

FILE NAME: Household Contact (HC)

DATE: 2012

DOC#: HC056

DOCUMENT DESCRIPTION: Legal - Affidavit of Barry Castleman

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AFFIDAVIT OF BARRY I. CASTLEMAN

My name is Barry I. Castleman. I live at 4406 Oxford Rd., Gar _____, Maryland 20070.
My education consists of a Bachelors Degree in Chemical Engineering from Johns Hopkins University 1968. I have a Masters Degree in Environmental Engineering, which was mainly in areas related to air pollution control from Johns Hopkins University, 1972. I have a Doctor of Science Degree in Health Policy from Johns Hopkins School of Hygiene and Public Health, 1985. The opinions and research in this affidavit are held to a reasonable degree of scientific certainty.

My professional experience goes back over 30 years in the area of asbestos and other occupational and environmental health problems. My field is occupational and environmental health policy, which is a branch of Public Health, mainly oriented towards the recognition of risk factors and the prevention of disease from industrial activities.

The Doctoral degree was awarded for two years of course work, various examinations, and the writing of a doctoral dissertation. The course work was mainly in the areas of toxicology, epidemiology, biostatistics, physiology, and public health policy. These are the tools that are used to understand how the body works and can be damaged by toxic substances.

My Doctoral thesis was, Asbestos: An Historical Case Study of Corporate Response to an Industrial Health Hazard, and is largely identical to a book published in 1984 by Prentice Hall Law and Business called Asbestos: Medical and Legal Aspects (now in its 5th Edition, 2005). The doctoral thesis is an historical review of the asbestos problem as a public health problem in society worldwide, but mainly in the United States. It encompasses a comprehensive review of medical literature of all kinds, as well as other literature available in libraries and published sources such as government publications, safety magazines, engineering journals, trade magazines, insurance publications, encyclopedias, popular magazines, and newspapers. The doctoral thesis also involved research based on unpublished government records. The government records included workers' compensation claims files where claims had been made by individuals alleging that they had asbestos-related diseases of the lungs.

I examined unpublished information available from the U.S. government archives, the archives of scientists and the archives of institutions that had worked for and with asbestos companies. I also looked at unpublished information which was obtained in legal discovery. This included trade association minutes, corporate documents, and testimony of corporate officials who were associated with asbestos hazards over the years -- doctors, plant managers, executives, and other people who were aware of events that transpired.

I have also interviewed well respected historical figures in the field of industrial medicine and hygiene. They included physicians who were active in the field of occupational medicine, such as Harold Stewart, who first published on asbestosis in 1931, and Alfred Angrist, who first published on asbestos and lung cancer in 1942. They are both pathologists. Another, Dr. Wilhelm Hueper, was a leading United States authority in the field of occupational cancer and first director of the environmental cancer section of the National Cancer Institute. Dr. Irving J. Selikoff was the leading epidemiologist and asbestos authority in the US. Dr. Hueper, Dr. Harriet Hardy, Dr. Thomas Mancuso, Dr. Gerrit Schepers, Dr. Richard Doll, Dr. Morris Greenberg, and others I have interviewed were involved in the area of asbestos and health over the past decades.

The originally published reports in the era of the modern asbestos industry came at just before the turn of the century, and the first reports in the English language were included in the annual reports of the chief inspector of factories and workshops in Great Britain. The report published in 1899 talked about the observation of lung disease in individuals who had worked in asbestos manufacturing plants and about the "evil effects of asbestos dust."

The medical literature of asbestos disease mainly developed after the publication of a case report in the British Medical Journal by Dr. Cooke, a pathologist in Britain in 1924. This was called, "Fibrosis of the Lungs Due to the Inhalation of Asbestos Dust." Dr. Cooke reported on the death of a 33-year-old woman who had worked off and on in asbestos plants from the age of 13. According to Cooke, the scarring of her lung tissues was largely attributable to the inhalation of asbestos in the course of her work. There followed a number of other reports in British sources, and this is reflected as well in the United States in editorials of the Journal of the American Medical Association. In one on January 14, 1928, called "Pulmonary Asbestosis," reference is made to Cooke's case and other reports on the disease now called asbestosis. The Journal of the American Medical Association recommended that further attention be paid to this disease, as it may well be occurring in the United States. The Journal of the American Medical Association issued another editorial in 1930 about asbestosis, this time noting the asbestosis had become a compensable occupational disease in Great Britain under the workers' compensation law. The Journal of the American Medical Association was believed to have been read by 80% of American physicians in those years, medical historians have written.

Further reports of asbestosis were published in the widely circulated British Medical Journal. The reports mainly involved deaths of individuals who were verified as having asbestosis by autopsy.

In 1930, a report was published by a physician, Dr. E.R.A. Merewether, and an engineer named C. W. Price. Merewether and Price reported a survey that had been conducted by the Factory Inspectorate in England, including 363 asbestos workers who were actively employed. Of these individuals, 26% were found to have asbestosis. Merewether and Price reported that the people longest exposed had the highest prevalence of the disease: 80% in workers with 20 years or more in the industry. There were no cases of asbestosis in individuals with less than five years, and Merewether referred to the phenomenon that the disease was delayed in appearance and developed gradually over a period of years. Merewether urged that workers be "educated to a sane appreciation of the risk" to health posed by asbestos dust. Merewether's 1930 writings on asbestosis are among those most often cited in the literature on asbestosis.

There were reports also of the progression of disease caused by asbestos fibers trapped in the lungs, including a report by the radiologist, Sparks, called "Pulmonary Asbestosis", published in the United States in 1931. Sparks talked about the fact that the disease progressed in some individuals after the cessation of exposure. This was demonstrated by the chest x-rays of the individuals who had been removed from exposure but who had continued to go downhill in terms of their lung conditions.

There are also publications by Dr. Harold Stewart and his coworkers in 1931, describing two cases of asbestosis in the Archives of Pathology, published in the United States. One of these individuals had been exposed for only nine months to uncontrolled asbestos dust conditions and nine years later had developed a severe degree of asbestosis when seen at autopsy.

Other sources were also remarking on the disease, asbestosis. A journal called National Underwriter, a publication of the insurance industry, in a 1932 article called "Occupational Diseases are Not Generally Understood," repeatedly called attention to asbestosis and referred to asbestos industries as dangerous industries from the standpoint of insurers who might be prevailed upon to sell coverage of various kinds for the health of workers in such industries.

In 1918 there was a United States publication authored by Frederick Hoffman called Mortality from Respiratory Diseases in Dusty Trades. This made reference to the annual reports of the Chief Inspector of Factories in England and the reports of asbestos disease there.

By 1932 there were 60 or more publications in print on asbestosis. These were noted by way of reference in a bibliography published by the International Labor Organization in 1932. These publications continued to emerge from many countries. The first cases of asbestosis in the United States were reported in 1930. Asbestosis was also described in an article in the trade magazine Asbestos in the United States in the March 1930 issue, amid numerous advertisements from asbestos mining and manufacturing companies.

In 1932, the first case of asbestosis in an asbestos product user was reported at a conference held by the Industrial Commission of Wisconsin, proceedings of which were published. Here, Dr. Albert Russell of the United States Bureau of Mines described an individual who had worked maintaining the insulations on pipes in a government hospital and had been diagnosed as having asbestosis and had been compensated by the government for disability sustained from this asbestos condition. This is the first published product user case. There were other cases reported in the United States in 1933 by Philip Ellman and also reported by Ellman in 1934 in The British Journal of Radiology. Wood and Gloyne reported in 1934 on cases of asbestosis including a boiler riveter who would have been exposed to asbestos because it was used as an insulation material on boilers. Wood & Gloyne's report was called "Pulmonary Asbestosis: A Review of 100 Cases" was published in The Lancet, the world's oldest medical journal, in 1934. The Lancet is, like the British Medical Journal, a general medical journal published in England and available very widely in medical libraries in the English-speaking world. This article was widely cited in subsequent literature. Of the hundred cases of asbestosis they reported on, the shortest duration of exposure in any case was six months, in the case of two women who had worked in an asbestos plant.

In 1933 and 1934 in the British journal, Tubercle, Dr. Merewether published "A Memorandum on Asbestosis." He emphatically noted that asbestosis shortened people's lives. Merewether showed that, in the British experience, individuals who had died with silicosis, another occupational lung disease, had an average age at death of 54. In the case of asbestosis, the average age at death was only 41. The duration of exposure was similarly very much different. In the cases of silicosis in which death occurred, the average duration of exposure was 40 years. For asbestosis, the average duration of exposure was only 15 years.

In 1935, the Pennsylvania state authorities published a report on asbestosis in industry in the state. This was called Asbestosis, published by Fulton and his coworkers at the Pennsylvania Department of Labor and Industry. One-fourth of the workers they examined had asbestosis. They included an impressive bibliography of 125 references to asbestos-related disease previously published in journals in the United States, England, France, Italy, Germany and other countries. The Pennsylvania study included an effort to relate dose and response. The authors had sampled the exposure of the workers to dust in four asbestos plants and the found that, overall, average concentrations of dust could be broken down into three groups that varied from 4.64 million particles per cubic foot up to 44 million. Asbestosis was reported in all three groups, with the prevalence and severity of disease greater in the more heavily exposed groups. But no level of exposure was found to

be free of the disease. This was one of the first surveys of this kind in the United States similar to that which had been done by Merewether and Price and published in Great Britain and the United States separately in 1930. In all of these studies at least 25% of the workers were diagnosed as having asbestosis.

The study by Lanza and his coworkers at Metropolitan Life, published in 1935 and initiated at the request of representatives of the asbestos industry, found that 53% of the workers examined with three or more years of exposure had asbestosis.

In 1938, a similar study was done by the Public Health Service, including an effort to account for workers who had been discharged before the Public Health Service was admitted to the North Carolina asbestos textile plants to do the study. An estimated asbestosis rate in the workplace was given as 27 1/2%. The report recommended that dust exposure in asbestos plants be limited to 5 million particles per cubic foot. This guideline was recommended as a tentative occupational exposure limit, though it was noted that the Pennsylvania study had found cases of asbestosis at that level of exposure.

Literature on asbestosis was substantially developed by 1935. The disease was shown to have a distinctive pathological appearance with asbestos bodies, types of scarring that would form around the asbestos fibers trapped in the lung tissues. This was commented upon a great deal by pathologists in the 1920s. The disease was shown to have an identifiable radiological appearance on chest X-ray distinctly different from such diseases as TB and silicosis. The disease was also characterized by shortness of breath, which would become more pronounced as the individual became more seriously affected by the disease.

The risk of the disease involved not only mining and manufacturing plant workers but by 1935 it had come to include users of some asbestos products, mainly insulation products. Also, there were two reports on clerical workers in asbestos manufacturing plants with 30 to 40 years of experience, and these individuals were among the victims of asbestosis described in the medical literature published in Britain and the United States in 1934 and 1935.

The disease was consistently found to affect a large percentage of people who were employed in the industries where asbestos products were manufactured. This was reported in four surveys in the United States and Britain by the mid to late 1930s. By the mid-1930s lung fibrosis was well identified and widely reported as an asbestos-related phenomenon.

In 1935, another aspect of the hazard of asbestosis was identified with the publication of medical case reports of asbestosis in combination with lung cancer. The first such reports were published by Lynch and Smith in the United States in 1935 in the American Journal of Cancer and by Dr. Gloyne in Great Britain in Tubercle in two separate reports in 1935 and 1936. In these reports, the question was raised that chronic irritation of the lung tissues from asbestos might be producing cancer as well as lung scarring already well identified as an asbestos-related phenomenon.

There were additional reports of lung cancer in combination with asbestosis reported by Egbert and Geiger at Yale in 1936, and Nordmann in 1938. An abstract of this last publication appeared in the United States in the Journal of Industrial Hygiene & Toxicology, also in 1938. The article was entitled "The Occupational Cancer of Asbestos Workers." The German author, Nordmann concluded that asbestosis was definitely related to lung cancer, that lung cancer was in fact an occupational disease of asbestos workers. Various features of the six cases Nordmann knew of were tabulated to justify that. Nordmann noted, among other things, that the prevalence of lung cancer among autopsied victims of asbestosis was one in six both in Germany and Great Britain. This was very much higher than the prevalence of lung cancer in the general population, which tended to be more

like 1% or several percent at most. The high rate of lung cancer among people dying with asbestosis would be a most consistent finding around the world.

There were additional publications of cases of lung cancer and asbestosis in 1939 in the United States and in 1941 and 1942 in Germany. Holleb and Angrist reported in the American Journal of Pathology on two individuals who had been pipe coverers (users of asbestos products) diagnosed at autopsy as having both asbestosis and lung cancer. These were the first cases of cancer and asbestosis in users of asbestos products published in the medical literature. Holleb and Angrist tabulated a total of 10 cases of lung cancer in combination with asbestosis that had been published in the United States, Britain, and Germany. This gave readers of their articles the benefit of a review of what had been reported until that time in worldwide literature on lung cancer and asbestosis. This was a feature of many medical articles on asbestos disease; that is, they make extensive reference to preceding work. So, that if one finds a single article, one has the windows open on a great deal of knowledge that preceded it.

In 1942, Dr. Wilhelm Hueper published a book on occupational cancer called Occupational Tumors and Allied Diseases, nearly 900 pages long. It included a lengthy section on asbestosis and cancer from asbestos, in which a large number of references from the United States, Great Britain and Germany were cited in support of the view that asbestos most likely did cause occupational cancer. Dr. Hueper made unequivocal statements the next year in the article called, "Cancer in its Relation to Occupational and Environment" published in the Bulletin of the American Society for the Control of Cancer. There, Hueper said that asbestosis cancer of the lung as he called it then, was the newest proved occupational cancer of the lung, to be listed with the ones that were already known up at that time. In the Journal of the American Medical Association (JAMA), there appeared an editorial called "Environmental Cancer" in 1944, in which asbestos was listed among agents known and suspected of causing occupational cancer.

By 1950, there were more than 80 articles and abstracts referring to the lung cancer hazard of asbestos, including writings in newspapers and popular magazines (see D below).

The disease mesothelioma of the pleura was attributed to exposure to asbestos or asbestosis starting in 1943 with the report of Dr. H. W. Wedler in Heidelberg. There were additional reports in the German literature as well as British literature. The case reports that appeared prior to 1960 are annotated and cited by way of reference in Chapter 2, table 5 of my book. Dr. Wedler was the first to state that he believed the pleural cancers were occupational cancers, and his work was prominently cited in the United States in the 1940s. Other German pathologists starting with Leicher in 1954 would identify peritoneal mesothelioma as an asbestos disease.

A major report of pleural mesothelioma came from South Africa by Wagner and his coworkers, published in the British Journal of Industrial Medicine in 1960. Within a very short time it was widely accepted: that asbestos did cause mesothelioma; that levels of asbestos exposure present from environmental exposure as well as occupational exposure were sufficient to cause mesothelioma; and that mesothelioma was affecting a considerable number of workers in shipyards. Reports, such as those in the British Medical Journal in 1962, described the different types of workers who were being affected by mesothelioma in shipyards.

Wilhelm Hueper summarized the state the art at the New York Academy of Sciences in 1964:

"Numerous reports by many investigators from various countries establish the fact that an occupational or nonoccupational inhalation of dust of different chemical and

physical types of asbestos results in the development of asbestosis of the lungs which, depending upon the type of exposure may be designated as an occupational, neighborhood or household pneumoconiosis. Since 1935 an increasing amount of epidemiologic, clinical and pathologic evidence, moreover, incriminates this health hazard as one of the environmental sources of cancers of the lung, and more recently also of mesotheliomas of the pleura and peritoneum, although some commercially interested parties and their medical guardians and protectors still prefer for their own reasons and motives, to deny the existence of these dangerous and usually fatal sequelae of a respiratory contact with asbestos dust. The obvious fallacy of such allegations is well demonstrated by the remarkable and a progressive rise in the number of cases of asbestosis and cancers of the lung, pleura, and peritoneum reported from various countries during the past two decades."

In 1964, Dr. Irving Selikoff and his coworkers published a mortality study in JAMA showing that there was a substantial excess of occupational cancer and deaths from asbestosis among people involved in the insulating trades. A group of workers who installed insulation and removed it regularly was found to have 45 deaths from pulmonary cancer in a group where only six or seven such deaths would have been expected. There were four deaths from peritoneal and pleural mesothelioma in this cohort, and this was described as a very rare disease and a substantial excess over what would have been expected. There were also 12 deaths from asbestosis in this work force.

In 1964, at an international conference held in New York and published in 1965, Selikoff and coworkers reported that around 80% of the people who were in the insulating trade had developed asbestosis by the time they had been in trade for 20 or 30 years or more. At the conference in New York, British researchers Newhouse and Thompson presented a report on 76 deceased mesothelioma patients and an equal number of "controls", based on interviews with relatives. Their report showed strong evidence that mesothelioma patients were far more likely to have had occupational, household, or neighborhood exposure to asbestos than the comparison patients who died from other causes at the same hospital.

The subject of asbestosis was receiving attention in other types of publications and circles. The Encyclopedia Britannica first noted the disease asbestosis in the regular publication of the Encyclopedia in 1940.

Starting in the 1930s the National Safety Council published numerous articles, pamphlets and other materials concerning the hazards of asbestosis. Many of the annual congresses held forums and discussions about dust disease. The transactions of these meetings were automatically mailed to the industrial members.

During the 1930s there were an increasing number of lawsuits for dust diseases contracted in the workplace. To confront this dust disease threat, a meeting of about 250 people representing over 50 industries with industrial disease problems was held on January 15, 1935. The meeting covered the hazards of asbestos and silica dust, and one focus of the meeting was on "the menace of ambulance chasing lawyers in combination with unscrupulous doctors." During this and subsequent meetings of the association, which was initially called the Air Hygiene Foundation, lawyers outlined a plan to limit dust disease lawsuits and compensation. This included eliminating the right to trial and limiting workers' ability to claim workers compensation.

The refractories industry played a major role in this meeting and subsequent establishment of the Air Hygiene Foundation (renamed the Industrial Hygiene Foundation in

1941). Through Industrial Hygiene Foundation publications, meetings and conferences, its members have been long aware about dust diseases and the responsibilities of manufacturers to warn concerning hazards associated with their products.

Among the means by which the Industrial Hygiene Foundation disseminated information was the Industrial Hygiene Digest, which published abstracts of articles from hundreds of journals that were being published. The Industrial Hygiene Digest included abstracts of industrial medicine articles that had appeared in the journals included reference to cancers of the lung and pleura, reported originally by Dr. Wedler in 1943, in January of 1945. Wedler's article had been published in the German Medical Weekly. Here, we see the first references to cancers of the pleura as well as cancers of the lungs all being counted as pulmonary, asbestos-related cancers in literature.

In 1944, a trade magazine called Heating and Ventilating carried an article called "Dust is an Industrial Health Hazard" by Hutchinson, in which was noted that fatal cases of asbestosis occurred in shorter periods of time than fatal cases of silicosis, and also that the hazard of asbestosis extended to industries including the insulating industry. Hutchinson said at that time there was no known safe level of exposure.

The Journal of the American Medical Association carried an editorial called "Asbestosis and Cancer of the Lung" in August of 1949. This reported British statistics on 235 deaths in which asbestosis had played a part. Of these 235, 31 (13%) of the individuals were also found to have cancers of the lung or pleura. This was considered quite excessive compared to the normal rate of lung cancer in the general population of 1% of all autopsies. This editorial in the Journal of the American Medical Association was promptly summarized in the abstract form in the Industrial Hygiene Digest in 1949.

Reference to cancer from asbestos appeared in the New York Times on Jan. 7, 1948, Business Week Nov. 13, 1948, Washington Post Nov. 21, 1948, and Scientific American in January 1949 in an article called "Cancer and Environment". It appeared in Newsweek magazine May 15, 1950. The reference to asbestos in Newsweek was in relation to the rising rate of lung cancer in urban dwellers compared with people in the rural areas. This was partly attributed to the presence of carcinogens like asbestos in urban air, according to Dr. Hueper, Chief of the Environmental Cancer Section, US National Cancer Institute. The Los Angeles Times noted the carcinogenicity of asbestos April 6, 1951, the Chicago Tribune on June 10, 1951. The Encyclopedia Britannica made reference to asbestos as one of the causes of occupational cancer under the title "cancer" in 1952, and asbestos was described as a lung cancer hazard to steamfitters working with asbestos in the Wall Street Journal on April 7, 1959.

Various guidelines have been recommended to limit asbestosis as a hazard in places where asbestos is used. These guidelines included so-called Threshold Limit Values (TLVs) or maximum allowable concentrations. The Public Health Service in its survey in 1938 recommended 5 million particles per cubic foot for dust in which asbestos was present in the workplace, as a ceiling concentration. This was adopted by non-governmental group, a volunteer professional organization. It was recommended as a guideline in some states prior to the enactment of the Occupational Safety and Health Act in 1970.

Authors in other countries took issue with the idea that one could recommend an occupational exposure limit of dust in the air and thereby completely control health hazards. Under the heading "The Prevention of the Dust Disease" Dr. McLaughlin, of the Factory Inspectorate in Great Britain, writing in The Lancet in 1953, said that people in some countries who recommend these maximum allowable concentrations seem to think that man is a "standardized machine which he clearly is not." McLaughlin noted a number of factors that would distinguish people in terms of their risks in ways that we could recognize as well as the fact that there are also ways that we can't recognize, where one individual exposed to the same things as another working right next to him gets sick and the other one does not.

Others such as that of Dr. May Mayers of New York, in 1952, and Warren Cook, also writing in the United States in 1956, observed that maximum allowable concentrations that were recommended to prevent other effects than cancer could not be considered to be safe if the substances also caused cancer. Asbestos was noted by both of those authors as one such substance that caused cancer.

The Documentation of the Threshold Limit Values published in 1962 and in its second edition in 1966, clearly indicated that the asbestos TLV was based on the 1938 Public Health Service study and was only suggested to protect against the disease asbestosis. The word cancer was not even mentioned in the 1966 Documentation, whose most recent cited reference on asbestos was dated 1955.

With asbestos, as with many other substances, it was infrequent that the TLV or the basis for it were reviewed in the light of recent literature once the substance was on the list. The limited efforts of unpaid volunteers working on the TLV committees appear to have been mainly devoted to adding new substances to the list during the 1950s and thereafter.

There were many articles coming out in the 1940s and 1950s that noted the risk of asbestosis and in some cases cancer in individuals who were exposed to asbestos in the course of using asbestos-containing products; there were more than 50 separate case reports, some involving one or two individuals, some involving as many as ten or more. These case reports were published mostly in the English language in medical journals between 1932 and 1963. These reports are tabulated in Chapter 5, Tables 2 and 3 in my book, Asbestos: Medical and Legal Aspects.

Companies manipulating and working with or marketing products that could give rise to respirable asbestos dust either were or should have been aware that most dusts can either cause or aggravate problems in the lungs of end-product users. Some specific company knowledge includes the following. Westinghouse's medical director wrote a book in 1947 in which he states that asbestos produced serious effects, including the progressive disease of asbestosis.

In 1897, the first physician in modern times to write about lung disease in asbestos workers also commented on ill health among the workers' family members. The families of asbestos-exposed workers in the 20th century were exposed to asbestos brought home on the clothes, shoes, hair, tool boxes, lunch boxes, and automobiles of the workers.

As far back as 1913, the text, Safety, by W.H. Tolman and L. B. Kendall (p. 249) emphasized the importance of having workers remove work clothes before leaving a factory where toxic materials are handled, so the poisons would not be carried "into the homes of workers."

Some chemical companies provided work clothes and laundered them in plants using toxic and carcinogenic chemicals as early as the 1920s. "Two-compartment lockers, or preferably two individual lockers, should be provided in dressing rooms for employees whose clothes are exposed to poisonous material," said the U.S. Public Health Service in the Manual of Industrial Hygiene

(1943). Corporate physicians advised a number of safeguards that would have protected families of workers at a Chrysler plant being built in 1946. The plant was to use asbestos and chemicals that could cause toxic effects and dermatitis. Protective clothing, laundry, showers, and separate lockers for street and work clothing were recommended by the doctors. In a 1948 document, Roy S. Bonsib, an industrial hygienist for Standard Oil of New Jersey stated: "Appropriate work clothes, properly fitted and maintained, play a prominent part in an industrial worker's health and efficiency. This is especially true when persons are working with more or less toxic or carcinogenic materials or where cleanliness is a factor in the maintenance of product quality. E.I. DuPont de Nemours & Company, the American Cyanamid Company and the Borden Company, have for years had a policy of supplying their employees with work clothing and have instituted a laundry service."

In 1942 the Pennsylvania Department of Labor and Industry published "Safe Practice Bulletin No. 93." The publication contains an article entitled, Exhausting Asbestos Fiber and Dust in Wire Insulation Manufacture, by Fred R. Kaimer, Assistant Manager, General Electric Co. York Works. The article discusses industrial hygiene aspects of using asbestos in the manufacture of insulated wire. Of particular significance is the statement in the article by the General Electric employee that:

4. Distribution and furnishing of following materials:
 - (a) Clothing – coveralls – underwear – caps – gloves
 - (b) Towels – soap – protective cream.
 - (c) Lockers – 1 for street clothes – 1 for work clothes.
 - (d) Shower baths – 15 minutes allowed in work schedule.
 - (e) Trained nurse – routine inspection and first aid.
 - (f) Lunch room facilities.

Employees enter the plant through the locker rooms provided, street clothes are deposited in a special locker room and working clothes provided are worn during factory operations. The reverse cycle is carried out at the close the day.

The U.S. Public Health Service published, in 1943, is Manual of Industrial Hygiene and Medical Service in War Industries. The Manual states:

Dressing rooms should be provided for men whenever the type of work performed involves exposure to excessive dust, dirt, heat, fumes, vapor, or moisture of such degree as is declared by the enforcing authority to require the same. Two-compartment lockers, or preferably two individual lockers, should be provided in dressing rooms for employees whose clothes are exposed to contamination with poisonous, infectious, or irritating material. Workers exposed to toxic substances, such as TNT and tetryl, should be required to change clothes completely and to take a shower bath at the end of each shift. The work clothes should be provided and laundered by the employer.

Additionally, the United States Department of Labor issued safety and health guidelines in conjunction with contract work for the federal government. A 1952 document entitled Safety and Health Standards for Contractors performing Federal Supply Contracts under the Walsh-Healey Public Contracts Act required that contractors provide facilities to prevent the communication of harmful substances from work clothes by contact to street clothes. Subsequently, Walsh Healey regulations were published in the Federal Register in 1960. These regulations provided that, "Where employees' work clothes are exposed to contamination by poisonous, infectious, or irritating material, facilities shall be provided in change rooms so that street and work clothes will not be stored in contact with each other." Asbestos is listed in the Walsh-Healey Act standards.

The hazard of asbestos exposure to families of the workers was scientifically knowable long before it was studied directly, as illustrated by the advice of the Chrysler doctors. Dr. Wilhelm Hueper, Chief of the National Cancer Institute section on environmental cancer, accused ambient asbestos air pollution as having a role in the rising lung cancer rates in American cities (in Newsweek and a medical article) in 1950. Industry was well aware that asbestos was a mineral with high resistance to destructive forces such as heat and that asbestos did not decompose even upon prolonged storage. It was also obvious that, absent any safeguards to prevent it, workers typically exposed to dust from asbestos products would take the contaminant home on them, where it would accumulate in carpets, clothing, window curtains and furniture. It was also known that the very young (the developing organism) would be most susceptible to the action of carcinogenic agents, a fact demonstrated in laboratory testing of carcinogenic agents at least as far back as 1938 (cited in Hueper, Occupational Tumors and Allied Diseases, 1942, p. 758).

Retired Monsanto chemist and industrial hygienist Jack Garrett has testified that in the 1950s, that chemical company's employee protection against asbestos from insulation products included showers and daily changes of clothes: "We went down to shoes and socks, underwear and all. We didn't want it at home." (deposition in *Schmidt*, District Court of Jefferson Co. TX, Dec. 16, 1993). In 1967, Shell Chemicals in Britain adopted a code of practice for handling asbestos products, including vacuum hoses for removing dust from clothing and shoes, separate lockers for work clothes and street clothes, and hot and cold showers. Work overalls were vacuum cleaned, bagged with warning labeling, and laundered by the company.

Studies on the occurrence of asbestos disease that included family members of asbestos-exposed workers were published in the 1960s, and work such as that of Newhouse and Thompson (1965) established that mesothelioma was causing deaths among persons with only household (and not occupational) exposure to asbestos. The contamination of workers homes and the exposure of their spouses and children was very foreseeable, and with the knowledge that asbestos was carcinogenic came the possibility that household-contact exposures would have disastrous consequences for members of workers' families if not prevented.

The Occupational Safety and Health Administration (OSHA) was created by Congress in the last days of 1970. In June of 1972, OSHA asbestos regulations were published in the Federal Register, containing rules for sanitation and laundering of asbestos-contaminated clothing. The OSHA asbestos regulations required that, where exposures exceeded the ceiling limit set out in the rule, employers were required to provide work clothes and clothing lockers, with separate lockers for street clothes and work clothes, "separated or isolated so as to prevent contamination of the employee's street clothes from his work clothes."

The literature on asbestos was incorporated into a guidance document written for the Occupational Safety and Health Administration by the National Institute for Occupational

Safety and Health (NIOSH). NIOSH issued a "Criteria Document for a Recommended Standard ... Occupational Exposure to Asbestos" in 1972 warning that, "The recommended standard [was] designed primarily to prevent asbestosis," and that "for other diseases associated with asbestos, there is insufficient information to establish a standard to prevent such diseases including asbestos-induced neoplasms by any all-inclusive limit other than one of zero." NIOSH revised its criteria document on asbestos in 1976, stating:

"Available studies provide conclusive evidence that exposure to asbestos fibers causes cancer and asbestosis in man. Lung cancers and asbestosis have occurred following exposure to chrysotile, crocidolite, amosite, and anthophyllite. Mesotheliomas, lung and gastrointestinal cancers have been shown to be excessive in occupationally exposed persons, while mesotheliomas have developed also in individuals living in the neighborhood of asbestos factories and near crocidolite deposits, and in persons living with asbestos workers...."

NIOSH stated, "Excessive cancer risks have been demonstrated at all fiber concentrations studied to date. Evaluation of all available human data provides no evidence for a threshold or for a 'safe' level of asbestos exposure." The International Agency for Research on Cancer came to the same conclusion in its monograph on asbestos, published in 1977.

In summary, the literature had largely established that asbestos was a lethal material by the early 1930s, causing disability and deaths from asbestosis. By the mid-1940s, it was widely accepted by people writing on the matter that asbestos inhalation could also cause lung cancer. There were several dozen reports of cases as well as editorials and other publications referring to the cancer risk of asbestos in the literature. Most of the authors by that time were concluding that asbestos probably or definitely caused cancer of the lungs. Some cancers of the pleura were counted as asbestos related. The added hazard of cancer from asbestos was sufficiently well-known to start appearing in more general references like the New York Times and Business Week in 1948, Scientific American magazine in 1949, Newsweek in 1950, and the Encyclopedia Britannica in 1952. Further, the hazard of asbestos exposure to families of the workers was scientifically knowable at least by the 1950s. The risk of mesothelioma especially in individuals with environmental, nonoccupational asbestos exposure became a subject of intense discussion in the early 1960s subsequent to the Wagner publication in 1960.

Information on asbestosis was available by using Index Medicus, which is a subject index of worldwide medical literature. The Index Medicus has been published since 1879 and can be used to identify articles that are newly emerging on any medical subject including asbestosis. Many medical texts on occupational diseases, pathology, internal medicine, cancer, lung diseases, and public health, that spoke of asbestos hazards were published in the 1930s and thereafter. Also, the articles themselves often contained numerous references to prior articles, and so in this way one could easily find in a matter of a few hours in a library a great deal of information about a subject like asbestosis and the hazards of asbestos using the classical methods.

FURTHER, AFFIANT SAYETH NOT,

Barry I. Castleman

STATE OF MARYLAND

CITY/COUNTY OF _____

SWORN TO and SUBSCRIBED BEFORE ME, on this _____,
day of _____, 2012.

Notary Public

My Commission expires: _____