

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN FRANCISCO

3 ---oOo---

4
5 RICHARD YEAGER and SHIRLEY)
6 YEAGER,)

7 Plaintiffs,)

8 - vs -)

9 UNION CARBIDE CORPORATION,) No. 312960

10 Defendant.)

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DEPOSITION OF CARLO MARTINO

17

VOLUME I

18

Friday, May 4, 2001

19

(Pages 1 through 93)

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Reported by:

23

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SHERRY SHERRY

25

CSR NO. 5619

ENTERED
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1 I N D E X

2

3 WITNESS:

4 CARLO MARTINO - Volume I

5

6 EXAMINATION BY:

PAGE

7 PROCEEDINGS

5

8 MS. SHINING

9

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10 PLAINTIFFS' EXHIBITS*:

11 Description

12 1 Summary of Mr. Martino's
background

11

13

14 2 Article on the rise of Bakelite
and other plastics in the U.S.
in the 1930s from an Internet
15 site

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24 (*Exhibits not received via fax during the course of the
deposition, and were discussed at the page indicated.)

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1 BE IT REMEMBERED that, pursuant to Notice of
2 Taking Deposition, and on Friday, May 4, 2001,
3 commencing at the hour of 3:23 p.m. thereof, at BRAYTON
4 PURCELL, 222 Rush Landing Road, Novato, California 94945
5 before me, SHERRY SHERRY, CSR No. 5619, a Certified
6 Shorthand Reporter in and for the State of California,
7 there telephonically appeared

8 CARLO MARTINO,
9 physically located at the Marriott Hotel, 110 Davidson
10 Street, Somerset, New Jersey, was called as a witness by
11 the Plaintiffs herein; who, having been first duly
12 sworn, was thereupon telephonically examined and
13 testified as is hereinafter set forth.

14 ---o0o---

15 LAW OFFICES OF BRAYTON PURCELL, 222 Rush
16 Landing Road, Novato, California 94945 by CAROLIN K.
17 SHINING, Attorney at Law, and by JOHN GOLDSTEIN,
18 Attorney at Law, appeared as counsel on behalf of the
19 Plaintiffs; and

20 LAW OFFICES OF HAIGHT, BROWN & BONESTEEL, LLP,
21 1620 26th Street, Santa Monica, California 90404 by
22 BRUCE A. ARMSTRONG, Attorney at Law, telephonically
23 appeared as counsel on behalf of the Defendant.

24 LAW OFFICES OF KELLEY, DRYE & WARREN, 101 Park
25 Avenue, New York, New York 10178 by JONATHAN GLASSER,

1 Attorney at Law, telephonically appeared as counsel on
2 behalf of the Defendant.

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1 Friday, May 4, 2001

3:23 p.m.

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3 (Reporter's Disclosure: I am an independent
4 Certified Shorthand Reporter representing CalNorth
5 Reporting Service. Neither CalNorth Reporting Service
6 nor I have an ongoing contractual relationship with any
7 party or legal representative to this action. I am an
8 impartial and unbiased reporter. This is being
9 disclosed with reference to California Certified
10 Shorthand Reporters' and National Court Reporters
11 Association's Code of Professional Conduct and CalNorth
12 Reporting Service's interpretation of Business and
13 Professions Code 8025(c).)

14 --o0o--

15 PROCEEDINGS

16 MR. ARMSTRONG: This is Bruce Armstrong. I
17 represent Union Carbide Corporation.

18 The deposition that we are here for today was
19 to start at three o'clock Pacific time. We came on line
20 about 3:15 and the reason that we were late is because
21 we were in contact with the McKenna & Cuneo office
22 getting some information with regard to the offer of
23 proof which was to have been delivered to us by -- to
24 the McKenna & Cuneo law office by two o'clock today.

25 The information that we got indicates that

1 Mr. Martino, the deponent here today, leads the list of
2 the evidence that the plaintiffs intend to offer, and at
3 this point I need a copy of that document before I
4 proceed with the deposition. So we are delaying the
5 deposition to start at four o'clock today so that a copy
6 can be faxed to me so that I can take a look at it
7 before we commence the deposition.

8 MS. SHINING: Okay. This is Carolin Shining,
9 counsel for plaintiffs Richard and Shirley Yeager.

10 I have no problem faxing a copy of that to
11 Mr. Armstrong, although at his direction I faxed it to
12 Lisa Oberg, and I don't believe the two issues here are
13 related.

14 This deposition, while the information of
15 Mr. Martino is listed in our offer of proof, that
16 information is going to be developed on
17 cross-examination and therefore the proceeding of this
18 deposition isn't related to what's in the offer of
19 proof.

20 I want to confirm with Counsel that I will not
21 be shorted time because of this delay, that previously
22 Miss Oberg stated in a letter that she was going to
23 unilaterally limit the length of the deposition to two
24 hours. I made no objection to that even though the
25 court did not impose that restriction due to the

1 interest of time, and I just want to ensure that I will
2 still at least at a minimum be entitled to take a full
3 two hour deposition of Mr. Martino.

4 MR. ARMSTRONG: You will be entitled to two
5 hours at some time. The two hour limitation was not set
6 on by Miss Oberg's letter. That letter confirms the
7 telephone conversation with you and I in which we agreed
8 that it would be a two hour deposition.

9 MS. SHINING: That's not true whatsoever. You
10 and I never discussed it.

11 MR. ARMSTRONG: May I finish?

12 MS. SHINING: Well I just don't want the record
13 to reflect misstatements.

14 MR. ARMSTRONG: Let me complete my statement.
15 You get to complete your statements, too; okay?

16 I think that's only fair.

17 MS. SHINING: Well just please don't --

18 MR. ARMSTRONG: The telephone conversation --
19 after which I wrote the letter that was signed by Miss
20 Oberg and confirmed the telephone conversation that we
21 had and confirmed the number of parts of the telephone
22 conversation.

23 The deposition was specifically set at three
24 o'clock today so that we would have an hour with the
25 offer of proof that the plaintiff was to serve on us

1 before the deposition started. The offer of proof was
2 actually served at 2:45 on the McKenna office, and I
3 have been in contact with them but I have not yet seen
4 it.

5 MS. SHINING: Well --

6 MR. ARMSTRONG: We need to see that before we
7 can proceed with the deposition and the two are not
8 unrelated as you have stated.

9 MS. SHINING: When will I get the --

10 MR. ARMSTRONG: They are related because, for
11 one thing, this case is over at, as it stands right now,
12 to only subject to the court's acceptance of your offer
13 of proof and if that offer of proof is late or short and
14 the court refuses to accept it for either of those
15 reasons then you have no right to go forward with the
16 deposition at all. But we are going to be looking at
17 the deposition, we will be back on the conference at
18 about four o'clock, assuming that it's out here so that
19 I can look at it, and we will at that time proceed with
20 the deposition.

21 MS. SHINING: Well now you're not willing to
22 even admit that you are going to start the deposition at
23 all. So are you saying I will not get two hours of
24 deposition today?

25 MR. ARMSTRONG: I think I told you that we will

1 have the two hours.

2 MS. SHINING: Today.

3 MR. ARMSTRONG: But I want to see the document
4 that you submitted before the deposition starts.

5 MS. SHINING: Well I can read you the single
6 sentence that refers to Mr. Martino right now and it
7 will take less than 60 seconds.

8 MR. ARMSTRONG: I need to see the document.

9 MS. SHINING: So we will get two hours today.

10 MR. ARMSTRONG: Ms. Shining, this is the third
11 time that I have affirmed that you will get two hours
12 today.

13 MS. SHINING: Great. Thank you.

14 MR. ARMSTRONG: All right. We will be back on
15 the conference call at four o'clock, assuming that the
16 document is here.

17 MS. SHINING: Thank you.

18 MR. ARMSTRONG: Thank you.

19 (Recess taken from 3:32 p.m. - 4:17 p.m.)

20 (All counsel stipulate to witness being sworn
21 telephonically.)

22 CARLO MARTINO

23 having been first duly sworn, testified as follows:

24 EXAMINATION BY MS. SHINING

25 MS. SHINING: Q. Good afternoon. Or good

1 evening, Mr. Martino.

2 A. Good evening.

3 Q. I would just ask could you please identify all
4 the persons who are there in the room with you? Or
5 could maybe Mr. Armstrong do that?

6 MR. ARMSTRONG: Certainly. I am here. I'm
7 Bruce Armstrong. I represent Union Carbide. Jonathan
8 Glasser, G-l-a-s-s-e-r, is here. He also represents
9 Union Carbide, and Mr. Martino is here.

10 MS. SHINING: Who is Mr. Glasser employed by?

11 MR. GLASSER: Kelley, K-e-l-l-e-y, Drye &
12 Warren.

13 MS. SHINING: I have to keep you on speaker
14 phone because the court reporter's here, so if you could
15 speak up a bit.

16 MR. GLASSER: Kelley, K-e-l-l-e-y, Drye &
17 Warren.

18 MS. SHINING: And is that a law firm?

19 MR. GLASSER: Yes it is.

20 MS. SHINING: Where is that law firm located?

21 MR. GLASSER: New York City.

22 MS. SHINING: Do you have the address?

23 MR. GLASSER: Sure. 101 Park Avenue.

24 MS. SHINING: And phone number.

25 MR. GLASSER: My phone number is 212/808-7583.

1 MS. SHINING: Q. Mr. Martino, can you hear me
2 okay?

3 A. Yes, I can.

4 Q. I represent Richard and Shirley Yeager in the
5 case. Where are you physically today? What's the
6 address of the location that you're at?

7 A. That's Marriott Hotel in Somerset. Do you want
8 the actual address?

9 Q. Yes.

10 A. 110 Davidson Avenue, Somerset, New Jersey
11 08873.

12 Q. Okay. Do you have any documents with you,
13 Mr. Martino?

14 A. Only a summary of my background and that's
15 about it.

16 Q. How long is the summary?

17 A. The summary of my background?

18 Q. Right.

19 A. About a page and a half but some of it probably
20 isn't relevant to your particular case. It involves my
21 experience in other plastic areas so it depends. I can
22 give it all to you or part.

23 Q. I would like to mark that as an exhibit. Do
24 you have any other documents with you today?

25 A. No. Oh, just an article on the rise of

1 Bakelite and other plastics in the U.S. in the 1930s,
2 which I happened to be on the Internet.

3 Q. Do you have a web address for that article?

4 A. No, I don't.

5 Q. Okay. I would like to attach that as well to
6 the deposition. Are those the only two documents you
7 have with you?

8 A. Yes.

9 Q. Okay. Have you ever been deposed before?

10 A. No, I have not.

11 Q. Okay. Have you ever testified at trial?

12 A. No.

13 Q. You hesitated a little bit. Is there a hearing
14 that might qualify as a trial?

15 A. No, I was just trying to search my memory.

16 Q. Okay. Well the time I have now is 4:18 Pacific
17 Standard Time and I understand that we're being limited
18 to two hours so I will try and be quick, but let me just
19 give you a few of the ground rules of how a deposition
20 operates.

21 Do you understand that you're sworn to testify
22 under oath under penalty of perjury of the laws of
23 California as if you were in a court of law?

24 A. Yes.

25 Q. And do you understand that if you need to take

1 a break at any time you can just say so and we will
2 happily take a break and let you get a drink of water or
3 stretch your legs?

4 A. Okay. Thank you.

5 Q. And do you understand that particularly since
6 we're on the telephone your answers to my questions need
7 to be audible; shrugs, gestures cannot be recorded by
8 the court reporter?

9 A. Yes.

10 Q. And do you understand that if you don't
11 understand a question that I ask you can simply have me
12 rephrase it and I will ask it in a different way?

13 A. Yes.

14 Q. Okay. Have you taken any medications today
15 that would affect your ability to remember facts and
16 memories?

17 A. No.

18 Q. Can you think of any other reason why we
19 shouldn't go forward today with the deposition?

20 A. No.

21 Q. Okay. Since I don't have the summary of your
22 background and the article I would ask your counsel to
23 fax them to my office. If there's a way to do that
24 while the court reporter's still here she would
25 certainly appreciate it so that she can make these

1 exhibits to the deposition, and I would identify your
2 background as Exhibit 1 and the article on Bakelite as
3 Exhibit 2.

4 Counsel, do you have a problem getting those
5 faxed to our office?

6 MR. ARMSTRONG: I don't think so except it's
7 going to require me to be out of the room, or require
8 somebody out of the room.

9 MS. SHINING: Well perhaps Mr. Glasser can do
10 that while we continue because we're very short on time.

11 MR. ARMSTRONG: We will get them faxed to you.

12 MS. SHINING: Okay.

13 Q. Mr. Martino, could you briefly tell me when
14 were you born?

15 A. March 27th, 1927.

16 Q. And where were you born?

17 A. Brockway, Pennsylvania.

18 Q. Is that Brockway with a "B"?

19 A. Yes.

20 Q. And did you attend an institute of higher
21 learning?

22 A. Yes, I did.

23 Q. After high school where did you go to --

24 A. Carnegie Mellon University.

25 Q. What was the highest degree you've obtained?

1 A. A B.S. degree in chemical engineering in 1948.

2 Q. You don't have a master's or a Ph.D.?

3 A. No, I do not.

4 Q. Do you have any business training?

5 A. Not academy business training.

6 Q. When did you begin your employment with
7 Union -- actually let me take that back. Have you ever
8 worked for the Bakelite Corporation?

9 A. I started working for the Bakelite division of
10 Union Carbide Corporation in August of 1948.

11 Q. Was that your first full-time employment after
12 college?

13 A. Yes, it was.

14 Q. Okay. How long did you work there?

15 A. Forty-seven years and eight months.

16 Q. Did you retire from Union Carbide's Bakelite
17 division?

18 A. It was no longer called the Bakelite division
19 when I retired.

20 Q. So you retired from Union Carbide.

21 A. Right.

22 Q. When did it cease being called the Bakelite
23 division?

24 A. I don't recall when that happened officially.

25 Q. Do you recall the decade in which it happened?

1 A. What?

2 Q. Do you recall the decade in which it happened?

3 A. It would be a guess. I really don't know.

4 MR. ARMSTRONG: We don't want you to guess,
5 sir. If you can estimate, if you can do that that would
6 help you out.

7 MS. SHINING: Q. Can you make an estimate of
8 the decade in which the name was not Bakelite unit
9 anymore?

10 A. Probably in the mid '70s. Yes.

11 Q. Okay.

12 A. That's when we went out of the business so it
13 would have to be about that.

14 Q. Okay. What was your title when you started at
15 Bakelite unit?

16 A. I started as a production trainee.

17 Q. How long did you work in that role?

18 A. About nine months.

19 Q. And then what was your next title?

20 A. I then was transferred to research and
21 development and became a product development engineer in
22 the polystyrene section.

23 Q. And then what was your next title?

24 A. I was --

25 Q. I am sorry, how long were you a product

1 development engineer?

2 A. I was a product development engineer until 1958
3 when I was promoted to project scientist.

4 Q. How long were you a project scientist?

5 A. At that time I was assigned to the polyethylene
6 molded resin crew and I held that title for one year,
7 and then I was promoted to group manager in 1960 of the
8 Bakelite molding and laminating resins group.

9 Q. Did you hold that title until the Bakelite unit
10 ceased existence?

11 A. Just before. In 1970 I was promoted to senior
12 group manager of that same group, and in 1974 I was
13 transferred to the low density polyethylene product
14 development group, and I think we went out of the
15 business shortly after that.

16 Q. Okay. I've seen the use of initials called
17 "BM" and "BR." Do those refer to the words Bakelite
18 molding and Bakelite resin?

19 A. Yes, they do.

20 Q. Okay. Did you work -- were -- was there more
21 than two plants that would relate to the Bakelite
22 division for Union Carbide to your knowledge?

23 MR. ARMSTRONG: Was it more than two plants?

24 MS. SHINING: Q. Do you understand the
25 question, sir?

1 A. More than two plants or do you want to know how
2 many plants?

3 Q. How many plants?

4 A. For molding materials there was only one plant
5 and that was in Bound Brook where I worked. For resins
6 there were -- there was one plant for some time, and
7 then a second one was built to make resins on the west
8 coast.

9 Q. Was the resin plant located also in New Jersey?

10 A. Yes, it was in the same location.

11 Q. Was there a plant in Bloomfield at all?

12 A. That was a research laboratory.

13 Q. Where was the plant in the west coast?

14 A. Don't know the exact location.

15 Q. Did you work primarily in the Bloomfield
16 research plant?

17 A. No I did not.

18 Q. Where did you primarily work?

19 A. We also had research there.

20 Q. Did you also work in the Bound Brook plant?

21 A. Yes.

22 Q. How many researchers were there when you
23 started at this Bound Brook plant?

24 A. I would have to give you a rough estimate.
25 Probably about a hundred people.

1 Q. Were there approximately 5,000 employees at
2 that time at the Bound Brook plant?

3 A. No, not that many.

4 Q. Three thousand?

5 A. I would -- probably about 3300. I think that's
6 the highest number we ever reached.

7 Q. And approximately how many employees if you
8 know were there at the Bloomfield plant when you started
9 with Union Carbide?

10 A. Again I have to give you a rough estimate but I
11 would say between a hundred and 150.

12 Q. Did you ever visit the Belleville plant in
13 Canada?

14 A. Yes, I did.

15 Q. Do you know when that plant was started?

16 A. No I don't.

17 Q. Was there also a facility eventually opened in
18 Mexico?

19 A. Yes.

20 Q. Did you ever visit that plant?

21 A. Yes, I did.

22 Q. And do you know when that plant was started?

23 A. That -- no, I don't have a date for that
24 either.

25 Q. Okay. Do you have any patents to your name?

1 A. Yes.

2 Q. How many patents do you have?

3 A. About six.

4 Q. Do you remember what years they were obtained
5 in?

6 A. Not exactly. The most recent was issued after
7 I retired. That would be 1996 or '97.

8 Q. Do any of those patents relate to phenolic
9 resins?

10 A. No.

11 Q. So those were all post-Bakelite?

12 A. Post and pre-Bakelite.

13 Q. Okay. When you say pre-Bakelite --

14 A. That was when I was in the polystyrene section.

15 Q. Okay. So what year -- so when you were in
16 research and development as a product development
17 engineer and as a project scientist you weren't involved
18 with Bakelite directly; is that correct?

19 A. That's correct.

20 Q. So you weren't involved with the product
21 Bakelite.

22 A. Not directly, no.

23 Q. Okay. So the first time you became directly
24 responsible for Bakelite products would have been when
25 you became a group manager in 1960?

1 MR. ARMSTRONG: I am going to object to the
2 question on the grounds it is vague and ambiguous. What
3 do you mean by "directly responsible"?

4 You can answer the question if you understand
5 it.

6 THE WITNESS: I was responsible for some of the
7 analytical services for Bakelite molding compound in
8 1959. I didn't mention that. Prior to my assignment as
9 manager of the Bakelite molding and laminating group I
10 was manager of the polymer technical service group for
11 all of the Union Carbide products we were making at the
12 time. Included in those products were the Bakelite
13 molding materials.

14 MS. SHINING: Q. Are you skilled in the use of
15 various types of microscopes?

16 A. Of micro what?

17 Q. Microscopes.

18 A. Microscopes?

19 Q. Right.

20 A. No, I'm not. I only use the standard
21 electronic microscope.

22 Q. Is that a transmission electron microscope or a
23 scanning electron microscope?

24 A. I really don't know. It, you know, I never
25 looked at it that closely, nor did I use it that

1 frequently.

2 Q. How often have you used an electron microscope?

3 A. Probably a half a dozen times.

4 Q. Do you remember the kind of image that the
5 microscope gave? Was it a photograph or was it a --

6 A. No, it was just an enlargement of whatever I
7 was looking at on the slide.

8 Q. Was the microscope you're referring to owned by
9 Union Carbide?

10 A. Yes, it was.

11 Q. Where was that microscope located?

12 A. In one of our analytical laboratories.

13 Q. And that's again in the Bound Brook plant?

14 A. Yes.

15 Q. Do you know if that microscope is still in
16 existence?

17 A. No I don't.

18 Q. Do you recall why you were using the electron
19 microscope for the half dozen times that you used it?

20 A. No I don't. It was part of -- I don't remember
21 the exact reason.

22 Q. You don't recall if you were using it to look
23 at whether or not asbestos fibers were being released
24 from Bakelite products?

25 A. No.

1 Q. You don't believe you were?

2 A. I don't think so.

3 Q. Have you ever used a Polarized light microscope
4 to look at asbestos fibers as they are contained in
5 Bakelite products?

6 A. No.

7 Q. Have you ever directed anyone on your staff to
8 use either an electron microscope or a Polarized light
9 microscope to look at asbestos fibers as they are
10 contained in Bakelite products?

11 A. I have not.

12 Q. Are you aware as to whether anyone at Union
13 Carbide either under your direction or not has used a
14 microscope to look at asbestos fibers as contained in
15 Bakelite products?

16 A. The specific individual, no; that it was done,
17 yes.

18 Q. How do you know that it was done?

19 A. Because of discussions I had with people in the
20 analytical division.

21 Q. How is the analytical division different from
22 what you were involved in?

23 A. The analytical division would do special
24 testing for us and they had the facilities to do
25 complete analyses if requested and on all products, not

1 just the Bakelite products.

2 Q. At the time that you recall learning that
3 asbestos fibers were looked at who was in charge of the
4 analytical division?

5 A. I don't remember who was in charge.

6 Q. Do you recall the names of anyone who worked in
7 the analytical division?

8 A. At that time? No.

9 Q. Would you agree that the members of the
10 analytical division would have a better understanding as
11 to -- well, strike that.

12 So you don't have any -- do you have any
13 understanding of the methods used by the analytical
14 division to view asbestos fibers in Bakelite?

15 A. Other than looking at them, the molded --
16 sections of molded products, no.

17 Q. So you don't know if they used new ash
18 techniques?

19 A. No.

20 Q. You don't know if they used a midget impinger
21 to look at air samples released in the air?

22 A. I doubt it because they didn't -- the work they
23 did had to be requested.

24 Q. So you don't know anything about the analytical
25 procedures that they used.

1 A. No, and I can't say that they did use those
2 procedures for that purpose.

3 Q. Did you ever see a written report from anyone
4 from the analytical division on asbestos fibers and
5 Bakelite?

6 A. No I have not.

7 Q. So you would agree then that members of the
8 analytical division would have more information than you
9 with regard to how asbestos fibers are contained within
10 Bakelite.

11 MR. ARMSTRONG: Objection. Argumentative, and
12 I will instruct him not to answer.

13 You can rephrase that question I will let him.

14 MS. SHINING: Q. Do the members of the
15 analytical division have more information than you do
16 with regard to their testing of asbestos fibers?

17 A. No they do not.

18 Q. How -- well --

19 A. As I stated --

20 MR. ARMSTRONG: Just answer the question.

21 MS. SHINING: Q. Well I don't know that that
22 answer is responsive. If they gave him a report in an
23 oral report then certainly they did more than -- they
24 know what they did. You know, who knows what procedures
25 they used to give you that conclusion?

1 MR. ARMSTRONG: The answer was extremely
2 responsive. Do you have another question?

3 MS. SHINING: Q. Okay. Who then at Union
4 Carbide knows what procedures were used by the
5 analytical division?

6 A. I mentioned before that the analytical division
7 did work for us at our request. We did not request such
8 tests as you are referring to in your questioning.

9 Q. Okay. What did you request that they do?

10 A. I did not request any specific test. We on
11 occasion asked them to look at samples under a
12 microscope and report back. We did not ask them what to
13 look for.

14 Q. Did you make that request in writing?

15 A. There was a form that was filled out for any
16 requests we made of the analytical division.

17 Q. And who would you give that form to?

18 A. To whoever was in charge at the time.

19 Q. Who would know who would be in charge at the
20 time of that?

21 A. I have no idea. Most of those people retired.

22 Q. Do you know who is the current head of the
23 analytical division?

24 A. Pardon me?

25 Q. Do you know who currently is the head of the

1 analytical division?

2 A. No I do not. The company was just bought by
3 Dow.

4 Q. Who was the head of the analytical division
5 when you retired?

6 A. I don't remember that either.

7 Q. Do you know how long the analytical division
8 keeps its records?

9 A. No I do not.

10 Q. Do you know if the analytical division would
11 have kept any kind of written report regarding your
12 request?

13 A. They always sent us a report back and that
14 would have been placed in the notebook of the person who
15 made the request.

16 Q. Would they have kept a copy?

17 MR. ARMSTRONG: Objection. Calls for
18 conclusion. Speculation.

19 You can answer the question if you know.

20 THE WITNESS: Would you repeat that question,
21 please?

22 MS. SHINING: Q. Would the analytical division
23 have kept a copy of the report that they sent to the
24 person who requested the report?

25 MR. ARMSTRONG: Same objection.

1 THE WITNESS: I don't know.

2 MS. SHINING: Q. Do you know who requested the
3 report with regard to asbestos fibers?

4 A. I never said that we requested specifically
5 that they look for asbestos fibers. I said we would
6 send samples over for their analysis.

7 Q. So you never asked them to look for asbestos
8 fibers in Bakelite.

9 A. No.

10 Q. So when you say -- so do you know whether or
11 not anyone has ever looked at asbestos fibers in
12 Bakelite?

13 A. To look specifically for fibers, no.

14 Q. So to your knowledge no one has ever cut a
15 piece of Bakelite and analyzed it to determine whether
16 or not asbestos fibers are released by the cutting of
17 that product.

18 A. No tests of that nature run while I was there.

19 Q. Do you know if tests of that nature have been
20 done since you've been there?

21 A. I do not.

22 Q. Do you know if there were tests of that nature
23 before you were involved with the Bakelite division as a
24 group manager?

25 A. There were tests run of air samples in the area

1 when we performed various operations. Those never
2 showed asbestos in the air.

3 Q. When you say "we" in your response, who are you
4 referring to specifically?

5 A. My group.

6 Q. And did your group have a specific title at
7 that time?

8 A. Yes. The Bakelite molding and laminated resins
9 group.

10 Q. How many people were in your group as
11 employees?

12 A. It ranged anywhere from four to as many as
13 eight.

14 Q. How many people were involved in the air
15 sampling tests?

16 A. When the test was run probably three.

17 Q. Can you recall their names?

18 A. No.

19 MR. ARMSTRONG: I am going to object to this
20 line of questioning as vague and ambiguous as to time.

21 MS. SHINING: Q. When were these tests run?

22 A. They were run in the early 1970s when we became
23 aware that asbestos might be a problem. There was no
24 reason to run them before that.

25 Q. Do you know if the three people who were

1 involved in the testing are still employed by Union
2 Carbide?

3 A. I was there. Of course I am no longer an
4 employee, I am a retiree. I believe Doug Neal was
5 there, and he is a retiree; and I don't recall who the
6 third person was.

7 Q. Do you recall how to spell Mr. Neal's last
8 name?

9 A. N-e-a-l.

10 Q. What was Mr. Neal's title?

11 A. He was from the safety department. He was
12 performing the function of a safety engineer.

13 Q. Approximately how many of these tests did you
14 run?

15 A. We ran the test once and found no asbestos at
16 all.

17 Q. How many samples did you test?

18 A. Samples were taken from various locations in
19 the room around where our people were operating the
20 equipment. I would guess maybe a half a dozen.

21 Q. What equipment was used to perform the
22 sampling?

23 A. I don't know what the device was that Doug used
24 or what it was called.

25 Q. You don't know if it was called an impinger?

1 A. No I do not.

2 Q. Okay. What kinds of activities were being
3 performed in the room that was being tested?

4 A. We had asked the laboratory assistant to
5 perform his normal molding operation with one of the
6 formulations.

7 Q. Do you recall the product number? The BM
8 number of the particular formulation that was used?

9 A. No. It was one that contained about five
10 percent of percipio (phonetic) asbestos.

11 Q. And can you describe what the normal molding
12 operation that the lab assistant was performing?

13 A. It would require a pallet of the granular
14 material in a small press, taking that pallet and
15 putting it into a radio frequency heating unit, which is
16 similar to our present microwave, heating the material
17 up to a certain temperature and then placing that pill
18 in the molding press and forming a part.

19 Q. So this was the actual molding process after
20 the granular Bakelite material had actually been formed.

21 A. That's correct.

22 Q. Was any activity done to the molded product
23 after it was already molded?

24 A. No.

25 Q. So there was no cutting of a finished Bakelite

1 molded product tested.

2 A. Not cutting. Molded product would have some
3 flash in the material that was extruded between the
4 halves of the mold that would be removed.

5 Q. How was that removed?

6 A. Generally very brittle so it could be done by
7 hand. Just running a hand over the part.

8 Q. So you didn't need to use sandpaper or a rasp?

9 A. No. No. It was very easy to break off.

10 Q. What was the size, if you can recall, of the
11 molded part that was made?

12 A. It was a size of an ashtray. In fact I think
13 it was an ashtray. That was one of our test pieces.

14 Q. So it was circular in size?

15 A. Circular with three indentations to hold the
16 cigarette.

17 Q. Literally an ashtray.

18 A. Yes.

19 Q. No drilling of the product afterwards was
20 performed and then samples taken?

21 A. No.

22 Q. Do you recall the timing of the samples during
23 that procedure?

24 MR. ARMSTRONG: Objection. Vague and
25 ambiguous. The question, what you mean by timing in

1 that context?

2 MS. SHINING: Q. How long did this test take
3 in total?

4 A. About two, two hours.

5 Q. Were the six air samples taken evenly spaced
6 throughout the two hours?

7 A. Yes.

8 Q. So every twenty minutes?

9 A. About every 20 minutes.

10 Q. Do you recall approximately the size of the
11 room in which this activity was being performed?

12 A. I would estimate about 15 feet wide and maybe
13 30 feet long.

14 Q. Do you recall any ventilation in this room?

15 A. Yes. All our areas were very well ventilated.

16 Q. Was that ventilated with industrial air
17 conditioning? Or were there additional fans provided
18 for these spaces?

19 A. No, we did not have air conditioning in the
20 location. It was the state of the art ventilation
21 equipment to keep the dust out of the air in the
22 vicinity of the operator.

23 Q. Do you know the method by which -- I am
24 sorry -- did Mr. Neal then take air samples and view
25 them himself?

1 A. I don't know where he had samples analyzed.

2 Q. So you had nothing to do with the analysis of
3 the samples.

4 A. No I did not. He reported back to me the
5 results.

6 Q. And can you recall precisely what his results
7 were as he reported them to you?

8 A. No asbestos particles were measured.

9 Q. Are those the exact words as you remember them?

10 A. I don't -- I may have -- I don't remember his
11 exact words but that was the result.

12 Q. Do you remember if he used the term "threshold
13 limit value"?

14 A. Yes. He mentioned that there was a threshold
15 limit value and that we were well below that.

16 Q. Did he use the term "permissible emission
17 limit"? Or P-e-l?

18 A. That I am not familiar with. But threshold
19 value was.

20 Q. Okay. Do you remember anything else that he
21 said besides that you were well below the threshold
22 limit value?

23 A. No, that was it.

24 Q. Did Mr. Neal provide you with anything in
25 writing regarding the results?

1 A. No he did not.

2 Q. Do you know if he reduced any of the results
3 into written form?

4 A. I have not been able to locate any written
5 statements.

6 Q. Have you recently attempted to locate any
7 written statements?

8 A. I think others have. We have not located it.

9 Q. Who did Mr. Neal report to at that time?

10 A. I don't recall the individual.

11 Q. At the time of your retiring did Union Carbide
12 still have a safety department such as that Mr. Neal
13 worked for?

14 A. Oh, yes. Much bigger.

15 Q. Who was the head of the safety department when
16 you left?

17 A. I don't recall his name.

18 Q. Okay. Do you recall the head of the safety
19 department when Mr. Neal was working with you in 1970?

20 A. No, I do not.

21 Q. Okay. I would like to shift gears a little bit
22 and talk about Bakelite itself. Mr. Bakeland was
23 actually named as -- do you know if he was one of the
24 "'Time' 100s Men of the Century"?

25 A. I knew he was very famous. I didn't know that

1 he received that award.

2 Q. And are you familiar with the chemical
3 formulations for Bakelite from your work from 1959
4 through the 1970s?

5 A. Yes.

6 Q. And you're familiar with the various fillers
7 that are used in Bakelite products?

8 A. Yes I am.

9 Q. Do you have any knowledge as to the fillers
10 that were used and the product formulations that were
11 used in the period when the Bakelite unit was owned
12 actually as a part of the Bakelite Corporation?

13 A. That was before 1948 so I don't know what was
14 done in that period of time.

15 Q. Have you ever viewed, since 1959 have you
16 viewed files or formulas that relate back to product
17 formulations that are earlier, from those earlier time
18 periods before Union Carbide bought Bakeland?

19 A. No I did not.

20 Q. What's the earliest product formulation that
21 you have seen in your experience with Bakelite?

22 A. Some of the formulations that were sold in the
23 1950s.

24 Q. Now I have seen, we talked briefly about the BM
25 product naming system. Do you have an understanding as

1 to when that system was started?

2 A. When it was started, no. But it was in
3 existence in the '50s.

4 Q. Do you recall the numbers in sequence? Did
5 they change as new product formulations were being
6 invented?

7 A. There were two ways of changing. If it was a
8 minor modification intended to displace the existing
9 material a fourth letter was added to the designation.
10 In other words, it was BMG 5000, a minor modification
11 that was to replace the original would be called BMGA
12 5000 until it became established. Then the old product
13 was obsolete and the new product was introduced and the
14 "A" was dropped.

15 The other was that it was a entirely new
16 compound it would receive a new four letter designation.

17 Q. When you say "four letter designation" do you
18 mean --

19 A. I mean four number, I'm sorry.

20 Q. Right. So it would be BM and then four digits.

21 A. Right.

22 Q. Are you familiar with products that only had
23 three digits?

24 A. Not in the phenolic molded material.

25 Q. Have you ever seen products that had BM-100 or

1 BM-200?

2 A. No.

3 Q. Were product numbers ever phased out?

4 A. Yes, they were.

5 Q. How was a product number phased out?

6 A. The customer was notified that it would be
7 obsolete and removed from our product mix and then it
8 would be dropped. He would be given enough time to
9 find a substitute.

10 Q. Would records with regard to those obsoleted
11 formulas be maintained?

12 A. They were for awhile. Whether they still exist
13 or not I don't know.

14 Q. Where were they maintained?

15 A. While we were in the business at Bound Brook.

16 Q. Whose office would they be maintained by?

17 A. The manufacturing department would have a file
18 of all the formulations that were purged. The obsolete
19 file would probably remain there for a short period of
20 time.

21 Q. Who would be in charge of keeping that file?

22 A. The product scheduler.

23 Q. Do you know who was the product scheduler in
24 1959?

25 A. No I don't.

1 Q. Do you know who any of the product schedulers
2 were at any time?

3 A. I knew them at that time but I don't remember
4 their names. Forty-seven years is a long time and a lot
5 of people.

6 Q. I understand there may be a lot of questions I
7 ask that you might not have memory of so I appreciate
8 you bearing with me.

9 So do you have any memory as to the use of
10 asbestos in Bakelite formulations prior to when you
11 started working with Bakelite?

12 A. Prior, no.

13 Q. Do you have any understanding that you gained
14 after 1959 of Bakelite formulations, again that were in
15 existence prior to 1959?

16 A. I am sorry, I didn't understand that. What do
17 you mean by understanding?

18 Q. Well, after you started working directly with
19 Bakelite in 1959 did you learn about what formulations
20 were used before 1959?

21 A. We never went back and got the old
22 formulations. We worked with what we had.

23 Q. Do you recall in 1959 and 1960 which of the
24 formulations were started at what time?

25 A. Most of what we worked with had been developed

1 in the '50s and then we continued to develop our own
2 after that. What I can't tell you is were any of those
3 in the '50s extensions of what was made in the '40s.

4 Q. Do you know who Robert Butler is?

5 A. No I don't.

6 Q. You have never heard his name before?

7 A. It -- not -- I don't remember meeting him
8 before.

9 Q. Do you ever recall speaking to Mr. Butler at
10 all?

11 A. I don't.

12 Q. Do you know if Mr. Butler has more knowledge of
13 the products and formulations for Bakelite with regard
14 to the asbestos containing Bakelite?

15 MR. ARMSTRONG: I will object to that question
16 as calling for conclusions, speculation and silly. If
17 he doesn't know Mr. Butler he can't possibly know
18 whether he knows more about formulations or not.

19 MS. SHINING: Q. Well do you know who
20 Mr. Butler is?

21 A. No I do not.

22 Q. Do you know whether he's provided government
23 agencies with information on the asbestos contained in
24 Bakelite?

25 A. No I do not.

1 Q. Do you know who Clinton W. Blount is?

2 A. Clinton W. who?

3 Q. Blount, B-l-o-u-n-t, or C.W. Blount.

4 A. Seems that there was a vice-president named
5 Blount, B-l-o-u-n-t. Is that the one you were referring
6 to?

7 Q. Well, so you have heard of him.

8 A. I have heard of a vice-president Blount.

9 Q. Okay. Did you ever meet him?

10 A. If it was the same person you're referring to,
11 yes.

12 Q. Okay. Person from Texas?

13 A. The Blount that I know was vice-president in
14 charge of sales in the early '50s.

15 Q. And do you know or did you have any information
16 that he was an Annapolis graduate from the Navy Academy?

17 A. No.

18 Q. Have you ever spoken to him?

19 A. Again if it's vice-president Blount, yes.

20 Q. How many occasions did you speak with him?

21 A. Whenever the vice-president would visit Bound
22 Brook for technical presentations and I was involved in
23 the technical presentation he was usually present. Now
24 if you're talking about the same individual. You know
25 Blount is a common name.

1 Q. Did the Blount that you recall ever ask you
2 about the use of Bakelite products in the Navy?

3 A. No.

4 Q. Do you recall a fellow named Winfield Cooper?

5 A. No I don't.

6 Q. Did you ever know a fellow named William Huey?

7 A. Could you repeat the last name, please?

8 Q. H-u-e-y, Huey.

9 A. No.

10 Q. Did you ever know an individual named Harry J.
11 Macgowen?

12 A. Macgowen's familiar but I cannot place -- place
13 him or what he did.

14 Q. Are you familiar that he was also in the sales
15 department?

16 A. I don't remember, you know, where he was
17 located but I do recall a name of Macgowen somewhere
18 along the line there.

19 Q. Did sales representatives come into the
20 research facility for training on an annual basis?

21 A. Not necessarily on an annual basis but they did
22 come in for training whenever a sales manager decided
23 they needed it.

24 Q. And it was the practice of the Bakelite
25 division to provide the Bakelite salespeople with some

1 technical information on the products they were selling?

2 A. Yes.

3 Q. And the salespeople would actually get to
4 assist and run different kinds of tests on Bakelite as
5 part of that training.

6 A. If they were new sales employees they would get
7 that kind of training. The experienced sales trainees
8 would not.

9 Q. When you were employed at the Bakelite division
10 was there a department called development laboratories?

11 A. Yes.

12 Q. What was the development laboratories?

13 A. Research and development was divided into those
14 two departments, a research department and a development
15 department.

16 Q. Which department did you specifically work for
17 when you were with the Bakelite product?

18 A. Development department. They were later
19 consolidated into one.

20 Q. Do you have an understanding as to when they
21 were separate what the separate responsibilities were?

22 A. Yes. The development department was
23 responsible for taking resin technology that was
24 developed and applying and finding uses for it. The
25 research department had the responsibility to find new

1 plastics.

2 Q. Okay. Are you familiar with the Brown
3 brothers? Gordon and Sanford?

4 A. I heard of them. I believe they were in the
5 vice-presidential -- both vice-presidents.

6 Q. Did you ever meet them?

7 A. I don't recall meeting them, no.

8 Q. Did you ever meet Dr. Bakeland's son George
9 Bakeland?

10 A. His son?

11 Q. Right.

12 A. No.

13 Q. Did you ever meet Dr. Leo Bakeland?

14 A. No. He was a legend. We never knew when he
15 would appear and I never had the opportunity.

16 Q. Do you recall a fellow named Jack M. Fenlin?

17 A. Jack? Repeat that please.

18 Q. Fenlin, F-e-n-l-i-n?

19 A. No.

20 Q. Do you know an individual named W.R. Catlow,
21 C-a-t-l-o-w?

22 A. Yes, I do.

23 Q. Is Mr. Catlow still living?

24 A. I don't know.

25 Q. What was Mr. Catlow's responsibility at

1 Bakelite?

2 A. He was an associate director of research and
3 development when I was there. He later was assigned to
4 do various jobs on the site. He had the secretarial
5 pool reporting to him and he did numerous technical
6 responsibility.

7 Q. So he was kind of higher up?

8 A. He was associate director, yes, but he was
9 shelved when they decided to reorganize.

10 Q. Did you ever work for Mr. Catlow?

11 A. No I did not.

12 Q. So he was in the other side of the -- he was in
13 research and you were in development?

14 A. No, he had some responsibilities in the
15 development side during part of his career.

16 Q. Do you know if some of those responsibilities
17 involved working with customers to meet their
18 specifications and answer their questions?

19 A. During the time I knew him, no.

20 Q. Would individuals after 1959 in the development
21 laboratories ever have as part of their responsibilities
22 working with customers and answering inquiries from
23 people with regard to the use of Bakelite products?

24 A. Would they after 1959?

25 Q. Right.

1 A. Yes, that was part of our job.

2 Q. Okay. Do you know if it was part of that
3 department's job before you became involved with it?

4 A. Yes.

5 Q. And was it?

6 A. Yes.

7 Q. Are you familiar with an individual named
8 Howard Smith?

9 A. I have heard that name and I have probably met
10 him but I don't recall his position and what his
11 responsibilities were.

12 Q. Do you know if he was a manager in varnish
13 resin sales?

14 A. In varnish resin sales?

15 Q. Right.

16 A. I do not know.

17 Q. Have you ever heard of an individual named D.P.
18 Graham?

19 A. D.P. Graham, no.

20 Q. Did you ever know an individual named N.D.
21 Hanson?

22 A. H-a-m-p-s-o-n?

23 Q. No, H-a-n-s-o-n.

24 A. Oh, yes. Yes.

25 Q. Who was Mr. Hanson?

1 A. He was responsible for the development of
2 laminating resins the late -- during the '50s. He was
3 replaced by a man working for me when I became the group
4 manager.

5 Q. Do you know if Mr. Hanson ever communicated
6 with the Navy with regard to the use of Bakelite
7 products?

8 A. If he did it would be with regard to the use of
9 laminating resins in laminates, and that would be only
10 in order to get products specified.

11 Q. Do you know if Mr. Catlow ever communicated
12 with the U.S. Navy?

13 A. No, I don't but as I recall he was primarily in
14 the -- when he did have any responsibilities in the
15 service that area it was in the resin area, not the
16 molding area.

17 Q. When you were employed as group manager for
18 Bakelite who would have been responsible for answering
19 inquiries from the Department of Ships at the U.S. Navy?

20 A. It depended on the inquiry. If it was more the
21 mold -- the approval of a molding material I would
22 probably get involved in that or one of the people
23 working for me but I would be aware of it.

24 If it was for a laminating resin another man in
25 my group would get involved in that. For other resins

1 it would go to whatever group had that responsibility.

2 Q. Do you recall ever being asked by the Navy for
3 information on products that were designated by the MFE
4 classification type?

5 A. I have seen specifications like that and I do
6 recall being asked by the sales department about whether
7 or not we would qualify under those specifications.

8 Q. Is that true for the MFH type classification
9 also if you can recall?

10 A. I don't recall because they had various
11 classifications and what I would -- would be can we meet
12 this particular classification and become approved under
13 it? So it would depend on what the salesperson at the
14 time was trying to get approval for.

15 Q. Okay. So you do recall communicating with the
16 Navy at some time with regard to type MFE and MFH
17 materials?

18 A. That I can't answer because I don't remember
19 the exact specifications that came up when I was
20 involved.

21 Just to clarify a point, I did not deal
22 directly with the Navy. It was usually to our sales
23 department that we dealt with whatever contact they
24 developed or our customer developed.

25 Q. That was the sales department, you said?

1 A. Sales department or the customer. Most often
2 it was the customer would go back to the salesman and
3 ask if we had a product that would meet that
4 specification that he could use.

5 Q. So when you say "customer" you're referring to
6 a specific molder --

7 A. That's correct.

8 Q. So you would deal with the molder who would
9 then deal with the Navy.

10 A. That's right.

11 Q. Okay. But you did have an understanding that
12 at some point the customers of Bakelite were dealing
13 with products that were destined for use in the Navy?

14 MR. ARMSTRONG: Objection. Calling for
15 conclusion, speculation. And it's also irrelevant.

16 You can go ahead and answer as far as you know
17 subject to those objections.

18 THE WITNESS: The approval -- government
19 approval did not necessarily mean just Navy, you know,
20 the government approval applied to all parts of the
21 service.

22 MS. SHINING: Q. I am sorry, sir, you need to
23 speak up just a little bit more.

24 A. Yeah. The government approval did not
25 necessarily -- were not necessarily limited to just

1 dealing with Navy. Some of the approvals were broad
2 enough so they applied to all of the services.

3 Q. Okay. But you did understand that some of the
4 products the molders were manufacturing using Bakelite
5 materials were destined for use in the Navy?

6 MR. ARMSTRONG: Objection.

7 THE WITNESS: I was never told what service was
8 going to get them.

9 MS. SHINING: Q. Did you have an understanding
10 that some of the products would be suitable for uses in
11 the U.S. Navy?

12 A. If they met the specification the conclusion
13 was that they would be.

14 Q. Do you have any understanding as to whether
15 Bakelite products as molded by your customers would meet
16 the mineral filler type specifications for phenolic
17 molded materials?

18 MR. ARMSTRONG: Objection. Vague and ambiguous
19 and incomprehensible. I don't understand that question.
20 I don't know that Mr. Martino does but if I don't I am
21 not going to let him answer it.

22 THE WITNESS: Yeah, I don't either.

23 MS. SHINING: Q. Do you know what a mineral
24 filler is, Mr. Martino?

25 A. Absolutely.

1 Q. And do you know that certain mineral filler
2 phenolic materials were approved for use by the U.S.
3 Navy?

4 MR. ARMSTRONG: Objection. Vague and ambiguous
5 as to the meaning of mineral filler -- what was the
6 phrase you used?

7 MS. SHINING: Q. Well, sir, I will rephrase.
8 Tell me what is a mineral filler in your
9 understanding?

10 A. Exactly that. It covers a number of different
11 minerals. It can be mica, calcium carbonate, calc and
12 asbestos and it can even be glass.

13 Q. And do you have any knowledge as to whether or
14 not Bakelite products using asbestos would meet the
15 mineral filler specifications of the U.S. Navy?

16 MR. ARMSTRONG: Objection. Vague and ambiguous
17 as to the meaning of the word Bakelite in the last
18 context.

19 Are you referring to trademark Bakelite or are
20 you referring to generic Bakelite?

21 MS. SHINING: Q. Sir, do you understand the
22 question?

23 THE WITNESS: Please rephrase that.

24 MS. SHINING: Q. Do you have any understanding
25 as to whether any phenolic resin product manufactured by

1 Bakelite qualified under the mineral filler
2 specifications of the U.S. Navy?

3 A. No I do not.

4 Q. Do you have any knowledge as to whether anyone
5 at Union Carbide at any time had knowledge as to whether
6 or not Bakelite products containing asbestos met the
7 mineral filler specifications?

8 A. Unless we were requested to obtain approval
9 under that specification we would not have been on the
10 approved list so without seeing specifications and the
11 approved list I can't answer that.

12 Q. Is there anyone else that would have more
13 knowledge about that subject than you?

14 A. At this stage I can't think of anyone.

15 Q. When you say "at this stage," are there persons
16 who are now deceased who would have had more knowledge
17 about that subject than you?

18 A. Someone in the sales department would keep a
19 record of our approvals. Probably the marketing manager
20 so that he could respond to requests and he would refer
21 to that list but where that list is now I don't know.

22 Q. Who would have been the marketing manager
23 responsible for phenolic resin molded products when you
24 joined Bakelite in 1959?

25 A. Peter Potter.

1 Q. Is that spelled just as it sounds?

2 A. Pardon. Yes, P-o-t-t-e-r.

3 Q. How long had he been the marketing manager? If
4 you know.

5 A. Probably about the same period of time as I was
6 in charge of the group.

7 Q. Was he employed there when you started with the
8 Bakelite division in 1959?

9 A. Yes.

10 Q. Was he employed -- do you know when he started
11 with Union Carbide?

12 A. It was a little before 1948. Exactly what date
13 I don't know.

14 Q. Was he always engaged in marketing?

15 A. Oh, no. He was in research and development
16 just like I was. In fact my boss for a short period of
17 time.

18 Q. When did he switch into marketing?

19 A. In 1960. Oh, I am sorry, let me take that
20 back. He was first product manager in R&D and then
21 after that he became marketing manager within a couple
22 of years, I believe.

23 Q. So some time in the 1950s?

24 A. Yes. Oh, this was in the 1960s, early 1960s.

25 Q. Do you know who he replaced?

1 A. No I don't.

2 Q. Okay. Do you know if Mr. Potter is still
3 living?

4 A. Yes he is.

5 Q. Does he live in New Jersey?

6 A. No, he's in Connecticut.

7 Q. When was the last time you spoke with Mr. --

8 A. I am not sure what his address is.

9 Q. Okay.

10 A. I am not sure where he is located right now.

11 Q. When was the last time you spoke with him?

12 A. I received a card from him when I retired.
13 1996.

14 Q. Have you ever heard the name J.W. McLaughlin?

15 A. I have heard the name. I do not know what he
16 did or where he was located.

17 Q. Did you ever know a Kenneth Atkins?

18 A. Yes.

19 Q. Is Mr. Atkins still employed by Union Carbide?

20 A. I don't know.

21 Q. What was Mr. Atkins' job?

22 A. Oh, he has many different jobs. He was in the
23 sales department for a short -- for awhile. Transferred
24 to production for awhile and then became a marketing
25 manager in Danbury for awhile.

1 And then he had a job with the polyethylene
2 business when I was first there.

3 Q. Do you know when he started his employment with
4 Union Carbide?

5 A. It was after I started. It would be in the
6 early 1950s.

7 Q. Do you know who Raymond Gandy is?

8 A. No.

9 Q. Are you familiar with the publications of
10 Raymond Seymour?

11 A. Raymond what?

12 Q. Seymour, S-e-y-m-o-u-r?

13 A. No.

14 Q. You don't recognize him as an author of
15 textbooks on polymer science?

16 A. No.

17 Q. Did you ever have an opportunity to see
18 Bakelite as it was packaged for shipping to customers?

19 A. Yes.

20 Q. Would you see that in the Bound Brook plant?

21 A. Yes.

22 Q. How was the Union Carbide Bakelite packaged
23 before it was shipped?

24 A. The phenolic molding materials were packed into
25 50-pound bags. They were paper bags lined with

1 polyethylene. They had polyethylene liners in them.

2 They at one time were also packaged in large
3 cardboard drums with steel tops and bottoms. Those were
4 probably held about 250 pounds.

5 And then they were packaged in what we call
6 Gaylord containers. These were about six feet square
7 and they held almost a thousand pounds and they were
8 strapped to a pallet.

9 Q. Are you familiar with any tags that were placed
10 on Bakelite products at any time?

11 (Interruption at the door.)

12 THE WITNESS: -- labels but you know the
13 specification of what was on those labels I may not
14 recall entirely.

15 MS. SHINING: Q. Are you familiar at all with
16 the labeling requirements or the labeling that was done
17 during the 1940s?

18 A. The 1940s? No.

19 Q. Are you familiar at all with the appearance of
20 packaging labeling, during the 1950s?

21 MR. ARMSTRONG: Well I am going to object to
22 that question, and move to strike the answer to the
23 prior question also asserts the objection. The question
24 is vague and ambiguous as to what you mean by labeling
25 requirements and it may well be argumentative because I

1 am not sure that there were any labeling requirement.

2 I'll object on those two bases.

3 You can go ahead and answer the question,

4 Mr. Martino, if you can.

5 THE WITNESS: All I can remember is that there
6 would be the material designation on the bag and
7 Bakelite on it.

8 MS. SHINING: Q. And is that the word
9 "Bakelite" in black letters.

10 A. It -- I don't recall the color.

11 Q. Do you recall what it looked like, the word
12 "Bakelite"?

13 A. It was printed in large letters. It was the
14 designation of the product. That was put on all of our
15 phenolic products, even the phenolic resins.

16 Q. Are you familiar with the magazine "Modern
17 Plastics"?

18 A. Yes I am.

19 Q. And have you seen advertisements for Bakelite
20 in "Modern Plastics" magazine?

21 A. I don't recall -- well, it depended. The
22 advertising was placed in that magazine by our marketing
23 manager when he felt it was appropriate. I don't recall
24 when it was.

25 MR. ARMSTRONG: Ms. Shining, can we take five

1 minutes when you come to a convenient spot?

2 MS. SHINING: This is a convenient spot.

3 (Recess taken.)

4 MS. SHINING: Q. Mr. Martino, what kind of
5 involvement did you have with the manufacturing side of
6 Bakelite?

7 A. Our responsibility was to take the formulations
8 we developed, take them to the manufacturing department,
9 supervise the first run of the material on the equipment
10 to ensure that they could be run properly with no
11 difficulty. Once that was demonstrated the
12 responsibility to produce the material was taken over by
13 the manufacturing department.

14 Q. About how many times during your career at
15 Union Carbide did you supervise the first run of a new
16 Bakelite formulation?

17 A. Many times. Now I did some myself and the
18 people who reported to me did many others but I would
19 estimate probably every two months there would be a
20 production run of a fair amount of material.

21 Q. Now I just want to make clear, I am not sure I
22 asked the specific question, but who would -- would the
23 development laboratory keep a copy of the formulations?
24 I think you mentioned that they were copies were kept in
25 the manufacturing side but did you also keep a copy of

1 those formulations?

2 A. Those that were on the product list that we
3 sold customers we did, yes, and also all the
4 experimental formulations.

5 Q. When you retired who was responsible for
6 maintaining -- I am sorry -- when the Bakelite division
7 was phased out who was responsible for keeping that
8 information?

9 A. I don't know. There was a group leader that
10 took over -- the group manager who took over for me was
11 Mark Sauers and he was -- he was in charge when the
12 business was phased out.

13 Q. How do you spell Mr. Shaller; is that the name?

14 A. S-a-u-e-r-s.

15 Q. Do you know if Mr. Sauers is still employed by
16 Union Carbide?

17 A. He is not.

18 Q. Do you know if he's retired?

19 A. No. He went to work for Amoco. Last I heard
20 he was a sales manager in Europe for them.

21 Q. In Newark?

22 A. In Europe.

23 Q. In Europe.

24 A. Yes.

25 Q. When is the last time you spoke with

1 Mr. Sauers?

2 A. About 15 years ago.

3 Q. Have you reviewed or seen any submissions from
4 Union Carbide to a governmental agency with regard to
5 the formulations of Bakelite?

6 A. No.

7 Q. Can you recall which Bakelite materials had
8 asbestos as a part of their formulation?

9 A. Do I recall which -- would you repeat the
10 question, please?

11 Q. Which Bakelite product numbers -- and I am
12 sorry, you actually used a term to refer to that BM
13 designation. What did you call that?

14 A. For the experimental?

15 MR. ARMSTRONG: Yeah.

16 MS. SHINING: Q. Or just the regular.

17 A. Oh, "B" for Bakelite, "M" is for molding. Or
18 if it's "R" it's resin, and the third letter is the form
19 that it's in, granular is "G." "S" is solvent. "P" is
20 pulverized.

21 Q. What's a "C" stand for?

22 A. "C"? BMC?

23 Q. Right. Well what would, let's say, something
24 as B-M-M-C; what would that mean?

25 A. I believe we used "M" at the end of the period

1 we were in the business for a special granulation. I
2 don't recall exactly what it was, whether it was an
3 injection molding or the purpose but it was a change, a
4 minor change in the granular form.

5 Q. How about BM -- well, did you ever see product
6 designations that had four letters and four numbers?

7 A. Yes. As I mentioned to you earlier, the fourth
8 letter was supposed to mean experimental; "A" would be
9 for the first change, "B" for the second, "C" for the
10 third. The intent was that the experimental formulation
11 would eventually replace all the previous ones and then
12 the third letter -- the fourth letter would be dropped.
13 Sometimes they couldn't do that because the customer
14 refused to give up the old formulation.

15 Q. Do you remember when -- well, when you began
16 working with the Bakelite group in 1959 is it your
17 understanding that certain formulations were being
18 commercially produced that had asbestos as a filler?

19 A. Yes.

20 Q. And do you have an understanding as to when
21 asbestos was first used as a filler in Bakelite products
22 by Union Carbide or Bakelite Corporation?

23 A. It was used while I was there in some
24 formulation. Not all formulations. I don't know what
25 happened before 1948.

1 Q. So it was used at least as early as 1948?

2 A. Yes.

3 Q. What is the source of your memory with regard
4 to products made in 1948?

5 A. Since I was not directly involved in the
6 business it was more what I observed and what I saw when
7 I went through the department as a production trainee.
8 So it was not as detailed -- I'd say especially at that
9 point, not as detailed. When I was in the business and
10 responsible for it then I became very knowledgeable in
11 the area.

12 Q. Okay. Do you recall today what product
13 formulations or product designations from Union Carbide
14 or the Bakelite unit were asbestos containing?

15 A. I can remember some of the numbers. There were
16 about a dozen.

17 Q. What are the numbers you recall?

18 A. BMG 5138, BMG 5440, 5333.

19 Q. Was that also BMG?

20 A. That I'm not sure whether it's BMG or BMM but,
21 you know, as I said the third letter was the variation
22 in the granular form so the basic formulation would not
23 be different.

24 2035. 5250.

25 Q. Was that 5250?

1 A. Yes.

2 Q. You have to keep your voice up for our court
3 reporter.

4 A. Yes, 5250. I am sorry, my voice goes down when
5 I am thinking. It takes more energy.

6 Q. Thank you.

7 A. There were more but I can't remember all the
8 numbers right now.

9 We had about a dozen formulations that
10 contained asbestos out of at one time we had two hundred
11 formulations and then that was consolidated down to
12 about 120.

13 Q. Do you recall or do you have any knowledge as
14 to how many formulations there were in 1948? Total.

15 A. No.

16 Q. Do you have any knowledge as to how many of the
17 formulations in 1948 specified asbestos?

18 A. No.

19 Q. Was the addition of asbestos to provide
20 additional insulating characteristics to the Bakelite?

21 A. No.

22 Q. What is your understanding of the function of
23 asbestos in Bakelite products?

24 A. Did the same as any other mineral filler except
25 that since it was fibrous it gave the product a little

1 better impact strength.

2 Q. Did it also offer additional heat resistant
3 characteristics in some Bakelite formulations?

4 A. Better than wood flour, no different than talc
5 or calcium carbonate or mica which were more glass which
6 were other fillers used.

7 Q. I understand that one product made by Bakelite
8 at one time used blue asbestos fibers. Is that your
9 understanding as well?

10 A. Ask blue, that's the long fibers asbestos.

11 Q. Do you understand that one product used that
12 type of fiber?

13 A. Yes.

14 Q. Would that product ever be suitable for use
15 aboard a Navy ship?

16 A. I would have -- without knowing the application
17 I can't answer that.

18 Q. What type of application was that product good
19 for?

20 A. Primarily for very high voltage switch gear
21 where you needed very high impact -- impact strength.

22 Q. When you say very high voltage what are you
23 referring to?

24 A. Oh, what's normal in power stations, well over
25 a thousand volts.

1 Q. Were there any limitations to the way the blue
2 fiber made the Bakelite product look?

3 A. No. Once the product is molded it is very --
4 and if it's, you know, made well, well mixed, very
5 difficult to tell what filler is in there.

6 Q. When you say it's very difficult, is it
7 impossible to tell?

8 A. Analytical method you can determine it but it
9 requires breaking -- taking the material apart.

10 Q. So in your opinion or from your experience
11 there's no way to visually discern whether or not
12 Bakelite has asbestos in it?

13 A. That's correct.

14 Q. In your opinion -- well, there are other
15 companies who made phenolic resin products; isn't that
16 correct?

17 A. Yes.

18 Q. And with regard to their molded products, in
19 your experience is there any way to discern if there's
20 no marking molded on the product itself who was the
21 manufacturer of that product?

22 A. That's correct.

23 Q. Okay. Do you have any recollection as to which
24 other competitors of Union Carbide manufactured asbestos
25 containing phenolic resins?

1 A. There were other manufacturers of phenolic
2 molding materials. We did not have access to their
3 formulations. I can only speculate that they would be
4 doing the same thing we were doing.

5 Q. Would the sales staff at Union Carbide have an
6 understanding as to whether or not your competitors were
7 selling asbestos containing phenolic materials that
8 had --

9 A. No, because the data sheets did not specify
10 what colors were used.

11 Q. Would they specify mineral filler?

12 A. They will say mineral filler, yes. And usually
13 specifications only said mineral filler.

14 Q. Are you familiar with the company American
15 Cyanamid?

16 A. Yes I am.

17 Q. Did they manufacture urea formaldehyde?

18 A. I don't know.

19 Q. Do you know what percentage of the market for
20 phenolic resins -- well, do you know if American
21 Cyanamid sold phenolic resins?

22 A. I don't think they did, no. They were never
23 our competitor.

24 Q. Are you familiar with a company called Makalot,
25 M-a-k-a-l-o-t?

1 A. Would you spell that again please?

2 Q. M-a-k-a-l-o-t.

3 A. No.

4 Q. They weren't a competitor of Union Carbide?

5 A. I never encountered them, no.

6 Q. Are you familiar with a company called
7 Castolin?

8 A. No.

9 Q. They're not a competitor of Union Carbide?

10 A. None that I -- I never saw their name, no.

11 Q. Okay. Are you familiar with a company called
12 Catalin, C-a-t-a-l-i-n?

13 A. Catalin. Catalin?

14 Q. Right.

15 A. I recall that as a name of a product line. I
16 don't recall who it was that did that. Could have been
17 Celanese.

18 Q. Was that a phenolic resin product?

19 A. If it was it would have been a resin.

20 Q. Would that have been a molded product?

21 A. No. I never saw that name among the list of
22 phenolic molding material manufacturers.

23 Q. So that's not a competitor of Union Carbide's?

24 A. If it is it's in a different area than I was
25 in.

1 Q. Are you familiar with a company called
2 Condensite, C-o-n-d-e-n-s-i-t-e?

3 A. Yes, they were one of the original producers of
4 Bakelite resins. I think they were located in Chicago.

5 Q. Do you know whether they merged with Bakelite?

6 A. I think they did.

7 Q. And that would have been in the '30s?

8 A. Either '30s or maybe late '20s.

9 Q. Are you familiar with a product called
10 Redmanol?

11 A. Yes. That also was one of those very early
12 products, and I think the company that was also making
13 phenolic resins.

14 Q. Do you know whether they were making phenolic
15 resins in the 1930s?

16 A. Redmanol? They were also one of the companies
17 that consolidated to form Bakelite Corporation. I don't
18 know, since it was before my time, I don't recall when
19 all that happened.

20 Q. So that would have been a company, again,
21 that's merged with Bakelite early on?

22 A. Yes. There might be something in that article
23 I mentioned earlier today, but.

24 Q. Do you recall a company called Durez?

25 A. Oh, yes. Very much so.

1 Q. And they made a product called Durite?

2 A. Yes.

3 Q. Do you have any knowledge as to what percentage
4 of the market of phenolic resins Durez had during the
5 1940s?

6 A. A percentage I can't give you. I can just say
7 that they were our biggest competitor but not as large
8 as Bakelite was.

9 Q. Do you know if they were less than half the
10 market for phenolic resins?

11 A. During that period of time, yes.

12 Q. Were they more than a quarter?

13 A. Oh, yes. Yes. They were number two. That
14 position changed in 1953 and they became number one.

15 Q. I am sorry, what year?

16 A. In the 19 -- about 1953, to '54 they became
17 number one, and I would say they were probably had the
18 dominant share and they're probably close to 50 percent.

19 Q. How long did they remain the dominant share
20 after 1954 to your memory?

21 A. Until we went out of the business. They were
22 always number one.

23 Q. Do you have any knowledge as to whether they
24 produced a competing mineral filler Bakelite product? I
25 am sorry, a mineral filler phenolic resin product?

1 A. Yes. They had a product line equivalent to
2 ours.

3 Q. Do you know if they ever tried to use the term
4 "Bakelite" to refer to their products?

5 A. They did not. They had their own, you know,
6 desig -- name for it but.

7 Q. Okay. Thank you.

8 Are you familiar with a company called
9 Fiberite?

10 MR. ARMSTRONG: Hold on just a minute.

11 THE WITNESS: Yeah, let me --

12 MS. SHINING: Q. Well I think he answered the
13 question so we can go on. My question --

14 MR. ARMSTRONG: Let him get his answer out.

15 MS. SHINING: Sir, why don't we have the court
16 reporter read it back.

17 (Record read.)

18 MS. SHINING: Q. Well, sir, do you have any
19 other knowledge as to whether or not Durez used the word
20 "Bakelite" to refer to their own products? And I don't
21 want you to answer with regard to what anybody else said
22 about Bakelite products. Just tell me what you know
23 about what Durez referred to their products as.

24 MR. ARMSTRONG: He can finish his answer.

25 Please do so.

1 THE WITNESS: All right. Durez did not but by
2 that time Bakelite became a tray -- a trade --

3 MS. SHINING: Q. Sir, if you are going to
4 answer with regard to what anybody else said I will move
5 to strike. I just wanted to know what Durez referred to
6 their products as.

7 MS. SHINING: Ms. Shining, will you allow him
8 to finish his answer? You may move to strike if you
9 want to but he has the right to finish his answer. Now
10 let him speak.

11 THE WITNESS: The customers considered any of
12 those products Bakelite type products.

13 MS. SHINING: Q. Okay. Well let me ask you
14 about that then if you insist on going into it. I will
15 move to strike your answer.

16 How many customers did you specifically hear
17 refer to phenolic resins generically as Bakelite
18 products regardless of who they were manufactured by?

19 A. Most of our customers.

20 Q. Okay. Which ones and on what occasions?

21 A. Oh, Modern Plastics Corporation, Square D, they
22 were people usually using it, and that Armstrong Corp.
23 formica, commonly used word.

24 Q. Any other customers?

25 A. Many of the electrical manufacturers. I'm

1 trying to think of the specific names but we have to go
2 down the customer list and I don't have that in front of
3 me.

4 Q. You can't recall any other customers that used
5 the term "Bakelite" as a generic term to refer to
6 phenolic resins other than Modern Plastics Corporation
7 or Square D?

8 MR. ARMSTRONG: I will object to the question
9 as being argumentative and instruct the witness not to
10 answer.

11 You can rephrase the question so he can answer
12 if you like.

13 MS. SHINING: Q. Can you remember any others?

14 A. At this time I would need more time to think of
15 all the customers that we called on at that time.

16 Q. Go ahead, take all the time you need, sir.

17 A. Armstrong Corp. made a bottle cap.

18 The -- they were a number of electrical parts
19 manufacturers up in Wisconsin. I'm sorry, I can't
20 recall the specific names. I'll have to leave that as I
21 answered it.

22 Q. Okay. How many times did you speak with Modern
23 Plastics when they referred to Bakelite as a generic
24 word for phenolic resin?

25 A. I had gotten to the point where it didn't even

1 bother me. I mean it's part of a conversation, if they
2 had Bakelite it was no -- not a memorable experience. I
3 mean I -- it was our common way of communicating.

4 Q. Okay. Do you have any idea how many times?

5 A. No.

6 Q. Do you recall who you were talking to at Modern
7 Plastics who used that word in that way?

8 A. Generally the operators in the shop. The
9 foreman.

10 Q. Can you recall any of their names?

11 A. No I do not.

12 Q. How about for Square D? How many times do you
13 recall them using the name in that fashion?

14 A. Again, it isn't something that I made
15 particular note of at the time.

16 Q. Do you recall any person individually referring
17 to it in that manner?

18 A. No, but my contact there was Mike Mayer of
19 Square D.

20 Q. What was Mr. Mayer's job?

21 A. He was in charge of specifying approving
22 products for his application.

23 Q. Did he have a particular title?

24 A. If he did I didn't know exactly what it was.

25 Q. Is Mayer, M-a-y-e-r or M-e-y-e-r?

1 A. M-a-y-e-r.

2 Q. I am sorry?

3 A. M-a-y-e-r.

4 Q. And with regard to Armstrong Corp., do you have
5 any memory as to how many occasions people used the term
6 Bakelite in a generic sense?

7 A. No.

8 Q. And you don't recall the names of any of those
9 electronics parts manufacturers in Wisconsin at this
10 time?

11 A. They don't come to mind right now, no.

12 Q. When were these conversations with Modern
13 Plastics, Square D, Armstrong and the parts people in
14 Wisconsin? What years?

15 A. It would be during the period of time that I
16 was in that business, so between 1960 and 1974.

17 Q. Okay. Are you familiar with a company called
18 Fiberite?

19 A. Yes.

20 Q. Were they a competitor of -- and I am sorry,
21 going back to Durez, do you have any recollection as
22 to -- well I think I asked you. I am sorry.

23 With regard to Fiberite, they were a competitor
24 of Union Carbide's?

25 A. No they were not. They were customers.

1 Q. So they bought Bakelite.

2 A. They bought phenolic resins. Bakelite phenolic
3 resins.

4 Q. Do you know if they bought mineral fiber
5 containing phenolic resins?

6 A. No they did not.

7 Q. Are you familiar with a company called General
8 Plastics?

9 A. I've heard the name but that's about it at this
10 stage. I don't recall what they did.

11 Q. Do you know if they're a customer of Bakelite?

12 A. I don't recall.

13 Q. Okay. Do you recall if General Electric was a
14 customer of Bakelite?

15 A. Yes they were.

16 Q. Did you work at all with General Electric and
17 have any familiarity with the type of Bakelite they
18 purchased?

19 A. They made their own phenolic molding material
20 and bought from us what they didn't make. So they were
21 both a producer and user.

22 Q. Do you know what years General Electric was --
23 well would you consider General Electric to be a
24 competitor of Union Carbide in that sense?

25 A. Yes.

1 Q. What years were they a competitor?

2 A. Again during that period of time I was in
3 charge of the group, about 14 years.

4 Q. So 1960 through '74?

5 A. Right.

6 Q. You're familiar with a company called Monsanto?

7 A. Yes, I am.

8 Q. And they made a product call Resinox?

9 A. That as I recall was a phenolic resin. I don't
10 recall exactly what type it was because they're, you
11 know, a variety of different phenolic resins and other
12 components reactive.

13 Q. Would you consider them to be a competitor of
14 Union Carbide?

15 A. When they were in that business I would say
16 only on the resin side.

17 Q. Do you know if they had a product that was
18 competitive with Union Carbide asbestos containing
19 Bakelite products?

20 A. They were not in the molding business.

21 Q. Are you familiar with a company called
22 Marblette, M-a-r-b-l-e-t-t-e?

23 A. No.

24 Q. I am sorry, was that "no"?

25 A. No.

1 Q. So they weren't a competitor of Union Carbide.

2 A. No.

3 Q. Are you familiar with a company called National
4 Vulcanized Rubber?

5 A. I have heard the name, yes, but I don't -- they
6 were not a competitor of ours in molding material and I
7 don't remember them as a competitor in phenolic resins
8 either.

9 Q. Are you familiar with a company called
10 Reichold.

11 A. Yes.

12 Q. Did they make phenolic resins?

13 A. They made phenolic resins and molding
14 materials.

15 Q. Were they a competitor of Union Carbide?

16 A. Yes they were.

17 Q. What percentage of the market did Reichold have
18 during the time you were group manager?

19 A. They were probably number four or five. The
20 exact percentage I don't know.

21 Q. Do you know if they were a competitor of Union
22 Carbide prior to when you became group manager?

23 A. Yes they were.

24 Q. Do you know how early they were a competitor of
25 Bakelite products?

1 A. No I don't.

2 Q. Okay. Do you know if they ever referred to
3 their products as Bakelite products?

4 A. No they did not.

5 Q. Okay. Are you familiar with a company called
6 Reilly Tar?

7 A. No I'm not.

8 Q. You don't know if they were a supplier of Union
9 Carbide's?

10 A. I have never seen that name before.

11 Q. Okay. Are you familiar with a company called
12 Rohm & Haas?

13 A. Yes I am.

14 Q. Do you know whether they made any thermosetting
15 plastics?

16 A. They may have made some thermosetting plastics
17 but I -- they were not a competitor of ours in the
18 phenolic area.

19 Q. Okay. Are you familiar with a company called
20 Westinghouse?

21 A. Yes, I am.

22 Q. They made a product called micarta.

23 A. Yes.

24 Q. In your opinion is micarta a similar product to
25 Bakelite?

1 A. It uses a phenolic resin and it is similar to
2 formica.

3 Q. Do you know if micarta ever contained asbestos?

4 A. It did not.

5 Q. Do you know if Westinghouse ever bought
6 products from Bakelite?

7 A. Yes they did. They also manufactured their own
8 phenolic materials.

9 Q. Do you know if those phenolic molding materials
10 ever contained asbestos?

11 A. No I do not.

12 Q. Do you know if Westinghouse ever referred to
13 its products as Bakelite?

14 A. They did not, no.

15 Q. Okay. I think you've mentioned the number --
16 well, for part of this time period -- well, while you
17 were employed as group manager Bakelite was not the
18 number one producer of phenolic resins; is that what you
19 said?

20 A. Of phenolic molding materials.

21 Q. Okay. Was Bakelite number one with regard to
22 phenolic laminated resins?

23 A. Phenolic resins in general. I would rank them
24 as one or two, yes.

25 Q. And the other producer would be Durite or

1 Q. Would asbestos be used as a filler for that
2 application?

3 A. The application that I'm familiar with would
4 not require.

5 Q. Okay. To your knowledge did the Bakelite
6 division ever sell materials to General Dynamics?

7 A. If they did I was not aware of it.

8 Q. What about the company Convair, C-o-n-v-a-i-r?

9 A. Again they were not on the customer list that
10 we had for phenolic molded materials.

11 Q. How about Hughes Corporation?

12 A. Hughes for phenolic molding materials, I never
13 saw that name on the customer list or never asked to
14 visit there.

15 MR. ARMSTRONG: Ms. Shining?

16 MS. SHINING: Yes.

17 MR. ARMSTRONG: May I ask how much longer you
18 have still?

19 MS. SHINING: I have got my 15 minutes, I am
20 going to use it.

21 MR. ARMSTRONG: You have got your 15 minutes?

22 MS. SHINING: You have no sense of humor,

23 Mr. Armstrong. It's getting late out here. I had no

24 idea that you were going to actually go to New Jersey, I

25 am quite sorry.

1 Durez?

2 A. Of the phenolic resins?

3 Q. Right.

4 A. That was Georgia Pacific. Number -- some other
5 manufacturer got into it a bit but Board and Chemical
6 was another producer of phenolic resins. They probably
7 became number one.

8 Q. Do you know if Georgia Pacific ever used
9 asbestos as a mineral filler in any of its phenolic
10 resins?

11 A. They were primarily users of phenolic resins
12 for wood products.

13 Q. So they used wood flour as the filler?

14 A. No, they did not make phenolic molded
15 materials, they made plywood.

16 Q. Okay. And Board and Chemical, did they ever
17 make phenolic molding materials?

18 A. No, they sold resin to people who did make
19 molding materials.

20 Q. Was Bakelite ever formed into a sheet stock
21 material for use as a circuit board? A PC board?

22 A. Yes it could be used for that purpose. Now
23 the -- depending on the size and shape, you know, it
24 would depend on whether, what it was molded for,
25 laminated.

1 Let me look of my notes. I am coming down to
2 the end of my notes.

3 MR. ARMSTRONG: Okay.

4 MS. SHINING: Q. Was Bakelite -- was one of
5 the components of Bakelite ever a material known as Epon
6 to your knowledge, E-p-o-n?

7 A. Could you spell that again, please?

8 Q. E-p-o-n.

9 A. I never heard of that.

10 Q. Okay. Have you ever heard of the product
11 designation numbers BM-261?

12 A. No.

13 Q. What about BM-262 or 263?

14 A. No.

15 Q. You never saw those product numbers in the
16 materials that you were familiar with?

17 A. During the time I was involved they were always
18 four digit designations with nomenclature I described to
19 you before.

20 Q. Who was the individual that you replaced at
21 group manager?

22 A. Phil Thomas became my boss.

23 Q. Is Mr. Thomas still living?

24 A. Yes, he is.

25 Q. Where does Mr. Thomas live?

1 A. In Bridgewater, New Jersey.

2 Q. I assume he's retired?

3 A. Yes, he is.

4 Q. When's the last time you spoke with Mr. Thomas?

5 A. Last night.

6 Q. Did you talk to him about this deposition?

7 A. I told him I was going to be giving a
8 deposition. He and a number of other people who I work
9 with in the phenolic area play bridge with our wives
10 once a month and last -- yesterday was our bridge
11 meeting.

12 Q. I could never figure out that game.

13 A. I'm not very good at it either but it's a good
14 reason to get together socially.

15 Q. Did Mr. Thomas recall anything about the use of
16 asbestos in Bakelite?

17 A. He would be related with many of the products
18 that we talked about. He was involved in both the
19 molding material and the laminating resin business just
20 like I was, only just prior to the time I was involved.

21 Q. When did Mr. Thomas start at Union Carbide or
22 Bakelite?

23 A. Before 1948 and just after the war. I think he
24 joined Union Carbide after he got out of the service so
25 that would probably be '46.

1 Q. What service was he in?

2 A. I think it was the Army but I'm not sure.

3 Q. Now were you also in the Navy?

4 A. Yes I was.

5 Q. What were you in the Navy?

6 A. I was electronic technician.

7 Q. Did you serve aboard a ship?

8 A. I didn't get that far. I was put through
9 training for almost one year and then the war was over
10 and they decided they didn't need us anymore. We were
11 going to be assigned to a ship.

12 Q. During your training did you have any exposure
13 to Bakelite products?

14 A. No I didn't. Well, I -- our training was to
15 repair electronic equipment. Some of the -- at the time
16 I didn't know that much about plastics so I can't say
17 that, you know, there were phenolic parts in the
18 equipment but I can't see why there would not because it
19 was used in the electronic equipment.

20 Q. Did you ever use test panels to test equipment?

21 A. The instruments that we worked with were
22 mounted on field panels and I never saw with the
23 equipment I worked with, a plastic panel.

24 Q. You never had to drill a hole in a plastic
25 panel and put an instrument in it and test it?

1 A. No, no. These were steel panels that the
2 instruments were mounted on and I did not have that
3 experience.

4 Q. When did you undergo your training? Or I am
5 sorry, where did you undergo your training?

6 A. Oh, a number of different places. Started at
7 Great Lakes. Then I went to Chicago. Then to Detroit
8 and then to San Francisco.

9 Q. In San Francisco where did you have your
10 training?

11 A. Treasure Island.

12 Q. Did you ever visit Hunter's Point Naval
13 Shipyard?

14 A. I'm not familiar with where that is. At the
15 time I was there there was a large, you know, the Navy
16 base was quite large at Treasure Island.

17 Q. Where did you live when you were in San
18 Francisco?

19 A. At Treasure Island.

20 Q. Did you ever visit the Mare Island Naval
21 Shipyard?

22 A. No, no.

23 Q. Did you ever visit the Marin Shipworks?

24 A. No. They kept us very busy in the Navy. It
25 was not a sightseeing trip.

1 Q. When you started with Union Carbide in 1948
2 were you aware of any advertising campaigns to support
3 the use of the name Bakelite as a trademark?

4 A. I think that came later in the '50s when the
5 decision was made to call products other than the
6 phenolics Bakelite brand plastics. We were making
7 polystyrene and polyethylene and one of our marketing
8 people decided to capitalize on that name and call these
9 other products Bakelite brand products.

10 Q. So it's your understanding that the term
11 "Bakelite" was only used to refer to phenolic resin
12 products made by Union Carbide prior to some time in the
13 1950s?

14 A. By Union Carbide.

15 Q. Right. Okay.

16 A. As far as their designation, yes.

17 Q. Did you ever see any marketing materials then
18 after the 1950s that said things like, "Make sure you
19 ask for Bakelite products by Union Carbide"?

20 A. I could have because that sounds so familiar
21 but you know I can't recall the exact advertisement and
22 where it was and when I saw it.

23 Q. Other than Modern Plastics can you recall where
24 Union Carbide advertised its products?

25 A. That was the primary magazine that Union

1 Carbide used. There may have been others but I know
2 that was the one they feel that got the most attention
3 because everybody usually bought it.

4 Q. Do you remember the name of the law firm that
5 handled Union Carbide's Bakelite patent work?

6 A. We had our own patent department, our own
7 patent attorneys.

8 Q. Do you recall any of their names?

9 A. The patent coordinator first one that I recall
10 is Vic Auerbach.

11 Q. How do you spell his name?

12 A. A-u-e-r-b-a-c-h.

13 Q. Is Mr. Auerbach still living?

14 A. Yes.

15 Q. Is he retired?

16 A. Yes.

17 Q. Where does he live?

18 A. He's in New Jersey but I don't know the exact
19 location.

20 Q. I just want to ask you a few quick questions
21 one last topic and that's with regard to bonding of
22 phenolic resin material to the filler. And I understand
23 you have some chemical engineering training and that
24 included courses in chemistry; did it not?

25 A. Oh, yes.

1 Q. Okay. And you're familiar with the physical
2 and chemical interactions of the fillers in Bakelite?

3 A. Yes, I was.

4 Q. Okay. Are you familiar with the chemical
5 composition of the mineral asbestos?

6 A. I'm familiar -- what I know is that it has
7 hydroxyl groups that can be used to attach the phenolic
8 resin to it. Or with any other, you know, resin you may
9 want to react with it.

10 Q. Do you have any understanding or knowledge as
11 to whether those hydroxyl groups -- well, let me take
12 that back. Have you ever done any chemical analysis to
13 determine whether or not the hydroxyl groups on the
14 asbestos mineral actually physically altered themselves
15 to bind to the phenolic resin material itself?

16 A. They were no studies to prove that, no. All
17 our evidence was indirect.

18 Q. When you say evidence is indirect you mean
19 theoretically speaking.

20 A. The -- you do not get good bonding with the
21 fiber you do not get the best physical properties. Also
22 if you do not get it well mixed on the rolls when it's
23 manufactured, when you break a test bar and look at the
24 failure point you can see, you know, white specks of
25 products that were not fully disbursed. So those were

1 our two primary measures as to whether the product was
2 thoroughly mixed. We did not run any studies to prove
3 that. We got complete bonding on the asbestos.

4 Q. Okay. So when you say you break it on the test
5 bar and look at it, what methods are you using to look
6 at the bar?

7 A. If it's poorly disbursed in the naked eye is
8 sufficient.

9 Q. And would you do anything other than evaluate
10 the test products using the naked eye?

11 A. That and physical properties. It had to have a
12 certain tensile strength and a certain impact strength
13 and it was rated as to whether the surface appearance
14 was enough.

15 Q. So the primary method you used to test whether
16 or not the -- how the asbestos was mixing with the
17 resin, those were physical tests that you were running,
18 not chemical analyses.

19 A. That's correct.

20 MR. ARMSTRONG: Fifteen minutes are up,
21 Ms. Shining.

22 MS. SHINING: And I think I just squeaked in
23 under the line.

24 MR. ARMSTRONG: All right.

25 MS. SHINING: Thank you, sir. Thank you for

1 your patience this evening.

2 MR. ARMSTRONG: Are you -- you want to handle
3 this deposition the way you people in northern
4 California normally handle depositions?

5 MS. SHINING: I think that would be acceptable,
6 waiving the court reporter as you did to hold the
7 original and we will maintain the original.

8 MR. ARMSTRONG: Can you e-mail me a transcript?

9 (Discussion off the record.)

10 MS. SHINING: Counsel, do you agree that we may
11 use the finished e-mail version in lieu of the signed
12 version for purposes of testimony on Monday? If
13 necessary?

14 MR. ARMSTRONG: The finished e-mail version
15 rather than the --

16 MS. SHINING: Well normally, Mr. Martino --
17 well, you will get an opportunity to review the
18 transcript and make any corrections but we are currently
19 in trial so we need to do some additional perhaps
20 stipulations.

21 MR. ARMSTRONG: When are you getting the
22 transcript, Carolin?

23 MS. SHINING: Well I am going to try to get it
24 as fast as I can so hopefully I can have it on Monday.

25 MR. ARMSTRONG: As long as we get it at the

1 same time you get it you can use the transcript at
2 trial.

3 MS. SHINING: Understood.

4 MR. ARMSTRONG: Fair deal?

5 MS. SHINING: Fair deal.

6 THE REPORTER: Counsel, do you want an e-mail
7 transcript delivered Sunday evening?

8 MR. ARMSTRONG: Yes.

9 MR. GLASSER: Yes, I might as well.

10 (Discussion off record with regard to e-mail
11 addresses.)

12 (Exhibits were not received via fax while the
13 deposition was in session.)

14 (The deposition was concluded at 6:25 at p.m.)

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1 REPORTER'S CERTIFICATE

2 STATE OF CALIFORNIA)

3 COUNTY OF MARIN)

4 I, SHERRY SHERRY, Certified Shorthand Reporter
5 for the State of California, certify:

6 That CARLO MARTINO, witness in the foregoing
7 deposition was by me first duly sworn to testify to the
8 truth in said cause;

9 That said deposition was reported at the time
10 and place therein stated by me, CSR No. 5619, and
11 thereafter transcribed under my direction; after which,
12 the witness was afforded the opportunity to read,
13 correct, and sign the deposition;

14 That if unsigned by the witness, witness shall
15 not have availed himself the opportunity to sign, or
16 signature has been waived.

17 I further certify that I am not interested in
18 the outcome of said action, nor connected with, nor
19 related to any of the parties in said action, or to
20 their respective counsel.

21 IN WITNESS WHEREOF, I hereunto set my hand
22 this 6th day of May, 2001.

23

24 SHERRY SHERRY, CSR NO. 5619

25

1 DECLARATION OF WITNESS

2 I, CARLO MARTINO, hereby declare that I have
3 read the foregoing testimony recorded on pages 1 to 93,
4 inclusive, and the same is a true and correct
5 transcription of my testimony, except as I have
6 indicated on the errata sheet attached hereto.

9 1. () The Deponent failed to appear to read,
10 correct, or sign his/her deposition.

11 2. () The Deponent refused to read, review, or
12 sign his/her deposition for the following
13 reason:

18 3. () The Deponent approved his/her deposition
19 by letter (with) or (without) corrections
20 attached hereto and made a part of this
21 deposition herein.

1 DEPONENT'S CHANGES OR CORRECTIONS

2 Note: If you are adding to your testimony, print the
3 exact words you want to add. If you are deleting from
4 your testimony, print the exact words you want to
5 delete. Specify with "Add" or "Delete" and sign this
6 form.

7 DEPOSITION OF: CARLO MARTINO
8 NAME OF CASE: Yeager v. Union Carbide Corp.
9 DATE OF DEPOSITION: Friday, May 4, 2001

10 I, , have the following
11 corrections to make to my deposition:

12 PAGE LINE CHANGE/ADD/DELETE

13

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SIGNATURE

DATE

Mr. Carlo Martino
c/o Bruce Armstrong, Esq.
Haight, Brown & Bonesteel
1620 26th
Santa Monica, California 90404

May 6, 2001
Job No.
CSR No. 5619

Re: Yeager v. Union Carbide Corporation

Dear Mr. Martino:

The original deposition transcript taken in the above matter on May 4, 2001 is now available for reading and signing at our office.

For 35 days following this notice the deponent, either in person or by a signed letter, may change the form or the substance of the answer to any question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it.

We do not release the original transcript from this office.

You may read and correct your testimony from a certified copy of the original transcript which may be purchased at CalNorth Reporting Service.

Please telephone this office for an appointment if you desire to review the original deposition transcript.

Sincerely,

CALNORTH REPORTING SERVICE

cc: Counsel of record