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SUPREME COURT OF THE STATE OF NEW YORK
ALL COUNTIES WITHIN NEW YORK CITY

In Re: NEW YORK CITY ASBESTOS LITIGATION

Continuing Videotaped
Deposition Under
Oral Examination
of MARJORIE A. DRUCKER

VOLUME III

PRIORITY-ONE COURT REPORTING SERVICES, INC.
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1 Transcript of the continuing videotaped
2 deposition of MARJORIE A. DRUCKER, called for
3 Oral Examination in the above-captioned matter,
4 said deposition being taken pursuant to the
5 Federal Rules of Civil Procedure by and before
6 Victoria Rohl, Court Reporter and Notary Public
7 in and for the State of New York; taken at the
8 Westin La Paloma Hotel, 2800 East Sunrise,
9 Tucson, Arizona, on August 19, 2004, commencing
10 at 10:00 a.m.
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1 IT IS HEREBY STIPULATED AND
2 AGREED by and between the attorneys
3 for the respective parties hereto
4 that filing, sealing and
5 certification of the within
6 Examination Before Trial be waived;
7 that all objections, except as to
8 form, are reserved to the time of
9 trial.
10 IT IS FURTHER STIPULATED AND
11 AGREED that the transcript may be
12 signed before a Notary Public with
13 the same force and effect as if
14 signed before a Clerk or Judge of the
15 Court.
16 IT IS FURTHER STIPULATED AND
17 AGREED that the within examination
18 may be utilized for all purposes as
19 provided by the CPLR.
20 IT IS FURTHER STIPULATED AND
21 AGREED that all rights provided to
22 all parties by the CPLR shall not be
23 deemed waived and the appropriate
24 sections of the CPLR shall be
25 controlling with respect thereto.

1 IT IS FURTHER STIPULATED AND
2 AGREED by and between the attorneys
3 for the respective parties hereto
4 that a copy of the Examination shall
5 be furnished, without charge, to the
6 attorney representing the witness
7 testifying herein.
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1 middle of a third day of deposition with a
2 deposition notice that may very well not be a
3 proper extension of the prior two days of
4 deposition notices we think is unfair and
5 inappropriate.

6 Also I want the record to be clear this
7 witness is being produced as General Electric's
8 witness with respect to historic and safety
9 issues related to the company's use of asbestos.
10 That's the parameters for which she's been
11 prepared.

12 Further, for purposes of this day of
13 deposition and the prior two days she's been
14 prepared to address those issues with the cases
15 pending in New York City as noticed by the Weitz
16 firm. She has not been prepared, nor are any of
17 the issues raised today intended to address
18 jurisdictions outside of the cases for which
19 they were noticed.

20 The special master is here today to
21 assist getting this thing done, again, according
22 to the rules of New York. And to the extent
23 that anybody were to attempt to use this
24 deposition or transcript for purposes other than
25 which it would be noticed would be unfair.

1 MR. SPEZIALI: Yeah. Just for the
2 record, we are here today on the third day --
3 not on the video -- we are here today on the
4 third day of the deposition that was noticed
5 many months ago. General Electric -- and the
6 video today, for the first time it's being
7 videotaped.

8 We have an objection to the videotape
9 going forward. The Court's ruled that it should
10 be permitted to go forward. We think that it's
11 unfair, frankly, to videotape a portion of a
12 deposition when the other two days were done.

13 There were other logistics problems and
14 issues with this particular notice. I think
15 when one goes back and looks at the day-one
16 notice, they will find that the day-one notice
17 as to the cases that were involved is different
18 than the day-two notice as to what cases were
19 involved, which is different as to the day-three
20 notice which cases were involved.

21 So this witness has been prepared as
22 best as we could in terms of addressing the
23 various issues that we understood were going to
24 come up at each event as a notice came out.
25 However, to pick up a video deposition in the

1 General Electric would object. It would be an
2 attempt to offer testimony or re-testimony in
3 cases for which General Electric nor the witness
4 has been prepared to address.

5 We have an agreement according to New
6 York law, particularly the law under the CMO in
7 Manhattan for which the cases were noticed that
8 we're going to preserve all objections except as
9 to form. Again, that's a very specific rule
10 under which these cases were noticed.

11 If somebody were to attempt to read
12 this transcript in jurisdictions outside of
13 which they were noticed, again, it would be
14 inherently unfair, General Electric would
15 object, and we would have taken far different
16 positions on evidential issues in terms of
17 preparation of the witness than we have for
18 purposes of the cases as they were noticed.

19 And I think that's it for now. I'm
20 sure we'll have some more things.

21 MR. KRISTAL: I'm sure you will. Let
22 me try to address a couple of those things.

23 Just -- the record will, of course,
24 speak for itself, but initially the first day of
25 deposition which was June 3rd, 2004, Ms. Drucker

1 had only been designated as an expert in certain
2 Weitz & Luxenberg cases. So that deposition
3 proceeded along those lines.

4 Subsequent to that, we had sent out a
5 deposition notice which is part of the record,
6 it is Drucker Exhibit 9 from the last day or
7 half day of deposition, where we had requested
8 GE, pursuant to the CMO and the CPLR, to
9 designate the person most knowledgeable
10 regarding General Electric's historical
11 knowledge of the hazards of exposure to
12 asbestos, and General Electric's historical use
13 of asbestos.

14 That person was -- Ms. Drucker was
15 designated as that person. So the first day of
16 deposition was taken as an expert. The second
17 day was combined as an expert and a GE
18 spokesperson, and for most of that deposition it
19 was in Ms. Drucker's capacity as the GE
20 spokesperson, so that would explain why there
21 were different notices that went out because the
22 second dep notice was for the in extremis cases
23 on the notice as opposed to the specific cases
24 which Ms. Drucker had been designated as an
25 expert and for the first day of deposition.

1 The issue of the videotaping of
2 depositions arose, was addressed by the special
3 master, and there is a specific procedure in the
4 CMO. If GE had an objection to the special
5 master's ruling, they were entitled to get the
6 ruling in writing. They were entitled to take
7 an appeal to Justice Freedman. So any objection
8 as to the videotaping having been ruled on by
9 the special master before we got here today,
10 it's our position is waived.

11 Ms. Drucker is designated pursuant to
12 the deposition notice that is Drucker Exhibit 9.
13 What you said she's being designated as was
14 slightly different than what the notice is. So
15 I want to make it clear. I'm taking the
16 deposition, unless you tell me otherwise because
17 maybe we're here for no reason, Ms. Drucker has
18 been designated as the person most knowledgeable
19 regarding General Electric's historical
20 knowledge of the hazards of exposure to
21 asbestos; is that correct?

22 MR. SPEZIALI: So far. Keep going.

23 MR. KRISTAL: And she's also been
24 designated as the person most knowledgeable as
25 General Electric's historical use of asbestos,

1 although I understand that was modified at the
2 last deposition to exclude certain products for
3 which GE has other designees. Is that fair to
4 say?

5 MR. SPEZIALI: She's our -- she's being
6 produced as a second portion with respect to
7 health and safety issues. She has --

8 MR. KRISTAL: Just back up. I don't
9 understand what that is because we haven't asked
10 for that. We haven't asked for her to be
11 designated --

12 MR. SPEZIALI: Because your notice,
13 unfortunately as we made very, very clear at the
14 last deposition in innumerable places, is not
15 just one person. There's just no way to do
16 that. You have the names, Jerry, of a list of
17 individuals, some of whom you've actually
18 already taken their deps for in this case --

19 MR. KRISTAL: I understand that.

20 MR. SPEZIALI: -- who have very clear
21 specific knowledge from an engineering sales
22 perspective regarding use of product, asbestos.

23 MR. KRISTAL: I said that --

24 MR. SPEZIALI: She's not being
25 designated with respect to those products

1 because there are other GE designees.

2 MR. KRISTAL: Exactly.

3 MR. SPEZIALI: For example, Mr. Hobson,
4 Mr. Banashevski.

5 MR. KRISTAL: Absolutely. And that's
6 with respect to the second component, General
7 Electric's historical use of asbestos.

8 MR. SPEZIALI: Right.

9 MR. KRISTAL: You threw in something
10 about health and safety. Nobody has asked to
11 take GE's designee on that topic.

12 MR. SPEZIALI: That's fine.

13 MR. KRISTAL: Okay. We're taking her
14 as the designee pursuant to Exhibit 9 with the
15 caveats that you said. Is that fair to say?

16 MR. SPEZIALI: Right, that's fine.

17 MR. KAPSHANDY: And we understand from
18 the ruling from the special master the last time
19 if she's not the designee for that subject, you
20 will so state in your -- not to continue any
21 questioning.

22 MR. KRISTAL: That's why we have the
23 special master.

24 MR. KAPSHANDY: Good.

25 MR. KRISTAL: I think you'll find that

1 ninety-nine percent of my questions are going to
2 relate to the first subject.

3 MR. KAPSHANDY: Good.

4 MR. KRISTAL: Okay. Anybody else want
5 to put anything else on the record? I guess we
6 can go on the video and swear the witness.

7 For the record, the plaintiffs have a
8 stenographer and a videographer here. It's our
9 position that is the official record of this
10 deposition. General Electric has seen fit to
11 have their own videographer here, and I guess we
12 can take whatever position that we want at such
13 time as somebody wants to use one or the other
14 video, but I think as the person noticing the
15 deposition, the plaintiffs are the ones who have
16 the official transcript and the official video.

17 THE VIDEOGRAPHER: My name is Mark
18 Gonsalves of Certified Video Productions,
19 Incorporated. With me is Roy Plisko of Green
20 Legal Video. Our court reporter is Vicki Rohl
21 representing Priority One Reporting Service,
22 Inc. We're at 3800 East Sunrise Drive, Tucson,
23 Arizona to take the deposition of Marjorie
24 Drucker, continuation, volume three.

25 On behalf of the plaintiffs in the

1 Supreme Court of the State of New York all
2 counties within New York City, case of in re:
3 New York City Asbestos Litigation. The date is
4 August 19th, and the time is ten twenty-six a.m.
5 The attorneys will now introduce themselves.
6 Plaintiffs first, please.

7 (Whereupon, counsel noted their
8 appearances.)
9

10 MARJORIE A. DRUCKER, Post Office Box 3515,
11 Manhattan Beach, California 90266, after being
12 duly called and sworn, testified as follows:

13 EXAMINATION BY MR. KRISTAL:

14 Q. Good morning, Ms. Drucker. How are
15 you?

16 A. Good morning, Mr. Kristal. Fine, how
17 are you?

18 Q. Good. Thank you. As you know, I
19 represent individuals that have brought this
20 lawsuit. Thank you for coming again today. You
21 have your own consulting business called Drucker
22 Health and Safety Management?

23 A. Yes.

1 Q. How many employees does Drucker Health
2 and Safety Management have?

3 A. Currently, one.

4 Q. That is you?

5 A. Yes.

6 Q. Did it have more than one at some point
7 in time?

8 A. Yes.

9 Q. How long has it been since you've been
10 the only person in the business?

11 A. Oh, I'd say about the past three or so
12 years.

13 Q. And one of the things that you do in
14 your capacity as Drucker Health and Safety
15 Management is assist law firms; is that correct?

16 A. Yes.

17 Q. And you do that by providing litigation
18 support and testimony?

19 A. Yes.

20 Q. You used to work for General Electric
21 for about seven months over thirty years ago?

22 A. Yes.

23 Q. And you have not worked for General
24 Electric since February of 1972?

25 A. Yes.

1 Q. In the fall of 2003, you were hired by
2 lawyers representing General Electric to assist
3 them by providing litigation support in asbestos
4 litigation; is that correct?

5 A. Yes.

6 Q. And the scope of the General Electric
7 project since September of 2003 has been to look
8 at GE and non-GE documents to address GE's
9 knowledge of the hazards of asbestos; is that
10 correct?

11 A. Yes.

12 Q. And we have in the room probably
13 fourteen, fifteen boxes' worth of document.
14 Fair to say?

15 A. Yes.

16 Q. Is it correct that you have worked
17 longer on that litigation project than you
18 actually worked for GE in the early 1970s?

19 A. In terms of duration in months, yes.

20 Q. You have read all the documents that
21 are in the fourteen or fifteen boxes spread
22 throughout this room?

23 A. Yes.

24 Q. Have you taken any notes at all on
25 those documents?

1 A. No.
 2 Q. Were you aware that you would be asked
 3 questions about those documents?
 4 A. Yes.
 5 Q. Did you ever write any sort of summary
 6 of what either an individual document said or
 7 what the universe of documents say regarding
 8 General Electric's knowledge of the hazards of
 9 asbestos historically?
 10 A. No.
 11 Q. Did you ever write anything that said
 12 this document demonstrates GE knew this about
 13 asbestos, or that document indicates GE knew
 14 that about asbestos? Anything like that?
 15 A. No.
 16 Q. Do you know the total number of
 17 documents you've actually reviewed?
 18 A. In terms of documents, there are
 19 hundreds.
 20 Q. Perhaps thousands even?
 21 A. Perhaps thousands, many hundreds.
 22 Q. Most of the documents that you reviewed
 23 pursuant to the project that you were hired to
 24 do for GE were provided by the GE lawyers?
 25 A. Yes, I'd say that's, that's true.

1 Q. Did you ask the GE lawyers for any
 2 particular documents?
 3 A. In certain instances, yes.
 4 Q. Did you ever ask the GE lawyers to
 5 provide you with documents that the Plaintiffs
 6 have put on their exhibit list with respect to
 7 GE's knowledge about the hazards of asbestos
 8 historically?
 9 MR. SPEZIALI: Objection.
 10 THE WITNESS: As part of the documents
 11 there were some Plaintiff documents in there.
 12 MR. KRISTAL: Okay. Did you ask the GE
 13 lawyers where those documents came from?
 14 MR. SPEZIALI: Objection.
 15 THE WITNESS: It was my understanding
 16 that in certain instances they came from
 17 Plaintiff files.
 18 MR. KRISTAL: In the way that you
 19 answered the question, is it correct that you
 20 never asked the GE lawyers for all of the
 21 Plaintiff exhibits that related to GE and their
 22 knowledge of asbestos; the hazards of asbestos
 23 historically?
 24 MR. SPEZIALI: Objection. We've got to
 25 go off the record here. I mean --

1 THE SPECIAL MASTER: Why do we have to
 2 go off the record?
 3 MR. SPEZIALI: Well, I don't want her
 4 to speak -- how does she know who's the
 5 Plaintiffs?
 6 THE SPECIAL MASTER: Then she can say I
 7 don't know. She can answer the question.
 8 MR. SPEZIALI: I don't know that she
 9 understood it. She can answer it, though, if --
 10 that's fine.
 11 BY MR. KRISTAL:
 12 Q. Let me digress for a second. You know,
 13 this being the third day of deposition, if you
 14 don't understand what I'm asking you, you should
 15 tell me that?
 16 A. Yes.
 17 Q. Okay. My question is did you ask the
 18 General Electric lawyers whether the documents
 19 that were designated as Plaintiff documents that
 20 you reviewed was the universe of Plaintiff
 21 documents on the subject of General Electric's
 22 historical knowledge of the hazards of asbestos.
 23 A. When you're saying Plaintiff documents,
 24 I don't know if you mean in a particular case or
 25 the universe of all Plaintiff documents, I

1 imagine, would be millions. So maybe you could
 2 whittle it down for me.
 3 Q. Sure. I'm asking about the -- that's a
 4 fair comment. Did you ask them whether the
 5 Plaintiff's documents were the universe of
 6 Plaintiff's documents that the Weitz & Luxenberg
 7 firm has designated as Plaintiff documents with
 8 respect to General Electric's historical
 9 knowledge of the hazards of asbestos?
 10 A. No.
 11 Q. How many times have you met with
 12 General Electric lawyers regarding this
 13 particular project since September of 2003?
 14 A. Since September of 2003, I've met maybe
 15 twice a month, and that would have been over the
 16 course of the past eleven months. Sometimes
 17 less. It's just a range. Say twenty,
 18 twenty-two times.
 19 Q. And you also spoke to current GE
 20 employees pursuant to this project?
 21 A. Yes.
 22 Q. And you spoke with former GE employees?
 23 A. Yes.
 24 Q. At a deposition in October of 2002 you
 25 testified -- and I can show you the testimony if

1 you don't recall -- that approximately fifty
2 percent of your income at that time was from
3 litigation work. Do you recall that?

4 A. Yes.

5 Q. Has that percent with respect to
6 litigation work gone up since September of 2003
7 when you began this GE project?

8 A. Yes.

9 Q. What percent of your income since
10 September of 2003 to the present, which is
11 almost a year now, has been litigation work?

12 A. Oh, I'd estimate around eighty,
13 eighty-five percent litigation.

14 Q. And your current charges are what?

15 A. I charge by the hour, I'm sure much the
16 same as you do. About two fifty an hour for
17 preparation, three hundred an hour for
18 testimony.

19 Q. Okay. Move to strike the
20 non-responsive portion of that answer.

21 What is the total number of hours that
22 you have worked on this project since September
23 of 2003?

24 MR. SPEZIALI: Again, I'm going to have
25 an objection that I need to address.

1 discovery deposition, but this witness is not
2 within control of the Plaintiffs. The Plaintiff
3 has no idea whether this witness is going to be
4 produced for trial, and therefore, this could
5 end up being trial testimony. Therefore,
6 whatever he's asking is totally acceptable.

7 MR. SPEZIALI: And I understand, but
8 because it's a discovery dep, we're not going to
9 sit here and do over again, I thought, the two
10 days of questions we already had.

11 THE SPECIAL MASTER: No. And I said if
12 it was already asked, he should move on. It's a
13 totally proper line of questioning.

14 MR. SPEZIALI: All right. Well, I
15 mean, I've kept quiet on a whole series of
16 repetitive -- let's see where we are. Let's see
17 where it goes.

18 MR. KRISTAL: What are the pages?

19 MR. SPEZIALI: Let's go.

20 MR. KAPSHANDY: Nine, ten, eleven. You
21 asked her about rate, how many hours.

22 MR. KRISTAL: Can you give us a current
23 hour?

24 THE WITNESS: Could I have the whole
25 question, please?

1 THE SPECIAL MASTER: What's the
2 objection?

3 MR. SPEZIALI: This has been covered in
4 the first two days of this deposition. This is
5 a discovery deposition of which my understanding
6 was we were just going to continue to find out
7 information. What I'm hearing here is not a
8 discovery deposition, but Mr. Kristal creating a
9 record for trial. This was not noticed as a
10 trial -- evidence. This is discovery dep.
11 These are repetitive questions.

12 MR. KRISTAL: If you could show me
13 where I asked that question, number one, about
14 the total number of hours, I will reconsider my
15 question. And number two, it's now been
16 updated, so there obviously have been more hours
17 so whatever I ask is old information, so I think
18 I'm entitled to ask the questions.

19 MR. KAPSHANDY: I can give you the page
20 numbers if you'd like.

21 MR. KRISTAL: Get a ruling, and we can
22 keep moving.

23 THE SPECIAL MASTER: If it's already
24 been asked, I don't want to go over it again.
25 In terms of making a record, it may be a

1 MR. KRISTAL: Well, I don't see
2 anything in the pages you've indicated in terms
3 of how many hours total.

4 THE SPECIAL MASTER: Why don't you just
5 ask the question and we can move on.

6 BY MR. KRISTAL:

7 Q. Since September 2003, how many hours
8 have you worked on the GE project; obviously
9 approximately?

10 A. Approximately eight hundred eighty
11 hours.

12 Q. And most of that has been at the two
13 hundred and fifty dollar rate; some of that
14 which would be the deposition has been at the
15 three hundred dollar rate?

16 A. Yes.

17 Q. As part of your project, you have
18 determined, have you not, that for many, many
19 decades General Electric had a large medical
20 staff throughout the country?

21 A. Yes, for many decades GE had a large
22 health and safety and medical staff, yes.

23 Q. And the health and safety staff would
24 also include safety engineers?

25 A. Yes, historically, yes, they had safety

1 engineers going way back.

2 Q. And it would also include industrial
3 hygienists?

4 A. That, too, yes, they had industrial
5 hygienists going way back.

6 Q. And when you say back, you're talking
7 at least the 1920s and 1930s.

8 A. Yes, I am, to the early 1920s.

9 Q. And do you understand that you have
10 been designated by General Electric as the
11 person most knowledgeable regarding General
12 Electric's historical knowledge of the hazards
13 of asbestos?

14 A. Yes. That's a very large subject, and
15 with all modesty, I've put in a lot of work and
16 effort, but yes, I'd say I have a pretty good
17 handle on that.

18 Q. The information that you've reviewed
19 regarding General Electric's historical
20 knowledge of the hazards of asbestos came to
21 General Electric over the years from a variety
22 of sources. Is that fair to say?

23 A. I'm sorry. I don't understand the
24 question.

25 Q. Sure. When you were reading documents

1 literature.

2 Q. Okay. And you know, do you not --
3 we'll get to the documents -- that beginning in
4 1930 a doctor by the name of Dr. Cowle,
5 C-O-W-L-E, began collecting literature on
6 asbestos, correct? Do you recall that?

7 A. No.

8 Q. I'll show you the documents later.
9 Another source of information that was available
10 to General Electric about the hazards of
11 asbestos historically came from publications
12 that was, was provided to General Electric by
13 organizations and associations that they were
14 members of. Is that fair to say?

15 A. Yes, I would say in general.

16 Q. George Sanford, for example, was a GE
17 safety engineer? Do you recall that?

18 A. I recall the name George Sanford. I
19 don't recall his exact title.

20 Q. Do you recall that he was a former
21 president of an organization known as the
22 National Safety Council?

23 A. No.

24 Q. Dr. Beverly Vosburgh, V-O-S-B-U-R-G-H,
25 was involved in an organization called the

1 trying to ascertain what did GE know
2 historically about the hazards of asbestos, that
3 information came from a number of different
4 sources.

5 A. There are a number of different sources
6 from which these documents came.

7 Q. For example, one source of information
8 about the hazards of asbestos was General
9 Electric's own medical and industrial hygiene
10 staff going back to the 1930s?

11 A. Yes.

12 Q. And one source of information was from
13 outside consultants in the area of industrial
14 hygiene that General Electric hired going back
15 to the 1930s?

16 A. Yes.

17 Q. Another source of information came from
18 various publicly-available medical literature
19 that GE had available to it. Is that fair to
20 say?

21 A. Yes.

22 Q. Such as the Merewether report in
23 England from 1930?

24 A. Well, that wasn't found in GE files,
25 but that's -- was in the medical and scientific

1 American Association of Industrial Physicians
2 and Surgeons. Do you recall that?

3 A. No.

4 Q. Well, Dr. Vosburgh was a physician and
5 medical director at GE from the 1920s to the
6 1950s; is that correct?

7 A. Yes.

8 Q. Is Dr. Vosburgh a man or a woman? Do
9 you know?

10 A. Yes, he's a man.

11 Q. Okay. And do you recall that one of
12 the publications of the American Association of
13 Industrial Physicians and Surgeons from which GE
14 received information about the hazards of
15 asbestos was a publication called Industrial
16 Medicine?

17 MR. SPEZIALI: Objection.

18 THE WITNESS: Well, I don't know if
19 they received that publication.

20 BY MR. KRISTAL:

21 Q. Well, are you familiar with the
22 publication Industrial Medicine?

23 A. I've heard of it, yes.

24 Q. And that is the official journal of the
25 American Association of Industrial Physicians

1 and Surgeons, is it not?

2 A. I don't know.

3 Q. The documents you reviewed as part of
4 your GE project were from the 1920s, 1930s,
5 1940s, 1950s up through the 1990s. Is that fair
6 to say?

7 A. Yes.

8 Q. One thing that you did personally was
9 you visited the Harvard and Radcliff libraries
10 looking for documents relating to consulting
11 work that a Dr. Hamilton did with respect to
12 issues relating to industrial hygiene including
13 the hazards of asbestos going back to the 1930s?

14 A. Yes, going back to the 1920s among many
15 other things she did. Broad-based surveys.

16 Q. Did you ever visit any public libraries
17 searching for information regarding
18 organizations that General Electric was a member
19 of that provided GE with publications that
20 included information about the hazards of
21 asbestos?

22 MR. SPEZIALI: Objection.

23 THE WITNESS: Is the question public
24 libraries?

25 BY MR. KRISTAL:

1 Q. Yes.

2 A. I went to a library at GE, and I don't
3 know if that's open to the public, but yes, I
4 did look there.

5 Q. Other than going to a GE library, did
6 you go and make an independent review of
7 publications -- historical publications that had
8 articles about the hazards of asbestos that were
9 put out by organizations that GE was a member
10 of?

11 A. Well, I, I did some Internet searches
12 on some general subjects. Whether or not GE was
13 receiving those types of publications
14 historically, I don't know. I did that
15 independently.

16 Q. You did review some documents from the
17 National Safety Council, correct?

18 A. Yes.

19 Q. And you reviewed some documents from
20 something called the Industrial Hygiene
21 Foundation, correct?

22 A. Yes.

23 Q. And you reviewed some documents from
24 the group called the American Ceramic Society?

25 A. Yes.

1 Q. And those documents had to do, at least
2 in part, with the hazards of asbestos?

3 MR. SPEZIALI: Objection.

4 THE WITNESS: Well, it depends on the
5 document. Some there was no mention. Some
6 there was some tangential thing. It would
7 depend on the document.

8 MR. KRISTAL: Okay. Let me mark as
9 Exhibit 29 -- this is a document we were looking
10 at a portion of last time. As I sit here, I
11 think I may have brought the wrong copy, but let
12 me hand you my copy. It's entitled Asbestos
13 Management Training Instructor's Guide. And
14 it's from the GE Power Generation Sales and
15 Services Organization, Environmental Health and
16 Safety.

17 MR. SPEZIALI: Let me, just for the
18 record, Jerry, if we looked at it last time,
19 then it's got the prior exhibit number on it.

20 MR. KRISTAL: I think we only looked at
21 a page or two from it.

22 MR. SPEZIALI: No, no. The last
23 transcript we had an agreement that the entire
24 document would be part of the exhibit, so let's
25 use the prior exhibit number. I don't want to

1 have this transcript -- because there's three
2 transcripts here. It's very important that this
3 transcript is correct.

4 MR. KRISTAL: Last time it was marked
5 as 28. I have a copy of Exhibit 28. There are
6 three or four pages. Tim or Mike or somebody
7 had asked me to bring the whole document. I
8 have now brought the whole document. The whole
9 document was not previously marked.

10 MR. KAPSHANDY: The court reporter
11 substituted in the complete copy. We sent it to
12 her and she sent it to you.

13 MR. KRISTAL: Do you have a copy of 28?

14 MR. KAPSHANDY: I think you have the
15 right document.

16 THE SPECIAL MASTER: Let's call it
17 Exhibit 28.

18 MR. KAPSHANDY: 28.

19 MR. KRISTAL: Do you have a copy from
20 last time of the 28 from the instructor's guide?

21 MR. KAPSHANDY: No, we do not. We have
22 it in the boxes if you want to tell us where it
23 is. We did not bring the exhibits as you marked
24 them.

25 BY MR. KRISTAL:

1 Q. Exhibit 28, this was one of the
2 documents that was provided to you by the
3 General Electric lawyers?

4 A. I'll take it if you say that it's from
5 these files. It looks like something from
6 there.

7 Q. Okay. Do you know what year this is
8 from? It's undated, but there are references to
9 the early 1990s. Do you have an idea when this
10 document is from?

11 A. May I look at it?

12 Q. Of course.

13 MR. SPEZIALI: I just have an objection
14 to this document. I'll leave it at that, I
15 guess. Could I ask for clarification? If I
16 object to a document, should I indicate for the
17 record and just leave it at that and we'll deal
18 with it.

19 THE SPECIAL MASTER: Just say you
20 object.

21 MR. KRISTAL: I don't think you need to
22 make an objection. If you have an objection
23 when somebody tries to use this portion of the
24 transcript, you make an objection. If it's a
25 form objection, make it. If it's not, it's

1 naturally occurring, correct?

2 A. Yes.

3 Q. Would you agree that that's something
4 that General Electric knew in the 1930s, that
5 asbestos was naturally occurring?

6 A. Yes, I think they would have known that
7 it was a naturally-occurring mineral.

8 Q. The next item on the document it says,
9 quote, three commercial grade forms:
10 Chrysotile, white; amosite, brown; crocidolite,
11 blue. Do you see that?

12 A. I do.

13 Q. Would you agree that General Electric
14 knew that there were three grades of asbestos,
15 chrysotile, amosite and crocidolite, in the
16 1930s?

17 A. I don't know.

18 Q. Do you know when GE first knew that?

19 MR. SPEZIALI: Objection.

20 THE WITNESS: I don't know when it was
21 known in general. I do know that back in the
22 1930s they would have known about chrysotile.

23 BY MR. KRISTAL:

24 Q. Okay. If you turn two more pages, the
25 document has a section entitled, quote, Steam

1 preserved.

2 MR. SPEZIALI: Well, I have an
3 objection to the document, per se. So we'll
4 leave it -- we just said --

5 THE SPECIAL MASTER: Just say you
6 object to the document.

7 MR. SPEZIALI: Right. Okay.

8 THE WITNESS: And the question?

9 BY MR. KRISTAL:

10 Q. Can you tell by looking at some of the
11 references approximately when this document is
12 from or at least what year after it is from?

13 A. Yeah. Based on the, the permissible
14 exposure limits, this document would be from
15 after 1986.

16 Q. Okay. Since I've now found your copy,
17 let's trade.

18 A. Thank you.

19 Q. If you turn to the sixth page of the
20 document, sixth page in.

21 A. Sixth page in starting --

22 Q. It's entitled Properties and Uses of
23 Asbestos.

24 A. Yes.

25 Q. And the document notes that asbestos is

1 and Gas Turbines and Generators, end quote. Do
2 you see that?

3 A. Yes.

4 Q. And then it has a sentence that reads,
5 quote, ACMs are found on some components of
6 steam and gas turbines and generators depending
7 on the year of installation, end quote. Do you
8 see that?

9 A. Yes, I do.

10 Q. And ACMs means asbestos-containing
11 materials?

12 A. Yes.

13 Q. And under that it has steam turbines
14 does it not?

15 A. Yes.

16 Q. And it lists pipe connection gaskets,
17 correct?

18 A. Yes, it does.

19 Q. Control valve gaskets?

20 A. Yes.

21 Q. Insulation on outer shell turbine?

22 A. Yes.

23 Q. Insulation on associated piping for the
24 turbine?

25 A. Yes.

1 Q. Insulation on and around boilers. Do
2 you see that?

3 A. Yes.

4 Q. Would you degree that General Electric
5 knew that asbestos-containing materials were
6 found on some components of steam turbines back
7 in the 1930s as we just went over?

8 MR. SPEZIALI: Objection.

9 THE WITNESS: They -- if they knew that
10 some components could be in the 1930s? I think
11 that would depend. It would depend on what kind
12 of use, maybe which entity.

13 BY MR. KRISTAL:

14 Q. What does that mean, which entity?

15 A. Whether it was Navy or non-Navy. I
16 think it would depend going all the way back to
17 the 1930s.

18 Q. So for some steam turbines GE would
19 have known back in the '30s that
20 asbestos-containing materials were contained in
21 the portions that we read, and for others they
22 might not have?

23 A. Well, for some types, yes, they would
24 have known that it maybe contained. That's one
25 possibility.

1 Q. If you turn two more pages, it's
2 entitled, quote, Health Hazards of Asbestos. Do
3 you see that?

4 A. Yes.

5 Q. In the first section it says, quote,
6 when asbestos becomes a health hazard, colon.
7 Do you see that?

8 A. Yes.

9 Q. And it reads, asbestos becomes a health
10 hazard when it is in a form that can be inhaled,
11 end quote. Do you see that?

12 A. Yes, I do.

13 Q. Do you agree General Electric knew that
14 in the 1930s?

15 A. Well, I think that they knew that if it
16 were inhaled in certain high concentrations for
17 long periods of time. They would have known
18 that in the 1930s.

19 Q. Okay. But GE knew the route of
20 potential hazard was by inhalation of asbestos?

21 A. Yes. They would have known that it was
22 like a dusty lung condition. It was a route --

23 Q. Okay.

24 A. -- inhalation.

25 Q. And then the next sentence reads,

1 quote, it must be in a friable, parentheses,
2 easy crumbled or pulverized, close parentheses,
3 state in order to be considered a health hazard.

4 In this state it exists either as visible
5 airborne or surface dusts and as invisible
6 airborne fibers. Do you see that?

7 A. Yes, I do.

8 Q. Did you read documents that would
9 inform you that General Electric knew that the
10 fibers of asbestos that could be inhaled that
11 could lead to a hazard in the 1930s were very,
12 very small and some of them invisible fibers?

13 MR. SPEZIALI: Objection, and move to
14 strike the question in the event Plaintiffs do
15 not provide evidence during trial that such
16 documents exist.

17 MR. KRISTAL: I'm going to do that
18 today.

19 MR. SPEZIALI: Good. I'd like to see
20 it.

21 THE WITNESS: Could you repeat it,
22 please?

23 BY MR. KRISTAL:

24 Q. Sure. Would you agree that General
25 Electric knew historically in the 1930s and '40s

1 that the fibers of asbestos that present the
2 problem were ones that were very small,
3 including ones that were not visible to the
4 naked eye?

5 A. Not necessarily, no.

6 Q. All right. The next section, quote,
7 How Asbestos Affects the Lungs, end quote.
8 Quote, asbestos, when in a friable state, is
9 composed of microscopic fibers that are inhaled
10 and become affixed in the alveolar sacs, end
11 quote. Are you saying you don't recall reading
12 documents -- strike that.

13 Do you recall reading any documents
14 that indicated that the dangerous asbestos
15 fibers that could cause asbestosis were
16 microscopic fibers?

17 A. I'd have to refresh myself with a
18 particular document. As I sit here right now, I
19 don't.

20 Q. The next page is a chart entitled, The
21 Human Respiratory Tract, and it says, routes of
22 inhalation and injection of asbestos fibers and
23 the organs they may affect, correct?

24 A. Yes.

25 Q. And it has the various organs of the

1 respiratory system on it, correct?

2 A. Yes.

3 Q. Could you hold that up to the camera,
4 please? And it has the organs beginning with
5 the main bronchus which is the air tube.

6 Talking about the ones that are kind of dark
7 gray. Do you see that; the main bronchus?

8 A. Yes, I see that.

9 Q. And that is the main tube that then
10 leads to what's called the left and right
11 bronchus which are the tubes that lead one into
12 the left lung and one into the right lung?

13 A. Yes, according to this diagram.

14 Q. Well, is that a relatively accurate
15 diagram of the human respiratory system?

16 A. In a simplified --

17 MR. SPEZIALI: Objection.

18 THE WITNESS: In a simplified form,
19 yes.

20 BY MR. KRISTAL:

21 Q. And then the smaller tubes in the lungs
22 called the bronchial tubes or bronchi according
23 to the diagram, correct?

24 A. Yes.

25 Q. And at the very end are the little air

1 sacs called alveola; is that right?

2 A. Yes.

3 Q. Under the lungs there's a line and
4 there's an arrow indicating that that is the
5 diaphragm. Is that fair to say?

6 A. Yes.

7 Q. And then there are two layers of pleura
8 that are on the diagram; the parietal pleura
9 which is up against the chest wall. Do you see
10 that?

11 A. Yes.

12 Q. And something called the visceral
13 pleura which surrounds the lungs. Do you see
14 that?

15 A. Yes, I do.

16 Q. The next page, there's a section in
17 Exhibit 28 that's entitled, quote, Diseases
18 Related to Asbestos, end quote. Do you see
19 that?

20 A. Yes.

21 Q. And it lists asbestosis as the first
22 disease, does it not?

23 A. It does.

24 Q. Then lung cancer as the second disease?

25 A. Yes.

1 Q. Third disease, mesothelioma?

2 A. Yes.

3 Q. And then there's a category, the fourth
4 one is other diseases, correct?

5 A. Yes.

6 Q. It indicates at the beginning of that
7 section, quote, asbestos is a slow-acting or
8 chronic toxin, parentheses, versus fast-acting
9 or acute, close parentheses, with a latency
10 period of five to thirty or more years, end
11 quote. Do you see that?

12 A. Yes.

13 Q. And a toxin is another word for poison?

14 A. In some ways, yeah, you can use them
15 interchangeably, yes.

16 Q. And you are aware, are you not, that
17 General Electric historically defined chronic
18 poisoning as a type of disease or illness
19 occurring as a result of exposure to small
20 amounts of poisonous materials over a prolonged
21 period, months or years?

22 MR. SPEZIALI: Objection.

23 THE WITNESS: I'm not familiar with
24 that quote.

25 MR. KRISTAL: Okay. Let me mark

1 Exhibit 29.

2 (Whereupon, Exhibit 29, a document
3 entitled, Industrial Hygiene, General Electric
4 on the front page, copywrited 1956 by the
5 General Electric Company, was then received and
6 marked for identification.)

7 BY MR. KRISTAL:

8 Q. This is a document where I'm handing
9 you a portion, and we will substitute the entire
10 document. It's some two or three inches thick.
11 This is entitled, Industrial Hygiene, General
12 Electric on the front page. And the second page
13 indicates it's copywrited 1956 by the General
14 Electric Company; is that correct?

15 A. Yes.

16 Q. And this is one of the documents that
17 was provided to you by the General Electric
18 lawyer -- lawyers?

19 A. Yes, it is.

20 Q. And you read this document?

21 A. Yes.

22 Q. And the first page of text, it
23 indicates that the manual contains three
24 sections, and one of them is a definitional
25 section, correct?

1 A. Yes. That's what it says, part one,
2 definitions.

3 Q. Okay. If you could turn to the
4 definitions section. I think that's the one
5 I've copied for you. And it has on the first
6 page -- it's entitled Definitions, right?

7 A. It is.

8 Q. And it says Industrial Hygiene up top,
9 General Electric, Schenectady Relations and
10 Utilities Department, correct?

11 A. Yes.

12 Q. And it has a definition for, quote,
13 chronic poisoning, end quote. Do you see that?

14 A. Yes, it does.

15 Q. And it says, quote, a type of disease
16 or illness occurring as a result of exposure to
17 small amounts of poisonous materials over a
18 prolonged period, months or years, end quote.
19 Do you see that?

20 A. That's what it says, yes.

21 Q. Okay. Now, in Exhibit 28, the
22 instructor's guide, they contrasted a chronic
23 poison with an acute poison, did they not?

24 A. Maybe you could refer that back to me,
25 please.

1 Q. Sure. It says, quote, asbestos is a
2 slow-acting or chronic toxin, parentheses,
3 versus fast-acting or acute.

4 MR. SPEZIALI: I object. I object to
5 the question, and --

6 THE SPECIAL MASTER: Object. And she
7 can answer.

8 MR. SPEZIALI: It's misleading.

9 THE SPECIAL MASTER: There's no reason
10 to. You object to the question. She can answer
11 the best she can.

12 MR. SPEZIALI: But he misstated the
13 document.

14 THE SPECIAL MASTER: Then that's your
15 objection.

16 MR. SPEZIALI: Okay.

17 BY MR. KRISTAL:

18 Q. Look at Exhibit 28, the Asbestos
19 Management Training Instructor's Guide from
20 sometime after 1986. Okay. Are you there?

21 A. Yes.

22 Q. All right. And in that document,
23 General Electric contrasts chronic toxins with
24 acute toxins, right?

25 A. Yes, that's as of after 1986, that's

1 their definition, yes.

2 Q. And it says asbestos is a slow-acting
3 or chronic toxin versus fast-acting or acute,
4 right?

5 A. That's what it says, yes.

6 Q. And there's a definition of acute
7 poisoning in the 1956 GE document, as well?

8 MR. SPEZIALI: Objection.

9 MR. KRISTAL: Is there not?

10 THE WITNESS: Well, based on what they
11 knew at that point. We're talking about a span
12 in over thirty years, differences of what was
13 known and what was not known in a variety of
14 different kinds of situations that could be
15 toxins or poisons. This is just kind of
16 comparing different types of technology.

17 MR. KRISTAL: Move to strike the
18 non-responsive portion of the question.

19 My question is in Exhibit 29, in the
20 industrial hygiene document from 1956, GE has a
21 definition for acute poisoning and it has a
22 definition for chronic poisoning, correct?

23 MR. KAPSHANDY: Could you tell us the
24 pages?

25 MR. KRISTAL: The definition page.

1 MR. SPEZIALI: I know. I'm on the
2 definitions. I don't see it.

3 THE SPECIAL MASTER: What page number
4 of the document?

5 MR. KRISTAL: First page -- it's not,
6 it's not numbered. The first page --

7 MR. KAPSHANDY: What's the acute words
8 chronic you're referring to?

9 MR. KRISTAL: On the same page.

10 MR. KAPSHANDY: Okay. Thank you.

11 THE WITNESS: The question?

12 BY MR. KRISTAL:

13 Q. The question is in Exhibit 29, the 1956
14 General Electric Industrial Hygiene document
15 they have a definition of both acute poisoning
16 and chronic poisoning, do they not?

17 A. Sure, as of what was known then.

18 Q. Okay. And we've already read the
19 chronic poisoning definition, and under acute
20 poisoning, GE wrote quote, this refers to a
21 condition produced usually by a single or a few
22 repeated exposures, end quote. Do you see that?
23 That's what it says, right?

24 A. That's what it says, yes.

25 Q. Now, the distinction between chronic

1 and acute with respect to industrial poisons was
2 a distinction that General Electric knew about
3 in 1925. Would you agree with that?

4 MR. SPEZIALI: Objection.

5 THE WITNESS: Well, in terms of as part
6 of being involved in dose, yes, they understood
7 that it was a duration and a concentration form
8 being dose that could be possibly harmful.
9 That's what they knew.

10 MR. KRISTAL: Move to strike the answer
11 as non-responsive.

12 My question is from your review of the
13 documents provided to you by the General
14 Electric lawyers, or any other document you've
15 reviewed as part of the project, you were aware
16 that General Electric knew that with respect to
17 industrial poisons, there was a distinction
18 between chronic poisons and acute poisons as
19 early as 1925?

20 MR. SPEZIALI: Objection. Asked and
21 answered in the last answer.

22 THE WITNESS: No.

23 MR. KRISTAL: We'll mark as Exhibit
24 30 --

25 THE SPECIAL MASTER: At this point the

1 Exhibit 30 is a section of a textbook
2 that is entitled Industrial Poisons in the
3 United States that was written by Dr. Alice
4 Hamilton in 1925, correct?

5 THE WITNESS: Yes. Is this the whole
6 document?

7 MR. KRISTAL: It's not the whole
8 textbook because it's thick, and we can
9 substitute the entire text at some point after
10 the questioning.

11 THE SPECIAL MASTER: The entire -- the
12 exhibit number shall be the entire textbook.

13 MR. KAPSHANDY: And we have it here.

14 THE WITNESS: Could I see it, please?

15 MR. KRISTAL: Sure, if somebody can
16 find it.

17 MR. KAPSHANDY: Is this something that
18 we produced to you?

19 MR. KRISTAL: Yes. This was something
20 that was produced to us as part of the documents
21 that Ms. Drucker had reviewed supplied by you or
22 that she had obtained at the records site.

23 MR. SPEZIALI: We have it, and it's --

24 MR. KRISTAL: Okay.

25 MR. SPEZIALI: Give us a moment. We'll

1 people who are on the telephone have asked that
2 the phone be moved closer, so I think this would
3 be a good opportunity to do it.

4 MR. KRISTAL: Sure.

5 MR. KAPSHANDY: Counsel, while we have
6 a slight break in the action here, I note that
7 your Exhibit 28 is thinner than the version that
8 was produced to you. I'm sure you have the
9 complete copy here. Ours is much thicker than
10 the one you just marked.

11 MR. KRISTAL: 28 or 29?

12 MR. KAPSHANDY: 28. Could I just
13 verify that you have all the pages because ours
14 looks a lot thicker than yours?

15 MR. KRISTAL: Verify whatever you want
16 to verify.

17 MR. KAPSHANDY: I'm just asking if
18 you're done with it.

19 MR. KRISTAL: I'm done with it. You
20 can compare and contrast.

21 (Whereupon, Exhibit 30, a section of a
22 textbook that is entitled Industrial Poisons in
23 the United States that was written by Dr. Alice
24 Hamilton in 1925, was then received and marked
25 for identification.)

1 bring it out.

2 MR. KRISTAL: While we're trying to get
3 the entire text, I want to mark the next
4 document and ask you a next question because it
5 relates and I think it will move things along.
6 I'm marking as Exhibit 31 a document that is
7 dated July 31st, 1925.

8 (Whereupon, Exhibit 31, a document from
9 GE to the MacMillan Company medical department,
10 65th Avenue, New York, New York ordering twelve
11 copies of Industrial Poisons in the United
12 States by Alice Hamilton and asking MacMillan to
13 send a copy to a number of different General
14 Electric doctors including the president of
15 General Electric, was then received and marked
16 for identification.)

17 BY MR. KRISTAL:

18 Q. And this is a document from GE to the
19 MacMillan Company medical department, 65th
20 Avenue, New York, New York ordering twelve
21 copies of Industrial Poisons in the United
22 States by Alice Hamilton and asking MacMillan to
23 send a copy to a number of different General
24 Electric doctors including the president of
25 General Electric, correct?

1 A. Is this also the entire document?
 2 Q. Yes.
 3 A. Thank you.
 4 Q. Do you see that?
 5 A. I'm just looking it over.
 6 Q. Sure.
 7 A. Okay. And the question?
 8 Q. This is a letter asking the publisher
 9 of the 1925 textbook by Dr. Hamilton, Industrial
 10 Poisons in the United States, to send twelve
 11 copies to different people within the General
 12 Electric Corporation in 1925, right?
 13 A. Yes.
 14 Q. And one of the people to whom the
 15 textbook was to be sent was Mr. Swope who was
 16 the president of General Electric at that time,
 17 correct?
 18 A. Yes.
 19 Q. And you know from your review of the
 20 documents that Dr. Alice Hamilton was acting as
 21 a consultant to General Electric at that time
 22 with respect to industrial hygiene and dust
 23 diseases, correct?
 24 A. With respect to -- yes, with respect to
 25 industrial hygiene occupational medicine, yes.

1 Q. Including dust diseases?
 2 A. Sure, including a broad variety of
 3 things.
 4 Q. So is it fair to say from your review
 5 of these documents that General Electric, in
 6 1925, had a number of copies of Exhibit 30, the
 7 text itself?
 8 A. Well, I don't know if they were
 9 actually sent. If we assume that they were
 10 actually sent, then yes, I would say that they
 11 did have copies of it.
 12 Q. And if they weren't actually sent,
 13 General Electric certainly had that text
 14 available to them. Is that fair to say?
 15 A. Well, I'd say it was in the open press
 16 and as part of the medical and scientific
 17 literature, yes.
 18 Q. Written by a person who worked as an
 19 industrial hygiene consultant to them for over
 20 ten years?
 21 A. Yes, written by Dr. Alice Hamilton.
 22 Q. My next question relates to the text,
 23 so if you need to have the whole thing we can
 24 wait until we get it.
 25 A. Thank you.

1 Q. Sure. Why don't I do this. Let me ask
 2 the question. If, in order to answer the
 3 question, you need to look at the whole text --
 4 THE SPECIAL MASTER: I think that will
 5 be good.
 6 MR. SPEZIALI: Okay.
 7 BY MR. KRISTAL:
 8 Q. If you look at the very first chapter,
 9 that's entitled, quote, Introduction to
 10 Industrial Toxicology, end quote. Do you see
 11 that?
 12 A. Yes, I do.
 13 Q. What's the very first topic in 1925 in
 14 Dr. Hamilton's textbook? What does it say?
 15 A. Well, I don't know if it's the first
 16 topic. What she thinks --
 17 Q. Stop then, if you don't know if it's
 18 the first topic. This is chapter one, right?
 19 A. That's -- yes.
 20 Q. That's what you're looking at, correct?
 21 A. Yes.
 22 Q. And it says Introduction to Industrial
 23 Toxicology, correct?
 24 A. Yes.
 25 Q. And then in italics, there is a heading

1 for the paragraph, that's the very first
 2 paragraph of the book in terms of the actual
 3 text, not including the preface of the book; is
 4 that correct?
 5 A. Yes, there's paragraph one, yes.
 6 Q. Okay. And what is the heading of
 7 paragraph one?
 8 A. It says in italics, Chronic, Not Acute.
 9 Q. And that first paragraph, and if you
 10 want to take the time to read it obviously,
 11 draws the distinction back in 1925 between
 12 industrial poisons that are chronic versus
 13 industrial poisons that are acute; is that
 14 correct?
 15 A. I'm just going to look it over.
 16 Q. Sure, of course.
 17 A. Thank you. Okay. I read that, thank
 18 you.
 19 Q. Is that what that paragraph is
 20 discussing, the general concept of industrial
 21 hygiene with respect to industrial poisons and
 22 the distinction between chronic versus acute
 23 poisons?
 24 A. Sure, based on what was known then.
 25 Q. And based on what was known then,

1 there's a distinction between industrial poisons
2 that will affect you fairly quickly and
3 industrial poisons that take repeated small
4 doses over time to create a danger. Is that
5 fair to say?

6 A. It's really -- it depends on what we're
7 talking about; what type of material.

8 Q. Talking about a general principle of
9 industrial hygiene. And as a general principle
10 of industrial hygiene, it was known in 1925 that
11 there's a distinction between industrial poisons
12 that have their effect fairly quickly on someone
13 versus industrial poisons that take time and
14 repeated exposures before somebody feels their
15 effects.

16 MR. SPEZIALI: Objection and move to
17 strike to the extent that this cannot be proven
18 during the course of trial by counsel.

19 THE WITNESS: Sure. Again, we have to
20 put ourselves back at that point in time based
21 on what they knew then. So it would depend on
22 the specific material that they're talking
23 about. Obviously knowledge has progressed
24 vastly in eighty years.

25 MR. KRISTAL: The industrial hygiene

1 the --

2 MR. SPEZIALI: Yeah, I didn't know.

3 THE SPECIAL MASTER: Off the record,
4 please.

5 THE VIDEOGRAPHER: Off the record. The
6 time is eleven fifteen a.m.

7 (Discussion off the record.)

8 MR. KRISTAL: I've checked the indexes
9 that were with the materials and I misspoke.
10 The letter --

11 THE SPECIAL MASTER: Let's just put
12 that -- fine.

13 MR. KRISTAL: The letter which is the
14 July 31st, 1925 document which indicates that GE
15 purchased twelve copies of the 1925 book was
16 produced by GE. The text itself was not.

17 MR. SPEZIALI: Absolutely. And --

18 MR. KRISTAL: At least I have no record
19 of that as we sit here.

20 MR. SPEZIALI: Just for formality
21 purposes only, we would move to strike to the
22 extent there's any suggestion we produced it,
23 and to the extent there's any suggestion that
24 that book has any references to asbestos at all.

25 MR. KRISTAL: That's what

1 principle of chronic versus acute toxins hasn't
2 changed as a general principle, has it?

3 MR. SPEZIALI: Objection.

4 THE WITNESS: Well, if we're just
5 talking about the strict definitions --

6 MR. KRISTAL: Right.

7 THE WITNESS: Aside from what they may
8 be related to any particular substance or
9 material, sure, chronic and acute, yes, they
10 would have known then.

11 MR. SPEZIALI: Jerry, are you done with
12 that exhibit?

13 MR. KRISTAL: Yeah.

14 MR. SPEZIALI: I have a statement. You
15 had indicated that that exhibit was produced by
16 General Electric to you --

17 MR. KRISTAL: Uh-huh.

18 MR. SPEZIALI: -- as part of the
19 information related to asbestos. We're having a
20 hard time with our notes figuring that that came
21 from General Electric. Again, for one reason
22 was I don't think that book addresses asbestos
23 at all. Are you sure that came from us? And if
24 so, do you have an exhibit number?

25 MR. KRISTAL: Well, can we go off

1 cross-examination is all about, and I wasn't
2 asking about asbestos. I was asking about an
3 industrial hygiene principle.

4 MR. SPEZIALI: Okay. Again, to finish,
5 we would move to strike it to the extent there's
6 an implication it was produced by GE because it
7 had a reference to asbestos.

8 MR. KAPSHANDY: That's what you said,
9 Counsel.

10 MR. SPEZIALI: That's what you said.

11 MR. KAPSHANDY: Since we don't have a
12 copy and you're supplementing the record --

13 MR. KRISTAL: A couple of things --

14 MR. KAPSHANDY: You will be
15 substituting the complete copy.

16 MR. KRISTAL: Yes, I've already said
17 that I would be substituting the complete copy.
18 Just so it's clear, I was not saying that the
19 text said anything about asbestos. I was asking
20 in the line of questioning that had to do with
21 the principle of chronic versus acute.

22 THE SPECIAL MASTER: I think it's
23 really clear. Let's go back on the record.

24 THE VIDEOGRAPHER: We're on the record.
25 The time is eleven twenty-two a.m.

1 BY MR. KRISTAL:

2 Q. Ms. Drucker, Exhibit 31, which is the
3 July 31st, 1925 document which was provided to
4 you by the General Electric lawyers, references
5 the textbook Industrial Poisons in the United
6 States and we've reached an agreement not on the
7 video. Let me put that on now that it does not
8 appear General Electric provided you with that
9 text which is Exhibit 30. My question to you is
10 did you request to see that text after reading
11 the letter which is Exhibit 31?

12 A. I, I don't recall having done so,
13 although I do recall having seen some portions
14 of Dr. Alice Hamilton's first few editions on
15 Industrial Poisons in the United States because
16 I was interested, pardon me, in seeing if she
17 mentioned asbestos, and she did not in about the
18 first three editions of her book. So I do
19 recall having seen that somewhere and somewhat
20 recently. Where, I don't recall.

21 Q. I move to strike the non-responsive
22 portion of that answer. To the extent it is not
23 stricken, the disease asbestosis was not named
24 until 1927; is that correct?

25 A. Right.

1 Q. So a textbook in 1925 would not mention
2 the word asbestosis, correct?

3 A. Right.

4 Q. Okay. And the fact that an industrial
5 poison is not mentioned in Dr. Hamilton's 1925
6 book, does not mean that it was not an
7 industrial poison at the time, correct?

8 A. Right. There may have been other
9 things, right, as I said, it was in the first
10 several editions of her book that it wasn't.

11 Q. Silica was not mentioned in the 1925
12 book or in a few of the other books, right?

13 MR. SPEZIALI: Objection, without a
14 copy of the book.

15 BY MR. KRISTAL:

16 Q. Do you know what one way or the other?

17 A. I would have to check the book.

18 Q. And it's not mentioned, it doesn't mean
19 that industrial hygienists and doctors didn't
20 know about the disease silicosis, correct?

21 A. You're kind of asking me to guess if it
22 wasn't mentioned. I don't know. I'd have to
23 look in the book.

24 MR. SPEZIALI: Objection, and move to
25 strike counsel's answer unless he can prove at

1 trial that silicosis was not in the book.

2 MR. KRISTAL: It's easy to do. We're
3 going to have the whole book and it's not in the
4 book.

5 MR. SPEZIALI: It's easy to do but not
6 today which is perhaps --

7 THE SPECIAL MASTER: Let's move on.
8 (Whereupon, Exhibit 32, a letter dated
9 May 9th, 1929, was then received and marked for
10 identification.)

11 BY MR. KRISTAL:

12 Q. Exhibit 32 is a letter dated May 9th,
13 1929. There is no author, but from the address
14 Hull, H-U-L, House, Chicago, would you agree
15 that this probably came from Alice Hamilton?

16 A. Yes, I would.

17 Q. And the letter is addressed to
18 Mr. Eveleth, E-V-E-L-E-T-H, who's the
19 vice-president of General Electric, correct?

20 A. Yes. Can I ask, is this the
21 document -- a document from these files, and may
22 I see it, please?

23 Q. I don't know if somebody is looking for
24 it. Do you have a copy of that?

25 MR. KAPSHANDY: Yes. It's coming.

1 MR. SPEZIALI: Is that the complete
2 document?

3 MR. KRISTAL: It's three pages and it
4 ends with sincerely yours.

5 THE SPECIAL MASTER: Jerry, do you
6 think it would be possible to pull out your next
7 couple of exhibits so this young man can find
8 them so we have fewer lags?

9 MR. SPEZIALI: Is this what you're
10 asking for?

11 THE WITNESS: I just want to make sure.
12 Yeah, thanks. Thank you, yes.

13 BY MR. KRISTAL:

14 Q. Yes, it's complete?

15 A. Yes.

16 Q. And this is one of the reports that
17 Dr. Hamilton sent to GE pursuant to her
18 inspections of a number of General Electric
19 plants which was part of her responsibilities as
20 a consultant for GE, correct?

21 A. Yes.

22 Q. And this document doesn't mention
23 asbestos, but it discusses, in part, silica
24 dust, does it not?

25 A. I would have to take time to read it.

1 Would you like me to do that?

2 Q. In order to answer the question if you
3 have to read any document, you should just take
4 the time and read it.

5 A. Thank you. Thank you. And the
6 question?

7 Q. The question is this does not reference
8 asbestos, this particular document, but it talks
9 about silica dust and the dangers from silica
10 dust, correct?

11 A. Yes, in some places it does.

12 Q. And GE knew certainly as of 1929 that
13 silica dust was a mineral dust. Fair to say?

14 A. Yes.

15 Q. And GE knew that asbestos dust was a
16 mineral dust as of 1929?

17 A. Yes.

18 Q. And General Electric knew of the
19 disease silicosis which is a disease of the
20 lungs caused by inhaling silica dust in 1929,
21 correct?

22 A. Yes.

23 Q. And they had heard of the disease
24 asbestosis by 1929 being a disease from inhaling
25 asbestos dust?

1 MR. KRISTAL: Well, certainly General
2 Electric knew that isolating a dusty process
3 such as created by sandblasting which generated
4 silica dust was one way to control the hazard.
5 Is that fair to say?

6 MR. SPEZIALI: Same objection.

7 THE WITNESS: In, in a given substance.
8 Of course, as we know, here we have -- it's a
9 good example. We have an expert going around
10 looking at certain things, making observations.
11 You know, we could talk in the abstract. It
12 always depends on the particular situation. But
13 yes, screening things off may be a good control
14 in certain circumstances. It would depend.

15 MR. KRISTAL: And on page two,
16 Dr. Hamilton is discussing sandblasting at the
17 Schenectady General Electric plant, is she not?

18 THE WITNESS: Yes, under Schenectady it
19 says, yes, here the sandblasting of refrigerator
20 cabinets is the most pressing problem.

21 MR. KRISTAL: In general she's
22 discussing about how to control the hazard from
23 the silica dust in Schenectady?

24 MR. SPEZIALI: Objection.

25 THE WITNESS: Let me read that again

1 A. It's not clear to me whether they would
2 have been aware in 1929.

3 Q. 1930 maybe?

4 A. That's not clear to me.

5 Q. Okay. Both diseases, silicosis and
6 asbestosis, fall under the umbrella
7 pneumoconiosis?

8 A. They are, yes.

9 Q. And the general industrial hygiene
10 principles in terms of how to control the hazard
11 from silica dust also applied to how you would
12 control the hazards from asbestos dust?

13 MR. SPEZIALI: Objection.

14 MR. KRISTAL: The general industrial
15 hygiene principles.

16 MR. SPEZIALI: Objection and move to
17 strike to the extent counsel can't prove that
18 at trial with respect to the 1930s and '20s.

19 THE WITNESS: Well, the answer really
20 is yes and no. There are really two different
21 types of dusts, so from an industrial hygiene
22 standpoint, I know that there are vastly
23 different means of capture control and other
24 related -- and certainly a lot of this
25 information changed over long periods of time.

1 specifically with regard to this. Okay. Thank
2 you. I read that. If you could kindly repeat
3 the question.

4 BY MR. KRISTAL:

5 Q. The paragraph is discussing the hazard
6 from silica dust at a particular GE plant,
7 right, in general?

8 A. Yes, in general, and she mentions other
9 things, of course.

10 Q. And what she -- one of the
11 recommendations she has is that with respect to
12 the sandblasters themselves, that they wear what
13 she calls positive pressure respirators,
14 correct?

15 A. Yes, she's mentioning positive pressure
16 respirators.

17 Q. For the sandblasters?

18 A. Yes.

19 Q. And what she's saying in the next
20 sentence after she mentions that is that there
21 would still be a hazard to other people working
22 in that department even if the sandblasters
23 themselves were wearing respirators?

24 MR. SPEZIALI: Objection.

25 THE WITNESS: I don't see those

1 particular words. Maybe you could tell me what
2 you're looking at.

3 BY MR. KRISTAL:

4 Q. Sure. It says, quote, I have had a
5 sample of an excellent form of positive pressure
6 respirator sent to Schenectady and believe that
7 this should be used by the sandblasters, but it
8 would not be possible to insist on all the men
9 in that department wearing such a respirator.
10 They will have to be protected by controlling
11 the dust, end quote. Do you see that?

12 A. Yes, I do.

13 Q. So your understanding of those
14 sentences is the sandblasters themselves might
15 be protected if they're wearing respirators, but
16 other people in the department would have to
17 have some other protection from the hazard from
18 the silica dust?

19 A. Well, your second part is not clear;
20 the part that "but other people in the
21 department". She's mentioning other people. I
22 don't know where they are, but in general, she's
23 saying, right, positive pressure respirators for
24 some, dust control for others.

25 Q. Right. So that the other men in the

1 that you're mentioning.

2 Q. Did you request the treatise itself
3 from the GE lawyers or anybody else?

4 A. Yes.

5 Q. Nobody could provide it to you?

6 A. I was told that they couldn't find it.

7 Q. Okay. This also mentions down below
8 Dr. Vosburgh who was also -- we mentioned
9 earlier, but he was operating for GE out of the
10 Schenectady area, as well. Is that fair to say?

11 A. Yes.

12 Q. The next document is a letter dated
13 September 8th, 1932. I'm going to mark that as
14 exhibit -- I think it's 33; is that correct?
15 Yes.

16 (Whereupon, Exhibit 33, a letter from
17 B. Delack to Mr. Swope, the president of General
18 Electric, was then received and marked for
19 identification.)

20 BY MR. KRISTAL:

21 Q. This is a letter from a B. Delack,
22 D-E-L-A-C-K, to Mr. Swope, the president of
23 General Electric.

24 A. Thank you.

25 Q. You're welcome.

1 department who are not the sandblasters have to
2 be protected from the dust in some way?

3 A. Okay.

4 Q. Well, isn't that what she's saying?

5 A. Well, we don't know -- I'll just say in
6 general that that appears, yes.

7 Q. The document also mentions in the next
8 paragraph Dr. Cowle, who we had mentioned, and
9 she's an internal doctor who was a consultant on
10 dust specifically, correct?

11 A. Let me just read that. Yes, she
12 mentions a Dr. Cowle.

13 Q. And she mentions that Dr. Cowle is
14 going to become the consultant on dusts
15 internally at GE for the Schenectady plant, and
16 she's hoping that Dr. Cowle will do likewise for
17 other plants. Fair to say?

18 A. In general, yes.

19 MR. SPEZIALI: Objection.

20 BY MR. KRISTAL:

21 Q. And do you recall Dr. Cowle, a couple
22 of years later in 1934, had written a treatise
23 regarding asbestos hazards at the Schenectady
24 plant?

25 A. I had seen references to such an item

1 A. Okay. Again, if I could have this from
2 the files to make sure it's complete.

3 MR. SPEZIALI: Did you say September
4 8th.

5 MR. KRISTAL: Right, September 8th,
6 1932.

7 MR. KAPSHANDY: We have September 9.

8 MR. KRISTAL: Well, it's stamped up top
9 September 9. I don't know if that's when it was
10 received, but the date on the letter, it says
11 Schenectady, September 8th.

12 MR. KAPSHANDY: We have September 9 and
13 12.

14 MR. KRISTAL: Okay.

15 MR. SPEZIALI: Why don't we just take a
16 look --

17 THE SPECIAL MASTER: Is it a different
18 document that you have?

19 MR. KAPSHANDY: We believe so.

20 THE SPECIAL MASTER: Is there any
21 reason to believe that document is not correct?

22 MR. SPEZIALI: No. I just wanted to
23 see it before she's asked questions.

24 THE SPECIAL MASTER: If the document is
25 complete, there's no reason for them to give you

1 another copy. I'm only concerned about
2 incomplete documents coming from the files.
3 Completed documents, Jerry's documents are
4 sufficient.

5 MR. KAPSHANDY: Can you tell us where
6 this comes from? I don't believe we've seen it.

7 MR. KRISTAL: It's our GE exhibit list.
8 GE Exhibit 408.

9 Have you ever seen this before?

10 THE WITNESS: I'm looking it over.

11 MR. KRISTAL: Sure, and that would be
12 my first question. In fact, it is my first
13 question.

14 MR. SPEZIALI: When you say GE exhibit,
15 you mean Plaintiff's GE exhibit.

16 MR. KRISTAL: Plaintiff's General
17 Electric exhibit list, I have it as 408.

18 MR. KAPSHANDY: But it's not something
19 that we provided to you?

20 MR. KRISTAL: I don't know if it was
21 provided -- I don't know.

22 MR. KAPSHANDY: We've not seen it
23 before. That's why I'm asking.

24 MR. KRISTAL: Well, you have seen it
25 before because you have the exhibit list. You

1 latency as a word.

2 Q. That's what they're talking about,
3 though, isn't it? Well, let me read the
4 paragraph and then we'll discuss it. Quote,
5 there are quite a number of our people who have
6 an incipient silicosis condition, but it is
7 surprising that in some activities it requires
8 from eight to ten years before this begins to
9 show much of any development. In fact, we had
10 one case where the exposure had been twenty
11 years or more and the patient was apparently in
12 fairly good health although the lungs were
13 practically destroyed. This employee died
14 suddenly, end quote. Do you see that?

15 A. Yes.

16 MR. SPEZIALI: I --

17 MR. KRISTAL: Without mentioning --

18 MR. SPEZIALI: For the record, I'm
19 objecting to this document on relevance grounds.
20 If counsel ties it in later --

21 THE SPECIAL MASTER: Just state your
22 objection. Objection.

23 MR. KRISTAL: That one would be
24 reserved anyway.

25 THE SPECIAL MASTER: It would be

1 may not have provided it to Ms. Drucker.

2 MR. KAPSHANDY: Can you tell us where
3 this comes from?

4 MR. KRISTAL: Probably Dr. Castleman.
5 I would have to research that question, but I
6 would believe it's Dr. Castleman.

7 MR. SPEZIALI: This is not an asbestos
8 document.

9 MR. KRISTAL: Are you ready?

10 THE WITNESS: Yes.

11 BY MR. KRISTAL:

12 Q. Have you ever seen this document
13 before?

14 A. I don't recall it.

15 Q. This mentions that Dr. Cowle has been
16 employed on health hazards before. We've
17 already discussed that, right?

18 A. Yes.

19 Q. And it also mentions in the third
20 paragraph down the latency period for the
21 development of silicosis, does it not?

22 A. I'm checking.

23 Q. Sure.

24 A. Well, she doesn't, or he. I don't know
25 who the author is. They don't mention the word

1 preserved, exactly.

2 BY MR. KRISTAL:

3 Q. Although they don't mention the word
4 latency, that is the concept of latency,
5 correct?

6 A. I don't know from this paragraph. I
7 don't know what they mean by incipient, so I
8 don't know what they're really discussing here.
9 They use the word incipient silicosis condition.
10 I don't recall having heard that phrase before.

11 Q. Okay. But what they're saying is that
12 for some people it took eight to ten years before
13 they began to show much of any development, and
14 for other people it took longer, correct?

15 A. It's not clear because I don't know
16 what they're, what they're -- when they say
17 incipient silicosis, I don't know what they're
18 talking about.

19 Q. Well, what would you do to find out?

20 A. I don't know. I'd have to give it some
21 thought.

22 Q. Okay. The next document, Exhibit 34,
23 is dated October 10th and 11th, 1929,
24 Schenectady, New York.

25 (Whereupon, Exhibit 34, a document

1 dated October 10th and 11th, 1929, Schenectady,
2 New York, was then received and marked for
3 identification.)

4 MR. KAPSHANDY: What's the date, Jerry?

5 MR. KRISTAL: October 10 and 11, 1929.

6 It's General Electric Exhibit 396 on the
7 Plaintiff's exhibit list.

8 THE WITNESS: Is this the entire
9 document?

10 BY MR. KRISTAL:

11 Q. I believe so. You can check.

12 A. Thank you. Thank you. That's yours.

13 Q. This is the complete document?

14 A. Yes.

15 Q. And it was one that was provided to you
16 by the General Electric lawyers?

17 A. Yes.

18 Q. Now, this doesn't mention asbestos or
19 asbestosis either, does it?

20 A. Not that -- I was just quickly glancing
21 over it. I didn't see that mentioned, no.

22 Q. Did you ask the lawyers why they were
23 providing you documents that didn't relate or
24 didn't specifically say asbestos or asbestosis?

25 A. Sure.

1 Q. What did they say?

2 A. Well, I, I had asked for all documents
3 related to health and safety aspects of, of
4 asbestos, and as part of Dr. Hamilton's surveys,
5 I was provided the entire body of her
6 information. So this was part of her survey
7 and --

8 Q. And you would agree that knowledge of
9 general industrial hygiene principles apply to a
10 number of different industrial poisons, whether
11 it's silica or asbestos or something else?

12 A. Well, as I said before, from an
13 industrial hygiene standpoint, different types
14 of particulates have different properties, and
15 so various measures really depend on the
16 particular substance and conditions in which
17 they're found.

18 Q. I'm not asking you whether different
19 substances have different properties. What I'm
20 asking you about is there are, in the field of
21 industrial hygiene, some general principles that
22 would apply, for example, to all dust diseases,
23 are there not?

24 MR. SPEZIALI: Objection, and move to
25 strike if counsel can't tie it up at the time of

1 trial.

2 THE WITNESS: It's hard to answer. I'd
3 say maybe, maybe not. It would depend on the
4 particular point in time, it would depend on the
5 particular substance, a particular workplace or
6 location. Those kinds of things vary.

7 BY MR. KRISTAL:

8 Q. Okay. On the sixth page -- this is a
9 Dr. Hamilton document, right? It's a report
10 from Dr. Hamilton? Is that your understanding?

11 A. Yes. It appears to be, yes.

12 Q. And again, the sixth page talks about
13 the risks from silica sand?

14 A. I'm missing page six actually. I have
15 a page -- oh, wait. Pardon me. Okay. I have
16 page six. Thank you.

17 Q. It discussing, in part, the risk from
18 silica sand, correct?

19 A. Yeah. It starts out by -- yes, she's
20 discussing silica sand, right.

21 Q. And again, different date, different
22 context they're talking about people being
23 exposed and at risk from silica sand even though
24 they're not doing the sandblasting itself in the
25 first paragraph? Does she not mention that?

1 A. Let me just check that. In this
2 particular situation, yes.

3 (Whereupon, Exhibit 35, a document
4 dated May 1929 entitled Pittsfield, another
5 Alice Hamilton report to General Electric, was
6 then received and marked for identification.)

7 MR. KRISTAL: And Exhibit 35 is dated
8 May 29th. I'm sorry -- strike that.

9 May 1929. It's entitled Pittsfield,
10 and again is that another Alice Hamilton report
11 to General Electric?

12 MR. SPEZIALI: What date is that?

13 THE WITNESS: It says May 1929. If I
14 could just check that.

15 THE SPECIAL MASTER: To speed this up,
16 Jerry, if you can mark the document, say it's a
17 ten-page document and then the lawyers can check
18 to see if they have all the pages.

19 MR. KRISTAL: That's a great -- because
20 I have -- suggestion because I have a four-page
21 document.

22 THE WITNESS: If I could just make sure
23 if it's in these.

24 MR. KRISTAL: It may not have been
25 provided to you by the General Electric lawyers.

1 MR. KAPSHANDY: That would be helpful
2 also --

3 MR. KRISTAL: I don't know if they were
4 or weren't. This is on Plaintiff's exhibit
5 list. It's a General Electric --

6 MR. KAPSHANDY: We didn't bring those.
7 It would help us not to waste time looking
8 through our files.

9 MR. SPEZIALI: We don't have it.

10 MR. KRISTAL: It's GE Exhibit 386.4.
11 Part of the problem, Tim, with your suggestion
12 is I don't know -- all of these have GE exhibit
13 numbers, Plaintiff exhibit numbers, and it does
14 not tell me by what I have in front of me
15 whether it was provided by you folks or whether
16 it was provided by other sources.

17 MR. KAPSHANDY: You're more likely to
18 know.

19 THE SPECIAL MASTER: Aren't these Bates
20 stamped?

21 MR. KRISTAL: No.

22 MR. SPEZIALI: The other problem is, I
23 mean, documents are being produced every day.
24 We got a new exhibit batch in --

25 MR. KRISTAL: On both sides.

1 THE SPECIAL MASTER: Let's just move
2 on. It's a four-page document.

3 MR. KRISTAL: Four-page document. Does
4 this appear to be another report pursuant to an
5 industrial hygiene inspection of a GE plant?

6 THE WITNESS: I'm looking it over. I
7 don't know.

8 MR. SPEZIALI: Could I see that
9 document for a moment?

10 MR. KRISTAL: Third page of the
11 document, there's a reference to lead dust and
12 the hazard from lead dust, is there not? It's
13 the second complete paragraph.

14 MR. SPEZIALI: Objection.

15 THE WITNESS: Okay. Again, I don't
16 know who wrote this or where it's from.

17 MR. SPEZIALI: That's all right. Take
18 your time and read it if you want to.

19 THE WITNESS: Okay. I think I'll look
20 it over, and you want me to look specifically at
21 what?

22 BY MR. KRISTAL:

23 Q. Third page, second full paragraph.

24 A. As you can tell, I'm reading this now,
25 some of it is difficult to read. It looks like

1 a copy of a copy, many generations, and some of
2 the letters are missing parts.

3 Q. Well, that was true of a lot of the
4 documents that you reviewed, correct?

5 A. Some of them. This is a little more
6 sketchy in terms of completeness.

7 Q. What word can't you read in the
8 paragraph I'm talking about?

9 MR. SPEZIALI: You're on the first
10 page.

11 THE WITNESS: I'm just looking at the
12 first page. I'm trying to make them all out.

13 BY MR. KRISTAL:

14 Q. Yeah. What word can't you read on the
15 first page?

16 A. I couldn't read it -- I don't know if I
17 can tell you which word it was, but there are --
18 just some of the letters appear to be --

19 Q. Okay.

20 A. So I'm, I'm trying to do my best to
21 read it.

22 MR. KAPSHANDY: Counsel, while she's
23 reading, can we look at a copy because this
24 isn't something that we apparently had in our
25 files?

1 MR. KRISTAL: Well, just so the record
2 is clear, this was provided to GE as a
3 Plaintiff's exhibit. It's Exhibit Number 386.4.

4 MR. KAPSHANDY: As I said, we didn't
5 bring your exhibit list. We brought things --

6 MR. KRISTAL: I'm just responding to
7 the fact that you said you didn't have it in
8 your files.

9 MR. KAPSHANDY: Here today. Right here
10 today. We'd appreciate it if we could look at
11 it while she's looking at it. Thank you.

12 MR. SPEZIALI: While she's looking at
13 it, I object to the use of this document.

14 THE SPECIAL MASTER: Just state you
15 object to the document. That will be enough.

16 MR. SPEZIALI: I understand.

17 THE WITNESS: Okay. Thank you.

18 BY MR. KRISTAL:

19 Q. The paragraph I was referring to on the
20 third page is, in part, referencing a hazard
21 from lead dust, correct?

22 A. I just want to make sure you and I are
23 looking at the same page, so maybe you could tell me
24 what paragraph it starts in. Building
25 forty-one? That one?

1 Q. Exactly.
 2 A. Okay. Yes, it's right they're talking
 3 about litharge, which is lead.
 4 Q. And the last sentence -- strike that.
 5 They're talking about dust in the room
 6 in general, correct? When the pouring -- quote,
 7 when the pouring goes on, pills escape and roll
 8 over the floor and are trampled to dust and are
 9 tracked over a wide area unquote. Do you see
 10 that?
 11 A. Yes, I do.
 12 Q. And then the last sentence of that
 13 paragraph reads, quote, both men and women are
 14 working near this department, and although their
 15 employment has nothing to do with lead, they're
 16 exposed to lead dust because of these faulty
 17 arrangements, end quote. Do you see that?
 18 A. I see that sentence, yes.
 19 Q. So that's an example of knowledge that
 20 people who are not working necessarily with the
 21 lead pills themselves can be exposed to the dust
 22 even though they're not working in that
 23 department?
 24 A. Well, I think what she's saying here is
 25 that in this particular instance because of how

1 MR. SPEZIALI: Two-page document.
 2 MR. KRISTAL: Three pages. I gave you
 3 one page.
 4 MR. SPEZIALI: Did I give you the right
 5 one?
 6 THE WITNESS: Yes, you did.
 7 MR. KRISTAL: We'll substitute the more
 8 complete document.
 9 BY MR. KRISTAL:
 10 Q. And this, to your understanding, is a
 11 visit by Alice Hamilton to the plant in Chicago
 12 and a report to General Electric, correct?
 13 A. Yes.
 14 Q. And the last paragraph refers to a
 15 hazard from the silica dust, not from the silica
 16 sand directly itself as in sandblasting, but
 17 from manipulation of a finished product that was
 18 made from sand; is that correct?
 19 A. I'm going to read that.
 20 Q. Sure.
 21 A. Okay.
 22 MR. KRISTAL: Can I see the second two
 23 pages? Maybe there's something good.
 24 THE WITNESS: I don't see what you're
 25 referring to.

1 it's configured that that is one possibility.
 2 Q. Next document, Exhibit 36, is dated
 3 April 20th, 1931. Up top it says General
 4 Electric X-ray Corporation, Chicago.
 5 (Whereupon, Exhibit 36, a document
 6 dated April 20th, 1931, General Electric X-ray
 7 Corporation, Chicago, was then received and
 8 marked for identification.)
 9 MR. KRISTAL: Do you have that?
 10 THE WITNESS: Yes. And is this from
 11 these GE documents may I ask?
 12 MR. KRISTAL: It is a GE document. I
 13 don't know if this was provided to you by the
 14 General Electric lawyers or not. This is
 15 Plaintiff's General Electric Number 398. Do you
 16 have that?
 17 THE WITNESS: Dated April 20th, 1931.
 18 I'd just like to see if it was provided to me
 19 previously.
 20 MR. SPEZIALI: Yes.
 21 THE WITNESS: Yes. Oh? It's in there?
 22 MR. SPEZIALI: Make sure they're the
 23 same.
 24 MR. KRISTAL: I don't have a second
 25 page.

1 BY MR. KRISTAL:
 2 Q. Sure. The last paragraph says, quote,
 3 the silica dust occurs in the removal of dried
 4 putty by rubbing with sand paper and in sand
 5 papering fired goods to prepare that for a
 6 second coating, unquote. Do you see that?
 7 A. Yes.
 8 Q. So they're not talking about
 9 sandblasting now with sand being shot of a, a
 10 sandblast equipment as we saw in some of the
 11 earlier ones, correct? This is not sandblasting
 12 they're talking about?
 13 A. Right.
 14 Q. They're talking about sand papering a
 15 finished good that was made from sand.
 16 A. I'm just going to reread that. What
 17 they're saying is that they're talking about
 18 dust in the removal of a dried putty. We don't know
 19 what the putty is, but --
 20 Q. And in sand papering fired goods to
 21 prepare them for a second coating, correct?
 22 A. Yes.
 23 Q. And this is recognizing that there is a
 24 hazard from the sanding of a fired good made
 25 from sand with respect to silica dust. Is that

1 fair to say?

2 A. Well, it's fair to say that in this
3 particular instance. Again, she's here, the
4 professional is looking at it, and he or she is
5 saying in that instance that's a hazard.

6 Q. So GE was aware in 1931 that with
7 respect to silicosis, the hazard was not just
8 from sand from sandblasting. Is that fair to
9 say?

10 MR. SPEZIALI: Objection.

11 THE WITNESS: Well, I'd say what they
12 were aware of was that in this particular
13 instance that would be the case.

14 MR. KRISTAL: Okay. Next document we
15 had mentioned very briefly earlier, at least we
16 mentioned the subject, and I'm marking it as
17 Exhibit 37. It's dated March 25th, 1930,
18 Schenectady, and it is another report by
19 Dr. Hamilton.

20 (Whereupon, Exhibit 37, a document
21 dated March 25th, 1930, Schenectady, another
22 report by Dr. Hamilton, was then received and
23 marked for identification.)

24 MR. KRISTAL: Is that your
25 understanding of this? It's Plaintiff's GE

1 Q. Okay.

2 A. The previous document I'm referring to
3 in which it said that she was a consultant.

4 Q. This document notes that Dr. Cowle is
5 collecting literature about asbestos. Fair to
6 say?

7 A. Yes.

8 Q. And then it mentions, the next
9 sentence, Merewether, the Englishman, has
10 devised a standard of size and number of
11 particles. Do you see that?

12 A. Yes.

13 Q. And you were provided by -- the
14 Merewether report, were you not, by the General
15 Electric lawyers?

16 A. Yes, if we're talking about the
17 Merewether 1930 report, yes.

18 Q. Yes. I'm going to mark that now as
19 Exhibit 38.

20 (Whereupon, Exhibit 38, the Merewether
21 1930 report, was then received and marked for
22 identification.)

23 BY MR. KRISTAL:

24 Q. I'll hand it to you. I have some
25 questions about that document.

1 Exhibit 397. I believe you folks provided that
2 to Ms. Drucker.

3 THE WITNESS: It's March 25th. I'd
4 just like to check make sure it's in the
5 documents that I looked at. Thank you. Okay.
6 Yes. Thank you.

7 BY MR. KRISTAL:

8 Q. And this is the document that
9 Dr. Hamilton wrote. Is that your understanding?

10 A. Yes.

11 Q. And in it she notes that Dr. Cowle, the
12 other consultant on dust for GE who was a GE
13 employee, is collecting literature at that point
14 in time about asbestos, correct?

15 A. Well, from our previous document it
16 appeared that Dr. Cowle was a consultant, not an
17 employee of GE. But it says here that Dr. Cowle
18 is collecting literature about asbestos.

19 Q. Well, from the other document,
20 Dr. Cowle was consulting internally at
21 Schenectady, correct? Strike that question.

22 Do you know one way or the other
23 whether Dr. Cowle was a GE employee or not?

24 A. Other than what we saw in the document,
25 no.

1 A. Okay. Thank you.

2 Q. You have read this document before, I
3 take it.

4 A. Yes.

5 Q. And General -- strike that.

6 Dr. Merewether was a medical inspector
7 of factories in Britain, correct?

8 A. Yes.

9 Q. And there was a factory inspection
10 department in England that would go around -- it
11 was a governmental agency that would inspect
12 various factories. Fair to say?

13 A. I don't know.

14 Q. Well, you know that General Electric
15 was aware that in England there was a factory
16 inspection department from your review of
17 documents, do you not?

18 MR. SPEZIALI: Objection.

19 THE WITNESS: No.

20 MR. KRISTAL: Let me mark as Exhibit 39
21 and then we'll come back to the Merewether
22 report.

23 (Whereupon, Exhibit 39, a document
24 dated June 7th 1926, and it is from Alice
25 Hamilton to Gerard Swope, president of General

1 Electric Company, was then received and marked
2 for identification.)

3 BY MR. KRISTAL:

4 Q. This document is dated June 7th, 1926,
5 and it is from Alice Hamilton to Gerard Swope,
6 president of General Electric Company. It's
7 Plaintiff's GE Exhibit 384.

8 A. If we could just check, that's June
9 7th, 1926. June 7th, 1926. Thank you.

10 Q. And in the first paragraph Dr. Hamilton
11 is telling Mr. Swope about some problems that
12 she found in the Pittsfield GE plant, correct?

13 A. I'm just looking at that. She
14 discusses, yes, something with reference to
15 Pittsfield.

16 Q. Well, she's saying that the conditions
17 were pretty bad when she went there. And the
18 point of me showing you this document is that
19 she tells Dr. Swope that she had told somebody
20 else that it would be, quote, closed at short
21 notice in England by the factory inspection
22 department, end quote.

23 A. I'm just reading that. Right, she's
24 discussing a particular situation, and she does
25 say, right, I told Mr. Insol (sic) it would be

1 general knowledge of GE about this factory
2 inspection department.

3 A. Okay.

4 Q. And she's making a comment that the
5 Pittsfield plant would have been closed if it
6 was in England by the factory inspection
7 department, is she not?

8 A. Right, but she's referencing this
9 particular situation. She's not talking about
10 the universe of what there may be. So the
11 reader could conceivably take this to mean that
12 in a particular instance where this type of
13 hazard was present, that there may be a factory
14 inspection department for that. I don't know if
15 somebody could walk away from this thinking that
16 there's a factory inspection department that
17 would do everything. I don't take that from
18 here.

19 Q. Okay. The Merewether report was
20 written by Dr. Merewether who was the medical
21 inspector of factories, correct?

22 A. Yes. And if I may have a copy, I will
23 have that in front of me as we're going along.
24 Thank you.

25 Q. And the co-author was Mr. Price who was

1 closed at short notice in England by the factory
2 inspection department. That's what she says.

3 Q. Right. So certainly as of 1926
4 Mr. Swope, the president of GE, was aware that
5 in England there was a factory inspection
6 department?

7 A. Well --

8 Q. Assuming he reads the letters that are
9 sent to him, right?

10 A. Yes. I think that in this particular
11 instance this would have been -- this type of
12 potential exposure would have been brought to
13 his attention.

14 Q. I'm not talking about the type of
15 potential exposure in Pittsfield that's being
16 discussed here. What led me to show you this
17 document is the fact that I was asking you
18 whether General Electric was aware that there
19 was a factory inspection department in England.
20 And you would agree having read that that as of
21 1926 General Electric was aware of that?

22 A. Yes, from this, and again, focused on
23 this particular situation, yes.

24 Q. What do you mean focused on this
25 particular situation? I'm talking about the

1 an engineering inspector of factories, correct?

2 A. That's what it says. And may I ask, is
3 this the full document from the GE files?

4 Q. It's the entire Merewether report. I'm
5 assuming the General Electric lawyers gave you
6 the whole report. Do you have any reason to
7 doubt that they did?

8 MR. KAPSHANDY: Actually, ours appears
9 to be thicker. That's why we're asking.

10 THE SPECIAL MASTER: Are the pages
11 numbered?

12 MR. SPEZIALI: It's the cover letter.

13 THE WITNESS: Thirty-four.

14 MR. SPEZIALI: I can tell you at first
15 blush the cover letter for the Merewether report
16 is missing from the copy handed to the witness.

17 MR. KRISTAL: Now, this document is the
18 report of Merewether and Price to Parliament,
19 correct?

20 THE WITNESS: I don't know.

21 MR. SPEZIALI: Again, Jerry, I can show
22 her. It's missing from what you gave her.

23 THE SPECIAL MASTER: Is that the only
24 thing missing, the cover letter?

25 MR. SPEZIALI: Yeah.

1 MR. KRISTAL: If you look at page three
2 at the bottom --

3 MR. SPEZIALI: She can answer the
4 question.

5 MR. KRISTAL: She can answer the
6 question.

7 THE SPECIAL MASTER: If she knows.

8 MR. SPEZIALI: Go ahead. I was trying
9 to be helpful.

10 THE SPECIAL MASTER: She's testified
11 that this came out of the file. She's seen
12 these documents before. She may know. If she
13 doesn't know, she doesn't know.

14 BY MR. KRISTAL:

15 Q. Page three. It says, quote, this
16 report was laid before Parliament on the 24th,
17 March 1930 but has not been published as a
18 command paper, end quote. Do you see that?

19 A. Yes.

20 Q. And the title of the report is, quote,
21 Report on Effects of Asbestos Dust on the Lungs
22 and Dust Suppression in the Asbestos Industry,
23 end quote, correct?

24 A. Yes.

25 Q. And in the introductory paragraph, they

1 deciding whether the supervision of this
2 disease in an asbestos worker was an exceptional
3 occurrence or evidence of a grave health risk in
4 the industry was apparent and the investigation
5 referred to was undertaken, correct?

6 A. Right. And this, of course, is like
7 the asbestos industry, right.

8 Q. We're going to get there. They also
9 talk about asbestos dust from finished goods
10 such as on ships used as insulation, correct?

11 MR. SPEZIALI: Objection.

12 MR. KRISTAL: Do you recall that.

13 MR. SPEZIALI: Move to strike if
14 counsel can't demonstrate it at trial.

15 BY MR. KRISTAL:

16 Q. Do you recall that or not?

17 A. I'd have to look at the document to
18 answer that.

19 Q. Sure. Did you read this document
20 closely?

21 A. I did.

22 Q. Okay. If you turn to page three -- I'm
23 sorry, page nine, I apologize. There's a
24 description in 1930 of the disease asbestosis
25 itself, correct?

1 are noting that it is a report based on
2 investigations that were conducted in 1928 and
3 1929 following the discovery in February 1928 of
4 a case of non-tubercular fibrosis of the lungs
5 in an asbestos worker. Do you see that?

6 A. Yes.

7 Q. And you were aware that this
8 investigation was conducted to see whether or
9 not there was a grave health risk or whether
10 this was an isolated incidence, correct?

11 A. Well, I think it was just an
12 investigation conducted to follow up. Of
13 course, this relates to factory conditions, but
14 in those circumstances, sure.

15 Q. Okay. I move to strike the
16 non-responsive portion of that answer.

17 The case that they're talking about
18 from February 1928 is what was called Seiler's
19 case, S-E-I-L-E-R-'S, correct?

20 A. Yes, that's what it says.

21 Q. And the last paragraph of the
22 introduction says, quote, when therefore
23 investigation of Seiler's case showed that other
24 industrial and infective causes of fibrosis
25 could be definitely excluded, the necessity of

1 A. Can I read it and I'll answer? Let me
2 just read it real quickly.

3 Q. You don't have to keep saying that.
4 You can always just take your time and read it.

5 A. I'm trying to be polite.

6 Q. No, no, I understand, but you don't
7 need to say that. Anytime you need to answer a
8 question and you need to read something to
9 answer it, feel free to do that.

10 A. Thank you. Okay. I read the first --
11 they're talking about a general -- under
12 asbestosis, the pulmonary fibrosis of asbestos
13 workers, right, they discuss it, that it's a
14 fibrosis of the lungs that occurs.

15 Q. Right. And what they say is, quote, it
16 is helpful to visualize fibrosis of the lungs as
17 it occurs in asbestos workers as the slow growth
18 of fibrous tissue, parentheses, scar tissue,
19 close parentheses, between the air cells of the
20 lung where the inhaled dust comes to rest.
21 While new fibrous tissue is being laid down like
22 a spider's web, that deposited earlier gradually
23 contracts. This fibrous tissue is not only
24 useless as a substitute for the air cells, but
25 with continued inhalation of the causative dust,

1 by its invasion of the new territory and
2 consolidation of that already occupied, it
3 gradually and literally strangles the essential
4 tissues of the lungs, end quote. Do you see
5 that?

6 A. Yes, you read that correctly.

7 Q. And therefore, asbestosis, it was known
8 at that time, was a fairly serious disease?

9 A. Well, the way it's described, sure.
10 And of course, taking that in context with the
11 whole paper, you're talking about massive
12 amounts of dust when they're talking about this
13 type of condition.

14 Q. Right. The disease -- I move to strike
15 the non-responsive portions of that answer.

16 It is reported here in 1930 that
17 asbestosis can kill somebody, correct?

18 A. I'm looking. It doesn't say that
19 literally.

20 Q. I'll show you where it says it later,
21 but looking at this particular paragraph here,
22 it's understood that the disease asbestosis is a
23 scarring of the lung tissue that eventually
24 prevents a person from breathing properly.

25 MR. SPEZIALI: Objection. Asked and

1 A. Yes.

2 Q. On page eleven I want to discuss what
3 the report says about the hazards of asbestos
4 from people who were not necessarily working
5 directly with asbestos or in the most dusty
6 processes. Okay. On page eleven, there's a
7 section that's entitled, quote, effect of work
8 in different processes, end quote. I'm going to
9 ask you about the first paragraph.

10 A. The first paragraph starting on effect
11 of work?

12 Q. Yes.

13 A. Okay. I'll read it. Okay. Thank you.

14 Q. What this is saying is that people who
15 are doing different jobs in the same vicinity
16 will be influencing the dust exposure that they
17 each have. Is that fair to say?

18 MR. SPEZIALI: Objection to the
19 question.

20 THE WITNESS: No. That's not the way I
21 read it.

22 BY MR. KRISTAL:

23 Q. Okay. Well, let me read the paragraph.
24 Quote, there are insuperable difficulties in
25 ascertaining trustworthy figures of the precise

1 answered.

2 THE WITNESS: I'm not a doctor or
3 toxicologist, but I'd say in general I know that
4 it's a fibrosis condition of the lungs.

5 BY MR. KRISTAL:

6 Q. And on page fifteen, there's a section
7 entitled Disablement Produced By the Asbestos
8 Fibrosis.

9 A. Page fifteen.

10 Q. There's a section about two-thirds of
11 the way down. Do you see that section?

12 A. I do.

13 Q. I'm going to ask you about the second
14 paragraph which is one sentence.

15 A. Okay.

16 Q. And the sentence reads, quote, there is
17 no doubt but that fibrosis of the type produced
18 by asbestos can, of itself, lead to complete
19 disablement and to a fatal termination, and this
20 in the absence of a supra-added tuberculous
21 infection, end quote. Do you see that?

22 A. I do.

23 Q. So it was certainly known in 1930 that
24 asbestosis could lead to complete disablement
25 and to death.

1 incidents of fibrosis amongst workers in
2 particular asbestos processes. This is the
3 result of the common practices within the
4 industry of housing many processes in one room
5 and of workers transferring from one process to
6 another. These two factors, the influence of
7 dust from neighboring processes and prior work
8 in other asbestos processes, operate to obscure
9 the effects due to work in any one process, end
10 quote. Do you see that?

11 A. Yes.

12 Q. So what they're saying here is that an
13 individual's dust exposure is influenced, in
14 part, by dust coming from neighboring processes?

15 A. That's not the way I read it.

16 Q. That's what it says.

17 A. That's not what it says to me.

18 Q. Well, what does it say to you with
19 respect to the influence of dust from
20 neighboring processes?

21 A. Well, it's -- it appears that here what
22 they were trying to do was they were trying to
23 separate out by different categories of what
24 people were doing what their exposures were to
25 determine what relevant exposures were in a

1 particular process.

2 Bear in mind, these are all extremely
3 dusty processes at this point in time. That's
4 what he's studying, massive exposures. What
5 he's trying to do is separate out, say, I'll
6 take it literally, the crushing people from the
7 carding people from the spinning people, so
8 forth, and insulating, weaving, miscellaneous,
9 to separate them out to get a handle on what
10 could their exposure be and then study what
11 could be the effect. That's what this is saying
12 to me.

13 Q. And what he's saying is -- they're
14 saying is that you cannot get a clear, accurate
15 picture of the dust being generated by one
16 process because the dust counts are being
17 influenced by the dust that's coming from the
18 other neighboring processes. Isn't that what
19 he's saying?

20 MR. SPEZIALI: Objection, objection.

21 THE WITNESS: Let me just read
22 something again, please. That's not the way I
23 read it. I don't know how else to answer it.

24 BY MR. KRISTAL:

25 Q. I'll show you more.

1 going to have to check the numbers in the
2 relative scale.

3 Q. Well, it says it on the page there. If
4 you look three paragraphs above table five, it
5 says, quote, the figures in table five which
6 were calculated from some fifty determinations
7 give a rough idea of the general dustiness of
8 the processes concerned and also of the effect
9 of localized exhaust ventilation and damping in
10 reducing the concentrations of dust in some of
11 them. The counts in other processes are
12 expressed proportionately to the spinning,
13 plating and braiding group taken as unity, end
14 quote. Right?

15 A. Where were you reading that from?
16 Could you show me?

17 Q. Sure.

18 A. Thank you.

19 Q. The figures in table five.

20 A. Thank you. Okay.

21 Q. So what he's saying there -- what they
22 are saying there, is that spinning, plating and
23 braiding group were assigned unity or number
24 one, correct?

25 A. Uh-huh, yes.

1 A. Thank you.

2 Q. What he did was he ranked the different
3 jobs that were being done that were generating
4 asbestos dust and gave the least number one and
5 then the other processes were compared to that
6 number one. Is that fair to say generally?

7 A. Well, you're making a big
8 generalization. Let's look at different parts.
9 You can point things out to me and I could
10 answer.

11 Q. Sure. If you look at page twelve,
12 relative dust in the various asbestos processes.
13 Do you see that?

14 A. Yes.

15 Q. And there's a chart on page twelve,
16 right, table five?

17 A. Right.

18 Q. And there are different jobs that are
19 being done, correct?

20 A. Yes, there are, he's breaking it out by
21 different processes in the factory.

22 Q. And then spinning, braiding, plating
23 without local exhaust ventilation was assigned
24 the number one in terms of dustiness, correct?

25 A. I'm just checking. I'm going to, I'm

1 Q. Okay. And all the other processes were
2 given relative dustiness numbers compared to
3 number one, correct?

4 A. Yes.

5 Q. And that's demonstrated in table five,
6 right, the relative dustiness numbers?

7 A. Yeah. And to fully answer that, I
8 don't know how much more we're going to go into
9 this. I'd really have to study it and refresh
10 myself on this.

11 Q. Okay. Well, just look at page
12 thirteen.

13 A. Okay.

14 Q. The third full paragraph, quote,
15 relative to the comparative numbers for the
16 other different processes, the figure of one for
17 spinning, plating and braiding is probably
18 rather too high owing to contamination by dust
19 from neighboring and more dusty processes, end
20 quote. Do you see that?

21 A. Yes.

22 Q. So what they're saying, Merewether and
23 Price, 1930, is that one group of people who are
24 doing spinning, plating and braiding are
25 being -- strike that.

1 Their dust exposures are higher than
2 their own work due to contamination from, as he
3 says, neighboring and more dusty processes,
4 correct?

5 A. Yes.

6 MR. SPEZIALI: Objection.

7 THE WITNESS: That's what it says here.
8 And of course, he's talking about this factory
9 setting.

10 MR. KRISTAL: Move to strike the
11 non-responsive portion of that.

12 Now, he also knew that because there
13 were some people working in the same room at
14 lower dusty jobs, their risk was greater due to
15 the contamination from the dust coming from
16 other jobs, correct?

17 MR. SPEZIALI: Objection.

18 THE WITNESS: Well, could you repeat
19 that? That was a little distracting. I'm
20 sorry.

21 MR. KRISTAL: Sure. Merewether and
22 Price also said in 1930 that the risk to the
23 people who were in the less dusty work was
24 greater due to dust coming from the more dusty
25 work in the same vicinity?

1 MR. SPEZIALI: Objection.

2 MR. KRISTAL: Right?

3 THE WITNESS: I don't know if they used
4 that terminology.

5 BY MR. KRISTAL:

6 Q. Okay. Look at page twenty. There's a
7 section entitled separation of processes.

8 A. Yes.

9 Q. And it says, quote, in many works
10 several processes are carried on in the same
11 room. In the absence of effective means of
12 preventing escape of dust into the air, many
13 workers are subjected to a risk from which they
14 would otherwise be immune or to a greater risk
15 than that arising from their own work, end
16 quote. Do you see that?

17 A. Yes.

18 Q. So Merewether and Price are
19 acknowledging that there are some people who may
20 not have any risk who are being exposed to a
21 risk from the dust from other processes,
22 correct?

23 A. Right. They're saying that some people
24 are subject to greater risk from other
25 processes.

1 Q. Okay.

2 MR. KRISTAL: Why don't we go off the
3 video record so we can change tape.

4 THE SPECIAL MASTER: Okay. Off.

5 THE VIDEOGRAPHER: This is the
6 conclusion of tape number one of the continuing
7 deposition, volume three of Marjorie Drucker.
8 Off the record. The time is twelve twenty-seven
9 p.m.

10 (Whereupon, a recess was then taken.)

11 MR. KRISTAL: I would just ask if this
12 is something that relates to a document
13 question, that we have Ms. Drucker step out of
14 the room.

15 MR. SPEZIALI: Sure. One second. This
16 will take two minutes, because I don't want to
17 be --

18 The reason I want to make sure this
19 record is absolutely clear is because I think, I
20 think it's, it's, it's being unfair at this
21 point, and I have an objection.

22 This witness was produced with respect
23 to health and safety issues relevant to General
24 Electric's historical use of asbestos. That's
25 not what's happening here. What the Plaintiffs

1 are attempting to do is create a fantasy record
2 that they want to show around the country, as
3 well as in New York, to try to make this witness
4 look bad.

5 For example, we're sitting here hearing
6 about documents about lead paint, silica, things
7 that have nothing to do with asbestos, and, and
8 in there subtly suggestions so therefore, it
9 must have something to do with asbestos.

10 Now, the witness sits here and the
11 witness says, well, wait a minute, let me reread
12 this document. And she sits here and she looks
13 at it, and perhaps it doesn't look good on
14 camera that she has to read it or not read it
15 but it has no relevance.

16 MR. KRISTAL: We can go off the record
17 if you want.

18 MR. SPEZIALI: Excuse me, excuse me.
19 Let me finish. Let's take it a step further.
20 Now we've sat here for twenty plus minutes with
21 the Merewether report from 1930. She's not a
22 state-of-the-art witness, and he's gone through
23 subtle pages, subtle paragraphs about a report,
24 number one, that arises out of asbestos textile
25 factories in England, number one; number two,

1 that she would have no expectation, no matter
2 how far you would stretch the definition of what
3 this witness is all about, nobody in their right
4 mind -- fair-minded mind would suggest that she
5 would have come here today prepared to discuss
6 the Merewether report, or that it would have had
7 anything to do with her role in these cases at
8 all.

9 And yet we sit here and we're creating
10 a video record that a jury is going to watch as
11 she thumbs through this report trying to figure
12 out why in the world she's even being asked
13 about it and to put her and shed her in a bad
14 light. It's just not fair.

15 THE SPECIAL MASTER: And your -- this
16 is a discovery deposition, and your remedies are
17 as follows. Make your objection. You get it
18 stricken by the judge. You wait until Jerry is
19 done, and you ask your own set of questions to
20 make your point perfectly clear, or you do it at
21 trial.

22 Relevance is not really an objection
23 during a discovery deposition, and I don't think
24 that Jerry is asking anything that's so far
25 afield that he should be precluded from asking

1 it. These are the questions that he has chosen
2 to ask.

3 Maybe he's doing you a big favor by
4 asking questions that, as you argue, aren't
5 truly relevant to GE's knowledge of asbestos
6 hazards. That I don't know. I don't know where
7 it's all going to go, but he's permitted to ask
8 these questions, and you have forums in which
9 you can interpose your objection.

10 MR. SPEZIALI: I understand. And by
11 the way, and I would concede that the Merewether
12 report is relevant, but with the proper witness.
13 This is more than a relevance issue. This is
14 improper notice.

15 This was a witness who came as a
16 30(b)(6) witness, not as a state-of-the-art
17 witness. She's not here as our state-of-the-art
18 expert with respect to historic literature
19 including, obviously, the Merewether report.

20 THE SPECIAL MASTER: Is she not
21 designated for the knowledge of hazards and the,
22 and the -- based on the use and exposure of
23 asbestos?

24 MR. SPEZIALI: No, she is not.

25 THE SPECIAL MASTER: Excuse me. I took

1 that down.

2 MR. KRISTAL: She's designated as
3 GE's spokesperson, as the person most
4 knowledgeable about GE's historical knowledge
5 about the hazards of asbestos.

6 I don't think we need to argue. I
7 think we're wasting time, but I don't want my
8 silence to mean I agree with anything you say.
9 Other than the fact that a GE consultant from
10 the document we saw is collecting the asbestos
11 literature, the witness agreed that the sources
12 of information to GE about the hazards came from
13 published literature, and that the same document
14 mentioned Merewether. Other than that, the
15 Merewether report is not relevant. Obviously
16 I'm being facetious in case the record doesn't
17 read that way, but you have this objection --

18 THE SPECIAL MASTER: No. I think what
19 he's saying is this is not the right witness.

20 MR. KRISTAL: I disagree.

21 THE SPECIAL MASTER: I'm not saying I'm
22 in agreement. I don't think he's saying the
23 report is not relevant. I think what he's
24 saying is that this would not be the witness to
25 whom the questions should be interposed. I

1 don't know who the right witness is.

2 But again, if you're concerned that she
3 has a lack of familiarity with it because she
4 didn't expect to be asked about it, there are
5 several ways you can remedy that. Was it in the
6 boxes that she looked at?

7 MR. KRISTAL: Yes, she said that.

8 THE SPECIAL MASTER: Then she can be
9 asked about it.

10 MR. KAPSHANDY: The question is is this
11 the representative of the GE Company. He's
12 asking a whole host of questions that involve
13 her personal knowledge of what she did. And
14 obviously, we had an understanding before that
15 when he's asking stuff that appears to be
16 somewhat ambiguous, did you read this, where did
17 you get this, that's not the question to the GE
18 Company. That's for the witness in particular.

19 Then we start blending into questions
20 about expertise and when somebody should have
21 known something. She's not an expert on state
22 of the art. Her responsibilities are what the
23 GE Company knew and when it knew it. If he
24 wants to ask her, do you believe that GE had
25 access to the Merewether report, fine, but if he

1 THE SPECIAL MASTER: It's preserved.
 2 MR. KRISTAL: If --
 3 THE SPECIAL MASTER: If the objections
 4 are sustained --
 5 MR. KRISTAL: She's not going to look
 6 bad.
 7 THE SPECIAL MASTER: -- nothing is
 8 going to get in.
 9 MR. KRISTAL: I think she's looking
 10 fine.
 11 MR. KAPSHANDY: We're objecting to him
 12 putting something in front of her that she's
 13 never seen before and try to make her look bad.
 14 She's never seen some of that before. The
 15 sixteen box equals -- there's things on silica
 16 and lead that she's never seen before.
 17 MR. KRISTAL: That's not true that
 18 she's never seen it. You guys sent her the
 19 Merewether report, right?
 20 MR. KAPSHANDY: Yes.
 21 MR. KRISTAL: And she said the scope of
 22 her project was to read GE and non-GE documents.
 23 MR. KAPSHANDY: Has GE provided that
 24 and did GE have it, and the answer is yes. And
 25 she's looked at the Merewether report. Let's

1 move on. As we sit here now, you have no clue
 2 whether she deemed that to be relevant to the
 3 universe of information. Instead we're going
 4 through page after page after page so you can
 5 taint this record. I made my position.
 6 MR. KRISTAL: You can sit down and we
 7 can move on.
 8 THE SPECIAL MASTER: I think what
 9 you're trying to do is -- I don't think that you
 10 can control what documents he uses. I think
 11 that documents that are on his exhibit list are
 12 fair game. It may not have been what you
 13 expected, it may not have been what you prepared
 14 the witness to answer, but I don't think he's
 15 doing anything that's inappropriate within the
 16 scope of the discovery deposition.
 17 And I do think that you will -- first
 18 of all, this deposition may never be used if you
 19 produce her for trial. It could only be used to
 20 impeach, and I don't see anything, in my humble
 21 opinion, that she said that would later be
 22 impeachable.
 23 I mean, yes, I agree that she seems to
 24 be unfamiliar with some of the documents and
 25 you've explained that, but that never gets

1 before the Court if she testifies. And I assume
 2 you're going to bring her in to testify. So
 3 that's cured right there.
 4 MR. KRISTAL: I would ask that you not
 5 make a ruling on that because it's not before
 6 you, and I think there are lots of arguments
 7 that this deposition is usable, whether they
 8 bring her in or don't bring her in.
 9 THE SPECIAL MASTER: Under what rule?
 10 MR. KRISTAL: The statement of a party.
 11 MR. SPEZIALI: See, that's my problem.
 12 He wants to say that's a statement of a party
 13 without proper, fair notice, and he's turning
 14 her into a state-of-the-art expert. It is not a
 15 statement.
 16 THE SPECIAL MASTER: She is produced,
 17 she is produced as --
 18 MR. KRISTAL: The GE designee. I've
 19 never heard of a non-employee designee, but this
 20 is GE talking.
 21 THE SPECIAL MASTER: She's being
 22 produced as -- I think you have an argument to
 23 the judge. Essentially you don't get -- you
 24 normally don't get a -- and I can't make this
 25 ruling. I'm not the trial judge, and this is an

1 admissibility issue, but you normally do not get
 2 to use a deposition of anybody if they're
 3 available except for impeachment. I don't see
 4 how this would be any different.
 5 Jerry can make whatever arguments he
 6 wants, but it would be highly unusual, and that
 7 would be whether the president of GE were
 8 deposed. It would make no difference. So I
 9 don't see how this is any different. And he'd
 10 have to have a really good argument for doing
 11 that since this is a discovery deposition.
 12 The whole purpose of it -- it's not as
 13 if Joe Blow, the president of GE, or she made
 14 statements as a representative of GE in other
 15 contexts. Obviously those statements would come
 16 in, but it would seem to me that the testimony
 17 at a deposition would only come in if the
 18 witness were unavailable or for impeachment. I
 19 don't see your great fear of that.
 20 MR. SPEZIALI: I just have one thing.
 21 I just ask -- I know we're absolutely in
 22 agreement on it, but believe it or not I've seen
 23 this happen in other jurisdictions.
 24 It's my understanding that when I
 25 object on the record and even if Jerry were to

1 object on the record, that everybody anticipates
2 the actual objections of counsel will be edited
3 out of the final video.

4 THE SPECIAL MASTER: No, they shouldn't
5 be.

6 MR. SPEZIALI: You said should or
7 should not?

8 THE SPECIAL MASTER: Should not. The
9 objections --

10 MR. SPEZIALI: Not that it will be
11 sustained. There's a reason that we're not
12 going off the record, but when I object, if I'm
13 overruled, I'm overruled, but the actual
14 objection would not be heard by the jury.

15 MR. KRISTAL: Why are you raising these
16 things? It's going to be decided --

17 THE SPECIAL MASTER: The trial judge is
18 going to decide -- the trial judge will decide
19 how this tape and transcript are used. In other
20 words, let's say there's a fight over two pages
21 of testimony and some of the objected questions
22 get in. It's up to the trial judge to
23 determine, not me --

24 MR. SPEZIALI: I understand.

25 THE SPECIAL MASTER: -- whether the

1 happening further then, is that by counsel being
2 permitted to show documents which, which we
3 believe fall outside the realm of proper use,
4 relevance issues, improper notice issues, you
5 name it, okay, and forcing me to object ad
6 nauseam on this tape, it forces me to -- sheds a
7 bad light on me in the eyes of the jury.

8 THE SPECIAL MASTER: You can certainly
9 make -- you can make that argument to the judge,
10 and if, if, if -- what -- if that's what
11 happens, and I can also talk to the judge if it
12 becomes necessary, all right, I think it's
13 premature. You need to make your objections to
14 preserve them, and we can decide later whether
15 or not the jury needs to hear all of them.

16 MR. KRISTAL: But that was my point
17 initially. I am saying on the record, Dave does
18 not need to make the objections to preserve them
19 except as to form. The only thing that you need
20 to say is objection, form. If you have any
21 other objection, they're preserved. So if your
22 concern is that you're looking bad on the tape
23 because the objections might be placed, you're
24 doing that to yourself.

25 THE SPECIAL MASTER: I don't think you

1 jury hears the objection overruled or whether
2 it's just uninterrupted testimony. That's not
3 my decision.

4 MR. SPEZIALI: I just thought that's
5 the way we were proceeding.

6 THE SPECIAL MASTER: It's on the tape,
7 and it's in the transcript. They're not going
8 to be edited out for purposes, I assume, of what
9 is going to be provided at the end of the
10 deposition.

11 But in terms of a particular trial, you
12 argue -- if you're going to argue certain
13 portions of this deposition should not be in,
14 you don't like -- a question is improper,
15 improperly phrased, you want the question out
16 and therefore the answer out. If the judge
17 says, no, the question is good, it's up to the
18 judge to determine whether or not your objection
19 to the question is heard by the jury.

20 MR. SPEZIALI: Then I have another
21 problem. I'm sorry. I apologize.

22 THE SPECIAL MASTER: How could I
23 determine that?

24 MR. SPEZIALI: Then -- I thought that
25 was our understanding. Well, then what's

1 objected too much anyway. I've been at
2 depositions where -- I'm sure other people have,
3 too -- where the word objection is the most
4 frequently used word in the index. I don't
5 think you've over objected.

6 However, you don't have to do anything
7 but say objection to form. Everything else is
8 preserved, but I think we can revisit this
9 later, and if there's prejudice, it's an
10 argument that can be made, and I will support
11 you on it with whoever the judge is. So I think
12 you're worried about that unnecessarily. Let's
13 keep going. It's seven minutes to lunchtime.
14 Jerry, you almost done?

15 MR. KRISTAL: Almost done with the
16 morning session.

17 (Discussion off the record.)

18 THE VIDEOGRAPHER: This is the
19 beginning of tape number two of the continuing
20 deposition, volume three of Marjorie Drucker.
21 On the record. The time is eleven fifty-five
22 p.m.

23 THE SPECIAL MASTER: No, it's twelve
24 fifty-five, p.m.

25 THE VIDEOGRAPHER: Pardon me. Twelve

1 fifty-five.

2 BY MR. KRISTAL:

3 Q. Ms. Drucker, with respect to Exhibit
4 38, the Merewether and Price report on page
5 fifteen, they're discussing two concepts, the
6 concentration of dust and the length of exposure
7 as factors in producing asbestosis. So they're
8 not --

9 A. Could you direct me to where you're
10 reading?

11 Q. Sure. The paragraph starts to sum up.
12 It's the second full paragraph on page fifteen.

13 A. Okay. I'll read that. Okay. Thank
14 you.

15 Q. And it reads, quote, to sum up,
16 therefore, it appears probable that
17 concentration of dust and length of exposure as
18 factors in the production of fibrosis are
19 interdependent with certain limits. While it
20 seems necessary for the production of
21 generalized fibrosis of the lungs that a
22 definite minimal quantity of dust must be
23 inhaled, the lower the concentration of dust in
24 the air breathed, the longer the lapse of time
25 before the fibrosis is fully developed, and

1 fourth paragraph down a discussion of
2 respirators, is there not; use the respirators?

3 A. Yes.

4 Q. And what Merewether and Price are
5 noting in that paragraph is the microscopic size
6 of asbestos dust, are they not?

7 A. I'm going to read that.

8 MR. SPEZIALI: Are you talking about
9 the paragraph that says the protection afforded?

10 MR. KRISTAL: Yes.

11 MR. SPEZIALI: Okay.

12 THE WITNESS: Okay. Yes, I'm sorry.
13 The question?

14 MR. KRISTAL: Well, they're noting that
15 asbestos dust floating in the air, most of it,
16 the majority, they say, is on the order of two
17 microns and under, many being only half a
18 micron, right?

19 MR. SPEZIALI: Objection.

20 THE WITNESS: And of course, they're
21 talking about that to put it in perspective with
22 what was known at the time with the limits of
23 their microscopes and so forth. That's what it
24 says here.

25 BY MR. KRISTAL:

1 within a certain limit, the higher concentration
2 of dust, the sooner the fibrosis becomes fully
3 developed and the more intense the involvement
4 of the lung tissue, end quote. Do you see that?

5 A. Yes.

6 Q. And that's involved with the concept of
7 dose and latency, is it not?

8 A. At the time that would be some
9 discussion of concept of dose, yeah; dose, I'd
10 say.

11 Q. And latency in that it takes a while
12 for the chronic poisoning that was mentioned in
13 the first document we looked at today?

14 A. Well, still they're talking about the
15 time and the concentration, so to me it's both
16 dose; that they're talking about dose.

17 Q. Okay. What they're saying is it takes
18 time to develop; the disease asbestosis takes
19 time to develop?

20 A. Right. That's implicit in that they're
21 saying it takes time.

22 Q. Okay. And on page seventeen, there's a
23 discussion of preventive measures.

24 A. Okay.

25 Q. And there's one, two, three -- the

1 Q. Right. And a micron, and it's noted
2 here, is one twenty-five thousandths of an inch.
3 Well, they say half a micron is one fifty
4 thousandths of an inch?

5 A. That's what it says.

6 Q. And that's true today as well as it was
7 in 1930?

8 A. I'm assuming it was. I'm usually -- I
9 usually use it that it's a millionth of a meter.

10 Q. Right. A millionth of a meter is a
11 micron, right?

12 A. Right.

13 Q. And if we were just to put it in
14 inches, it's about one twenty-five thousandths
15 of an inch?

16 A. Okay.

17 Q. Is that correct?

18 A. I'll take -- I haven't done the
19 conversion, so I'll just assume this is correct.

20 Q. Okay. Merewether, in 1930, is saying
21 half a micron is one fifty thousandths of an
22 inch, right?

23 A. Sure.

24 Q. Which simple math means a full micron
25 is one twenty-five thousandths of an inch?

1 MR. SPEZIALI: I'll go with you on it,
 2 Jerry.
 3 MR. KRISTAL: Okay.
 4 THE WITNESS: Fine.
 5 BY MR. KRISTAL:
 6 Q. All right. Now, there's a part two
 7 which begins on page eighteen?
 8 A. Yes.
 9 Q. And it's entitled, quote, Processes
 10 Giving Rise to Dust and Methods For Its
 11 Suppression, end quote. That's the title of the
 12 second part, correct?
 13 A. Yes.
 14 Q. And they're talking here not only about
 15 factory work, but they're talking about the use
 16 of insulation products in the field.
 17 MR. SPEZIALI: Objection.
 18 BY MR. KRISTAL:
 19 Q. Let me read the first and last
 20 paragraph and see if we can move this along.
 21 The first paragraph says, quote, the asbestos
 22 industry has developed greatly in recent years
 23 and continues to expand rapidly mainly because
 24 of the demands of the motor, electrical,
 25 engineering and building industries and of the

1 says, quote, apart from manufacture, certain
 2 work is carried on in premises subject to the
 3 Factory and Workshops Acts as well as in other
 4 premises which involves use or manipulation of
 5 asbestos or products containing it. The
 6 insulating of boilers, pipes, engines and parts
 7 of ships is the most important. Much of this
 8 work is done on board ship by contractors who
 9 employ a considerable outdoor staff, unquote.
 10 Do you see that?
 11 A. Yes.
 12 Q. So in the section on processes giving
 13 rise to dust, which is the second part,
 14 Merewether is not just talking about work in the
 15 factory, but talking about work on board ships
 16 as one of the examples that he gives with
 17 asbestos insulation material?
 18 A. Yes.
 19 Q. Now, on page eighteen, Merewether has
 20 references, references that Merewether and Price
 21 use. Do you see that?
 22 A. Yes.
 23 Q. And there's some twelve different
 24 articles or publications that Merewether
 25 referenced in his report, correct?

1 increasing attention now paid to the insulation
 2 of steam plants to promote fuel economy, end
 3 quote. Right?
 4 A. Right.
 5 Q. So they're talking about the asbestos
 6 industry expanding to include insulation
 7 materials, use in motor cars, electrical
 8 engineering and buildings.
 9 A. Well, the general use, yes.
 10 Q. And then Merewether and Price list a
 11 variety of asbestos-containing products that
 12 goes on the bottom of eighteen and all of
 13 nineteen including insulation materials, brake
 14 and clutch linings, a whole host of materials
 15 that had asbestos in them, correct, asbestos
 16 mill board?
 17 A. Right.
 18 Q. And then the last paragraph -- I'm
 19 sorry.
 20 A. And I don't know exactly what they're
 21 referring to when they say, in his listing, of
 22 see insulation materials and articles, but
 23 that's what the wording is.
 24 Q. The last paragraph after they list all
 25 of the various asbestos-containing materials

1 A. Yes.
 2 Q. Is there any reason to believe that any
 3 one of those twelve would not have been
 4 available to Dr. Cowle while she was doing her
 5 literature search on asbestos?
 6 A. I don't know.
 7 Q. Well, most of these -- almost all of
 8 them are from public medical journals, right;
 9 the British Medical Journal, Journal Tubercle,
 10 Journal of Pathology and Bacteriology. Do you
 11 see that?
 12 A. I do.
 13 Q. Those were publicly available in
 14 libraries, were they not?
 15 A. No, they're in Britain. I don't know
 16 what would be available here. That's why I said
 17 I don't know.
 18 Q. And the Merewether report itself was
 19 publicly available, was it not?
 20 A. Yes, as far as I know.
 21 Q. Okay.
 22 MR. KRISTAL: Can we go off the video
 23 record for a second?
 24 THE SPECIAL MASTER: Off, please.
 25 THE VIDEOGRAPHER: Off the record.

1 THE SPECIAL MASTER: Off the video.
2 THE VIDEOGRAPHER: The time is one o
3 five p.m.

4 MR. KRISTAL: We can go off the other
5 record, too.

6 (Whereupon, a recess was then taken.)

7 (Whereupon, Exhibit 40, a document
8 dated September 24th, 1929, General Electric
9 Company, Bridgeport, Connecticut, an Alice
10 Hamilton report to General Electric pursuant to
11 her review of some of the GE facilities with
12 respect to industrial hygiene, was then received
13 and marked for identification.)

14 THE VIDEOGRAPHER: On the record. The
15 time is two sixteen p.m.

16 BY MR. KRISTAL:

17 Q. Ms. Drucker, with respect to Exhibit
18 38, the Merewether report, I just wanted to show
19 you one thing if you need to refresh your
20 recollection. Was one of Merewether and Price's
21 recommendations in 1930 to wet down
22 asbestos-containing materials to reduce the
23 dust?

24 A. I'll just take a look at that.

25 Q. It's the top.

1 25C. In the absence of looking at all the other
2 documents, I don't know.

3 Q. And what Dr. Hamilton is discussing
4 with respect to asbestos in Exhibit 40 is the
5 braiding of wire using asbestos. Is that fair
6 to say?

7 A. Yes.

8 Q. And what she mentions is that in that
9 particular GE factory, there was no dust from
10 that process because the bobbins of asbestos are
11 wetted down and are always damp. Is that fair
12 to say?

13 A. Yes. She says they're wetted and
14 they're always damp, right.

15 Q. Would it be fair to say then that by
16 September of 1929, General Electric was aware
17 that one method to control asbestos dust was to
18 wet down the asbestos?

19 A. Yeah, like the rest of the industry,
20 sure.

21 Q. Move to strike the non-responsive
22 portion of that statement.

23 Have you reviewed other companies'
24 documents and information related to their
25 historical aspects -- their historical knowledge

1 A. Thank you. Yes, they say substitution
2 of wet methods for dry.

3 Q. I've marked as Exhibit 40 the document
4 that's in front of you which is dated September
5 24th, 1929. Up top it says, General Electric
6 Company, Bridgeport, Connecticut. And it's
7 addressed to a number of different people. Is
8 this an Alice Hamilton report to General
9 Electric pursuant to her review of some of the
10 GE facilities with respect to industrial
11 hygiene?

12 A. It's -- yes, it's not signed, but it
13 looks like one, and it looks like her
14 handwriting, yes.

15 Q. Right. On the last page, page nine,
16 there's some handwritten information which would
17 appear to be her handwriting?

18 A. Yes.

19 Q. Now, is this the first report by
20 Dr. Hamilton that you saw in terms of date where
21 she mentions asbestos specifically?

22 A. I'll take a second to look at this.

23 Q. Yeah. It's mentioned on page seven,
24 paragraph 25C.

25 A. I see where it's mentioned in paragraph

1 of the hazards of asbestos?

2 A. Well, over the course of my career, I
3 reviewed a lot of documents. Some may have
4 been -- I haven't served as an historical
5 witness before, but over the course I've seen so
6 many documents, it's possible.

7 Q. Well, you've never conducted the type
8 of project for any other company as you have
9 with respect to General Electric in the last
10 year, have you?

11 A. No.

12 Q. So you've not done an organized
13 investigation into the subject of any other
14 company's knowledge of the hazards of asbestos
15 historically?

16 A. Right.

17 (Whereupon, Exhibit 41, a document
18 dated January 8th, 1933, a letter from
19 Dr. Hamilton to the president of General
20 Electric, Mr. Swope, was then received and
21 marked for identification.)

22 BY MR. KRISTAL:

23 Q. Exhibit 41 is dated January 8th, 1933.
24 It's a letter from Dr. Hamilton to the president
25 of General Electric, Mr. Swope. Do you see

1 that?
 2 A. Yes.
 3 Q. And you've reviewed this before, have
 4 you not?
 5 A. Yes.
 6 Q. And in this letter Dr. Hamilton is
 7 conveying to Mr. Swope that she had been talking
 8 with a Dr. Philip Drinker about the problem of
 9 asbestos dust in four of the General Electric
 10 plants; is that correct?
 11 A. Yes.
 12 Q. And she mentions the fact that she
 13 would like to hold off her comments to him about
 14 that problem until she attends a conference of
 15 physicians that was called by Dr. Vosburgh in
 16 Schenectady which was scheduled for later in
 17 January of 1933?
 18 MR. KAPSHANDY: Excuse me, Jerry.
 19 What's the date of that?
 20 MR. KRISTAL: January 8th, 1933.
 21 THE WITNESS: Yes. What she says is in
 22 view of the fact that I'm going to be attending
 23 a conference called by Dr. Vosburgh in
 24 Schenectady on the 25th and 26th of this month,
 25 right.

1 MR. KRISTAL: And that conference in
 2 Schenectady that Dr. Vosburgh called involved a
 3 Dr. Gardner from Saranac, New York who
 4 Ms. Hamilton calls one of the foremost experts
 5 on dust diseases, correct?
 6 THE WITNESS: Yes.
 7 MR. KRISTAL: Next document 42.
 8 (Whereupon, Exhibit 42, a document
 9 dated December 14th of 1933, a letter from
 10 Dr. Hamilton to Mr. Swope, the president of
 11 General Electric, was then received and marked
 12 for identification.)
 13 BY MR. KRISTAL:
 14 Q. It's from December 14th of 1933. So
 15 it's about a year after the last document we
 16 saw. And this is another letter from
 17 Dr. Hamilton to Mr. Swope, the president of
 18 General Electric, in part, at least beginning
 19 with the second paragraph, discussing asbestos
 20 with respect to General Electric. Is that fair
 21 to say?
 22 A. Yes.
 23 Q. And what she's mentioning to Dr. Swope
 24 is that for the past two years she and
 25 Dr. Drinker had cut back their work in terms of

1 consulting with General Electric because of the
 2 Depression, does she not?
 3 A. She does say that, right; we felt that
 4 our services were not necessary because of the
 5 Depression, yes.
 6 Q. But now she's revisiting the question
 7 of asbestos at General Electric, and she's
 8 mentioning the fact that she believes that needs
 9 to be attended to now. Fair to say?
 10 A. I'm just going to read that.
 11 Q. Sure.
 12 A. Right. She says it's come into
 13 prominence because of the combination of not
 14 very scrupulous lawyers and doctors, yes.
 15 Q. Well, to be complete, what she's saying
 16 is she's asking Dr. Swope to have her get back
 17 on track investigating asbestos at General
 18 Electric because of the rise of lawsuits against
 19 certain companies alleging injury from asbestos
 20 in 1933?
 21 MR. SPEZIALI: Objection.
 22 MR. KRISTAL: Isn't that what she says?
 23 MR. SPEZIALI: Objection.
 24 THE WITNESS: Okay. That was a little
 25 distracting. I'm sorry. Could you give me the

1 question, please?
 2 BY MR. KRISTAL:
 3 Q. Sure. Dr. Hamilton is saying in
 4 December of 1933 to the president of General
 5 Electric that she believes GE should now hire
 6 her as a consultant to start dealing with
 7 asbestos because there were a number of civil
 8 suits against certain companies which were
 9 alleging injury from asbestos.
 10 A. Yes, she said -- right, and I said
 11 before, she's saying that because it's a
 12 combination of not very scrupulous lawyers and
 13 doctors. So she thought it would be good to
 14 revisit the subject again for alleged injury
 15 from asbestos.
 16 Q. Right. I move to strike the
 17 non-responsive portion of that answer.
 18 She also goes on to say that she
 19 believed that despite her characterization of
 20 the lawyers and doctors involved, that many of
 21 them were quite justified, right; many of the
 22 lawsuits were quite justified.
 23 A. Where do you see that?
 24 Q. This is a question -- strike that.
 25 The Johns-Manville Company and the

1 Multibestos Company have had a great deal of
2 trouble from such claims, many of them I believe
3 quite justified, but not all, end quote. Do you
4 see that?

5 A. Yes, I do.

6 Q. So she's expressing her opinion to
7 Mr. Swope in 1933 that many of the lawsuits
8 alleging injury from asbestos were quite
9 justified, not all of them?

10 A. That's what she says, right.

11 Q. And what she's saying is that she's
12 suggesting that GE deal with the asbestos dust
13 situation in the plants where it arises so that
14 they would be able to be prepared in case there
15 are lawsuits brought against General Electric
16 alleging asbestos diseases, right?

17 MR. SPEZIALI: Objection.

18 THE WITNESS: Well, taking her body of
19 work into its entirety, which I bring to this,
20 sure, she mentions lawsuits. But her whole
21 thrust of working with General Electric was to
22 prevent health and safety problems. So her, her
23 qualities, I think, are more in tune with
24 helping people stay healthy on the job.

25 BY MR. KRISTAL:

1 would be prepared in defense. Doesn't she say
2 that?

3 A. She does.

4 MR. KRISTAL: Next document is December
5 19th, 1933.

6 (Whereupon, Exhibit 43, a document
7 dated December 19th, 1933, Mr. Swope's response
8 to Dr. Hamilton, was then received and marked
9 for identification.)

10 BY MR. KRISTAL:

11 Q. Let me show it to you. And that's just
12 five days after the last letter, and this is
13 Mr. Swope's response to Dr. Hamilton, correct?

14 A. I'll just check that. It appears to
15 be. He's thanking her for her letter of
16 December 14th which is the last one we just went
17 over.

18 Q. And he notes that he spoke to the
19 vice-president in charge of manufacturing at
20 General Electric, and that Mr. Burroughs, the
21 vice-president, thought the suggestion was good
22 and that GE was going to retain Alice Hamilton
23 again as a consultant. Right?

24 A. Yes.

25 Q. And he mentions that GE is using

1 Q. Move to strike the non-responsive
2 portion of that answer.

3 Let me read the last paragraph. Quote,
4 now you have asbestos dust in Bridgeport and in
5 York, end quote. Do you see that first
6 sentence?

7 A. Yes.

8 Q. And Bridgeport and York were two
9 General Electric factories in which asbestos was
10 being used at that time, correct?

11 A. Yes.

12 Q. And then she goes on to say, quote, I
13 think you told me that the York plant was
14 destined to be closed in the near future. Still,
15 that would not prevent the bringing of suits. I
16 think the only safe thing to do is to have the
17 situation looked over by Philip Drinker and dust
18 counts made so that if suits develop, you will
19 be prepared in advance, end quote. Do you see
20 that?

21 A. Yes.

22 Q. So Dr. Hamilton is expressing to the
23 president of General Electric that she believes
24 the safe thing to do is to have asbestos dust
25 counts made so that if lawsuits develop, GE

1 asbestos not only at Bridgeport and York, which
2 were in Dr. Hamilton's letter, but also at
3 Schenectady, and he says to some extent at
4 Meriden, correct?

5 A. Yes.

6 Q. So this letter is authorizing
7 Dr. Hamilton now to start getting back involved
8 with General Electric and focusing on asbestos
9 disease?

10 A. Right, among other things.

11 Q. Among other things, but this letter is
12 dealing specifically with authorizing them to
13 get involved with respect to asbestos?

14 A. Yes.

15 MR. KRISTAL: Exhibit 44 is dated
16 January 26th, 1934.

17 (Whereupon, Exhibit 44, a document
18 dated January 26th, 1934, was then received and
19 marked for identification.)

20 MR. KRISTAL: So this is a little over
21 a month after Mr. Swope wrote Dr. Hamilton to
22 say come back on board; is that correct?

23 THE WITNESS: I'm just checking the
24 dates.

25 MR. KRISTAL: Sure.

1 THE WITNESS: It's hard to read the
2 date on Exhibit 44, and it looks like it's 1930
3 something. I would assume.

4 MR. KRISTAL: I think there was a
5 stipulation it's '34. At some other point in
6 time we agreed to that.

7 MR. KAPSHANDY: I didn't.

8 MR. SPEZIALI: I was going to say I was
9 wondering where you were getting the '34 from,
10 Jerry.

11 BY MR. KRISTAL:

12 Q. Whatever the date, this is a report
13 from Dr. Hamilton to General Electric and it
14 focuses, in part, on asbestos, correct?

15 A. Well, it's not signed. It appears to
16 be from the handwriting.

17 Q. The handwriting up top looks like
18 Dr. Hamilton's handwriting, correct?

19 A. It appears that way.

20 Q. And it starts, quote, well -- and this
21 was one of the documents supplied to you by the
22 General Electric lawyers, right?

23 A. Yes.

24 Q. All right. And quote, asbestos is used
25 in the West Philadelphia plant, end quote. So

1 depending on what you're protecting against.

2 There are various types of positive pressure air
3 helmets. She's using a general term here.

4 Q. And a positive pressure air helmet is
5 different than just a simple face mask that one
6 might visualize as a surgical mask, correct?

7 A. Sure. If you're talking about positive
8 pressure meaning supplying air from outside,
9 yes, it's different from what we think of as a
10 dust mask type of thing.

11 Q. And she uses the term positive pressure
12 air helmet, correct?

13 A. That's her wording, yes.

14 Q. And your understanding from her wording
15 back in the 1930s was that this was a helmet
16 from which there was air coming in from the
17 outside so that the man who was wearing it was
18 not breathing any air except what was coming in
19 through the hose, correct?

20 A. In general, yes, that would have been
21 the technology.

22 Q. So GE knew at that point in time one of
23 the ways to protect someone from the risk of an
24 asbestos disease from asbestos dust was to wear
25 that type of positive pressure air helmet?

1 that's another General Electric plant that was
2 using asbestos in the 1930s.

3 A. Yes.

4 Q. Okay. Quote, Dr. Minor says that he
5 discovered a case of asbestosis and removed the
6 man and that now the one working wears a
7 positive pressure air helmet, end quote. Do you
8 see that?

9 A. I do.

10 Q. So what they're saying here is that the
11 GE doctor, Dr. Minor, in the West Philadelphia
12 plant had discovered one of the men had
13 asbestosis, took him off the job, and the one
14 that was now doing that job was wearing a
15 positive pressure air helmet, right?

16 A. Yes.

17 Q. And that is the same type of air helmet
18 that we saw earlier that was recommended by
19 Dr. Hamilton with respect to protecting the
20 sandblasters?

21 A. Not necessarily.

22 Q. Well, they were both talking about
23 positive pressure masks; something similar
24 anyway, if not the exact same?

25 A. Again, technology is different

1 A. Well, again, in this particular
2 situation you -- again, it's always up to the
3 health and safety professional's expertise.
4 This is what she deemed necessary there in that
5 instance.

6 Q. And GE was aware of this, right? It
7 was their plant?

8 A. It is a GE plant, sure.

9 Q. She then goes on to talk about three
10 men who were spinning asbestos in Schenectady,
11 and there's an exhaust at the point of dust
12 formation. Do you see that?

13 A. Yes.

14 Q. And that is another industrial hygiene
15 method that was known in the 1930s to reduce the
16 risk of an asbestos disease, and that is to
17 exhaust the process at the point where the dust
18 is being formed, correct?

19 A. Yes.

20 Q. And that's what's known as local
21 exhaust as opposed to general ventilation?

22 A. Yes, that would be a type of local
23 exhaust ventilation.

24 Q. And then she goes on to mention the
25 other plants in which asbestos is used are

1 Bridgeport, York and Meriden, and those were the
2 ones that Dr. -- that Mr. Swope had mentioned in
3 his December 1933 letter, correct?

4 A. I'll just double-check that. Yes.

5 Q. And apparently Dr. Gardner, who was
6 mentioned earlier as having some expertise in
7 dust from Saranac, was involved because she
8 writes that Dr. Gardner advises taking x-rays;
9 is that correct?

10 A. Yes.

11 Q. And then she writes about the process
12 whereby asbestos dust causes the scarring in the
13 lungs, does she not?

14 A. Well, she writes several things.

15 Q. Well, the next paragraph after the one
16 that mentions Dr. Gardner advising x-rays says,
17 quote, the dust collects along the bronchios,
18 B-R-O-N-C-H-I-O-S, in animals, not in the lung
19 tissue. There is a gradual growth of fibrous
20 tissue around them followed by occlusion and
21 collapse, unquote. Do you see that?

22 A. I do.

23 Q. And what she's saying there is that the
24 asbestos causes scarring in the small airways in
25 the animals which cause those airways to occlude

1 or close, and then the lung would collapse or
2 that portion of the lung would collapse?

3 MR. SPEZIALI: Objection.

4 BY MR. KRISTAL:

5 Q. Is that how you interpret that?

6 A. No.

7 Q. Well, she says there's gradual growth
8 of fibrous tissue around them. Do you see that?

9 A. Growth fibrous tissue around them.

10 Q. And is she talking about the bronchios
11 in there?

12 A. And that's something -- she literally
13 says bronchios, and I don't know what she means
14 by bronchios. That's different terminology than
15 we use now.

16 Q. Now, they're called bronchials with an
17 L, right?

18 A. You know, I don't know if it's exactly
19 the same thing. All I know is she says
20 bronchios.

21 Q. In the eight hundred hours you worked
22 in trying to determine what GE knew about the
23 hazards of asbestos did you try to find out what
24 that term meant?

25 MR. SPEZIALI: Objection. That's an

1 unfair question. Is that --

2 THE SPECIAL MASTER: You made your
3 objection. The witness has to answer.

4 THE WITNESS: Pardon?

5 BY MR. KRISTAL:

6 Q. Sure. Did you try to find out what
7 that term meant if you don't know what it means?

8 A. No.

9 Q. And later on she talks about, in the
10 next paragraph, something called phagocytes,
11 P-H-A-G-O-C-Y-T-E-S?

12 A. Phagocytes, yes.

13 Q. You know what phagocytes are, right?

14 A. Yes, I know what they are now. I don't
15 know what they knew then, but it's the same
16 word, yes.

17 Q. Okay. And what they're saying -- do
18 you think that somehow the term phagocyte
19 changed between the 1930s and now in terms of
20 the human body's response to foreign matter in
21 the lungs?

22 A. Oh, in terms of what was known then and
23 now, of course. Just think about the technology
24 with microscopy and things like that.

25 Q. I'm asking you if the term phagocytes

1 means something different now than it did then.

2 MR. SPEZIALI: Objection. She just --
3 you just asked and she just answered your
4 question.

5 BY MR. KRISTAL:

6 Q. A phagocyte is a scavenger cell,
7 correct?

8 A. From what we know now, yes, it can be a
9 type of scavenger cell.

10 Q. And a scavenger with respect to
11 asbestos and the formation of scar tissue is a
12 scavenger cell that tries to engulf the asbestos
13 fibers, correct?

14 A. Are you saying from what we know now?

15 Q. Yes, from what we know now.

16 A. From what we know now, a phagocyte is a
17 type of cell that can try and entrap a foreign
18 body, and it could be asbestos.

19 Q. Okay. And she writes, Dr. Hamilton, in
20 this document in the 1930s, whether it's 1934 or
21 some other date, quote, phagocytes with asbestos
22 are crammed full of dust and hardly move,
23 unquote. Do you see that?

24 A. Yes, she says that.

25 Q. Okay. What was your understanding of

1 what she was talking about?

2 A. Well, my understanding is that I
3 literally took her explanation of what they knew
4 then as that's what she was reporting.

5 Q. Okay. And what was your interpretation
6 of what she meant by the word phagocyte? Didn't
7 she mean a scavenger cell?

8 A. Well, I don't know if medical
9 terminology has changed over periods of time,
10 but I do know is that so many things related to
11 the discernment, seeing something like different
12 cells, phagocytes, may be other things that may
13 have been considered phagocytes in the past. I
14 don't know. Again, I was trying to understand
15 this in context as what she said.

16 Q. And what did you do to try to
17 understand that in context?

18 A. I read it.

19 Q. Right. And then you said you were
20 trying to understand it in context. Did you do
21 anything other than reading to try to understand
22 what that meant?

23 A. No.

24 Q. On the next page they mention a mineral
25 called Sericite, S-E-R-I-C-I-T-E, do you see

1 that, present in granite?

2 A. Sericite. Yes, I see that.

3 Q. How did you pronounce it?

4 A. It looks like there's an I -- sericite.
5 Pardon me. Sericite.

6 Q. Okay. And you know --

7 A. I didn't have my glasses on.

8 Q. Well, I do which is why I was able to
9 read it. There were some documents you read --
10 I think we'll get to them shortly -- where there
11 was some discussion about whether sericite could
12 cause silicosis. Do you recall those at all?

13 A. No.

14 Q. Do you recall that in the context of a
15 discussion or documents about sericite causing
16 silicosis there was discussion about the fine
17 particles or the fine fibers of asbestos?

18 A. Are you referring to a particular
19 document?

20 Q. Several. And I'm trying to save some
21 time. If you don't recall, we'll get to them.

22 A. I don't recall them.

23 Q. That's fine.

24 MR. KRISTAL: Exhibit 45 is January
25 30th, 1934.

1 (Whereupon, Exhibit 45, a document
2 January 30th, 1934 from Mr. Carl Obermaier from
3 York, Pennsylvania to Dr. Hamilton, was then
4 received and marked for identification.)

5 BY MR. KRISTAL:

6 Q. And it's from Mr. Carl Obermaier,
7 O-B-E-R-M-A-I-E-R, from York, Pennsylvania to
8 Dr. Hamilton. And is it your understanding that
9 Mr. Obermaier was the General Electric plant
10 manager of the York, Pennsylvania GE plant?

11 A. It has his address on here, and I do
12 recall his having been there. I don't recall
13 his exact title.

14 Q. Well, in December of 1933 one of the
15 plants that Dr. Hamilton was going to look at
16 was the York, Pennsylvania plant, right?

17 A. Yes.

18 Q. And Mr. Obermaier writes to
19 Dr. Hamilton -- strike that.

20 By the way, this was one of the
21 documents also provided to you by the General
22 Electric lawyers?

23 A. Yes.

24 Q. And the next to the last paragraph,
25 quote, this question of asbestos affecting the

1 health -- I'm sorry. It's the first page. I
2 apologize. Quote, this question of asbestos
3 affecting the health of our operators has come
4 up previously, and Dr. GH Cowle has written a
5 treatise entitled, quote, the hazard of asbestos
6 in the Schenectady plant of the General Electric
7 Company, in both quotes. Do you see that?

8 A. Yes.

9 Q. And that's the one that we had
10 mentioned earlier?

11 A. We did.

12 Q. And Dr. Cowle's treatise you've never
13 seen?

14 A. No.

15 Q. Have you searched for it?

16 A. Yes.

17 Q. What did you do to search for that
18 treatise?

19 A. Well, as I mentioned, I asked the
20 attorneys if they had a copy of it, and I -- as
21 I recall, I did a search on the Internet.

22 Q. You did a search on the Internet for a
23 1934 treatise on asbestos regarding the
24 Schenectady plant that General Electric and the
25 hazard of asbestos?

1 A. For that document, yes.
 2 Q. How did you do that?
 3 A. On my computer.
 4 Q. Okay. And then what did you do?
 5 A. I went to a search engine, and I
 6 searched, and I may have gone to the National
 7 Library of Medicine and done a search of
 8 documents there.
 9 Q. Mr. Obermaier also mentions that he's
 10 aware of a pamphlet put out by the Metropolitan
 11 Life Insurance Company entitled, Effects of the
 12 Inhalation of Asbestos Dust Upon the Lungs of
 13 Asbestos Workers. Do you see that?
 14 A. Yes.
 15 Q. And he mentions that she can obtain it
 16 by writing somewhere, right?
 17 A. Yes.
 18 Q. Have you ever seen that document?
 19 A. No.
 20 Q. Have you ever asked the General
 21 Electric lawyers if they have that document?
 22 A. Yes.
 23 Q. And?
 24 A. I don't believe it's -- no, it's not
 25 available.

1 Q. The next to the last paragraph of the
 2 letter, Mr. Obermaier writes, quote, to return
 3 to asbestosis, may I suggest that you write a
 4 similar letter to the Bridgeport works in which
 5 the atmospheric conditions are not nearly so
 6 good as in York. Do you see that?
 7 A. Yes.
 8 Q. And that was one of the other plants of
 9 General Electric that had asbestos that they
 10 were using in the plant?
 11 A. Right.
 12 Q. And he writes, quote, in this plant a
 13 much more inferior asbestos material was used,
 14 and at one of my visits I noticed a considerable
 15 atmospheric contamination, unquote. So does
 16 this letter indicate to you that certainly the
 17 plant manager at York was aware that breathing
 18 asbestos dust could cause asbestosis?
 19 A. Let me take a second to look at that.
 20 And your question again, please?
 21 Q. The plant manager of the General
 22 Electric plant in York, Pennsylvania in 1934 was
 23 aware that breathing asbestos dust could cause
 24 asbestosis, correct?
 25 A. The plant manager, if that's what

1 Mr. Obermaier was, was not a health and safety
 2 professional. He was a production plant
 3 manager. So I don't take his writing here as a
 4 definitive health and safety type of conclusion.
 5 Q. I didn't ask if you took it as a
 6 definitive health and safety conclusion. Would
 7 you agree that even a plant manager at GE knew
 8 that breathing asbestos dust could cause
 9 asbestosis in 1934?
 10 MR. SPEZIALI: Objection.
 11 THE WITNESS: Well, I think it's
 12 because of what he -- how he describes it, I
 13 think he indicates that high levels generally
 14 for a long times -- long periods of time could.
 15 BY MR. KRISTAL:
 16 Q. Show me where he says that.
 17 A. If we look at that paragraph --
 18 Q. Correct.
 19 A. -- he indicates that the Bridgeport
 20 works, the atmospheric conditions are not nearly
 21 so good as in York, meaning that to me that
 22 there were high concentrations of what he's
 23 noticing because he noticed considerable
 24 atmospheric contamination.
 25 Q. Right. Where is the "long periods of

1 time" part of your answer coming from?
 2 A. All right. I don't see it here.
 3 Q. Okay.
 4 A. But generally that's what was known at
 5 the time.
 6 Q. Well, I move to strike the
 7 non-responsive portion of the answer.
 8 Exhibit 46 is the next month, February
 9 13th, 1934, and this is a letter from the
 10 manager of the Bridgeport factory of General
 11 Electric to Dr. Hamilton, correct?
 12 (Whereupon, Exhibit 46, a February
 13 13th, 1934 letter from the manager of the
 14 Bridgeport factory of General Electric to
 15 Dr. Hamilton, was then received and marked for
 16 identification.)
 17 THE WITNESS: Yes.
 18 BY MR. KRISTAL:
 19 Q. And he's referencing a January 29th
 20 letter that Dr. Hamilton had written to him
 21 apparently, correct?
 22 A. Looking at that, yes, he's referencing
 23 a January 29th letter.
 24 Q. And apparently she must have, in the
 25 context of that letter, asked whether or not

1 they use asbestos and perhaps where it was used
2 in that plant given the fact that he writes, we
3 have a department where asbestos is used for
4 felting this material on wires which was started
5 about the middle of 1932. Do you see that?

6 A. Yes.

7 Q. And he mentions that because it was in
8 the development condition at that time, it was
9 run without an exhaust, correct?

10 A. Yes, that's what he says.

11 Q. And then he says in early 1933 they
12 installed an exhaust system, although the
13 exhaust system that had been installed was not
14 entirely satisfactory, correct?

15 A. Yes.

16 Q. So what this is indicating at least is
17 that Mr. Clark, the GE manager of the Bridgeport
18 factory, knew that one method of reducing
19 asbestos dust was to exhaust it?

20 A. Yes.

21 Q. And he also notes that in the early
22 days of our operation of this department, which
23 would have been some two years before the letter
24 is written, there had been some indications of
25 trouble from asbestos dust. Right, one of the

1 that mineral sericite with respect to silicosis,
2 is it not?

3 A. I'm just going to look this over.

4 Q. And while you're looking it over, for
5 the record, it was written by Dr. Vosburgh and
6 it was sent to Mr. Barringer, Room 142 of
7 building two. And it's on GE letterhead, right?

8 A. Yes. I'm just looking it over.

9 Q. Sure.

10 A. Okay.

11 Q. And what he's saying is is that there
12 was some disagreement or some discussion about
13 whether or not this mineral sericite is the,
14 quote, all important element in the production
15 of silicosis, end quote. Correct?

16 A. Yes. He's stating that there's a
17 divergence of opinion by some authorities,
18 right.

19 Q. And he mentions Dr. Gardner who had
20 been attending that dust conference in
21 Schenectady that was mentioned earlier, correct?

22 A. I don't know if Dr. Gardner did, but
23 it's the same Dr. Gardner name.

24 Q. And Dr. Vosburgh writes, quote, it has
25 been my limited experience that all the workers

1 men?

2 A. Just looking.

3 MR. SPEZIALI: I'd object to the way
4 the question was phrased.

5 MR. KRISTAL: Let me reword it.

6 Mr. Clark writes to her, quote, it seems to me
7 that we had one man in the early days of our
8 operation of this department who had some
9 indications of trouble from asbestos dust, but I
10 do not think it was serious, and the man is no
11 longer working for us, end quote. Correct?

12 THE WITNESS: You read that, yes.

13 MR. KRISTAL: So certainly the manager
14 of the Bridgeport works knew that asbestos dust
15 could cause some trouble?

16 THE WITNESS: Whatever that was. He
17 just said trouble. I don't know what he means
18 by trouble of the dust.

19 (Whereupon, Exhibit 47, a document
20 dated April 26th, 1934 that relates to the
21 mineral sericite with respect to silicosis, was
22 then received and marked for identification.)

23 BY MR. KRISTAL:

24 Q. Exhibit 47 is April 26th, 1934. And
25 this is one of the documents that relates to

1 carefully observed who had been exposed to free
2 silicosis dust have shown evidence of silicosis
3 after a sufficient period of time, end quote.
4 Do you see that?

5 A. Yes.

6 Q. So that would be an example of that
7 chronic industrial poisoning, that there had to
8 be a sufficient period of time to pass before
9 silicosis would develop?

10 A. Well, it's very vague here what they
11 are referring to --

12 Q. All right.

13 A. -- as far as sufficient.

14 Q. Well, it certainly would indicate that
15 with respect to silicosis dust, that there had to
16 be some period of time that would have to pass
17 before silicosis would develop.

18 A. Yes, with regard to, right, silicosis
19 dust, right, there's a sufficient period of
20 time.

21 Q. Okay. And then Dr. Vosburgh writes to
22 Mr. Barringer, quote, on other hand, none of the
23 combined silicates produced characteristic
24 silicosis with the exception of asbestos which
25 is probably structurally similar to sericite,

1 end quote. Do you see that?

2 A. Yes, I see that sentence.

3 Q. So -- and Dr. Vosburgh at that point in
4 time is conflating asbestosis and silicosis.
5 Would you agree?

6 A. I don't know what that word means.

7 Q. Well, he's --

8 A. Conflating?

9 Q. Mixing them up. He's saying -- strike
10 that.

11 None of the combined silicates, and
12 then he says with the exception of asbestos,
13 right, so he's aware that asbestos is what's
14 called a combined silicate, correct?

15 A. What he's calling a combined silicate,
16 right.

17 Q. Well, asbestos is a combined silicate,
18 isn't it?

19 A. Yeah. It's a type of silicate, right.

20 Q. And that was known by Dr. Vosburgh in
21 1934?

22 A. Exactly what was known then because of
23 the difference in technology I don't know. I'll
24 just take his words literally that's what he
25 said then. That's what he knew then.

1 Q. That's what we're talking about.
2 That's what he knew then. Okay. And what he's
3 saying is with the exception of asbestos, none
4 of the other combined silicates produced what he
5 says characteristic silicosis, correct?

6 A. I'm just looking at that again. That's
7 what he says.

8 Q. And one of the reasons that he's saying
9 that is that the fact that the defensive
10 mechanism of the lung is unable to cope with
11 fine fibrous soluble particles, correct?

12 A. I'll just go on to read that next
13 sentence. Okay. And your question again,
14 please?

15 Q. What he's writing in that sentence is
16 that he's aware that fine fibrous insoluble
17 particles can defeat the defense mechanism of
18 the lungs. In part, that's what he's saying,
19 right?

20 A. Right. It shows they were all the
21 same. They didn't know a lot back then. There
22 was a lot of -- they didn't know. There was
23 still a lot of discussion about what it was,
24 yes.

25 Q. Well, he's saying in this sentence in

1 part that the defensive mechanism of the lung is
2 not able to cope with fine fibrous insoluble
3 particles, is he not?

4 A. That's what he said.

5 Q. And he's saying that one of those fine
6 fibrous insoluble particles that the defensive
7 mechanisms of the lung is unable to cope with is
8 asbestos?

9 MR. SPEZIALI: Objection.

10 BY MR. KRISTAL:

11 Q. Doesn't he say that?

12 A. That's what he writes, yes.

13 Q. Okay. So Dr. Vosburgh was at least
14 aware at that period of time in 1934 that
15 asbestos particles could bypass the defensive
16 mechanisms of the lung?

17 A. No.

18 Q. Well, doesn't he say that?

19 A. No.

20 Q. Let's read the sentence again. For
21 that reason, Dr. Jones's observation appeals to
22 me in the fact that the defensive mechanism of
23 the lung is unable to cope with fine fibrous
24 insoluble particles such as asbestos, sericite,
25 sillimanite, tremolite, et cetera, may be the

1 secret of silicosis. Does he write that?

2 A. He writes that.

3 Q. So isn't he saying that he's aware that
4 fine fibrous insoluble particles such as
5 asbestos can bypass the defense mechanism of the
6 lung? Isn't that what he says?

7 A. He doesn't say bypass.

8 Q. Of course he does. He says the defense
9 mechanism of the lung is unable to cope with
10 asbestos.

11 A. That's what he says.

12 Q. Okay. Fair enough.

13 (Whereupon, Exhibit 48, a document
14 dated May 11th, 1934, a letter from Dr. Hamilton
15 to President Swope of the General Electric
16 Company, was then received and marked for
17 identification.)

18 (Whereupon, Exhibit 48-A, a retype of
19 Exhibit 48, was then received and marked for
20 identification.)

21 MR. KRISTAL: I'm going to mark as
22 Exhibit 48 and 48-A two documents. One is dated
23 May 11th, 1934. And there are two copies
24 because I got them from different sources. One
25 was the General Electric lawyers, and it's a

1 letter from Dr. Hamilton to President Swope of
2 the General Electric Company.

3 And I'm going to mark as 48-A a
4 typed retype of the exact same letter that I had
5 done in preparation for this deposition because
6 the original document was a little difficult to
7 read.

8 So let me you hand you the retype as
9 48-A, and if you want to take a moment or two or
10 as long as you want to make sure that the retype
11 of the original accurately reflects the original
12 itself.

13 MR. SPEZIALI: I would object. I mean,
14 you know, you made your representation, Jerry.
15 As I said before the record started, a retype is
16 not appropriately attached to this record. It's
17 the original document or a copy of the original.

18 MR. KRISTAL: What are you talking
19 about? If the witness says --

20 MR. KAPSHANDY: It's not our job to
21 verify your typing, Jerry.

22 MR. KRISTAL: Let me ask questions.
23 I'm trying to help.

24 MR. KAPSHANDY: Just don't mark one
25 that you've created.

1 MR. KRISTAL: I can mark whatever I
2 want, and I have marked it, and we'll go through
3 the document.

4 When you got this document, the
5 original May 11th, 1934 document, did you have a
6 hard time reading it?

7 THE WITNESS: Well, sure. It's got a
8 lot of stuff, but it's still readable.

9 MR. KRISTAL: So you were able to read
10 it so you don't need the retype. There are two
11 copies, and they're different copies because the
12 second page of the second copy is better than
13 the second page of the first copy. Do you see
14 that? It's the exact same letter.

15 MR. SPEZIALI: Do you have something I
16 don't have?

17 MR. KRISTAL: Yes, it's got a better
18 copy of the first page. It's the same letter,
19 same date, same exact thing, just different
20 copies, correct?

21 MR. SPEZIALI: I see.

22 THE WITNESS: They look a little
23 different.

24 MR. SPEZIALI: I think the confusion --

25 THE WITNESS: They look, they look like

1 two different letters.

2 MR. KRISTAL: Well, it's the exact same
3 letter with the exact same words.

4 MR. SPEZIALI: I think I could explain.
5 I think that --

6 MR. KRISTAL: No trick here. I'm just
7 trying to assist.

8 MR. SPEZIALI: The confusion is that
9 the top one appears to have been photocopied
10 through.

11 MR. KRISTAL: Exactly.

12 MR. SPEZIALI: One of them is
13 photocopied through. So you want to work off of
14 the one that's not photocopied?

15 MR. KRISTAL: I want to work off either
16 the original -- either one of the two originals
17 or off my retype, whatever it is that
18 Ms. Drucker finds helpful to read it. That's
19 all I'm looking for.

20 MR. SPEZIALI: Let's work off of this
21 original which actually has the sticker marking
22 on it.

23 THE WITNESS: Okay. I'll work off this
24 one.

25 BY MR. KRISTAL:

1 Q. Okay. If you need to look off anything
2 else, just let us know you're doing that.

3 A. Okay. It depends on your question.

4 Q. Of course.

5 A. Okay.

6 Q. This letter, in essence, is the summary
7 letter of what Dr. Hamilton had done after
8 getting the okay in December of 1933 to go and
9 check the various GE plants that had asbestos in
10 them, is it not?

11 A. I'll take a minute to look at it.

12 Q. Yes.

13 A. Thanks.

14 MR. KRISTAL: Off the video record for
15 a second.

16 THE SPECIAL MASTER: Off the video,
17 please.

18 THE VIDEOGRAPHER: Off the record. The
19 time is two fifty-eight p.m.

20 MR. KRISTAL: Would it be okay if we
21 took a two-minute break, and Ms. Drucker, you
22 can take a break, as well?

23 (Whereupon, a recess was then taken.)

24 THE VIDEOGRAPHER: On the record. The
25 time is three o nine p.m.

1 BY MR. KRISTAL:

2 Q. Exhibit 48, the May 11th, 1934 letter
3 from Dr. Hamilton to the president of General
4 Electric you would agree is a brief summary of
5 the work that she had done pursuant to her being
6 hired again as a consultant for General Electric
7 to look into asbestos in their plant?

8 A. Yes.

9 Q. And she writes in the second paragraph,
10 quote, at the outset, I assumed that the problem
11 could be attacked in the same way as is the
12 problem of silicon dust; namely, by an
13 examination of the dust content of the air, end
14 quote. Do you see that?

15 A. Yes.

16 Q. So what Dr. Hamilton is saying here at
17 least is that she thought that the problem of
18 asbestos dust could be handled similar to the
19 problem of silica dust which would be by
20 examining how much dust there is in the air?

21 A. Right, that's what she says.

22 Q. And then she says, quote, but a fact
23 that there are no data as yet with regard to the
24 dangerous quantity of asbestos dust and the only
25 practical way of discovering whether the amount

1 in the air of any given factory is enough to be
2 harmful is to examine men who have been exposed
3 especially by means of x-ray pictures of the
4 lungs, end quote.

5 MR. SPEZIALI: Jerry, you misread that.
6 I know you didn't mean to. You missed the
7 sentence about Dr. Gardner. You went but a
8 fact, and you missed -- I'm assuming you wanted
9 to read that.

10 BY MR. KRISTAL:

11 Q. Sure. Quote, at the outset I assume
12 that the problem could be attacked in the same
13 way as is the problem of silicon dust; namely,
14 by an examination of the dust content of the
15 air. But a consultation with Dr. LU Gardner of
16 Saranac disclosed the fact that there are no
17 data as yet with regard to the dangerous
18 quantity of asbestos, and the only practical way
19 of discovering whether the amount in the air of
20 any given factory is enough to be harmful is to
21 examine men who have been exposed especially by
22 means of x-ray pictures of the lungs, end quote.
23 Do you see that?

24 A. Yes.

25 Q. Okay. She then goes on -- so what

1 she's recommending, in essence, to GE to find
2 out if there were dangerous levels of asbestos
3 dust is to do some x-ray examinations of the
4 workers there.

5 A. Right, that's what she says Dr. Gardner
6 says.

7 Q. And that's what she's recommending to
8 Mr. Swope?

9 A. Yes.

10 Q. Then she discusses, the next
11 paragraph --

12 MR. KAPSHANDY: Can I see 48-A, please?

13 MR. KRISTAL: -- the York plant --

14 MR. KAPSHANDY: Thank you.

15 BY MR. KRISTAL:

16 Q. -- specifically, correct?

17 A. I missed the first part.

18 Q. The next paragraph she's talking about
19 the York General Electric plant, right?

20 A. Yes.

21 Q. And she mentions that where the
22 asbestos roving in lap form is being done,
23 there's an exhaust over part of each machine,
24 correct?

25 A. Yes.

1 Q. And that would be an example of an
2 attempt at local exhaust to reduce the amount of
3 dust?

4 A. Yes.

5 Q. She notes that that is inadequate,
6 however, and she needs to completely enclose the
7 machines which would prevent the dust from
8 escaping, correct?

9 A. Let me just read that. In that
10 particular instance, yes, she's saying that it
11 may require complete enclosure apparatus.

12 Q. And one of the reasons she's saying you
13 may need to completely enclose the apparatus
14 that's causing the dust is that the asbestos
15 fibers, as she says, are, quote, light and
16 fluffy and not easily sucked in by an exhaust,
17 end quote. Do you see that?

18 A. I'm looking at that. It's a little
19 hard to read this.

20 Q. Do you agree that's what it says?

21 A. That's what I'm looking for. Right,
22 the fibers are light and fluffy, right.

23 Q. And not easily sucked in by an exhaust,
24 end quote, correct?

25 A. Yes.

1 Q. And that was communicated to Mr. Swope?

2 A. Yes.

3 Q. Then she mentions taking x-rays of some
4 of the older employees, right, and mentions
5 Mr. Obermaier in that regard?

6 A. Yes.

7 Q. And she writes to Mr. Swope that
8 Mr. Obermaier offered to explain to the four men
9 who worked longest in that department, from
10 eighteen to twenty-five years, that the company
11 wanted to be sure the dust was not harmful and
12 so wished to have the oldest employees examined.
13 Do you see that?

14 MR. SPEZIALI: Objection.

15 MR. KRISTAL: What's the objection?

16 MR. SPEZIALI: Because it's out of
17 context. You've got to read the sentence before
18 that to understand what that sentence you just
19 read to her means.

20 THE WITNESS: The question?

21 BY MR. KRISTAL:

22 Q. Did she say that Mr. Obermaier had
23 offered to explain to the men who worked longest
24 in the department that the company wanted to
25 make sure the dust was not harmful, so she

1 wanted to have the oldest employees examined?

2 A. Right. Together with the previous
3 sentence to put it in context, right, right.

4 Q. What do you mean together with the
5 previous sentence? She's saying that they're
6 doing -- she was initially reluctant because she
7 didn't want to alarm the men, right?

8 A. That what she said. I was reluctant to
9 advise such a procedure if it would mean
10 alarming the men and starting rumors of danger.

11 Q. Right.

12 A. Right.

13 Q. Then Mr. Obermaier suggested examining
14 the people that had worked there the longest.

15 A. Right. He said it wouldn't spark
16 rumors and, right, he said check the people who
17 had been there the longest.

18 Q. And you would need to examine men who
19 have been there for a longer period of time than
20 the latency period for causing asbestos disease,
21 otherwise you wouldn't detect any disease,
22 correct, if it existed?

23 A. I don't understand the question.

24 Q. Sure. The reason you want to have
25 x-ray pictures of the men who have been working

1 there the longest is you want to make sure if
2 you're looking to see whether or not there's a
3 danger that enough time has passed that if the
4 men are going to develop asbestos disease, that
5 it would have a chance to develop. Right?

6 A. Well, I think the way I'd say it is
7 that if one were x-rayed, it would detect what's
8 there, and if, if it happened to be -- I'll just
9 leave it at that.

10 Q. But if you x-rayed someone who wasn't
11 working there long enough for an asbestos
12 disease to develop, if they were going to get an
13 asbestos disease, you would have a negative
14 x-ray, right?

15 A. Well, generally considering the dose,
16 the time, right, you'd look at the people who
17 were there the longest.

18 Q. And the reason you're doing that is
19 because of the latency period of asbestos
20 disease?

21 A. Yes.

22 Q. Okay. And she specifically says that
23 to Mr. Swope, in essence, in the next paragraph,
24 correct? She then switches from talking about
25 York, where Mr. Obermaier was, to the Bridgeport

1 plant in the next paragraph, right?

2 A. In the next paragraph, she discusses
3 Bridgeport.

4 Q. And she writes, quote, in Bridgeport I
5 found a quite different situation, not with
6 regard to dust, for there is much here also, but
7 with regard to the length of exposure. The men
8 have been exposed less than two years;
9 therefore, nothing would be revealed by an
10 examination of them, end quote. Correct?

11 A. That's what she wrote.

12 Q. And that was communicated to the
13 president of General Electric, right?

14 A. Yes.

15 Q. So he certainly knew that if you're
16 looking to see whether or not there's a hazard
17 from asbestos dust, that you need to x-ray
18 workers who have been there long enough to
19 develop asbestos disease, otherwise, as she
20 writes, there's nothing that would be revealed?

21 A. It's a little -- you're taking it a
22 little out of context.

23 Q. Well, if --

24 MR. SPEZIALI: Let her answer the
25 question. Go ahead.

1 THE WITNESS: Well, we're talking about
2 people who not necessarily had been there, but
3 just people who had been exposed wherever.
4 He's -- that's what she's discussing, that
5 people who had long latency periods, sure, you'd
6 look at them. But in terms of there, at that
7 plant, who knows where these people were before.
8 I don't -- you're taking it a little out of
9 context.

10 BY MR. KRISTAL:

11 Q. She's saying in Bridgeport it doesn't
12 make sense to x-ray the men because they had
13 been exposed for less than two years, right?

14 A. That's what she says.

15 Q. And she says if you x-rayed men who had
16 been exposed to asbestos for less than two
17 years, nothing would be revealed because there
18 isn't a long enough latency period. That's what
19 she's talking about, isn't she?

20 A. Well, she's saying that nothing would
21 be revealed by an examination of them. And I
22 can read into it, yes, that it would have to do
23 with latency duration.

24 Q. Because if you took x-ray pictures of
25 men who had only been exposed for two years and

1 didn't inspect Schenectady because Vosburgh was
2 supervising that plant, right?

3 A. Well, she didn't take something up. So
4 I assume that since she's talking about x-rays,
5 it would have to do with that. That would be up
6 to Dr. Vosburgh.

7 MR. KRISTAL: The next document is
8 dated May 15th, 1934.

9 MR. KAPSHANDY: Again, for the record
10 I'd object. Not only have we now heard that
11 this was prepared by counsel, but the fact is
12 it's incomplete, and I think it's highly unusual
13 and inappropriate to put part of a document in
14 which purports to be a transcription and call it
15 a retyping of the original which, by his own
16 admission, is missing some lines.

17 MR. KRISTAL: It's missing a portion of
18 a sentence that we read into the record that I
19 will be happy to handwrite into the document.

20 MR. KAPSHANDY: I think that's highly
21 unusual. I continue to maintain that it's a
22 retype.

23 THE SPECIAL MASTER: Objection is
24 noted. Let's keep going.

25 MR. KRISTAL: Exhibit 49 is May 15th,

1 you got a negative x-ray, it wouldn't mean that
2 it's a safe situation. You wouldn't know one
3 way or the other, right?

4 A. Well, are we talking about what they
5 knew then from x-rays --

6 Q. Yes.

7 A. -- versus what we know now.

8 Q. I'm talking about then because she's
9 writing this then in 1934, right?

10 A. Right.

11 Q. She's communicating to the president of
12 General Electric that if you want to find out if
13 there's a hazard from asbestos dust, you need to
14 look at workers who have been there long enough
15 to even have a chance of developing the disease.
16 Isn't that, in essence, what she's saying?

17 A. Yes.

18 Q. And then she mentions again her work in
19 Schenectady. She's saying that she kind of left
20 that up to Dr. Vosburgh, correct?

21 A. If you're referring to the paragraph
22 with the third place in which asbestos is used,
23 Schenectady, is already under Dr. Vosburgh's
24 supervision.

25 Q. And I did not take that up, meaning she

1 1934, and that's Dr. Swope's letter back to --
2 Mr. Swope's letter back to Dr. Hamilton
3 acknowledging that he had read the prior letter
4 we were just looking at and noting that he was
5 going to pass the information on to the
6 vice-president in charge of manufacturing for
7 General Electric.

8 (Whereupon, Exhibit 49, a document
9 dated May 15th, 1934, Mr. Swope's letter back to
10 Dr. Hamilton, was then received and marked for
11 identification.)

12 MR. KRISTAL: Correct?

13 THE WITNESS: Yes.

14 MR. KRISTAL: Exhibit 50 is on
15 letterhead that is entitled General Electric
16 X-ray Corporation.

17 (Whereupon, Exhibit 50, a document
18 dated April 1st, 1935 on letterhead that is
19 entitled General Electric X-ray Corporation, was
20 then received and marked for identification.)

21 MR. KRISTAL: With a GE logo dated
22 April 1st, 1935.

23 MR. SPEZIALI: Could I see that,
24 please?

25 MR. KRISTAL: It's from the

1 Publications Division to the North Carolina
2 Industrial Commission in Raleigh, North
3 Carolina. This is Plaintiff's Exhibit GE 138.
4 It's been on the GE exhibit list for years.

5 MR. KAPSHANDY: For the record, this is
6 not something that was produced from GE's files.
7 On its face it appears to be in the North
8 Carolina Department of Health.

9 MR. KRISTAL: I have no idea where it's
10 from. I'm not disagreeing it's GE letterhead,
11 but Dave and I had a stipulation on the record a
12 long time ago. So whatever the stipulation is.

13 MR. KAPSHANDY: I just want to be clear
14 it's not something that was produced by the
15 witness or that she's seen before.

16 MR. KRISTAL: I don't know that. It's
17 certainly something we gave to the GE lawyers,
18 right? It's on our exhibit list.

19 MR. SPEZIALI: It's one of those four
20 or five thousand exhibits on your list, you're
21 correct.

22 MR. KRISTAL: There are about five
23 hundred GE exhibits on the GE exhibit list.

24 MR. SPEZIALI: That is a
25 state-of-the-art article attached.

1 complete document? Is there any way we can
2 check on that? It looks like it's part of
3 something.

4 Q. I don't know. We can try to find out.

5 MR. SPEZIALI: For the record, we'll
6 object to the document unless the complete
7 document is here, but go ahead.

8 BY MR. KRISTAL:

9 Q. I'm going to ask you about the first
10 part of the document. And the first section
11 notes that the word pneumoconiosis comes from
12 two Greek words meaning lung and dust, correct?

13 A. Yeah. Can you let me look this over a
14 second more, please? Okay. Yeah, it says that
15 pneumoconiosis is derived from two Greek words
16 meaning lung and dust.

17 Q. Then later in the paragraph it says
18 that pneumoconiosis is a general term while
19 there are other terms to identify the type of
20 dust responsible for the disease, correct?

21 A. That's what the document says.

22 Q. And then it lists a number of diseases,
23 and the third one down is asbestosis, asbestos
24 workers. Do you see that?

25 A. Yes, that's what it says.

1 MR. KRISTAL: What?

2 BY MR. KRISTAL:

3 Q. Was this provided to you by the GE
4 lawyers?

5 A. If it was, I don't recall it.

6 Q. Okay. And under the letterhead General
7 Electric X-ray Corporation, it says branch
8 offices in all principle cities, correct?

9 A. That's what it says.

10 Q. And what the letter is saying is that
11 there -- GE X-ray Corporation is sending a
12 letter to the North Carolina Commissioner of
13 Industrial Commission in an effort to sell them
14 x-ray equipment, correct?

15 A. I'll just read this.

16 Q. Sure.

17 A. Okay. Yes. I just read the cover
18 letter.

19 Q. And attached to the pamphlet entitled
20 Industrial Aspects of the Silicosis Problem on
21 the bottom it has GE emblem General Electric
22 X-ray Corporation, and that is referenced in the
23 letter as what is being sent to the commissioner
24 in North Carolina.

25 A. Yes. Do you know if this is the

1 MR. SPEZIALI: Objection.

2 BY MR. KRISTAL:

3 Q. So you would agree that in 1935 the
4 General Electric X-ray Corporation was aware
5 that there was a disease known as asbestosis?

6 A. Well, certainly by that time the
7 industry knew, and I'd say by 1935 the name for
8 the disease asbestosis would have been, as we
9 talked about before, known.

10 Q. Okay. Move to strike the portion of
11 that -- I'm asking you General Electric and only
12 about General Electric. Do you agree that
13 General Electric knew that in 1935 there was a
14 disease called asbestosis?

15 A. Yeah, in 1935 GE would have known there
16 was a disease asbestosis.

17 Q. Now, we mentioned other sources of
18 information to General Electric being
19 information provided by organizations that
20 General Electric or employees of General
21 Electric were members of. Do you remember that
22 very early on today?

23 MR. SPEZIALI: Objection.

24 THE WITNESS: That's not quite how we
25 said it before.

1 BY MR. SPEZIALI:

2 Q. Well, would you agree that one source
3 of information for General Electric about the
4 disease asbestosis were publications that were
5 put out by organizations of which GE was a
6 member?

7 A. Say that again.

8 Q. Sure. Let me do it this way. Exhibit
9 51 is something that was provided to you by the
10 General Electric lawyers, is it not, and it's
11 sections of a 1930 bulletin of the American
12 Ceramic Society.

13 A. And this was in the document materials?
14 I'd like to just --

15 (Whereupon, Exhibit 51, sections of a
16 1930 bulletin of the American Ceramic Society,
17 was then received and marked for
18 identification.)

19 MR. KAPSHANDY: We haven't seen these
20 before.

21 MR. KRISTAL: Well, I need to, first of
22 all, change the sticker.

23 BY MR. KRISTAL:

24 Q. Were you provided by the General
25 Electric lawyers documents that related to the

1 publications of the American Ceramic Society?

2 A. I don't recall.

3 Q. Okay. What was your understanding of
4 the significance of the American Ceramic Society
5 documents that the GE lawyers provided to you?

6 MR. SPEZIALI: Objection.

7 THE WITNESS: Well, you know, it was --
8 with several of the documents they were relating
9 to contacts, what was known at different periods
10 of time.

11 MR. KRISTAL: Okay. So one of the
12 sources about what was known at different
13 periods of time for General Electric were
14 publications of organizations that it belonged
15 to, correct?

16 MR. SPEZIALI: Objection. Asked and
17 answered many hours ago.

18 THE WITNESS: Okay. Maybe you can say
19 that again. That's a little different than what
20 you asked before.

21 BY MR. KRISTAL:

22 Q. Okay. You were looking at the American
23 Ceramic Society documents to see what
24 information was imparted to General Electric or
25 employees of General Electric by that group with

1 American Ceramic Society?

2 A. Yes, I received some.

3 Q. Okay. And did you read those
4 documents?

5 A. Yes, I looked them over.

6 Q. Did you understand that in the 1930s
7 and 1940s General Electric was a member of the
8 American Ceramic Society?

9 A. Well, I'd know definitively if I looked
10 at the document. I'd say in general I recall
11 that there were some members of different parts
12 of the company that were members at different
13 times.

14 Q. Okay. And the American Ceramic Society
15 documents that you had been provided with were
16 various publications of the American Ceramic
17 Society, correct?

18 A. Can I see the documents and then --

19 Q. I'm just asking a general question.

20 A. Sure. And I'd like to see the
21 documents, if that's okay.

22 Q. I'm not talking about a specific
23 document. Do you recall -- that's either a yes
24 or no -- that some of the American Ceramic
25 Society documents that you saw included

1 respect to the hazards of asbestos. Is that
2 fair to say?

3 A. No.

4 Q. You were not?

5 A. I was not what?

6 Q. Did you say no?

7 A. Yes.

8 (Whereupon, the above-requested answer
9 was then read by the reporter.)

10 BY MR. KRISTAL:

11 Q. Did you look at those documents for any
12 particular reason?

13 A. Sure.

14 Q. What was the reason?

15 A. Well, part of it was contacts. Part of
16 it was to see what was -- what kind of
17 technologies were available, what kind of
18 alternative materials may have been available at
19 various periods of time.

20 Q. Alternatives to what?

21 A. Alternatives to asbestos.

22 Q. And why were you looking for that?

23 A. I was looking at that again for
24 contacts to see what was known at various
25 periods of time, which types of materials were

1 suitable in different situations.

2 Q. Okay. Let me show you Exhibit 51. I
3 don't have the document now as to whether it was
4 provided by the General Electric lawyers or not.
5 This is volume nine, 1930, a portion of the
6 bulletin of the American Ceramic Society.

7 A. Yes. This is a portion of what was in
8 the file, and could I have the whole document,
9 please?

10 Q. This is all I have.

11 MR. SPEZIALI: Do we have that?

12 MR. KAPSHANDY: It's going to take a
13 while to find it. If you can give us a moment,
14 those are massive amounts of files.

15 MR. SPEZIALI: Is there a date on that?

16 MR. KRISTAL: 1930.

17 MR. SPEZIALI: Well, give us a second
18 and we'll pull it. If you don't have a whole
19 copy, we'll pull it right now.

20 MR. KRISTAL: Right. So this was one
21 of the documents that you provided to
22 Ms. Drucker.

23 MR. SPEZIALI: We're not sure. We're
24 checking, and she's asked to look at the whole
25 document.

1 THE VIDEOGRAPHER: On the record. The
2 time is three forty-three p.m.

3 BY MR. KRISTAL:

4 Q. While we were off the record, we marked
5 three exhibits, Exhibits 51, 52 and 53, that all
6 relate to the American Ceramic Society. Let me
7 identify them first.

8 Exhibit 51 is a portion of the bulletin
9 of the American Ceramic Society from 1930.
10 Exhibit 52 is a portion of the bulletin of the
11 American Ceramic Society from October 1940. And
12 Exhibit 53 is a portion of the ceramic abstracts
13 compiled by the American Ceramic Society, and
14 that's from September 1934. Okay.

15 A. Yes.

16 Q. And I think we have an understanding
17 that these three documents have been provided to
18 you by the General Electric lawyers pursuant to
19 the project that you began in September of 2003,
20 correct?

21 A. Yes.

22 Q. Okay. The first one, Exhibit 51, lists
23 individual members, does it not? It's got pages
24 with listings of various individuals who are
25 members of the American Ceramic Society as of

1 MR. KRISTAL: I think this is what you
2 provided her, but we'll find it. Which list is
3 it on because I was trying to find it?

4 MR. KAPSHANDY: C-9 and 10.

5 MR. KRISTAL: C-9.

6 THE WITNESS: Should I take a look over
7 there?

8 MR. SPEZIALI: No. There's a lot of
9 them.

10 THE SPECIAL MASTER: Do you want to go
11 off the video?

12 MR. KRISTAL: Sure.

13 THE SPECIAL MASTER: Let's go off the
14 video, please.

15 THE VIDEOGRAPHER: Off the record. The
16 time is three thirty-three p.m.

17 (Whereupon, a recess was then taken.)

18 (Whereupon, Exhibit 52, a portion of
19 the bulletin of the American Ceramic Society
20 from October 1940, was then received and marked
21 for identification.)

22 (Whereupon, Exhibit 53, a portion of
23 the ceramic abstracts compiled by the American
24 Ceramic Society from September 1934, was then
25 received and marked for identification.)

1 1930.

2 A. As of -- just checking a date here.

3 Q. It has different months starting in
4 January?

5 A. Yeah, as of 1930, right.

6 Q. For example, on page seventy-seven,
7 there's a person down at the bottom, JS Leibson,
8 L-E-I-B-S-O-N, who's with the General Electric
9 Company in Schenectady, the research laboratory.
10 He's a member.

11 A. Okay. Let me see. Yes, right.

12 JS Leibson, Schenectady, right.

13 Q. And then page one twenty-five of
14 Exhibit 51 at the bottom there's a gentleman
15 named Jerald Reinker, R-E-I-N-K-E-R, who's with
16 the General Electric Company in Cleveland?

17 A. Yes, that's right.

18 Q. Page one ninety-two, there's a -- it's
19 entitled Committee Appointments For Divisions of
20 the American Ceramic Society, and there's a
21 person J -- I'm sorry, CD Spencer of the General
22 Electric Company also from Cleveland who's on
23 the glass committee of the American Ceramic
24 Society in 1930, right?

25 A. I'm checking, right. CD Spencer.

1 Q. The next page there's on the White
2 Wears Committee of the American Ceramic Society,
3 Mr. Navies, N-A-V-I-E-S, of the General Electric
4 Company research lab in Schenectady, correct?
5 A. Yes.
6 Q. Page two thirty-nine also lists
7 Mr. Navies as being on the committee on data.
8 A. Just checking.
9 Q. It's in the middle of the page kind of,
10 maybe three-quarters of the way down.
11 A. You're on page two thirty-nine?
12 Q. Right. Just above where it says
13 committee on geology.
14 A. Oh. Right. Mr. Navies, right, General
15 Electric. I see that.
16 Q. So as of 1930 there were at least
17 however many people we mentioned that were
18 employees of General Electric who were members
19 of the American Ceramic Society?
20 MR. SPEZIALI: Objection.
21 MR. KRISTAL: That's what the document
22 indicates?
23 MR. SPEZIALI: There's four. You said
24 how many you mentioned. There's four.
25 MR. KRISTAL: However many there were.

1 I didn't count. Four?
2 MR. SPEZIALI: Four.
3 BY MR. KRISTAL:
4 Q. Okay.
5 A. Those people apparently were members,
6 right.
7 Q. Okay. And if you look at Exhibit 52,
8 which is the October 1940 bulletin of the
9 American Ceramic Society, if you look two pages
10 from the back, it notes that General Electric is
11 a corporate member of the American Ceramic
12 Society as of that date, does it not?
13 A. Oh, right, two pages from the back.
14 Q. It says up top, roster of paid
15 corporation members. Then it's in alphabetical
16 order, and then it says General Electric
17 Company, lamp department, Pitney Glass Works,
18 Cleveland, Ohio?
19 A. Right. Lamp department, yes.
20 Q. And then the next document 53, is
21 ceramic abstracts. And this was as well
22 provided to you by the attorneys for General
23 Electric.
24 A. Yes.
25 Q. And it lists on the second page --

1 well, strike that.
2 What you have here, the ceramic
3 abstract that you read, were summaries of
4 various articles and book reviews of different
5 topics. Is that fair to say?
6 A. If I can look it over.
7 Q. Sure.
8 A. Thanks.
9 MR. SPEZIALI: Can I ask what was the
10 year?
11 MR. KRISTAL: 1934.
12 MR. SPEZIALI: '34. I had '44. It's
13 '34
14 MR. KRISTAL: It's '34.
15 MR. SPEZIALI: That's Exhibit 53.
16 MR. KRISTAL: Yeah.
17 MR. SPEZIALI: Okay.
18 THE WITNESS: Okay. And the question?
19 BY MR. KRISTAL:
20 Q. Talking generally about the what's
21 called ceramic abstracts, those are summaries of
22 various articles, book reviews, patents, those
23 kinds of things. If you look at the first two
24 pages.
25 A. Right. It looks like it's summaries of

1 patents.
2 Q. The second page has an article on
3 silicosis?
4 A. It has a book review, right.
5 Q. And then there's a book review,
6 correct?
7 A. There is one, right, on the second
8 page.
9 Q. Okay. And these ceramic abstracts were
10 sent to members of the American Ceramic Society?
11 Is that your understanding?
12 A. I don't know.
13 Q. Did you ask anybody?
14 A. No.
15 Q. Okay. The second page under book
16 review, it's a review of a book called
17 Pneumoconiosis, parentheses, Silicosis, close
18 parentheses, Bibliography and Laws. Do you see
19 that?
20 A. Yes, I do.
21 Q. And it was published by Industrial
22 Medicine, Inc. Do you see that?
23 A. Right.
24 Q. And Industrial Medicine, Inc. was a
25 publishing house that, in part, was responsible

1 for publishing the journal Industrial Medicine?
2 Are you aware of that?

3 A. No.

4 Q. And the book review notes that the
5 Pneumoconiosis Silicosis, Bibliographies and
6 Laws is, quote, an exhaustive compilation of
7 references to the pneumoconiosis, parentheses,
8 silicosis, close parentheses and the literature
9 of the world. This book contains every
10 available reference from the first published --
11 I won't read the name -- in 1556 (sic) to the
12 last published articles in 1933. Do you see
13 that?

14 A. Where are you reading that?

15 Q. In the book review.

16 A. Okay. Just give me a second.

17 Q. Sure.

18 A. That's what it says.

19 Q. And the last sentence of the book
20 review says, quote, industrial executives,
21 industrial boards, state commissioners, state
22 commissions, engineers and research workers will
23 find this book indispensable, unquote. Do you
24 see that?

25 A. That's what it says.

1 Q. And then the next number of pages or
2 pages from the book that was reviewed in the
3 ceramic abstracts of 1934, is it not?

4 A. Let me just check.

5 Q. Same title, same authors, same
6 publisher, same date.

7 A. Just checking. It appears to be.

8 Q. And what it does is it has references
9 by year and by various topics, and it starts out
10 in 1872 to 1873, and it goes up through the year
11 1933.

12 A. I'm just checking.

13 Q. Sure.

14 A. Thanks. You don't have a whole set.
15 This thing starts --

16 Q. That's right. We have selected pages,
17 and it appears the GE lawyers provided you with
18 the pages that had the references to asbestosis
19 throughout the different years.

20 A. I don't know.

21 MR. KAPSHANDY: These came from the
22 Plaintiff's exhibit list. That's what she was
23 provided.

24 MR. KRISTAL: Well, you provided that
25 document from some other --

1 MR. KAPSHANDY: I thought we had the --
2 just so the record, is clear, and I don't think
3 you're misrepresenting, these come from GE's
4 files. These come from Plaintiff's exhibit
5 lists, and she was provided them for review.
6 That's why they're being brought.

7 BY MR. KRISTAL:

8 Q. Okay.

9 A. Okay. So as I said, some of the pages
10 appear to be missing.

11 Q. Well, did you read this when you got
12 it?

13 A. I looked it over.

14 Q. Okay. Did you ask the GE lawyers to
15 see a full copy of the bibliography from 1934 on
16 pneumoconiosis?

17 A. No.

18 Q. They do have, the pages that are here,
19 different years starting in 1872 and different
20 categories and various pages have the category,
21 amongst other categories, for asbestosis,
22 correct?

23 A. Say that again. I was looking at the
24 document. Please.

25 Q. It's a list of references by year and

1 by subject matter, correct?

2 A. It's a list of something, and it has --

3 Q. It says references up top?

4 A. It does. Thank you.

5 Q. Okay. So you'd agree it's a list of
6 references by year by subject matter.

7 A. Incomplete as it is, yes, that's what
8 it appears. It's got references by years.

9 Q. And the pages --

10 A. We don't have the background
11 explanation of the title, what that means, but
12 yes, that's what it looks like.

13 Q. And for example, where it says
14 references years 1872 to 1873, it has the word
15 asbestosis, correct?

16 A. Right, it does. It has an entry for
17 asbestosis.

18 Q. And it's an article entitled Asbestosis
19 in Asbestos Workers, Professional Asbestosis.
20 The actual date of the article appears to be
21 1931, does it not? Page number 1931. It's from
22 1872 to 1874.

23 A. Well I don't know -- I think it's in
24 another language. It looks like it's in German
25 or something. It's in another language. So

1 it --

2 Q. The name of the bulletin -- the journal
3 is in another language. Is that --

4 A. Right.

5 Q. The title that's here in front of us
6 that we can read is in English, right?

7 A. Right, this title is in English.

8 Q. Right.

9 MR. SPEZIALI: Could I see this? I'm
10 not trying to be obstructing here but -- I mean,
11 I have an objection.

12 MR. KRISTAL: Fine. Just say objection
13 and we'll move on. We'll deal with an objection
14 whenever it comes up.

15 MR. SPEZIALI: I won't say anything
16 other than --

17 MR. KRISTAL: I don't want you to make
18 a speaking objection. If you have an objection
19 to the document, just say that.

20 THE SPECIAL MASTER: That's all you
21 need to do, David, is preserve.

22 MR. SPEZIALI: The document is not
23 accurate. There's something wrong here.

24 THE SPECIAL MASTER: Then that's your
25 objection. That's fine.

1 references years 1881 to 1882. There's a
2 section on asbestosis, and it has a German
3 article that appears to have actually been
4 published in 1882, correct?

5 A. I can't read German, and I don't know
6 what that says. I don't know what the article
7 title says.

8 Q. The category says asbestosis in
9 English, correct?

10 A. That's English, right.

11 Q. And then it has the name of the author,
12 Feuerstack, F-E-U-E-R-S-T-A-C-K; is that
13 correct?

14 A. I assume that's the author.

15 Q. And then it has a title in a foreign
16 language, correct?

17 A. Right.

18 Q. And then it has 1882 after it.

19 A. Right, whatever. I have no idea what
20 that title says.

21 Q. Did you ask anybody?

22 A. No.

23 Q. Next page, 1884 to 1885 there's a
24 section that says asbestosis, correct, in
25 English?

1 MR. SPEZIALI: On its face we could all
2 agree on it. Go ahead. I'll deal with it on
3 cross-examination.

4 MR. KRISTAL: With that particular
5 entry -- I was trying to get into that and --

6 MR. SPEZIALI: Go ahead. Maybe that's
7 where you're going. There's clearly something
8 wrong with it, but go ahead. Maybe I'm
9 misunderstanding.

10 BY MR. KRISTAL:

11 Q. As I'm interpreting that entry for 1872
12 is that the article was published in 1931 but it
13 references 1872 to 1874. Is that your
14 interpretation?

15 A. It makes no sense. It has the years
16 1872 to '73, right, and then in the article
17 itself, it does appear to be --

18 Q. 1931.

19 A. -- from 1931.

20 Q. Whether it's 1931 or 1872 to 1873, it's
21 a reference on asbestosis that's in the
22 published literature, correct?

23 A. It's a reference in, yes, this
24 document.

25 Q. Right. And then the next page

1 A. Wait a minute. What page are you on?

2 Q. Next page, under the section that says
3 asbestosis. It's an article by an author named
4 Terrell, T-E-R-R-E-L-L?

5 A. Oh, if I can just look that one over.
6 If you're looking at the entry number two
7 fifty-four, there's an article by Terrell.
8 Again, it's in a foreign language.

9 Q. Well, that appears to be French,
10 correct?

11 A. It appears to be French.

12 Q. And it's under a section in English in
13 the 1934 book that's entitled asbestosis,
14 correct?

15 MR. SPEZIALI: Objection.

16 BY MR. KRISTAL:

17 Q. Isn't it?

18 A. It's under -- I'm sorry. Well, the
19 general category? Sure.

20 Q. And that's dated 1885, that article?

21 A. That article on whatever it says,
22 right, appears to be 1885.

23 Q. And then the next page references year
24 1906. There's a category that says asbestosis,
25 and there's an article by Auribault listed,

1 A-U-R-I-B-A-U-L-T, in French from 1906, correct?
 2 A. Again, in another language, right, and
 3 yes, there's something under that category
 4 asbestosis. I don't know what the article says,
 5 what it's called. It's in another language.
 6 MR. SPEZIALI: Same objection.
 7 MR. KRISTAL: Did you ask to see that
 8 article?
 9 MR. SPEZIALI: I can stipulate we
 10 didn't find it.
 11 THE WITNESS: No.
 12 MR. KRISTAL: You didn't find the
 13 Auribault article?
 14 MR. SPEZIALI: In French, no.
 15 MR. KRISTAL: Well, if there was an
 16 English translation of it.
 17 MR. SPEZIALI: With the word asbestosis
 18 in 1904? I don't think so.
 19 MR. KRISTAL: Under asbestosis 1908,
 20 the next page, there's an article by Scarpa,
 21 S-C-A-R-P-A, correct, in Italian?
 22 MR. SPEZIALI: Same objection.
 23 THE WITNESS: Right.
 24 MR. KRISTAL: Next page, 190 --
 25 THE WITNESS: Again, in 1908 the word

1 asbestosis hadn't been coined yet.
 2 BY MR. KRISTAL:
 3 Q. Do you understand that in 1934 the word
 4 asbestosis had been coined, correct?
 5 A. In 1934 -- it was coined in 19 --
 6 Q. '27?
 7 A. '27.
 8 Q. So the authors of this book have broken
 9 down references by subject titles, and those
 10 authors have entitled that section asbestosis,
 11 and they're listing references in the published
 12 literature under that subject, correct?
 13 A. Well --
 14 MR. SPEZIALI: Wait, wait, wait.
 15 Objection and move to strike the question unless
 16 counsel at the time of trial can show that
 17 statement to be true, namely with the entire
 18 document.
 19 BY MR. KRISTAL:
 20 Q. Did you read the book review?
 21 A. The book review that we talked about
 22 before?
 23 Q. Yes.
 24 A. Yes. The book review was a very brief
 25 summary.

1 Q. And the book review says, quote, an
 2 exhaustive compilation of the references to the
 3 pneumoconiosis, parentheses, silicosis, close
 4 parentheses, in the literature of the world,
 5 correct?
 6 A. Well, I'm just -- that's what they say
 7 they did, right.
 8 Q. Okay.
 9 A. They're trying to sell their book.
 10 Q. That's what -- this is not written by
 11 the authors, is it? The review?
 12 A. It looks like it was written by
 13 somebody named Henry Smith.
 14 Q. The book review was written by Henry
 15 Smith, right?
 16 A. It appears that way.
 17 Q. Okay. And the book itself was written
 18 by a Dr. Davis, professor of surgery, University
 19 of Chicago, right?
 20 A. Where are you looking?
 21 Q. At the cover of the book.
 22 A. The cover of the book.
 23 Q. Right.
 24 A. Right.
 25 Q. And it was written also co-authored by

1 Ms. Salmonsens, S-A-L-M-O-N-S-E-N, who's a
 2 medical records librarian in Chicago?
 3 A. That's what it says.
 4 Q. And a Joseph Earlywine who's an
 5 attorney at law in Chicago, correct?
 6 A. That's what it says, right.
 7 Q. And the forward was written by a
 8 Dr. Count, professor and chair of the department
 9 of pathology at the University of Chicago,
 10 right?
 11 A. Yes.
 12 Q. And if you go back to the book review,
 13 the book has two sections. The first, the
 14 bibliography, is followed by subject index.
 15 A. Where are you looking?
 16 Q. The middle of the book review.
 17 A. Okay.
 18 Q. The book has two sections. The first,
 19 the bibliography, is followed by subject index,
 20 author index, a reference year index and an
 21 index of reference headings, unquote. Do you
 22 see that?
 23 A. Right.
 24 Q. And that's the section we're looking
 25 at, correct, the references?

1 A. Yeah, which makes no sense.
 2 Q. You think this makes no sense?
 3 A. Well, we're talking about that and
 4 you're talking about --
 5 Q. I'm just asking you if you think it
 6 makes no sense.
 7 A. I said aspects of it, yes, don't make
 8 sense. I said that before.
 9 Q. Who did you ask to explain it to you
 10 when you read it if it didn't make sense to you?
 11 A. I didn't.
 12 Q. Okay. If you turn to the upper
 13 right-hand -- left-hand corner, page sixty-six,
 14 references for the year 1911.
 15 A. Okay.
 16 Q. Section entitled Asbestosis, correct?
 17 A. Right.
 18 Q. And there's an article from 1921,
 19 right, from Canada, The Effect of Asbestos Dust
 20 on Workers Health in Asbestos Mines and
 21 Factories, correct?
 22 A. That's what it says.
 23 Q. Next page, Asbestosis on the right-hand
 24 side. In the middle of the page there's an
 25 article by Fahr, F-A-H-R, from 1914 from

1 A. There's an article, right, in which
 2 it's entitled -- that's not the title of the
 3 article. It's under that heading Asbestosis --
 4 Q. Next page --
 5 A. -- which he hadn't coined yet.
 6 Q. Next page, 1927 section on asbestosis
 7 has eight articles, correct, including the one
 8 where Cook coins the term asbestosis, right?
 9 A. Okay. Are you looking on page one
 10 forty-six?
 11 Q. And one forty-seven. Right, for the
 12 year 1927 there are eight articles under the
 13 heading asbestosis.
 14 A. I'm just looking at it.
 15 Q. Right?
 16 A. There were eight articles, yes.
 17 Q. And the second one is the Cook article
 18 from 1927 entitled Asbestosis, right?
 19 A. It's entitled Asbestosis.
 20 Q. And that's the article which coined the
 21 term, right?
 22 A. I'd have to check that.
 23 Q. The title is Asbestosis of the article.
 24 It's from 1927 by Cook.
 25 A. Right.

1 Homberg, correct?
 2 A. It's in German, and it says Homberg
 3 from 1914. Yes.
 4 Q. Okay. And next page, Asbestosis
 5 left-hand side, 1923, an article from South
 6 Africa, right?
 7 A. Yes. 1923? Is that what you said?
 8 Q. Yes.
 9 A. Yes.
 10 Q. Next page, 1924 Asbestosis, the article
 11 by Cook. That's the person who coined the term
 12 three years later, correct?
 13 A. And we're looking at entry ten
 14 ninety-four?
 15 Q. Yes.
 16 A. Right, and he coined the term, right,
 17 in 1927.
 18 Q. And the 1924 article that he wrote in
 19 the British Medical Journal is entitled Fibrosis
 20 of the Lungs Due to the Inhalation of Asbestos
 21 Dust, unquote, right?
 22 A. That's what it says here.
 23 Q. Okay. And then the next page, another
 24 article by Cook, 1926, under the subject
 25 asbestosis, correct?

1 Q. Do you think there's some question as
 2 to whether that's the article?
 3 A. Well, in that article he used that
 4 term. Whether that was the article where it was
 5 coined, I don't know.
 6 Q. Okay. And the last entry for 1927 is
 7 entitled Pneumoconiosis Caused By Asbestos Dust
 8 published in JAMA, right, J-A-M-A, 1927?
 9 A. Yes, it's published in JAMA 1927.
 10 Q. And JAMA is the Journal of the American
 11 Medical Association, correct?
 12 A. It is.
 13 Q. And any physician in the United States
 14 who's a member of the American Medical
 15 Association gets the Journal of the American
 16 Medical Association sent to them?
 17 A. Not all.
 18 Q. Do you know that for a fact? Doesn't
 19 it come with the membership?
 20 A. With the membership with what?
 21 Q. The membership in the American Medical
 22 Association comes with a subscription to the
 23 Journal of the American Medical Association?
 24 A. Yes, yes.
 25 Q. Next page, 1928, there are six articles

1 under the heading Asbestosis, correct?

2 A. Yes.

3 Q. And one of them is what was referred to
4 in the Merewether report that we looked at in
5 Seiler's case, the 1928 case, the third one
6 down?

7 A. There's an article by Seiler. I don't
8 know if that's the case that was referred to.

9 Q. And it's titled, A Case of
10 Pneumoconiosis As a Result of the Inhalation of
11 Asbestos Dust from 1928, correct?

12 A. That's what it says.

13 Q. And Merewether referenced the 1928
14 Seiler's case which was a case of pneumoconiosis
15 caused by asbestos dust, right?

16 A. I'd have to check it, but I do recall
17 her mentioning the name Seiler.

18 Q. Next page, 1929, there are nine
19 articles listed under the heading asbestosis.

20 A. Checking. Right, there are nine
21 articles listed.

22 Q. 1930 under Asbestosis there are
23 twenty-three articles listed including the
24 Merewether report that we reviewed which is
25 number seventeen forty-five?

1 A. Which page are you on?

2 Q. One eighty-two, one eighty-three and
3 one eighty-four.

4 A. Okay. And you said how many?

5 Q. Twenty-three.

6 A. Okay. I'll check. There are
7 twenty-three. Not all are in English.

8 Q. And it includes number seventeen
9 forty-five which is the 1930 Merewether report
10 which is Exhibit 38 of this deposition?

11 A. Yes.

12 Q. So when Dr. Cowle in 1930 started her
13 literature review of articles on asbestos, fair
14 to say the articles that we've been looking at
15 would have been available to her?

16 MR. SPEZIALI: Objection.

17 THE WITNESS: All the articles?
18 Probably not, no.

19 MR. KRISTAL: Many of the articles?

20 THE WITNESS: It depends. They
21 certainly didn't have the kind of system that we
22 have now for accessing literature and medical
23 articles, and it was very different.

24 MR. KRISTAL: Well, do you think
25 Dr. Cowle took her job seriously?

1 MR. SPEZIALI: Objection.

2 THE WITNESS: If you're asking me did
3 she take her job seriously as a health
4 professional, I'm sure she did.

5 MR. KRISTAL: Do you think that for
6 some reason she wouldn't do a thorough
7 literature search on asbestos or is there
8 anything that you've read that would indicate
9 that?

10 MR. SPEZIALI: Objection. Germany,
11 Italy, France?

12 THE SPECIAL MASTER: Make your
13 objection. Make the objection. He can ask the
14 question.

15 MR. SPEZIALI: That's ridiculous.

16 THE WITNESS: Okay. The question?

17 MR. KRISTAL: Is there anything you
18 read that would indicate she would have done
19 less than a good job in searching the literature
20 on asbestos?

21 MR. SPEZIALI: Same objection.

22 THE WITNESS: Well, of course what,
23 what was available and accessible at that point
24 in time was very, very different than what is --
25 what we have and take so, so for a fact now, how

1 easily accessible articles are. I don't know
2 what she had available to her. It was certainly
3 very early in the game. And as you can see a
4 lot of the studies were done outside the
5 country.

6 MR. KRISTAL: Well, certainly
7 Dr. Hamilton, for example, was aware of the
8 Merewether study in 1930, right? She mentioned
9 that in the same letter where it indicated
10 Dr. Cowle was doing a literature search,
11 correct?

12 MR. SPEZIALI: Objection.

13 THE WITNESS: I don't know.

14 MR. SPEZIALI: Go ahead.

15 THE WITNESS: I don't know that in
16 particular, but I would say that Dr. Hamilton
17 would have been aware in 1930 of the Merewether
18 study.

19 BY MR. KRISTAL:

20 Q. Next page is the year 1931, and there
21 are thirty articles listed under the subject
22 Asbestosis, correct?

23 A. What page are you on?

24 Q. Starting on two o eight, two o nine,
25 two ten.

1 A. Okay. And you're saying there were how
2 many? Thirty-nine?

3 Q. Thirty.

4 A. Thirty? And again many, it appears,
5 right, that there were many not in English.

6 Q. Well, I just did a quick count and got
7 twenty-four in English out of the thirty, right?

8 A. Do you want me to recount that? I can.

9 Q. You said many are not in English.

10 A. Right. Six are not in English.

11 Q. In 1932 there are fourteen articles
12 under the heading Asbestosis?

13 A. How many you said?

14 Q. Fourteen.

15 A. Twelve?

16 Q. Twelve, fourteen. I'll take twelve.
17 There are two on the next page, also.

18 A. Two on what page?

19 Q. On the next page from 1933. If it's
20 twelve instead of fourteen, that's fine.

21 A. That's fine.

22 Q. 1933 there were two more listed under
23 Asbestosis, correct, and the next page under
24 1933 there are five more?

25 A. I don't know where you're looking on

1 the last two things.

2 Q. The last two pages, page two
3 fifty-four, left-hand side, there are two from
4 1933, and the page before that, two fifty-three,
5 there are five.

6 A. Two fifty-three. Yeah. And they're
7 listed under the heading of Asbestosis. They're
8 not apparently all dealing with asbestosis.

9 (Whereupon, Exhibit 54, a letter,
10 January 12th, 1951 from a Sarah Almeida, RN,
11 consultant in industrial nursing to a Shirley RN
12 McLaughlin, M-C-L-A-U-G-H-L-I-N, health center,
13 General Electric Company, Lowell, Massachusetts,
14 was then received and marked for
15 identification.)

16 MR. KRISTAL: Let me hand you Exhibit
17 54. This is a letter, January 12th, 1951 from a
18 Sarah Almeida, RN, consultant in industrial
19 nursing to a Shirley RN McLaughlin,
20 M-C-L-A-U-G-H-L-I-N, health center, General
21 Electric Company, Lowell, Massachusetts. This
22 is GE -- Plaintiff's GE Exhibit 520.

23 MR. KAPSHANDY: Again, you're not
24 representing it's something that she reviewed.
25 It came from GE's files.

1 MR. KRISTAL: I don't know if she's
2 reviewed it or not reviewed it.

3 MR. KAPSHANDY: She's reviewed
4 everything in the box.

5 MR. KRISTAL: I don't know if this was
6 or wasn't.

7 MR. KAPSHANDY: Somewhere else.

8 MR. KRISTAL: If you're saying that,
9 I'll take your representation. I don't know one
10 way or the other. It's on the exhibit list as
11 520.

12 MR. SPEZIALI: I'll object to the
13 document.

14 MR. KRISTAL: Okay.

15 BY MR. KRISTAL:

16 Q. This document on the second page --
17 well, first of all, there are letters addressed
18 to a nurse at the health center, General
19 Electric Company in Lowell, Massachusetts.

20 A. Yeah. If you want me to look it over
21 for a second.

22 Q. Sure. Take your time.

23 A. Thank you. Okay.

24 Q. And it references a health center -- GE
25 health center in Lowell, Massachusetts. Do you

1 see that? That's what it's addressed to?

2 A. Right.

3 Q. Did any of the GE employees or former
4 GE employees discuss the GE health center in
5 Lowell, Massachusetts?

6 MR. SPEZIALI: Objection.

7 THE WITNESS: Did they -- who, who are
8 you talking about discuss what?

9 BY MR. KRISTAL:

10 Q. Any of the GE employees or former GE
11 employees who you interviewed for this project
12 for the General Electric lawyers.

13 A. Okay. Did any of the people I
14 contacted reference in particular the health
15 center in Lowell?

16 Q. Yes.

17 A. Not that I recall.

18 Q. Have you ever heard of that health
19 center in Lowell?

20 A. Other than seeing what's on this
21 document, no.

22 Q. When you worked for GE you don't recall
23 the health center being in Lowell,
24 Massachusetts?

25 A. No. That wasn't one of my plants.

1 Q. Okay. That doesn't mean you weren't
2 aware of it. Were you aware of it or weren't
3 you aware of it in the early 1970s when you
4 worked for GE?

5 A. Well, to me the health center is like
6 she was in the medical department at the plant.

7 Q. And there was a GE plant that you're
8 aware of in Lowell, Massachusetts, right?

9 A. Yes.

10 Q. And the second page references texts
11 recommended on toxicology for your reference
12 library. Do you see that?

13 A. Yes.

14 Q. And the second one is entitled
15 industrial toxicology, second edition, by Alice
16 Hamilton and Harriet Hardy. You've reviewed
17 that text, have you not?

18 A. I have, yes.

19 Q. Okay. And that was published in 1949,
20 correct?

21 A. I'd have to look at it. I haven't seen
22 it for some time.

23 Q. All right. We'll look at it later.
24 And then it references -- the exhibit
25 references, further down, articles appearing in

1 the journal Industrial Medicine. Do you see
2 that?

3 A. And you're looking where?

4 Q. Your inquiring on renal colic and back
5 strain is treated rather well in an article
6 entitled Trauma and Arthritis, an Analysis of
7 162 Cases By Dr. Ernest Wolff, General Motors
8 Corporation, Cleveland, Ohio which appears in
9 Industrial Medicine, February 1948. Do you see
10 that?

11 A. Yes.

12 MR. SPEZIALI: Objection.

13 BY MR. KRISTAL:

14 Q. And then the next paragraph says if
15 you -- because they referenced a January 1949
16 copy of the Industrial Medicine journal. The
17 next paragraph says, quote, if you care to
18 obtain the January 1949 issue of Industrial
19 Medicine, it probably can be had by sending
20 seventy-five cents to the Industrial Medicine
21 Publishing Company with the address in Chicago,
22 Illinois, correct?

23 A. That's what this says.

24 Q. And that was the same publishing
25 company that published that bibliography that we

1 just went through at length?

2 MR. SPEZIALI: Objection.

3 THE WITNESS: I don't know.

4 MR. KRISTAL: Next document is Exhibit
5 55.

6 (Whereupon, Exhibit 55, a Journal of
7 Industrial Medicine from April 1942, was then
8 received and marked for identification.)

9 MR. KRISTAL: And it is a Journal of
10 Industrial Medicine from April 1942. I'll show
11 it to you and ask you if you've seen this
12 before. And it is on Plaintiff's
13 state-of-the-art exhibit list 335.

14 THE WITNESS: And is this a document
15 that was in these -- in this set? Do you know?

16 MR. KRISTAL: I don't know. I know
17 this is a copy from our exhibit list. Why don't
18 we go off the video record.

19 THE SPECIAL MASTER: Go off.

20 THE VIDEOGRAPHER: This is the
21 conclusion of tape number two of the continuing
22 deposition, volume three of Marjorie Drucker.
23 Off the record. The time is four twenty-one
24 p.m.

25 (Whereupon, a recess was then taken.)

1 THE VIDEOGRAPHER: This is the
2 beginning of tape number three of the continuing
3 deposition, volume three of Marjorie Drucker.
4 On the record. The time is four thirty-one p.m.

5 MR. KRISTAL: We were discussing
6 Exhibit 55, the April 1942 copy of Industrial
7 Medicine, and on the second page --

8 MR. KAPSHANDY: Actually, Counsel, I
9 don't know if we were discussing it. We were
10 going to check, and I wanted to confirm on the
11 record that is not something that either comes
12 from GE or has been provided to the witness
13 before.

14 MR. KRISTAL: If you say so. I know
15 it's on our exhibit list, SOA 335.

16 And it notes that the Industrial
17 Medicine is the official publication of the
18 American Association of Industrial Physicians
19 and Surgeons, does it not.

20 THE WITNESS: I'm just looking.

21 MR. SPEZIALI: You may be turning the
22 page. I think you're reading from the next
23 page, right?

24 MR. KRISTAL: Yes.

25 THE WITNESS: Industrial Medicine --

1 American -- right, Industrial Physicians and
2 Surgeons. That's what it says.

3 BY MR. KRISTAL:

4 Q. And if you look in the right-hand
5 column, it lists the committees of the American
6 Association of Industrial Physicians and
7 Surgeons, does it not?

8 A. Yes.

9 Q. And BL -- Dr. BL Vosburgh is the chair
10 of the membership committee, correct?

11 A. Yes, Dr. Vosburgh is there.

12 Q. And Dr. Vosburgh is also on the
13 committee further down on the medical records
14 and procedures, correct?

15 A. Yes.

16 Q. And it just so happens that GE X-ray
17 Corporation had an ad in this journal, right?
18 It lists under advertisers General Electric
19 X-ray Corporation?

20 A. Oh, let me look at that. Right. It
21 says it did. I don't see it here.

22 Q. Right. We have an article from the
23 journal. We don't have the complete journal.

24 MR. SPEZIALI: Is this the complete
25 journal?

1 MR. KRISTAL: Absolutely. Falling
2 asleep.

3 BY MR. KRISTAL:

4 Q. And the article is entitled, the third
5 page of Exhibit 55, The Occupational Disease
6 Hazard by Warren A. Cook. That's the one
7 referenced in the table of contents page,
8 correct?

9 A. That's the title, yes.

10 Q. And the article begins, quote, more
11 extensive and reliable information is constantly
12 becoming available concerning the amounts of
13 industrial materials which cause injury to
14 health and those which may be considered
15 innocuous. In order to apply this knowledge on
16 the toxic amounts of these materials, it is
17 necessary to have means of determining whether
18 or not the exposure is in -- within these
19 limits. Do you see that?

20 A. That's what it says.

21 Q. Okay. And if you turn to the next
22 page, there's a section of the article entitled
23 Criteria For Evaluation of Dust Hazards,
24 correct?

25 A. That's a heading, right.

1 MR. KRISTAL: The complete journal
2 appears to be some two hundred pages. This is
3 an article from the journal.

4 MR. SPEZIALI: I object to the
5 document.

6 MR. KRISTAL: Okay. On the first page
7 under the table of contents, it has industrial
8 hygiene section, and it has an article, the next
9 to last one entitled Occupational Disease Hazard
10 by Warren A. Cook. Do you see that?

11 THE WITNESS: I do see that on here.

12 MR. KRISTAL: And if you turn to third
13 page of Exhibit 55 --

14 MR. SPEZIALI: Wait a minute. Is that
15 the third page of the exhibit or the third page
16 in the journal?

17 MR. KRISTAL: I just said the third
18 page of Exhibit 55. It's page one hundred
19 ninety-two of the journal.

20 MR. SPEZIALI: This is the hundred and
21 ninety-second.

22 MR. KRISTAL: The one right after one
23 ninety-one and right before one ninety-three.

24 MR. SPEZIALI: Right. It's certainly
25 far enough in that we --

1 MR. SPEZIALI: Page one ninety-three
2 we're looking at now?

3 MR. KRISTAL: I think -- it's hard to
4 read.

5 THE WITNESS: It says one ninety-one.

6 MR. SPEZIALI: We went backwards.

7 THE WITNESS: We are going backwards.

8 MR. KRISTAL: I think it's one
9 ninety-three or one ninety-four. Do you see
10 that up top? Let's see what the next page is.
11 Next page is one ninety-five, so that's one
12 ninety-four.

13 MR. SPEZIALI: So we missed one
14 ninety-three.

15 MR. KRISTAL: Yeah.

16 BY MR. KRISTAL:

17 Q. Page one ninety-four, Criteria For
18 Evaluation of Dust Hazards. Do you see that?

19 A. Yes.

20 Q. And first paragraph says, quote, in the
21 first place, two quick --

22 A. Is there -- pardon me. Is there a page
23 number on the, on the first --

24 Q. No. I don't see it?

25 MR. SPEZIALI: I thought you said it

1 was one ninety-two.

2 THE WITNESS: I don't see a page
3 number. I don't know if this is from the same
4 article.

5 MR. KRISTAL: Okay. There's an article
6 by Warren Cook that begins on page one
7 ninety-two, correct, according to the table of
8 contents, correct?

9 THE WITNESS: I don't have that right
10 in front of me right this second.

11 MR. KRISTAL: It's really not rocket
12 science.

13 MR. SPEZIALI: I know. I'm just trying
14 to find it. Wait a minute. There's one.

15 MR. KRISTAL: One ninety-two,
16 Occupational Disease Hazard, Warren A. Cook,
17 subtitle is Evaluation in the Field. The
18 article we're looking at is entitled, The
19 Occupational Disease Hazard, Evaluation in the
20 Field by Warren A. Cook.

21 MR. SPEZIALI: Got it.

22 MR. KRISTAL: All right.

23 MR. KAPSHANDY: We appear to be missing
24 a page.

25 MR. SPEZIALI: All right. So now we're

1 on one ninety-four.

2 THE WITNESS: So we're on one
3 ninety-four.

4 BY MR. KRISTAL:

5 Q. Criteria for evaluation of dust
6 hazards.

7 A. I'm just checking.

8 Q. The next article starts at one
9 ninety-seven, right?

10 A. Right.

11 Q. So one ninety-four is part of the
12 article that begins on one ninety-two?

13 A. It appears that way, yes. Yes.

14 Q. Under that heading, Criteria For
15 Evaluation of Dust Hazards, the article says,
16 quote, in the first place, two quick snap
17 judgments should be guarded against. If an
18 unjustified okay is given, the health of the
19 worker may be jeopardized. If a condemnation,
20 then money may be spent unnecessarily, to say
21 nothing of developing a lack of confidence of
22 management in your judgment, end quote. Do you
23 see that?

24 A. I see the words are there.

25 Q. And then the next two paragraphs

1 specifically discuss asbestos dust and an
2 evaluation of that exposure, correct?

3 A. I have to look at that, please.

4 Q. Sure.

5 A. I read that paragraph.

6 Q. Okay. So those two paragraphs are
7 talking about asbestos dust in particular,
8 correct?

9 A. I didn't read the second one. Okay.
10 Thank you.

11 Q. And you're aware that General Electric
12 knew of the five million particles per cubic
13 foot of air standard for asbestos dust in 1942,
14 correct?

15 MR. SPEZIALI: Objection.

16 THE WITNESS: Well, the five million
17 particles per cubic foot came out as a MAC in
18 1946, but as part of Dreessen that was
19 considered safe from 1938.

20 BY MR. KRISTAL:

21 Q. Well, it wasn't considered a fine line
22 between safe and unsafe, correct?

23 A. It wasn't -- it -- could you flesh out
24 the question a little, please?

25 Q. Sure. In 1938 Dreessen came out with a

1 study that looked at the amount of dust in the
2 air, and that's where the five million particles
3 per cubic foot of air of asbestos dust as a MAC,
4 a maximum allowable concentration, came from,
5 correct?

6 A. Right. That's a level that he said was
7 safe.

8 Q. Well, regardless of what he said, GE
9 was aware of that. Fair to say?

10 A. In 1938, yeah, I think GE would have
11 been aware of a major study like that.

12 Q. And the two paragraphs from Exhibit 55
13 in the Cook article are discussing the five
14 million particles per cubic foot of air of
15 asbestos dust, are they not?

16 A. He mentions five million particles per
17 cubic foot of dust, right.

18 Q. Well, that's what the discussion in the
19 two paragraphs is about, isn't it?

20 A. Well, it's part of it. He covers a few
21 things here.

22 Q. All right. Let's read it. Quote, in
23 the case of the asbestos dust condition, our
24 evaluation of the exposure should be based on
25 the knowledge that the present toxic limit for

1 asbestos is five million particles of dust per
2 cubic foot of air, end quote. Do you see that?

3 A. Yes.

4 Q. And then he writes, quote, this is a
5 very small concentration, so small, in fact,
6 that the condition may look good even to a
7 critical eye and still present an exposure
8 greater than this low limit, end quote. Do you
9 see that?

10 A. Yes, he wrote that.

11 Q. So that was certainly known in that
12 period of time that five million particles per
13 cubic foot of air of microscopic particles is a
14 small amount, right? That's what it says there?
15 It's a very small concentration?

16 A. You said it was known. No.

17 Q. Well, Dr. Cook is publishing in the
18 Journal of Industrial Medicine, which is the
19 official publication of the American Association
20 of Industrial Physicians and Surgeons of which
21 Dr. Vosburgh is on two committees and the chair
22 of one. He published that, correct?

23 A. Dr. Cook, yes, was published in this
24 journal article.

25 Q. And he said that the five million

1 Q. So again, he's referring to the five
2 million particles per cubic foot of air as being
3 so low, right?

4 A. That's -- those are his words, right.

5 Q. Then the last sentence of that
6 paragraph says, quote, this is especially
7 important where the injurious condition is not
8 immediately evident but requires years to
9 develop as in the case of asbestosis and
10 silicosis, end quote. Correct?

11 A. Let me just read that paragraph again.
12 You're reading the words correctly but -- okay,
13 go ahead.

14 Q. My turn?

15 A. Your turn.

16 Q. That's what that last sentence of that
17 paragraph regarding asbestos dust says, correct?

18 A. That's what it says.

19 Q. And then again that is contrasting the
20 chronic versus the acute nature of asbestosis?

21 MR. SPEZIALI: Objection.

22 BY MR. KRISTAL:

23 Q. Correct?

24 A. That what? What are you referring to
25 when you say that is contrasting?

1 particles per cubic foot of air of asbestos dust
2 was a very small concentration, correct?

3 A. That's what he says.

4 Q. Okay. And then he goes on to say,
5 quote, some indication of the amount of dust
6 present in the air may be obtained by noting the
7 layer of dust on nearby settling places after
8 learning how long a time has elapsed since they
9 were last cleaned. If only a thin layer of dust
10 has accumulated over six months or a year and
11 there are no visible puffs of dust escaping from
12 the operation, it is probable that the condition
13 is satisfactory, end quote. Do you see that?

14 A. I see he wrote that.

15 Q. And that was conveyed at that time in
16 this journal?

17 A. That's what he wrote.

18 Q. And then he goes on to say, quote, in
19 the case of asbestos dust, however, and this
20 holds with even more certainty for dusts high in
21 free silica content, the toxic limit is so low
22 that the only safe procedure is to have recourse
23 to actual dust determinations, end quote. Do
24 you see that?

25 A. That's what he writes.

1 Q. In this sentence he's saying that it's
2 especially important to actually measure the
3 dust where the injurious condition is not
4 immediately evident. That's one of the things
5 he says, correct?

6 A. I'm just reading it.

7 Q. Sure.

8 A. Okay. And another --

9 Q. And immediately evident means the same
10 as an acute injury, correct, where something --
11 you get exposed and you suffer the injury
12 immediately?

13 A. Well, certainly that's what immediate
14 means. Immediate. But okay.

15 Q. And that would be an acute toxin,
16 something that caused an injury immediately,
17 correct?

18 A. It would depend on the material.

19 Q. Well, if a material caused an injury
20 immediately, that would be an acute toxin,
21 correct?

22 A. In broad terms it would be a type of
23 acute toxin.

24 Q. So what Cook is saying in this 1942
25 article is that it's especially important to

1 have actual dust determinations where the
2 injurious condition is not immediately evident
3 but requires years to develop as in the case of
4 asbestosis and silicosis. That's what he's
5 saying, correct?

6 A. I'm just rereading it. Yes, he says
7 it's important to have the right dust
8 concentrations in those circumstances. That's
9 what he writes.

10 Q. And a condition that requires years to
11 develop, as in the case of asbestosis, is a
12 chronic condition, correct, as opposed to the
13 immediately evident condition?

14 A. Well, as we said before, it relates to
15 dose, meaning the length and the concentration
16 of exposure. Those together make the dose.

17 Q. And that's a chronic condition that's
18 being described there, asbestosis, right?

19 A. Where do you see those words? I don't
20 see that here.

21 Q. I don't see those words either which is
22 why I'm asking your understanding. Cook is
23 contrasting a substance that has an immediate
24 effect with those that take a long time to
25 develop, is he not?

1 A. Sure. And he's relating it to
2 concentration, as well.

3 Q. That's right. And the diseases that
4 take a long time to develop are known as chronic
5 as opposed to acute, correct?

6 A. Right. Diseases that take a long time
7 to develop are chronic.

8 Q. And asbestosis was a chronic disease.
9 That was known in 1942, right?

10 A. 1942 what was known was that it was
11 related to dose meaning chronic, long term
12 related to high exposure. That's what was known
13 in 1942.

14 Q. You keep saying high exposure, but he's
15 saying that the five million particles -- he
16 calls it a very small concentration, right? He
17 calls it so low, right? So you're calling it
18 high.

19 A. Well, notwithstanding -- I'm saying
20 high. Notwithstanding this, after this -- the
21 ACGIH came out with the MAC four or five million
22 particles per cubic foot. I'm just trying to --
23 I haven't seen this before. I'm trying to
24 understand what he wrote. He's not an
25 industrial hygienist, and his writing is, is

1 unusual in the way he describes certain things
2 here.

3 Q. You're here as a historian, correct?

4 MR. SPEZIALI: Objection.

5 BY MR. KRISTAL:

6 Q. With respect to GE's historical
7 knowledge of the hazards of asbestos, correct?

8 A. Yes.

9 Q. So you're looking at what was written
10 back then so you can have an understanding of
11 what was understood back then, correct?

12 A. Well, one of the things, yes, sure.

13 Q. So you keep throwing in the words high
14 dose, but he's talking about five million
15 particles as being a very small concentration,
16 correct?

17 A. Those are his words.

18 Q. Okay.

19 A. Right. And I'm trying to put it in
20 context about what was known then.

21 Q. Now, I want to talk about -- you
22 mentioned that the MACs, M-A-C-s, at five
23 million particles per cubic foot of air as being
24 a safe dose. Is that what you said, it was
25 safe; called it safe?

1 A. Well, according to studies that were
2 done at the time such as Dreessen, Fleischer,
3 Drinker and many others, in fact, up to OSHA
4 that level was considered a level by which if
5 you maintain dust conditions below it, people
6 wouldn't get sick.

7 Q. Okay. Let's look at Exhibit 29 to see
8 what General Electric said about MACs back in
9 1955. Let me hand you the portion on MACs. And
10 could you read the third paragraph? First of
11 all, that is from the General Electric
12 Industrial Hygiene Book --

13 A. Okay.

14 Q. -- you were provided by the General
15 Electric lawyers, right? And in this section
16 that talks about maximum allowable
17 concentrations, and that's dated 1955, correct?

18 A. If I could just look at the whole book
19 for a second.

20 MR. KAPSHANDY: What page is it,
21 Counsel?

22 MR. KRISTAL: It's the book on MACs.

23 MR. KAPSHANDY: It doesn't --

24 MR. KRISTAL: It's on process
25 information. It's not the section on material

1 information, Dave. Three sections. The first
2 is definitions, then come material information,
3 then it says up top process information, and
4 it's alphabetical, so it's under M.

5 MR. SPEZIALI: What page do you want to
6 go to?

7 MR. KRISTAL: The first page, maximum
8 allowable concentrations.

9 MR. SPEZIALI: Okay. You mentioned
10 that okay. The problem is it was all a
11 multitude of -- just give me a minute to locate
12 which section it is. Oh, I think I found it.
13 Just make sure. All right. I think I have it.
14 Go ahead.

15 THE WITNESS: Okay. Thank you.

16 BY MR. KRISTAL:

17 Q. And the third paragraph that GE
18 wrote -- their industrial hygienist wrote is
19 that a maximum allowable concentration is not a
20 hard and fast line between safe and unsafe,
21 right?

22 A. I'm just going to read the paragraphs
23 before that. You jumped to the third. I'm
24 going to read the first two.

25 Q. Go ahead.

1 similar materials. Frequently, however, even
2 the best available information is not very good,
3 and the value assigned represents little more
4 than intelligent guess. For this reason, the
5 maximum allowable concentration cannot be
6 considered a hard and fast line between danger
7 and safety. It is meant only as a guide for use
8 by industrial physicians, industrial hygienists
9 and others actively engaged in control of
10 industrial exposure, end quote. Do you see
11 those paragraphs?

12 MR. SPEZIALI: It goes on. Should I
13 read the rest?

14 MR. KRISTAL: No.

15 MR. SPEZIALI: You don't want to read
16 the rest?

17 MR. KRISTAL: No, I don't want to read
18 the rest. You can read the rest if you want on
19 your time.

20 MR. SPEZIALI: I absolutely do want to.

21 MR. KRISTAL: Good.

22 BY MR. KRISTAL:

23 Q. And that's what the GE industrial
24 hygiene folks said in 1955, correct, what I just
25 read?

1 A. Thanks. Okay. I read the third.
2 Thank you.

3 Q. The third paragraph says, the maximum
4 allowable concentrations are not hard and fast
5 rules between safe and unsafe. Why don't you
6 read the paragraph on the record. Read the
7 third paragraph.

8 A. Okay. Thank you.

9 MR. KAPSHANDY: Objection.

10 MR. KRISTAL: Go ahead. Let me read it
11 because there's an objection.

12 MR. SPEZIALI: The objection is that
13 she should read the whole thing in context.
14 It's not reading one paragraph out of an entire
15 page of information.

16 MR. KRISTAL: Not a problem. First
17 paragraph, the maximum allowable concentration
18 of a material, sometimes called threshold limit,
19 is the highest concentration of the material in the
20 air to which a person can be exposed for an
21 eight-hour workday without danger of injury to
22 health. The values assigned to various
23 materials are based on the best information
24 available from human or animal experimentation,
25 from industrial experience or from analogy to

1 A. Right. You're reading part of it.

2 Q. Of course. We would be here for weeks
3 if we read the whole document. Is that what
4 they said in that document, the part I read?

5 A. You read it correctly.

6 Q. Thank you. Now, you're aware that GE
7 knew that the five million particles per cubic
8 foot of air was total dust that was measured,
9 not all asbestos dust, correct?

10 MR. SPEZIALI: Objection.

11 BY MR. KRISTAL:

12 Q. I'm not asking you about what your
13 opinion is. I'm asking about what your
14 understanding of what GE's knowledge about that
15 was.

16 A. Well, I'm aware that there was a
17 divergence in the literature, and that there
18 were different studies that looked at asbestos
19 as it -- in itself; for example, Fleischer,
20 Drinker and other studies that were taken. So I
21 think that given different circumstances and
22 having been looked at in different studies,
23 there were divergences of opinion.

24 Q. Do you know General Electric's belief,
25 and whether General Electric's belief was that

1 it included a count of asbestos and non-asbestos
2 materials, the five million particles?

3 MR. SPEZIALI: Objection.

4 THE WITNESS: Well, I think, you know,
5 looking at different points in time, certainly
6 there are prescribed methods after OSHA that
7 looked at certain fiber dimensions, and before
8 that I'd say the studies -- there was a
9 divergence and --

10 BY MR. KRISTAL:

11 Q. OSHA was after 1971, correct?

12 A. Right.

13 Q. And the five million particles per
14 cubic foot of air had nothing to do with OSHA,
15 correct?

16 A. The five million particles per cubic
17 foot, right, went right up to OSHA when it came
18 out with the first standard.

19 Q. So the five million particles per cubic
20 foot of air was all pre-1971, correct?

21 A. Yes.

22 Q. Now, you were sent by the General
23 Electric lawyers certain answers to
24 interrogatories of the General Electric Company
25 in asbestos litigation, were you not?

1 Dallas, Texas with respect to the case that that
2 was served in, nor the CMOs in Texas, nor what
3 the answer to interrogatory rules are. So all I
4 can do is object, and we can explore it at a
5 later date. And I would move to strike the
6 document to the extent it's not appropriately
7 used at this deposition.

8 MR. KRISTAL: That's also on our
9 Plaintiff's exhibit list in New York as GE 163.

10 MR. SPEZIALI: That would be another
11 reason to strike it.

12 MR. KRISTAL: If you turn to
13 interrogatory number fifty-seven and
14 fifty-eight.

15 MR. SPEZIALI: Let me find it for you.

16 THE WITNESS: Thank you.

17 MR. SPEZIALI: Fifty-seven and
18 fifty-eight.

19 MR. KRISTAL: Uh-huh.

20 BY MR. KRISTAL:

21 Q. Now, your understanding of
22 interrogatories is that in this case the
23 Plaintiffs asked certain questions of the
24 General Electric Company, and then the General
25 Electric Company answers those questions. Is

1 A. Yes.

2 Q. Okay. Were you sent -- and I'll mark
3 this Exhibit 57.

4 (Whereupon, Exhibit 56, a document
5 entitled Defendant General Electric Company's
6 Supplemental Answers and Objections to
7 Plaintiff's Master Interrogatories and Requests
8 For Production in a case From Dallas, Texas,
9 served April 4th, 2003, was then received and
10 marked for identification.)

11 MR. KRISTAL: This is Plaintiff's
12 Exhibit GE 163, and I'm going to have to make
13 another copy because this is my only copy.

14 MR. SPEZIALI: Did I miss 56 or did you
15 miss 56? That's 55. I just don't want to have
16 a gap in the record.

17 MR. KRISTAL: I made a mistake. It's
18 56, and let me hand you a copy. This is
19 entitled Defendant General Electric Company's
20 Supplemental Answers and Objections to
21 Plaintiff's Master Interrogatories and Requests
22 For Production in a case From Dallas, Texas, and
23 it was served April 4th, 2003.

24 MR. SPEZIALI: For the record, I'll
25 object. I don't know what the rules are in

1 that generally your understanding of how it
2 works?

3 A. Yes. I'm not a lawyer, but that's
4 generally what I understand.

5 Q. Would you play one on T.V.? No, I'm
6 kidding. Interrogatory number fifty-seven asks
7 about the threshold limit values or maximum
8 allowable concentrations of both asbestos dust
9 and total dust, does it not?

10 A. I'm reading that. Yes, that's what it
11 says, as to either the threshold limit values or
12 maximum allowable concentrations of both
13 asbestos and total dust provided by the American
14 Conference of Governmental Industrial
15 Hygienists.

16 Q. And it asks the year in which a
17 defendant was first advised of such limits or
18 concentrations, the name of the employer or
19 official of the company receiving such advice,
20 and how the defendant receives such notice of
21 such limits or concentrations, correct?

22 A. Right.

23 Q. And then there's an objection by GE,
24 and then it says, the second sentence, quote,
25 subject to and without waiving any objections,

1 GE states that it became aware of TLVs at the
2 time they were promulgated by the American
3 Conference of Governmental and Industrial
4 Hygienists. That's their answer. Do you see
5 that?

6 A. Yes.

7 Q. Then the next question is interrogatory
8 number fifty-eight, quote, were the threshold
9 limit values or maximum allowable concentrations
10 inquired about in interrogatory number
11 fifty-seven for total dust and not asbestos dust
12 alone, end quote. Do you see that question?

13 A. Yes.

14 Q. And that's where we were just
15 discussing before you saw this document,
16 correct?

17 A. Yes.

18 Q. And this is General Electric's answer:
19 Quote, GE understood that the units of measure
20 prior to the 1970s, parentheses, when electron
21 microscopy began to provide a means for specific
22 counting of fibers -- of asbestos fibers, close
23 parentheses, measured asbestos-containing dust
24 in millions of particle per cubic foot without
25 distinguishing non-asbestos-containing

1 particles, end quote. Do you see that?

2 A. Yes.

3 Q. So GE understood historically that
4 prior to the 1970s the five million particles
5 per cubic foot of air was a count of the total
6 dust including asbestos fibers and non-asbestos
7 particles?

8 MR. SPEZIALI: Objection.

9 MR. KRISTAL: That's what it says,
10 doesn't it?

11 MR. SPEZIALI: Objection.

12 THE SPECIAL MASTER: You made your
13 objection. Now he's asking. He can ask the
14 question.

15 MR. SPEZIALI: And I move to strike the
16 question in the event counsel can't prove the
17 statement at the time of trial.

18 THE SPECIAL MASTER: Then she can
19 answer.

20 MR. KRISTAL: It's GE's statement.

21 MR. SPEZIALI: No, it's not. That's
22 not what it says. You said that's what it says.
23 It's not what it says. It absolutely doesn't
24 say that.

25 MR. KRISTAL: Does it say that GE

1 understood that the units of measure prior to
2 the 1970s measured asbestos-containing dust in
3 millions of particles per cubic foot without
4 distinguishing non-asbestos-containing
5 particles? Does it say that?

6 THE WITNESS: It does.

7 MR. KRISTAL: And is your
8 interpretation of that that GE understood that
9 the five million particles was a count of both
10 asbestos fibers and non-asbestos-containing
11 particles?

12 MR. SPEZIALI: Objection.

13 THE WITNESS: I think because of the
14 available technology and how the samples were
15 taken, yes, it was a measure of total dust.

16 MR. KRISTAL: Okay. So whatever
17 controversy you say may have existed, this
18 represents GE's understanding, does it not?

19 MR. SPEZIALI: Objection.

20 THE WITNESS: I'm not a lawyer, and it
21 looks like in a particular instance -- I can't
22 speak for everything. I'm just looking at this
23 document.

24 MR. KRISTAL: But it was your task to
25 find out what GE knew about the hazards of

1 asbestos historically, correct?

2 THE WITNESS: Yes.

3 MR. KRISTAL: Wouldn't you like to have
4 seen these two questions and answers?

5 MR. SPEZIALI: Objection.

6 THE WITNESS: Wouldn't I have liked to?

7 MR. KRISTAL: Yes.

8 MR. KAPSHANDY: Who says she hasn't
9 seen them?

10 BY MR. KRISTAL:

11 Q. Fine. Have you seen that question and
12 answer before; those two questions and answers?

13 A. Yes.

14 Q. You had?

15 A. I have.

16 Q. So why when I asked you the question
17 about whether it was total dust or just asbestos
18 dust did you say that there was some sort of
19 controversy?

20 MR. SPEZIALI: Objection. You're being
21 argumentative with the witness.

22 MR. KRISTAL: Just say objection.

23 THE SPECIAL MASTER: Just say
24 objection. The only thing we do here is say
25 objection. Keep going.

2 controversy, but because of the measuring
3 techniques at the time, yes, it would have been
4 for total dust.

5 MR. KRISTAL: Okay. And GE understood
6 that, right?

7 MR. SPEZIALI: Objection.

8 BY MR. KRISTAL:

9 Q. Historically?

10 A. Well --

11 Q. That's what it says, does it not?

12 A. Let me just read that.

13 MR. KAPSHANDY: For the record,
14 Counsel, you covered this at length at page
15 twenty at the last deposition. So I would
16 object to this being asked and answered --

17 THE SPECIAL MASTER: I'm going to guess
18 this is the last question. Am I right?

19 THE WITNESS: Could I have the question
20 again?

21 MR. KRISTAL: And I said and GE
22 understood that?

23 MR. SPEZIALI: What is that?

24 MR. KRISTAL: That it was total dust.

25 MR. SPEZIALI: Objection.

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1 THE WITNESS: Because of the
2 technology, I'd say yes, but I still have --
3 notwithstanding my prior comments.

4 MR. KRISTAL: Let me mark as Exhibit
5 57 --

6 THE SPECIAL MASTER: I'm just letting
7 you know, Jerry, it's a little after five. I
8 just want to keep you apprised of the time.

9 MR. KRISTAL: I lost track. Why don't
10 we stop for the day. Why don't we pick up
11 tomorrow at nine.

12 THE SPECIAL MASTER: Off the record.

13 THE VIDEOGRAPHER: This is the
14 conclusion of tape number three and volume three
15 of the continuing deposition of Marjorie
16 Drucker. Off the record. The time is five o
17 three p.m.

18 * * * * *

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2 the foregoing pages, and with the exception of
3 the changes on the errata sheet, that they are a
4 true and accurate transcript of the testimony
5 given by me in the above-entitled action on
6 August 19, 2004.

7
8
9

MARJORIE A. DRUCKER

10

11 Sworn to before me this
12 day of , 2004.

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15

16 Notary Public

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1 STATE OF NEW YORK)
2 SS:
3 COUNTY OF ERIE)

4
5

6 I, VICTORIA ROHL, a Notary Public
7 in and for the State of New York, County of
8 Erie, DO HEREBY CERTIFY, that the Examination
9 Before Trial of MARJORIE A. DRUCKER, was taken
10 down by me in a verbatim manner by means of
11 Machine Shorthand on August 19, 2004, that the
12 proceedings were taken to be used in the
13 above-entitled action.

14 I further CERTIFY that the
15 above-described transcript constitutes a true,
16 accurate and complete transcript of the
17 testimony.

18
19
20

21 VICTORIA ROHL
22 Notary Public

23
24
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