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1 IN THE DISTRICT COURT OF DALLAS COUNTY, TEXAS
2 160th JUDICIAL DISTRICT

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5 IN RE:

6 ALL ASBESTOS PERSONAL INJURY
7 CASES FILED IN DALLAS COUNTY, TEXAS

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11 Oral deposition of WAYNE BICKERSTAFF,
12 taken at the offices of SHERR, JOFFE & ZUCKERMAN,
13 P.C., 200 Four Falls Corporate Center, West
14 Conshohocken, Pennsylvania, on Wednesday, May 27,
15 1992, at 9:00 a.m., before Julie M. Zanaras, a
16 Registered Professional Reporter and Notary
17 Public.

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1	<u>I N D E X</u>		
2	<u>WITNESS</u>	<u>INTERROGATION BY</u>	<u>PAGE</u>
3	WAYNE BICKERSTAFF		
4		Mr. Waters	5, 93
5		Ms. Davis-Coslett	92
6		- - -	

8	<u>E X H I B I T S</u>		
9	<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
10	1	Amended Notice of	
11		Deposition	99
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1 (It is agreed by and among counsel
2 that certification, sealing and filing are
3 hereby waived; all objections, except as to
4 the form of the questions, are reserved
5 until the time of trial.)

6 - - -

7 WAYNE BICKERSTAFF, having been duly
8 sworn, was examined and testified as
9 follows:

10

11 MR. WATERS: Pursuant to the Texas
12 Rules of Civil Procedure by which all
13 objections are reserved except form of
14 responsiveness. Is that okay?

15 MR. STUTTS: Fine.

16 BY MR. WATERS:

17 Q. Can you state your full name, sir?

18 A. Clarence Wayne Bickerstaff.

19 Q. Mr. Bickerstaff, how old a man are you?

20 A. I'm fifty-two.

21 Q. How are you presently employed?

22 A. I'm employed with Westinghouse Electric
23 Corporation.

24 Q. What is your position or title?

1 A. My title now is manager of Industrial
2 Hygiene and Materials Transportation.

3 Q. How long have you been in that position?

4 A. Sixteen years.

5 Q. What was your previous position?

6 A. I was supervisor of Industrial Hygiene in
7 Cheswick, Pennsylvania.

8 Q. Westinghouse facility?

9 A. Yes.

10 Q. What years, approximately, were you in that
11 position?

12 A. I was there from 1973 through 1976.

13 Q. Prior to that time?

14 A. I was a safety engineer for Westinghouse at
15 our Energy Center, Forest Hills facility in
16 Pittsburgh, that was from 1970 to '73.

17 Q. And before that?

18 A. I was a radiation safety technician at
19 Westinghouse facility, W-a-l-t-z Mill site which
20 is also in the Pittsburgh area. That was from
21 1960 to 1970.

22 Q. Before '60 were you with the company?

23 A. Yes. I started with Westinghouse in 1957 as
24 a technician and I worked at the Westinghouse

1 Forest Hills site in Pittsburgh for approximately
2 two years, from 1957 to 1959.

3 Q. And then what did you do in that one-year
4 period?

5 A. I left Westinghouse and pursued a career
6 in -- or going to college at Waynesburg College
7 and ran out of money and came back to work.

8 Q. What is your educational background?

9 A. I have a Bachelor of Science degree in
10 chemistry from Duquesne University and that was in
11 1970. And I have a Masters in hygiene from the
12 University of Pittsburgh, that was in 1978.

13 Q. When did you graduate from high school?

14 A. I graduated from high school in 1957.

15 Q. And where was that?

16 A. That was in Irwin, Pennsylvania.

17 Q. That one-year period 1959, approximately,
18 when you went back to school, what did you study
19 during that time frame?

20 A. The time that I went to Waynesburg College?

21 Q. Right.

22 A. I was in the chemistry, completing two
23 semesters -- one semester.

24 Q. Have you ever given your deposition before?

- 1 A. Yes.
- 2 Q. On how many occasions?
- 3 A. Four or five.
- 4 Q. When was the most recent occasion?
- 5 A. Within a month, a couple of weeks ago.
- 6 Q. Did that take place in this office?
- 7 A. No, it did not.
- 8 Q. Where was that?
- 9 A. That was in New Jersey.
- 10 Q. Do you recall the name of the attorney who
- 11 took your deposition?
- 12 A. Mr. Cohen.
- 13 Q. How many attorneys were present at that
- 14 deposition?
- 15 A. Well, it started one day and then concluded
- 16 the second day, about eight.
- 17 Q. Have you reviewed a transcript of that
- 18 deposition?
- 19 A. I reviewed part of it, yes.
- 20 Q. Do you have that in your possession?
- 21 A. I have part of it.
- 22 Q. I don't mean here with you today, although
- 23 I should perhaps ask you that question. Have you
- 24 looked at it within the last twenty-four hours or

1 so?

2 A. I looked at part of it within the last
3 twenty-four hours.

4 Q. In preparation for your testimony today?

5 A. No, just going back through to see if there
6 was any typos.

7 Q. How long is the transcript? Well, is it in
8 more than one volume?

9 A. Yes.

10 Q. How many volumes is it?

11 A. Two.

12 Q. Do you have both volumes with you at the
13 present time?

14 A. No.

15 Q. Do you have one of the volumes with you?

16 A. Yes.

17 Q. Is the other volume at your office in
18 Pittsburgh?

19 A. Yes.

20 Q. The previous most recent time prior to the
21 New Jersey deposition, where did you give your
22 deposition?

23 A. It was in the Pittsburgh area and there
24 was, I think, three, they were Workmen's

1 Compensation cases and they were all primarily, I
2 believe, in the Pittsburgh area.

3 Q. These are Workers' Compensation cases? Are
4 they related to asbestos?

5 A. No.

6 Q. The New Jersey deposition, was that related
7 to asbestos?

8 A. No.

9 Q. Have you given your deposition with regard
10 to asbestos or the hazards of asbestos?

11 A. It may have come up with the recent
12 litigation, but it was not specifically related to
13 asbestos.

14 Q. So is this then, the first time that your
15 deposition is being taken specifically with regard
16 to the asbestos litigation or the hazards of
17 asbestos?

18 A. That's correct.

19 Q. Now, as a manager of Industrial Hygiene and
20 Materials Transport, are you a member of a
21 specific group or subgroup at Westinghouse? In
22 other words, if someone were to ask you at which
23 department do you work, what would your response
24 be?

1 A. I'm at headquarters.

2 Q. And is there a department entitled
3 Industrial Hygiene?

4 A. There's a group, Industrial Hygiene.

5 Q. How large is that group at the present
6 time?

7 A. I have another manager reporting to me,
8 materials transportation responsibilities and two
9 industrial hygiene engineers.

10 Q. So the total size of the group would be
11 four?

12 A. Four.

13 Q. Does the group in Pittsburgh, at
14 headquarters, oversee other employees at different
15 sites around the country?

16 A. No.

17 Q. Has anyone else in the group besides
18 yourself been deposed or given a deposition with
19 regard to asbestos?

20 A. No.

21 Q. Is there anyone in the group who has been
22 with the group longer than you have, the sixteen
23 years?

24 A. No. The one with the most experience, yes.

1 Q. You are the one with the most experience?

2 A. Yes.

3 Q. Since you've given your deposition before,
4 I feel relatively confident you understand the
5 purpose of this proceeding?

6 A. Yes.

7 Q. You're aware that the oath you've given is
8 the same oath that you would give if you were in a
9 Court of Law?

10 A. Yes.

11 Q. And just to make sure you understand, and I
12 don't think we'll have any problem with this, I
13 need you to be sure to answer out loud. Likewise,
14 to keep the record clear, I will try not to
15 interrupt you. Hopefully, we won't overlay
16 between the two of us.

17 What would you describe as the
18 responsibilities of the Industrial Hygiene and
19 Materials Transport Group of the four employees
20 that you've described earlier?

21 A. Our responsibilities are to evaluate
22 materials that are used in Westinghouse for
23 potential hazards and to then disseminate this
24 information to the Westinghouse facilities. In

1 most cases, we have a person or persons that have
2 the responsibility for industrial hygiene and
3 safety, at every one of the Westinghouse
4 locations. That's our contact person. We provide
5 training courses. But basically, it's to
6 understand the materials being used in
7 Westinghouse.

8 Q. And what steps do you take to do that? Do
9 you subscribe to literature?

10 A. I'm a member of the American Industrial
11 Hygiene Association. And we receive information
12 through journals. We also subscribe to the Bureau
13 of National Affairs of B and A, Occupational
14 Safety and Health. So we get information from
15 them.

16 Q. Is that a government publication?

17 A. No. It's a business publication of
18 upcoming regulations and things like that. They
19 may make copies of federal registers, sections of
20 regulations, but it's a business publication.
21 They have them for occupational health and safety.
22 They have them for environmental and things like
23 that.

24 We also receive information from

1 the National Safety Council. We're members of
2 that. We belong to a group in Washington called
3 Organization Resources Council and they have
4 quarterly health and safety meetings that I
5 attend. Myself and my staff also attends the
6 National Industrial Hygiene and Safety meetings or
7 the Radiation Safety meetings. So we have a vast
8 information coming in to our organization on
9 health and safety issues.

10 Q. Is the purpose of your membership in those
11 organizations to be able to keep abreast of new
12 developments and new information and new knowledge
13 about potential hazards and things of that nature?

14 A. Yes.

15 Q. How long has the Industrial Hygiene and
16 Materials Transport Group, as you've described it,
17 been in place?

18 A. Well, the original Industrial Hygiene Group
19 was formed sometime in the 1930s, mid '30s. And
20 the transportation responsibilities was brought
21 into our group around three to four years ago.
22 But we've also had a corporate hygiene going back
23 to some time in the mid '30s.

24 Q. Now, in the three-year period from '73 to

1 '76 you were supervisor, you said, of Industrial
2 Hygiene at Cheswick facility. Would you have been
3 the person in charge of Industrial Hygiene at that
4 facility?

5 A. I would have the Industrial Hygiene and
6 Radiation Safety responsibilities there, yes.

7 Q. As you described earlier, would you have
8 been the contact person for the group in
9 Pittsburgh at that point in time?

10 A. I would have been the contact for
11 Industrial Hygiene issues. We also had a safety
12 engineer at that facility who would be the contact
13 for safety issues.

14 Q. How do you split those responsibilities,
15 how did they split those responsibilities?

16 A. Well, Industrial Hygiene is more concerned
17 about health-related issues as opposed to injury
18 kinds of illness. Safety is more responsibility
19 with electrical hazards, tripping hazards, lifting
20 action, things like that.

21 Q. Am I correct then in stating that as a
22 supervisor for Industrial Hygiene, you would be
23 more concerned, for instance, about what I would
24 call occupational exposures to either dust or gas

1 or things of that nature, whereas the person in
2 charge of safety would be more concerned, as you
3 stated, on tripping hazards, and that sort of
4 thing?

5 A. That's correct.

6 Q. Now, during that period from '73 to '76,
7 would you have maintained a fairly ongoing contact
8 with the Industrial Hygiene and materials -- well
9 would have just been the Industrial Hygiene Group
10 at the time?

11 Let me rephrase. From '73 to '76,
12 would you have an ongoing or continuing contact
13 with the Industrial Hygiene Group in Pittsburgh?

14 A. I would have had a contact as I needed, to
15 contact for assistance or if they had any kind of
16 mass mailing of information, I would have received
17 that information, also.

18 Q. Were they in the habit then of distributing
19 information by letter or bulletin or something
20 like that?

21 A. I don't remember exactly what setup they
22 had, but on occasion, if they were to announce
23 maybe a training course they were presenting or
24 something, that kind of information would come

1 out. Or maybe new developments or whatever. They
2 would issue bulletins to that effect.

3 Q. What about regulations or suggestions
4 through hygiene and I'll just use this as an
5 example. For instance, would they suggest or tell
6 you that your plant implement certain procedures
7 or regulations with regard to the safety of
8 workers or with regard to Industrial Hygiene?

9 A. They may have. I don't remember specific
10 bulletins or letters that come up, but they may
11 have.

12 Q. During that three-year period, do you
13 recall ever receiving any bulletins or
14 documentation or memorandum or anything of that
15 nature related to asbestos?

16 A. I think in the early part of 1976, there
17 was some information that was sent out on a
18 meeting that they were going to have concerning
19 asbestos that the corporate Industrial Hygiene
20 Department was putting together.

21 Q. Did you attend that meeting?

22 A. No, I did not.

23 Q. That would have been in '76? At any time
24 during the three previous years, do you recall

1 anything coming from Pittsburgh and when I say
2 Pittsburgh, I mean headquarters, with regard to
3 the hazards of asbestos or asbestos dust?

4 A. I don't remember.

5 Q. So you're saying there may have been, you
6 just don't recall?

7 A. In some cases, my immediate supervisor, he
8 had the Industrial Hygiene and Safety and Security
9 and all of those, he may have received the
10 information, and he may have gone to the meeting,
11 but I don't remember being invited specifically to
12 the meeting, no.

13 Q. Well, are you telling me then that
14 information might have come from headquarters that
15 didn't reach you?

16 A. It may have.

17 Q. Who was your superior at Cheswick?

18 A. P-i-r-o-s. His first name is Wesley.

19 Q. Is he still with the company?

20 A. No, no, he's retired.

21 Q. Something you said earlier confused me. I
22 was considering you to have been a direct contact
23 person for headquarters on Industrial Hygiene
24 issues. Now, it sounds like there may be someone

1 between you and headquarters, that may be --

2 A. See, I can't remember if I got them
3 directly or if he got them, copied me. Sometimes,
4 as I indicated, we have several people on our
5 contact list at the same plant so that there may
6 be duplicate copies going out. But I don't
7 remember if I was the person who was designated to
8 receive information directly from headquarters '73
9 to '76. I don't remember.

10 Q. Well, if Wes Piros, your superior, had
11 received something related to Industrial Hygiene,
12 do you believe that he would have sent it to you?

13 A. He would have sent it to me or he may have
14 answered his response himself.

15 Q. But in any event, other than the early 1976
16 notice of an asbestos-related meeting, you have no
17 recollection of any other notification or
18 publication or documentation related to asbestos
19 that you receive from '73 to '76?

20 A. That's correct.

21 Q. Let me ask you the same question with
22 regard to your time as a safety engineer at Forest
23 Hills from '70 to '73. During that time frame,
24 were you ever apprised or told of the possible

1 concerns or dangers of asbestos?

2 A. From headquarters?

3 Q. Yes.

4 A. No, I don't remember. Again, I had a
5 person who is my boss, who's manager of Industrial
6 Hygiene and Safety. He may have received
7 information, but I don't remember receiving any
8 information.

9 Q. When did you first become aware of the
10 hazards or dangers of asbestos, at what time
11 frame?

12 A. There was a --

13 MR. STUTTS: Object to the form.
14 You can go ahead and answer it.

15 THE WITNESS: The first time I
16 remember receiving any information, I was
17 at a training course on fundamentals of
18 Industrial Hygiene and it was in the summer
19 of 1970. And it was one of fifteen or
20 twenty subjects presented at that course,
21 and it was half hour, an hour presentation
22 by a physician. This training course is at
23 Northwestern University and it was
24 sponsored by Department of Health,

1 Education and Welfare. And that was a
2 first time I remember hearing information
3 about asbestos and asbestos-related
4 diseases and things like that.

5 BY MR. WATERS:

6 Q. Do you recall the name of the physician?

7 A. No, I don't.

8 Q. Was that something that Westinghouse sent
9 to you in the normal course of your duties?

10 A. Yes. I attended that for Westinghouse.

11 Q. Did you receive any written materials as a
12 result of that seminar, if I can call it that?

13 A. I believe there was a training manual
14 received, yes.

15 Q. Are you still in possession of that
16 document?

17 A. I don't know.

18 Q. After attending that conference or
19 whatever, and you said the summer of '70, I guess,
20 did you take any steps to tell your supervisors or
21 anyone that you work with at Westinghouse on
22 Industrial Hygiene about what you learned at the
23 seminar with regard to asbestos?

24 A. Not specifically maybe asbestos, but when I

1 came back, I believe it was normal procedure to
2 write a trip report on what we gleaned at the
3 course and I may have mentioned asbestos along
4 with noise and radiation and other --

5 Q. The other things that you learned about?

6 A. Yes.

7 Q. It would be routine for you to do that trip
8 report?

9 A. I believe so, yes.

10 Q. And that document, does it have to be
11 fairly comprehensive, is it one page in length?

12 A. Normally something like that would be maybe
13 two pages.

14 Q. Typewritten?

15 A. Typewritten.

16 Q. Single spaced?

17 A. Single spaced.

18 Q. Is that a document that you would still
19 have access to?

20 A. I doubt it.

21 Q. To whom would that document have been sent
22 in the normal course of business?

23 A. That would have been sent to my immediate
24 supervisor, maybe carboned to the rest of the

1 group, also.

2 Q. Now, would it have been your immediate
3 supervisor at Forest Hills at the time?

4 A. It was a combination of Forest Hills and
5 the Nuclear Center. Now it is called Energy
6 Center.

7 Q. Did anyone come back to you and say to you,
8 we've looked at the trip report or asked you for
9 any more information on this asbestos report or
10 anything like that?

11 A. No.

12 Q. But, in addition to the other health issues
13 that were discussed at that conference, you recall
14 asbestos, and asbestos would have been something
15 that you would have discussed in your trip report?

16 A. Yes.

17 Q. In the course of your duties, when did you
18 next read something or see something or hear
19 something about asbestos that you can recall after
20 the summer of 1970?

21 A. I can't specifically say over the next
22 time. There may have been information in the
23 journals room. The Industrial Hygiene
24 Association. I joined that organization in 1971.

1 There may have been articles in the monthly
2 journal. I can't say for sure.

3 Q. Well, let me ask the question this way. Do
4 you recall, was there ever a time when you
5 received some official document or policy
6 statement or anything of that nature from within
7 Westinghouse itself on the issue of asbestos?

8 A. Other than that one meeting, that's the
9 first time that I recall anything.

10 Q. That was the meeting in early '76?

11 A. I believe, yes.

12 Q. So it's fair to say then that in your
13 position as a safety engineer from '70 to '73 and
14 as supervisor of Industrial Hygiene from '73 to
15 '76, and as manager of Industrial Hygiene from '76
16 to the present, the only information or
17 documentation that you received from Westinghouse
18 related to asbestos was notification of a 1976
19 meeting?

20 A. To the best of my knowledge, yes.

21 Q. And if that's the case, then I take it
22 there weren't any regulations or suggestions
23 regarding use of asbestos that you ever saw?

24 MR. STUTTS: At any time?

1 BY MR. WATERS:

2 Q. Let me rephrase that.

3 At any time from 1970 to the
4 present?

5 MR. STUTTS: Let me make sure.

6 You're talking about on any type of
7 document or are you talking about specific
8 types; policy document? Or when you say
9 regulations or documents, I'm not sure I
10 understand what you mean.

11 BY MR. WATERS:

12 Q. I think I remember the answer. I want to
13 make sure I do. As I understand your testimony,
14 at no time from 1970 to the present, have you ever
15 seen a Westinghouse document, internal memorandum,
16 Westinghouse safety regulation or anything of that
17 nature that reflects a policy or statement about
18 asbestos, how to use asbestos or how to deal with
19 asbestos?

20 A. Again, the earliest recollection that I
21 remember was the announcement of the meeting in
22 early 1976. Again, I may not have been the
23 person, the original contact person at the two
24 previous Westinghouse facilities, 1970 to '73, '73

1 to '76. Somebody else may have received
2 information that was not passed on to me.

3 Q. Do you know whether asbestos was used or
4 present at either the Forest Hills facility or
5 Cheswick facility during the time frames that you
6 worked there in those places?

7 A. It was present, I think, in both of those
8 locations as far as pipe installation in the
9 building itself, but as far as use in products, I
10 don't remember it being used in any of the
11 products at those facilities.

12 Q. Again, during that time frame, '70 to '76,
13 actually, let's make it '70 to the present,
14 because I think that way we won't have to ask as
15 many questions, was there ever any policy
16 implemented that you were aware of, with regard to
17 the asbestos-containing insulation, that was, any
18 of the plants that you either worked at or had
19 some responsibility for when you were in a
20 supervisory position?

21 A. Policy, I'm not sure.

22 Q. Was there ever any -- let me start again.
23 From 1970 to the present, at the plants that you
24 worked at or the plants you were responsible for

1 in your present position, are you aware of any
2 written policies or regulations or suggestions or
3 anything whatsoever pertaining to
4 asbestos-containing insulation that may have been
5 at any of those plants?

6 A. Following the meeting in 1976, there was a
7 major effort within Westinghouse to eliminate or
8 substitute the use of asbestos, primarily in
9 products. That was ongoing when I come into this
10 job in September of 1976.

11 Q. Now, I understood that to mean products
12 that Westinghouse manufactured?

13 A. That's correct.

14 Q. And that was a policy decision on the part
15 of Westinghouse?

16 A. I don't know if it was so much a policy.
17 It was highly recommended that we start to try to
18 find substitute materials. There may have even
19 been ongoing individual locations at Westinghouse
20 that had already started earlier than that. But
21 this meeting was kind of a kick-off to really make
22 it official that Westinghouse was going to look at
23 substitutes. For instance, when -- I think the
24 gist of the meeting was not only to talk about

1 regulations and whatever, but what have you
2 already tried, what works to glean information
3 from one plant to another, so some of the plants
4 had already started on their own.

5 Q. Where was that meeting held?

6 A. I believe the meeting was held at the
7 Westinghouse Science and Technology Center.

8 Q. In Pittsburgh?

9 A. Yes, in the Pittsburgh area.

10 Q. And I believe you said earlier you did not
11 attend that meeting?

12 A. I did not, no.

13 Q. Were there ever any written notes or
14 statements or anything that came out in writing
15 from that meeting that you saw?

16 A. Yeah, I believe that there was a follow-up
17 compilation of the information of what was gleaned
18 there from one plant to another. Substitute
19 materials, suggestions for people to look at, as
20 far as possible substitutes for the use of
21 asbestos.

22 Q. It sounds to me like the '76 meeting was
23 largely related to the use of asbestos in
24 Westinghouse products.

1 A. Right.

2 Q. And I want to go back briefly to the
3 presence of asbestos in insulation in Westinghouse
4 facilities that is on the equipment or on piping,
5 things of that nature.

6 Do you recall ever hearing anything
7 from within the organization of Westinghouse with
8 regard to safety and removal of that type of
9 insulation or taking some steps with regard to
10 that hazard?

11 A. That came out of our department, the
12 emphasis on doing asbestos abatement or doing
13 cleanup operations or remedial operations. And we
14 started putting information from our department
15 out to the Westinghouse locations on guidelines,
16 how to do that, how to take air samples for
17 asbestos. And also, for taking air samples for
18 welding fume or whatever. But asbestos
19 remediation buildings, I think start sometime in
20 the early '80s. Information coming from our
21 department.

22 Q. And it sounds like, from what you're
23 saying, that the genesis of that program was
24 really at the local plant level as opposed to a

1 headquarters?

2 A. Well, again, we would issue guidelines.

3 Q. When you say we, you mean --

4 A. Corporate Industrial Hygiene for the plants
5 to use if they got into an abatement situation.

6 We had a formal course, workshop that we put on,
7 we sponsored, I believe it was around 1985, '86,
8 something like this on asbestos assessment and
9 abatement. How it should be done, guidelines.

10 We had several contractors come in.

11 They went and described how the operations would
12 go and things like that. So we then established
13 a -- I think even some, we eventually had a
14 corporate contract with asbestos abatement firms.
15 Most cases, we were recommending that they hire
16 licensed asbestos abatement firms not to do
17 abatement by Westinghouse employees.

18 Q. So it sounds like headquarters was
19 providing guidelines to the local facilities on
20 abatement?

21 A. Correct.

22 Q. When would that have commenced,
23 approximately?

24 A. I think the formal course was in 1985, '86.

1 We may have been issuing information a year or two
2 before that on how to take an air sample,
3 procedures on doing asbestos assessment. Is it
4 there. How to look for it, whatever. That may
5 have occurred even a couple of years before that,
6 so it was early '80s.

7 Q. Was it fair to say then that in the
8 four-year period from '76 to '80, when you were
9 working with the Industrial Hygiene group at
10 headquarters, that there were no such proposal in
11 place at that time?

12 A. There were no formal guidelines that I
13 remembered, correct.

14 Q. Prior to the early '80s?

15 A. That's correct.

16 Q. Are you familiar with the process of air
17 sampling from earlier in your career?

18 A. Air sampling for what?

19 Q. For dust or for determination of dust
20 levels?

21 A. I have a fairly general knowledge of how
22 air samples were taken, yes.

23 Q. Is that something an industrial hygienist
24 learns by definition at an early stage of his

1 career? I just don't know.

2 A. It's something that's taught in the
3 universities of courses or even the technicians as
4 they do maybe things at the plant level. There
5 are providers. There are manuals to talk about
6 how to conduct an air sample, yes.

7 Q. Well, would you have conducted air samples
8 as early as the 1960's at some of the -- I think
9 in the '60s you worked another facility for the
10 entire decade. Would you have conducted air
11 samples as a part of your duties at the Waltz Mill
12 facility?

13 A. Yes, we would have.

14 Q. And is that something that you would have
15 done on a frequent basis or a regular basis?

16 A. The major concern here is radiation. So we
17 had ongoing sampling monitoring for materials,
18 yes.

19 Q. Does Westinghouse have or has Westinghouse
20 had a policy with regard to sampling for dust
21 levels at any time in the last twenty years?

22 A. Policy?

23 MR. STUTTS: Let me interpose an
24 objection here. When you say a policy, I

1 think that word can have all sorts of
2 definitions. Do you mean did they just do
3 it or as opposed to some broad policy
4 announcements? I want to make sure we
5 understand what he is answering, so I will
6 object to the form, because I don't know
7 what that policy is, not unless you define
8 it.

9 MR. WATERS: I'll be happy to.

10 BY MR. WATERS:

11 Q. What I mean by policy is really formal
12 guidelines. We've talked about guidelines in some
13 other context here. And when I say policy, to me,
14 that's one step beyond that or one step above
15 that, that is to say, the guidelines have been
16 formalized, placed in writing and people made
17 aware of it. Is that a definition you can live
18 with?

19 A. I can live with it.

20 Q. Let me go back to my question. In the last
21 thirty years, are you aware of any Westinghouse
22 policies with regard to air samples for dust
23 levels at Westinghouse plants?

24 A. No. There is no formal policy.

1 Q. In the last thirty years, are you aware of
2 any Westinghouse guidelines, and I'll be happy to
3 define that, too, but are you aware of any
4 Westinghouse guidelines whether informal or formal
5 with regard to air sampling for dust levels at
6 Westinghouse facilities?

7 A. Within the last thirty years?

8 Q. Yes.

9 A. I don't know of any policies to go back
10 thirty years but --

11 Q. I'm asking you about guidelines?

12 A. Guidelines.

13 MR. STUTTS: Let me ask for
14 definition.

15 BY MR. WATERS:

16 Q. By guidelines, I mean -- suggestions or
17 guidelines doesn't seem like it needs to be
18 defined.

19 MR. STUTTS: Guidelines from a
20 central location. A suggestion is a memo
21 from a supervisor within a plant to an
22 employee in a plant about doing something
23 on a regular basis. Corporate guideline.
24 I want to make sure he understands what he

1 is answering.

2 BY MR. WATERS:

3 Q. Let's define guidelines as being unwritten.
4 We've already talked about written in the formal.
5 Let's talk about written in the informal,
6 suggestions for hygiene that come from
7 headquarters. And in that respect, are you aware
8 of any guidelines with regard to air sampling for
9 dust levels at Westinghouse in the last thirty
10 years?

11 A. Well, as far as last thirty years, I can
12 speak probably better from the time that I've been
13 in the position, since '76. In the late '70s or
14 early '80s, in our department, we developed
15 procedures on how to do air samples. And we
16 developed these procedures with pictures. Betty
17 Crocker cookbook. So that people understood
18 exactly how the samples were to be taken.

19 We developed them for asbestos, for
20 metals, for solvents. And once these were
21 developed, we issued these to all of the
22 Westinghouse locations. And along with the cover
23 letter saying these are the procedures that you
24 use when you're taking air samples. We didn't

1 specifically say, now you have to go out and
2 sample every location, but if you are sampling and
3 you see the need to sample, this is how you do it.

4 Q. And that level of instruction would have
5 been post '76, after 1976?

6 A. That's correct.

7 Q. Do you consider Westinghouse to be a safety
8 consideration capital?

9 A. Yes, I do.

10 MR. STUTTS: Object to the form.

11 BY MR. WATERS:

12 Q. Has Westinghouse had a policy of utilizing
13 warning signs or caution signs or things of that
14 nature in its plants?

15 A. I think we have guidelines that this
16 corporate Industrial Hygiene department started
17 developing a whole scenario of evaluating
18 materials used in the Westinghouse plants and
19 labeling for internal use and that program started
20 back in the late '40s.

21 Q. And when you say guidelines, I guess we
22 have to redefine that. Is that something that's
23 in writing?

24 A. Yes, it's in writing.

1 Q. And just so I understand, those written
2 guidelines will advise the local plant as to what
3 sort of safety labels or cautions or warning
4 should be placed in specific places?

5 A. Not so much placed, but on the materials
6 that they're going to use within Westinghouse.

7 Q. When you say talked about materials, you
8 mean materials used in the fabrication of
9 products?

10 A. Yes. The raw materials, the label to
11 inform the employees.

12 Q. With regard to raw asbestos that may have
13 been used in the fabrication of the products, or
14 component parts of the products, were there ever
15 any written guidelines as to warnings to be placed
16 on those materials?

17 A. There was a Westinghouse label, I believe
18 for asbestos, and I think it may have been used
19 for fiberglass or something that was developed, I
20 think, in the early '50s for use within
21 Westinghouse, yes.

22 Q. And just so that the jury understands, that
23 would have been the label that Westinghouse placed
24 on the raw material or on the component part that

1 it received to warn its workers of possible
2 dangers?

3 A. That's correct.

4 Q. Do you recall the text of that label?

5 A. The text of the label is more of a
6 precaution, you know. It did not specifically say
7 asbestos, because we used one label for several
8 more kinds of warning. It was a precaution to
9 avoid breathing dust, more of a precaution. And
10 again, that's why it was used for several things
11 to create a dust.

12 Q. I think I actually may have seen the text
13 of that. Is that going to be the same language
14 that you would find on the materials card or
15 specification card that indicates to you, for
16 instance, asbestos insulation?

17 A. It could be.

18 Q. You don't know for a fact?

19 A. I don't know for a fact.

20 Q. I take it from what you've said that it was
21 recognized at least at some point in time, in the
22 1950s, that inhalation of asbestos fibers in
23 addition to other fibers could be injurious to
24 one's health?

1 A. Yes.

2 Q. Now, we talked earlier about your personal
3 knowledge and I think you said that it was in
4 1970, approximately, when you first became aware
5 at that seminar of the hazards. Was that
6 something that you were not aware of from '57 to
7 1970 at all?

8 A. I can't say that I had no knowledge, but
9 the one conference that really jumps out was that
10 one in 1970. Again, my major expertise
11 responsibility was the radiation safety. There
12 are other people involved with these other
13 Westinghouse facilities, safety engineer or
14 something, who may have had more knowledge in that
15 area or that responsibility, looking at the
16 asbestos issues. But the first time I really
17 remember is 1970, yes.

18 Q. Going back to the warning labels, do you
19 mind if I use that term, is that something you can
20 understand?

21 A. Yes.

22 Q. Would that have been something that was
23 kept on the product or placed on the finished
24 product that was ultimately sent -- manufactured

1 and sent to a consumer?

2 A. Again, the intent of use was for internal
3 use, because it would have sometimes material
4 numbers on there and that could be totally
5 misleading or confusing to somebody if you put
6 that on a product going out the door.

7 Q. Just so we understand then, the warning
8 labels you described were for internal use and
9 finished product would not have such a label even
10 if it did contain asbestos?

11 A. It was not intended for that use, no. But
12 I'm not saying that something from a Westinghouse
13 plant didn't put it on a product going out the
14 door. I can't say that didn't happen.

15 Q. If it did happen, it would surprise you,
16 because it wasn't meant to be worked that way?

17 A. It was not intended, right.

18 MR. STUTTS: When you say it, do
19 you mean just any label, but the specific
20 material or specification, whatever it is
21 that you were talking about?

22 MR. WATERS: Right. He's mentioned
23 a label that he said in general terms said
24 avoid dust. That was attached to asbestos

1 products and some other things as well.
2 Fiberglass was one thing he mentioned. I'm
3 not referring to a card or anything, but a
4 label.

5 MR. STUTTS: Label that would stick
6 on the front?

7 MR. WATERS: Presumably.

8 BY MR. WATERS:

9 Q. How large would that label have been?

10 A. That label is about three inches by four
11 inches.

12 Q. When was the last time that you saw one of
13 those labels?

14 A. Which label?

15 Q. A label that said, you know, avoid
16 breathing dust, the kind of label you talked
17 about?

18 A. We still use this today.

19 Q. Does Westinghouse place safety warning or
20 labels on some of the products that it
21 manufactures and for the use of the ultimate
22 consumer?

23 A. I'm sure they do, but I don't know what
24 labels go on it. That would be the responsibility

1 of the Westinghouse plant or facility that
2 manufactured the product and along with any other
3 thing on the customers needs or whatever. That's
4 one of the many decisions that they make at the
5 Westinghouse facility.

6 Q. So is it fair to say that a warning may be
7 provided to the ultimate consumer or caution or
8 specific safety instructions as necessary?

9 A. Correct.

10 Q. Just to clarify, and we'll cut through a
11 lot of this other stuff. It sounds to me that
12 you're not aware of any warning, caution or safety
13 label with regard to the dangers of asbestos ever
14 being placed on a finished product by
15 Westinghouse, that is sent to a consumer or sold
16 to a consumer?

17 A. When you say any knowledge --

18 Q. Right. You don't know of any?

19 A. We may have been involved, the plant
20 calling us for information on. If we were to
21 place a label on what would be put, I can't say I
22 specifically remember that happening, but
23 occasionally we would be involved, sometimes with
24 consumer products, but most times it was in-house

1 use.

2 Q. Just so I understand, you're not aware of
3 any occasion where Westinghouse has sold an
4 asbestos-containing product, be it a deterrent
5 that has asbestos in it or on it where a warning
6 was provided to the ultimate consumer?

7 A. That I'm not aware, no.

8 Q. Is it your testimony that the text of that
9 warning label, we've discussed, has been the same
10 throughout the duration of your time at
11 Westinghouse? The size and the likes?

12 A. The size is pretty much the same. We may
13 have gone back and changed some of the words, you
14 know, through the history of that label, because
15 we tried to use that same label for another fiber
16 or something like this or new information gleaned
17 from toxicity or whatever. So I'm sure that the
18 words in that label have evolved. But when, I
19 don't know, exactly.

20 Q. Do you recall a time where the warning
21 label itself actually mentioned asbestos?

22 A. It doesn't today.

23 Q. Well, to what extent is asbestos still
24 utilized by Westinghouse as a component or as a

1 material for its products?

2 A. Oh, gosh. I can't think of a product
3 today, that I'm aware of, that Westinghouse is
4 still incorporating asbestos. I really can't
5 think of one.

6 Q. So you wouldn't be surprised if there
7 aren't any warning labels related to asbestos
8 today?

9 A. You're correct.

10 Q. What about in the '70s and '80s,
11 specifically in the '70s, was there ever a time
12 that you recall a label stating, in addition to a
13 general caution about breathing dust, anything
14 about asbestos?

15 A. What kind of label?

16 Q. Again, the same type of warning label meant
17 for internal purposes so that the workers at your
18 plants would take notice of it?

19 A. No, I don't remember that specifically
20 saying asbestos, no.

21 Q. Are you aware of Westinghouse ever
22 completing air samples or dust studies at any time
23 before 1973 related to asbestos?

24 A. There was some air samples going back

1 through our corporate Industrial Hygiene records.
2 There was air samples taken for asbestos I know in
3 the 19 -- early '70s, about '71, '72, something at
4 our Westinghouse, east Pittsburgh plant. The air
5 sampling was done by Industrial Hygienist from the
6 corporate department.

7 Q. Any such samples or testing done prior to
8 that that you're aware of?

9 A. Again, going back to the history, I think
10 there was the first air sample record of asbestos
11 taken in Westinghouse was 1951, I think it was '51
12 or '54, something like that. And again, that was
13 at the Westinghouse East Pittsburgh plant.

14 Q. Do you know anything about the results of
15 that testing?

16 A. No, not offhand, no.

17 Q. Are you familiar with the term threshold
18 limited values or TLVs?

19 A. Yes.

20 Q. Were you aware of any recommended TLVs for
21 asbestos prior to 1970?

22 MR. STUTTS: Recommended by whom?

23 MR. WATERS: Anybody.

24 THE WITNESS: Well, the American

1 Conference of Governmental Industrial
2 Hygienist. They have an annual publication
3 on recommended threshold limit. I'm not
4 sure exactly when that started, but back
5 in, you say, prior to 1970?

6 BY MR. WATERS:

7 Q. Right.

8 A. I think the recommended value then was ten
9 fibers per cubic centimeter of air, I believe
10 that's what the recommended value was at that
11 time.

12 Q. Is the AVH something that you've been
13 familiar with throughout your time at
14 Westinghouse?

15 A. I joined that in 1971.

16 Q. When were you first aware of the threshold
17 limit values set by the AVH for asbestos dust?

18 A. I believe in the early '70s, '71, '72, in
19 that time frame, because of some conversation with
20 the corporate Industrial Hygiene Department. And
21 they were just at that time setting up a new
22 sampling procedure. And again, my conversations
23 with one of the gentlemen, he was telling me about
24 that.

1 Q. Do you know whether Westinghouse plants and
2 facilities were ever sampled or dust studies done
3 by any governmental agencies, be it state or
4 federal?

5 A. During when?

6 Q. At any time during your time with the
7 company?

8 A. For dust?

9 Q. For asbestos dust?

10 A. It may have been several times that OSHA
11 came in and did some air monitoring. I think our
12 one facility here in South Philly, it was an
13 inspection that was back in the late '70s, I can't
14 remember OSHA being in there or not. I can't
15 remember if they did air sampling for asbestos,
16 but chances are --

17 MR. STUTTS: If you don't know,
18 don't guess.

19 THE WITNESS: I can't say for sure.

20 BY MR. WATERS:

21 Q. Do you know if any municipal government,
22 either federal or state agency has ever issued a
23 citation to Westinghouse for having high levels of
24 dust, asbestos dust at any time while you were

1 with the company or previously, if you're aware of
2 that?

3 A. I don't remember.

4 Q. I may have already asked you this, do you
5 recall the results of the study from somewhere in
6 '51 to '54 in the East Pittsburgh air sampling?

7 A. I don't know.

8 Q. Will you agree with me, as early as the
9 early 1950s, Westinghouse took steps to determine
10 the level of asbestos dust at the East Pittsburgh
11 plant in order to ensure the safety of workers?

12 A. Well, again, the earliest I could find air
13 samples for asbestos was either '51 or '54, I
14 can't remember. And that was at the Westinghouse,
15 East Pittsburgh. The reason that it might have
16 been performed there is that's where the
17 corporate Industrial Hygiene laboratory, that's
18 the facility they were located in. They may have
19 just been called upon to go out. I don't know why
20 the air samples were taken.

21 Q. Is there documentation available related to
22 those air samples?

23 A. There should be, in microfiche.

24 Q. Do you know of any discussion at

1 Westinghouse with regard to placing warnings with
2 regard to asbestos on finished products that were
3 shipped to consumers?

4 A. I can't remember specifically, you know,
5 that happening. But again, we were called upon on
6 occasion by different plants, on labeling
7 products. But I can't say specifically for
8 asbestos what had happened or if it happened.

9 Q. Was there ever any discussion at
10 Westinghouse that you're aware of with regard to
11 warning prior consumers, that is to say companies
12 that had previously purchased your products that
13 those products contained asbestos or called for
14 the use of asbestos in that respect and in that
15 sense warn them of the dangers of asbestos?

16 A. I don't recall any, no.

17 Q. Just so the record is clear, do you
18 understand that you've been designated by
19 Westinghouse as its representative most
20 knowledgeable to testify concerning a number of
21 subjects?

22 A. Yes.

23 Q. Have you seen a copy of the amended Notice
24 of Deposition, two pages in length?

1 A. Yes, I've seen this.

2 Q. Do you know anyone, besides yourself, other
3 than yourself at Westinghouse who would be more
4 knowledgeable than you are with regard to
5 Westinghouse's knowledge with respect to these
6 three categories?

7 MR. STUTTS: Would you please
8 describe the categories?

9 MR. WATERS: I was hoping I
10 wouldn't have to read them.

11 MR. STUTTS: I think we ought to
12 break this down for the witness.

13 BY MR. WATERS:

14 Q. You've been designated by Westinghouse as
15 its representative, most knowledgeable with
16 respect to one, Westinghouse's knowledge from 1930
17 to the present with respect to asbestos, asbestos
18 fibers and their impact on the health of humans.

19 You're also stated to have
20 knowledge of defendant, Westinghouse's hygiene
21 program, department or other device or contracting
22 entity related or involved in any way with
23 relating or assessing the health and safety or the
24 potential health hazards imposed to consumers or

1 workers utilizing Westinghouse products.

2 A. The two predecessors to this position,
3 Edgar Barnes, he was the first Industrial
4 Hygienist and Speichers, he was the man that
5 preceded me in the job. Both are dead. There was
6 one other person in between for a matter of two
7 years, I think or three years. 1973 to '76 Keith
8 Bodden, he was the manager of this group. His
9 whereabouts, I have no idea, he just disappeared.
10 He belongs to none of the professional
11 organizations and we tried to make contact with
12 him several times. So when you say most
13 knowledgeable, the two predecessors are deceased.

14 Q. Maybe I should make sure you understand.
15 The request is for the person most knowledgeable
16 who is employed by Westinghouse so in that
17 respect, would you agree you are the person most
18 knowledgeable who is presently employed by
19 Westinghouse on these issues?

20 A. For those two issues, yes.

21 Q. What about Westinghouse's research
22 department or other section or program involved
23 with research and development and Westinghouse's
24 decisions, admissions relating to the utilization

1 of asbestos or products containing asbestos?

2 A. I don't know if I can speak for
3 Westinghouse's research facility on all of those
4 issues. During my tenure in this position, from
5 1976 to about four years, we were physically at
6 the Westinghouse Research Science Technology, now
7 called the Science and Technology Center. So I
8 can speak firsthand what was going on at that
9 time. But prior to that, I don't know and I
10 wouldn't know who to say would be more
11 knowledgeable going on here.

12 Q. Let me ask you about the third general
13 category that would be Westinghouse's involvement
14 or membership at any trade associations or similar
15 organizations in the state or status of
16 Westinghouse's scientific knowledge concerning
17 asbestos and the hazards of asbestos at any and
18 all times in the past sixty years. It's a big
19 one.

20 A. Right. Again, I would be more
21 knowledgeable from '76 on. I don't know when
22 Westinghouse joined some of the trade
23 associations, but like, for instance, the National
24 Association of Manufacturers, but I do know we are

1 a chapter member of the national -- the Safety
2 Council and as a member of the company, the
3 organizations I spoke of before called
4 Organization Resources Council, I don't know if
5 we're a chapter member, but I started attending
6 those meetings in '76 and we were already a member
7 at that time. I'm trying to think of others.
8 There's a National Electrical Manufacturers
9 Association. Westinghouse belonged to that for a
10 number of years, but I'm not the person who is
11 designated to attend those meetings. That could
12 be anybody in Westinghouse.

13 Q. Now that we've gone through this, I want to
14 emphasis to you, so there is no misunderstanding
15 on the record, I don't want you to guess or
16 speculate with regard to any of the questions I
17 ask you. I only want to know what you do know and
18 tell me if you don't know, because there may be
19 questions better answered by someone else.

20 Mr. Bodden, did he retire?

21 A. No. He came into this job in 1973. He was
22 given approximately one year to learn the job.
23 Wilber Speichers was going to retire in '74.
24 Wilber retired in '74. Keith then became the

1 manager of the department and then he left
2 Westinghouse in 1976, the summer of 1976.

3 Q. Do you recall approximately how old a man
4 he was at that time?

5 A. Let's see. Well, today he'd be around
6 about fifty-five, I would say.

7 Q. Do you know where he went when he left
8 Westinghouse?

9 A. He originally went to OSHA, some assignment
10 in Washington, D.C. And then from there, he went
11 to Allied Signal Company and then from there he
12 started his own company, consulting company, and
13 then from there he disappeared.

14 Q. OSHA to Allied Signal and then on to his
15 own consulting firm?

16 A. Correct.

17 Q. Do you know the name of that firm?

18 A. No, I don't.

19 Q. When was the last time you saw Mr. Bodden?

20 A. About 1977.

21 Q. Have you otherwise just sort of heard
22 through the grapevine what he's been up to?

23 A. Again, when he formed his consulting
24 company, I believe he sent us a card and said, I'm

1 in business to offer myself, if I can do anything
2 for you. But then from there, on occasion, we
3 would need to go back to ask him something, maybe
4 something happened and I would always try to reach
5 him by going back to the Industrial Hygiene
6 Association, but he ceased being a member. I
7 don't know what happened. Maybe he changed
8 professions, I don't know. He might be an
9 attorney today, I don't know.

10 Q. Do you know anyone who knew him well, who
11 was his friend that might know how to contact him?

12 A. No. I know his wife was going to college
13 and she got her degree and she wanted to move to
14 the New York area. But then that's when he moved
15 to Allied Signal. I think they were in New
16 Jersey, and from there he formed his own company,
17 New Jersey/New York area. And then I don't know
18 what happened.

19 Q. Is he a Ph.D., a doctor?

20 A. No.

21 Q. What did he do prior to '73 when he became
22 to make room for this position?

23 A. He held supervisor for Industrial Hygiene
24 at Cheswick.

1 Q. Did you join him there?

2 A. No, no, he already moved there. I followed
3 him twice.

4 Q. How long was he with Westinghouse,
5 approximately?

6 A. Let's see, between Cheswick and that
7 position, eight years, approximately.

8 Q. Did Westinghouse, at any time, recommend to
9 its own employees that work around asbestos or
10 around asbestos dust that they used respirators or
11 masks?

12 A. In our materials evaluation program, we had
13 our own safe practice data sheets for working with
14 materials, and one of them was for asbestos. And
15 in that safety practice data sheet for asbestos,
16 there was recommendations for wearing respirators.

17 Q. Going back in time, when was the first,
18 would that have been back in the early '50s as
19 well?

20 A. I believe that safe practice data sheet for
21 asbestos was first prepared in 1953.

22 Q. So is it fair to say then that at least as
23 early as 1953 and perhaps earlier, but perhaps as
24 early as 1953, Westinghouse recommended use of

1. 1 respirators or masks for its workers who worked
2 around asbestos?

3 A. That's correct.

4 Q. Are the safe practice data sheets updated
5 from time to time?

6 A. Yes.

7 Q. Do you have access to those, are they on
8 microfiche?

9 A. No, they're on hard copy. The resized ones
10 are. Now, maybe some of the older ones might be
11 on microfiche.

12 Q. From '53 on, would that safe practice data
13 sheet for asbestos have been revised from time to
14 time?

15 A. Yes. I know at least one revision since
16 I've been on this job.

17 Q. Now, is it your testimony that asbestos has
18 been eliminated from products manufactured, sold
19 or distributed by Westinghouse at the present
20 time?

21 A. It's my testimony, to the best of my
22 knowledge, that it has been limited, yes.

23 Q. And is that in accordance with what you
24 consider to be safe practice on the part of

1 Westinghouse?

2 A. Correct. Plus in some cases, you just
3 can't buy it anymore. It's been banned in certain
4 kinds of products.

5 Q. Knowing what you know from your work
6 experience about asbestos, do you consider that
7 ban to be appropriate under the circumstances?

8 MR. STUTTS: I object to the form
9 of the question.

10 BY MR. WATERS:

11 Q. You can answer.

12 A. I think asbestos, as it's related to
13 exposure, can be hazardous, okay. But I think
14 there are certain products, because of its
15 inherent insulating value, it's a superb material.
16 But with the right precautions it can be used,
17 just like water can be hazardous, too. But I
18 think in some cases, it is good, the ban is
19 probably a good thing to do.

20 Q. So as far as you know, Westinghouse has
21 fully complied with the ban on using it for its
22 products?

23 A. Yes.

24 (Short break.)

1 BY MR. WATERS:

2 Q. Let me ask you a few more questions about
3 the decision to eliminate the use of asbestos in
4 Westinghouse's products.

5 Was that a decision that you, as a
6 part of the Industrial Hygiene Group was involved
7 with, were you consulted on that?

8 A. Again, that started prior to me coming into
9 the department. Our department continued that
10 effort, you know, after that meeting in early
11 1976. So I would say it was our department
12 probably took the lead in carrying out that
13 assignment to eliminate.

14 Q. Was that then something that your
15 department being responsible as it was for safety
16 and industrial hygiene, recommended or continued
17 to push for?

18 A. I think my predecessor, Speichers, who was
19 the one that started it at the initial move for
20 eliminating end products, correct.

21 Q. So it would have been the position of the
22 Industrial Hygiene Group that this was a good
23 thing to do?

24 A. Yes.

1 Q. Are you aware of any discussion whatsoever
2 within Westinghouse that ceasing the use of
3 asbestos or ceasing to use asbestos would in any
4 way harm sales or anything of that nature?

5 A. I'm sure that was part of the discussion.

6 MR. STUTTS: If you don't know,
7 don't guess.

8 THE WITNESS: I don't know that.

9 BY MR. WATERS:

10 Q. Do you have any knowledge about a case or a
11 series of Workers' Compensation cases down I think
12 in Tennessee involving TVA workers?

13 A. Yes.

14 Q. What do you know about that?

15 A. On that project, the service division hired
16 local millwrights to perform some work at the TVA
17 facility. Somehow, there was a misunderstanding,
18 was there asbestos insulation on the area that
19 we're working in or I'm not sure exactly how,
20 there was some confusion on was it asbestos,
21 wasn't it asbestos, and the men proceeded to work
22 on that job without the use of respirators and then
23 after they found out it did contain asbestos, the
24 employees there, the millwrights contacted OSHA to

1 come in and look at the job at Westinghouse and we
2 received a citation for it.

3 Q. That was fairly recently?

4 A. Yes. That was within the last, I believe,
5 six months.

6 Q. Are you aware of any other instances where
7 OSHA or any other state or federal agency has
8 cited Westinghouse with regard to asbestos? I
9 asked you earlier about testing and dust levels
10 and your response was, no, in that context. Now,
11 we talked about this more recent episode. Any
12 other?

13 A. There was a citation at the Lester plant,
14 the South Philly plant. And I know asbestos was
15 one of the issues there, but I don't think it was
16 air monitoring. I don't remember the exact
17 citation, but I remember asbestos being one of the
18 citations.

19 Q. When would that have been?

20 A. That would have been in the late '70s.

21 Q. Do you know if Westinghouse ever
22 participated in or financed any tests concerning
23 the levels of asbestos dust and the possible
24 hazards to humans?

1 A. Test --

2 MR. STUTTS: Can I have that back?

3 BY MR. WATERS:

4 Q. Do you know if Westinghouse ever
5 participated in or assisted in the financing of
6 tests related to the hazards of asbestos to
7 workers?

8 A. To workers?

9 Q. Either in-house or end user of
10 Westinghouse's products?

11 MR. STUTTS: Well, let me object,
12 because you're asking for what could be two
13 very different things, one of which you may
14 have already dealt with was the air
15 sampling. You say Westinghouse
16 participated in the test?

17 MR. WATERS: The previous question
18 was did Westinghouse produce any test. Did
19 they participate in or finance in any way
20 those sort of tests, that is this question.
21 In other words, were they involved with
22 other groups that may have tested, as
23 opposed to testing in their own plants? We
24 already covered that.

1 THE WITNESS: I saw last week a
2 report at Westinghouse's name on the study
3 was conducted by the Industrial Health
4 Foundation in Pittsburgh. And
5 Westinghouse, along with several other
6 companies, was listed as -- I'm not sure if
7 it was a sponsor conducted. That is the
8 only one that I'm aware of. Again, that
9 was the first time that I remember seeing
10 that.

11 BY MR. WATERS:

12 Q. What was the date of that study, do you
13 recall?

14 A. I believe it was early '70's.

15 Q. In what context did you review that
16 document?

17 A. In preparation for a deposition.

18 Q. If you can recall, what was the general,
19 the finding of that paper or the conclusion of
20 that paper?

21 A. I didn't get that far. It was basically,
22 and again, it was the first time that I had seen
23 it that I remember.

24 Q. Do you know if Westinghouse ever had any

1 monitoring programs or x-ray programs of its
2 workers to determine whether they had developed
3 pneumoconiosis or some kind of fibrosis related to
4 dust?

5 A. Westinghouse has medical facilities. And
6 that would probably come under the jurisdiction of
7 the medical department. I'm not sure what kind of
8 physicals were performed for them.

9 Q. You don't know if any physicals are
10 required on an annual basis of your workers?

11 A. Some radiation workers have periodic
12 physicals which are required. People that work in
13 high noise areas have annual audiograms done. As
14 far as asbestos exposures, I don't know what kind
15 of period is specified for that. Today, it's an
16 asbestos worker, it is annual.

17 Q. And how long has that been the case, to
18 your knowledge?

19 A. I don't know. I don't know how far back
20 that goes.

21 Q. Does it go back as far as 1970?

22 A. I don't know.

23 Q. Do you know if Westinghouse has ever been
24 involved in any testing of respirators or masks to

1 determine how effective they are in safeguarding
2 against asbestos inhalation?

3 A. You mean testing the respirators
4 themselves?

5 Q. Yes, sir.

6 A. No, we don't have that kind of capability.
7 We would generally rely on the certification by
8 NIAASH. We don't have that kind of equipment
9 in-house to do that kind of testing ourselves.

10 Q. Does Westinghouse manufacture masks or
11 respirators?

12 A. No.

13 Q. Have they at any time that you're aware of?

14 A. Not that I'm aware of.

15 Q. With the exception of the early 1970s
16 report you mentioned just a few moments ago, and
17 we'll talk about that in some more detail in a
18 little bit, do you know if Westinghouse ever
19 performed or funded or participated in any study
20 or investigation concerning asbestos-related
21 diseases?

22 A. No, I don't.

23 Q. Would you know if they had done so in the
24 past thirty years?

1 A. No, I don't. I wouldn't know.

2 Q. Who would know, somebody in the medical
3 department?

4 A. That's a possibility, but I don't know.

5 Q. Do you have much interplay with the folks
6 in the medical department?

7 A. Yes.

8 Q. Do they have the same sort of arrangement
9 that you have at headquarters in Pittsburgh?

10 A. Correct.

11 Q. Do you know, is there anyone at the medical
12 department at the present time that you have
13 discussed asbestos hazards with?

14 A. Yes.

15 Q. Who would that be?

16 A. Our medical director, Dr. Carolle Curtis.

17 Q. It is a lady?

18 A. No.

19 Q. How long has he been the medical director?

20 A. He's been in that position for about ten
21 years. He is now working as a contractor to
22 Westinghouse.

23 Q. Does he work in Pittsburgh?

24 A. Yes, he works in headquarters.

1 Q. Prior to being medical director, was he
2 working for Westinghouse in some other medical
3 capacity?

4 A. Yes. He was working for Westinghouse. We
5 had a medical service group down near Baltimore,
6 and he worked there for half-a-dozen or so years.

7 Q. And before that, was he working with
8 Westinghouse?

9 A. I don't know.

10 Q. But it sounds like he's been with
11 Westinghouse at least for twenty, twenty-two
12 years?

13 A. No. I think for sure he's been with
14 Westinghouse maybe fifteen, ten and five or so.

15 Q. What was the substance of your
16 conversations with Dr. Curtis with regard to the
17 hazards of asbestos?

18 A. Oh, we have had a specific inquiry.
19 Information he may have gleaned on --

20 MR. STUTTS: Wait. If you don't
21 remember a specific -- listen to the
22 question. The question is what did you do,
23 what conversations did you have, if you
24 remember.

1 THE WITNESS: I can't say for sure.

2 BY MR. WATERS:

3 Q. Would it have generally been with regard to
4 the dangers of asbestos or the medical effects of
5 asbestos inhalation?

6 A. It could have been, yes.

7 Q. Is that something that he was concerned
8 about in his position as medical director?

9 A. Right.

10 Q. Would you consider that Dr. Curtis would be
11 better qualified to testify with regard to
12 evaluating and assessing the health and safety of
13 and/or the potential health hazards posed to
14 consumers or workers utilizing Westinghouse
15 products that may contain asbestos?

16 A. I don't know. I mean, I think he could
17 speak more of the medical aspects, setting up a
18 medical surveillance program or something to that
19 effect. But I can't say if he is more expert in
20 all areas.

21 Q. But with regard to the health effects,
22 exposure of dust and exposure of dust to those
23 products, you agree he would be better qualified
24 to talk about it?

1 A. Yes.

2 MR. STUTTS: When you say better
3 qualified, are you talking about asking Dr.
4 Curtis for an opinion regarding the health
5 effects of asbestos in any Westinghouse
6 products or are you talking about some
7 factual inquiry?

8 MR. WATERS: A factual inquiry as
9 to what, in his position as medical
10 director, he was aware of and at what
11 times.

12 MR. STUTTS: What he was aware of?

13 MR. WATERS: In his capacity --

14 MR. STUTTS: You're not talking
15 about providing an opinion about his
16 current position about any health hazards
17 associated with asbestos, but actually what
18 he knew or anybody at Westinghouse knew
19 about the hazards of asbestos?

20 MR. WATERS: Well, that's the way
21 my question was phrased to the witness. I
22 mean, he may know plenty of other things to
23 be interested to speak to him about, but
24 that is what I was asking the witness

1 about.

2 BY MR. WATERS:

3 Q. It sounds like, from what you were saying,
4 he would, if there were tests or screening set up
5 or studies or investigations, that would have been
6 something that would have been done by the medical
7 department as opposed to your department?

8 A. That would be correct.

9 Q. So that is something, those things are
10 something we would be better advised to ask Dr.
11 Curtis about or his predecessor?

12 A. That's correct.

13 Q. Do you have any knowledge about any
14 Westinghouse employees who actually suffered from
15 asbestos or some other asbestos-related disease?

16 A. I don't know personal knowledge of names of
17 people. I go back to the one OSHA cited down at
18 the Lester, South Philly plant that there were
19 several people down there who were suspect.

20 MR. STUTTS: Let me caution you
21 again about answering the question that was
22 asked. Do you know of any Westinghouse
23 workers who suffered from asbestos or
24 asbestos-related disease?

1 THE WITNESS: No. I don't know
2 specifically, no.

3 BY MR. WATERS:

4 Q. It sounds like you're aware there have been
5 some, but you don't know specifically?

6 A. Yes.

7 Q. Do you have any idea of the magnitude, that
8 is to say, how many people with that type of
9 disease or asbestos-related disease there may have
10 been who worked for Westinghouse?

11 A. No.

12 Q. Would that again be something we would
13 better direct towards Dr. Curtis?

14 A. He may know. I can't say for sure. If
15 there was a magnitude, he may know of the
16 magnitude, if there was a magnitude.

17 Q. In the 1950s, are you aware if there were
18 any Westinghouse workers who suffered from
19 asbestos or some other asbestos-related disease at
20 that time?

21 A. No.

22 Q. How about in the 1960s?

23 A. I don't know that either.

24 Q. 1970's?

1 A. I don't know specifically 1970's, but
2 again, the one OSHA cited involves a couple of
3 employees.

15 4 Q. You mentioned, I think, millwrights in the
5 context of that TVA situation. Are millwrights
6 one of the categories of consumers or end-product
7 users that might be expected to be exposed to
8 asbestos insulation on your turbines or other
9 asbestos that may have been incorporated in any of
10 your products?

11 A. I guess I'm not following you.

12 Q. Are millwrights one of the categories of
13 users of your product of people who would work
14 around your products that could be expected to be
15 exposed to dust from those products, asbestos
16 dust?

17 A. If asbestos was on those products that we
18 were working with, turbines and it was covered, in
19 fact, with asbestos, yes, there is a potential
20 that it could be exposed.

21 Q. Would that also be true with respect to
22 electricians?

23 A. Again, if there's a product that
24 Westinghouse made that contained asbestos and it

1 was an electrical product, and an electrician was
2 working on that, there could be a potential for
3 exposure.

4 Q. Well, does Westinghouse make the type of
5 products that one would expect that an electrician
6 would work on from time to time?

7 A. We may have, in the past, made, but I can't
8 say for sure what all products Westinghouse made.

9 Q. Dr. Curtis has been in his position or some
10 similar position since '82, approximately?

11 A. It was around about ten years, he's been
12 corporate director.

13 Q. Were you familiar with his predecessor, Mr.
14 Harry Burr?

15 A. Yes.

16 Q. Is Mr. Burr retired?

17 A. Yes.

18 Q. Do you know if he is living?

19 A. Yes, he is.

20 Q. Have you seen him recently?

21 A. I haven't seen him, no.

22 Q. Do you know what kind of health he is in?

23 A. I would say general health. Our secretary
24 periodically has contact with him, maybe a card at

1 Christmas time or something.

2 Q. Is he still living in Hilton Head, as far
3 as you know?

4 A. As far as I know.

5 Q. Now, would he have been the same as Dr.
6 Curtis, the medical director for Westinghouse?

7 A. His title, I believe is medical
8 administrator. He is not a physician.

9 Q. Are you familiar with Dr. Hazlett who, I
10 guess, would have been his predecessor?

11 A. Not personally, no. I've seen his name.

12 Q. Is it your understanding that Dr. Hazlett
13 was in the same position as Harry Burr and Curtis
14 in the same sense?

15 A. Correct.

16 Q. Does the medical department, I think you've
17 answered this before, but to make sure I
18 understand this, would they be the ones who would
19 have any knowledge about medical research done on
20 behalf of Westinghouse?

21 A. They would have more knowledge than I
22 would. I don't know if they knew what all was
23 being done, but they would have more knowledge
24 than I would.

1 Q. Well, is there someone else besides the
2 medical department that we could go to?

3 A. I don't know of any other place.

4 Q. As a part of your group, do you maintain a
5 a library?

6 A. Yes.

7 Q. What does that consist of?

8 A. Well, we have reference books on Industrial
9 Hygiene and Toxicology. We also have all of the
10 American Industrial Hygiene Journals which come
11 out. We also have reference books and journals on
12 radiation safety. We have information and
13 reference books from the National Safety Council.
14 We buy what I think are reference books for the
15 kinds of materials we use in Westinghouse.

16 Q. In your library, within your library, do
17 you have any reference material textbooks, for
18 instance, journals, articles from journals that
19 relate specifically to asbestos?

20 A. Yes.

21 Q. And how long has that library been in
22 existence?

23 A. I'm not sure exactly when my two previous
24 predecessors or three established a library, but I

1 would say at least 1940's, if not earlier.

2 Q. And in your library, do you have, from what
3 you said earlier, I take it you maintain a
4 collection of periodicals which is added to over
5 the course of time as new additions come out?

6 A. Correct.

7 Q. And how far back in time do those journals
8 go that you maintain so we can get a sense of when
9 you started to receive those, perhaps?

10 A. I don't know. I don't know when they
11 started, but Wilber Speichers and both Edgar
12 Barnes were members of the American Industrial
13 Hygiene Association back at least in the 1940s and
14 there was one period where I think Edgar was even
15 president of the National Association at one time,
16 so.

17 Q. Does the medical department have its own
18 library as well?

19 A. I don't know what he has. I don't know.

20 Q. Do you know if there are any medical
21 library facilities that are readily available for
22 either your use or the medical department's use?

23 A. I've never had a need to go back to anybody
24 else.

1 Q. So your answer is you don't know?

2 A. I don't know.

3 Q. Have you ever testified at trial, at any
4 trial?

5 A. I believe one of the Worker's Comp cases
6 was actually in front of a judge.

7 Q. Again, that was not asbestos-related?

8 A. No, it was not.

9 Q. Was that a pulmonary case, was it a lung
10 problem?

11 A. I remember it involved a solvent and I
12 believe it was alleged inhalation from the
13 solvent.

14 Q. Does Westinghouse recognize that asbestos
15 causes asbestosis?

16 MR. STUTTS: Object to the form.

17 THE WITNESS: I guess restate it.

18 BY MR. WATERS:

19 Q. Do you, as representative of Westinghouse,
20 recognize that asbestos causes the disease of
21 asbestosis?

22 MR. STUTTS: Same objection.

23 THE WITNESS: I can say that I
24 recognize that there's a potential for

1 developing asbestosis if sufficient
2 exposure existed.

3 BY MR. WATERS:

4 Q. As the manager of Industrial Hygiene for
5 Westinghouse, do you agree or recognize that
6 asbestos and asbestosis can cause lung cancer?

7 MR. STUTTS: Same objection.
8 Object to the form.

9 THE WITNESS: Again, as manager of
10 Industrial Hygiene there is a potential for
11 developing asbestosis or lung cancer from
12 exposure to asbestos, if again the exposure
13 is sufficient.

14 BY MR. WATERS:

15 Q. And similarly, are you aware in your
16 capacity as manager of Industrial Hygiene, that
17 asbestos exposure can contribute to the
18 development of gastrointestinal cancer?

19 MR. STUTTS: Object to the form.

20 THE WITNESS: Again, the response,
21 as manager of Industrial Hygiene, if a
22 significant exposure to asbestos does have
23 a potential of resulting in gastro -- your
24 term, what was it?

1 BY MR. WATERS:

2 Q. Gastrointestinal?

3 A. Gastrointestinal cancer, is that what you
4 said?

5 Q. Yes.

6 A. Yes.

7 Q. Do you know if Westinghouse ever employed
8 any boiler makers or insulators or had a division
9 or unit which installed insulation materials on a
10 contract by contract basis?

11 A. I don't know that personally, no.

12 Q. Do you know when Westinghouse became aware
13 of its first claim for compensation by a worker
14 with regard to an asbestos-related disease?

15 A. No, I don't.

16 Q. Do you have any knowledge of any
17 compensation claims of that nature in the 1950s?

18 A. No, I do not.

19 Q. In the 1960's?

20 A. Do not.

21 Q. Do you know who would be best able to
22 advise us about that?

23 A. The current manager of Westinghouse
24 Workers' Compensation is -- I can't think of his

1 name now. I'll think of it and --

2 Q. Is he in Pittsburgh?

3 A. Yes, he is.

4 Q. I'll come back and ask you about it again.

5 Do you know if Westinghouse ever
6 received the results, the written results of the
7 Metropolitan Life Insurance Company's --

8 A. Mark McCashin.

9 Q. Do you know if Westinghouse ever received a
10 copy of results of the study conducted by the
11 Metropolitan Life Insurance Company of asbestos
12 from 1920 to 1950?

13 A. I don't know.

14 Q. Do you know if that's in your library?

15 A. I don't know if that's in the library, I
16 don't know that.

17 Q. How about studies from 1929 to 1960 by the
18 Trudeau Foundation?

19 A. I don't remember seeing that in the
20 library.

21 Q. Again, that could be in your library, but
22 you're not aware of it?

23 A. Not aware, right.

24 Q. How about study about the Quebec study

1 about asbestos entitled Asbestos and Health
2 completed in 1940 and 1970?

3 A. I don't know if that's in there.

4 Q. Does the Industrial Hygiene Department have
5 a policy with regard to document retention, I mean
6 do you keep documents for a certain amount of
7 time? Is there any policy in that regard?

8 A. There's a corporate procedure for document
9 retention, yes. Things that we do not think we
10 need to keep currently, we maintain sometimes --
11 we have a storage retention center so some of the
12 material may be at the storage material center.

13 Q. How large is your library in terms of how
14 much room it takes up?

15 A. The library is a room that's, I would say,
16 twelve by twelve.

17 Q. Does it have rows of stacks?

18 A. Just basically run the perimeter of the
19 room. We do also have some older records that we
20 have microfiched in smaller containers.

21 Q. In the last ten years, do you know if the
22 library has disposed of any materials related to
23 asbestos?

24 A. I have not.

1. 1 Q. How about in the last twenty years?

2 A. I can only speak from '76 on, no.

3 Q. So if we were to look at your library
4 today, we would find at least what was available
5 in '76 and some new things from '76 onward?

6 A. That's correct.

7 Q. And with regard to a medical library, if
8 there is one, that's something we have to ask the
9 medical director?

10 A. That's correct.

11 Q. Does Westinghouse have a division or
12 subsidiary with involvement with the abatement of
13 asbestos?

14 A. We had one environmental business unit
15 that -- it wasn't their primary mission, but if
16 asbestos was included in the remediation project,
17 they did some limited asbestos abatement. But we
18 no longer have that. That was only business of
19 Westinghouse for about three years or so.

20 Q. And in what time frame, approximately,
21 would that have been?

22 A. That would have been '87 to about 1990,
23 '91, something like that. Again, it was very
24 limited, it was not their primary mission.

1 Q. As the Industrial Hygiene manager, would
2 you be concerned if you were to learn today that
3 Westinghouse is continuing to manufacture products
4 or product lines that contain asbestos?

5 MR. STUTTS: Object to the form.

6 THE WITNESS: I guess I don't
7 understand. What was the question again?

8 (Whereupon, the court reporter read
9 the pending question.)

10 THE WITNESS: Would I be concerned?
11 I would be concerned that they haven't been
12 unable to find a substitute with this. Why
13 they are still manufacturing if, in fact,
14 they are. But I do not, at this current
15 time, know of a Westinghouse facility
16 that's manufacturing products that contain
17 asbestos.

18 BY MR. WATERS:

19 Q. Do you know if Westinghouse has ever been a
20 member of the Asbestos Textile Institute?

21 A. I do not know that.

22 Q. Do you know if Westinghouse has ever been a
23 member of the National Insulation Manufacturer
24 Association?

1 A. I don't know that either.

2 Q. I think we talked about the Industrial
3 Health Foundation and I believe you testified that
4 Westinghouse has been a member of that group?

5 A. Yes.

6 Q. And Westinghouse has also been a member of
7 the American Industrial Hygiene Foundation?

8 A. Weren't they the same?

9 Q. There must be some distinction between the
10 two.

11 A. Say it again, the two groups?

12 Q. Industrial Health Foundation. And then the
13 American Industrial Hygiene Foundation.

14 A. Well, there is American Industrial Hygiene
15 Association. That is AIHA. But we've been
16 individual members, not corporate members of that,
17 okay. But we have been a member of the Industrial
18 Health Foundation.

19 Q. What about an organization called the Air
20 Hygiene Foundation?

21 A. I'm not familiar with it. If we were
22 members of it, I don't know.

23 Q. Do you know if any employee or
24 representative of Westinghouse has ever attended a

1 meeting of the Asbestos Textile Institute?

2 A. No, I do not. I don't know, no, I do not.

3 Q. Do you know if any of the companies that
4 sold asbestos or asbestos-containing products to
5 Westinghouse, if any of those companies ever
6 advised Westinghouse of the potential hazards of
7 asbestos?

8 A. Advised us?

9 Q. Yes.

10 A. I don't know for sure. I know in the
11 processes of developing the Westinghouse safe data
12 practice sheet, we would send an inquiry to the
13 manufacturer, whether it was for asbestos or
14 metals or solvents or whatever, and elicited
15 information from them what were the hazards of
16 ingredients, so we could write these safe practice
17 data sheets and to develop the one for asbestos.
18 We would have had to send that on to those and
19 request the information.

20 Q. So needs to develop the safe practice data
21 sheet for asbestos that came out in around 1953, I
22 think you said, Westinghouse would have gotten
23 information to assist them in that regard from the
24 people who provided them asbestos?

1 A. Yes.

2 Q. I take it from what you said earlier, that
3 there is also a safety department or safety group
4 or is safety incorporated within your group?

5 A. There is a separate group, safety.

6 Q. And how long has that been in existence,
7 since you've been with the company?

8 A. Yes.

9 Q. Who's the head of that group?

10 A. The manager, I'm sorry, director of safety
11 is currently Mr. Paul, last name is
12 P-a-l-m-i-e-r-i. Paul Palmieri.

13 Q. Do you know how long he's been in that
14 position?

15 A. I think Paul came in that job around 1979.

16 Q. And to make sure I understand the
17 difference between the two groups, I mean,
18 obviously there is some interaction between the
19 two?

20 A. Right.

21 Q. Mr. Paul Palmieri is someone you deal with
22 on a day-to-day basis?

23 A. Yes.

24 Q. Does the safety department also have a

1 contact person at the individual plants?

2 A. We may share the same person.

3 Q. Was the safety department's knowledge with
4 regard to asbestos and asbestos hazards the same
5 as the Industrial Hygiene Group's knowledge?

6 A. I don't know.

7 Q. Do they have their own library, for
8 instance?

9 A. Yes, they do.

10 Q. But you're not able to tell us, obviously,
11 what they knew or what they may have known about
12 asbestos at what point in time?

13 A. I don't know that.

14 Q. Who is Mr. Palmieri's predecessor, if you
15 can recall?

16 A. That man's first name is William, last name
17 is Z-i-e-f-e-l. He was my boss.

18 Q. He was your boss when you were safety
19 engineer?

20 A. No. He was my boss when I assumed this
21 position as manager for Industrial Hygiene. His
22 title is manager of Industrial Hygiene and Safety.
23 But he left Westinghouse in 1979 and then at that
24 point they split the function, you know, and said

1 we're going to have two peer people, Palmieri had
2 safety and I had Industrial Hygiene and reporting
3 to the same person.

4 Q. So prior to '79, one person was in charge
5 of both departments?

6 A. It was one person, he was manager of
7 Industrial Hygiene and Safety. I had Industrial
8 Hygiene. He had an assistant for safety manager
9 reporting to him.

10 Q. And you would have reported to him with
11 regard to Industrial Hygiene?

12 A. Yes.

13 Q. And how long was that arrangement in place,
14 Not specifically with him, but in terms of him
15 being in charge of both groups and having someone
16 report to him from both?

17 A. When I assumed the position in 1976, Mr.
18 Keith Bodden, that was the reporting arrangements
19 that he had. When Mr. Speichers was a manager of
20 Industrial Hygiene, he reported to a different
21 person in the same group, but they just rearranged
22 the reporting. But basically, they were all at
23 that time, reporting to corporate human resources.

24 Q. Has the safety department primarily been

1 concerned with the safety of Westinghouse workers
2 as opposed to the safety of some other group?

3 A. When you say other group, what do you mean?

4 Q. Let me be more precise. Has the purpose of
5 the safety department been to be concerned about
6 the safety of Westinghouse workers as opposed to,
7 for example, people who use Westinghouse products?

8 A. Mr. Palmieri has both responsibilities,
9 product safety and corporate safety.

10 Q. At the safety department, has that been the
11 case for the past thirty years?

12 A. No. It would be the product safety, it's
13 been in several locations at Westinghouse. I can
14 speak again going back to 1976 for sure. At that
15 time, that function was at the Westinghouse
16 Science and Technology Center.

17 Q. 1976?

18 A. 1976. And the person who had that job was
19 Mr. Bill Day. D-a-y. And when he retired, Mr.
20 John Gormley, G-o-r-m-l-e-y assumed that position.

21 Q. You may have said this before, but to make
22 sure I understand. When was the product safety
23 subgroup, if you will, moved from the Science and
24 Technology Center to the safety department?

1 A. 1981. The Westinghouse environmental
2 affairs department was formed and John Gormley and
3 myself and two other managers were then pulled
4 into this corporate environmental department. And
5 that responsibility has resided in the
6 environmental affairs department since that time.

7 Q. So we've got the Environmental Affairs
8 Department and underneath that we've got
9 Industrial Hygiene and Safety Department?

10 A. Right.

11 Q. And under Safety Department, we have
12 product safety and corporate safety?

13 A. That's correct.

14 Q. And that has been the set up since '81?

15 A. Well, Gormley, his responsibility at that
16 time was just product safety and then he left
17 Westinghouse on disability and then there was
18 another person, Mr. Don Ayres. He then was given
19 the responsibility for product safety. He then,
20 in turn, moved on to another location,
21 Westinghouse. That was about four, five years
22 ago. And that's when Mr. Palmieri, he was given
23 the additional responsibility for product safety.

24 Q. Let's go back in time a little bit and talk

1 about the product safety function during the days
2 when it was part of the Westinghouse Science and
3 Technology Center.

4 Would that have been for the
5 duration of your career up until the change in
6 1981?

7 A. That's correct.

8 Q. And you started in '57?

9 A. Well, wait a minute. No. My career in
10 this job, 1976, I don't know where the function
11 was prior to 1976.

19

12 Q. But when you arrived in '76, or when you
13 became aware of these things in 1976, Bill Day was
14 in charge of product safety, which was part and
15 parcel of the Science and Technology Center?

16 A. That's correct.

17 Q. And can you tell us who his predecessor
18 was?

19 A. I don't know.

20 Q. Is Mr. Day still with the company?

21 A. No, he retired in about 1977.

22 Q. Do you know if he is still alive?

23 A. I don't know that.

24 Q. Do you know if he's alive where he lives?

1 A. No, I don't, honestly.

2 MR. WATERS: Well, thank you very
3 much. It has been most informative.

4 BY MS. DAVIS-COSLETT:

5 Q. I have some questions for you.

6 You mentioned when you worked at
7 the Cheswick and Forest Hills facility, there was
8 asbestos pipe covering used in the facility itself
9 in the physical plant?

10 A. It was installed, yes, when I got there.

11 Q. Who would do the installation?

12 A. I don't know.

13 Q. Would you know if they were Westinghouse
14 employees?

15 A. I don't know.

16 Q. In your position, at that point I think you
17 were safety manager?

18 A. I was safety engineer.

19 Q. Would you be involved in evaluating
20 possible health hazards to those people?

21 MR. STUTTS: Sorry. Let me object.
22 Which people?

23 MS. DAVIS-COSLETT: To persons who
24 would work with the asbestos pipe covering

1 in the plant, in the physical plant.

2 MR. STUTTS: I think he testified
3 he doesn't know who those people would be.

4 BY MS. DAVIS-COSLETT:

5 Q. You're not sure?

6 A. No. It was already installed when I --

7 Q. So you have no idea if your position had
8 anything to do with it?

9 A. No.

10 MS. DAVIS-COSLETT: I have nothing
11 else.

12 MR. WILLIAMS: I have no questions.

13 (Short break.)

14 BY MR. WATERS:

15 Q. Mr. Bickerstaff, we talked some time ago
16 about the three-by-four inch label that was placed
17 on materials containing asbestos and other things,
18 I believe you said in the early '50s. And it may
19 have been earlier, is that correct, you just don't
20 know?

21 A. I know the date of the first safe practice
22 data sheet that I've seen is 1953 and I think it
23 alluded to the label in there, too.

24 Q. Do you know when it was recognized that

1 asbestos and asbestos exposure could cause
2 asbestosis?

3 MR. STUTTS: Object to the form.

4 And I also ask for clarification. When you
5 say it was recognized, is this as to
6 Westinghouse?

7 MR. WATERS: Yes. Let me rephrase
8 the question.

9 BY MR. WATERS:

10 Q. We talked about the '50s and the danger of
11 breathing dust and all of that. What I'm asking
12 you now is, do you know when Westinghouse first
13 knew or recognized that asbestos and exposure to
14 asbestos dust could cause asbestosis?

15 MR. STUTTS: Object to the form.

16 THE WITNESS: I don't know when
17 Westinghouse or even Wilber Speichers or
18 Edgar Barnes. You do know the safe
19 practice data sheet prepared for
20 Westinghouse plants was developed in 1953.
21 Wilber and Speichers and Edgar Barnes were
22 both members of the American Industrial
23 Hygiene Association and looking at the
24 library that they have there, certainly saw

1 information on asbestos, but then how was
2 it passed on to other Westinghouse
3 facilities, I don't know. And we had to
4 go back and look at specifically how it was
5 used, if at all at Westinghouse. Again, I
6 don't know.

7 BY MR. WATERS:

8 Q. All right. Then what you're telling me is
9 that the information on what diseases asbestos
10 caused would have been available by virtue of
11 publications that these two gentlemen received
12 through that membership?

13 A. American Industrial Hygiene Association.

14 Q. You don't know to what extent, if any, they
15 passed that information along to anybody else?

16 A. I do not know that.

17 Q. And I asked you the question in terms of
18 the disease, asbestosis. I am going to assume the
19 answer is the same. I want to make sure it is
20 with regard to the disease of lung cancer. Would
21 your response be the same?

22 A. My response would be the same, correct.

23 Q. So that again, information on the linking
24 between asbestos and cancer would have been

1 available to those two gentlemen sometime in the
2 early '50s by virtue of their receipt of
3 industrial publications if they passed those along
4 to someone else. That is not something you know
5 about?

6 A. That's correct.

7 Q. And their names again, I'm sorry?

8 A. The first industrial hygienist was Edgar
9 Barnes and the second was Wilber Speichers.

10 Q. Is it Edgar Barnes?

11 A. Edgar, yes.

12 Q. And Wilber Speichers?

13 A. S-p-e-i-c-h-e-r-s.

14 Q. Now, we discussed briefly, I think the
15 ACGIH, what is that again?

16 A. American Conference of Governmental
17 Industrial Hygienist.

18 Q. Is that an industry group?

19 A. It's a group of industrial hygienists,
20 whether you're industry or academia and there is
21 also another group called the American Industrial
22 Hygiene Association. They're kind of peer groups,
23 sister groups.

24 Q. Did you say that you joined the group in

1 '71 or that Westinghouse joined?

2 A. I became a member of the American
3 Industrial Hygiene Association in 1971.

4 Q. Were you the first Westinghouse employee or
5 representative that you're aware of that became
6 aware of that group?

7 A. No. Wilber Speichers was a member, Edgar
8 Barnes is a member. Keith Bodden is a member.

9 Q. Do you know if Dr. Hazlett was a member of
10 the American Medical Association?

11 A. I don't know.

12 Q. Does one have to be a member of the
13 American Medical Association to be a doctor, do
14 you know?

15 MR. STUTTS: I don't think so.

16 BY MR. WATERS:

17 Q. When was it that you had an opportunity to
18 review the Notice of Deposition before today?

19 A. Last week.

20 Q. Do you recall reading on page two the
21 portion that requires or requests the production
22 of certain documents?

23 A. I don't know.

24 Q. Take a second and look at that.

1 A. I remember seeing that, yes.

2 Q. From your earlier testimony, it sounds to
3 me like most of the documents that are requested
4 here are going to be sitting in your library, is
5 that correct?

6 A. Yes, I would say.

7 Q. Would you have any problem with someone
8 coming to look at your library?

9 MR. STUTTS: I object to the
10 question. That's really a question
11 directed to counsel for Westinghouse as
12 opposed to this witness.

13 BY MR. WATERS:

14 Q. Let me ask you from a logistical
15 standpoint, is there any difficulty with someone
16 coming to your library and looking?

17 A. Logistics-wise, I don't think so.

18 Q. If Westinghouse's attorneys will permit one
19 of our representatives to do so, would that be
20 okay by you?

21 A. I would lean on them to advise me and I
22 would follow their advisements.

23 MR. WATERS: Subject to, I think,
24 the necessity to take a short continuation

1 of the deposition to verify what's in the
2 library, I think we're finished right now.
3 If I had realized that this stuff was there
4 and really probably was something that
5 couldn't be brought here, then I would have
6 thought we should have taken the deposition
7 there, because that's where the materials
8 are and it's obviously too much to carry.

9 But we need to get an idea of
10 what's there, because I think that is
11 obviously important and I'll just need to
12 ask him, you know, eight or ten or however
13 many questions to verify that the documents
14 we found here, are part and parcel of the
15 library.

16 MR. STUTTS: All right. Well,
17 let's take that up after the deposition.

18 MR. WATERS: No more questions.

19 (Whereupon, Amended Notice of
20 Deposition was marked as Exhibit-1 for
21 identification.)

22 (Witness excused)

23 - - -

24 (TESTIMONY ADJOURNED.)

C E R T I F I C A T I O N

I hereby certify that the
proceedings, evidence, and objections noted are
contained fully and accurately in the notes taken
by me in the hearing of the above matter, and that
this is a correct transcript of the same.

Julie M. Zanaras
Registered Professional
Reporter and
Notary Public

(The foregoing certification of this
transcript does not apply to any reproduction of
the same by any means unless under the direct
control and/or supervision of the certifying
reporter.)

1 LITIGATION SUPPORT INDEX2 Direction to Witness Not to Answer3 Page Line Page Line Page Line

4 (NONE)

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9 Request for Production of Documents10 Page Line Page Line Page Line

11 (NONE)

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16 Stipulations17 Page Line Page Line Page Line

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C E R T I F I C A T I O N

I hereby certify that I have read the
foregoing deposition and that my answers to the
questions propounded, with the attached
corrections, if any, are true and correct.

WAYNE BICKERSTAFF

LAWYER'S NOTES

[illegible]

IN RE: ALL ASBESTOS PERSONAL § IN THE DISTRICT COURT
INJURY CASES FILED IN § OF DALLAS COUNTY, TEXAS
DALLAS COUNTY, TEXAS § 160TH JUDICIAL DISTRICT

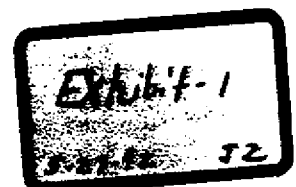
AMENDED NOTICE OF DEPOSITION

TO: ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that Plaintiffs, by counsel, will take the deposition of WAYNE BICKERSTAFF, designated by Westinghouse Corporation as its representative most knowledgeable to testify concerning:

1. Defendant's knowledge from 1930 to the present with respect to asbestos and asbestos fibers and their impact on the health of human beings. The individual or individuals designated must also have knowledge of Defendant's industrial hygiene program, department or other division or contracting entity related or involved in any way with evaluating or assessing the health and safety of, and/or the potential health hazards posed to, consumers or workers utilizing Defendant's products. The individual or individuals designated should also be able to testify about Defendant's policies with regard to safety and health.
2. Defendant's research department or other section or program involved with research and development and Defendant's decisions, determinations, or deliberations related to utilizing asbestos, or substances or products containing asbestos, as component materials in any of its products and any decision to cease using asbestos or substances or products containing asbestos as component materials in any of its products.
3. Defendant's involvement or membership in any trade associations or similar organizations and the state or status of Defendant's scientific knowledge concerning asbestos and the hazards of asbestos at any and all times within the past 60 years.

The deposition upon oral examination will take place before an officer duly authorized to take depositions and swear witnesses from James Decvescenzo Reporters, 2043 Moravian, Philadelphia,



Pennsylvania 19103 (215/564-3905). The oral examination will commence at 9:00 AM on Wednesday May 27, 1992 at the law offices of Sherr, Joffe & Zuckerman, P.C., 200 Four Falls Corporate Center, Suite 400, West Conshohocken, Pennsylvania. The deposition will continue from day to day until completed and you are invited to attend and cross-examine.

The witness is required to produce the following documents at the time of the deposition, as follows:

1. Any and all documents reflecting, indicating, or related to the dangers of asbestos or asbestos inhalation and/or restricting or limiting the use of asbestos.
2. Any and all articles, journals, abstracts, governmental publications or other documents relied upon by Westinghouse in determining that asbestos could be hazardous to the health of human beings.

Respectfully submitted, .

BARON & BUDD
A PROFESSIONAL CORPORATION
The Centrum, Suite 1100
3102 Oak Lawn Avenue
Dallas, Texas 75219
214/521-3605

BY


C. ANDREW WATERS
State Bar No. 20911450

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing has been telefaxed to all counsel of record herein on this the 21st day of May, 1992.


C. ANDREW WATERS