control?
17 A. Yes.
18 Q. Would it address other potential industrial
19 hazards or industrial accidents?
20 A. Yes.
21 Q. Would it address explosion control?

22 A. No.
23 Q. Where would you say the focus of the Journal of
24 the American Industrial Hygiene Association was?
25 MR. HUTCHINS: At what time, Chris?
0021
1 MR. PANATIER: During the time that he was
2 at Kemper. I'm sorry.
3 A. Would you repeat the question?
4 Q. Sure. Where would you say the focus of the
5 Journal of the American Industrial Hygiene Association
6 was during the time that you were with Kemper?
7 A. It was focused on any substance that was
8 work-related.
9 Q. That would obviously include asbestos; is that
10 true?
11 A. Yes.
12 Q. Did the Journal of the American Industrial
13 Hygiene Association from what you can remember address
14 methods for controlling asbestos dust?
15 A. No.
16 Q. What did it address then regarding asbestos?
17 A. I don't know specifically.
18 Q. During the time that you were at Kemper, I
19 imagine you learned about certain dust control methods;
20 is that true?
21 A. Yes.
22 Q. Did you learn about dust control methods that
23 would apply to asbestos during that time?
24 A. At that time, no.
25 Q. You were aware that asbestos could cause
0022
1 asbestosis while you were at Kemper; is that true?
2 A. Yes.
3 Q. And you were aware that asbestos -- let me
4 rephrase that. You were aware that asbestosis could be a
5 disabling disease at the time you were at Kemper; is that
6 true?
7 A. I was aware that workers that had exposures to
8 asbestos could possibly have asbestosis.
9 Q. And you knew that if a person had asbestosis,
10 that could be fatal?
11 A. No, I did not.
12 Q. Did you know that asbestosis could be disabling
13 in 1949?
14 A. No.
15 Q. Were you aware that certain pneumoconioses could
16 be fatal as of 1949?
17 A. No.
18 Q. Sir, I have got a copy of your deposition that
19 you gave in September of 1998. I'm going to hand you
20 this deposition. I'm going to refer you to page 230,
21 starting with line 2 and reading through line 16 if you
22 could just read that to yourself, I'll ask you some
23 questions. Starting with line 2.
24 A. Line 2?
25 Q. Right, going to line 16.
0023
1 A. (Reviewed document.) I see that.
2 Q. Okay. So in 1998 when you were asked if you
3 knew that certain pneumoconioses could be fatal, you
4 answered that, yes, you did know in 1949?

5 A. Yes.

6 Q. Now that you have had a chance to read that, is
7 that your recollection is what you knew in 1949?

8 A. Yeah.

9 Q. And you also knew that it could be -- I'm sorry.
10 I just asked you -- you also knew certain
11 pneumoconioses could be disabling in 1949?

12 A. Yes.

13 Q. Okay. So your recollection has been refreshed
14 then that you did know those two things were true?

15 A. Yes.

16 Q. While you were with Kemper, is it true that you
17 did some work sampling asbestos at the Mastic Tile
18 corporation?

19 A. Yes.

20 Q. And you were using the Midget Impinger during
21 that period of time?

22 A. Yes.

23 Q. Did you find any excessive asbestos exposures at
24 the Mastic Tile corporation, to your recollection?

25 A. Yes.

0024

1 Q. What did you recommend they do as a result of
2 those excessive exposures?

3 A. I recommended that they install local exhaust
4 ventilation at the mixer.

5 Q. Did you tell them how to install that
6 ventilation?

7 A. I don't remember if I did that.

8 Q. If you had told them how to do it, would you
9 have referred them to certain resources where they could
10 learn how to do certain engineering controls for dust
11 control?

12 A. That was usually our approach to it.

13 Q. Do you remember at all where you would refer a
14 company so they could learn more about engineering
15 controls for asbestos dust?

16 A. No.

17 Q. Was it Mr. -- I'm sorry. What was your
18 supervisor's name?

19 A. Ed Kemper?

20 Q. Walworth?

21 A. Walworth.

22 Q. Was it Mr. Walworth who taught you how to do
23 asbestos sampling?

24 A. No.

25 Q. Who taught you?

0025

1 A. I did.

2 Q. So you basically taught yourself how to do
3 asbestos sampling for the sampling you did at Mastic Tile
4 Corporation?

5 A. Yes.

6 Q. What about the Brake Pad Factory, did you do
7 some asbestos sampling there as well?

8 A. Yes.

9 Q. Did you find excessive levels of asbestos at the
10 Brake Pad Factory?

11 A. No.

12 Q. Why were you sampling for asbestos at those two
13 places?

14 A. Well, I found out that asbestos was being used
15 in there.
16 Q. And at that time, obviously, you knew asbestos
17 had certain dangers or you wouldn't concern with it?
18 A. Yes.
19 Q. Other than your asbestos sampling at Mastic Tile
20 Corporation and the Brake Pad Factory, while you were at
21 Kemper, did you ever do any other asbestos sampling?
22 A. No.
23 Q. Did you sample at both Mastic and the Brake Pad
24 Factory once each or did you return?
25 A. Just once.

0026
1 Q. You never returned to ensure that they had
2 followed up on your recommendations?
3 A. No, because that was not part of my territory
4 after that. It was transferred to someone else.
5 Q. So someone else at Kemper was responsible for
6 following up on the industrial hygienist's
7 recommendations?
8 A. Yes.
9 Q. To make sure that their insureds were doing as
10 they wanted them to?
11 A. Yes.
12 Q. Sir, do you agree that isolation of the hazard
13 source was recognized in 1950s as a way to deal with
14 industrial hazards?
15 A. I don't get what you mean by the isolation.
16 Q. Do you agree that one way to contain a hazard is
17 to isolate it?
18 A. Yes.
19 Q. And do you agree that for industrial dust it was
20 known that insulation was a way of avoiding wide-ranging
21 exposures in the 1950s?
22 A. Local exhaust ventilation was recommended.
23 Q. And local exhaust ventilation was known as a way
24 to address industrial dust in the 1950s?
25 A. Yes.

0027
1 Q. Sir, you are familiar with maximum allowable
2 concentrations, correct?
3 A. Yes.
4 Q. And you learned about MACs in the 19 -- in 1949
5 and 1950; is that right?
6 A. That's right.
7 Q. You were aware that there was an MAC for
8 asbestos during that period of time?
9 A. Yes.
10 Q. Who developed MACs?
11 A. The American Conference of Governmental
12 Industrial Hygienists.
13 Q. Have you ever been a member of the ACGIH?
14 A. No.
15 Q. Are you aware if the ACGIH ever put out a
16 journal or a periodical?
17 A. I didn't receive it. I don't -- I'm not aware
18 of it.
19 Q. Was Celanese a member of the Industrial Hygiene
20 Foundation?
21 A. I don't believe so.
22 Q. Do you know if Celanese ever received the digest

23 of the IHF while you were there?

24 A. I really -- I really don't recall. I saw it at
25 Kemper, but I don't remember.

0028

1 Q. Sir, I have got your deposition from June 14th
2 of 1999. I think that was about two and a half years
3 ago. And I'll show you page 112, and just ask you to
4 review lines 6 through 25. Take your time.

5 A. Where is that? Page 112?

6 Q. Right, line 6 through 25.

7 A. Well I see that I did say that. (Reviewed
8 document.) Well, I must have. There were a lot of those
9 publications that came across, and specifically I don't
10 remember each one.

11 Q. Okay. But from reading your past deposition,
12 it's your belief that Celanese was a member of the IHF?

13 A. I believe -- I believe so.

14 Q. And you believe that they received the digest of
15 the IHF?

16 A. Yes.

17 Q. Okay. Let's talk a little bit about the
18 National Safety Congress. Is that the same thing as the
19 National Safety Council?

20 A. No. The Congress is their annual meeting.

21 Q. Is the meeting of the National Safety Council?

22 A. Yes.

23 Q. Did you attend some of the National Safety
24 Congress meetings while you were at Kemper?

25 A. Perhaps once or twice.

0029

1 Q. Did you attend any of the National Safety
2 Congress meetings while you were at Celanese?

3 A. No.

4 Q. Why didn't you attend them while you were at
5 Celanese?

6 A. It probably didn't fit into my schedule.

7 Q. Was Celanese a member of the National Safety
8 Council while you were there?

9 A. Yes.

10 Q. Did Celanese receive the National Safety News
11 and the Transactions of the NSC?

12 A. Yes.

13 Q. Did you receive those two periodicals?

14 A. No.

15 Q. Did you have occasion to go and review the
16 transactions in the National Safety News that were
17 received by Celanese?

18 A. No.

19 Q. Do you know who at Celanese received those two
20 periodicals?

21 A. Probably the safety director.

22 Q. Was that Dr. Dixon?

23 A. No.

24 Q. Who would that be?

25 A. That was Glen Flemming.

0030

1 Q. Glen Flemming. And my understanding is that
2 Glen Flemming was also relatively active in the National
3 Safety Council?

4 A. Yes.

5 Q. Was Mr. Flemming at Celanese when you arrived in

6 1966?
7 A. Yes.
8 Q. And, in fact, you had met Mr. Flemming a few
9 years prior while you were still working for Kemper; is
10 that true?
11 A. Yes.
12 Q. Did you see Mr. Flemming at NSC meetings in the
13 1950s and '60s?
14 A. No, I can't recall.
15 Q. In your deposition of 1998, I believe you stated
16 that you had seen him a few times while you were at
17 Kemper at some NSC meetings.
18 A. Perhaps once or twice. That's all I can recall.
19 Q. And I only want you to tell me what you can
20 recall. To the best of your recollection, then, you saw
21 him maybe once or twice during the 1950s or '60s while
22 you were with Kemper?
23 A. Yes.
24 Q. And that was at NSC meetings?
25 A. Yes.

0031

1 Q. To your knowledge, Mr. Flemming then stayed a
2 member of the NSC throughout the time that you were at
3 Celanese?
4 A. Yes.
5 Q. Was Mr. Flemming retired by the time you retired
6 from Celanese?
7 A. I think he was deceased.
8 Q. Okay. Do you know when he passed away?
9 A. I don't remember.
10 Q. When Glen Flemming would receive the
11 transactions and the National Safety News, did he allow
12 other people to come and review those periodicals if they
13 wished?
14 A. I don't know.
15 Q. Were those periodicals contained in the library
16 at Celanese?
17 A. No.
18 Q. Are you sure about that?
19 A. Well, no, I'm not sure. But his office was in
20 Charlotte and our office was in New York, so he would
21 have his own library of that material. When Linda
22 Weissman was operating our library, it may have been
23 there. I don't know.
24 Q. Let's talk a little bit about Charlotte then.
25 Did Charlotte have a library?

0032

1 A. I don't know.
2 Q. Did you ever visit Charlotte?
3 A. Yes.
4 Q. On how many occasions?
5 A. Numerable.
6 Q. Did you ever see a collection of periodicals or
7 books?
8 A. No.
9 Q. Did Celanese have an industrial hygienist prior
10 to yourself in 1966?
11 A. No.
12 Q. Do you know why?
13 A. No, I don't know why.
14 Q. Do you believe it's important for a company such

15 as Celanese to have a library where trade journals and
16 books are kept?

17 MR. HUTCHINS: I'm going to object to the
18 question. You're asking him for an opinion. He is a
19 fact witness, Chris.

20 MR. PANATIER: Well, under the Rules that
21 we're here for, objection, form will suffice but --

22 MR. HUTCHINS: I object to the form.

23 MR. PANATIER: But his designation also says
24 he may render opinions that I believe -- do you want to
25 go off the record? Let's go off the record.

0033

1 MR. HUTCHINS: That's a good idea.

2 THE VIDEOGRAPHER: We are off the record at
3 9:47.

4 (Off-the-record conversation.)

5 THE VIDEOGRAPHER: We're on the record at
6 9:48.

7 Q. Sir, do you know why Celanese had a library in
8 the New York City office?

9 A. No, I don't.

10 Q. Can you think of a reason why you would have a
11 library?

12 MR. HUTCHINS: Object to the form.

13 A. It would be a source of information.

14 Q. And the more information, the better, right?

15 A. Yes.

16 Q. Especially as an industrial hygienist,
17 information is always -- or knowledge is always
18 developing, isn't it?

19 A. Yes.

20 Q. So it's important to stay abreast of knowledge
21 as it develops?

22 A. Yes.

23 Q. Having a library was a way to stay abreast of
24 the changing issues in industrial hygiene and safety; is
25 that true?

0034

1 A. Yes.

2 Q. Was Celanese a member of the National Safety
3 Council for the entire period of time that you worked for
4 Celanese?

5 A. I don't know that.

6 Q. Do you believe that's about right or do you know
7 for a fact that there was a cutoff date?

8 A. I believe it's right.

9 Q. Sir, to your understanding, is the Industrial
10 Hygiene Foundation the same thing as the Air Hygiene
11 Foundation?

12 A. I don't know that.

13 Q. Have you ever heard of the Air Hygiene
14 Foundation?

15 A. No.

16 Q. While you were at Kemper, did you attend
17 meetings of the IHF?

18 A. Once or twice.

19 Q. Did you see anybody from Celanese there while
20 you were at Kemper attending as well?

21 A. I don't recall that at all.

22 Q. Were you ever a member personally or was any
23 company that you worked for a member of the Chemical

24 Manufacturers Association?

25 A. Celanese was a member of CMA.

0035

1 Q. Were they a member when you joined Celanese?

2 A. It was not called the CMA then.

3 Q. Was it called the MCA?

4 A. The MCA.

5 Q. The Manufacturing Chemists Association?

6 A. Yes.

7 Q. And Celanese was a member when you started of
8 the MCA?

9 A. Yes.

10 Q. To your knowledge, did Celanese remain a member
11 of the MCA/CMA throughout the period of time that you
12 were there?

13 A. Yes.

14 Q. Did you ever personally receive the periodicals
15 of the MCA/CMA?

16 A. No.

17 Q. Do you know that Celanese did as a member?

18 A. Yes.

19 Q. To your knowledge, what was the name of that
20 periodical or periodicals?

21 A. I don't remember.

22 Q. Were those periodicals kept in the library?

23 A. Yes.

24 Q. Were you a member of any committees in the MCA
25 or the CMA?

0036

1 A. I don't remember the name of the committee. It
2 was occupational health and safety committee.

3 Q. What did you do as a member of that committee?

4 A. Just attended the meetings.

5 Q. Do you remember the National Paint and Coatings
6 Association?

7 A. Yes.

8 Q. Were you personally a member?

9 A. Yes.

10 Q. Was Celanese a corporate member?

11 A. Yes.

12 Q. Did you receive any periodicals from the
13 National Paint and Coatings Association?

14 A. No.

15 Q. Did you go attend any meetings?

16 A. Yes.

17 Q. How often did you attend meetings?

18 A. Monthly, I believe it was.

19 Q. Do you remember what the -- what types of
20 subjects were discussed at meetings of the National Paint
21 and Coatings Association?

22 A. The use of solvents, the use of pigments,
23 whatever was used to make a coating.

24 Q. Is it true that some coatings -- some paints and
25 some coatings would utilize asbestos as a strengthener or

0037

1 a bonder?

2 A. I don't know that.

3 Q. Do you remember at those meetings ever
4 discussing the use of asbestos in paints or coatings?

5 A. No.

6 Q. Sir, do you agree that asbestos was known as a

7 workplace hazard in the 1950s?
8 MR. HUTCHINS: Object to the form.
9 A. Come again on that.
10 Q. Sure. Do you agree that asbestos was known as a
11 workplace hazard in the 1950s?
12 MR. HUTCHINS: Same objection.
13 A. No.
14 Q. Okay. You were doing sampling for asbestos in
15 the 1950s; is that true?
16 A. I was sampling for it as part of the dust
17 sample.
18 Q. Sure. And asbestos was one that you were
19 specifically sampling for?
20 A. Yes. Yes. Yes.
21 Q. You were sampling for it because you knew that
22 it could be damaging to workers?
23 A. A potential, yes.
24 Q. So you personally, though, would acknowledge
25 asbestos as a workplace hazard then in the 1950s,
0038
1 wouldn't you?
2 MR. HUTCHINS: Object to the form of the
3 question.
4 A. I recognized it as a dust hazard.
5 Q. In the 1950s you personally recognized asbestos
6 as a dust hazard?
7 A. Yes.
8 Q. And that dust hazard often occurred in the
9 workplace; is that true?
10 MR. HUTCHINS: Object to the form of the
11 question.
12 A. I only saw it in two instances in the workplace.
13 Q. Sir, when did you first learn that asbestos
14 could cause cancer?
15 A. In the 1970s.
16 Q. When did you first learn that asbestos was
17 associated with cancer?
18 MR. HUTCHINS: Object to the form.
19 A. In the 1970s.
20 Q. Sir, I was asking you earlier about the case
21 reports and the abstracts found in the digest of the IHF
22 periodical.
23 A. Yes.
24 Q. Certainly you remember seeing the case reports
25 about asbestos causing cancer in lab animals, don't you?
0039
1 A. I don't remember that.
2 MR. HUTCHINS: Object to the form.
3 Q. Did you try to be as thorough as you could when
4 you were reading periodicals that came from trade
5 organizations?
6 A. I believe so.
7 Q. Do you have any reason to disagree with the fact
8 that there were numerous case reports of asbestos causing
9 lung cancer in the 1940s and '50s in the IHF digest?
10 MR. HUTCHINS: I object to the form of the
11 question.
12 A. I can't say that.
13 Q. Did you keep any of your trade organization
14 journals or periodicals with you that you had at Kemper?
15 Did you bring any of those to Celanese?

16 A. Just the AIHA Journal.
17 Q. Have you ever received the Journal of Industrial
18 Hygiene Toxicology or the JIHT?
19 A. I didn't receive it, no.
20 Q. Do you know if Celanese did?
21 A. Yes.
22 Q. Did Celanese receive the JIHT as of 1966 when
23 you arrived?
24 A. Yes.
25 Q. Did they continue to receive that journal until
0040
1 the time that you retired?
2 A. Yes.
3 Q. Have you ever heard of the API or the American
4 Petroleum Institute?
5 A. Yes.
6 Q. Were you a personal member of the API?
7 A. No.
8 Q. Do you know if Celanese was a corporate member?
9 A. I do not remember.
10 Q. Did you ever attend any meetings of the API?
11 A. No.
12 Q. Did you ever attend any -- did you ever receive
13 any journals from the API?
14 A. No.
15 Q. Were you a member of the American Public Health
16 Service?
17 A. No. I was a member of the APHA.
18 Q. What's the APHA?
19 A. American Public Health Association.
20 Q. Did you certain the journal of the APHA?
21 A. Yes.
22 Q. When did you start receiving that journal?
23 A. During World War II.
24 Q. Did you consider that journal to be important in
25 your job as an industrial hygienist?
0041
1 A. No.
2 Q. Why not?
3 A. I thought it was geared more to the general
4 public health work.
5 Q. Not so much industrial hygiene?
6 A. That's right.
7 Q. You said you started receiving that around World
8 War II. Did you continue to receive the APHA journal
9 throughout the time that you were at Celanese?
10 A. Yes. Yes.
11 Q. Did you ever receive public health reports?
12 A. I saw it, yes.
13 Q. Did that come to you at Celanese?
14 A. I think it was available, but I can't
15 specifically say that I received it.
16 Q. So you're not sure who it was sent to, but you
17 know that it was available at Celanese?
18 A. Yes.
19 Q. Were the public health reports available at
20 Celanese, to your knowledge, for the entire period of
21 time that you worked there?
22 A. Yes.
23 Q. Were they located in the library in New York?
24 A. Yes.

25 Q. Were you ever based out of any other plant or
0042
1 office for Celanese other than New York?
2 A. No.
3 Q. That was your primary office?
4 A. Yes.
5 Q. I understand you did quite a lot of traveling as
6 well, though; isn't that true?
7 A. Yes.
8 Q. I believe you testified before that you might
9 have been gone as much as 60 percent of the year
10 traveling to plants?
11 A. Yes.
12 Q. Do you remember how many total times you
13 traveled to the Bishop plant? And obviously you can't
14 give me a precise number, but do you remember the range
15 of times that you went to the Bishop plant in Texas?
16 A. Perhaps twice a year.
17 Q. Twice a year for 13 years?
18 A. Yes.
19 Q. So maybe around 26 or so times?
20 A. That is possible.
21 Q. Did you ever go into the Bishop library that
22 they had there?
23 A. No.
24 Q. You were aware that they did have a library at
25 the Bishop plant?
0043
1 A. No, I wasn't.
2 Q. Do you know if there were libraries at the other
3 plants?
4 A. No, I don't.
5 Q. Who was responsible for safety at the Bishop
6 plant?
7 A. Joe Cantrell, JD Cantrell.
8 Q. Was JD Cantrell employed with Celanese as of
9 1966?
10 A. Yes.
11 Q. Was JD Cantrell still with Celanese in 1979?
12 A. Yes.
13 Q. Do you know if Mr. Cantrell was an employee of
14 Celanese prior to 1966?
15 A. Yes, he was.
16 Q. Do you know for how long?
17 A. No.
18 Q. Do you know if Mr. Cantrell was a member of any
19 trade organizations?
20 A. No, I don't know.
21 Q. Did he ever attend any meetings with you?
22 A. No.
23 Q. If you had an industrial hygiene question, what
24 were the first resources you would consult while you were
25 at Celanese?
0044
1 A. The first resource?
2 Q. Right. What was the primary resource you would
3 go to first?
4 A. The publication by Frank Patty.
5 Q. And is that Patty's Industrial Manual?
6 A. I don't know what it's called now.
7 Q. Do you remember specifically what it was called

8 then when you were at Celanese?
9 A. I had a copy of it with me all the time, but I
10 don't recall the exact title.
11 Q. Was there a copy of Patty's in the library as
12 well?
13 A. At Celanese?
14 Q. Yes.
15 A. Yes.
16 Q. What about Drinker and Hatch's publication
17 called Industrial Dust? Did you ever look at that
18 publication?
19 A. Yes, I had a copy of it.
20 Q. When did you get that copy?
21 A. When I was with Kemper.
22 Q. You kept it throughout your time at Kemper and
23 then into Celanese?
24 A. Yes.
25 Q. Did you refer to that regularly?
0045
1 A. When I thought it was necessary.
2 Q. Okay. Do you know if there was a copy of the
3 Drinker Hatch publication Industrial Dust in the Celanese
4 library?
5 A. No, I don't.
6 Q. You don't know whether there was or not?
7 A. No. Because I had my own copy, so I didn't
8 look.
9 Q. Are you familiar with the publication called
10 Silicosis and Asbestosis written by Dr. Lanza?
11 A. No.
12 Q. Do you have any -- did you have any publications
13 by Brandt while you were at Celanese?
14 A. Yes.
15 Q. What publication did you have?
16 A. Industrial Ventilation.
17 Q. Did you have that as of 1966?
18 A. Yes.
19 Q. Did you have that prior to 1966?
20 A. Yes.
21 Q. When did you first receive that publication?
22 A. When I was working with Kemper.
23 MR. PANATIER: Sir, I think we need to
24 change the tapes so we can take a quick break.
25 THE VIDEOGRAPHER: We are off the record at
0046
1 10:04.
2 (Recess taken.)
3 THE VIDEOGRAPHER: We are on the record at
4 10:18.
5 Q. Sir, have you ever receive the Journal of the
6 American Medical Association?
7 A. No, I did not receive it.
8 Q. Did Celanese receive it?
9 A. Yes.
10 Q. Did Celanese receive it, to the best of your
11 recollection, for the 13 years that you were there?
12 A. Yes.
13 Q. Were there copies of the JAMA in the library?
14 A. Yes.
15 Q. Did you ever consult the JAMA?
16 A. I looked at it, yes.

17 Q. Were you personally ever a member of the Society
18 of Toxicology?
19 A. No.
20 Q. Was Celanese a corporate member?
21 A. I'm not sure. Dr. Dixon was.
22 Q. Was Dr. Dixon a member of the American Medical
23 Association?
24 A. Yes.
25 Q. Do you know if Dr. Dixon personally received the
0047
1 Journal of the American Medical Association?
2 A. Yes.
3 Q. Do you know if he received any periodicals or
4 journals from the Society of Toxicology?
5 A. Yes.
6 Q. Did Dr. Dixon, to your knowledge, ever go and
7 investigate or put on safety seminars or really have any
8 involvement at the Bishop plant?
9 A. I don't know.
10 Q. Do you know that he went to the Bishop plant?
11 A. Yes, he did.
12 Q. Do you know what reasons he went to the Bishop
13 plant for?
14 A. He went with me just to take a general tour of
15 the plant.
16 Q. For safety purposes?
17 A. No, not safety. For occupational health.
18 Q. Would you categorize occupational health as
19 something that sort of falls under the broader category
20 of safety?
21 A. No. No.
22 Q. Okay. Do you think that -- well, let me ask
23 you this question: When did you first meet Dr. Dixon?
24 A. In 1960 -- it was either late 1965 or early
25 1966.
0048
1 Q. Do you remember where you met him?
2 A. Yes, at Princeton.
3 Q. What was going on at Princeton?
4 A. I was chairman of a local sections meeting we
5 had we at the time called a trisection meeting.
6 Q. That was of the American Industrial Hygienist
7 Association?
8 A. Yes, of the local sections.
9 Q. Do you remember what the topic of that meeting
10 was?
11 A. No, I don't. I was the arranger of the meeting,
12 but I don't remember the topic.
13 Q. But that's where you originally met Dr. Dixon?
14 A. Yes.
15 Q. To your knowledge, Dr. Dixon was a member of the
16 AIHA?
17 A. Yes.
18 Q. Did you ever talk to Dr. Dixon about attending
19 the New York Academy of Sciences meeting in 1964?
20 A. No.
21 Q. Are you aware that he did attend that meeting in
22 1964?
23 A. No, I'm not.
24 Q. You may have been asked some questions about
25 Dr. Dixon's participation in the 1964 New York Academy of

0049

1 Sciences meeting in your previous depositions. Do you
2 remember being asked about that?

3 A. No, I don't.

4 Q. I have got it here, and I'll let you look at
5 some of the questions that were asked of you. And
6 actually, I'll just read this to you because it's only
7 two or three questions.

8 MS. WALKER: What deposition?

9 MR. PANATIER: It's the '98 deposition, page
10 130.

11 Q. Sir, you were asked: Now, did you or anybody
12 that you know of from Kemper attend the New York Academy
13 of Sciences meeting in 1964 that dealt with asbestos and
14 asbestos diseases? And you answered: I didn't attend.
15 I understand that Dr. Dixon did. He was a member of the
16 academy at the time.

17 Do you remember talking about that?

18 MR. HUTCHINS: Object to the form.

19 A. Yes.

20 Q. Okay. So to your recollection, did Dr. Dixon
21 attend the New York Academy of Sciences meeting
22 addressing asbestos in 1964?

23 A. I had heard that he had attended. I don't know
24 the specifics.

25 Q. Okay. So to your belief he did attend, but you

0050

1 don't know really much more than that?

2 A. That's all.

3 Q. Okay. Have you ever heard of Dr. Irvin
4 Selikoff?

5 A. Yes.

6 Q. When did you first hear about Dr. Selikoff?

7 A. I don't know the exact date.

8 Q. Were you aware in the 1960s that Dr. Selikoff
9 was doing studies concerning asbestos diseases?

10 A. No.

11 Q. Have you ever read any of the publications that
12 came out of the New York Academy of Sciences meeting in
13 1964?

14 A. I received a copy of that, yes.

15 Q. That's a pretty big book, isn't it?

16 A. It's a pretty big book.

17 Q. Do you remember when you received a copy of that
18 book?

19 A. After I joined the New York Academy of Sciences.

20 Q. When did you join?

21 A. And I don't remember exactly.

22 Q. Do you have a range, a decade?

23 A. It would have to be in the 1970s.

24 Q. Did you read that book?

25 A. I looked at the book.

0051

1 Q. Okay. It is a big book.

2 A. Yes.

3 Q. Prior to your joining the New York Academy of
4 Sciences, did you see copies of that book in the Celanese
5 library in New York?

6 A. No.

7 Q. Are you aware if Dr. Dixon had that book?

8 A. No.

9 Q. When you first arrived at Celanese, did you make
10 it a point to visit all of the Celanese plants?
11 A. We were asked to.
12 Q. Did you do it?
13 A. We tried.
14 MR. PANATIER: Let's go off the record real
15 fast.
16 THE VIDEOGRAPHER: We are off the record at
17 10:26.
18 (Off the record.)
19 THE VIDEOGRAPHER: We are on the record at
20 10:27.
21 Q. Sir, I had just asked you if you visited all the
22 Celanese plants when you first arrived. You said you
23 made an attempt to visit as many as you could. Did that
24 include the Bishop plant in Texas?
25 A. Yes.
0052
1 Q. Where exactly is the Bishop plant located in
2 Texas?
3 A. It's near Kingsville.
4 Q. Did you take a tour of the Bishop plant for
5 industrial hygiene purposes?
6 A. Yes.
7 Q. When you would take a tour of any Celanese
8 plant, would it be part of your routine to take notes
9 about things you saw and perhaps file a report?
10 A. No.
11 Q. Did you take any notes?
12 A. No.
13 Q. Ever take any notes?
14 A. No.
15 Q. What would you do if you saw something that you
16 thought was of interest to you, perhaps a dirty area or a
17 dust cloud, how would you make a note of that?
18 MR. HUTCHINS: Object to the form.
19 A. I would remember it and make mention of it to
20 Joe Cantrell.
21 Q. Joe Cantrell was the safety director at Bishop?
22 A. Safety supervisor, yes.
23 Q. Do you know what Joe Cantrell's training was?
24 A. No.
25 Q. If you made mention of something to Joe
0053
1 Cantrell, did you ever come back and follow up and ask
2 him whether the situation had been taken care or what he
3 had done to remedy the situation?
4 A. Yes.
5 Q. You just remembered to do all this?
6 A. Yes.
7 Q. Did you remember to do this sort of thing for
8 all of the plants that you visited?
9 A. I don't remember exactly how I did it.
10 Q. Now, you made visits to some 30 or 40 plants;
11 isn't that right?
12 A. Yes.
13 Q. And you never took notes?
14 A. Well, I may have taken some notes.
15 Q. When was the first time you did sampling for
16 asbestos at the Bishop plant?
17 A. I don't recall the exact date.

18 Q. Can you give me a year or a range of years?

19 A. It was after 1970.

20 Q. Was after 1970 the first time anybody, to your
21 knowledge, did asbestos sampling at the Bishop plant?

22 A. I don't know that.

23 Q. Do you know of anybody else who ever did
24 asbestos sampling at the Bishop plant?

25 A. At what time?

0054

1 Q. At any time.

2 A. Later when they had their own health chemist do
3 work there.

4 Q. When did they have a health chemist first?

5 A. After 19 -- after 1970.

6 Q. So to your knowledge, asbestos sampling was done
7 after Celanese had a health chemist at the Bishop plant?

8 A. After my initial study, yes.

9 Q. And your initial study was, you said, sometime
10 in the 1970s?

11 A. Yes.

12 Q. Prior to 1970, you never did any asbestos
13 sampling of the Bishop plant?

14 A. No.

15 Q. Prior to 1970, you're not ware of anybody else
16 who did sampling of the Bishop plant?

17 A. No, I'm not.

18 Q. Were you ever concerned about the use of
19 asbestos at Bishop in the 1960s?

20 A. I don't -- no. I was never -- in the 1960s, I
21 didn't consider it.

22 Q. You were aware that asbestos was being used in
23 the 1960s at Bishop, right?

24 MR. HUTCHINS: Object to the form.

25 A. It was used for insulation purposes, yes.

0055

1 Q. So you were aware that the Bishop plant as well
2 as probably most Celanese plants were using asbestos
3 insulation at least on hot pipelines and so forth?

4 A. Yes.

5 Q. To your knowledge, did the Bishop plant ever
6 engage in turnarounds or shutdowns?

7 A. I wasn't familiar with that.

8 Q. Did any Celanese plants engage in turnarounds
9 and shutdowns, to your knowledge?

10 A. I don't recall any turnarounds.

11 Q. Is it fair to say, then, that you probably
12 didn't do any sampling for air contaminants or asbestos
13 during any turnarounds at Celanese plants?

14 MR. HUTCHINS: Object to the form.

15 A. I didn't see any being done.

16 Q. Okay. And so just so we're clear, if you didn't
17 see any being done, you probably weren't doing any
18 sampling during any?

19 A. I didn't do any sampling during any.

20 Q. Are you aware of any sampling done at Celanese
21 plants during turnarounds?

22 A. No.

23 Q. Who else, other than I believe you said that
24 there was a -- I don't remember the title. Who was the
25 person that was hired at the Bishop plant to go and do

0056

1 air sampling in the 1970s?
2 A. It would be -- they had a title of health
3 chemist.
4 Q. Okay. Other than the health chemist that came
5 in to Celanese in the 1970s were there any other people
6 who would have been responsible for air monitoring other
7 than yourself?
8 A. No.
9 Q. Did you attempt to stay abreast of state
10 industrial hygiene regulations for each of the plants
11 that you would go into and work at?
12 A. No, I did not.
13 Q. Why didn't you?
14 A. I don't know.
15 Q. Are you a certified industrial hygienist?
16 A. No.
17 Q. Have you ever sat for part A or part B of the
18 ACGIH exam?
19 A. No.
20 Q. Have you ever taken an industrial hygienist
21 training course?
22 A. Training courses, yes.
23 Q. Can you tell me what sort of training courses
24 you have taken other than while you were at Georgia Tech?
25 A. There were courses given by -- by the government
0057
1 in Cincinnati and in Maryland. I took several different
2 courses that were sponsored by the government.
3 Q. Do you remember during what years or decades you
4 took those industrial hygiene courses?
5 A. Some when I was with Kemper and some of them
6 when I was with Celanese.
7 Q. So some of these industrial hygiene courses were
8 available in the 1950s; is that fair?
9 A. In the '50s?
10 Q. Yes.
11 A. I took one course at the University of Michigan,
12 but it was for radiation.
13 Q. The courses that you took in industrial hygiene
14 that you have just discussed with me, did any of those
15 address dust hazards?
16 A. No.
17 Q. So other than your class at Georgia Tech and
18 then just your experience and any of the books or
19 periodicals you read, you hadn't ever taken any
20 additional courses addressing dust hazards?
21 A. No.
22 Q. Did you ever educate yourself in asbestos
23 abatement?
24 A. No.
25 Q. Did you ever educate yourself in dust control
0058
1 methods?
2 A. What do you mean by educate yourself in?
3 Q. Did you ever read up on in any book or
4 periodical or journal different methods for dust control
5 in an industrial environment?
6 A. Yes.
7 Q. What sort of different methods for dust control
8 are you familiar with?
9 A. Local exhaust ventilation.

10 Q. Were you familiar with that type of exhaust
11 control method -- or I'm sorry -- dust control method in
12 the 1950s?
13 A. In the 1950s?
14 Q. Yes, sir.
15 A. Yes.
16 Q. Are you familiar with wetting methods for
17 wetting down dust so you don't get as much dust put into
18 the air?
19 A. I'm not familiar with that, but I know it was
20 done.
21 Q. It was done where, just generally?
22 A. In dusty plant areas.
23 Q. Are you referring to Celanese now?
24 A. No. No.
25 Q. So you never saw wetting methods being done at
0059
1 Celanese?
2 A. No.
3 Q. I believe I asked you one or two questions
4 earlier about plant libraries. Did you say that you were
5 not aware of the existence of plant libraries?
6 A. I didn't have any occasion to look into them. I
7 know of only one plant that had some books there and that
8 was the Rome plant, the old plant. That's -- because I
9 have a copy of the book.
10 Q. What book was it?
11 A. It was on what they made at the Rome plant.
12 Rayon is what they made.
13 Q. The book was called Rayon, wasn't it?
14 A. Yes.
15 Q. How appropriate. Do you know what resources
16 JD Cantrell had his disposal as someone who was in charge
17 of safety at the Bishop plant?
18 A. No.
19 Q. Do you believe that he had any books or
20 periodicals?
21 A. I don't know that.
22 Q. Did you ever go into his office?
23 A. Yes, I did.
24 Q. Did he have books and magazines and stuff in his
25 office?
0060
1 A. I don't know.
2 Q. Do you know who was responsible for ordering
3 any of the materials in the New York City Celanese
4 library before the librarian arrived?
5 A. I don't know who would have that responsibility.
6 Q. And obviously some of the materials were things
7 that you subscribed to and Celanese subscribed to and
8 they just arrived; is that true?
9 A. Yes.
10 Q. Do you know prior to the librarian arriving who
11 was responsible for organizing those materials?
12 A. I was.
13 Q. How would you organize the library?
14 A. How do you organize any library?
15 Q. Well, that's what I'm asking you. You could do
16 it simply alphabetically or by subject area, so how did
17 you do it?
18 A. Probably by subject area.

19 Q. Prior to Celanese having a librarian when you
20 were the librarian, do you remember how many different
21 journals or periodicals Celanese subscribed to?
22 A. No. No, I don't.
23 Q. Was it many?
24 A. Well, it was what they thought was appropriate
25 for the field.

0061

1 Q. It was more than a few, correct?
2 A. Yes.
3 Q. If a plant manager or a plant safety director or
4 a plant safety manager had a question regarding
5 industrial hygiene, could they contact you?
6 A. Yes, they could.
7 Q. Could they contact you or the library and ask
8 for a certain resource on a certain topic?
9 A. Yes, they could.
10 Q. And would the Celanese division in New York
11 City, would the Celanese office in New York City send
12 those materials to whatever plant requested them?
13 A. If they came to me and requested it, yes.
14 Q. So if JD Cantrell called you and said, you know,
15 look, I would like to look at the latest National Safety
16 News, can you send it to me, you would send that to him?
17 A. If it was available, yes.
18 Q. And you have said already that Celanese received
19 that document, isn't that true, that periodical?
20 A. Yes.
21 Q. At any time in the 1940s, are you aware of any
22 workers' compensation claims filed against Celanese for
23 pneumoconiosis?
24 A. No, I'm not.
25 Q. At any time in the 1950s, are you aware of any

0062

1 workers' compensation claims filed against Celanese for
2 pneumoconiosis?
3 A. Only one.
4 Q. Okay. What was that?
5 A. That was in the Cumberland plant.
6 Q. Was this the silicosis claim?
7 A. Yes.
8 Q. Did you ever do any investigation or research
9 into that claim?
10 A. Yes.
11 Q. What did you do?
12 A. I did some monitoring.
13 Q. What were your results of your monitoring?
14 A. There was no significant exposure.
15 Q. What do you define as significant?
16 A. Above the maximum allowable concentration at the
17 time.
18 Q. I'm going to come right back to that. I'm going
19 to have two more questions for you on this workers' comp
20 issue.
21 At any time in the 1960s, are you aware of
22 any workers' compensation claims filed against Celanese
23 for pneumoconiosis?
24 A. I'm not aware.
25 Q. What about the 1970s?

0063

1 A. No.

2 Q. Okay. Are you aware of any civil lawsuits filed
3 against Celanese for pneumoconiosis in the '40s?
4 A. No.
5 Q. What about the 1950s?
6 A. No.
7 Q. 1960s?
8 A. No.
9 Q. What about the 1970s?
10 A. No.
11 Q. 1980s?
12 A. '80, I'm not aware.
13 Q. You don't know whether there were or not?
14 A. No.
15 Q. Do you believe plant workers should be
16 completely informed of any hazards in their workplace?
17 MR. HUTCHINS: Object to the form.
18 A. Yes.
19 Q. And that's so they can know to protect
20 themselves; isn't that true?
21 MR. HUTCHINS: Object to the form.
22 A. Well, they'd want to know how to protect
23 themselves, yes.
24 Q. You said that, at least for the silicosis claim
25 that you investigated, you didn't find any significant
0064 exposures, and you defined that as what was -- an
2 exposure above the maximum allowable concentration.
3 A. Yes.
4 Q. I have read some in your past depositions where
5 you have discussed an action level. Can you tell me what
6 that is?
7 A. Well, the action level is the level that you
8 would institute corrective measures.
9 Q. What did Celanese define as the action level?
10 MR. HUTCHINS: Object to the form.
11 A. I don't know that.
12 Q. In the past have you said that the action level
13 was defined as one half of the maximum allowable
14 concentration or the TLV?
15 A. Yes, that's -- I believe that's the wording.
16 Q. So if during your monitoring you found a level
17 of some air contaminant that was above one half of the
18 maximum allowable concentration or TLV, you would take
19 some action on that?
20 A. Yes.
21 Q. How would you know whether or not to monitor in
22 a certain area?
23 A. It was a judgment on my experience.
24 Q. What factors would you take into consideration
25 to make your judgment?
0065 A. On what I had observed at similar operations.
2 Q. If you're just walking through a plant, what
3 sort of things would you see that might prompt you to do
4 some air monitoring?
5 A. If the plant to me looked dusty I would do some
6 monitoring.
7 Q. Sir, do you agree that you can be above the
8 maximum allowable concentration for asbestos and it still
9 be invisible to the naked eye?
10 MR. HUTCHINS: Object to the form of the

11 question.

12 A. I don't know that.

13 Q. Do you agree that you can have levels of
14 asbestos in the air that are above the threshold limit
15 value that are invisible to the naked eye?

16 MR. HUTCHINS: Object to form of the
17 question.

18 A. I don't know that.

19 Q. Do you agree that asbestos in certain
20 concentrations can be invisible to the naked eye?

21 A. It's possible.

22 Q. Well, obviously when you did dust counts, you
23 have to look through a microscope; isn't that right?

24 A. Yes.

25 Q. That's because a lot of the dust you were

0066 1 looking at was not visible to the naked eye?
2 A. A lot of the dust -- well, if it was a heavy

3 cloud, you would notice that.

4 Q. Sure. But in some cases you could have dust
5 that would be invisible; isn't that true?

6 MR. HUTCHINS: Object to form of the
7 question.

8 A. It's possible, yes.

9 Q. Would you ever just go into a plant and set up
10 your monitoring equipment even if you didn't see a cloud
11 of dust?

12 A. No.

13 Q. So you would need to see some indication, a
14 cloud of dust or something like that in order to do
15 sampling?

16 MR. HUTCHINS: Object to the form.

17 A. You would look at the overall picture to see
18 what the work area looked like.

19 Q. Do you agree it's quite possible that you missed
20 significant exposures because you didn't set up
21 monitoring equipment in areas where you didn't see a
22 cloud of dust?

23 A. I'm not perfect.

24 MR. HUTCHINS: I object to the form.

25 Q. And, sir, I'm not accusing you of not being

0067 1 perfect. I'm just asking you, do you agree it's possible
2 that there were significant exposures you missed because
3 you didn't set up your monitoring equipment in areas that
4 appeared to the naked eye to be clear?

5 MR. HUTCHINS: I object to the form. It's
6 both speculative and argumentative.

7 MR. PANATIER: You know what, let's keep it
8 to form, okay. There's a Rule 11 agreement in this case
9 that we're going to go by the Texas Rules of Civil
10 Procedure when we're taking depositions, and form is
11 perfectly good. If you've got a problem with it, you can
12 take it in front of the judge if we're trying to read
13 this in front of the jury. Okay. And then you can
14 explain your basis then. But stating your basis and
15 coaching the witness and giving a speaking objection is
16 completely improper.

17 MS. WALKER: Okay. Well, then let's slow
18 down and let's have an opportunity for us to make our
19 objection, please, Mr. Laubly. Would do that for us?

20 Thank you.

21 MR. HUTCHINS: I'm not coaching the witness.
22 I'm telling you I think the question both calls for
23 speculation and is argumentative.

24 MR. PANATIER: Well, I'm not going to argue
25 about what indications any of your speaking objections

0068

1 give to the witness. What I'm saying is the Texas Rules
2 obviously don't allow for anything beyond form, leading,
3 or nonresponsive. Okay. And we have made an agreement
4 in writing that that's how we're going to do these
5 things.

6 MS. WALKER: Chris, you know under the Rules
7 that there are certain instances where we can instruct
8 this witness not to answer.

9 MR. PANATIER: And you haven't done that.

10 MS. WALKER: And I'm just saying you're
11 bordering on that when you asking him questions such that
12 if the answer is so confusing and misleading. And so
13 when you're predicate is not clear what date you're
14 asking him about or any of these things, I believe it
15 could be to the point of being a difficult answer for you
16 to read back and get anything out for the jury.

17 MR. PANATIER: Okay. Well --

18 MS. WALKER: Just be aware that that's one
19 issue that you're touching on so be aware of that.

20 MR. PANATIER: Unless you instruct him not
21 to answer the question, I'm going to wait for form
22 objections. I'm going to ask the questions how I have
23 been asking them. I think that for the most part, at
24 least up until this very last question where Mr. Hutchins
25 made his long objection, I think that Mr. Laubly

0069

1 understood these questions and he has answered them as if
2 he understood the questions. So I'm going to ask him the
3 questions as best I can, and if Mr. Laubly has any
4 confusion, he can tell me.

5 Q. Mr. Laubly, I'll ask you this question: If I
6 ask you anything that's confusing or that you don't
7 understand, will you please let me know so I can ask you
8 a clearer question.

9 A. Yes.

10 Q. Okay.

11 MS. WALKER: But my point, Chris, it's not
12 that he doesn't understand. It's because the predicate
13 of your question is such that his answer would be
14 misleading. That's what 195.(f) talks about.

15 Q. Sir, do you agree that it is possible to have
16 significant concentrations of asbestos in the air without
17 those concentrations being visible to the naked eye?

18 MR. HUTCHINS: Object to the form.

19 A. I still don't know.

20 Q. You have never read anything about that?

21 A. No, I did not.

22 Q. Is it fair to say that while you were at
23 Celanese you only did air monitoring if you saw some
24 indication of uncleanness or a cloud of dust in the
25 air?

0070

1 A. Yes.

2 Q. Do you agree that asbestos was a suspected

3 carcinogen in the 1960s?

4 A. I can't agree with that.

5 Q. Mr. Laubly, I'll give you a copy of your 1998
6 deposition again, on page 229, and ask you to read from
7 lines 6 through 17, starting right here.

8 A. When was it that you think you became aware that
9 asbestos was at least a suspected carcinogen --

10 Q. And you can read it to yourself, sir, I'll ask
11 you some questions about it.

12 MS. WALKER: What page again?

13 MR. PANATIER: 229.

14 A. (Reviewed document.) I became aware of it, yes.

15 Q. Okay. So in the 1960s you became aware that
16 asbestos was a suspected carcinogen?

17 A. Yes.

18 Q. Did that cause you any concern that you had just
19 learned that asbestos was a suspected carcinogen in the
20 1960s?

21 A. It did not concern me because we did not -- I
22 didn't think we had any exposures.

23 Q. Any exposures at all or any significant
24 exposures?

25 A. Any significant exposures.

0071

1 Q. So it's completely reasonable to think that
2 there were exposures to asbestos at Celanese plants?

3 MR. HUTCHINS: Object to the form.

4 Q. You just didn't think they were significant
5 exposures; is that true?

6 A. That's true.

7 Q. But when you learned in the 1960s that asbestos
8 was a potential carcinogen, it didn't increase your
9 awareness of asbestos at all?

10 MR. HUTCHINS: Object to the form.

11 A. No.

12 Q. It didn't increase your concern about the use of
13 asbestos in Celanese plants?

14 A. No. Because I believe I said I thought we did
15 not have a significant exposure.

16 Q. But aside from that, my question is just, it
17 didn't increase your concern about the use of asbestos in
18 Celanese plants, did it?

19 A. No.

20 Q. Do you agree prior to 1966 Celanese had no
21 program to educate workers about airborne dust hazards?

22 A. I don't know that.

23 Q. As far as you know, was there any program at
24 Celanese to educate workers about dust hazards prior to
25 1966?

0072

1 A. I don't know that.

2 Q. You're not aware of any?

3 A. I'm not aware of.

4 Q. Are you aware of any program to educate Celanese
5 workers about dust hazards after 1966?

6 A. When it appeared in the federal register, yes.

7 Q. So you believe that there was a program to
8 educate workers at Celanese?

9 A. No. No, there was not.

10 Q. Okay. So after 1966, there was no program to
11 educate workers about airborne dust hazards?

12 A. I don't know that.
13 Q. To your knowledge --
14 A. To my knowledge --
15 Q. -- you're not aware of any?
16 A. -- I don't know of it.
17 Q. You're not aware of any?
18 A. No.
19 Q. Sir, to your knowledge, was there a -- let me
20 ask you this question: Are you aware that respirators
21 are one way to decrease exposure to airborne contaminants
22 such as asbestos?
23 A. Yes, it's one way.
24 Q. Prior to 1966, sir, are you aware as to whether
25 or not Celanese had a respirator program where they
0073
1 required plant workers to wear respirators to protect
2 them from airborne contaminants?
3 A. Prior to 1966, no.
4 Q. What about after 1966?
5 A. After 1966 when -- that was in the sphere of the
6 safety supervisor's charge.
7 Q. You're unaware of an official respirator program
8 then after 1966?
9 A. After 1966, there was one that came into being
10 after -- in the 1970s.
11 Q. So from 1966 to 1970 or 1971, you're not aware
12 of any respirator program?
13 A. No formal program.
14 Q. Do you agree that respirators are more likely to
15 be used if they are required?
16 A. No, I don't agree with that.
17 Q. You think that if a company has a mandatory
18 respiratory protection program where they require
19 respirators, the workers will be no more likely to wear
20 the respirators than if there was no mandatory program?
21 MR. HUTCHINS: Object to the form.
22 A. I believe that the -- no. That's confusing to
23 me.
24 Q. Let me restate the question then, okay.
25 Do you think that a mandatory respirator
0074
1 program will increase the use of respirators?
2 MR. HUTCHINS: Object to the form.
3 A. To some extent, yes.
4 Q. Do you agree that in a dusty environment or in
5 an environment where airborne contaminants are present,
6 that the increased use of respirators is a good thing?
7 MR. HUTCHINS: Object to the form.
8 A. Not as a general rule.
9 Q. And why not?
10 A. It's just a stopgap measure to provide
11 protection for the worker.
12 Q. From 1966 until 1971, are you aware of any
13 ventilation or engineering controls at Celanese plants to
14 protect workers from airborne contaminants?
15 MR. HUTCHINS: Object to the form.
16 A. There were certain workstations at Celanese that
17 had local exhaust ventilation, yes.
18 Q. Were there any more broad engineering controls
19 or exhaust ventilation systems to help rid the air of
20 airborne contaminants such as silica and asbestos?

21 MR. HUTCHINS: Object to the form.
22 A. I don't know that.
23 Q. So you're not aware of any?
24 A. No.
25 Q. What about after 1971, are you aware of any more
0075

1 broad engineering controls or exhaust ventilation systems
2 that were designed to help rid the air of contaminants
3 such as silica and asbestos?

4 MR. HUTCHINS: Object to the form.
5 A. I didn't see it in any of the designs.
6 Q. So you're not aware of any such ventilation
7 systems at the Bishop plant either prior to 1971 or
8 after?

9 A. They had some local exhaust ventilation there.

10 Q. And I'm addressing a broader ventilation system
11 that was designed to rid the air of contaminants such as
12 asbestos and silica. Are you aware of any such systems
13 present at the Bishop plant from 1966 to 1971?

14 MR. HUTCHINS: Object to form.

15 A. I'm not aware.

16 Q. Are you aware as to whether or not Celanese had
17 a medical monitoring program prior to the 1970s where
18 workers were given chest x-rays?

19 A. I wasn't involved in that. The medical
20 department would -- could answer that more fully.

21 Q. Two questions then. Would Mr. Dixon be a better
22 person to ask?

23 A. Dr. Dixon would be, yes.

24 Q. And then does that mean that you are not aware
25 of such a medical monitoring program at Celanese from '66
0076

1 to '71?

2 A. I'm not sure of the dates involved.

3 Q. Are you aware -- and I will follow up with
4 Dr. Dixon on this. But I'm just asking you, are you
5 aware of any medical monitoring program at any time that
6 you were at Celanese where workers were given periodic
7 chest x-rays?

8 A. I'm not aware of a periodic chest x-ray.

9 Q. Do you know who Fidencio Orta Sanchez is?

10 A. No.

11 Q. Do you know any of the activities that
12 Mr. Sanchez did while working for Celanese?

13 A. I don't know him.

14 Q. I'm sorry, at Celanese?

15 A. I don't know that.

16 Q. Are you aware of any of the products that
17 Mr. Sanchez worked around?

18 A. No.

19 Q. Are you aware of any of the products Mr. Sanchez
20 worked with?

21 A. No.

22 Q. Are you aware of Mr. Sanchez's specific exposure
23 levels to asbestos while working at Celanese?

24 A. No.

25 MR. HUTCHINS: Object to the form.
0077

1 Q. Have you ever done any air monitoring at
2 Celanese for asbestos from 1966 to 1971?

3 A. Yes.

4 Q. How many occasions?
5 A. At which plant?
6 Q. Okay. At the Bishop plant.
7 A. Only one.
8 Q. Okay. And that was the one in the '70s, right?
9 A. Yes.
10 Q. So from 1966 to '71 you had not?
11 A. I had not.
12 Q. Okay. Mr. Laubly, you are aware that -- we
13 discussed earlier that asbestos-containing insulation was
14 being used a Celanese. Do you remember when we talked
15 about that?
16 A. Yes.
17 Q. Are you aware that products such as Kaylo and
18 Thermobestos were being used at Celanese?
19 A. Yes.
20 Q. In fact, Kaylo and Thermobestos were being used
21 in the Bishop plant; isn't that true?
22 A. Yes.
23 Q. Sir, are you aware that in the '60s both Kaylo
24 and Thermobestos contained asbestos?
25 A. No.
0078
1 Q. You don't know?
2 A. No.
3 Q. From 1966 until the 1970s, was there any
4 companywide standard for the handling of asbestos?
5 A. No -- yes, when -- I'm not sure of the date now,
6 but they instituted that at -- they started it at one of
7 the fibers plants and then it was passed on to the
8 others.
9 Q. To your recollection, was that more likely in
10 the late '70s as opposed to the early '70s or the '60s?
11 A. I'm not sure of the exact date. It was not the
12 late '70s. It was well before then.
13 Q. Okay. Do you believe that there was a
14 companywide policy or standard for handling
15 asbestos-containing materials in the 1960s?
16 A. I don't know if there was a standard. I think
17 there was a practice of doing that.
18 Q. Do you know if that practice was ever written
19 down or recorded?
20 A. I believe so. It was passed on through the
21 safety supervisors.
22 Q. Okay. So have you ever seen this?
23 A. Not the -- not the entire program as they
24 proceeded with it.
25 Q. Are you testifying that you believe there was a
0079
1 written standard for handling asbestos-containing
2 materials in the 1960s?
3 A. I don't -- I don't recall any written standard
4 being written.
5 Q. Do you know if there was a standard that was
6 companywide for the removal or installation of
7 asbestos-containing materials?
8 A. I don't know that.
9 Q. You're not aware of any?
10 A. No.
11 Q. Did Celanese have a company safety manual?
12 A. Yes.

13 Q. Who authored that safety manual?
14 A. I don't know who authored it. It was probably
15 started by Glen Flemming.
16 Q. Did you read the safety manual?
17 A. No.
18 Q. Did you ever look through it?
19 A. I may have.
20 Q. Did it ever say anything about asbestos, to your
21 recollection?
22 A. I don't recall.
23 Q. Was there a safety manual in 1966 when you
24 arrived?
25 A. Safety -- in 1966?
0080
1 Q. Yes, sir.
2 A. I didn't see it.
3 Q. When do you first recall seeing a safety manual?
4 And just your best recollection is all I want.
5 A. Probably on my first visit to Charlotte.
6 Q. When was that?
7 A. It would have to be in the late '60s.
8 Q. And is that because Charlotte is where Dr. Dixon
9 was headquartered?
10 A. No. Dr. Dixon was headquartered in New York.
11 Q. Who was the safety director at Charlotte?
12 A. Glen Flemming.
13 Q. I'm sorry. I'm mixing those two guys up.
14 You believe Glen Flemming was responsible
15 for the safety manual; is that true?
16 A. Yes.
17 Q. And Glen Flemming was at Charlotte?
18 A. Yes.
19 Q. I apologize for my confusion.
20 A. He had several people working for him there at
21 Charlotte.
22 Q. Did he have safety people working for him?
23 A. Yes.
24 Q. Who were those people that you can remember?
25 A. There were several of them that passed -- passed
0081
1 through. Henry Johnson was there. I believe Joe Gay was
2 there. I can't recall the other -- the other names.
3 Q. Did you ever meet Joe Gay and Henry Johnson?
4 A. Yes.
5 Q. Were they in any of those organizations that you
6 were in, any of the trade organizations or --
7 A. No.
8 Q. What was Henry Johnson's specialty?
9 A. Well, he was safety supervisor of the Amsel
10 plant. Had been there for a long time.
11 Q. What about Joe Gay?
12 A. Joe Gay had worked in the chemical company.
13 Q. Was he responsible for safety in the chemical
14 company?
15 A. He was one of the safety supervisors, yes.
16 Q. Do you know if Celanese from 1966 to 1971 had a
17 companywide safety meeting policy? What I mean by that
18 is was there some requirement that safety meetings be
19 held once a week, once a month? Are you aware of
20 anything like that?
21 A. I wasn't aware of the schedule.

22 Q. Do you know if safety meetings were required?
23 A. I don't know that they were required, but I know
24 they held them.
25 Q. Do you know if -- let's just focus on the Bishop

0082

1 plant. Do you know if the Bishop plant held safety
2 meetings?
3 A. Yes, they did.
4 Q. Did you ever attend any safety meetings held at
5 the Bishop plant?
6 A. No.
7 Q. Did you ever attend any safety meetings held at
8 any plants?
9 A. No.
10 Q. Did you ever explain to any plant workers or any
11 plant managers or safety managers different methods for
12 containing dust contaminants?
13 A. No.
14 Q. Who is H.B. Bartley?
15 A. Who?
16 Q. H.B. Bartley.
17 A. I don't remember that name.
18 Q. Who is J.L. Marion?
19 A. Right now I don't remember that. I remember
20 that was in some of the testimony, but I don't remember
21 now specifically.
22 Q. Okay. Do you know a person named Herbert
23 Kolodner?
24 A. Kolodner, yes.
25 Q. Who is that?

0083

1 A. He was the safety director of Celanese after
2 Glen Flemming died.
3 Q. Do you remember when Glen Flemming died?
4 A. No, I don't.
5 Q. Did Mr. Kolodner work out of Charlotte?
6 A. Yes.
7 Q. Did he ever work out of any other plant or
8 office, to your knowledge?
9 A. No.
10 Q. Sir, is it true that prior to OSHA you don't
11 know what was being done at Celanese to be sure that
12 workers were not being exposed to asbestos dust in the
13 air?
14 MR. HUTCHINS: I'll object to the form of
15 the question.
16 A. Prior to OSHA?
17 Q. Prior to OSHA.
18 A. I don't remember the specific dates when
19 asbestos was checked.
20 Q. But you never checked it until the '70s; isn't
21 that true?
22 A. That's -- I'm not sure the exact date that I
23 checked. It was probably in the '70s.
24 Q. Sir, I'm going to read you one question and one
25 answer from your deposition.

0084

1 MS. WALKER: Which one?
2 MR. PANATIER: It's from the '98 deposition,
3 page 366.
4 Q. And just ask you if this refreshes your

5 recollection about what you knew. The question is: And
6 what precisely was it that Celanese did in the years you
7 were visiting the company and working with the company to
8 be sure that its maintenance employees, including boiler
9 markers and pipe fitters were not being exposed to
10 asbestos dust in the air?

11 And your answer was: Well, until the OSHA
12 levels were introduced, I don't know what was being done.
13 And you say: Here again, this was up to the safety
14 supervisor for respirator program. How well informed he
15 or they were, I don't know. But the first part of your
16 answer is: Well, until OSHA levels were introduced, I
17 don't know what was being done.

18 Is that true to your recollection, sir, you
19 don't know what was being done prior to OSHA?

20 MR. HUTCHINS: Object to the form of the
21 question.

22 A. Well, I think I realized something was being
23 done, but I don't know exactly when it started.

24 Q. So your memory is more clear about what was
25 being done with regard to asbestos after OSHA and not so

0085
1 clear prior to OSHA?

2 A. There's a very fine line there. I'm not sure.

3 Q. As we sit here today, sir, are you aware of any
4 asbestos levels for any workers to ever work at the
5 Bishop facility for Celanese?

6 A. No.

7 Q. Did you ever meet with plant personnel regarding
8 industrial hygiene issues at Bishop?

9 A. Only the safety supervisor and his staff.

10 Q. Do you remember what topics or issues you would
11 meet to discuss?

12 A. No, I don't.

13 Q. Do you have any recollection of ever meeting
14 with the safety supervisor and his staff at Bishop to
15 discuss asbestos?

16 A. I must have when we did some monitoring there.

17 Q. And I have asked you probably just two or three
18 times about the monitoring that you did. You said you
19 believed it occurred during the '70s. Would that be
20 accurate as far as when you met with these people,
21 probably in the '70s?

22 A. In the '70s, yes.

23 Q. Sir, are you aware of any person who has worked
24 in any Celanese plant who developed asbestosis?

25 A. No.

0086
1 Q. Are you aware of any person who worked at any
2 Celanese plant who developed mesothelioma?

3 A. No.

4 MR. PANATIER: Sir, I think we need to
5 change the tape. Let's take a quick break. I guess we
6 could take a five-minute break or so.

7 THE VIDEOGRAPHER: We are off the record at
8 11:18.

9 (Recess taken.)

10 THE VIDEOGRAPHER: We are on the record at
11 11:30.

12 Q. Mr. Laubly, have you ever heard of mesothelioma?

13 A. I see one advertisement on TV constantly.

14 Q. Okay. So you have heard of mesothelioma from
15 TV?
16 A. Yes.
17 Q. Have you ever heard of mesothelioma from any
18 other source?
19 A. I can't recall exactly. I'm sure I did because
20 why would I react to the TV as much as I do.
21 Q. How do you react to the TV?
22 A. Well, I mean -- how do I react to that
23 advertisement?
24 Q. Sure.
25 A. I think it's on too much. It's not specifically
0087
1 just that thing. I mean, TV in general.
2 Q. The TV in general is on too much?
3 A. Too much.
4 Q. Do you know what causes mesothelioma?
5 MR. HUTCHINS: Object to the form.
6 A. No. No, I don't.
7 Q. Are you aware that there are different types of
8 asbestos?
9 A. Yes.
10 Q. Do you know what the different types are?
11 A. I can't recall the exact names of them. I have
12 seen them, but I just --
13 Q. Have you read about them?
14 A. I did at one time, yes.
15 Q. Are you aware of their different propensities
16 for causing disease in the human body?
17 A. I don't remember that.
18 Q. Are you aware of what types of asbestos were
19 contained in the asbestos-containing insulation material
20 at the Bishop plant for Celanese?
21 A. I don't remember now.
22 Q. Do you think you ever knew what types of
23 asbestos were in that insulation?
24 A. I probably was told what it was, but I don't
25 remember.
0088
1 Q. As an industrial hygienist, have you ever done
2 any re-entrainment studies?
3 A. No.
4 Q. Are you aware of what re-entrainment is?
5 A. No.
6 Q. Have you ever done any airflow studies at any
7 Celanese plants?
8 A. I may have taken some measurements, but not --
9 not in the chemical company.
10 Q. So not at Bishop?
11 A. No, not at Bishop.
12 Q. You said you may have taken some measurements.
13 What sort of measurements may you have taken associated
14 with airflow?
15 A. Just using an Alnor velometer.
16 Q. That tells you the volume and speed of the air
17 flowing through?
18 A. Yes.
19 Q. For what purpose would you have taken such
20 measurements?
21 A. To see if the equipment was capable of carrying
22 the materials away.

23 Q. Have you ever done any studies that measure the
24 level of asbestos released from asbestos-containing pipe
25 covering when sawed, abraded, or cut?

0089

1 A. Yes, and I made -- I did some monitoring that
2 way.

3 Q. Is this the monitoring that we have already
4 discussed that you did in the 1970s?

5 A. Yes.

6 Q. Is this the monitoring that you did on some
7 cutting of insulation in the fab shop at Bishop?

8 A. Yes.

9 Q. Do you recall what the level of asbestos was
10 that was released from that cutting of insulation in the
11 fab shop?

12 A. I don't recall the exact amount.

13 Q. Do you recall as to whether or not it was above
14 or below the action level that Celanese had established?

15 MR. HUTCHINS: Object to the form of the
16 question.

17 A. No, I'm not aware of that.

18 Q. Have you ever conducted any studies monitoring
19 the amount of asbestos released from asbestos-containing
20 gaskets when they are either installed or replaced?

21 A. No.

22 Q. Have you ever conducted any studies monitoring
23 the amount of asbestos released from asbestos-containing
24 muds or cement insulation when it is being mixed?

25 A. No.

0090

1 Q. Have you ever studied the amount of asbestos
2 that is released when those asbestos-containing muds are
3 applied?

4 A. No.

5 Q. Have you ever conducted any asbestos release
6 studies around any boilers?

7 A. No.

8 Q. Other than the monitoring that you did in the
9 1970s at Celanese and the monitoring that you did at the
10 Mastic plant and the brake pad plant, have you ever done
11 any other asbestos monitoring?

12 A. No.

13 Q. Did you attend graduate school?

14 A. Not formally. I did take some graduate courses.

15 Q. Who courses did you take from graduate school?

16 A. Some totally unrelated to industrial hygiene.
17 They were parasitology, bacteriology, biology subjects.

18 Q. Did you do those while you were at Kemper? Did
19 you take those classes while you were with Kemper
20 Insurance?

21 A. No, when I was at Georgia Tech.

22 Q. So while you were in -- correct me if I'm wrong,
23 but while you were in undergrad, you also took some
24 graduate or courses?

25 A. Yes, and I taught graduate courses.

0091

1 Q. While you were an undergrad?

2 A. Yes.

3 Q. You taught graduate courses?

4 A. Yes.

5 Q. That's very impressive. Which ones did you

6 teach?
7 A. Parasitology.
8 Q. Okay.
9 A. And medical animology.
10 Q. Were these subjects that you were just
11 interested in?
12 A. No. I was involved with them when I was in the
13 service.
14 Q. Right. Okay. Have you ever had to testify in
15 court?
16 A. In court?
17 Q. In court, yes.
18 A. Grand jury once, yes.
19 Q. Was that for someone committed a crime?
20 A. Against me, yes.
21 Q. Have you ever had to testify in civil court?
22 A. No.
23 Q. Other than your 1998 deposition that I have
24 questioned you about and your 1999 deposition for
25 asbestosis -- or asbestos, have you ever given any other
0092
1 depositions not having to do with asbestos?
2 A. Yes.
3 Q. Was that the one occasion where you had a vinyl
4 chloride deposition?
5 A. Yes.
6 Q. Have you ever done any others than that one
7 other vinyl chloride deposition?
8 A. No.
9 Q. So in your entire life, including this
10 deposition, you have given four depositions?
11 A. Yes.
12 Q. Do you know who Raymond Dankler is?
13 A. No.
14 Q. Do you know of any person who ever worked at any
15 Celanese facility who developed an asbestos-related
16 disease?
17 A. No, I don't know.
18 Q. Prior to today's deposition and in preparation
19 for today's deposition, did you meet with Celanese
20 attorneys?
21 A. Say that again.
22 Q. In preparation for today's deposition, did you
23 meet be any attorneys for Celanese?
24 A. Prior to today you mean? Yes.
25 Q. Who did you meet with?
0093
1 A. Mike Hutchins and Nona Walker.
2 Q. When did you meet with them?
3 A. Prior to the depositions that I gave.
4 Q. Okay. Let's talk about just today's deposition
5 so we don't have to rehash all the old stuff. Just for
6 today's deposition, did you meet with Mr. Hutchins and
7 Ms. Walker?
8 A. Yes.
9 Q. How long did you meet with them?
10 A. Four hours.
11 Q. When?
12 A. Yesterday.
13 Q. So just one occasion for four hours?
14 A. Yes.

15 Q. Did they ask you to review any documents other
16 than your prior depositions?

17 A. Yes.

18 Q. What documents did you review?

19 A. I don't know what the title was. It was one
20 that I had sent to Bishop, I believe it was.

21 Q. What was the subject?

22 A. And to --

23 MR. HUTCHINS: Chris, if you want to go off
24 the record, I'll show you a copy of the document. It has
25 been produced in discovery in this case.

0094

1 MR. PANATIER: I imagined it had. I'll look
2 at it. We'll take a break here in a little bit and I'll
3 look at it.

4 A. That's the only -- I don't know the exact titles
5 now. I have a long-term memory, but the short-term
6 memory is -- there's a lot of stuff confined, I mean, in
7 that discussion we had or when I was reviewing the past
8 depositions.

9 Q. What did you guys talk about?

10 A. Just the past depositions.

11 Q. Did the lawyers for Celanese ask you to read
12 your past depositions?

13 A. Yes.

14 Q. Did they tell you anything else about preparing
15 for today?

16 A. No.

17 Q. Other than the memorandum that you sent out that
18 you reviewed, did you review any other documents?

19 A. No.

20 Q. Who is S.D. Sultenstal?

21 A. Sultenstal.

22 Q. Yes.

23 A. I don't know that name other than the
24 genealogical work I did on my family.

25 Q. Is there a Sultenstal in your family?

0095

1 A. It was associated with Sultenstal, yes.

2 Q. Well, I'm aware of a Celanese employee named
3 Sultenstal who was in the Bishop, Texas plant that was a
4 member of the chemical section executive committee of the
5 National Safety Council. Do you know of any such person?

6 A. No, I don't.

7 Q. Do you know which particular committees
8 Mr. Flemming was involved in in the NSC?

9 A. No.

10 Q. Do you know if he was involved in the textile
11 section executive committee?

12 A. I don't know that.

13 Q. You just know he was a member of the NSC?

14 A. Yes.

15 Q. You know he went to the meetings?

16 A. Yes.

17 Q. Did you ever attend any of the meetings of the
18 petroleum section of the NSC?

19 A. No.

20 Q. Do you know if Mr. Flemming did?

21 A. I don't know.

22 Q. Do you know if any person did from Celanese?

23 A. No, I don't.

24 Q. Are you familiar with an individual named
25 Mr. Pabst from Mobil?
0096
1 A. No.
2 Q. And that's Pabst like the beer, P-a-b-s-t.
3 A. No.
4 Q. All right. Who is Ann Rutherford or Retherford?
5 A. She was a health chemist at the Bishop plant.
6 Q. Do you know when she was first hired?
7 A. No. No, I don't know the exact dates on that.
8 Q. Was she around in the '60s?
9 A. It's possible that she could be there in the
10 late '60s.
11 Q. Do you remember her primarily from the 1970s,
12 then?
13 A. Yes. Yes.
14 Q. Sir, are you being compensated in any way for
15 being here today?
16 A. Yes.
17 Q. How are you being compensated?
18 A. What do you mean how?
19 Q. Well, I imagine it's with money, but in what
20 way? Are you being paid an hourly rate today?
21 A. I believe so. I haven't discussed it with
22 anybody.
23 Q. Do you know how much you plan to charge?
24 A. I was paid in past deposition \$125 an hour.
25 Q. Have you gotten any raise?
0097
1 A. Raise?
2 Q. Yes. Have you asked for a raise?
3 A. No, I don't -- my first deposition I -- my
4 second deposition that I ever did, I got nothing.
5 Q. Do you plan to send a bill to Mr. Hutchins for
6 today's deposition?
7 A. No.
8 Q. Who are you going to send your bill to?
9 A. Nona Walker.
10 Q. Okay. Are you going to bill for the four hours
11 that you spent yesterday preparing as well?
12 A. Yes.
13 Q. When you were working for Kemper, did you learn
14 about the effective use of respirators?
15 A. No.
16 Q. When did you first learn about how respirators
17 were to be used effectively?
18 A. I took one of the government courses.
19 Q. When did you take that course?
20 A. It was in the latter part of the '70s.
21 Q. So in the late 1970s was the first time that you
22 took a course having to do with proper respirator use?
23 A. Yes.
24 Q. What organization put on that class?
25 A. I think it was a NIOSH-sponsored course.
0098
1 Q. Were those courses available in the early '70s?
2 A. There were several courses available before the
3 '70s. Started some of them in the '50s.
4 Q. Okay. Did you take any of those courses?
5 A. I believe I said I did prior to this. I took
6 radiation courses and noise courses and general

7 industrial hygiene, use of instruments.
8 Q. You're speaking generally?
9 A. Yes.
10 Q. With regard to just respirators, were there any
11 other courses offered prior to the late 1970s?
12 A. I'm not -- I'm not sure of that.
13 Q. Did you ever teach any classes or any courses or
14 give any lectures regarding the proper use of respirators
15 at Celanese?
16 A. No, I did not.
17 Q. Did you issue any memorandum regarding the
18 proper use of respirators at Celanese?
19 A. No.
20 Q. Do you know whether or not respirators were
21 available at Celanese from 1966 to 1970?
22 A. I had heard that they were available.
23 Q. You don't know anything other than that?
24 A. I don't know anything more than that.
25 Q. You don't know whether workers were taught how
0099
1 to use them properly or anything?
2 A. No, I don't know.
3 Q. Can you give me some examples of engineering
4 controls for air contaminants?
5 MR. HUTCHINS: Object to the form.
6 A. Local exhaust ventilation, that --
7 Q. Anything else?
8 A. Well, you might say substitution of new -- of
9 different materials.
10 Q. And obviously, substitution would be -- if you
11 had materials that did not contain asbestos, substitution
12 would be a very easy way to prevent exposure to asbestos?
13 MR. HUTCHINS: Object to the form.
14 Q. Isn't that true?
15 A. Well, if you didn't have asbestos in the product
16 you were using, you would have no exposure to it.
17 Q. Right. So if, for instance, Celanese was using
18 pipe insulation that contained asbestos and there was a
19 nonasbestos substitute available, use of the nonasbestos
20 substitute could potentially prevent exposure?
21 A. That's true.
22 Q. Do you know when Celanese decided to stop using
23 asbestos-containing insulation in its plants?
24 A. It would be contained in that memorandum that
25 was sent out, the exact date.
0100
1 Q. And I'll look at that. Do you know why that
2 decision was made?
3 A. They wanted to eliminate asbestos.
4 Q. Do you know why the decision wasn't made
5 earlier?
6 A. No, I don't know why.
7 Q. Are you aware that there were substitutes for
8 asbestos-containing products in the early '70s and late
9 '60s?
10 MR. HUTCHINS: Object to the form.
11 A. I'm not aware of it.
12 Q. Do you know whether or not the library at
13 Celanese contained information received from asbestos
14 product manufacturers?
15 A. I am not aware of exactly, but a material safety

16 data sheet was supplied to us.
17 Q. But you don't remember exactly when that
18 occurred?
19 A. That would be attached to that memo.
20 Q. Okay. Did you receive copies of the Federal
21 Register while you were at Celanese?
22 A. Yes.
23 Q. When did you first receive copies of the Federal
24 Register?
25 A. Prior to OSHA.
0101
1 Q. How long prior to OSHA?
2 A. Probably when we heard that OSHA was going to be
3 involved.
4 Q. Would that be within the few years prior to the
5 OSHA Act being passed?
6 A. Yes.
7 Q. Were you hoping to get a head start on what OSHA
8 would require, or what was your purpose in obtaining the
9 Federal Register?
10 A. We just wanted to look at what was coming out.
11 We knew that we were operating in a safe manner. We
12 considered that.
13 Q. So you were consulting the Federal Register to
14 see what other things might be required of you?
15 A. Yes.
16 Q. You said you knew you were operating in a safe
17 manner. Is that your opinion as to how Celanese
18 operated?
19 A. That was my opinion, yes.
20 Q. I imagine that's still your opinion today; is
21 that right?
22 A. Pardon?
23 Q. Is it still your opinion today that Celanese was
24 a safe company?
25 A. I don't know what -- how Celanese is operating
0102
1 today.
2 Q. Let me rephrase the question. That was a bad
3 question. Let me ask it this way: Is it still your
4 opinion that Celanese was operating as a safe company for
5 the 13 years that you worked there?
6 A. Yes.
7 Q. Did you personally conduct any of the hiring of
8 plant safety personnel?
9 A. No.
10 Q. Are you aware of what the requirements were for
11 those individuals' educations and backgrounds?
12 A. No.
13 Q. Do you know whether the plant safety personnel
14 hired for Celanese did their jobs well?
15 A. Say that again now.
16 Q. Are you aware as to whether or not the safety
17 personnel who were hired for Celanese plants did their
18 jobs well?
19 A. Yes.
20 Q. Is this just your feeling or were you there
21 observing them?
22 A. Well, talking with them I felt that they were
23 doing their job.
24 Q. Do you know whether -- aside from any

25 monitoring, air monitoring you did, do you know whether

0103

1 or not any of the plant safety personnel did air
2 monitoring from 1966 to 1972?

3 A. There was some monitoring done, yes.

4 Q. Was it for airborne contaminants like
5 formaldehyde or vapors or was it for dust?

6 A. Vapors and -- well, solvent vapors and other
7 airborne contaminants.

8 MR. PANATIER: Okay. Let's take a break and
9 I'll look at that document.

10 THE VIDEOGRAPHER: We are off the record

11 11:54.

12 (Recess taken.)

13 THE VIDEOGRAPHER: We are were on the record
14 at 12:02.

15 Q. Mr. Laubly, I think I only have a few more areas
16 to question you about. The first question I have for you
17 is: When you left Celanese, did you leave your copies of
18 Patty's and the Drinker Hatch studies there?

19 A. No.

20 Q. Did you keep them?

21 A. Yes.

22 Q. Do you still have them?

23 A. No.

24 Q. Sir, have you ever seen a designation or a
25 report of what you are going to testify about in one of

0104

1 these cases? Has anyone ever shown you a designation?

2 A. I don't recall that.

3 (Exhibit No. 2 marked.)

4 Q. Let me show this to you. This is Exhibit Number
5 2, and your name the highlighted there under number 7 and
6 it continues onto the next page. I'm not going to ask
7 you to read it. I just want you to tell me if you
8 recognize that.

9 A. (Reviewed document.)

10 Q. Have you ever seen that before, sir?

11 A. This?

12 Q. Yes.

13 A. No, I have never seen this.

14 Q. Okay. Let me ask you one or two questions about
15 it. It says here that you will testify that the usage of
16 asbestos at Celanese's facilities were relatively minor
17 and that the potential for asbestos exposure at each
18 plant over time was extremely low.

19 Does that sound like something you would
20 testify to?

21 A. I don't recall that at all.

22 Q. Do you know anything about the amounts of
23 asbestos products used at Celanese's facilities?

24 A. No.

25 Q. Did you ever participate in the ordering of

0105

1 those products?

2 A. No.

3 Q. Did you ever see any invoices for those
4 products?

5 A. No.

6 Q. Have you ever talked to the people who did do
7 the ordering for those products?

8 A. No, I don't believe so.
9 Q. So is it fair to say that you really don't know
10 how much asbestos-containing products were used at
11 Celanese?
12 A. That's true.
13 Q. So at the Bishop plant, you really don't have
14 any idea about the quantities or the types of asbestos
15 products that were used, do you?
16 A. No.
17 MR. PANATIER: That's number 2.
18 Q. Sir, do you agree that once you are aware that
19 there is a dangerous substance in your plants -- and
20 let's take you, for instance. Once you were aware that
21 asbestos was being used in Celanese facilities, don't you
22 agree that it would have been important to get rid of any
23 potential exposures to that asbestos as soon as possible?
24 MR. HUTCHINS: Object to the form.
25 A. I think we wanted to get rid of it -- the
0106
1 asbestos, yes.
2 Q. Do you agree that those asbestos-containing
3 products should have been removed as soon as practicable?
4 MR. HUTCHINS: Same objection.
5 Q. With no unnecessary delays.
6 MR. HUTCHINS: Object to the form.
7 A. I don't know how to answer that.
8 Q. Are you confused by the question?
9 A. Yes.
10 Q. Okay. Let me see if I can rephrase it.
11 When you arrived at Celanese, you already
12 knew that asbestos could cause asbestosis, correct?
13 A. Based on the two studies I did, yes.
14 Q. And so knowing that asbestos-containing
15 materials could cause this disease, asbestosis, did you
16 take any steps to look into whether or not
17 asbestos-containing materials could be removed at
18 Celanese?
19 A. No, I did not.
20 MR. PANATIER: Do you mind if I use this
21 copy to attach it to the record?
22 MR. HUTCHINS: I'm sure we can get a copy
23 made here at the hotel. I would like that back. We can
24 certainly use it here for purposes of our deposition.
25 (Exhibit No. 3 marked.)
0107
1 MR. PANATIER: Then I won't put a sticker on
2 this, but we'll refer to it as Exhibit 3 and then you can
3 get your copy.
4 Q. Sir, can you please take a look at that document
5 and tell me if that's the same document you reviewed
6 yesterday.
7 A. (Reviewed document.) Yes.
8 Q. When you reviewed that document, did you have an
9 opportunity to review the entire document?
10 A. Yes.
11 Q. Did you read through it thoroughly?
12 A. I looked it over, yes.
13 Q. Does that appear to be a fair and accurate copy
14 of that memo as you remember it from Celanese?
15 A. Yes.
16 Q. I believe the last page of that memo is part of

17 an MSDS sheet for Kaylo.
18 A. Yes.
19 Q. Have you seen that?
20 A. Yes.
21 Q. And there are several precautions listed on that
22 sheet such as no dry sweeping. Do you see that?
23 A. What was that?
24 Q. It says, no dry sweeping.
25 A. Yes.

0108

1 Q. All right. In the page prior to that, if you'll
2 turn to the page on the front of that, it appears to be a
3 letter from the manufacturers of Kaylo; is that true?
4 A. Yes. Yes.
5 Q. Can you please read that aloud, the body of that
6 paragraph?
7 A. Development work is underway --
8 Q. Yes.
9 A. -- to remove this asbestos from our Kaylo line
10 and hopefully should be successful in the near future.
11 Q. Do you know when Celanese began using
12 nonasbestos Kaylo products?
13 A. I believe it's in this memo, is it not?
14 Q. If you can gather the answer from that memo, can
15 you go ahead and tell us?
16 A. It had to be prior to 1972.
17 Q. You believe it was prior to 1972 that you began
18 to remove the asbestos-containing products from your
19 lines?
20 A. Well, it's says here, Many of our plants have
21 made similar surveys for the potential asbestos
22 exposures.
23 Q. What's that dated?
24 A. 8/10/72.
25 Q. Do you know when Celanese stopped purchasing

0109

1 asbestos-containing materials?
2 A. No, I don't know.
3 Q. Were you part of the decision that was made to
4 stop purchasing asbestos-containing materials at
5 Celanese?
6 A. No, I was not part of the decision.
7 Q. And that was a sloppy question. Let me rephrase
8 that.
9 Were you one of the individuals who assisted
10 in making the decision and the determination to stop
11 buying asbestos-containing materials for use at Celanese
12 plants?
13 A. No, I was not.
14 Q. Sir, have you understood my questions today to
15 the extent that I haven't rephrased certain questions?
16 A. For the most part, yes.
17 Q. Okay. Whenever there was any confusion, did you
18 ask me to rephrase the questions?
19 A. In some instances, yes.
20 Q. Are you saying now that there were times when
21 you were confused and you went ahead and answered the
22 question?
23 A. No. No. No.
24 Q. Okay.
25 MR. PANATIER: Sir, I appreciate your time

0110

1 very much today, and I have no further questions right
2 now.

3 MR. HUTCHINS: Mr. Laubly, if you're ready
4 to go forward, I have a few questions I would like to ask
5 you.

6 THE WITNESS: Okay.

7 MR. HUTCHINS: Is that all right?

8 THE WITNESS: Fine.

9 EXAMINATION

10 BY MR. HUTCHINS:

11 Q. Mr. Laubly, you were asked a question regarding
12 whether in 1949 you knew that certain pneumoconioses
13 could be fatal. First of all, for the benefit of our
14 jury, what are pneumoconioses?

15 A. They are agents that cause a lung disorder.

16 Q. Dusts?

17 A. Huh?

18 Q. Dusts?

19 A. Dust.

20 Q. In 1949, which pneumoconioses did you understand
21 could be fatal?

22 A. I knew of no dust that could be fatal.

23 Q. Okay. In the 1940s, 1950s, and 1960s, as you
24 recall, what were the occupational exposures to dust that
25 were of the greatest focus or interest to industrial

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1 hygienists of such as yourself?

2 MR. PANATIER: Objection; form.

3 THE REPORTER: I'm sorry, I didn't hear your
4 answer.

5 THE WITNESS: Pardon?

6 THE REPORTER: What was your answer?

7 A. Silica dust.

8 Q. Mr. Laubly, you were also asked some questions
9 regarding your understanding of asbestosis while you were
10 employed as an industrial hygienist at Kemper. Do you
11 recall those questions?

12 A. Yes.

13 Q. Is it your understanding, Mr. Laubly, that
14 asbestosis is what is known as a dose-response disease?

15 A. Yes.

16 Q. Would you explain what that means? What is a
17 dose-response disease?

18 A. It's the amount of the material that could
19 potentially cause a disease.

20 Q. So the risk of a response would be a function of
21 the dose of exposure?

22 MR. PANATIER: Objection; leading.

23 A. Yes.

24 Q. In the 1940s, 1950s, 1960s, what was your
25 understanding of the dose of asbestos exposure required

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1 to produce the condition asbestosis?

2 A. In the 1940s and '50s, we didn't know the amount
3 that would cause the disease.

4 Q. Did the ACGIH have a --

5 A. They had an MAC level that -- at that time and
6 it was a very high level. It was part of the -- almost
7 the nuisance dust level.

8 Q. Did that MAC which you have said was high, was

9 that the in place in the 1940s as you recall?
10 A. Yes.
11 Q. Was that same MAC, or I think's also called a
12 threshold limit value; is that right?
13 A. It wasn't called a threshold limit value. It
14 was still just MAC.
15 Q. Did that stay in effect, that same one, in the
16 1950s?
17 A. Yes.
18 Q. In the 1960s?
19 A. Yes.
20 Q. In the 1940s, 1950s, and 1960s, Mr. Laubly, was
21 it your understanding that everybody potentially exposed
22 to asbestos stood a risk of the disease asbestosis?
23 MR. PANATIER: Objection; leading.
24 A. I didn't know that.
25 Q. Did you have an understanding of particular
0113 types of workers or occupational groups that might
2 potentially stand at risk of asbestosis?
3 A. I only knew about those that I had studied.
4 Q. Which groups, again, did you study, Mr. Laubly?
5 A. The Mastic Tile people and the Asbestos Brake
6 Lining.
7 Q. Why did you do asbestos dust studies in those
8 two locations from among all of the other plants you
9 visited while you were at Kemper, Mr. Laubly?
10 A. Because it was -- it appeared that it was a
11 dusty job, and we wanted to evaluate the extent of that
12 exposure.
13 Q. What did they make in those plants, Mr. Laubly?
14 A. Mastic Tile, of course, made floor tile, and the
15 Asbestos Brake Lining was used in actual brake lining.
16 And the name of that company today is called Raybestos.
17 Whether or not it has asbestos in it or not, I don't
18 know.
19 Q. What were the ingredients or the constituents
20 those two plants made to make those products, the floor
21 tiles and the brakes?
22 A. It was vinyl plastic and asbestos and other
23 binding material to make the floor tile.
24 Q. Was this raw or bulk asbestos, or was it some
25 other type of asbestos being used in those facilities?
0114
1 A. Again?
2 Q. Was that a raw or bulk asbestos fiber being used
3 or was it some other application in those facilities?
4 A. It was raw material.
5 Q. Mr. Laubly, in the 1940s, 1950s, or 1960s, did
6 you understand or have any reason to believe that users
7 of finished end use asbestos-containing products stood at
8 any risk of disease from using those types of products?
9 A. I was not aware of that.
10 MR. PANATIER: Objection; leading.
11 Q. Outside of the context that you have just
12 mentioned to us, the Mastic Tile plant, the brake plant,
13 in the 1940s, 1950s, 1960s, was it your understanding
14 based on your training and experience that finished
15 asbestos-containing products posed a hazard in other
16 types of workplaces?
17 A. No.

18 Q. You were asked some questions, sir, regarding
19 ventilation and use of other sorts of engineering
20 procedures at the Bishop plant.
21 Was the Bishop plant an enclosed operation?
22 A. No. It was an open operation.
23 Q. Well, when you say open, was there a roof over
24 the plant?
25 A. No. There was no roof over the plant. It was
0115
1 pipelines going all through the plant, plant areas.
2 Q. But those were all outdoors?
3 MR. PANATIER: Objection; leading.
4 A. Pardon?
5 Q. Are you saying those were all outdoors?
6 A. Mostly outdoors, yes.
7 Q. Mr. Laubly, you were also asked some questions
8 about action levels in connection with threshold limit
9 values.
10 Do you have any understanding as to whether
11 the concept of action levels came into being prior to the
12 1970s?
13 A. No. No, I don't.
14 Q. Is it your recollection that the concept of
15 action levels came into being during the 1970s?
16 MR. PANATIER: Objection; leading.
17 MR. HUTCHINS: He can answer it any way he
18 wants.
19 A. Probably came into being in the 1970s.
20 Q. Do you recall whether that would be before or
21 after the OSHA permissible exposure limits for various
22 substances?
23 A. I don't recall the exact date on that.
24 Q. Okay. One last thing, if I could. This will be
25 marked as Exhibit 3 to your deposition. And this is a
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1 series of memoranda from the 1972 time period, including
2 one authored by you; isn't that true, Mr. Laubly? I'll
3 ask it again. What we have marked or will mark as
4 Exhibit 3 to our deposition is a series of memoranda from
5 the 1972 time frame. And one of those is, in fact,
6 authored by you?
7 A. Yes.
8 Q. Isn't that correct?
9 A. Yes.
10 Q. Are the contents of the various memoranda
11 attached in our Exhibit 3 one from Joe Cantrell at the
12 Bishop plant, one from you to the various plants, one
13 from Mr. Jerry Lundsford at the Greenville plant? Is
14 that an accurate summary of the status of Celanese's
15 efforts to deal with asbestos issues in the 1972 time
16 frame?
17 A. Yes.
18 MR. HUTCHINS: Okay. Can we take just a
19 brief break because I think I'm just about done.
20 THE VIDEOGRAPHER: We are off the record at
21 12:21.
22 (Recess taken.)
23 THE VIDEOGRAPHER: We are on the record at
24 12:24.
25 MR. HUTCHINS: With that, Mr. Laubly, I have
0117

1 no further questions for your.
2 MR. PANATIER: I have no further questions
3 for your, Mr. Laubly. Thank you very much.
4 MR. HUTCHINS: You have the right to review
5 the transcript of this deposition. Would you like to
6 exercise that right?
7 THE WITNESS: Yes.
8 MR. HUTCHINS: We will proceed in that
9 fashion. Thank you very much for your time.
10 THE WITNESS: Thank you.
11 THE VIDEOGRAPHER: We are off the record at
12 12:24.
13 (Deposition concluded at 12:24 p.m.)
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CHANGES AND SIGNATURE			
WITNESS: CHARLES LAUBLY			
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1
2 I, CHARLES LAUBLY, have read the foregoing
3 deposition and hereby affix my signature that same is
4 true and correct, except as noted above.
5

6
7 CHARLES LAUBLY

8 THE STATE OF TEXAS)
9 COUNTY OF DALLAS)
10

11 Before me, _____, on this day
12 personally appeared CHARLES LAUBLY, known to me (or
13 proved to me under oath or through _____)
14 (description of identity card or other document)) to be
15 the person whose name is subscribed to the foregoing
16 instrument and acknowledged to me that they executed the
17 same for the purposes and consideration therein
18 expressed.
19 Given under my hand and seal of office this
20 _____ day of _____, 2002.
21
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0120
19 NOTARY PUBLIC IN AND FOR
20 THE STATE OF _____
21
22
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24
25

0120
1 NO. 99-06508-M
2 THURMAN HARMON; GLENDELL DON) IN THE DISTRICT COURT
3 MAXEY; MINNIE JUNE MCGUIRE,)
4 Individually and as Personal)
5 Representative of the Heirs and)
6 Estate of ALVA RADO MCGUIRE,)
7 Deceased; ASILDO LOPEZ PEREZ;)
8 CHARLES REEVES; FIDENCIO ORTA)
9 SANCHEZ; and ENRIQUE C. URQUIZO)
10 and JUANITA URQUIZO,)
11)
12 Plaintiffs,)
13)
14 VS) DALLAS COUNTY, TEXAS
15)
16 OWENS CORNING, et al.,)
17)
18 Defendants.) 298TH JUDICIAL DISTRICT
19
20
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25

11 REPORTER'S CERTIFICATION
12 DEPOSITION OF CHARLES LAUBLY
13 DECEMBER 13, 2002
14

15 I, Michelle L. Munroe, Certified Shorthand Reporter
16 in and for the State of Texas, hereby certify to the
17 following:
18 That the witness, CHARLES LAUBLY, was duly sworn by
19 the officer and that the transcript of the oral
20 deposition is a true record of the testimony given by the
21 witness;
22 That the deposition transcript was submitted on
23 _____, 2002 to the witness or to the attorney
24 for the witness for examination, signature and return to
25 me by _____, 2002.
0121

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

3 Mr. Panatier - 2 hours, 30 minutes
Mr. Hutchins - 9 minutes

4 That pursuant to information given to the deposition
5 officer at the time said testimony was taken, the
6 following includes counsel for all parties of record:

7 Mr. Panatier, Attorney for Plaintiffs
Mr. Hutchins and Ms. Walker, Attorneys for
8 Defendant Celanese
Mr. Muller, Attorney for Defendant
9 Brown & Root

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties or
12 attorneys in the action in which this proceeding was
13 taken, and further that I am not financially or otherwise
14 interested in the outcome of the action.

15 Further certification requirements pursuant to Rule
16 203 of TRCP will be certified to after they have
17 occurred.

18 Certified to by me this _____ day of _____,
19 2002.

20
21

22 MICHELLE L. MUNROE, CSR 6011
Expiration Date: 12-31-03
23 HENJUM GOUCHER REPORTING SERVICE
2501 Oak Lawn Avenue, Suite 435
24 Dallas, Texas 75219
(214) 521-1188

25
0122

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2
3 The original deposition was/was not returned to
4 the deposition officer on _____, 2002; If
5 returned, the attached Changes and Signature page
6 contains any changes and the reasons therefor;

7 If returned, the original deposition was delivered to
8 _____, Custodial Attorney;

9 That \$_____ is the deposition officer's charges
10 to the Plaintiffs for preparing the original deposition
11 transcript and any copies of exhibits;

12 That the deposition was delivered in accordance with
13 Rule 203.3, and that a copy of this certificate was
14 served on all parties shown herein on and filed with the
15 Clerk.

16 Certified to by me this _____ day of _____,
17 2002.

18
19

20 MICHELLE L. MUNROE, Texas CSR 6011
Expiration Date: 12-31-03
21 HENJUM GOUCHER REPORTING SERVICE
2501 Oak Lawn Avenue, Suite 435
22 Dallas, Texas 75219
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