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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

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KENNA HALL, et al.,
Plaintiff,

vs.
ASBESTOS CORPORATION, LTD.,
et al.,

No. 835640-0

Defendants.

DEPOSITION OF BRUCE KETCHAM

Taken before DENISE M. LOMBARDO
CSR No. 5419
June 7, 2005

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I N D E X

EXAMINATION BY MS. GROSS

PAGE
5

E X H I B I T S

PLAINTIFFS'

PAGE
5

1 Notice of Taking the Deposition of
Custodian(s) of Records and Person(s)
Most Knowledgeable of Defendant
Rockwell International

2 Order dated May 27, 2005

15

3 Handwritten document consisting
of one page

20

4 Letter dated August 20, 1993

49

5 Spreadsheet

56

6 Document entitled "Sales by Principal
Customers, September 1971"

58

7 Document entitled "Customer Sales
Analysis," dated September 1979

60

8 Defendant Rockwell International
Corporation's Responses to Plaintiffs'
Standard Interrogatories to Friction
Defendants

72

9 Slide Presentation AV-91109

76

10 Document entitled "Brake Parts,"
Rockwell

114

11 Document dated August 15, 1972

126

12 Letter dated May 19, 1975

127

Ketcham Bruce - Hall Kenna 6-7-05.TXT
24 13 Answers of Defendant Rockwell 132
Automation

25
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1 DEPOSITION OF BRUCE KETCHAM
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3 BE IT REMEMBERED, that pursuant to Notice, and on
4 the 7th day of June 2005, commencing at the hour of
5 9:22 a.m., in the offices of Kazan, McClain, Edises,
6 Abrams, Fernandez, Lyons & Farrise, 171 - 12th Street,
7 Suite 300, Oakland, California, before me, DENISE M.
8 LOMBARDO, a Certified Shorthand Reporter, personally
9 appeared BRUCE KETCHAM, produced as a witness in said
10 action, and being by me first duly sworn, was thereupon
11 examined as a witness in said cause.
12

13 ---o0o---

14
15 TERRY N. GROSS, Kazan, McClain, Edises, Abrams,
16 Fernandez, Lyons & Farrise, 171 - 12th Street, Suite
17 300, Oakland, California 94607, appeared on behalf of
18 the Plaintiffs.
19

20 CHRISTOPHER A. KEELE, Stoe] Rives, 111 Sutter
21 Street, Suite 700, San Francisco, California 94104,
22 appeared on behalf of the Defendant Rockwell
23 International, Inc.
24

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1 VALERIE E. ROSS, Goodwin Procter, 901 New York
2 Avenue, N.W, Washington, D.C. 20001, appeared on behalf
3 of the Defendant Rockwell International, Inc.
4

5 CHARLES OSTHIMER, Wright, Robinson, Osthimer &
6 Tatum, 44 Montgomery Street, 18th Floor, San Francisco,
7 California 94104, appeared on behalf of the Defendant
8 Freightliner Corporation.
9

10 FRANK M. STEVENS, Stevens, Drummond & Gifford,
11 1910 Olympic Boulevard, Suite 250, Walnut Creek,
12 California 94596, appeared on behalf of the Defendant
13 Pneumo Abex Corporation.
14

15 JENNIFER J. LEE, McKenna, Long & Aldridge, One
16 Market Street, San Francisco, California 94105,
17 appeared on behalf of the Defendants Maremont
18 Corporation; and Kelsey-Hayes.
19

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1 BRUCE KETCHAM,
2 sworn as a witness,
3 testified as follows:
4 (Plaintiffs' Exhibit No. 1 marked for
5 Identification.)
6 EXAMINATION BY MS. GROSS:

7 Q. Good morning, Mr. Ketcham. As you know, my
Page 2

8 name is Terry Gross and I represent the plaintiffs in
9 this case.

10 Could you please state your name for the
11 record.

12 A. Good morning. My name is Bruce Ketcham.

13 Q. What is your business address?

14 A. Business address is 39100 Country Club Drive in
15 Farmington Hills, Michigan.

16 MS. GROSS: Could counsel here identify
17 themselves and state whether they're admitted or not to
18 the California state bar.

19 MR. KEELE: Christopher Keele, K-e-e-l-e,
20 appearing for Rockwell International. Yes, I am
21 admitted to the California state bar.

22 MS. ROSS: I'm Valerie Ross and I'm not
23 admitted.

24 MR. STEVENS: Frank Stevens, Stevens Drummond &
25 Gifford. I am a member of the bar and have been for 32

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1 years.

2 MS. ROSS: My application for pro hac vice in
3 this particular matter is currently pending before the
4 court.

5 BY MS. GROSS:

6 Q. I was going to ask you, Mr. Ketcham, if you've
7 had your deposition taken before, but I understand that
8 you have.

9 Can you tell me the number of times that you've
10 had your deposition taken?

11 A. I would estimate somewhere between 12 and 15
12 times.

13 Q. Who is your employer, Mr. Ketcham?

14 A. I am employed by Exponent, Incorporated.

15 Q. Were the depositions taken in relationship to
16 your work with Exponent?

17 A. Some of them were.

18 Q. When was the first time you had your deposition
19 taken? How many years ago?

20 A. I believe it was in about 1993.

21 Q. Who was your employer at that time?

22 A. Rockwell International Corporation.

23 Q. Can you tell me, of the 12 or 15 times that
24 your deposition was taken, was that related to your
25 work for Rockwell International?

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1 A. Some of them were, yes.

2 Q. I'm primarily interested in the depositions
3 that were taken related to your work with Rockwell.

4 Can you tell me, were any of those depositions
5 taken in California?

6 A. Taken here in California?

7 Q. Yes.

8 A. Physically taken in California?

9 Q. Yes.

10 A. I don't believe so. I'm not certain.

11 Q. Is there any way for you to tell me how many of
12 those depositions were taken in asbestos-related
13 actions?

14 A. In friction asbestos actions, I've had one
15 other deposition.

16 Q. What was that one other deposition?

17 A. The case name are you referring to?

18 Q. Yes.

19 A. I believe it was Douglas. I don't recall the
20 full case caption.

21 Q. That was the name of the plaintiffs, Douglas?

22 A. Yes.

23 Q. Have you ever testified in an asbestos-related
24 trial?

25 A. Yes, I have.

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1 Q. How many times?

2 A. Twice.

3 Q. Can you tell me the date of the first time that
4 you testified in an asbestos-related trial?

5 A. I don't recall the precise date.

6 Q. Can you give me the year?

7 A. Probably not the precise year.

8 Q. I'm sorry?

9 A. Probably not the precise year.

10 Q. Was it in the 1990s?

11 A. No.

12 Q. 1980s?

13 A. No. It was in the 2000s.

14 Q. Do you recall the caption of that case?

15 A. I believe it was Bargelski, and I don't recall
16 the named defendant.

17 Q. And what was the nature of your testimony in
18 that case?

19 A. It related to the sale and distribution of
20 friction products by Rockwell International.

21 Q. Were you called as a witness by Rockwell?

22 A. I was called as a witness by ArvinMeritor.

23 Q. Other than the sale and distribution by
24 rockwell of friction products, what else was included
25 in your testimony in that trial?

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1 A. That was -- I think that was primarily what it
2 was about. I don't recall the other specifics at this
3 time.

4 Q. The second trial, that was after 2001, I
5 assume?

6 A. Yes.

7 Q. When was that; do you recall?

8 A. That was in 2004.

9 Q. Where was that case?

10 A. In San Francisco.

11 Q. Do you recall the name of the caption of that
12 case?

13 A. The plaintiff's name was Crow.

14 Q. Do you recall plaintiff's counsel?

15 A. I don't.

16 Q. What was the nature of your testimony at the
17 second trial that you testified in?

18 A. Again, it was primarily related to the sales
19 and distribution of friction products.

20 Q. How long have you worked at your current
21 employer?

22 A. Since 2000.

23 Q. I'm going to quickly go through some of the
24 admonitions related to depositions in California.
25 Since you've been deposed so many times and testified

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1 at trial, I'll keep it brief.

2 First, I know that you understand that the
3 court reporter is taking down your testimony and that

4 even though we're in the informal conference room at my
5 office, your testimony is the same as if it's given in
6 a court of law.

7 You understand that?

8 A. Yes, I do.

9 Q. And we are interested in your best testimony
10 this morning. We're not interested in any guesses, but
11 certainly, with your experience, we are entitled to
12 your best estimate regarding the questions that I ask
13 this morning.

14 You understand that?

15 A. Yes, I do.

16 Q. You will have an opportunity, as you have in
17 the past, to review your deposition testimony and make
18 note of any errors, but I'm sure you understand that if
19 you do wish to make changes or if there are any
20 corrections, that can be commented upon at trial to
21 your embarrassment.

22 Do you understand that?

23 A. Yes, I do.

24 Q. Are you taking any drugs or medication or is
25 there any other reason why you can't give us your best

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1 testimony this morning?

2 A. No, there is not.

3 Q. What do you do for -- is it Exponent?

4 A. Exponent.

5 Q. Exponent is your current employer since 2000?

6 A. That's correct.

7 Q. What do you do for them?

8 A. My position title is senior managing engineer.

9 I'm an engineering consultant.

10 Q. What does that mean in terms of job duties?

11 A. It could involve the investigation of accidents
12 and crashes, perhaps dealing with clients on certain
13 potential recall-related matters, those types of
14 duties.

15 Q. Do you have any degrees that render you an
16 expert in any of those areas?

17 A. I have several degrees, yes.

18 Q. Why don't you briefly describe your educational
19 background.

20 A. Okay. I have an electrical engineering degree
21 and a degree in industrial economics from Union
22 College. I have a Master's in business administration
23 from Xavier University, and I have a law degree from
24 the University of Detroit.

25 Q. Have you practiced law?

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1 A. No, I have not.

2 Q. What is the relationship between Exponent and
3 Rockwell, if any?

4 A. There is no relationship beyond the client.

5 Q. So Rockwell is a client of Exponent; is that
6 correct?

7 A. Yes.

8 Q. Can you tell me how Rockwell became a client of
9 Exponent?

10 A. Rockwell, through their counsel, hires Exponent
11 to represent them or to assist them in certain matters.

12 Q. Does that include asbestos-related matters?

13 A. Yes, it does.

14 Q. Are you being paid by Rockwell to appear here

15 today?

16 A. I'm being paid by counsel for Rockwell.

17 Q. Can you tell me what your hourly wage is?

18 A. Exponent currently bills \$235 per hour for my
19 services.

20 Q. Did you ever work for Rockwell?

21 A. Yes, I did.

22 Q. Can you tell me the years of your employment?

23 A. I began working with them in 1978 and continued
24 through September of 1997. In '97, as you may be
25 aware, Rockwell International spun off the automotive

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1 businesses that they owned into a separate company
2 called Meritor Automotive, and I continued working for
3 them up until the year 2000.

4 Q. Have you reviewed anything in preparation for
5 your deposition today?

6 A. Yes, I have.

7 Q. What have you reviewed?

8 A. I've reviewed some interrogatory responses,
9 some of my prior testimony, and I've also reviewed some
10 documents.

11 Q. What prior testimony did you review?

12 A. The testimony that I gave in the two trials and
13 the deposition that I previously mentioned.

14 Q. What documents did you review?

15 A. Documents regarding some of the -- relevant to
16 some of the questions that you asked in the deposition
17 notice.

18 Q. Where were the documents located that you
19 reviewed?

20 A. I reviewed them with counsel.

21 Q. Would that be counsel for Rockwell in
22 Washington, D.C., or local counsel?

23 A. The most recent ones I reviewed yesterday with
24 both counsels.

25 Q. Where did the -- do you know where the

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1 documents that you reviewed came from?

2 A. I believe that they're from the materials that
3 were -- are maintained by Goodwin Procter.

4 Q. During your employment with Rockwell, did you
5 have any responsibility for the maintenance of business
6 records?

7 A. Only tangentially.

8 Q. What do you mean by "tangentially"?

9 A. Well, to the extent that either myself or the
10 departments that I supervised created records that
11 were -- needed to be maintained or retained or
12 whatever, we compiled with that policy.

13 Q. Have you had an opportunity to review the
14 deposition notice that was served in this case back in
15 January of 2005?

16 A. I've seen one similar to this. I don't know if
17 it's the exact one or not, but, yes, I've seen the
18 notice.

19 Q. When was the first time that you saw it?

20 A. Last week I believe it was.

21 Q. I've already marked this as Plaintiffs' 1.

22 Have you seen a copy of this order that was
23 filed in Alameda County Superior Court?

24 A. I don't believe that I have seen that document.
25 I may have, but I don't believe so.

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1 Q. I'll mark this as plaintiffs' next.

2 MR. KEELE: Do you have copies of those,
3 Counsel?

4 MS. GROSS: I can make copies of them.
5 Actually, there's a copy of the deposition notice you
6 can keep.

7 (Plaintiffs' Exhibit No. 2 marked for
8 Identification.)

9 BY MS. GROSS:

10 Q. Is it your understanding that you're being
11 produced today as the custodian of records for Rockwell
12 International?

13 A. I don't know if that was my understanding.

14 Q. So you have no understanding one way or the
15 other of whether or not you're being produced as the
16 records custodian?

17 A. That's correct.

18 Q. Why don't we talk briefly, before we get into
19 the records custodian portion of the deposition notice,
20 about your job duties at Rockwell.

21 You started working at Rockwell International
22 in 1978; correct?

23 A. That is correct.

24 Q. What was your first job duty there?

25 A. My initial job title was sales order manager at

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1 their Florence, Kentucky, facility.

2 Q. What were your job duties there?

3 A. It was inside sales. The people that worked
4 for me handled the customer calls, the purchase orders
5 for service parts.

6 Q. What was the nature of Rockwell International's
7 business when you started working for them in 1978?

8 A. Rockwell International was a multinational
9 conglomerate at that point in time. The portion of the
10 business that I worked in was the automotive businesses
11 of Rockwell International.

12 Q. When you say "automotive businesses," what
13 kinds of vehicles are you including?

14 A. They made components for on-highway vehicles,
15 off-highway vehicles, industrial vehicles and passenger
16 cars and light trucks.

17 Q. What kind of components?

18 A. A whole variety of components. On the heavy
19 vehicle side, which is primarily the area that I was
20 working in, they made axle assemblies, brake
21 assemblies, drive lines and eventually went on to make
22 transmissions and clutches and joint ventures and ABS
23 components, plastic components. I think that was about
24 the major categories during the time that I was
25 employed by them in the heavy vehicle side of the

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1 business.

2 Q. Were you always employed in the heavy vehicle
3 side of the business at Rockwell International?

4 A. No, not always. Sometimes my later
5 responsibilities gravitated across both the light and
6 heavy vehicles segment.

7 Q. After your sales order manager job in Florence,
8 Kentucky, what else did you do?

9 A. My next position at Florence was as the
10 purchasing manager there.

11 Q. When did you start that job?

12 A. In 1978.

13 Q. What were your job duties as the purchasing
14 manager?

15 A. The people that worked for me were responsible
16 for buying and expediting what we call
17 purchase-complete items. Those were items such as
18 nuts, bolts, screws that were used in some of the
19 service parts that were distributed out of the Florence
20 facility.

21 People that worked for me also were responsible
22 for the nonproductive purchasing in the facility, such
23 as boxes and labels, as well as for contracts for the
24 operation of the facility.

25 Q. In 1978, was Rockwell manufacturing brake
000018 linings?

1 A. They were not manufacturing brake linings in
2 1978.

3 Q. Did your job duties as the purchasing manager
4 at the Florence, Kentucky, site include the purchase of
5 brake linings?

6 A. I can't recall. I don't know whether we
7 purchased those directly from the lining suppliers at
8 that point in time or whether we got the linings
9 through what I would call your interplant sources. For
10 instance, we ordered other materials from the various
11 Rockwell automotive manufacturing plants, and they were
12 shipped to the distribution center for further
13 distribution to the customers.

14 Q. Were the manufacturing plants manufacturing
15 brake linings?

16 A. No, they were not.

17 Q. So the manufacturing plants were purchasing
18 them from outside sources?

19 A. At that point in time, that's correct.

20 Q. Do you know who would have been in charge of
21 purchasing brake linings in 1978?

22 A. At that point in time, I believe that the
23 purchasing responsibilities resided with the plants.
24 So each individual manufacturing plant, as did
25

000019 Florence, had its own purchasing department.

1 Q. Was Florence a manufacturing plant or a supply
2 center?

3 A. At that point in time, they were strictly a
4 distribution center. They brought in components,
5 packaged them and reshipped them on out to customers.

6 Q. When you began working for Rockwell
7 International in 1978, how many manufacturing plants
8 were there, if you recall?

9 A. I would ask for a clarification, but that
10 wouldn't help either. I really don't recall.

11 Q. Was there some point in time in which you did
12 become aware of how many manufacturing plants Rockwell
13 International had during the 1970s?

14 A. Well, I generally knew the plants within the
15 automotive business, particularly within the heavy
16 vehicle segment side of the business, but, also, plants
17 were started and plants were closed during various
18 periods of time. So I don't know that I can give a
19 specific answer.

20 Q. Let's limit your answer to the side of the
21

22 company you are familiar with, the heavy vehicle side.
23 Can you tell me how many plants Rockwell had in
24 operation in 1978 with that limitation?

25 A. Not precisely, but would you like me to make an
000020 estimate?

1 Q. Take a stab at it.

2 A. Can I have a piece of paper and make some
3 scribbles?

4 Q. Sure.

5 A. Roughly, around 14. That's an estimate.

6 Q. That was in 1978?

7 A. Yes.

8 Q. You have a list in front of you. Is that a
9 list of locations?

10 A. Some of them are.

11 Q. Can we mark that as an exhibit for the
12 convenience of the court reporter?

13 A. If you wish. I don't think it's legible,
14 but...

15 Q. Thank you. And I'll be asking you about those
16 plants later.

17 (Plaintiffs' Exhibit No. 3 marked for
18 Identification.)

19 BY MS. GROSS:

20 Q. How long were you in the purchasing manager
21 position for Rockwell?

22 A. I believe that was until about 1982.

23 Q. Did the kinds of products that you were
24 purchasing change or did they remain the same?

25 A. The basic products remained the same. Part
000021 numbers may change, but the basic product remained the
2 same during that period of time.

3 Q. What did you do after that?

4 A. I became the production control manager at the
5 Florence facility.

6 Q. What does that mean?

7 A. As production control manager, I had the
8 various subdepartments reporting to me. At various
9 times they included the purchasing department, the
10 inventory control department, the specifications
11 department, the quality department, incoming, receiving
12 and production scheduling, and there may have been one
13 or two others at various points in time. I can't
14 recall.

15 Q. Was there a manufacturing plant at that time
16 located at Florence?

17 A. No, there was not.

18 Q. So what location's production were you
19 controlling?

20 A. The production at Florence.

21 Q. What was the production at Florence?

22 A. The packaging and distribution of service
23 parts.

24 Q. What do you mean by "service parts"?

25 A. Parts that are used in the service and repair
000022 of Rockwell assemblies that were sold.

1 Q. What Rockwell assemblies are you referring to?

2 A. All the components that were made or
3 distributed from the manufacturing plants which we have
4 previously talked about.

7 Q. How long did you stay in the position of
8 production control manager?

9 A. I was in that position till 1984.

10 Q. Then what did you do?

11 A. I became the division materials manager for the
12 on-highway axle division.

13 Q. What were your job duties in that position?

14 A. That was during a time of the consolidation of
15 the purchasing functions that were previously at all
16 the individual plants. They were now going through a
17 process of centralization.

18 I acted primarily as the coordinator liaison
19 between the central procurement unit that was being
20 established and the remaining purchasing materials
21 functions in the on-highway division plants.

22 I also had responsibility for various special
23 projects during that period of time.

24 Q. What kind of special projects?

25 A. There were all sorts of projects as far as
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1 relating to the distribution of goods to some of our
2 customers, such as line-setting operations, which is
3 basically shipping just in time to some of the
4 customers, as well as I was somewhat involved in the
5 conversion of the brake linings from asbestos to a
6 nonasbestos.

7 Q. During that 1984 time period when you were the
8 division materials manager --

9 A. That's correct.

10 Q. -- for on-highway vehicles, did any of your job
11 duties include purchasing brake linings for on-highway
12 vehicles?

13 A. That was on-highway axle division.

14 Q. On-highway axle division.

15 A. No.

16 Q. Who was responsible for purchasing brake
17 linings for the on-highway axle division?

18 A. That was during the transition at that point in
19 time from the plants to the centralized procurement
20 function in Troy. So it would have transitioned from
21 the individual buyers and purchasing management
22 responsibility in the plants to the buyers and the
23 purchasing management responsibilities in Troy,
24 Michigan, which is the headquarters.

25 Q. Can you tell me who that individual was? In
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1 1984 during the transition, who became responsible for
2 the purchasing of brake linings?

3 A. I'm not certain as I sit here.

4 Q. How would I find that information out?

5 A. Make a request.

6 Q. So you don't know who was purchasing brake
7 linings during the 1978 through 1984 time period.

8 That's correct?

9 A. I said that I believe that those brake linings
10 were being purchased by the buyers and purchasing
11 management people that were located in the plants that
12 purchased brake linings.

13 Q. You don't know the name of any of those
14 individuals; correct?

15 A. Probably, if I think about it, some will come
16 to me, but right now as I sit here, I don't.

17 Q. Tell me about your involvement with the

18 transition from asbestos to nonasbestos-containing
19 brake linings.

20 A. As I recall, that was primarily a process of
21 keeping the on-highway axle plants informed as far as
22 what was happening during that transition period.

23 Q. Who, if anyone else, were you working with on
24 the transition?

25 A. I'm sure I was working with some of the people
000025

1 in the procurement function as well as the materials
2 people in the axle plants that used brake linings or
3 brake assemblies in their product.

4 Q. Can you tell me the names of any of those
5 people?

6 A. I'm sure that if I thought about it somewhat, I
7 might be able to think of some, but as I sit here, no.

8 Q. If some do come to mind, please do stop and
9 tell us.

10 Can you tell me what prompted the transition
11 from asbestos to nonasbestos-containing brake linings
12 at Rockwell International?

13 A. The domestic manufacturers of brake linings
14 went through a transition -- I want to say it was about
15 December of 1987 -- in which they closed their lining
16 manufacturing plants and retooled and reset up new
17 processes to change from making asbestos linings to
18 making nonasbestos linings in their facilities.

19 Q. What was your next position?

20 A. The next position was as a manager of product
21 compliance.

22 Q. What were your job duties in that position?

23 A. I was responsible in part for product safety
24 investigations, recalls, notification of customers that
25 might be involved in recalls of Rockwell products.

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1 Q. Did your product compliance job duties include
2 or were they in any way related to issues regarding
3 asbestos?

4 A. No.

5 Q. What was your next position?

6 A. My next position was as the manager of product
7 analysis.

8 Q. What did you do in that position?

9 A. I assisted both corporate counsel and outside
10 counsel in the defense of -- technical defense of
11 product litigation.

12 Q. Did the litigation include asbestos litigation?

13 A. Yes, it did.

14 Q. In that position, were you -- strike that.

15 In that position, did you have any
16 responsibilities for the maintenance of business
17 records related to the litigation?

18 A. Only to the extent of complying with any of the
19 records that I had in my department and providing those
20 to -- for retention, if necessary.

21 Q. Do you know if Rockwell has a record retention
22 policy?

23 A. When?

24 Q. During the time period that you worked there.

25 A. I was aware of it. At least some period of
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1 time, yes, they had a record retention policy.

2 Q. I'm going to go through the custody of records

3 portion of the deposition notice and ask you some
4 questions about the production request.

5 The first request is for a record retention
6 policy.

7 My understanding is that you're aware that
8 Rockwell had a record retention policy during the time
9 period that you worked there; correct?

10 A. Yes. At least during part of the period of
11 time, I'm aware that they had a retention policy.

12 Q. Are you producing Rockwell's record retention
13 policy today?

14 A. I have no documents with me.

15 Q. Do you know when Rockwell first initiated its
16 record retention policy?

17 A. No, I don't.

18 Q. Do you know anything about Rockwell's record
19 retention policy?

20 A. Somewhat.

21 Q. Why don't you describe for me, as best you can,
22 what Rockwell's record retention policy was during the
23 time period that you worked for Rockwell, if you can.

24 A. Were there some documents? I don't know if you
25 have that policy or not.

000028 1 Q. I don't have them in this case. That's why I'm
2 asking you about them.

3 MR. KEELE: I think, Counsel, those documents
4 were made available for your inspection.

5 MS. GROSS: In Washington, D.C., this week?

6 MR. KEELE: Correct.

7 MS. GROSS: I see nods of the head.

8 MR. KEELE: Last week.

9 MS. GROSS: And I haven't received copies of
10 them yet.

11 BY MS. GROSS:

12 Q. Is there any way for you to describe, based on
13 your personal knowledge, the record retention policy?

14 A. In generalities, yes.

15 Q. Go ahead, please.

16 A. There were -- as I recall, the policy that I
17 was familiar with had various categories of documents
18 and outlined the number of years for which those
19 documents were to be maintained or retained.

20 Q. Did you have any responsibilities related to
21 the formulation of that policy?

22 A. No, I did not.

23 Q. In any of your job duties at Rockwell, did you
24 get involved with the retention of business records
25 other than for the area that you were responsible for?

000029 1 A. Not really. Not that I can recall.

2 Q. Can you tell me if Rockwell maintains
3 historical business records with an independent
4 contractor?

5 A. Can you clarify the question?

6 Q. Yes. I'm going to ask you about locations
7 where Rockwell maintains its historical business
8 records.

9 The first one is: Are there off-site
10 facilities where Rockwell maintains historical business
11 records?

12 A. There used to be. There may still be.

13 Q. You're not sure?

14 A. As I sit here, I'm not certain that they still
15 exist today, but at one point in time, there were.

16 Q. Please remind me how long it's been since you
17 left Rockwell's employment.

18 A. 2000.

19 Q. If you could quickly go through pages 3, 4 to
20 the middle of page 5 and tell me what kind of search,
21 if any, you conducted for documents responsive --

22 MR. KEELE: Just to clarify, Mr. Ketcham
23 personally, what search he personally conducted?

24 MS. GROSS: Yes.

25 THE WITNESS: Where did you wish me to start?

000030

1 BY MS. GROSS:

2 Q. At the top of page 3, there are categories that
3 run through the middle of page 5 of the deposition
4 notice.

5 A. And your question again, please?

6 Or could you read it back?

7 (Record read by the Reporter.)

8 THE WITNESS: In response to 2, I went through
9 and searched the customer master, had customer name and
10 address master for those names that are listed here.

11 BY MS. GROSS:

12 Q. Where was the customer master -- strike that.
13 What is the customer master?

14 A. The customer name and address master is a
15 listing of customers that Rockwell sold to during the
16 period from late 1960s to 1995.

17 Q. Is that a computerized list or is it on a
18 database, is my question?

19 A. Is it currently on a database, no.

20 Q. It's a hard copy?

21 A. It's a hard copy.

22 Q. Where is that listed located?

23 A. At ArvinMeritor.

24 Q. What location at ArvinMeritor?

25 A. Troy, Michigan.

000031

1 Q. Is it located in a certain department?

2 A. Currently?

3 Q. Yes.

4 A. Yes.

5 Q. What department?

6 A. Legal.

7 Q. What were the results of your search of the
8 customer master list?

9 A. All of the names that were on this list here,
10 list of vehicle manufacturers, with the exception of
11 DaimlerChrysler Corporation -- and making some
12 allowance for spelling -- were on the list.

13 Q. What kind of information is contained on the
14 customer master list?

15 A. A customer code, a name and address.

16 Q. How do you search the list?

17 A. The list is available in two formats: One is
18 alphabetical by the entity's name. The other listing
19 is a customer code list listing, alphabetical,
20 numerical.

21 Q. Is there any information on the customer master
22 list regarding sales made to a customer?

23 A. No.

24 Q. To find out what sales were made to the

25 customers on the list, what is your next step?

000032

1 A. For what period of time and to which customers?

2 Q. The period of time -- the time period for this
3 particular deposition notice and for the case,
4 actually, is 1970 through 1990. The vehicle
5 manufacturers that we're interested in are identified
6 on the deposition notice under "vehicle manufacturer."

7 A. What I also did -- and maybe we can talk about
8 that, also -- is that for -- in response to No. 3 here,
9 all right, I did search a couple of -- or had a search
10 done for a couple of the vehicle manufacturers for
11 service part sales for a couple years.

12 Q. How did you do that search?

13 A. Information was requested from our Florence,
14 Kentucky, facility to provide information for, as I
15 recall, for select years for select customers.

16 Q. How did they do the search at the Florence,
17 Kentucky, facility?

18 A. That is based upon customer code and the time
19 period.

20 Q. Do they maintain sales records at the Florence,
21 Kentucky, facility?

22 A. Yes.

23 Q. How far back in time?

24 A. They go back to about 1977 or '78.

25 Q. Can you tell me the format in which the sales

000033

1 records at the Florence, Kentucky, facility are
2 maintained?

3 A. By "format," you mean what?

4 Q. Are they maintained in hard copy? Are they
5 scanned onto a computer? Are they in a database?

6 A. They're in a database.

7 Q. Are you familiar with searching that database?

8 A. From an information technology standpoint?

9 Q. Have you ever searched that database in
10 Florence, Kentucky, that contains information regarding
11 sales?

12 A. I personally have not.

13 Q. Do you know anything about how it's searched?

14 A. Can you clarify?

15 Q. Yes.

16 When I do a search, for instance, for
17 information in some of the databases here, I have a
18 field that I can input information into, specific
19 information.

20 Do you know whether or not the database in
21 Florence, Kentucky, is searchable by a field?

22 A. It's my belief that it would be since my
23 requests for searches are made by customer and a
24 particular time period that I'm interested in.

25 Q. Who do you request the search from?

000034

1 A. I currently request it from a gentleman by the
2 name of Timothy Rogers.

3 Q. What's his position at Rockwell?

4 A. He is in the information technology department
5 at Florence. His exact job title I'm uncertain of.

6 Q. So to obtain records responsive to categories
7 No. 2 and 3, it sounds like you reviewed the customer
8 list which I believe was produced to us; is that
9 correct?

10 MS. ROSS: The customer list was not produced
11 to you.

12 BY MS. GROSS:

13 Q. You requested sales records from the Florence,
14 Kentucky, location; is that correct?

15 A. Some sales records for some periods of time,
16 yes.

17 Q. And did you obtain some sales records?

18 A. Yes, I did.

19 Q. Were those produced to counsel in Washington,
20 D.C.?

21 A. I don't recall.

22 Q. Which vehicle manufacturers did you request
23 sales records for?

24 A. I think that is probably outlined in some of
25 the interrogatory responses. If you have that, I'd be

000035 1 glad to comment.

2 Q. I'll ask you about the interrogatory responses.
3 Let's keep moving through the deposition notice.

4 Any other searches conducted for documents
5 responsive to categories No. 2 and 3?

6 A. I don't believe so. There may have been, but I
7 don't believe so.

8 Q. The sales records -- what kinds of information
9 do the sales records contain?

10 A. The sales records at Florence, they contain
11 information on customer code -- and this is not all
12 inclusive. This is just what I can recall -- customer
13 code, quantity, purchase order number, date shipped,
14 and there are a number of other fields in there, some
15 of which I think are in some documents that have been
16 provided to you.

17 Q. Any information regarding the kind of part that
18 was purchased?

19 A. Only from -- I'm sorry. Part number is there
20 as well as there is a product code.

21 Q. Is there any way to tell from the part number
22 or the product code whether or not the product that was
23 shipped contained asbestos?

24 A. No.

25 Q. Category No. 4, which is limited to documents

000036 1 containing information regarding asbestos-containing
2 products, what kind of search, if any, did you do for
3 responsive documents?

4 A. I did no search on that for this particular
5 case.

6 Q. Why is that?

7 A. Those types of documents typically would have
8 been gathered and retained by Goodwin Procter.

9 Q. Were you a part of the Goodwin Procter effort
10 to obtain documents related to asbestos litigation?

11 A. No, I was not.

12 Q. Do you know who from Rockwell or ArvinMeritor
13 would have been involved in putting together asbestos
14 litigation documents?

15 A. No, I don't.

16 Q. Let's look at page 4. What kind of search, if
17 any, did you do for category No. 5?

18 A. I contacted a gentleman to see if any of those
19 agreements existed.

20 Q. Who did you contact?

21 A. His name is Dennis Kline.
22 Q. What is his position?
23 A. He is -- I'm not sure of his exact job title.
24 He is in the sales and marketing function.
25 Q. Where is the sales and marketing function for

000037

1 heavy-duty vehicle products located?
2 A. In Troy, Michigan.
3 Q. Is the gentleman that you contacted the head of
4 sales and marketing?
5 A. As I said, I don't know exactly what his job
6 title is.
7 Q. Do you know whether sales and marketing retains
8 records, historical business records?
9 A. I don't know whether these particular records
10 here are maintained or not.
11 Q. Moving along to category No. 6, can you tell me
12 what search, if any, you conducted for documents
13 responsive to category No. 6?
14 A. I looked to see whether the three entities
15 there were on the name and address master.
16 Q. Were they?
17 A. No.
18 Q. What is the -- did you say main address master?
19 A. Name.
20 Q. Is that different from the customer list?
21 A. No.
22 And I think beyond the entities there, there
23 was some question as far as sales into particular
24 counties.
25 Q. Yes.

000038

1 A. And I believe that was eventually limited to
2 Placer -- is that the pronunciation -- County.
3 Q. Yes.
4 A. And I did a search based upon zip codes for
5 that county and did not locate any distributor within
6 that county that matched any zip codes.
7 Q. Category No. 7, what, if any, search did you
8 conduct for documents responsive to category No. 7?
9 A. I did not.
10 Q. Why was that?
11 A. Again, those are typically documents that would
12 have been gathered and maintained by Goodwin Procter.
13 Q. Category No. 8, same question?
14 A. I did not.
15 Q. For the same reason?
16 A. That's correct.
17 Q. Maintained by Goodwin Procter.
18 Category No. 9?
19 A. I did not, other than the copies that I have
20 for myself, but those are also typically maintained by
21 Goodwin Procter.
22 Q. Category No. 10?
23 A. I did not.
24 Q. Same reason?
25 A. Yes, that's correct.

000039

1 Q. Category No. 11, same question.
2 A. I did not.
3 Q. Why not?
4 A. Again, those are documents that typically would
5 be maintained and gathered by Goodwin Procter.

6 Q. Category No. 12, same question.

7 A. And the same response.

8 Q. Could you tell me, of the remaining categories,
9 13 through 15, which, if any, you conducted a search
10 for responsive documents regarding?

11 A. On all of those I did not search. And, again,
12 those were documents that typically would be gathered
13 and maintained by Goodwin Procter.

14 Q. A few more questions regarding how Rockwell
15 maintains historical documents.

16 I'm going to show you answers to discovery that
17 you verified in March of 2002.

18 A. Okay.

19 MR. KEELE: What's the title of that document,
20 Counsel, just for identification purposes?

21 MS. GROSS: Answers of Defendant Rockwell
22 Automation.

23 MR. KEELE: Is there a set number?

24 MS. GROSS: Plaintiff Kenna Hall, Set One.

25 MR. KEELE: Thank you.

000040

1 BY MS. GROSS:

2 Q. In response to interrogatory No. 3, Rockwell
3 states that it has reviewed company records regarding
4 possible sales to Mack Trucks, Freightliner, Murray
5 Trailer and has ascertained that Rockwell sold
6 assemblies from time to time to Mack, Freightliner,
7 Murray Trailers during the 1965 to 1995 time period.

8 And I'll show you that paragraph, if you want
9 to take a minute and read it.

10 A. Yes.

11 Q. Are you the person that conducted the search
12 described there?

13 A. Yes, I did.

14 Q. Do you recall what steps you took to identify
15 the fact that Rockwell sold to Mack Truck, Freightliner
16 and Murray?

17 A. Yes, the steps that I had previously described.
18 would you like me to restate them?

19 Q. Yes.

20 A. Did a search -- and this is as best as I can
21 recall. But we were able to identify the customer
22 codes that related to those customers, and a request
23 was made to Florence for certain years to gather the
24 information of sales to those customers.

25 And then based upon those part numbers that

000041

1 were provided as part of that, a search was done to
2 ascertain that they were -- contained -- or that some
3 of those part numbers contained brake linings and that
4 some of them at least were asbestos-containing
5 materials.

6 Q. How did you determine that the materials
7 were -- that the part numbers were brake linings and
8 that they contained asbestos?

9 A. For those specific searches that I did at that
10 point in time, I don't have a specific recollection,
11 but I can give you the general process that I would go
12 through in order to ascertain that information.

13 Based upon a part number, which is typically
14 either a lining part number or a brake assembly part
15 number, either I or I would have somebody else try to
16 break that down using a bill of material to determine

17 what the lining part number was that was on that shoe
18 or in that brake assembly.

19 Once the lining part number is determined,
20 typically, you would go to the lining part number
21 drawing. On the lining part number drawing, typically,
22 there is a material specification or lining mix that is
23 shown on the drawing, and based upon that material
24 specification or lining mix, you can determine whether
25 it is asbestos-containing or nonasbestos-containing.

000042

1 And there may be other steps that are gone through for
2 various other components.

3 Q. Where are the drawings that you would review
4 located?

5 A. In Troy, Michigan, at ArvinMeritor.

6 Q. Do you know how far back in time the drawings
7 go?

8 A. I don't know how far back they go. They go
9 quite a ways back.

10 Q. Quite a ways would be '50s? '60s?

11 A. Before that.

12 Q. Before that?

13 A. Before that.

14 Q. 1930s or '40s? You're just not sure?

15 A. Quite conceivably.

16 Q. The bills of material, where are those located?

17 A. In Troy, Michigan.

18 Q. How far back in time do those go?

19 A. They go back a ways. I don't know how far
20 back.

21 Q. Would they parallel the drawings?

22 A. I'm not certain.

23 Q. Who did you request to do the searches at Troy,
24 Michigan?

25 A. A gentleman by the name of David Detloff would

000043

1 typically assist me on those types of searches.

2 Q. What department is he employed in?

3 A. He's in the brake engineering department. He's
4 a draftsman.

5 Q. Is it your testimony here today that Rockwell
6 has no record of sales to other vehicle manufacturers
7 identified in this case, other than Mack Truck,
8 Freightliner and Murray Trailers?

9 A. No, that is not my testimony.

10 Q. Did you conduct or did anyone conduct a search
11 for documents indicating sales to the other vehicle
12 manufacturers identified in the deposition notice?

13 A. Not to my knowledge.

14 Q. How did you wind up with these three names only
15 in the interrogatories?

16 MR. KEELE: If you need to review the
17 interrogatory question, Mr. Ketcham, to get a context
18 for that, please feel free to do so.

19 THE WITNESS: Are there other interrogatories
20 that were answered in this particular case?

21 MS. GROSS: There were what we call Dieden
22 interrogatories. There were Alameda County general
23 corporate interrogatories that were answered, but those
24 would be the case-specific interrogatories.

25 THE WITNESS: These are the case-specific

000044

1 interrogatories?

2 MS. GROSS: Correct.
3 MR. KEELE: Also, I'd ask, if there are
4 supplemental answers, that those be produced as well to
5 the witness.

6 MS. GROSS: Sure. I don't have supplemental
7 responses.

8 why don't we take a short break because it
9 would be important to locate them.

10 (Off the record.)

11 MS. GROSS: Back on the record.

12 BY MS. GROSS:

13 Q. I found Rockwell's supplemental responses to
14 plaintiffs' set one, again, verified by yourself.

15 I'm showing the witness the verification dated
16 May 23rd, 2002.

17 Take a look at the answer. I have a couple of
18 questions for you.

19 A. (Witness complying.)

20 Q. In addition to the entities Mack Trucks,
21 Freightliner Corporation, Murray Trailers, the
22 supplemental responses include Utility; is that
23 correct?

24 A. That is correct.

25 Q. I would represent to you that we have received

000045

1 discovery in this case from International Harvester,
2 also known as Navistar, listed as Navistar
3 International on our discovery, as well as General
4 Motors, to name two that I'm aware of, that have
5 identified Rockwell as a supplier of axles, brake
6 assemblies.

7 Can you describe for me why those names were
8 not included in your discovery responses, if you know?

9 A. To the best of my recollection, as I sit here,
10 the names that were included in the discovery responses
11 were the ones that I was requested to check.

12 Q. So if I understand you correctly, it's not that
13 you went -- did you go through -- strike that.

14 Did you go through the list of vehicle
15 manufacturers to check for these vehicles on the
16 customer list?

17 MR. KEELE: Objection. Vague as to "these
18 vehicles."

19 MS. GROSS: The vehicles identified in
20 interrogatory No. 3 of our discovery responses and also
21 again on our deposition notice.

22 THE WITNESS: I went through and looked to see
23 if the names of the vehicle manufacturers, represented
24 to be the names of the vehicle manufacturers, appeared
25 on the customer name and address list, and they did.

000046

1 BY MS. GROSS:

2 Q. The four that you identified?

3 A. And then I went and looked at the four and
4 requested Florence, for particular years, to run some
5 of the sales records that they have. And as I recall,
6 I did research to determine that we, in fact, sold
7 those four entities asbestos-containing brake products.

8 Q. What's confusing me is why you chose those four
9 as opposed to the other names on the list.

10 A. I believe I was requested to search those by
11 counsel.

12 Q. Your search was limited to those four on this

list?

A. Yes, I believe that is correct.

MS. GROSS: Well, I'm going to request that a search be conducted for sales information regarding all the names on the vehicle list.

MR. KEELE: To the extent it hasn't been done?

MS. GROSS: Yes.

MR. KEELE: Your request is noted, Counsel.

BY MS. GROSS:

Q. I'm going to show you some exhibits that were attached to your deposition. And I don't think I can pronounce the name, but it begins with a B, one of the cases that you identified earlier.

A. Bargelski.

Q. Bargelski. And they're at the purple tabs.

A. Although I may have misspoke. You said "deposition."

Q. These are exhibits. It looks like the case is George and Bonnie Douglas -- does that ring a bell -- in New Orleans, Louisiana.

A. Yeah. Douglas is the one that I talked about having the deposition, yes, not Bargelski.

Q. Could you take a look at the three purple tabbed items?

MR. KEELE: Counsel, I'd ask that you identify those for the record so we have a clean record going forward.

MS. GROSS: I will.

BY MS. GROSS:

Q. Just take a look at them and I'll identify them.

A. (Witness complying.)

Q. I've shown Mr. Ketcham three documents attached as exhibits to the Douglas deposition. One of them is an August 20th, 1993 letter. They don't have Bates stamps on them, but one of them looks like a chart. One of them is marked as Deposition Exhibit 3 entitled "Compiled From Data From Product Support Systems, OEM

Sales Systems."

Sir, can you tell me if this is a document -- a compilation of documents generated by Rockwell?

MR. KEELE: Again, "this" being Exhibit 3 to the Douglas deposition?

MS. GROSS: Correct.

THE WITNESS: I'm sorry. The question was -- BY MS. GROSS:

Q. Can you tell me if that compilation was generated by Rockwell?

A. That compilation was generated by -- that's correct.

Q. Can you describe for me what the document is?

A. Which document?

Q. The one I just asked you about.

MR. KEELE: Exhibit 3.

THE WITNESS: Exhibit 3?

MS. GROSS: Yes.

THE WITNESS: That is a listing for two distributors, Fleet Parts and Heavy Duty Sales, of brake shoes and air disk brake kits.

BY MS. GROSS:

Q. Can you tell me how that compilation was made?

24 A. At this point in time, I don't recall.
25 Q. Did you know at some time?
000049
1 A. I'm sure I did.
2 Q. Did you make the compilation?
3 A. Yes, I did.
4 Q. Let me take a look at it.
5 Actually, I need to go make a copy of these
6 three. I'll be right back.
7 (Off the record.)
8 (Plaintiffs' Exhibit No. 4 marked for
9 Identification.)
10 BY MS. GROSS:
11 Q. Back on the record.
12 Can you tell me, looking at the August 20th
13 letter, who Bienvenu, Foster firm represents?
14 A. I believe it may be the plaintiff. I'm not
15 certain.
16 Q. You have no association with that name?
17 A. Hold on a second here.
18 I don't know, and I think that last statement
19 was probably a mistake. I'm sorry.
20 Q. So you have no association with that name?
21 A. No. No.
22 Q. But were you the person who made this
23 compilation that's marked as Exhibit 3?
24 A. I believe I was, yes.
25 Q. How did you go about making the compilation?
000050
1 A. That was what I said. I really don't recall at
2 this point in time.
3 Q. My understanding from looking at this -- please
4 correct me if I'm wrong -- is that it is a compilation
5 of products sold to a specific entity,
6 asbestos-containing products sold to a specific entity
7 between 1978 and 1992; is that correct?
8 A. That is correct.
9 Q. So it is possible for you to provide the amount
10 of sales that Rockwell made of asbestos-containing
11 products to a specific entity during a time period?
12 MR. KEELE: Objection. Speculation. Vague.
13 THE WITNESS: To a certain extent, it is, yes,
14 in doing the process that I had previously described to
15 you.
16 BY MS. GROSS:
17 Q. So for the vehicle manufacturers identified in
18 this case, can you provide the amount of sales of
19 asbestos-containing products during the relevant time
20 period?
21 A. For sales from Florence, starting in the late
22 '70s.
23 Q. Is that what is represented on this
24 compilation?
25 A. Yes, it is, to the best of my knowledge.
000051
1 Q. You limited it to sales from Florence. Why is
2 that?
3 A. Because those sales records exist for at least
4 a portion of the relevant time period that we've
5 discussed.
6 Q. What about sales records from the manufacturing
7 plants?
8 A. Those do not exist during the relevant period

9 of time.

10 Q. Do you know what happened to those documents?

11 A. Those are no longer available. Those have been
12 disposed of.

13 Q. How do you know that?

14 A. Because I'm aware of it.

15 Q. Were you involved in the disposal of documents?

16 A. In the disposal, no.

17 Q. Do you know when they were disposed?

18 A. I know when certain documents were disposed or
19 approximately when certain documents were -- when some
20 documents were disposed.

21 Q. Do you know when the sales of axles containing
22 brake assemblies containing asbestos-containing brake
23 linings were disposed of?

24 A. We had -- I know when some sales records for
25 some plants for some years were disposed of.

000052

1 Q. Why don't you tell me what you know about the
2 disposal of sales records of Rockwell's
3 asbestos-containing products.

4 A. On the OEM side of the business, there were
5 sales records that were -- collected paper sales
6 records that were collected from some plants for some
7 periods of times. They were not complete and they were
8 subsequently disposed of.

9 Q. When was that?

10 A. In the late '90s.

11 Q. What else can you tell me about the disposal of
12 sales records of Rockwell's asbestos-containing
13 products, if anything?

14 MR. KEELE: Objection. Vague. Overbroad.

15 THE WITNESS: What would you like to know?

16 BY MS. GROSS:

17 Q. Well, you described vaguely what you know about
18 the OEM sales records disposal. What about sales of
19 replacement parts or service parts?

20 A. On the service parts side, those exist from '77
21 or '78 to date.

22 Q. Do you know anything about what prompted the
23 disposal of the OEM sales records in the late 1990s?

24 A. Yes.

25 Q. What do you know about what prompted the

000053

1 disposal?

2 A. The sales records were in record retention
3 storage. A notice was sent to the legal department
4 requesting whether they should be retained or not
5 because they were -- the records that we're talking
6 about were beyond the normal disposal time limit.

7 No response was received back and the records
8 were disposed of.

9 Q. Do you know how far back in time the sales
10 records of the OEM sales went that were disposed of?

11 A. They varied by plant. We did not have all
12 plants. The years that we had for each plant varied
13 from time to time, and I don't know how far back -- the
14 furthest back one went.

15 Q. Just to make sure I have this right, the sales
16 records that we're talking about are sales by Rockwell
17 of asbestos-containing products to OEMs?

18 A. They are sale -- all sales, not just
19 asbestos-containing products. Let me make that clear.

20 of all products from certain plants for certain periods
21 of time.

22 Q. You're very careful about certain plants, using
23 the language "certain plants," "certain periods of
24 time." Why is that?

25 A. Because it varied and we did not have sales --
000054 1 paper sales records for all plants, and they were not
2 consistent as far as start date or even dates
3 available.

4 Q. So the compilation that was used in the Douglas
5 case was from data from the product support system OEM
6 sales system.

7 What can you tell me about that database?

8 A. I really don't recall.

9 Q. The date on the letter is 1993. Can you tell
10 me if that was before or after there was this disposal
11 of sales records that you were describing earlier?

12 A. This was before.

13 Q. If I wanted to find out more information about
14 the OEM sales system, who would have that information
15 at Rockwell or at Arvin?

16 A. I'm uncertain.

17 Q. Is there a department called product support
18 systems?

19 A. I don't know. I don't recall at this point.

20 Q. Because you haven't worked there since 2000?

21 A. I've been gone since 2000.

22 You're asking here about some information that
23 was generated 12 years ago and I just don't recall.

24 Q. Looking at that column, again, on Exhibit 3 --
25 well, the compilation that's marked as Exhibit 3 from
000055

1 the prior deposition, what is it about those part
2 numbers that leads you to believe that they're
3 asbestos-containing products?

4 A. That tells me that they're asbestos-containing,
5 nothing.

6 Q. Do you know whether they're asbestos-containing
7 or not?

8 A. That was the -- as I recall, that was the
9 purpose of going through the exercise. So, I mean, we
10 would have taken those part numbers, determined the
11 linings that were on them, determined the mix that was
12 on them or the material specifications, as I had
13 previously described to you the process that's
14 necessary to go through to identify if something has
15 asbestos-containing lining on it. And these are the
16 ones that would have been identified.

17 Q. So if I gave you part numbers, you could find,
18 potentially, bills of material, make your way back to
19 product drawings, and there you would find the brake
20 lining specifications.

21 Do I have that process correct?

22 A. In general, yes. There may be different things
23 that would be needed to be looked at, but in general,
24 that's the process.

25 Q. And here, one of the headings is "Fleet Parts."
000056 1 Are you familiar with Fleet Parts? Is that the name of
2 a company?

3 A. I believe that is the name of a company.

4 Q. Heavy Duty is also listed --

5 A. I believe that is the name of a company.
6 Q. I have a few more questions regarding documents
7 that our investigator reviewed at the Goodwin Procter
8 law offices in Washington recently.

9 I'm going to mark this as plaintiffs' next and
10 show it to Mr. Ketcham.

11 (Plaintiffs' Exhibit No. 5 marked for
12 Identification.)

13 BY MS. GROSS:

14 Q. Have you seen this kind of spreadsheet before?

15 MR. KEELE: Let's mark it as an exhibit first.

16 MS. GROSS: It is marked.

17 THE WITNESS: Yes, I have.

18 BY MS. GROSS:

19 Q. What is it?

20 A. It appears to be an invoice account listing.

21 Q. Can you tell me how this document is generated?

22 A. It appears to be a computer-generated document.

23 Q. Did any of your job duties include working with
24 these kind of spreadsheets?

25 A. Not that I can recall.

000057

1 Q. Can you tell me what the information represents
2 regarding sales to a particular account?

3 A. It appears to be a compilation of customer
4 codes, part numbers, customer names, dates, quantities
5 and sales dollars and also includes what I would
6 believe to be perhaps the customer order number as well
7 as the customer part number.

8 Q. For the customers identified in the customer
9 list, do you know if this kind of spreadsheet regarding
10 their sales history -- regarding Rockwell's sales
11 history to them can be generated?

12 A. Not for the relevant time period, I do not
13 believe.

14 Q. What do you mean by "the relevant time period"?

15 A. I don't believe that this type of data goes
16 back to 1989, 1990.

17 Q. The relevant time period here is 1970 to 1990.

18 A. Right.

19 Q. How far back in time does the information go?
20 I see 4-15-86 on the invoice.

21 A. On these pieces here (indicating), these pieces
22 of paper, yes.

23 Q. So then I don't understand your last response.

24 How far back in time can this kind of
25 spreadsheet memorialize information I guess is my

000058

1 question.

2 A. This was generated at some point in time, okay,
3 in the past.

4 Q. I'll agree.

5 A. In the past.

6 Q. Yes.

7 A. And I don't believe that that information
8 exists anymore for the past.

9 Q. Information regarding sales --

10 A. That's correct.

11 Q. -- or a specific company?

12 A. Sales information such as this.

13 Q. How far back in time do you think the
14 information goes?

15 A. I think it goes back somewhere into the '90s.

16 Q. And how do you know that?

17 A. I believe at some point in the past I've
18 inquired on that.

19 Q. Who would you inquire that information from?

20 A. I don't recall who that individual was or would
21 be.

22 Q. I'm going to mark as next --

23 You could mark that and hand it to the witness.
24 (Plaintiffs' Exhibit No. 6 marked for
25 Identification.)

000059

1 BY MS. GROSS:

2 Q. Have you seen this kind of document before?

3 A. I don't recall seeing this type of document
4 before, no.

5 Q. Can you tell me what it is?

6 MR. KEELE: Objection. Foundation.

7 THE WITNESS: The document speaks to itself and
8 it says, "Ashtabula Brake Plant, Sales By Principal
9 Customers," and the date there is September 1971.

10 BY MS. GROSS:

11 Q. Can you tell me if every plant maintained this
12 kind of list?

13 A. I do not know.

14 Q. Who would have that information?

15 A. I do not know.

16 Q. I'm going to include this, which is the second
17 page, I think, of that document, in the exhibit.

18 Take a look at that. I think it's the
19 identical document or a continuation of it.

20 A. It appears to be identical.

21 Q. Can you tell me if Rockwell did any evaluation
22 of its share of the heavy-duty market, on-highway
23 vehicles?

24 A. I'm sure probably at some points in time that
25 they may have for certain products, that type of thing.

000060

1 Yes, they may have.

2 Q. Were you ever involved with that kind of
3 evaluation or analysis?

4 A. As I recall, only from the larger point of
5 perhaps some questions that I might have been asked in
6 deposition or trial.

7 Q. Is there a department at Rockwell that includes
8 marketing and analysis?

9 A. There may be.

10 Q. But you're not familiar with that because you
11 haven't worked there in five years?

12 A. I haven't worked there in five years.

13 Q. I'm going to mark as plaintiffs' next and show
14 the September 1979 spreadsheet to the witness.

15 (Plaintiffs' Exhibit No. 7 marked for
16 Identification.)

17 BY MS. GROSS:

18 Q. Are you familiar with this spreadsheet that's
19 marked as Exhibit 7?

20 A. I have seen it before, yes.

21 Q. Can you tell me what kind of information is
22 provided on it?

23 A. I'm uncertain. However, it appears to be sales
24 to specific customers for a specific period of time.

25 Q. Is there any way for you to identify what

000061

1 products were sold to the customers?

2 A. No, not specifically, other than the fact that
3 the heading at the top says "Brake Plant."

4 Q. Does the brake plant refer to the Rockwell
5 brake plant?

6 A. Well, adjacent to that it says, "Rockwell
7 Standard Company Brake Plant."

8 Q. If you turn to the second page, about
9 two-thirds of the way down there's a listing for IHC.

10 A. Correct.

11 Q. Do you have any association with the initials
12 IHC?

13 A. Yes.

14 Q. What do they stand for?

15 A. International Harvester Company.

16 Q. There's also entries for other vehicle
17 manufacturers identified both in plaintiffs'
18 interrogatories and in the deposition notices. If you
19 follow along with me, there's GM, Oshkosh, Kenworth,
20 Ford, Peterbilt.

21 Does the information on the spreadsheet
22 represent sales to those companies?

23 MR. KEELE: Objection. Vague. Sales of what?

24 MS. GROSS: Sales of parts, Rockwell standard
25 parts.

000062

1 MR. KEELE: Same objection.

2 THE WITNESS: It appears to be sales data.

3 BY MS. GROSS:

4 Q. Is there any way for you to use this document
5 and trace back what was sold to the companies that I
6 just identified?

7 A. No.

8 Q. How would you go about trying to figure out
9 what products are represented in this sales analysis?

10 A. I don't believe that there is any way. You'd
11 have to identify what brake plant that you're talking
12 about here, but going beyond the plant, there's no way
13 to ascertain exactly what parts were sold.

14 Q. Is there any way to identify the brake plant on
15 this document?

16 A. Not that I know of.

17 Q. Let's turn to the person most knowledgeable
18 portion of the deposition notice.

19 Actually, before we do that, for categories of
20 information No. 4, 7, 9 and then I guess 10 through 15,
21 my understanding is that the law firm of Goodwin
22 Procter maintains those documents.

23 Do I have that right?

24 A. The numbers --

000063

25 MR. KEELE: Just to repeat, if I may, Counsel,

1 4, 7, 9 and 10 through 15; correct?

2 MS. GROSS: Yes.

3 THE WITNESS: To the best of my knowledge.

4 MS. GROSS: I'll just state for the record that
5 our investigator appeared at the Goodwin Procter law
6 offices -- I think it was last week -- and we are in
7 the process of having those records copied. So they're
8 not available at this time to examine Mr. Ketcham
9 regarding, and we'll reserve our right to redepose
10 Mr. Ketcham if necessary once we obtain copies of the
11 documents.

MR. KEELE: We'll certainly oppose that. The documents were made available, and you could have had them here to examine him today on those documents.

MS. GROSS: I don't believe that's true, according to the court order.

MR. KEELE: Our record has been made, Counsel. BY MS. GROSS:

Q. Let's turn to the person most knowledgeable portion of the deposition notice.

If you would take a minute to review pages 5 and 6. Let me know if there are any categories of information that you're not -- strike that.

Let me know what categories of information you are being produced as the person most knowledgeable

for.

A. In general, I would say all of them.

Q. Can you explain to me your job duties that were related to defendant's document retention policy?

A. The retention policy was something that I and my people were -- knew about during the normal course of business. It is a document that occasionally would come up during litigation searches for documents. I'm familiar with looking at documents that have been stored in accordance with the record retention policy, those types of...

Q. Sitting here today, you can't tell me what the policy is, can you?

A. No, beyond what I had previously said in general.

Q. Other than the customer list, the engineering drawings, the bills of lading, what other documents, historical documents, does Rockwell maintain related to its heavy-duty truck business?

A. I don't think that I can answer that in its entirety without having access or being shown the retention policy.

However, it would, in general, encompass all the functions of the business, be it sales, marketing, finance, human resources, and all the typical types of

major business functions that a manufacturing company would have.

Q. Can you tell me today who is the corporate custodian of records at Rockwell?

A. I believe that's Donna Repka.

Q. Where is she located?

A. In Troy, Michigan.

Q. Do you know who held that position prior to Donna Repka?

A. No.

Q. Do you know, when you arrived at Rockwell in 1978, who the custodian of records was?

A. I'm not certain. It may have been her.

Q. This morning you wrote down a list of, I believe, 13 manufacturing plants; is that correct?

A. I made notation of 14.

Q. Did any of those plants manufacture axles?

A. May I see the list?

Yes.

Q. Which plants, if you know?

A. Winchester. And this was as of 1978 which was your request earlier. Winchester, Newcastle, Newark,

23 Marysville.

24 Q. What do the other plants manufacture?

25 A. Oshkosh.

000066

1 Q. What other kinds of products were manufactured
2 by the remaining plants?

3 A. There are forging plants. There are drive-line
4 plants.

5 Q. Can you say that again?

6 A. Drive-line plants. And there are brake plants
7 and spring plants.

8 Q. The axle plants, did they include brake
9 assemblies in the axles, if you know?

10 A. Sometimes they may have been shipped with brake
11 assemblies attached, not in all cases.

12 Q. Can you tell me what percentage of Rockwell
13 axles contained brake assemblies during the relevant
14 time period? Is there any way for you to know?

15 A. That were shipped with brake assemblies on
16 them?

17 Q. Yes.

18 A. No.

19 Q. Can you tell me if it was 50/50 or
20 predominantly the axles had brake assemblies on them?

21 A. It varied by -- in general, it varied by plant
22 and it varied by customer, at least during my period of
23 time that I have a recollection of.

24 Oh, there's one other type off plant, axle
25 plant. It would be Kenton, also.

000067

1 Q. Is there any way for you to describe or testify
2 regarding which customers purchased axles with brake
3 assemblies and which did not?

4 A. In generalities I could, again, for the period
5 I'm familiar with.

6 Q. How would you delineate the customers that
7 purchased axles with brake assemblies and those
8 without?

9 A. You're talking about, say, on-highway
10 customers?

11 Q. Yes.

12 A. Either truck or truck tractors, typically the
13 larger OEMs would buy axles and brakes separately and
14 that they would install the brake assemblies in their
15 manufacturing plants. Typically, small OEMs would
16 order axles with brake assemblies and sometimes hubs
17 and drums on them as a complete set.

18 Q. When you state larger OEMs, who are you
19 referring to?

20 A. Are you talking about identified by name?

21 Q. Yes. What companies are you referring to?

22 A. The major trucking and truck tractor
23 manufacturers in North America, such as -- at that
24 period of time -- because some of these have changed
25 names and gone out of business and things --

000068

1 Q. When you say "that period of time," what are
2 you referring to?

3 A. I'm referring to the relevant -- 19 --

4 Q. '78 when you started?

5 A. Right, till 1990.

6 Q. Okay.

7 A. The International Harvester or Navistar, the

8 Ford, General Motors, Mack. I'm sure there's other
9 ones I've left out.

10 Q. Freightliner Corporation?

11 A. Freightliner, yes.

12 Q. That would be a major --

13 A. Correct.

14 Q. -- OEM?

15 A. Correct.

16 Q. That only bought the axles from Rockwell
17 without the brake assemblies? Is that your testimony?

18 A. No, that's not my testimony.

19 MR. OSTHIMER: Objection to form.

20 MS. GROSS: Then I need to clarify this.

21 BY MS. GROSS:

22 Q. I thought you testified that the larger OEMs
23 bought axles --

24 A. Typically bought axles.

25 Q. Without the brake assembly included?

000069

1 A. Correct. Correct. I can't say that was in
2 every single case or not in every case and it was the
3 axles that Rockwell sold to them because, obviously,
4 they bought axles from other suppliers, also.

5 Q. Right.

6 Well, I'm interested in what your knowledge is
7 regarding the Rockwell axles that were sold.

8 A. Correct. Correct.

9 Q. So the list of larger OEMs that you gave me was
10 the list that -- from your background and information,
11 the list of OEMs that would have bought axles
12 separately from the brake assemblies was International,
13 Ford, GM, Mack, Freightliner; is that correct?

14 A. Yes, typically. And there may be other ones,
15 too, but typically.

16 Q. Then you stated that the smaller companies
17 bought axles complete with brake assemblies?

18 A. Typically.

19 Q. And what are you basing this information on?

20 A. Based upon my knowledge of being there. I've
21 been in the plants, so I've seen what was produced. 22
22 years' worth of experience in the company.

23 Q. And the smaller -- when you say "smaller
24 companies," who are you referring to?

25 A. The smaller vehicle manufacturers that might

000070

1 produce 100 or 200 vehicles a year.

2 Q. Any company come to mind?

3 A. Yeah. I can't attach a name to that, but it
4 could have been, oh, fire truck manufacturers or mixer
5 companies or something like that as opposed to what we
6 talked about as being the larger manufacturers that
7 might produce thousands or tens of thousands of
8 vehicles in a given year for the on-highway, heavy-duty
9 market.

10 Q. If I wanted to verify the sales of axles to any
11 of the major OEMs that you listed, how would I go about
12 doing that from information available at Rockwell?

13 A. Verify the sales of axles?

14 Q. Yes, without brake assemblies, to the major
15 companies that you listed. How would I go about
16 verifying that the axles were sold without brake
17 assemblies?

18 A. I don't know.

19 Q. So there's no information available, to your
20 knowledge, at Rockwell that would determine whether or
21 not these larger OEM customers purchased their axles
22 with or without brakes?

23 A. I can't think of anything as I sit here today.

24 Q. The brake plants that you mentioned, what kinds
25 of products were they manufacturing?

000071

1 A. They manufactured, in general, brake shoes,
2 brake assemblies of various designs for various
3 markets.

4 Q. Did the brake shoes that were manufactured at
5 the brake plants get sold with linings?

6 A. Some of them did.

7 Q. Did the brake plants manufacture the linings?

8 A. During what period of time?

9 Q. The '70 to '90 time period.

10 A. One brake plant manufactured linings beginning
11 in 1985.

12 Q. Were the brake linings asbestos-containing
13 linings?

14 A. That that plant manufactured?

15 Q. Yes.

16 A. No.

17 Q. Can you tell me where the brake plants that
18 manufactured the shoes and the brake assemblies
19 purchased their brake linings during the time period
20 relevant here?

21 A. They purchased them from lining suppliers.

22 Q. Which lining suppliers?

23 A. We may have listed them in an interrogatory
24 response at some point in time, which is probably a
25 better response than I can get from my memory.

000072

1 MS. GROSS: Let's go off the record.

2 (Off the record.)

3 MS. GROSS: Back on the record.

4 BY MS. GROSS:

5 Q. Do you know who Rockwell purchased
6 asbestos-containing brake linings from during the 1970s
7 and 1990s? There's no information in the
8 interrogatories that I reviewed.

9 Do you want to go off the record?

10 MR. KEELE: Let's go off the record.

11 (Off the record.)

12 (Lunch recess taken.)

13 MS. GROSS: Back on the record.

14 I'll mark this as plaintiffs' next. I'm
15 marking Defendant Rockwell International Corporation's
16 Responses to Plaintiffs' standard Interrogatories to
17 Friction Defendants in the Callaway case from 1988.

18 (Plaintiffs' Exhibit No. 8 marked for
19 Identification.)

20 BY MS. GROSS:

21 Q. I believe this is what you're referring to as
22 far as response to interrogatory No. 11 which
23 identifies the source of brake linings in Rockwell
24 brake assemblies; is that correct?

25 For the record, it says that Rockwell's brake

000073

1 assemblies that have incorporated asbestos-containing
2 linings have been marketed under various names. For
3 these products, Rockwell has from time to time used

4 linings manufactured by Abex, Raymark, Bendix. There's
5 a list of linings.

6 Is that the discovery that you're referring to?

7 A. I don't know if this is the particular
8 discovery that I was referring to, but this is a more
9 complete list of the lining manufacturers than I could
10 remember.

11 Q. Is there any way for you to tell me, from your
12 work experience at Rockwell, which of these brake
13 linings were used by Rockwell more than others?

14 A. No, I don't believe so. I can't judge that.

15 Q. That information is crucial for this case.
16 Who at Rockwell can provide that information?

17 A. I don't know. I don't know if it's
18 discoverable, able to be found.

19 MR. KEELE: Excuse me.

20 Can you read the question back, please?

21 (Record read by the Reporter.)

22 MR. KEELE: Thank you.

23 BY MS. GROSS:

24 Q. Do you know if there are documents available
25 that describe or document Rockwell's purchases of brake

000074 1 linings between 1970 and 1990?

2 A. Only to the extent that there might have been
3 something at Goodwin Procter.

4 Q. Was there a purchasing department at Rockwell
5 between 1970 and 1990?

6 A. There were purchasing departments during part
7 of that period of time. As I had explained, there was
8 purchasing departments in the various plants and then a
9 centralized purchasing department.

10 Q. Do you know who Robert Mathers is?

11 A. Yes, I do.

12 Q. Is he still employed by Rockwell?

13 A. No, he is not.

14 Q. When was the last time you saw him?

15 A. In 1993.

16 Q. Do you know if he's still alive?

17 A. Yes, I do.

18 Q. Do you know where he lives?

19 A. Yes, I do.

20 Q. Where does he live?

21 A. He lives in Florida.

22 Q. Can you give me any more detailed information
23 about where in Florida?

24 A. Not as I sit here, no, I can't.

25 Q. Do you have that information available to you?

000075 1 A. Yes, I do.

2 Q. Can you tell me about how old Mr. Mathers is
3 today?

4 A. I would estimate 78 or 79.

5 Q. Prior to this deposition today, did you search
6 for any documents that would contain information about
7 brake lining suppliers to Rockwell?

8 A. No, not for this -- in preparation for this
9 deposition.

10 Q. Did you talk to anybody today, other than your
11 attorneys, regarding who supplied brake linings to
12 Rockwell?

13 A. No, I have not.

14 Q. Of the manufacturing plants that you

15 identified, which ones are -- strike that.
16 Of the plants that you -- of the manufacturing
17 plants that you identified, which ones are still
18 manufacturing brake assemblies?

19 A. The brake plants?

20 Q. Yes.

21 A. Tilbury I believe is the only one.

22 Q. Can you tell me generally what decade the other
23 ones stopped manufacturing brakes?

24 A. In one of the interrogatories --

25 Q. You lay out the dates?

000076

1 A. There are dates someplace.

2 Q. I'll check on that.

3 MS. ROSS: I think that was No. 15.

4 MS. GROSS: In the other ones?

5 MS. ROSS: Yeah.

6 MS. GROSS: Which I don't think I brought down,
7 but I'll get them later.

8 BY MS. GROSS:

9 Q. On the break, I took a look at some of the
10 documents that were copied last week at Goodwin
11 Procter. One of them is a slide presentation regarding
12 Q and Q Plus Brakes.

13 Take a minute and look at the slide
14 presentation. I only have one copy.

15 A. (Witness complying.)

16 Q. Are you familiar with that slide presentation?
17 Have you seen it before?

18 A. Yes, I have.

19 Q. Why don't we mark this and then I'll get copies
20 made.

21 (Plaintiffs' Exhibit No. 9 marked for
22 Identification.)

23 BY MS. GROSS:

24 Q. When you arrived, sir, in 1978, I believe you
25 testified that Rockwell was manufacturing axles, some

000077

1 of which contained brake assemblies, some did not, and
2 brake assemblies as well; is that correct?

3 A. And other products, yes.

4 Q. And other products.

5 A. Yes.

6 Q. I want to focus in on the brake assemblies and
7 the axles.

8 Can you tell me which product was the greater
9 part of Rockwell's business?

10 MR. KEELE: Objection. Vague as to time.

11 THE WITNESS: I presume that you're referring
12 to the automotive businesses, and I presume that you're
13 referring to --

14 BY MS. GROSS:

15 Q. The heavy duty.

16 A. -- the heavy-duty side of that business.

17 Q. Correct. That's my interest. And the time
18 period is -- I don't know if you can testify earlier
19 than '78 -- you probably can't -- but '78 to '90.

20 A. In general terms, the -- I'm sorry. Could you
21 ask the question again?

22 Q. I want to know, as between the axle
23 manufacturing part of the business and the brake part
24 of the business, which constituted the greater part of
25 Rockwell's business.

000078

1 MR. KEELE: Same objection.
2 THE WITNESS: As far as dollar volume
3 sales-type thing?
4 MS. GROSS: Yes.
5 THE WITNESS: Axles.
6 BY MS. GROSS:
7 Q. Do you know if that was true during the whole
8 time period or did that change at some time period?
9 A. That would have been true throughout the entire
10 time period.
11 Q. Can you tell me what the Q and Q Plus Brake
12 Series are?
13 A. Q Brakes and Q Plus Brakes are cam brakes or
14 air-actuated cam brakes.
15 Q. Can you tell me when Rockwell started
16 manufacturing those?
17 A. Approximately, I believe, the Q was in the
18 early '70s, perhaps a little bit earlier than that.
19 And the Q Plus came in to being -- could have been in
20 the late '80s or early '90s, to my recollection.
21 Q. On the third page of the slide series, it
22 states that Rockwell is a major truck tractor and
23 trailer industry supplier in North America of a variety
24 of products, and brakes is No. 1 on the list.
25 Let me show that to you.

000079

1 A. Brakes is one of the ones on the list.
2 Q. Can you tell me what "major supplier" means in
3 terms of a rank in the business?
4 MR. KEELE: Objection. Foundation.
5 THE WITNESS: As far as brakes and air brakes
6 on heavy vehicles, you know, they were a major
7 supplier. There were only a couple other significant
8 competitors at that point in time.
9 BY MS. GROSS:
10 Q. "At that point" meaning the early '70s or 1978
11 or --
12 A. Well, generally during the '70s and '80s that
13 I'm aware of, the late '70s and early '80s. My period
14 of time when I was there.
15 Q. Late '70s through the --
16 A. Through '90, which is the relevant time period.
17 Q. And who were the -- I believe you said there
18 were two other -- only two other major competitors.
19 A. The ones that I can think of off the top of my
20 head would be Eaton Corporation and Dana as far as, you
21 know, axles and brakes. And there was some competition
22 in the other areas, too. As I said before, some of
23 these product lines came into being during the time
24 period that we're speaking of.
25 Q. Which products?

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1 A. The clutches, transmissions and anti-lock
2 systems.
3 Q. So the brakes that are part of that list on the
4 exhibit that you're looking at, are those brake
5 assemblies with linings or without linings, if you
6 know?
7 A. I believe it's referring -- I'm sorry. Could
8 you ask the question again?
9 Q. The document that you're reviewing lists brakes
10 as one of the products that Rockwell was a major

11 supplier of during the relevant time period.
12 Did those brakes contain linings or were they
13 without linings?
14 A. "Brakes" I think here is the generic brakes,
15 that it could be brake assemblies, it could be some
16 foundation brake components, it could be lined shoes,
17 it could be unlined shoes. It was the collective
18 brakes, all of the brake components that get assembled
19 at the wheel ends.
20 Q. So for all of those products, Rockwell is
21 holding itself out as a major supplier?
22 A. Yes. They were a major supplier.
23 Q. And the only other competitors that you can
24 recall from that time period would be Eaton and Dana?
25 A. Major competitors in the heavy-duty air brake

000081

1 business, yes.
2 Q. On the next page, it says that Rockwell is the
3 leading foundation air brake supplier. Three out of
4 four vehicles stop with Rockwell brakes. Rockwell's
5 strength lies at both the end user and OEM levels.
6 I have some questions about the other ones.
7 What is a foundation air brake?
8 A. A foundation air brake is sort of what I was
9 trying to describe earlier. It's all the brake
10 components at the wheel end. It consists of the brake
11 shoes, the springs, the rollers, the anchor pins, the
12 cam shafts, the slack adjusters, everything that's
13 related to the brake product at the wheel end.
14 Q. The claim three out of four vehicles stop with
15 Rockwell brakes, does the "vehicles" refer to
16 passenger cars or are we talking about the heavy-duty
17 truck business?
18 MR. KEELE: Let me object, again, on foundation
19 grounds. Also, I'm not sure if this document is one
20 that is even relevant given there's been no foundation
21 as to the date of the document or when these statements
22 were applicable and how that relates to this 1978 to
23 1990 time period.

24 MS. GROSS: You can go ahead and answer the
25 question.

000082

1 THE WITNESS: Based upon what's on the document
2 here, we're talking about foundation air brakes. All
3 right? And foundation air brakes are used on heavy,
4 on-highway vehicles.
5 BY MS. GROSS:
6 Q. You have seen that document before; correct?
7 A. Yes, I have.
8 Q. Have you seen it during your employment at
9 Rockwell?
10 A. I don't recall that I saw it during my
11 employment with Rockwell.
12 Q. Do you recall where you saw it?
13 A. Yes.
14 Q. Where?
15 A. Counsel showed it to me.
16 Q. Can you tell me, from your review of the
17 document, when the slide presentation was put together?
18 I don't see it on here, actually. So do you have any
19 information?
20 A. It would be my best estimate that it would be
21 in 1991.

22 Q. Do you know what division or department in
23 Rockwell generated this document?

24 A. I do not.

25 Q. And by that I mean the slide presentation.

000083

1 we're referring to a document that's actually a
2 representation of the slide presentation.

3 A. I do not.

4 Q. Does Rockwell have an advertising and marketing
5 division, if you know?

6 A. They have advertising and marketing functions,
7 yes.

8 Q. Who was in charge of that when you arrived at
9 Rockwell?

10 A. I don't know. I can't recall.

11 Q. Can you remember anybody that held that
12 position during the time you worked for Rockwell?

13 A. Yes.

14 Q. Who do you recall?

15 A. Advertising or communications would have been
16 Michael Pennington. And I can't recall who was there
17 prior to him.

18 Q. Is he still with the company?

19 A. To the best of my knowledge.

20 Q. There's a statement on page 5 of the
21 presentation that Rockwell's overall market share
22 exceeds 50 percent. This is related to the air brake
23 market position for trailers.

24 During the time period that you worked for
25 Rockwell, do you have any information regarding

000084

1 Rockwell's market share?

2 A. No, I do not.

3 Q. Can you tell me if it exceeded 50 percent or
4 was less than 50 percent during the 1970 to 1990 time
5 period?

6 A. I can't say whether it was over or less than.
7 We were a substantial -- a major supplier into the
8 market.

9 Q. That's what I was going to ask.

10 Is there any reason for you to believe that
11 during the 1970 to 1990 time period, Rockwell's
12 position was any less than 50 percent?

13 A. It may have been.

14 Q. During the time period that you worked for
15 Rockwell, was it a business that was expanding its
16 sales or contracting, if you know?

17 A. I think that varied by year and the market, the
18 conditions and the market share they had by year.
19 There were substantial periods of time during the 1980s
20 where at least the new vehicle truck market was
21 severely depressed.

22 Q. Did that change at some point?

23 A. Yes.

24 Q. When did it change, if you know?

25 A. As I recall, the market became -- the new

000085

1 vehicle market, new heavy vehicle market, became
2 depressed in about 1981 or '82 and that it gradually
3 recovered, and I don't recall whether it recovered back
4 to 1980 levels, whether it was by the end of the decade
5 or whether it was into the 1990s.

6 Q. The overall market share of 50 percent, did

7 that apply to OEMs or was that also for replacement
8 parts as well?

9 MR. KEELE: Same objection. Foundation.

10 MS. GROSS: If you know.

11 THE WITNESS: Can I see the document?

12 MR. KEELE: Also vague as to time.

13 THE WITNESS: Going with this document and how
14 I would interpret what is on this document, I would say
15 that it's pertaining to the OEM market share, to the
16 new vehicle market share.

17 BY MS. GROSS:

18 Q. And there's, I believe, a list that starts --

19 A. And this particular one here (indicating) talks
20 about the trailer axles.

21 Q. And there's a list on the bottom of that page;
22 correct?

23 A. Yes.

24 Q. And I believe there's a column that says
25 "Standard" and there's a column that says "Option."

000086

1 A. Correct.

2 Q. Can you tell me what those refer to?

3 MR. KEELE: Same objections. Foundation.

4 MS. GROSS: If you know.

5 THE WITNESS: To the best of my knowledge, it
6 would refer to the databook position at the various
7 OEMs, in this case trailer OEMs.

8 BY MS. GROSS:

9 Q. What does "databook position" mean?

10 A. That is set up to determine whether you are
11 standard equipment on a particular OEM's vehicles or
12 whether you are offered as a special order or as an
13 optional supplier to that particular OEM.

14 Q. Let me take a look at that.

15 On page 4 of the exhibit, it has a list of
16 OEMs, and it states that Rockwell has standard databook
17 release position with all OEMs but one.

18 Can you take a look at that and tell me what
19 that means?

20 MR. KEELE: Let me interpose an objection again
21 as to foundation. Counsel, these go to the form, and I
22 just want to make sure you understand the nature of my
23 objections.

24 Not only have you failed to establish that this
25 witness has or should have knowledge of the contents of

000087

1 this document, but you've also failed to make a
2 connection between the statements and statistics and
3 data in this document to the relevant time period. So
4 with that, I object to the foundation of the question
5 and the form of the question.

6 MS. GROSS: I'll just state for the record that
7 I have been asking the witness, who is presented here
8 today as the person most knowledgeable on various
9 categories of information, to testify from his own
10 personal knowledge regarding the information contained
11 in the document. If he didn't have that information,
12 I've given him the opportunity to state he does not.

13 With that, you can go ahead and answer the
14 question.

15 MR. KEELE: Again, just -- and I don't want to
16 belabor this, but to the extent you're attempting to
17 use this document to make statements or reach

18 conclusions about Rockwell's position in the market
19 when this document clearly, as the witness has
20 testified, is after the relevant time period is
21 improper, and you haven't related anything in this
22 document to the relevant time period.

23 MS. GROSS: You can go ahead and answer, if you
24 know.

25 THE WITNESS: Obviously, as I said, I didn't
000088

1 know who generated this particular document. I don't
2 have personal knowledge of the document, and the
3 replies that I'm giving, the responses I'm giving are
4 based upon my years of experience with Rockwell in the
5 interpretation of this data.

6 BY MS. GROSS:

7 Q. Correct.

8 My understanding is you're giving us your best
9 recollection or an estimate here today. You're not
10 guessing. I don't want you to guess.

11 A. Right.

12 Q. You can go ahead, if you remember the question.

13 A. What was the last question?

14 (Record read by the Reporter.)

15 THE WITNESS: It's a similar comment to what I
16 made on the trailer OEMs, that it's standard position
17 in their databook and that's how the vehicles would
18 typically be built. If you have an option, the
19 customers that order from the OEMs have an option, and
20 somebody else has standard databook position other than
21 Rockwell.

22 BY MS. GROSS:

23 Q. Which vehicles from that list was Rockwell
24 standard on?

25 We only have one copy of the exhibit, just for
000089

1 the record. So I'm asking you to just read into the
2 record, if you would, which vehicles Rockwell had the
3 standard databook position on.

4 MR. KEELE: You're asking him to read the
5 exhibit?

6 MS. GROSS: Yes.

7 THE WITNESS: If I can, I'll read the entire
8 page, okay, just to make sure that it's clear.

9 "Rockwell International" is the first line. "Q
10 and Q Plus Series Brakes" is the second line.

11 "Rockwell Air Brake" is the third line. "Market
12 Position" is the fourth line. "Truck/tractor" is the
13 next line. And it goes on to say that Rockwell has
14 standard databook release position with all OEMs but
15 one. It lists OEMs. And these OEMs have -- are listed
16 as standard databook position on this sheet. Ford,
17 GMC, Freightliner, Navistar, Mack, and Volvo. And on
18 option, it's shown as Kenworth and Peterbilt.

19 BY MS. GROSS:

20 Q. As far as options go, from your experience of
21 working at Rockwell and your testimony here today, do
22 you know of other options other than Eaton and Dana?

23 A. Those are the ones that come to mind. There
24 may have been other ones during the course of the
25 relevant time period.

000090
1 Q. During the time period that you worked for
2 Rockwell, have you seen these kinds of business

3 analyses or business evaluations before?

4 A. I may have. I don't recall.

5 Q. What department or division at Rockwell
6 International would be responsible for generating these
7 kinds of market or business analyses?

8 A. Typically, that would be coming out of the
9 business unit that existed at the particular time
10 period.

11 Q. Can you describe -- when you say "business
12 unit," what do you mean?

13 A. In general terms, it could be the brake
14 business unit or the axle business unit or the
15 transmission business unit, the major product lines.
16 And during the course of the time period that we're
17 talking about here, various business units were
18 created, combined, uncombined and so forth.

19 Q. You stated earlier that you believe that the
20 axle part of Rockwell's business was the larger part of
21 the business than the brake business.

22 Do I have that right?

23 A. From a dollar-volume standpoint?

24 Q. Yes.

25 A. Yes, that's correct.

000091

1 Q. So the brakes that are talked about in this
2 slide presentation, are they attached to axles or are
3 they, for lack of a better word, standalone items;
4 they're brakes by themselves?

5 MR. KEELE: Same objections.

6 BY MS. GROSS:

7 Q. Does that make sense to you?

8 MR. KEELE: Foundation.

9 THE WITNESS: No.

10 BY MS. GROSS:

11 Q. The brakes that are referred to in this
12 document, are they attached to an axle?

13 MR. KEELE: Objection. Foundation.

14 MS. GROSS: If you know.

15 THE WITNESS: Ultimately, yes.

16 BY MS. GROSS:

17 Q. So this document, if you know, does it
18 memorialize the sale of just the brake components or
19 just the brakes and the axles to the OEMs?

20 MR. KEELE: Same objections as I communicated
21 earlier and explained earlier. Foundation.

22 MS. GROSS: If you know. If you don't know,
23 that's fine.

24 THE WITNESS: Based upon looking at the exhibit
25 that we're talking about here, we're talking about

000092

1 brakes and specifically air brakes. Now, it does not
2 include axles anywhere in that presentation.

3 BY MS. GROSS:

4 Q. Can you tell me Rockwell's market position as
5 far as axles during the relevant time period?

6 A. They were a major supplier.

7 Q. And when you say "major," they were in the --
8 what was their market share, if you know?

9 A. I'm sure it changed over time, and I don't know
10 specifically what their market share was.

11 Q. Who employed at Rockwell would have that
12 information? Surely somebody must know?

13 A. During the relevant time period?

14 Q. Yes.

15 A. There may be. As I sit here, I do not know.

16 Q. Can you tell me if Rockwell was a major
17 supplier of brakes for use as replacement parts for
18 trucks or tractor trailers during the relevant time
19 period?

20 A. "Brakes" being...?

21 Q. The same that we're discussing as part of the
22 slide presentation, the same product line.

23 A. The product that was sold for replacement parts
24 is not the same assembly that is sold for new vehicle
25 sales.

000093

1 Q. Describe the difference in the products.

2 A. Replacement parts are the component parts that
3 go into the brake assembly that is sold for a new
4 vehicle so that if somebody wanted to repair, service
5 or replace some of the components of the original
6 assembly, they would order those -- a particular part
7 that they wanted. If they needed to replace a spring
8 off of here, they would order a spring or a kit that
9 included a spring. If they needed a roller, they would
10 order a roller or a kit that contained a roller.

11 Q. Did Rockwell supply brake linings as
12 replacement parts for the brakes it sold to the OEMs?

13 A. Yes, they did.

14 Q. Can you tell me who manufactured the linings
15 that Rockwell sold as replacement linings during the
16 1970s to 1990s?

17 A. Those linings would have been manufactured by
18 the same lining suppliers that were supplying the
19 original equipment linings.

20 Q. And sitting here today, can you tell me who
21 were the top three suppliers of linings during the
22 1970s to 1990 time period?

23 A. I don't think I could, no.

24 Q. So you can't tell me if Rockwell had an
25 agreement to purchase any more linings from one

000094

1 manufacturer than another?

2 A. No.

3 Q. Can you tell me if there's -- how I would find
4 that information out through somebody at Rockwell?

5 A. I don't know. You would be talking about, you
6 know, purchasing, and I don't know if those records or
7 knowledge would exist.

8 Q. Who was in charge of purchasing, if you recall,
9 when you first began to work for Rockwell
10 International?

11 A. His name was Charlie Ammerman.

12 And we're talking here about the automotive
13 operations?

14 Q. Yes.

15 A. Yes.

16 Q. Is Mr. Ammerman still employed by Rockwell?

17 A. No, he is not.

18 Q. Have you seen him in the last five years?

19 A. No, I have not.

20 Q. Do you know if he's alive or not?

21 A. No, I do not.

22 Q. How old is he?

23 A. I don't know.

24 Q. When was the last time you saw him?

25 A. Maybe the late 1980s.
000095
1 Q. Was that in Troy, Michigan?
2 A. Yes, it was.
3 Q. Do you have any information regarding where he
4 lived?
5 A. Well, at some point in time, he lived in that
6 vicinity.
7 Q. Can you spell his name?
8 A. Not with absolute certainty.
9 Q. Give it your best shot.
10 A. A-m-m-e-r-m-a-n.
11 Q. Who replaced him in purchasing, if you know?
12 A. I believe that was Daryl White.
13 Q. When was the last time you saw him?
14 A. Maybe in the mid-1990s.
15 Q. Do you know if Mr. White is still employed by
16 Rockwell?
17 A. He is not.
18 Q. Do you know if Mr. White is still alive?
19 A. I do not.
20 Q. Where did you last see him? Was that in Troy
21 as well?
22 A. Yes, it was.
23 Q. Do you have any idea how old he would be today?
24 A. No.
25 Q. Who was the next person who was in charge of

000096
1 purchasing at Rockwell who would have information, of
2 course, about the brake linings? That's what I'm going
3 after, the source of brake linings.
4 A. The next one that I can recall is Craig Pryor.
5 Q. Can you spell his last name?
6 A. Again, this is my best recollection.
7 P-r-y-o-r.
8 Q. When was the last time you saw Mr. Pryor?
9 A. In the 1990s, late 1990s.
10 Q. Do you know -- is Mr. Pryor still employed by
11 Rockwell?
12 A. I'm not certain.
13 Q. Again, did you see Mr. Pryor in Troy, Michigan?
14 A. That's correct.
15 Q. Any sense of his age?
16 A. Mid to late 50s.
17 Q. What other brakes besides the Q Brakes that
18 were air brakes did Rockwell manufacture?
19 A. During the relevant time period, there would
20 have been air disk brakes and there would have been
21 Stopmaster brakes. Those are the ones that come to my
22 recollection.
23 Q. Actually, we can -- I'd like to read into the
24 record these other brakes perhaps to refresh your
25 recollection.

000097
1 Holdmaster, are you familiar or do you have any
2 association with that line of brakes?
3 A. Could I see the document?
4 Q. Sure.
5 MR. KEELE: You're now reading from Exhibit 8,
6 response to interrogatory No. 11; correct?
7 THE WITNESS: I'm not totally familiar with
8 Holdmaster, but the description there describes them as
9 a mechanical disk brake as opposed to an air disk

10 brake. The Duramaster was the air disk brake. So I
11 don't believe that the Holdmaster was an air brake.
12 BY MS. GROSS:

13 Q. So the Stopmaster, the Holdmaster, the
14 Duramaster. Any other kinds of brakes that Rockwell
15 manufactured during the relevant time period?

16 A. Rockwell manufactured many brakes during the
17 time period, but those were the air brakes that I had
18 described for you earlier.

19 Q. What other kinds of brakes, other than the air
20 brakes, did Rockwell manufacture during the relevant
21 time period?

22 A. For use on heavy on-highway vehicles?

23 Q. Yes.

24 A. There were mechanical brakes that were used as
25 parking -- drive-line parking brakes on some

000098

1 medium-duty vehicles.

2 Q. What's a mechanical brake as opposed to an air
3 brake?

4 A. One that might -- an air brake is one that's
5 actuated by air. A mechanical brake would be one that
6 would be actuated by a lever.

7 Q. And when you say a "lever," do you mean like a
8 parking brake lever situation?

9 A. Exactly.

10 Q. Or would that be a drum brake?

11 A. Well, what I'm thinking of is a drum brake, and
12 the drum is attached to the drive line of a medium-duty
13 vehicle and is used as a mechanical parking brake as
14 opposed to all of the other brakes that we've been
15 talking about which are wheel-end brakes.

16 Q. Can you tell me which of the brakes that we've
17 just identified that were manufactured by Rockwell
18 during the relevant time period contained asbestos
19 components, contained asbestos-containing components?

20 A. Of the Q, Q Plus, air disk and Stopmaster
21 brakes?

22 Q. Sure.

23 A. All of them at one time or another contained
24 some asbestos components.

25 Q. Which components in those brake linings had

000099

1 asbestos in them?

2 A. The -- during certain years, during the
3 relevant time period, the Stopmaster, the Q -- well, I
4 should really maybe clarify something here. I'm not
5 quite sure when the Q Plus came in, was introduced, and
6 that may or may not have had asbestos linings on them.

7 Q. So you initially said you thought they were
8 introduced in the 1970s, but you're not sure?

9 A. No. The Q Plus I said was introduced in the
10 1980s. The Q was introduced in the 1970s.

11 Q. How would you find out that information,
12 whether it contained asbestos or not?

13 A. I suppose try to figure out -- the easiest
14 thing to do is figure out when the Q Plus was
15 introduced.

16 Q. And how would you do that?

17 A. There may be some advertisement literature or
18 maintenance literature that would provide a source of
19 that information. That might be a place to start to
20 determine that piece of information.

21 Q. I have some information here we can look at.
22 We were talking about what components contained
23 asbestos.

24 A. Correct.

25 Q. Which components?

000100

1 A. The brake linings on the Q and the Stopmaster
2 at some point in time during the relevant time period
3 would have contained asbestos. And for a few years
4 during the relevant time period, there's a backing or
5 backer on air disk brakes that contained asbestos
6 material. The lining material or the wearable lining
7 material on the air disk brake never contained asbestos
8 material. They were always nonasbestos fibers.

9 Q. Can you tell me who supplied Rockwell with the
10 backers on the air disk brakes?

11 A. No, I can't.

12 Q. Can you tell me if Rockwell manufactured those
13 backers itself?

14 A. No. It would have -- the backing material came
15 embedded in the air disk brake pad. So it was part --
16 it was part of the lining.

17 Q. Can you tell me who Rockwell was purchasing the
18 air disk pads from during the relevant time period?

19 A. As I sit here, no.

20 Q. How could I find out that information?

21 A. Maybe Zeida at Goodwin Procter.

22 Q. Any other components that contained asbestos?
23 Any other brake components that contained asbestos?

24 A. On the brake components, no. Those are it.

25 Q. I've asked you about the linings. Other than

000101

1 what's listed in the discovery responses, that's all
2 you can tell me?

3 A. About the lining --

4 Q. I'm sorry. The lining suppliers.

5 A. Suppliers, yes.

6 Q. And you can't tell me who or, in particular, if
7 there was one company that Rockwell purchased linings
8 from more than another?

9 A. No, I can't.

10 Q. With the air disk pads, you have no information
11 regarding who Rockwell was purchasing the pads from; is
12 that correct?

13 A. As I sit here today, I do not have that
14 information.

15 Q. Were you able to give me a date for this slide
16 presentation?

17 MR. KEELE: Objection. Asked and answered. He
18 did.

19 BY MS. GROSS:

20 Q. Why don't you tell me again.

21 A. I believe it was in 1991.

22 Q. How do you know that?

23 A. The presentation marking over here
24 (indicating). AV-91 I believe refers to the year.

25 Q. Is there any other place on the document that

000102

1 would lead you to conclude the year that it was put
2 together?

3 A. Yes. Yes.

4 Q. Okay.

5 A. On the page marked "Rockwell Air Brake Market

6 Position, Trailer," it lists OEM rank fiscal year 1990.

7 There may be other items in here, if you want
8 me to keep looking.

9 Q. No. I know you're relying on the document, not
10 your personal knowledge.

11 A. Yes.

12 Q. Of course, you have no idea when or how the
13 information that was compiled for use in the
14 presentation was put together?

15 A. Right. I don't know who put it together.
16 Without knowing that, I wouldn't have the other
17 information.

18 Q. Category No. 5 on the PMK notice, agreements
19 between defendant and vehicle manufacturers for the
20 supply of brakes during the relevant time period.

21 Are you the person most knowledgeable regarding
22 that category of information?

23 A. Yes, I am.

24 Q. Can you tell me, for the entities where
25 Rockwell brakes -- strike that.

000103

1 Can you tell me, for the OEMs where Rockwell
2 brakes were standard, whether Rockwell had any kinds of
3 exclusive supply agreements with those OEMs?

4 A. I don't believe that there were any exclusive
5 supply agreements.

6 Q. So when a Rockwell brake is standard on a
7 vehicle, how does that come about, if you know?

8 A. There are negotiations between -- and this is
9 my understanding based upon my experience with the
10 company. There are negotiations that go on between
11 Rockwell and the various OEMs in which agreements are
12 established, and standard databook position does not
13 mean exclusive. All it does is give you what it says,
14 standard databook position, and other suppliers can
15 sell to that OEM. And if a fleet wants to have Brand X
16 brakes put onto that vehicle, as long as it's approved
17 by the vehicle manufacturer's engineering department,
18 it would be.

19 Q. So what does "standard" mean, if you know?

20 A. It means that. It means standard.

21 Q. It means if I go to --

22 A. It means that you have that standard position,
23 that if a customer does not ask for something
24 different, that that's what would be offered to the
25 customer with Rockwell brakes.

000104

1 Now, various fleets have various preferences
2 for who they want for axles or who they want for
3 brakes. Buying a heavy truck is a little bit different
4 than buying a passenger car, and there's a lot more
5 individual specification that's done for heavy trucks
6 by the fleet buyer than a normal consumer would ever do
7 for a passenger car.

8 Q. I still don't quite understand what the
9 standard -- the significance of the "standard" is,
10 then. It means if I go into Freightliner -- well, if
11 I'm Freightliner and I want to purchase an axle, a
12 brake -- if I want to purchase a Freightliner, then the
13 Rockwell brake is standard on that equipment unless I
14 say I want another kind of brake; is that correct?

15 A. That's my belief. I'd say that if you want a
16 better explanation than that, it's probably best to

17 talk to a vehicle manufacturer.
18 Q. So it sounds to me, then, that -- well, strike
19 that.

20 Did any of your job duties involve you and
21 agreements between Rockwell and OEMs for the use of
22 Rockwell equipment as standard?

23 A. No, it did not.

24 Q. Who would have been involved in negotiating
25 those kinds of agreements?

000105

1 A. The sales and marketing department together
2 with, you know, other people supporting them.

3 Q. Have you, during the time period that you
4 worked for Rockwell, come across written agreements
5 between Rockwell and OEMs for the purposes of
6 establishing a standard brake agreement?

7 A. The agreements that are reached between
8 Rockwell and OEMs are not limited to standard brake
9 agreements. They encompassed the various products that
10 we manufacture.

11 Q. Have any of your job duties involved reviewing
12 or participating in the formation of those agreements?

13 A. No, they have not.

14 Q. Have you had an opportunity to review a typical
15 agreement between Rockwell and an OEM?

16 A. I have seen them in the past from time to time.

17 Q. What is the nature of your review of those
18 documents?

19 A. As I recall, it would usually come up in the
20 course of the type of questioning that we're -- going
21 on right now or in the investigation of particular
22 issues.

23 Q. Do you know how far back in time Rockwell
24 maintains its agreements with OEMs?

25 A. No, I do not.

000106

1 Q. Do you know if it does maintain its agreements
2 with OEMs?

3 A. I would expect that they would maintain the
4 current agreements. As far as prior agreements, I'm
5 uncertain.

6 Q. You stated you believe that the agreements
7 between OEMs and Rockwell for standard equipment would
8 include more than brake assemblies. Did I get that
9 right?

10 A. The --

11 (Brief interruption.)

12 BY MS. GROSS:

13 Q. I'm trying to get a sense of what kind of
14 agreements Rockwell entered into with OEMs for standard
15 equipment.

16 A. The type of agreements that I'm familiar with
17 would encompass more than just brakes. It would
18 encompass whatever portions of the product line or the
19 entire product line that Rockwell and the OEM wanted to
20 enter into an agreement for.

21 As I recall from the ones that I recollect,
22 they were for multiple product lines. It was not just
23 a single, standalone agreement for, you know, brakes
24 versus a single standalone agreement for axles and
25 stuff like that.

000107

1 It was more of an agreement on the product

lines between companies, between the supplier and the original equipment manufacturer.

Q. Do you have any sense of how much of Rockwell's business was done through these standard agreements as opposed to, you know, case-by-case, year-by-year basis?

A. My sense is -- and this is my belief -- that, you know, with many of the major OEMs, that we had agreements.

Q. The major OEMs would be the ones that you identified earlier today?

A. That's the category that I'm talking about. I can't say, as I sit here today, that we had agreements with every single one of them or which ones we didn't have agreements with, but that's the category that I'm talking about.

Q. Do you know if, between 1970 and 1990, Rockwell had any standard supply agreements with International?

A. I am not certain. I know that at least in the initial part of that time frame, about '92 or so, their primary agreement was with Dana.

Q. I'm sorry?

A. Was with Dana.

Q. Dana.

A. I shouldn't say primary agreement. I don't

know that they really -- well, Dana was their primary supplier.

Q. And I thought you said the initial part of that period being 1992. Did I catch that right?

A. 1982, if I misspoke.

Q. And how do you know that?

A. Because that was a period in time in which International Harvester was outsourcing some of their internally manufactured parts, and it was a very large piece of business and that Rockwell did not get that business. So even after 20-some-odd years, it still sticks in my mind.

Q. Was there any point in time, to the best of your knowledge, that Rockwell had a standard supply agreement with International?

A. I don't know that they had a standard supply agreement. I know that Rockwell did regain some of the sales to Navistar over time.

Q. What about Freightliner? The same question, whether you're aware of any standard supply agreements between Rockwell and Freightliner between 1970 and 1990.

MR. OSTMER: Objection. Calls for speculation. Lack of foundation.

THE WITNESS: I cannot speak to the specific

dates. At some point in time, I know that we had some agreements with Freightliner.

BY MS. GROSS:

Q. What about General Motors? Same question.

A. I don't recall.

Q. What about Ford?

A. My best recollection is yes.

Q. Again, these are standard supply agreements -- strike that.

I'm particularly interested -- strike that.

Is there any way for you to know whether these standard supply agreements were for axles or brake

13 friction products?

14 A. I don't know as I sit here today. The
15 agreements would specify the content of what was being
16 included within that specific agreement.

17 Q. How did Rockwell distribute its service parts?
18 And I want to limit that to brake products.

19 A. During what period of time?

20 Q. This will all be the 1970 through 1990 time
21 period.

22 A. It varied.

23 Q. Why don't you describe for me how it varied.

24 A. The service parts or aftermarket parts division
25 which I joined in Florence was established in -- it was

000110

1 really established in '73, but the business itself did
2 not start until 1976. Prior to that point in time,
3 distribution of service parts was done from the various
4 manufacturing plants to the OEMs.

5 For instance, if manufacturer OEM A wanted to
6 get service parts for brakes, they would order those
7 service parts from the manufacturing plant that was
8 supplying the original equipment parts to that OEM.

9 Prior to '76, there were also distributors,
10 warehouse distributors, independent businesses that
11 Rockwell sold some product to, including brake product.
12 They were brake distributors. And those were sold
13 through a small distribution center located within the
14 Kenton plant.

15 After Florence started, Florence took over the
16 business of shipping to distributors. Originally, it
17 was universal joint product in '76 and brake product in
18 '77. So after 1977, they took over the distribution
19 and sale of brake product to the warehouse
20 distributors. And in 1978, they took over the
21 distribution of product, including brake product, to
22 the vehicle OEMs.

23 Q. Did the distributor warehouses that you
24 described have any business relationship with Rockwell?
25 Were they Rockwell franchises or dealerships?

000111

1 A. They were an independent warehouse distributor.

2 Q. Where were they located?

3 A. Across the United States and Canada.

4 Q. Can you give me a sense of how many during the
5 1970 to 1990 time period?

6 A. It varied.

7 Q. Are you talking tens? Hundreds?

8 A. To give a relative sense, 200, 250.

9 Q. Have you seen any documents that would give you
10 a sense of the volume of sales of replacement parts
11 during the relevant time period, Rockwell's sales of
12 replacement parts?

13 A. Are you limiting it to brakes?

14 Q. Yes.

15 A. To brakes, yes. As to warehouse distributors
16 or to --

17 Q. Let's start there.

18 A. Yes, I have. I was in that business. Do I
19 recall specifically what it was, no.

20 Q. Is that information memorialized anywhere that
21 you know of?

22 A. Not that I'm aware of, unless it happens to be
23 in some of Goodwin Procter's materials.

24 Q. There were the distributor warehouses?

25 A. (Witness nodding head.)

000112

1 Q. There were the sales from the manufacturing
2 plants themselves, is that correct, directly to the
3 OEMs?

4 A. Right. Initially, in the beginning time
5 period, it was manufacturing plants to the OEMs and
6 from Kenton to the distributors. And then with the
7 advent of Florence, Florence took over the sales to the
8 distributors and then took on the sales to the OEMs.

9 Q. Can you tell me what percentage of the
10 replacement parts, again, limited to the brake-related
11 products, was going to the distributors or to the OEMs?

12 A. I think I've answered that before someplace.

13 It was a low percentage, particularly when you
14 get around to sales of either lined shoes or linings.

15 Q. It was a low percentage to the distributors?

16 A. To the distributors and also to the OEMs as far
17 as aftermarket sales.

18 Q. So are we talking three percent, ten percent,
19 if you know? I don't want you to guess.

20 A. It was minuscule, really, because we were
21 buying the linings from lining suppliers and trying to
22 resell them into the market, into the aftermarket. And
23 the lining suppliers were also selling to the OEMs and
24 the lining suppliers were also selling directly to
25 the -- not only our warehouse distributors but other

000113

1 distributors that they had throughout the country.

2 Q. So Rockwell bought linings for resale and just
3 repackaged them in the Rockwell boxes or packaging?

4 A. That was one way for distribution. There were
5 other ways.

6 Q. What were the other ways?

7 A. The linings could be sold separately. Linings
8 could be -- in some cases, linings and, say, rivets
9 were sold to reline an axle. In some cases lined brake
10 shoes were sold. In some cases -- and this was more
11 rare -- but full brake assemblies were sold as
12 aftermarket parts.

13 And then there were also major overhaul kits
14 that were sold that included both lined shoes as well
15 as a lot of what are commonly referred to as hard
16 parts, which might be the springs and the rollers and
17 the anchor pins, so that a complete brake job could be
18 done on a heavy truck.

19 Q. And the service parts, as far as the brake
20 parts, could be used on any kind of -- any make tractor
21 trailer or just the ones that Rockwell was the standard
22 equipment on?

23 A. The Rockwell components could be used on
24 Rockwell brakes so that if you wanted to replace
25 components that were on the original truck, you could

000114

1 use those components. But, also, particularly with
2 shoes, the shoes were remanufactured by independents in
3 the marketplace, in which case you might use an old
4 shoe, remove the worn-out lining, put on a new lining
5 and resell it into the marketplace.

6 Q. So the linings could go on -- strike that.

7 I'm looking at the -- I'll mark this as
8 plaintiffs' next. It's excerpts from a Rockwell brake

9 parts catalog that was copied at the Goodwin Procter
10 office last week, and there's a couple of pages that
11 refer to brake shoe repair kits and lined kits and
12 there's a column of applications.

13 (Plaintiffs' Exhibit No. 10 marked for
14 Identification.)

15 BY MS. GROSS:

16 Q. What are the applications in reference to, if
17 you know?

18 A. That gives the size of the shoe to start with,
19 the drum diameter and the shoe width, and it also talks
20 about the friction level and it also talks about what
21 type of shoe it was. In this particular case, one of
22 the ones on the page is for a Q Series shoe, and above
23 that was one for a T Series shoe.

24 Q. I notice on one of them it mentioned Eaton, I
25 believe, the one -- was it the one on the top there?

000115

1 A. I don't see that. Maybe you can point it out
2 to me, what you're referring to.

3 Q. Here, actually, where it says, on the bottom,
4 Eaton -- under "Application Information," it says,
5 "Eaton 16 and a half by 7 Q shoe."

6 What does the reference to Eaton signify, if
7 you know?

8 A. That would appear to reference the Eaton
9 Corporation.

10 Q. And why is it or how is it involved with the
11 Rockwell brake shoes?

12 A. It appears in this particular instance they
13 were offering a shoe that could be used on an Eaton
14 brake.

15 Q. Who was offering a shoe that could be used on
16 an Eaton brake?

17 A. This was a Rockwell parts manufacturer.

18 Q. So Rockwell was manufacturing shoes that could
19 be used on Eaton axles? Do I have that right?

20 MR. KEELE: Objection. Vague as to time.

21 THE WITNESS: It would be on an Eaton brake.

22 BY MS. GROSS:

23 Q. On an Eaton brake.

24 Did Rockwell generally manufacture shoes for
25 use on other companies' brakes, if you know?

000116

1 A. In general, not. I would say that would be an
2 extremely, extremely, extremely, extremely small
3 portion of any business. Obviously the main portion of
4 the business was to service Rockwell's product.

5 Q. There's another reference to Fruehauf.

6 A. Uh-huh.

7 Q. Can you explain to me the connection between
8 the Rockwell shoe and the Fruehauf component or what
9 is -- I'll just end -- ask that question.

10 A. Again, Fruehauf appears to be a reference to a
11 Fruehauf brake, and this is a shoe that can be used on
12 a Fruehauf brake.

13 Q. Did the shoes come with linings, the ones that
14 are pictured here?

15 MR. KEELE: Objection. Foundation. Vague as
16 to time.

17 THE WITNESS: Yes.

18 BY MS. GROSS:

19 Q. Can you tell me, other than Fruehauf and Eaton,

20 any other manufacturers that Rockwell manufactured shoe
21 kits for?

22 A. Not off the top of my head, no.

23 Q. Do you know if there are others?

24 A. I do not know.

25 Q. What is a shoe kit as opposed to the lining?

000117

1 what makes the -- I'll just ask that question.

2 A. Lining itself is the brake block. The brake
3 block or the lining is typically for on-highway drum
4 brake applications, heavy truck, is riveted to a shoe,
5 to the metal portion, to the metal shoe.

6 Lining can be sold separately. And, typically,
7 when I say "separately," it's sold as a lining kit in
8 which you have enough blocks in there to do an axle
9 replacement. So you have multiple linings into that
10 box. They can also be sold as lined shoes in which the
11 lining has already been riveted to a new metal shoe.

12 And it can be sold as a major overhaul kit,
13 which, as I said earlier, would include the lined shoe
14 as well as some of the other components that are used
15 to do a major brake overhaul, such as the springs and
16 the rollers and the anchor pins and such.

17 It may also be sold in kits that would include
18 the linings and some of the other components, but not
19 riveted to a shoe.

20 So there are multiple ways that you can buy
21 that brake product to reline a shoe.

22 Q. Do you know if Rockwell supplied instructions
23 with its brake shoe repair kits or its lined shoe kits?

24 A. They did include some instructions in some of
25 the kits.

000118

1 MS. GROSS: Why don't we take a short break and
2 let me see if I can find some of the instructions.

3 (Off the record.)

4 BY MS. GROSS:

5 Q. I believe before the break, you testified that
6 Rockwell provided instructions with its shoe kits; is
7 that correct?

8 A. In some of them I believe they did, yes.

9 Q. Have you ever reviewed those instructions?

10 A. I probably have, yes.

11 Q. I did not find any instructions included in the
12 documents that I received so far from the inspection at
13 Goodwin Procter.

14 Did you conduct a search for instructions
15 related to the replacement shoe kits prior to the
16 deposition today?

17 A. No.

18 Q. Do you know where the instructions that you
19 reviewed are located?

20 A. I would believe that those instructions would
21 be at Goodwin Procter.

22 MS. GROSS: Counsel, do you know if they were
23 produced as part of the production?

24 MS. ROSS: I believe they were.

25 MS. GROSS: Pardon?

000119

1 MS. ROSS: I believe they were.

2 MS. GROSS: Again, we haven't yet obtained
3 copies of what was produced at the Goodwin Procter law
4 offices.

5 BY MS. GROSS:

6 Q. Can you tell me if handling of the shoe repair
7 kits or the use of these Rockwell shoe repair kits
8 required any manipulation, grinding or other efforts
9 that would generate dust?

10 A. To the repair kit itself?

11 Q. Yes.

12 A. It is possible in the early '70s that some of
13 the linings that might have been shipped at that point
14 in time perhaps would have needed grinding in the
15 field.

16 Q. Why do you say that?

17 A. Because that was a common characteristic of
18 linings at that point in time prior to the lining grind
19 elimination.

20 Q. Why did you have to grind the linings in the
21 field?

22 A. In order to match it to the contour of the
23 drum.

24 Q. And then at some point, that changed?

25 A. Yes.

000120

1 Q. Can you tell me, approximately, the time period
2 that it changed?

3 A. Approximately, I want to say, sometime in the
4 late '70s to early '80s.

5 Q. So then did Rockwell stop selling the shoe kits
6 and the lined shoe kits?

7 A. No. What they sold at that point in time were
8 linings on the shoes or linings in the kits that did
9 not need to be ground in the field. They were already
10 contoured to the proper contour for installation on the
11 drum, or with the drum.

12 Q. Do you know if, during the time period when
13 Rockwell was selling the shoe lining kits that required
14 grinding in the field, whether the kits contained any
15 warnings regarding any potential dust hazards?

16 A. I'm not quite sure when they specifically
17 discontinued those shoes to the other ones. I know
18 that the first warnings in some of the maintenance
19 manuals appeared, I believe it was, in the late '70s.

20 Q. Do you know what prompted Rockwell to initiate
21 warnings in the late 1970s?

22 A. I'm not absolutely certain, and I believe it
23 was probably an outgrowth of the OSHA regulations that
24 were coming into being at that point in time.

25 Q. Are you the person most knowledgeable regarding

000121

1 warnings -- categories 7 and 8 on the deposition
2 notice?

3 A. To the extent -- yes, in general.

4 Q. So other than the reference to the OSHA
5 warnings, do you have any other information about what
6 prompted Rockwell to start placing warnings on its own
7 products that contained asbestos?

8 A. No. That's my belief.

9 Q. Were any of Rockwell's employees exposed to
10 asbestos at the manufacturing plants, if you know?

11 A. They worked in areas that required lining grind
12 and riveting of the linings in periods when asbestos
13 linings were used, and I know that there were
14 air-monitoring studies that were done in the early
15 '70s. I think that you might have some of those

16 documents that deal with that process.

17 Q. When was the first time that Rockwell was sued,
18 if you know, for an asbestos-related health claim?

19 A. From what I've seen and have been told, it was
20 1978.

21 Q. Can you tell me when Rockwell was first put on
22 notice by its employees that asbestos dust might be a
23 health hazard?

24 A. I think that there are some documents talking
25 about that in the late -- I'm sorry -- I should say the

000122
1 early '70s.

2 Q. I noticed -- in the exhibits to your prior
3 deposition, I believe there are some copies of
4 grievances from Rockwell employees, expressing concerns
5 about brake dust, that are dated 1973.

6 Does that sound familiar?

7 A. Generally, yes.

8 Q. Do you know if 1973 was the first time that
9 Rockwell internally was alerted to brake dust hazards
10 regarding its own employees?

11 A. I think there might have been other documents
12 in there around that general time period.

13 Q. Did Rockwell belong to any industrial health
14 organizations?

15 A. Beyond the National -- the National Safety
16 Council?

17 Q. Yes.

18 A. That is the only one that I recall.

19 Q. Rockwell wasn't a member of the Friction
20 Material Standards Institute?

21 A. To the best of my knowledge, no.

22 Q. Or the Asbestos Institute?

23 A. Correct. No.

24 Q. To the best of your knowledge, Rockwell was a
25 member of the National Safety Council. Do you know

000123
1 when Rockwell became a member of that council?

2 A. I think I've seen things that have said in the
3 '40s.

4 Q. Did Rockwell have an industrial hygienist
5 during the relevant time period, if you know?

6 A. I believe there is information on that in some
7 of the interrogatory responses. I believe there was,
8 but the interrogatory responses is probably a better
9 source than myself.

10 Q. Can you tell me if Defendant conducted any
11 medical monitoring of its own employees?

12 A. Yes, Rockwell did.

13 Q. When did Rockwell begin monitoring the health
14 of its own employees?

15 A. In the brake plants, I believe that was in the
16 early '70s. It could have been '73. Again, I believe
17 that there are some documents that discuss the air
18 monitoring as well as the medical monitoring in several
19 of the plants.

20 MS. GROSS: Unless those documents were
21 produced recently at the Goodwin Procter office, I
22 don't have those documents.

23 MS. ROSS: They were produced at the Goodwin
24 Procter office last week.

25 BY MS. GROSS:

000124

1 Q. Can you tell me what kind of medical monitoring
2 Rockwell conducted at the brake plants?

3 A. The documents would be a better source of that
4 information than me. However, from my recollection, I
5 believe that there were chest x-rays and pulmonary
6 testing that was done on a periodic basis. There may
7 have been other medical monitoring also done.

8 Q. Who did the medical monitoring for Rockwell
9 employees?

10 A. That would be included in the documents to the
11 extent that I know. I don't know as I sit here.

12 Q. I don't have the documents, so I can't question
13 you regarding that, but I am interested in what you do
14 know.

15 Do you know if Rockwell evaluated those results
16 over the years?

17 A. I do not know personally beyond, again, what's
18 included in the documents.

19 Q. Do you know if Rockwell changed any of its
20 employees' work practices based on the results of the
21 medical monitoring of its employees?

22 A. Not that I know of as far as the medical
23 monitoring. However, there was -- also, as I had
24 mentioned, there was environmental monitoring of dust
25 levels at various points in time. Based on levels that

000125
1 were detected, changes were made in work practices.

2 Q. Can you tell me when Rockwell first learned
3 that asbestos could cause lung disease?

4 A. The first time?

5 Q. Yes.

6 A. That I do not know.

7 Q. So we do know that there were industrial
8 hygienists employed by Rockwell, correct --

9 A. That is correct.

10 Q. -- during the relevant time period?

11 A. Well, during some time period. Again, I refer
12 back to the interrogatories that list out that time
13 period, I believe.

14 Q. When did Rockwell stop using
15 asbestos-containing brake linings in its brake shoes,
16 brake assemblies and axles?

17 A. On the heavy-duty side, on-highway side of the
18 business, it was phased out after the changeover I
19 spoke of this morning, after -- in 1988, the asbestos
20 linings were used up, and by either the late 1980s or
21 early 1990s, the change would have been complete for
22 the on-highway side of the business.

23 Q. I did find a document dated August 15th, 1972
24 from a prior Rockwell production that describes the
25 label that's to be used on friction materials that can

000126
1 be cut, drilled or ground by a customer in their place
2 of business.

3 I'll mark that as plaintiffs' next and ask you
4 to take a look at it.

5 (Plaintiffs' Exhibit No. 11 marked for
6 Identification.)

7 BY MS. GROSS:

8 Q. Have you seen that document before?

9 A. I'm uncertain. If it was attached to my prior
10 deposition, I probably saw it at that point in time.

11 Q. I don't think it was attached to your prior

12 deposition. I think it was produced to this office by
13 Rockwell in an earlier production.

14 A. Okay. It does not look familiar, then.

15 Q. Can you tell me if this is the first time that
16 Rockwell labeled its friction materials?

17 A. I don't know if this pertains to Rockwell.

18 Q. Do you recognize any of the names of the
19 district managers?

20 A. No.

21 Q. Do you know if this is the first time that
22 Rockwell received information regarding the labeling of
23 friction materials?

24 A. I don't know and -- I don't know.

25 Q. Do you know what, if anything, Rockwell was
000127

1 purchasing from the Johns-Manville Corporation in 1972
2 that would lead this document to be in the files?

3 A. I do not.

4 Q. Do you know if this is the document that
5 prompted Rockwell to start labeling its
6 asbestos-containing products in the early 1970s?

7 A. I do not.

8 Did you say "early 1970s"?

9 Q. Yes. Is that what you said?

10 A. No. I said late.

11 Q. You said the first warnings appeared in the
12 late 1970s.

13 A. Late 1970s.

14 Q. Okay.

15 We'll mark this as plaintiffs' next. It's a
16 May 1975 letter from Raybestos-Manhattan -- to
17 Raybestos-Manhattan from Rockwell International.

18 (Plaintiffs' Exhibit No. 12 marked for
19 Identification.)

20 BY MS. GROSS:

21 Q. I'll ask you if you've seen that before.

22 Have you had an opportunity to review it?

23 A. Yes, I have.

24 Q. The letter references union grievances and
25 threats of being reported to OSHA.

000128

1 I realize that this occurred prior to your
2 employment at Rockwell, but do you have any information
3 regarding when the grievances first started or who was
4 threatening to report Rockwell to OSHA?

5 A. Relative -- relative to this type of issue,
6 then, because -- I believe that there are some
7 documents that discuss those types of issues prior to
8 this point in time.

9 Q. You have no independent knowledge yourself?

10 A. No.

11 Q. You haven't talked to anybody about the
12 grievances or the OSHA issues?

13 A. No.

14 Q. What union represented the workers in the brake
15 plants, if you know?

16 A. I am not certain.

17 Q. What kinds of precautions, if you know, did
18 Rockwell initiate in its brake plants arising from the
19 grievances that are discussed in the 1975 letter?

20 MR. KEELE: Objection. Foundation.

21 THE WITNESS: I don't know what was done
22 specifically in response to grievances. There may be

23 items that are included in some of the documents that I
24 had referenced that may state and talk about that.

25 obviously, one thing that you can apparently

000129

1 see from the face of the letter is that prior requests
2 have been made to lining suppliers regarding the
3 receipt of materials from them. So I imagine that that
4 would be one of them. But as far as specific to
5 grievances, I would have to go back and rely upon the
6 documents.

7 BY MS. GROSS:

8 Q. So do you have any independent information at
9 all regarding any warnings or work practices, changes
10 that Rockwell took to protect its own employees from
11 asbestos dust?

12 MR. KEELE: Objection. Vague. Time and
13 context.

14 THE WITNESS: Again, there are things I know
15 that are discussed in some of the documents. I don't
16 know that they had dust-collection systems in the
17 plants, particularly in the riveting and in the
18 grinding area. And I'm sure that there were other
19 things that I can't recall as I sit here but I'm sure
20 were also included in some of the documents or
21 mentioned in some of the documents.

22 BY MS. GROSS:

23 Q. Do you know when the dust collections were
24 installed for Rockwell company?

25 A. No, I don't know. It was at least in the '70s

000130

1 and could have been earlier, much earlier.

2 Q. You really don't know one way or another?

3 A. Pardon?

4 Q. You really don't know one way or another?

5 A. I believe that there is reference in some of
6 the documents to dust-collection systems from the early
7 '70s, and my presumption is that they would have been
8 installed prior to that.

9 Q. Were you involved at all with the creation of
10 warnings that Rockwell used for its asbestos-containing
11 brake products?

12 A. "Creation" being...?

13 Q. The design, the language or anything like that.

14 A. Not during the relevant time period, no.

15 Q. Who would have been responsible for those
16 warnings?

17 A. I do not know.

18 Q. Do you know who was responsible for the
19 decision to warn the consumer regarding
20 asbestos-containing brake components that Rockwell was
21 putting into the marketplace?

22 A. No, I don't.

23 You're referring here to the first warnings
24 that appeared; correct?

25 Q. Right.

000131

1 Unfortunately, I don't think I have any of the
2 warnings that might have been produced at the recent
3 document production.

4 Can you tell me if Rockwell placed warnings on
5 products going to OEMs, warnings regarding asbestos in
6 brake products that Rockwell was selling to OEMs?

7 A. Yes, I do.

8 Q. Do you know when they started to place warnings
9 or provide warnings?

10 A. It was various points in time.

11 Q. Why don't you tell me when.

12 A. On the product itself, in the late '70s, I
13 believe it was, warnings appeared on boxes of
14 replacement parts that would have gone on to the OEMs.

15 Q. Do you know what those warnings said in the
16 late 1970s?

17 A. I believe it's disclosed in some of the
18 interrogatory responses which is probably a better
19 source than my memory.

20 Q. Were those warnings from the late 1970s revised
21 at some point, if you know?

22 A. Various warnings were revised over a period of
23 time.

24 Q. Can you be more specific?

25 A. If we can find the interrogatory responses, I

000132

1 probably can be and would probably be more accurate.
2 If not, I can't.

3 Q. It's not in these.

4 Let's take another short break. We're almost
5 done.

6 (Off the record.)

7 MS. GROSS: We've marked as plaintiffs' next
8 the Answers of Defendant Rockwell Automation to set
9 one.

10 (Plaintiffs' Exhibit No. 13 marked for
11 Identification.)

12 BY MS. GROSS:

13 Q. If you'll turn to Rockwell's answer to
14 interrogatory No. 27, there's a warning from the late
15 1970s that states: "Caution: Contains asbestos fibers.
16 Avoid creating dust. Breathing dust may cause serious
17 bodily harm."

18 It says that this warning was placed on boxes
19 of replacement asbestos-containing brake parts.

20 Can you tell me if this warning was also given
21 to the OEM manufacturers that were purchasing
22 asbestos-containing brake parts during the relevant
23 time period?

24 A. Certainly to the extent that they ordered
25 asbestos-containing brake parts for replacement parts,

000133

1 it would have been on the box that they received in
2 their parts distribution centers.

3 Q. So this warning was going out to the
4 distribution centers and to the OEMs; is that correct?

5 A. Well, when I was talking about distribution
6 centers, I was talking about the PDCs at the OEMs, or
7 parts distribution centers at the OEMs, where they
8 redistributed service parts.

9 Q. By the late 1970s, do you know whether or not
10 Rockwell was aware of the fact that breathing asbestos
11 dust could cause cancer?

12 A. I think that they were aware that some authors
13 had shown some type of relationship between the brake
14 dust and illnesses.

15 Q. Do you know where this warning came from?

16 A. Specifically, no, I do not.

17 Q. Do you know what division or department at
18 Rockwell was responsible for drafting the warning?

19 A. I do not. I know at the time I was working in
20 Florence -- and Florence is where aftermarket parts
21 were packaged -- that there was a requirement, since I
22 was then, you know, in the purchasing area, to purchase
23 new labels that had this imprinted upon it, but as far
24 as who, I do not know.

25 Q. The label that we've been discussing is the
000134 1 label on the replacement boxes in the late 1970s?

2 A. That's correct.

3 Q. Then was this -- it looks like there are
4 warnings that were introduced into product literature.
5 Do you know what product literature is referred to
6 here?

7 A. Yes. The warnings that appeared over here
8 would have appeared in some of the field maintenance
9 manuals for brake product, and they also may have
10 appeared in some of the parts books.

11 Q. Did Rockwell provide any mechanical training
12 services or other kinds of services to distributors who
13 were distributing its products?

14 A. I'm not sure that I understand your question.

15 Q. Did Rockwell provide any kinds of services or
16 training to mechanics or the OEMs who were
17 incorporating its products into their vehicles?

18 A. Rockwell had field service personnel that would
19 handle training at some dealerships and/or fleets on
20 occasion.

21 Q. What's the difference between a dealership and
22 a fleet operation?

23 A. A dealership, I'm referring to a dealer of an
24 OEM, such as a Freightliner dealer or somebody like
25 that that sells new vehicles and has a service

000135 1 department in the dealership. For a fleet, I'm
2 referring to an operating fleet, Ryder, UPS, Fed Ex,
3 whatever.

4 Q. Rockwell had what kinds of employees that it
5 would send out to these locations?

6 A. Field service people as well as salespeople.

7 Q. What kinds of services do the field service
8 people provide?

9 A. They might offer suggestions. They might look
10 at -- offer some training in particular products from
11 time to time. In the repair of those products, they
12 might, you know, help in assuring that they had the
13 proper mix of service parts available to them and
14 answer any questions that they might have.

15 Q. Did they offer training in removing and
16 installing brakes, for example?

17 A. I would imagine that they would.

18 Q. How far back in time did Rockwell offer field
19 services?

20 A. I don't know.

21 Q. Was there a field services department when you
22 started working at Rockwell in 1978?

23 A. I believe there was.

24 Q. Fleet operations, I believe you mentioned a
25 couple of companies. I'm a little confused about what
000136

1 constitutes a fleet operation for Rockwell in its
2 business.

3 A. A fleet is a collection of trucks that are

4 owned by one entity, Yellow Freight. I don't know if
5 they're even in business anymore. You see them on the
6 expressways all the time, you know, that are hauling
7 goods.

8 Q. Rockwell -- what was Rockwell's involvement
9 with Yellow Freight, for example?

10 A. I don't know. I was just trying to pick a
11 fleet name that I knew. I wasn't trying to say that
12 there was a relationship between Rockwell and Yellow.

13 Q. I understand.

14 I'm more trying to get at generally, what was
15 Rockwell's agreement with fleet operations?

16 A. I don't know that we had agreements with fleet
17 operations. Rockwell people would call on operating
18 fleets to encourage them to buy a Rockwell product on
19 the next new vehicle orders that they ordered from
20 OEMs, as well as to provide guidance or training in the
21 servicing of Rockwell product that the fleet might
22 have.

23 Is that helpful?

24 Q. Yes.

25 MS. GROSS: Counsel, can you tell me if there

000137

1 was product literature that contained the warnings that
2 are in the interrogatory responses produced at the --

3 MS. ROSS: I believe that the field manuals
4 that Mr. Ketcham referenced were produced. And there
5 may have been other manuals as well, but I know for
6 sure they were within the production.

7 BY MS. GROSS:

8 Q. Can you tell me when Rockwell first started
9 conducting dust studies at its manufacturing plants?

10 A. I believe that was in the early '70s. And,
11 again, I believe that there were some documents that
12 probably discuss that. Whether that was the first, I'm
13 uncertain, but that's certainly the first documented
14 case.

15 Q. During the course of your employment at
16 Rockwell, did any of your job duties require you to get
17 involved with the dust studies that were conducted?

18 A. No, they did not.

19 Q. So other than what's contained in the
20 documents, you don't have any independent knowledge
21 regarding dust studies?

22 A. That's correct.

23 MS. GROSS: That's all the questions I have.

24 I don't know if anyone else here has questions.

25 MR. OSTHIMER: No questions.

000138

1 MS. GROSS: Thank you for your time.

2 THE WITNESS: Thank you.

3 (Whereupon, the deposition was concluded at
4 3:09 p.m.)
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11 SIGNATURE OF WITNESS
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1 STATE OF CALIFORNIA)
2)
3 COUNTY OF ALAMEDA)
4

5 I, DENISE M. LOMBARDO, do hereby certify:
6 That BRUCE KETCHAM, in the foregoing deposition
7 named, was present and by me sworn as a witness in the
8 above-entitled action at the time and place therein
9 specified;
10 That said deposition was taken before me at said
11 time and place, and was taken down in shorthand by me,
12 a Certified Shorthand Reporter of the State of
13 California, and was thereafter transcribed into
14 typewriting, and that the foregoing transcript
15 constitutes a full, true and correct report of said
16 deposition and of the proceedings that took place;
17 IN WITNESS WHEREOF, I have hereunder subscribed my
18 hand this 10th day of June 2005.
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23

DENISE M. LOMBARDO, CSR No. 5419
State of California

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25

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1 The deposition of BRUCE KETCHAM taken on June 7, 2005
2 has been shipped from the disk of DENISE LOMBARDO
3
4 DELETE DATA: YES NO
5 CASE NAME: Kenna Hall, et al. Vs. Asbestos Corp. Ltd.,
6 et al.
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9 CLIENTS REQUESTING DISKETTE:
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Ketcham Bruce - Hall Kenna 6-7-05.TXT

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