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0001

1 CAUSE NO. 26,496
2 ANTONIO FLORES, et al) IN THE DISTRICT COURT
3 VS.) MILAM COUNTY TEXAS
4 ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT
5
6 CAUSE NO. 26,342
7 DOROTHY A. LEHMANN, et al) IN THE DISTRICT COURT
8 VS.) MILAM COUNTY TEXAS
9 ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT
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11 CAUSE NO. 26,469
12 DAVID O. MUSTON, et al) IN THE DISTRICT COURT
13 VS.) MILAM COUNTY TEXAS
14 ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT
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16 CAUSE NO. 26,928
17 MARIA ALVARADO, et al) IN THE DISTRICT COURT
18 VS.) MILAM COUNTY TEXAS
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21 CAUSE NO. 28,118
22 GEORGE R. YOAKUM, et al) IN THE DISTRICT COURT
23 VS.) MILAM COUNTY, TEXAS
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1 CAUSE NO. 27,629
2 VICTOR KOCIAN, et al) IN THE DISTRICT COURT
3 VS.) MILAM COUNTY, TEXAS
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 2 KATHA JONES, et al) IN THE DISTRICT COURT
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 4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

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 24 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

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 2 HARRY BEAMAN, et al) IN THE DISTRICT COURT
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22 DENNIS HARBOUR, et al) IN THE DISTRICT COURT
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1 CAUSE NO. 28,807
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4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
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6 CAUSE NO. 28,808
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21 CAUSE NO. 28,813
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1 CAUSE NO. 28,814
2 BARBARA BECKER, ET AL) IN THE DISTRICT COURT
3 VS.) MILAM COUNTY, TEXAS
4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
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6 CAUSE NO. 28,815

MARILYN HICKS, ET AL) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,816
RAYMOND GREEN, ET AL) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,817
MARJORIE FISHER, ET AL) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,818
RUTH JOHNSON, ET AL) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

ORAL DEPOSITION OF
BERTRAM D. DINMAN, M.D. - VOLUME I
SEPTEMBER 18, 2003

ORAL DEPOSITION OF BERTRAM D. DINMAN, M.D.,
produced as a witness duly sworn by me at the
instance of the Plaintiffs, taken in the above styled
and numbered causes on the 18th day of September,
2003, from 9:01 a.m. to 12:07 p.m., before Misty
Fondren Clements, Certified Shorthand Reporter
No. 4026 in and for the State of Texas, at the Law
Offices of LeBouef, Lamb, Green & MacRae, L.L.P., One
Gateway Center, 420 Fort Duquesne Blvd., Suite 1600,
Pittsburgh, Pennsylvania 15222-1437, pursuant to the
Texas Rules of Civil Procedure (and the provisions
stated on the record or attached herein).

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S T I P U L A T I O N S

The parties in the above entitled and numbered cause agree that the Deposition shall be taken pursuant to the Texas Rules of Civil Procedure.

The parties agree that all objections as to the form of the questions and the responsiveness of the answer are to be made at the time of the taking of said deposition; but that all other objections are reserved and may be made at the time this deposition, or any part thereof, is offered on the trial.

The parties further agree when said deposition has been transcribed it will be forwarded to the witness for examination, notarization and signature and is to be returned to the reporter. If the deposition is not returned to the reporter, an unsigned copy can be used at the time of trial with the same force and effect as though the original had been read and signed.

(Exhibit No. 1 marked.)

BERTRAM D. DINMAN, M.D.,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. CAPPOLINO:

Q. Would you state your full name for the record, please, sir?

A. Bertram David Dinman.

Q. Are you a physician?

A. Yes, sir.

Q. What kind of physician are you, Dr. Dinman?

A. Well, I'm boarded in preventative medicine,

13 the specialty of occupational medicine, with that
14 designation.

15 Q. You have a board certification in those
16 areas?

17 A. Yes, sir.

18 Q. When did you receive that board
19 certification?

20 A. 1960.

21 Q. Dr. Dinman, have you ever had your
22 deposition taken before on any occasion?

23 A. Yes, sir.

24 Q. All right. Can you tell me when that was,
25 sir?

0015

1 A. Deposition was taken on one, two, three,
2 four occasions in conjunction with an action
3 regarding vinyl chloride.

4 THE REPORTER: Sir, if you could just
5 speak up just a little bit.

6 THE WITNESS: Oh, certainly.

7 Q. (By Mr. Cappolino) The reporter kind of
8 jumped ahead of me on that. I was going to ask you
9 the same thing because sometimes I have a problem
10 hearing, too.

11 A. Okay.

12 Q. So if you could speak up a little bit --

13 A. Certainly.

14 Q. -- so everybody here and especially the
15 reporter can hear it because she has to take it
16 down.

17 A. Right.

18 Q. Do you understand?

19 A. Sure.

20 Q. So you've had your deposition taken four
21 times previous to this one, so certainly you
22 understand the significance of a deposition?

23 A. Yes, sir.

24 Q. And you understand that this reporter, who
25 is an officer of the Court, has sworn you in to tell

0016

1 the truth, same as if you were sitting in front of a
2 judge and a jury down in Milam County. Do you
3 understand that?

4 A. Yes, sir.

5 Q. One of the things I wanted to ask you,
6 Dr. Dinman, before we go any farther is, do you have
7 any type of health problems, anything that would
8 affect you giving any testimony today; and, I guess,
9 in terms of total time in giving testimony and
10 whether you'd be able to comprehend my questions or
11 give clear answers?

12 A. The only possible problem is, I guess I'm
13 losing my hearing.

14 Q. Okay. So am I a little bit.

15 A. Okay. Then you know the problem.

16 Q. Yes, sir.

17 Am I speaking loud enough?

18 A. Yes, sir.

19 Q. If for some reason you can't hear me or you
20 can't understand me, Doctor, would you please tell me
21 to restate or rephrase the question so you will
22 understand because I want to make sure before we all
23 leave here today you've understood my questions; is

24 that fair?

25 A. Yes, sir.

0017

1 Q. All right. The four other occasions where
2 you testified regarding vinyl chloride, can you tell
3 me the time period when these depositions took place?

4 A. Yes, sir. They took place in 1999, 2000,
5 2001, 2002, yes.

6 Q. Yes, sir. And when you gave these
7 depositions, were you giving them as an expert
8 witness or as a witness or do you know? Just a
9 regular witness for ALCOA?

10 A. No. It wasn't in conjunction with ALCOA.

11 Q. Okay. For what purpose were you giving the
12 testimony in those vinyl chloride cases?

13 A. What had happened, in 1968 when I was at
14 the University of Michigan, we did a study on vinyl
15 chloride effects. And in 1998 or '99 there were
16 actions going on then regarding some of the people
17 who worked with vinyl chloride. And I don't
18 understand to this day why something that had
19 happened in 1968 was being tried in 2000 and 2001,
20 but for reasons that I don't understand, they were
21 trying some cases that probably happened then. I'm
22 not sure of the details because I wasn't apprised of
23 them, but that was the reason I was there.

24 Now, I guess -- well, no, I won't
25 guess.

0018

1 Q. Okay.

2 MR. FAULK: Do we need to go off the
3 record?

4 MR. CAPPOLINO: Yes. We're going to
5 have to take a break, Dr. Dinman, to figure this
6 phone situation out.

7 (Brief lapse in proceedings.)

8 MR. CAPPOLINO: Who's on the phone
9 now?

10 MR. COLBERT: Who is on the phone?

11 MR. WEIMER: Jay Weimer for Phillips
12 Electronics.

13 (Discussion off the record.)

14 Q. (By Mr. Cappolino) Dr. Dinman, before we
15 had to take a break, you were talking about your
16 testimony in these vinyl chloride cases?

17 A. Right.

18 Q. Were you called to testify by any
19 particular party? Were you an expert witness or how
20 did that come about?

21 A. Well, I -- I'm not too sure, but -- yeah,
22 I'm not too sure if I was an expert because I had
23 worked in the study of vinyl chloride at the
24 University of Michigan --

25 Q. Yes, sir.

0019

1 A. -- and I was largely -- I'm trying to
2 remember. I largely was questioned on facts of the
3 study and its performance. So it's not clear to me
4 which one I was.

5 Q. Let me see if I can break it down. Do you
6 recall receiving any type of payment as far as
7 payment for expert testimony in those cases?

8 A. Oh, yes. Yes, sir.

9 Q. And do you recall who the individual or
10 maybe the law firm was who paid you for your expert
11 testimony?

12 A. Well, I'm not sure I'd characterize it as
13 expert testimony. It was a fact -- fact issues about
14 the performance of the studies, and I had performed
15 the study at the University of Michigan.

16 Q. That's fine.

17 Do you recall who paid you for your
18 fact testimony?

19 A. A firm here in town.

20 Q. A firm in Pittsburgh?

21 A. Yes.

22 Q. You don't recall the name?

23 A. Well, I should, but I can't at the moment.

24 Q. And those cases were in litigation with
25 lawsuits filed; correct?

0020 1 A. I presume -- well, I have to presume so,
2 but I...

3 Q. Okay. Have you ever given any testimony
4 prior to today with regard to any issues relating to
5 asbestos and asbestos exposure?

6 A. No, sir.

7 Q. When you tell me that you're board
8 certified in preventative medicine, part of
9 occupational medicine; is that correct?

10 A. Well, preventative medicine is the general
11 title of the group. It includes occupational
12 medicine, aerospace medicine, general preventative
13 medicine, public health, all under the rubric of
14 preventative medicine.

15 Q. Dr. Dinman, what is preventative medicine?
16 Can you give me a description of what that means?

17 A. Preventative medicine is the study and
18 practice of those measures which are of use and -- of
19 use and which will prevent the occurrence, the
20 progression or -- occurrence or progression of
21 disease processes arising from a working environment
22 as far as occupational medicine is concerned --

23 Q. Yes, sir.

24 A. -- whereas with public health, it's with
25 the general environment; and with aerospace, it's the

0021 1 aerospace environment.

2 Q. So it would be true that preventative
3 medicine would apply to workers exposed to asbestos
4 and trying to use means to prevent them from getting
5 an asbestos-related disease?

6 MR. COLBERT: Objection, form.

7 Q. (By Mr. Cappolino) Is that correct?

8 MR. COLBERT: Same objection.

9 MR. CAPPOLINO: Basis, Counsel?

10 MR. COLBERT: It's vague, and it's a
11 multifaceted question.

12 Q. (By Mr. Cappolino) You can answer it,
13 Doctor.

14 A. Well, occupational medicine would fit under
15 that rubric, yes.

16 Q. And what experience, Dr. Dinman, have you
17 had with regard to preventative medicine in the area
18 of asbestos exposure?

19 A. When I was medical director of ALCOA, I had

20 the responsibility for assuring the corporation that
21 all materials that they worked with or conditions of
22 work would not be injurious to health. And it was
23 our responsibility to assure that the measures were
24 taken to prevent the occurrence of either exposure or
25 the occurrence of disease or the progression of

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1 disease.

2 Q. Let me get a time frame here so this will
3 give us a little bit of a guideline. When were you
4 employed by ALCOA?

5 A. Yes. I started working for them in 1973
6 and retired in -- oh, my Lord -- 1986.

7 Q. Mr. Tom Bonney, whose deposition Kevin
8 Colbert for ALCOA took yesterday, testified that you
9 joined ALCOA in 1974. That's incorrect, isn't it?

10 A. Well --

11 MR. COLBERT: Objection, form.

12 Q. (By Mr. Cappolino) Is that incorrect?

13 A. Well, I joined ALCOA in '73.

14 Q. All right. Do you know Mr. Bonney?

15 A. Oh, yes.

16 Q. How do you know Mr. Bonney?

17 A. He worked for me.

18 Q. When you say he worked for you, did he work
19 for you when you were starting with ALCOA in '74?

20 A. Well, Mr. Cralley was the head of that
21 division, and Tom worked for him and they worked for
22 me. And then Mr. Cralley retired shortly after I
23 joined, and Tom had the responsibility for the
24 industrial hygiene division. So he worked for me
25 from that point on. So I guess '74 is -- I think '74

0023

1 is probably true, but it was pretty mixed up because
2 Tom was working directly with me, along with Lester
3 Cralley. But if you look at the organizational
4 chart, it would be from me to Les to Tom.

5 Q. Okay. When you came to ALCOA in 1974 --

6 A. In '73.

7 Q. I'm sorry, in '73, and I guess all the way
8 up until 1986, did you ever review any of the
9 internal corporate documents from ALCOA prior to 1973
10 regarding asbestos?

11 A. Specifically asbestos, is what you're
12 asking me?

13 Q. Yes, sir. And let me see if I can help
14 break that down.

15 Did you review any corporate internal
16 documents prior to 1973 that were ALCOA's that had to
17 do with prevention of asbestos-related injuries to
18 ALCOA employees?

19 A. Well, I -- it's sort of speculative as to
20 what I had reviewed from previous periods. I
21 reviewed a large number of documents relating to
22 multiple issues, various issues, various issues in
23 occupational health.

24 Q. Okay. And these -- these documents were
25 dated prior to 1973 that you reviewed?

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1 A. I really can't remember specific documents
2 unless --

3 Q. Okay.

4 A. Well, I'd be speculating then.

5 Q. When you joined ALCOA in 1973 and up to
6 1986, did you gain any knowledge as to what methods
7 or procedures ALCOA undertook to prevent any of its
8 employees from getting an asbestos-related disease?

9 MR. COLBERT: Objection, form.

10 A. Well, since asbestos was one of multiple
11 hazards that we had to tend with and, of course, in
12 my responsibilities I was -- I would guess -- that's
13 the best I can say -- that among the various
14 documents and various issues that we had to address,
15 that there probably was, but I can only say probably
16 was documents of that sort because there were many
17 other issues which were more important at that -- not
18 more important; I would say more pressing at that
19 time.

20 Q. The reason I'm asking you that, Dr. Dinman,
21 is to try to speed this deposition up and make it as
22 brief as I can in the time I have, and I'm trying to
23 avoid asking you any questions about any pre-1973
24 documents at ALCOA.

25 A. Sure, yes, sir.

0025 1 Q. When you got hired on in '73, your focus, I
2 assume, in your position was trying to help ALCOA
3 from '73 through '86?

4 A. That's when I had direct input, what
5 happened with ALCOA.

6 Q. Yes, sir.

7 A. So anything before is water over the dam.

8 Q. Yes, sir, I understand.

9 And when you were hired on in 1973,
10 the OSHA regulations had come out with regard to
11 asbestos; correct?

12 A. Well, the rule-making, as I understand it,
13 was -- and I'm trying to remember -- was a rather
14 protractive sort of thing. It went on and on and on,
15 and I don't remember if in '73 -- I wish I could
16 remember. I can't remember what the status was of
17 the rule-making process then.

18 Q. Okay.

19 A. That's the problem.

20 Q. Dr. Dinman, do you -- and again, I'm not
21 trying to be hard on you, but do you have any
22 problems with your memory today? Do you have a
23 pretty good memory for a man your age, do you think?

24 A. I have a fairly good memory for today.

25 Q. Yes, sir.

0026 1 A. But when we get into very specific details,
2 obviously I'm -- we're talking about -- what is that
3 now? 20 something years later.

4 Q. Correct.

5 A. So the details of my memory? No.

6 Q. I understand.

7 Prior to today's deposition, did you
8 review any documentation or any type of documents to
9 help prepare you for this deposition?

10 A. Yes, sir.

11 Q. Could you, please, tell me what you
12 reviewed?

13 A. Well, I reviewed the general literature as
14 regards asbestos. I reviewed regulations as they
15 subsequent appeared and the rule-making and the

16 C.F.R. documents as regards the standards,
17 formulations that were issued by Department of Labor,
18 rather late though because the standards went -- had
19 undergone a number of changes over a period of time.

20 Q. Okay. C.F.R., meaning Code of Federal
21 Regulations?

22 A. Yes, sir.

23 Q. What else did you review, sir?

24 A. Oh, the general literature as regards
25 asbestos.

0027

1 Q. We talked about that, the general
2 literature as regards asbestos; the regulations, Code
3 of Federal Regulations. What else did you review, if
4 you recall?

5 A. I had found a document which I had taken
6 out of the files for teaching purposes, subsequent
7 teaching purposes, in which we set up, for example, a
8 questionnaire to be used for employees who had
9 asbestos exposures.

10 Q. Yes, sir. Okay. What else did you review,
11 if you recall, if anything else?

12 A. Nothing specific, no.

13 Q. Okay. Did you review any corporate
14 internal documents from ALCOA prior to 1973 to
15 prepare you for this deposition?

16 A. No. No, I didn't have them. I left the
17 files -- when I left ALCOA, I left the files at
18 ALCOA. The only one thing I pulled out was that
19 examination form that we developed. I'd pulled it
20 out for subsequent teaching purposes.

21 Q. Yes, sir. Can you tell me a little bit
22 about this examination form? And the first question
23 I want to ask you is, when was this examination form
24 prepared?

25 A. I'm not sure --

0028

1 Q. All right.

2 A. -- because it's a -- there's a date on it,
3 but I'm not too sure what that date meant.

4 Q. Do you have a copy of that examination form
5 anywhere?

6 A. Yes, sir.

7 Q. I think Mr. Colbert's pulling it out here
8 and handing it to you.

9 A. Yes. This is the form.

10 Q. Is that the only copy that you have, or can
11 I attach that to the deposition?

12 A. It's the only copy I have.

13 Q. All right. Well, we can make a copy, but I
14 would like to attach it to the deposition.

15 MR. COLBERT: Here is a copy.

16 THE WITNESS: There you go.

17 Q. (By Mr. Cappolino) Before we go into this
18 form -- and I'm sorry for skipping around, but I want
19 to ask you -- first of all, just for purposes of
20 mostly record-keeping and to see what you have
21 reviewed, I'm going to hand you, Dr. Dinman, what has
22 been marked as Dinman Exhibit No. 1.

23 And Dinman Exhibit No. 1, I'll
24 represent to you to be what we call a notice of your
25 deposition with a subpoena duces tecum; subpoena

0029

1 duces tecum, meaning we requested that you provide
2 certain documents, if you have them either in your
3 actual or constructive possession. I want to hand
4 this to you, sir, let you look at it -- it's
5 Exhibit 1 -- and ask you if you have received a copy
6 of that prior to today's deposition?

7 A. No. I've never seen this.

8 Q. You've never seen that subpoena duces tecum
9 and notice? And you may want to look on the back two
10 or three pages because that may be what you
11 received.

12 MR. COLBERT: Look at all the pages,
13 Dr. Dinman.

14 A. (Witness reviews document.)

15 Q. (By Mr. Cappolino) Okay. Have you looked
16 at all the pages of the notice of your deposition and
17 subpoena duces tecum that I handed to you marked as
18 Exhibit 1?

19 A. I haven't read this in full.

20 Q. That's okay. Take your time.

21 A. The C.V., yes, obviously.

22 Q. You're looking at the last page, which is
23 marked as Exhibit A, Dr. Dinman. And I believe there
24 was -- I can't see through your hand. I'm sorry -- 1
25 through 9, certain documentation we requested you

0030 1 provide. Have you seen that Exhibit A before today?

2 A. No. I have not seen this.

3 Q. Okay. Nobody provided that to you from
4 ALCOA?

5 A. No, not ALCOA, no.

6 Q. Did you even see that today before this
7 deposition, before I started asking you questions?

8 A. No, sir.

9 Q. All right. Have you had -- and I can give
10 you some more time if you need it, sir. Have you had
11 opportunity to look at those documents to see if you
12 have anything responsive to those documents?

13 A. I'd like to take the time.

14 Q. I'm sorry?

15 A. I'd like to take the time.

16 Q. That's fine, sir.

17 A. Well, that refers -- first one, for
18 example, refers to medical literature or scientific
19 literature in general.

20 Q. Okay. Let me go ahead and read that one
21 and see if you have any documents responsive to that
22 request. No. 1: "Copies of all documents and photos
23 you have that indicate or explain, in any way, any
24 danger of exposure to asbestos that was written or
25 produced prior to 1980."

0031 1 Do you have anything today in response
2 to that request?

3 A. Well, I didn't bring them; textbooks,
4 general textbooks of occupational medicine --

5 Q. Okay.

6 A. -- for one thing.

7 Q. But you did testify that to prepare you for
8 this deposition you reviewed general literature on
9 asbestos?

10 A. Yes, sir.

11 Q. Now, let me ask you, what general

12 literature did you review?
13 A. Oh, general literature. Texts; a treatise
14 on asbestos studies which was prepared by Professor
15 Enterline.
16 Q. I'm sorry. Professor who?
17 A. Enterline.
18 Q. How do you spell his name?
19 A. E-N-T-E-R-L-I-N-E, Philip Enterline.
20 Q. All right.
21 A. He's professor of biostatistics at the
22 University of Pittsburgh, School of Public Health.
23 Q. Okay.
24 A. Well, he's retired. He's professor
25 emeritus, I should say.
0032
1 Q. All right.
2 A. And general texts.
3 Q. Anything else that you recall, sir, any
4 other general literature?
5 A. I'm trying to remember specific
6 literature. I -- there was -- I'm sort of confused
7 between what I read in textbooks and what articles I
8 may have read, but I'm not too clear that I read
9 specific articles because I depend on reviews.
10 Q. Yes, sir. Is there anything else that you
11 recall reading, other than what you just told me?
12 A. No.
13 Q. Did you review any type of articles written
14 by Lewis Cralley --
15 A. No.
16 Q. -- or Lester Cralley?
17 A. I get mixed up too.
18 Q. They're brothers, aren't --
19 A. They're twins, of course.
20 Q. Yes, sir.
21 Did you review any literature that
22 you --
23 A. No.
24 Q. -- wrote -- and before I ask you that, have
25 you ever published any literature, yourself, on
0033
1 asbestos?
2 A. Okay. I'm trying to remember. I published
3 over 150 articles, so I just never made a real study
4 or consider myself an expert in regards to asbestos.
5 It was one of the responsibilities I had. It was one
6 of the subjects we taught. But frankly, aside from
7 necessity of being able to teach and responsibility
8 we had as far as ALCOA's concerned, I didn't spend
9 much time in asbestos because of all the problems it
10 had as far as the development of knowledge regarding
11 asbestos. It's been a long history of literature,
12 going back maybe as far as the '20s or '30s.
13 Q. Yes, sir.
14 A. And it's been very contentious all along
15 the way from the point of view of science, so that
16 it's a back and forth situation as far as development
17 of knowledge. It's a very contentious one,
18 scientifically speaking. And frankly, I didn't want
19 to get into asbestos to that extent except that I had
20 responsibility for it at ALCOA.
21 MR. CAPPOLINO: Object,
22 nonresponsive.

23 Q. (By Mr. Cappolino) Let me ask you again,
24 if you know, you say you've published over 150
25 articles?

0034

1 A. Yes. Uh-huh.

2 Q. Do any of those articles have to do with
3 asbestos and asbestos exposure?

4 A. Not primarily. There's very few, if any.
5 I'd have to review my C.V., which it's around here
6 someplace.

7 Q. Okay.

8 A. But it wasn't subjects that I was
9 extensively involved in.

10 Q. Are you an epidemiologist?

11 A. No. I can't claim to be that. I've done
12 epidemiologic studies with epidemiologists in
13 collaboration; but to claim to be an epidemiologist
14 in the full sense of the term, that is, like a
15 professor of epidemiology, no, I can't do that.

16 Q. Yes, sir. You have not done any
17 epidemiological --

18 A. No, sir.

19 Q. Let me finish my question.

20 A. Okay.

21 Q. Part of the problem we have, Dr. Dinman --
22 again, it's not your fault, but I've got to finish my
23 question before you answer so the reporter can take
24 it down.

25 A. I'm sorry.

0035

1 Q. That's okay.

2 Have you done any epidemiological
3 studies on asbestos?

4 A. No, not on asbestos.

5 Q. But you have read epidemiological studies
6 on asbestos?

7 A. Yes.

8 Q. Okay.

9 A. But that question is not fully answered.
10 Have I done any epidemiological studies on asbestos?
11 The answer, as I've stated, I've done other
12 epidemiologic studies in collaboration with
13 epidemiologists. And, of course, we alluded to the
14 vinyl chloride --

15 Q. Right.

16 A. -- which was an epidemiologic study; and
17 another one at ALCOA on cancer.

18 Q. Okay. We'll get back to the literature in
19 a second.

20 What was your position or what were
21 you hired on as at ALCOA as far as your title? What
22 was your title?

23 A. My first title was corporate medical
24 director. And then when Dr. Colwell died, I was
25 promoted to his job as vice-president for health and

0036

1 safety.

2 Q. Okay. Prior to working at ALCOA, were you
3 working with the Public Health Service?

4 A. No.

5 Q. Where did you work prior to ALCOA?

6 A. I was at the University of Michigan.

7 Q. And what did you do at the University of

8 Michigan?

9 A. University of Michigan, I was director of
10 the division of occupational medicine. And we did
11 teaching of students, both before graduation and
12 physicians who had come to the University of Michigan
13 for specialized training in occupational medicine.

14 we also did epidemiologic research
15 there on the vinyl chloride situation. And we did
16 some scientific experiments using humans and/or
17 animals on toxicology; carbon monoxide, for one
18 thing.

19 Q. Do you have any expertise in toxicology?

20 A. Yes, sir.

21 Q. What expertise do you have?

22 A. I was one of the founding members of the
23 American Board of Toxicology. I was a physician
24 member. They needed a physician, I guess, on the
25 board in trying to formulate how the board would

0037
1 operate; and I would give examinations that we
2 formulated in conjunction with other toxicologists --

3 Q. Yes, sir.

4 A. -- the examinations.

5 So I was not -- I was a member of the
6 board, but I was not -- I'm not certified in
7 toxicology. We were grandfathered because they had
8 to get -- they had arrived at a rule which said that
9 there would be nobody who would be certified as a
10 toxicologist without examination. So they had to get
11 somebody to put together a board examination but who
12 didn't have to take -- wasn't going to need the
13 boards because they were recognized as toxicologists.

14 Q. Okay. Toxicology has to do with toxic
15 substances; is that true?

16 A. In a very general --

17 Q. As a general sense --

18 A. -- sense, yes, sir.

19 Q. How would you define the word "toxic" with
20 regard to a "toxic" substance?

21 A. "Toxic" would mean it has a deleterious
22 effect upon people, animals, et cetera.

23 Q. Would you consider asbestos a toxic
24 substance?

25 A. Well, that depends. It depends on -- and

0038
1 this is very basic toxicology, bearing on your
2 previous question.

3 Q. I understand.

4 A. There's a very basic premise in toxicology
5 which dates back to the 16th century that says in
6 Latin, "Dotis facto noxius," which essentially says,
7 "The dose makes the poison." So whether a material
8 is toxic or not depends on a number of variables, the
9 most important of which is the variable of how much
10 material was presented to an animal or human over
11 what period of time.

12 Q. Yes, sir. So with asbestos, if you have a
13 certain dose of asbestos --

14 A. Yes.

15 Q. -- let's say that exceeds threshold limit
16 values and a worker is exposed to that over a long
17 period of time, say, 20, 25 years, in the context of
18 that question, would you consider asbestos to be a

19 potentially a toxic substance?
20 MR. COLBERT: Objection, form.
21 A. Potentially.
22 Q. (By Mr. Cappolino) Yes, sir. Potentially?
23 A. Potentially.
24 Q. When you say "potentially," what do you
25 mean?

0039
1 A. I mean, dependent upon dose, which is a
2 combination of time, duration of exposure, okay, and
3 the concentration of the material in question.
4 Q. Do you consider asbestos to be a
5 potentially-toxic substance?
6 A. Well, in the sense -- well, let me try to
7 approach it this way. This is also dating back to
8 the 16th Century, Paracelsus. He said that
9 everything and anything is toxic. Oxygen, which is
10 absolutely necessary for life, if I give you -- put
11 you under three atmospheres of pressure of oxygen for
12 48 to -- 48 to 72 hours, you're going to be dead.
13 So depending upon dose and the amount
14 of dose concentration, time, everything and anything
15 is toxic. So you always have to specify in terms of
16 how much, what condition the person's under, too,
17 depending on previous state of health, for example.
18 Multiple variables enter into whether or not
19 something is toxic or not.
20 MR. CAPPOLINO: Let me just object on
21 the record -- and I have to for purposes of the
22 record, Dr. Dinman -- as nonresponsive.
23 Q. (By Mr. Cappolino) Do you consider
24 asbestos to be a potentially-toxic substance if you
25 have a certain quantity or dosage over a period of
0040
1 time?

2 MR. COLBERT: Objection, form.
3 Q. (By Mr. Cappolino) You can answer it.
4 A. In a very general sense, in a general sense
5 in that, again, it depends upon the state of health,
6 for example, in addition to dose. It depends on the
7 state of health and depends upon the multiple
8 intrinsic state that's sometimes hard for us to
9 define who is susceptible and who is not.
10 Q. Let me see if I can put it another way.
11 Under what situations would you
12 consider asbestos to be a toxic substance?
13 A. If the dose -- which, again, the length of
14 time of exposure -- and the amount of asbestos in the
15 air exceeds a limit -- now, it's not a very
16 cleanly-defined limit. It's not like a speed limit
17 where at 20 miles an hour you're legal and 25 miles
18 an hour you're not legal. So the dose even there --
19 the dose is very central. Even there you cannot
20 predict who's going to get into trouble with any type
21 of exposure, be it asbestos or anything else.
22 Q. Yes, sir. Is there individual
23 susceptibility?
24 A. Individual, thank you. Yes, sir. That's a
25 good way to put it.

0041
1 Q. Is there any safe level of asbestos
2 exposure that you know of?
3 A. Subject to the other conditions. Again,
Page 17

individual susceptibility is a pretty important one; smoking; all of these issues. Is there a safe level?

Q. Yes, sir.

A. Well, there must be a safe level because, more or less, we are all subject to inhaling asbestos fibers in the general environment.

Q. But in the occupational environment where asbestos is being used, those workers would be exposed to more asbestos than somebody just walking down the street?

A. In a general --

MR. COLBERT: Objection, form. Is there a question?

MR. CAPPOLINO: That was the question.

Q. (By Mr. Cappolino) Is that correct?

MR. COLBERT: Objection, form.

A. Down the street. Well, as long as you don't specify down the street under what conditions --

Q. (By Mr. Cappolino) All right. Say if I

was walking outside over by Hines Field, would I be opposed to more asbestos than a person working in a factory where asbestos-containing products were being used?

MR. COLBERT: Objection, form.

A. In a general sense, you would be -- rephrase the question -- restate the question. I'm sorry.

Q. (By Mr. Cappolino) All right. You have different exposures to asbestos in your experience with this substance, Doctor. Number one, you have exposure to asbestos as an employee if you're working, say, in a textile factory or some other plant where asbestos-containing products are used, versus somebody that's just out walking down the street; is that correct?

A. (Witness nods head.)

MR. COLBERT: Objection, form.

A. You've posed it in a very specific situation there. You talked of a textile factory.

Q. (By Mr. Cappolino) Yes. That's an example.

A. That's a very unusual -- let's say, it's unusual in the sense that it's not done anymore. And since we're talking in general terms, that's a very

high exposure. So, yes, under those circumstances; but there are exposures and there are exposures.

Q. And there were exposures at ALCOA, were there not, to asbestos? And let's talk specifically about the Rockdale plant.

MR. COLBERT: Objection, form.

Q. (By Mr. Cappolino) Weren't there?

A. Oh, yes, there were.

Q. In fact, asbestos at ALCOA was ubiquitous at one point in time, wasn't it?

MR. COLBERT: Objection, form.

A. Well, that's a generalization which I can't quite agree with.

Q. (By Mr. Cappolino) Prior to this

15 deposition, did you ever read the prior deposition of
16 Thomas Bonney --

17 A. No.

18 Q. -- that was taken a few years ago?

19 A. No.

20 Q. He described asbestos at ALCOA as being
21 ubiquitous. Do you know what ubiquitous means?

22 MR. COLBERT: Objection, form.

23 A. Ubiquitous. All over, I guess.

24 Q. (By Mr. Cappolino) Do you know whether or
25 not prior to 1973 asbestos was ubiquitous at any of

0044
1 the ALCOA plants?

2 A. Prior to 1973?

3 MR. COLBERT: Objection, form.

4 Q. (By Mr. Cappolino) yes, sir.

5 A. Prior to -- well, that's -- what happened
6 prior to 1973 would be speculative on my part.

7 Q. Okay.

8 A. I'm just guessing.

9 Q. Well, let's talk about from 1973 to 1986.

10 A. Yes, sir.

11 Q. Do you know whether or not any
12 asbestos-containing products were at any of the ALCOA
13 plants?

14 A. Yes, sir.

15 Q. All right. Let me talk about Rockdale
16 specifically.

17 A. Okay.

18 Q. Were you familiar at all with the Rockdale
19 plant in Milam County from 1973 through 1986?

20 A. I knew of conditions there. I visited the
21 plant on several occasions. So to that extent, I
22 knew what conditions were extant.

23 Q. Okay. Did that plant have
24 asbestos-containing products in it from 1973 through
25 1986?

0045
1 A. In the general sense, they did.
2 Q. Which products were they, sir?

3 A. Well, there were the transite headers which
4 went from the potline to the exhaust system, exhaust
5 for the aluminum reduction cells. There were sheet
6 material, not pure asbestos, which contained
7 asbestos, not pure asbestos, which were used in
8 casting.

9 Q. Okay.

10 A. And sort of like -- like rubber -- not
11 rubber, but like -- what's the word I'm looking for?

12 Q. I wish I knew.

13 A. What?

14 Q. I wish I knew. Go ahead though, Doctor.

15 A. What's the rubber seal that you put between
16 a --

17 Q. Gaskets?

18 A. Gaskets. Thank you.

19 There were gaskets that were
20 fabricated from sheets of asbestos-containing
21 material which served as sort of a gasket between a
22 joint from where aluminum was poured into a
23 pouring -- we'll call it nozzle, but it was not a
24 nozzle.

25 Q. Okay. Anything else that you recall? Any
Page 19

0046

1 other asbestos-containing products at Rockdale that
2 you are aware of?

3 A. That I can recall, those are the two major
4 ones. And, of course, these gaskets were
5 fabricated. So that meant the people in some of the
6 shops had these, relatively low asbestos-containing,
7 but they did contain asbestos --

8 Q. Okay.

9 A. -- materials that they worked with.

10 These transite headers which were a
11 major use of asbestos -- of a material containing
12 asbestos, I should say, were the ones that we were
13 concerned about the most because they would degrade
14 with heat over long periods of time. They had to be
15 replaced.

16 Q. When they'd degrade with heat, Dr. Dinman,
17 what would happen? What do you mean? And why were
18 you concerned with that?

19 MR. COLBERT: Objection, form.

20 Q. (By Mr. Cappolino) Well, let's break it
21 down. Why were you concerned with the degradation of
22 the gaskets?

23 A. Well, because they had to be replaced.

24 Q. When they degraded, were any asbestos
25 fibers released, as far as you know?

0047

1 A. Not exterior wise, but when they were taken
2 down.

3 Q. What would happen when they were taken
4 down?

5 A. When they were taken down, they had to be
6 taken down carefully. People were careful as they
7 could be, but there could be some breakage there,
8 unintended breakage. So they had to be taken down
9 carefully with encloement (sic), try to minimize any
10 exposure. Of course, you had to depend upon people
11 to do that.

12 Q. Do you know whether or not marinite was
13 ever used --

14 A. Ah, yes.

15 Q. -- at Rockdale?

16 A. Marinite was used. That was one of the
17 major materials in these gaskets.

18 Q. Do you know what marinite was?

19 A. Generally, I knew it was a material that
20 contained asbestos. How much, I didn't know. But it
21 contained asbestos, so it was a matter of concern.

22 Q. Do you know if this marinite was ever sawed
23 for any purposes at Rockdale?

24 A. Particularly in the fabrication of these
25 gaskets.

0048

1 Q. Did this marinite contain asbestos, as far
2 as you recall?

3 A. Yes, sir. We considered it to contain
4 asbestos.

5 Q. In your role from '73 on at ALCOA, did you
6 have any concerns, medical concerns about asbestos
7 exposure to employees from the sawing of marinite?

8 A. Yes, sir.

9 Q. What concerns did you have?

10 A. That there would be undue exposure,

careless usage, if there was adequate ventilation at the site of sawing. And so everything would be served to minimize the dispersal of asbestos. It was a matter of concern.

Q. Dr. Dinman, do you recall whether or not any asbestos-containing materials were used in any of the potlining operations or pot --

A. Ah.

Q. -- or taken out of potlining at ALCOA Rockdale?

A. Yes, sir.

Q. Tell us --

A. That was a major -- that was another one too, right.

Q. Can you tell us what you recall about that?

A. When the pot had been in use for a number of hundred hours, the pot would degrade and the pot, therefore, had to be dug out. And it was pretty solid at that point.

Now, there was a special crew which did this job, this pot-digging job, and the pot was taken out of line. It was sometimes -- I can't recall more often or not or what, but sometimes it was taken off the line to a pot repair, shell repair site, where it was dug out. I can't recall how much there was of digging out of the pot while it was still in place on the line, but --

MR. COLBERT: If you can't recall, don't speculate.

THE WITNESS: Okay.

Q. (By Mr. Cappolino) Do you recall what type of asbestos-containing materials were used in the lining of any of these pots at Rockdale?

A. Asbestos was in these lining sheets, but that is as much as I knew.

Q. Okay. Do you know whether or not any asbestos fibers would be released when any of the digging of the pots would occur?

MR. COLBERT: Objection, form.

MR. CAPPOLINO: Basis?

MR. COLBERT: Question is vague.

Q. (By Mr. Cappolino) You can answer it.

A. I had -- I presumed, we all presumed that this potential existed. So we, accordingly, were concerned about it and took the necessary precautions.

Q. Now, you say you presumed that fibers would be released when pot-digging operations would occur; is that correct?

A. I believe so, yes.

Q. Why do you presume and not know for a fact that that would occur?

A. Well, we didn't measure every pot that was being removed. We measured asbestos exposures on multiple of the pots, sufficient to get a good idea of what the potential was for release. So we had a working basis upon which to take precautions.

Q. Yes, sir. Let me ask you, Dr. Dinman -- you said that you measured or people with ALCOA measured the dust that was released when the pot-digging operations occurred; is that correct?

22 A. That is my understanding.
23 Q. Do you recall when that began at ALCOA,
24 when that measuring began?
25 A. No, I don't. I suspect that -- well, I

0051

1 don't know.
2 Q. Do you know if it ever occurred before
3 1973?
4 A. I would have to speculate that it did. I
5 knew it was not an unknown issue at that time in
6 '73. It was a concern at that time.
7 MR. CAPPOLINO: Object, nonresponsive.
8 Q. (By Mr. Cappolino) Let me just see if I
9 can ask it in maybe a more clear fashion.
10 Have you read any documents from ALCOA
11 that indicate any measuring of dust being done at
12 ALCOA in the potlining operation prior to 1973?
13 A. That's a very specific question, do I
14 recall. I have to presume it, but that's the best I
15 can do. To specifically -- I can't really go beyond
16 that without speculating, I guess.
17 Q. Again, let me just ask you one more way.
18 Do you know for a fact whether or not prior to 1973
19 ALCOA did any type of dust measuring in the potlining
20 operation?

21 A. That --
22 MR. COLBERT: Objection, form.
23 You can answer the question.
24 Q. (By Mr. Cappolino) You can answer it.
25 A. Well, ALCOA had a good industrial hygiene

0052

1 department. They had the Cralleys -- or Lester, I
2 guess. I confuse Lester and Lewis. They had the
3 Cralley -- one of the Cralley brothers there. And
4 they had been an industrial hygiene operation before
5 I came, well before I came, so that when I came
6 there, it was not a new subject at all.
7 MR. CAPPOLINO: Object, nonresponsive.
8 Q. (By Mr. Cappolino) When you came to ALCOA,
9 asbestos was not a new subject at all?

10 A. No.
11 Q. What do you mean by that?
12 A. It was a matter of fairly concern; that is,
13 it was a potential -- there was a potential and we
14 recognized that. And so we -- knowing what the
15 performance of that department was, that's one of the
16 reasons I went there.

17 Q. Yes, sir.
18 A. This was a competent department.

19 MR. CAPPOLINO: Object, nonresponsive.

20 Q. (By Mr. Cappolino) Part of your role when
21 you went to ALCOA, Dr. Dinman, was to try to -- and
22 correct me if I'm wrong -- was to try to prevent
23 injury to workers from asbestos exposure? Am I
24 making a correct statement?

25 A. Part of my role.

0053

1 Q. Yes.
2 A. You have to qualify.
3 Q. I know you had other roles.
4 A. There were other many -- many other things
5 that we were concerned about, but it was one of the
6 matters of concern.

7 Q. And what was your role -- as a person in
8 the medical area of ALCOA, what was your role to try
9 to prevent injury to workers from asbestos exposure
10 at ALCOA?

11 MR. COLBERT: Objection, form.

12 You can answer the question.

13 A. Okay. My role as a medical director
14 reporting to Miles Colwell, the vice-president, was
15 to assure that things were done in the plant
16 sufficient to provide protection of the health and
17 safety -- well, not safety until became
18 vice-president -- sufficient to provide protection of
19 the health of workers. Therefore, I had to be
20 responsible to see that all measures were taken,
21 which included industrial hygiene.

22 Q. (By Mr. Cappolino) I want to concentrate
23 on asbestos exposure at this point. What measures do
24 you recall, which you had a role in, were taken to
25 prevent asbestos-related disease in ALCOA employees

0054 at Rockdale?

1 MR. COLBERT: Objection, form.

2 MR. CAPPOLINO: Basis?

3 MR. COLBERT: The question is vague.

4 Q. (By Mr. Cappolino) You can answer it,
5 Doctor.

6 MR. COLBERT: You can answer the
7 question, but answer the question that he's asked.

8 A. Well, when I say that I was sure that all
9 the measures were taken to protect the health and
10 safety of the workers, that included that adequate
11 measurements of the work environment were taken by
12 the industrial hygiene people, people who reported to
13 me; and, therefore, it was my responsibility to
14 assure that happened.

15 Q. (By Mr. Cappolino) Okay. What other
16 measures were taken?

17 A. Now, you want to be specific to asbestos or
18 what?

19 Q. Well, this litigation, Dr. Dinman -- are
20 you aware that this litigation is about asbestos
21 exposure?

22 A. Oh, yes. Yes, sir.

23 Q. That's what I'm talking about.

24 A. Okay.

0055 1 Q. Now I'm talking and continuing on the
2 questions about when you came to ALCOA from '73 on --

3 A. Uh-huh.

4 Q. -- what measures were taken that you had a
5 role in to prevent asbestos-related disease in ALCOA
6 employees at Rockdale. One of the things you
7 mentioned was adequate measurements by the industrial
8 hygiene people who reported to you?

9 A. Right.

10 Q. What other measures do you recall being
11 taken?

12 A. We also were responsible for working with
13 engineering to assure that adequate ventilation was
14 employed at those sites where potential asbestos
15 exposures could occur.

16 Q. Yes, sir. What else?

17 A. We also set up medical examinations,

18 looking at measures such as breathing capacity tests,
19 x-rays. Those are the major medical -- and also a
20 history, a work history particularly, and potential
21 exposure history for all employees.

22 Q. All right. Mr. Colbert had provided me the
23 this document with regard to asbestos history form,
24 the questionnaire?

25 A. Yes, sir.

0056

1 Q. Is that part of what we're talking about?

2 A. That's part of what we're talking about,
3 that's correct.

4 Q. I'll probably want to attach this, but you
5 don't recall when this document was compiled, the
6 questionnaire and the exposure history?

7 A. Well, I'm looking at it and I am trying to
8 establish a date on here, which is rather strange.
9 You may have found a date in here --

10 Q. Well, I just saw this document, so --

11 A. -- but I'm not sure.

12 Okay. I've looked at this several
13 times to try to come up with an understanding of the
14 date, but I'm not quite sure. I suspect -- well, I
15 really -- unless you can find a date on here for me,
16 I really can't --

17 Q. The only date that I see, Dr. Dinman, is on
18 the first page.

19 A. First page.

20 Q. It has, "Amendatory Section (Amending Order
21 87-06, filed 4/27/87.)" Is that the only date you
22 see on this document?

23 A. Well, I'd have to look. The only date here
24 on Page 56 is the bottom, but that's a history, and
25 so --

0057

1 Q. Yes, sir.

2 A. -- it covers the times when they might have
3 worked in the past. So in that regard, that's one
4 day, but I don't think that's a -- I don't think
5 that's the date this was written.

6 Q. Let me see if I can -- and again, I don't
7 want you to speculate. Nobody would want you to --

8 A. Yeah. I don't want to.

9 Q. -- but let me ask you this question. Can
10 you tell me whether or not this document was prepared
11 in the 1970s, from 1973 through 1979?

12 A. Well, it must have been during the time I
13 was there or else I wouldn't have the document.

14 Q. Well, that would be from '73 through '86?

15 A. Right.

16 Q. But you don't know whether or not this
17 document would have been prepared from '73 through
18 '79 or from '80 through '86?

19 A. No. I can't really be sure of that.

20 Q. Okay. We can't tell from the document
21 itself, and you don't recall from your memory when it
22 was prepared; is that a correct statement?

23 A. Except that it had to be prepared when I
24 was there --

25 Q. Yes, sir.

0058

1 A. -- in the course of my tenure.

2 MR. CAPPOLINO: Okay. Let me go ahead

3 and have that marked.

4 (Exhibit No. 2 marked.)

5 MR. COLBERT: We've been going for
6 about an hour, if we could just take a short break.

7 MR. CAPPOLINO: Sure.

8 (Recess from 9:57 to 10:09.)

9 Q. (By Mr. Cappolino) Dr. Dinman, I'm going
10 to hand what you the reporter has marked as Dinman
11 Exhibit No. 2, and this is the document we've been
12 talking about for the past few questions. Let me
13 just hand it to you, sir, and ask you, could you
14 identify what Exhibit No. 2 is?

15 A. Okay. Pages 55 to 67 are an initial
16 medical questionnaire.

17 Q. Yes, sir.

18 A. And it's in two parts, one is the medical
19 questionnaire and the other one is a periodic medical
20 questionnaire which -- yeah -- which goes over
21 general health, smoking history, which is very
22 important to us, symptoms referable to the
23 respiratory tract. Work history is very important,
24 and then history concerning questions which deal
25 with -- which consist of questions dealing with the

0059 1 state of the respiratory apparatus in the
2 individual.

3 There are appended here -- something
4 which I don't remember even how it got here -- what
5 appears to be material taken from some -- some source
6 regarding some of the guidelines of what has to be
7 done to meet OSHA criteria for examinations.

8 Q. Yes, sir.

9 A. That, I don't think -- we obviously didn't
10 formulate those, but we formulated all the material
11 through Page 67.

12 Q. Okay.

13 A. Well, no, I take that back. We're quoting
14 here on the last two paragraphs of Page 67 what --
15 well, I'm not sure where that quote -- looks like it
16 comes from -- I'm guessing here. Looks like it comes
17 from regulations or something of that sort.

18 Q. Dr. Dinman, does that exhibit appear to you
19 to be a true and correct copy of the questionnaire
20 and the other documentation you mentioned that was
21 from another source that was used at ALCOA between
22 1973 and 1986?

23 A. Let me hear the first part of your question
24 again.

25 Q. Is that a true and correct copy of the

0060 1 questionnaire, of the pages that you mentioned
2 related to the questionnaire that you recall?

3 A. It's still not very clear to me.

4 Q. Let me ask you another question before we
5 talk about this document anymore, Dr. Dinman.

6 Have you ever had a stroke?

7 A. No, sir.

8 Q. Have you ever had any type of condition
9 involving any type of cerebral vascular accident,
10 anything involving your brain, any type of injury?

11 A. Yes, sir.

12 Q. Can you tell us what you had, sir?

13 A. I had a skull fracture and a subdural

14 hematoma.
15 Q. When did that occur?
16 A. With the millennium.
17 Q. 2000?
18 A. Yes, sir.
19 Q. And, of course, I know you're a physician,
20 but --
21 A. Yes, sir.
22 Q. -- can you tell us whether or not you feel
23 that's affected your memory or your ability to
24 testify in any way?
25 A. I'm not aware of it.
0061
1 Q. Okay. Let me just ask you again on Exhibit
2 No. 2, does that appear to be a true copy of the
3 questionnaire that you were familiar with at ALCOA
4 for exposures?
5 A. A true copy?
6 Q. Yes, sir.
7 A. Very explicit.
8 Q. A copy.
9 A. A copy?
10 Q. Yeah.
11 A. Well --
12 Q. Or do you know?
13 A. I'm not too sure.
14 Q. Okay. What role did you have in helping
15 formulate Dinman Exhibit No. 2? Did you have any
16 input into this document?
17 A. Again, I'd have to speculate on that.
18 Q. Okay.
19 A. It appeared from someplace. I had it in my
20 files.
21 Q. Okay.
22 A. I used it as a format for teaching. It
23 came from someplace and it had to come from ALCOA
24 because that's the only kind of thing that I would --
25 that's one of the few things I took out of the file
0062
1 with me.
2 Q. Do you have any knowledge as to what
3 individuals at ALCOA had any input into this document
4 as far as helping write it or put it together?
5 A. Well, undoubtedly -- again, I'd have to --
6 I'm guessing here, but it's a reasonable guess, that
7 Dr. Belk, who was my medical director, worked for me,
8 was involved in the formulation of this.
9 Q. All right. Dr. Belk was there when you
10 were at ALCOA?
11 A. Yes. He was medical director when I was
12 vice-president.
13 Q. Do you know what a medical director's role
14 was at ALCOA, Dr. Belk's role? What was his role?
15 A. Well, the same as I had before. It was the
16 direct responsibility for the medical functions, the
17 treatment and prevention.
18 Q. Okay. You had mentioned Dr. Miles Colwell?
19 A. Yes, sir.
20 Q. Is he a physician?
21 A. Yes, sir.
22 Q. What role did Dr. Colwell have at ALCOA?
23 A. He had the same role I subsequently had,
24 vice-president for health, safety and environment.

25 Q. When you were hired on at ALCOA,
0063
1 Dr. Colwell was there; correct, sir?
2 A. Correct.
3 Q. Did you report to him?
4 A. Yes, sir.
5 Q. When you came on at ALCOA in 1973, did you
6 have any discussions with Dr. Colwell about whether
7 any type of questionnaire, such as Exhibit No. 2,
8 were ever compiled with regard to exposures to
9 employees at ALCOA, prior to 1973?
10 A. Prior to 1973, I have problems trying to
11 guess at what was done. That was only by speculation
12 or experience and implications --
13 Q. Okay.
14 A. -- but --
15 Q. What I'm asking you though is, did you have
16 any -- or did Dr. Colwell tell you -- do you recall
17 him ever telling you whether or not any
18 questionnaires like this, Exhibit No. 2, had been
19 compiled at ALCOA prior to 1973?
20 A. I don't recall that we had explicit,
21 specific discussions of this particular issue. It
22 certainly would come under the general purview of the
23 function of the medical department and what the
24 medical department was expected to do.
25 Q. Okay. Have you ever been involved in a
0064
1 clinical medical practice?
2 A. Yes, sir.
3 Q. Tell us what your experience is in that
4 area.
5 A. Immediately after my internship, my
6 internship in Philadelphia in 1951 and '52, I had
7 another year of training as -- in internal medicine.
8 And during that period of time, I practiced in
9 northeast Philadelphia. Then that was -- let's see,
10 '51, '52. And then '52, '53, I practiced in north
11 Philadelphia in clinical practice of medicine.
12 Q. Okay.
13 A. Was general, but mostly internal medicine.
14 So that was '53 to '54.
15 Q. Okay.
16 A. So during that time I did practice.
17 Now, when I got to Ohio State, I was
18 teaching. I worked in the clinic there, occupational
19 medicine clinic there. And I also worked as a
20 physician for Western Electric who had started a
21 plant in Columbus, and I worked there part time as
22 the physician at the plant from '57 to about 1960.
23 Q. Okay.
24 A. In the course of my graduate training in
25 occupational medicine, we spent one year in the
0065
1 field, and I spent that year at DuPont. I rotated
2 through half a dozen or so plants, making different
3 products and acting as the physician at their medical
4 facilities at these plants or acting in concord with
5 the medical director there.
6 Q. Okay.
7 A. So these were the clinical
8 responsibilities, the clinical medicine
9 responsibilities I've had.

10 We did clinic practice at Ohio State.
11 And I'm trying to remember. Did they in Michigan? I
12 had an appointment as clinical assistant professor of
13 internal medicine at the University of Michigan. I
14 was consulted in the hospital on the floors for
15 occupational health issues that needed consultation.
16 Did the same thing at Ohio State, too, of course.

17 Q. Let's talk a little bit about Philadelphia,
18 when you had your clinical practice there. From what
19 I recall of Philadelphia, there's some shipyards
20 there, isn't there, or do you know?

21 A. Well, there were shipyards, but not at the
22 time we practiced.

23 Q. Not in the '50s?

24 A. By the time of the '50s, no. Sunship,
25 which was the major one -- and Naval Shipyard --

0066
1 Sunship was out of business. Naval Shipyard
2 continued some years, but not shipbuilding, ship
3 repair mostly.

4 Q. In your clinical practice, what you've just
5 described to us, have you ever seen patients that
6 come in or who want to be screened for an
7 asbestos-related disease?

8 A. No, sir.

9 Q. Have you ever diagnosed an asbestos-related
10 disease?

11 A. Yes.

12 Q. When was that?

13 A. On consultation at the University of
14 Michigan, I believe, a case --

15 Q. And when was that, sir?

16 A. Beg your pardon?

17 Q. I'm sorry for interrupting you. When was
18 that?

19 A. Somewhere in the interval between '65 and
20 '73.

21 Q. All right. And when you were on
22 consultation -- you were on consultation during that
23 time?

24 A. Exactly, sir.

25 Q. How many people or patients do you recall

0067
1 seeing for asbestos-related disease?

2 A. There were relatively few. It was not
3 common.

4 MR. CAPPOLINO: Object,
5 nonresponsive.

6 Q. (By Mr. Cappolino) Did you see relatively
7 few people between 1965 to 1973 for asbestos-related
8 disease?

9 A. Yes, sir, that is clear.

10 Q. What type of clinical procedures did you
11 follow in attempting to diagnosis an asbestos-related
12 disease in those people?

13 A. We did a history, of course. That's very
14 important --

15 Q. Right.

16 A. -- an occupational history particularly
17 because we were doing this largely for teaching
18 purposes, and we were trying to emphasize the very
19 important nature of the occupational history, and
20 that is, histories of exposures and understanding the

21 jobs because most physicians don't understand jobs in
22 plants. So we were emphasizing history.

23 Of course, we did physical examination
24 which didn't reveal that much. We would listen to
25 the chest, of course, listen for altered breath

0068

1 sounds. We also would do x-ray, of course. And we
2 would also do pulmonary function testing.

3 Q. Okay. Was part of your procedure in trying
4 to diagnose an asbestos-related disease -- did part
5 of your procedure actually involve going to the work
6 site of the people to see what dosage of asbestos
7 they were exposed to?

8 A. It happened once --

9 Q. And when was that?

10 A. -- because we emphasized, again, to the
11 students importance of understanding and knowing the
12 job. And so that's not a very common thing among
13 practicing physicians, but we were trying -- for
14 teaching purposes, trying to make these points of
15 emphasis. We did that once, yes, sir.

16 Well, no. I should say we did it
17 several times because these were the students who
18 were training to be occupational physicians. We'd go
19 out on plant -- plant visits multiple times.

20 Q. Which plants did you go to?

21 A. We went to General Motors plants, for one.
22 We went to -- oh, boy. This is years ago. We went
23 to automobile parts, major suppliers, producers. The
24 issue of asbestos didn't come up too often there, but
25 it did come up in connection with brake-linings.

0069

1 Q. Do you know if ALCOA had any brake-linings
2 that contained asbestos from '73 through '86?

3 A. Brake-linings. To the extent that
4 everybody had -- everybody who owned an automobile
5 had -- or could possibly have had brake-linings which
6 contained asbestos, to that extent, yes; but, no, not
7 to any greater extent.

8 Q. Okay. When you went to these plants, did
9 you, as a physician, go out there and measure
10 asbestos exposure? What did you do?

11 A. No. We would essentially try to make it
12 clear that they had to ask the right questions of
13 people in the plants as to what they're doing and
14 what materials they're working with, and then go back
15 to the purchasing organization and try to find out
16 what the materials contained. That was part of the
17 teaching role.

18 We didn't do measurements because we
19 were not industrial hygienists. We were not training
20 them to be industrial hygienists. We generally
21 advised them of what had to be done. Industrial
22 hygiene part of the faculty, Dr. Cook and Professor
23 Ralph Smith, taught them how to perform these
24 measurements. But that's obviously industrial
25 hygiene specialty --

0070

1 Q. Right.

2 A. -- rather than for physicians.

3 Q. When you did this for teaching purposes,
4 did you request any industrial hygiene people to do
5 actual dust measurements at these plants that you

6 visited?

7 A. No. We couldn't do that because these were
8 plants which we were entering by leave of the
9 employers; and to do measurements in there, no, that
10 would not be appropriate.

11 Q. Okay. Prior to 1973, Dr. Dinman, did you
12 ever have any professional relationship in any form
13 or fashion with ALCOA?

14 A. No.

15 Q. All right. Now, I want to go back a little
16 bit from '73 to '86. We've talked a little bit
17 earlier about what you were trying to do in the
18 health department, in the medical department, to
19 prevent disease, asbestos-related disease in ALCOA
20 employees, and these are some of the things you
21 mentioned:

22 Adequate measurements by the
23 industrial hygiene people; correct, sir? Is that one
24 of the --

25 A. That's important, yes.

0071 1 Q. Working with the engineers to make sure
2 there's adequate ventilation employed at the site?

3 A. Yes.

4 Q. The medical exams that we talked about?

5 A. Yes.

6 Q. Obtaining a work history?

7 A. Oh, absolutely.

8 Q. Which is part of Exhibit No. 2?

9 A. Uh-huh. Yes, sir.

10 Q. Were there any other measures that you,
11 Bertram Dinman --

12 A. Me?

13 Q. -- yes, sir, felt needed to be implemented?

14 A. Not that I did, but needed to be
15 implemented by someone who was competent for that,
16 yes. We always required pulmonary function testing.

17 Q. Were there any other measures that you --

18 A. X-ray.

19 Q. Okay. And we talked about the medical
20 aspects as far as the medical exam --

21 A. Uh-huh.

22 Q. -- but were there any other measures that
23 either you or people you worked with, whether they be
24 industrial hygiene people or engineering people at
25 ALCOA, were there any other measures that were

0072 1 taken --

2 A. Yes.

3 Q. -- at ALCOA from '73 to '86 to help prevent
4 excessive exposure to asbestos, that you recall?

5 A. Yes.

6 MR. COLBERT: Objection, form.

7 MR. CAPPOLINO: Basis?

8 MR. COLBERT: It's vague;
9 mischaracterizes his testimony; assumes facts not in
10 evidence.

11 But you can answer the question.

12 Q. (By Mr. Cappolino) You can answer it.

13 A. Well, there were other concerns which were
14 general to prevention, and they were directed to
15 asbestos as well as multiple other issues.

16 One of the things we tried to do is

17 work with purchasing to try to obviate the purchase
18 or acquisition of materials which were potentially
19 hazardous.

20 Q. Do you, Dr. Dinman --

21 A. That's one of the things.

22 Q. I'm sorry. Let me concentrate on that.

23 A. Okay.

24 Q. Do you recall any of the names of any of
25 the manufacturers or suppliers of asbestos-containing

0073 1 products that ALCOA purchased from, say, '73
2 through -- or that they purchased that you're aware
3 of when you came on board?

4 A. No. That was -- that was mostly a
5 purchasing function.

6 Q. All right.

7 A. We would try to get to the purchasing
8 people on understanding what we were looking for,
9 what our concerns were. To that extent, we worked
10 with them.

11 Q. One of your goals was to, I guess, try to
12 stop the purchase of asbestos-containing products by
13 ALCOA?

14 A. That was the hope.

15 MR. COLBERT: Objection, form.

16 Q. (By Mr. Cappolino) You can answer it.

17 A. That was the expectation of what we were
18 trying to do.

19 Q. Was part of your role to emphasize the need
20 for substitutes for asbestos?

21 A. Where they could be found, yes; but we
22 emphasized, as a general feature, any of the hazards,
23 potentially-hazardous material.

24 Q. Were you aware of any -- and again, I don't
25 want to go outside your area of expertise, and if it

0074 1 does, let me know. Were you aware of any substitutes
2 for asbestos prior to 1973?

3 A. Well, you have to condition that question
4 by asking whether there were adequate substitutes,
5 and there was -- that was a contentious area, too.

6 For example, fiberglass was suggested
7 as an adequate -- as a substitute. Whether it was
8 adequate or not was subject of contention, depending
9 upon its use and ultimate application. I'm trying to
10 remember, but I can't remember because this was a
11 more technical area --

12 Q. Yeah.

13 A. -- of what material specifically in
14 addition to the fiberglass.

15 Q. But did you ever become aware that
16 fiberglass was substituted for asbestos in any
17 materials used at ALCOA after 1973?

18 A. Well, that's a very specific question which
19 I really don't have expert knowledge on.

20 Q. Okay. So we've talked about the purchasing
21 and the other measures that you had a role in
22 undertaking to prevent excessive exposure to
23 asbestos. Were there any other measures that you
24 recall were taken?

25 A. Let's see.

0075 1 MR. COLBERT: Objection, form.

2 You can answer the question.
3 Q. (By Mr. Cappolino) Go ahead, Doctor.
4 A. Well, we're now working on the general
5 principles of prevention. One of them is the
6 substitution which we've been discussing.
7 Q. Right.
8 A. Other issues are engineering measures, and
9 that -- that category is the ventilation issue.
10 Other measures -- other measures that
11 could be taken were prevention, and particularly
12 we're talking about dust inhalation which then gets
13 into the whole area of respiratory protection.
14 Q. Okay. Do you know if respiratory
15 protection was being used by the workers at ALCOA
16 prior to 1973 at the Rockdale plant?
17 A. Respiratory protection was used in a lot of
18 jobs --
19 Q. I'm talking about Rockdale.
20 A. -- at Rockdale. I know, Rockdale, and just
21 like other plants.
22 Q. Do you recall or do you know whether or not
23 ALCOA required its workers, prior to 1973, at
24 Rockdale to use respiratory protection?
25 A. I'm not too sure what they did before '73.

0076

1 Q. When you came on board in 1973, Mr. Bonney
2 had been there quite a number of years, hadn't he?
3 A. Yes, he had.
4 Q. I think he testified yesterday he was
5 employed by ALCOA in 1948. As far as what type of
6 measures were taken by ALCOA prior to 1973, say, from
7 '48 through '73 --
8 A. Uh-huh.
9 Q. -- to prevent excessive exposure to
10 asbestos for its employees, would you rely on
11 Mr. Bonney to give testimony to that effect, if he
12 was there during that period of time?
13 MR. COLBERT: Objection, form.
14 You can answer the question.
15 A. What would I rely --
16 Q. (By Mr. Cappolino) Do you think Mr. Bonney
17 would know more than you would --
18 A. Oh.
19 Q. -- about what occurred at ALCOA prior to
20 1973 -- and I'm talking about Rockdale -- prior to
21 1973, as far as what measures were taken or not taken
22 with regard to employees' exposure to excessive
23 amounts of asbestos?
24 MR. COLBERT: Same objection.
25 You can answer the question.

0077

1 A. Now we're far away from that question.
2 Could you restate it again?
3 Q. (By Mr. Cappolino) All right. Did you
4 ever talk to Mr. Bonney about what measures were
5 taken prior to 1973 to help prevent employee exposure
6 to asbestos at ALCOA Rockdale?
7 A. ALCOA Rockdale? From the general -- from
8 the general envelope of my responsibility, I would --
9 I'm only guessing that I had to have talked with him
10 about multiple plants, yes, sir.
11 Q. I'm talking about --
12 A. -- because he would have knowledge,

13 obviously.

14 Q. Let me ask you this. Let me ask you some
15 specific things.

16 A. Yes.

17 Q. Did you ever talk to Mr. Bonney about
18 whether or not, prior to the time you arrived at
19 ALCOA, ALCOA did any sampling of its industrial dusts
20 at Rockdale to determine levels of asbestos dust?

21 A. I don't know that I specifically dealt with
22 Rockdale or any other plant, specifically Rockdale.
23 That's -- that's the question you asked.

24 Q. And the reason I'm asking you that
25 question, Dr. Dinman --

0078

1 A. Yeah.

2 Q. -- is that this litigation involves ALCOA
3 Rockdale. Do you understand that?

4 A. Yes.

5 Q. Okay. Did you have any discussions that
6 you recall with regard to any measures taken at ALCOA
7 Rockdale, with Mr. Bonney, to prevent excessive
8 exposure to asbestos when you arrived at ALCOA?

9 MR. COLBERT: Objection, form.

10 You can answer the question.

11 A. I would have to be speculating. I have to
12 believe it because I depended upon Doctor --
13 Mr. Bonney for expertise in this particular area.
14 Now, whether we focused on Rockdale or not, that was
15 20-something years ago.

16 Q. (By Mr. Cappolino) Let me just ask one
17 question.

18 A. Yes, sir.

19 Q. Do you know what programs were in place or
20 measures were in place at ALCOA Rockdale when you
21 arrived in 1973 to help prevent excessive exposure to
22 asbestos of its employees?

23 MR. COLBERT: Objection, form.

24 A. If we're going to get very specific as far
25 as Rockdale is concerned, that becomes difficult for

0079

1 me to say that we focused on that plant or any other
2 plant, except one plant which was giving us trouble
3 but had nothing to do with asbestos.

4 Q. (By Mr. Cappolino) I'm not asking you
5 specifics, Dr. Dinman. Let me ask it one more time
6 and I won't ask it again; okay?

7 When you arrived in 1973 at ALCOA, do
8 you have any knowledge of what measures ALCOA
9 Rockdale took to prevent excessive exposure of
10 asbestos to its employees at the ALCOA Rockdale
11 plant?

12 MR. COLBERT: Objection, form.

13 If you know, you can answer the
14 question.

15 THE WITNESS: I beg your pardon?

16 MR. COLBERT: If you know, answer the
17 question.

18 A. Well, it gets very difficult for me to say
19 that I know as directly related to your question.

20 Q. (By Mr. Cappolino) You don't know what
21 measures were taken?

22 A. I don't recall. This is some -- what is
23 it, '73? We're 20 years --

24 Q. Prior to --
25 A. -- 30 years ago.

0080

1 Q. Prior to coming to today's deposition --
2 A. Yes, sir.
3 Q. -- did you ever request from Mr. Colbert
4 for any documents, ALCOA documents, that are at his
5 law office in Houston to see whether or not any
6 measures were taken at ALCOA Rockdale prior to 1973
7 to prevent excessive exposure to asbestos to its
8 workers?

9 MR. COLBERT: Objection, form.

10 Q. (By Mr. Cappolino) Did you do that?

11 MR. COLBERT: Same objection.

12 A. No. He didn't provide me, or I didn't ask
13 for, that specific -- those specific types of
14 informations.

15 Q. (By Mr. Cappolino) Prior to today, you
16 don't recall reading any documents which would give
17 you any information as to what measures were taken at
18 ALCOA Rockdale prior to 1973 --

19 A. No.

20 Q. -- to help prevent excessive exposure to
21 asbestos of its employees?

22 MR. COLBERT: Objection, form.

23 Q. (By Mr. Cappolino) Is that correct?

24 MR. COLBERT: Same objection.

25 A. No. I'm not aware of that.

0081

1 Q. (By Mr. Cappolino) You said you visited
2 ALCOA Rockdale?

3 A. Yes, sir.

4 Q. When was that?

5 A. Oh, multiple times.

6 Q. Well, tell me, as best you recall, the
7 approximate year or years when you first went down
8 there?

9 A. Oh, that's, as we say, some 30 years ago.

10 I'm trying to remember what ALCOA Rockdale --

11 Q. It's in Texas. You know it's in Texas,
12 don't you?

13 A. I know it's in Milam County, too, sir.

14 Q. Okay.

15 A. But I -- I have difficulty with specific --
16 giving you specific dates. I went down there
17 multiple times, as I say, in that period of time --

18 Q. All right.

19 A. -- but it was largely in relation to heat
20 exposures there.

21 Q. Okay.

22 A. And Rockdale was very cooperative with us
23 in helping us in getting those heat measures -- which
24 took a lot of time, which took a lot of people away
25 from the job, but those are -- those are the specific

0082

1 reasons we went to Rockdale. There were general
2 reasons, general surveillance, but that's the most I
3 can say. We went there multiple times. Let's put it
4 that way.

5 MR. CAPPOLINO: Object,
6 nonresponsive.

7 Q. (By Mr. Cappolino) Do you know how many
8 times you went to Rockdale?

9 A. Ah, how many times?
10 Q. Yeah.
11 A. Going back to 1973?
12 Q. Yeah.
13 A. A specific number, I can't give you. I
14 would say that it was somewhere between at least five
15 and possibly less than ten.
16 Q. All right. And that was between 1973 to
17 1986?
18 A. As best I can remember.
19 Q. And in those times between five and less
20 than ten you say? Between five and ten
21 approximately?
22 A. Something like that.
23 Q. Did you ever go down there to do any type
24 of work with regard to asbestos exposure?
25 MR. COLBERT: Objection, form.

0083

1 Q. (By Mr. Cappolino) Did any of your work
2 involve asbestos exposure when you went to ALCOA
3 Rockdale between 1973 and 1986?
4 MR. COLBERT: Objection, form.
5 MR. CAPPOLINO: Basis, Counsel?
6 MR. COLBERT: Objection, form.
7 Objection, side-bar. You needn't be argumentative
8 with Dr. Dinman.
9 MR. CAPPOLINO: I'm not being
10 argumentative. I'm just trying to get an answer.
11 MR. COLBERT: The question is vague.
12 I believe Dr. Dinman is answering your questions to
13 the best of his ability.
14 MR. CAPPOLINO: I don't think he is.
15 We'll move on.
16 Q. (By Mr. Cappolino) You went down there
17 approximately between five and ten times?
18 A. Certainly five, but I can't say ten,
19 fifteen.
20 Q. One of the reasons you went down there
21 was -- I think the major reason you said was because
22 of heat problems?
23 A. That was -- that was a major reason for a
24 couple of the visits, right, because they worked with
25 us in doing these heat studies down there, and they

0084

1 were very cooperative.
2 Q. Did any of the heat studies involve
3 asbestos?
4 A. No, no. They didn't involve asbestos.
5 Q. Between that five and ten times, did you
6 ever go down to the ALCOA Rockdale plant to discuss
7 with anyone there the subject of asbestos?
8 A. If you put it that way, the subject of
9 asbestos, that was not the primary reason we went
10 there. We did go there and we did discuss asbestos
11 incidentally to our general surveillance of the
12 medical and protective functions going on there.
13 Q. What do you recall discussing about
14 asbestos?
15 A. One of the things we discussed was the
16 question of ventilation and protection, particularly
17 in the marinite cutting operation because that's the
18 one where if there was any potential for asbestos
19 that was one which directly concerned us and was a

20 matter of interest.

21 MR. CAPPOLINO: Object,
22 nonresponsive.

23 Q. (By Mr. Cappolino) Who did you discuss
24 with ALCOA Rockdale the marinite?

25 A. We discussed it with management and

0085

1 industrial hygiene.

2 Q. Do you recall the names of any of the
3 individuals you discussed it with?

4 A. Well, no, I don't.

5 Q. Did you discuss what measures should be
6 taken with regard to marinite to prevent excessive
7 exposure to asbestos at the ALCOA Rockdale plant?

8 MR. COLBERT: Objection, form.

9 You can answer the question.

10 A. What measures should be taken?

11 Q. (By Mr. Cappolino) Yes, sir.

12 A. Well, I'm not sure what you mean by that
13 question.

14 Q. Why did you discuss marinite?

15 A. As a general subject for concern about
16 overall exposures of everything at the plant, and
17 asbestos was one of the subjects.

18 Q. Well, one of the things as the medical
19 person you were trying to do was to help prevent
20 excessive exposure to asbestos at the ALCOA Rockdale
21 plant; correct?

22 A. Yes, sir.

23 Q. And what things did you, Bertram Dinman,
24 suggest to prevent excessive exposures to asbestos at
25 the ALCOA Rockdale plant?

0086

1 A. Major concern as regards asbestos was -- is
2 marinite cutting operation.

3 Q. How about potlining?

4 A. Potlining? They appeared to be aware of
5 the issues there, and to say that they fully
6 implemented them or not, I don't know because I had
7 to be there to do that. I did not -- yes, we did
8 observe pot-digging.

9 Q. Uh-huh.

10 A. And again, the whole subject of asbestos
11 and dust and carcinogens came up because of the coal
12 tar pitch material.

13 Q. Do you consider asbestos to be a
14 carcinogen?

15 A. Under the proper conditions of exposure and
16 duration and the other factors we've discussed.

17 Q. Because I think you have written -- in
18 fact, you cited in one of your articles Richard
19 Doll's article on asbestos and cancer, didn't you?

20 A. I don't know that -- I don't know that I
21 cited Sir Richard explicitly. If you could show that
22 to me, I'd appreciate it.

23 MR. CAPPOLINO: Let's go ahead and
24 mark it.

25 (Exhibit No. 3 marked.)

0087

1 Q. (By Mr. Cappolino) Dr. Dinman, I'm going
2 to hand you what the reporter has marked as Exhibit
3 No. 3, sir, and let you look at this.

4 A. Sure.

5 Q. Take your time, if you need to, to review
6 it, and I can ask you some questions about it.

7 A. Sure.

8 Q. Okay.

9 A. To identify this?

10 MR. COLBERT: Let's go off the record
11 and let Dr. Dinman have a chance to review this
12 article.

13 A. Well --

14 Q. (By Mr. Cappolino) That's an article you
15 wrote; right?

16 A. In 1959.

17 Q. Do you have that in your library now? Do
18 you still have a copy of that article at your house?

19 A. Oh, I'm not too sure.

20 MR. CAPPOLINO: Okay. We'll go off
21 the record so he can have a chance to look at it.

22 THE WITNESS: Thank you.

23 (Recess from 10:45 to 10:52.)

24 Q. (By Mr. Cappolino) Dr. Dinman, before the
25 break, I wanted you to go ahead and review Exhibit

0088

1 No. 3. And can you identify what Exhibit No. 3 is,
2 the document in front of you?

3 A. It's an article I coauthored with one of
4 our trainees and with Professor Ashe who was the head
5 of the operation at Ohio State --

6 Q. Yes, sir?

7 A. -- in the Ohio State Medical Journal, dated
8 September 1959, and it is a general, overall review
9 of occupational cancer.

10 Q. Okay. From your review of that document,
11 do you recall today being a coauthor of that document
12 years ago?

13 A. Vaguely.

14 Q. All right. Do you recall or do you know
15 the reason why you coauthored this particular
16 article, the purpose of this article?

17 A. Because I was a young assistant professor
18 there, and the way you got ahead in Academia is
19 publish or perish.

20 Q. That's correct.

21 Now, in this particular article did
22 you discuss asbestos exposure in any aspect?

23 A. Yes.

24 Q. And I believe -- and correct me if I'm
25 wrong -- in that article -- I believe it's on

0089

1 Page 1217 -- you talked a little bit about the Lynch
2 and Smith research or their peer-review article; did
3 you not?

4 A. Where is this?

5 Q. On Page 1217.

6 A. 1217 is the front page.

7 Q. Oh, I'm sorry, 1218. Excuse me, Doctor.
8 That was an error.

9 A. 1218.

10 Q. You don't see it there?

11 A. I'm sorry.

12 Q. Let me see if I can help you out.

13 A. Yeah.

14 Q. Let me see if I can run that down for you,
15 Doctor.

16 A. Yeah.
17 Q. Okay. It's on Page 1218. It's in the
18 first complete paragraph --
19 A. All right.
20 Q. -- on the left column.
21 A. Okay. Let me see it. Third paragraph, the
22 left column. Okay.
23 Q. Do you see that, Doctor?
24 A. No. I still don't see it, sir. Can you --
25 Q. Let me go ahead -- and I wish I had another
0090
1 copy here for you, but I don't. This is on the top
2 left-hand -- can you see this here? Can you read the
3 words?
4 A. (No audible answer.)
5 Q. Let me start at the top --
6 A. Yeah, go ahead.
7 Q. Let me start at the top of the paragraph,
8 put it in context.
9 "Still other industries began to be
10 involved, chromates, for example, being suggested as
11 cause of lung cancer by Pfeil in 1911 and confirmed
12 by Machle years later, while in 1932 Grenfell found
13 lung and sinus cancer in certain nickel workers, and
14 three years later" --
15 A. Right, right.
16 Q. -- "Lynch and Smith reported a high
17 incidence in asbestos workers."
18 A. Okay.
19 Q. Did I read that correctly?
20 A. Yes, sir, you did.
21 Q. So am I correct in saying that in
22 "Occupational Cancer," which you coauthored in
23 September 1959, you discussed Lynch and Smith
24 reporting a high incidence in asbestos workers of
25 lung cancer?
0091
1 MR. COLBERT: Objection, form.
2 MR. CAPPOLINO: Basis?
3 MR. COLBERT: Document speaks for
4 itself.
5 Q. (By Mr. Cappolino) why don't you go ahead
6 and read that column or that first paragraph?
7 A. Yeah. Well, about Lynch and --
8 Q. That's fine.
9 A. We'll go right to it, Lynch and Smith.
10 You're saying that they reported a high incidence in
11 asbestos workers. Now, I must say that we're talking
12 about other papers which found lung and sinus cancers
13 in certain nickel workers, and three years later
14 Lynch and Smith report a high incidence in asbestos
15 workers.
16 Well, I'm not sure why -- well, I want
17 us to understand why I said this because I think what
18 we're talking about -- yes. If you look at the
19 paragraph, the previous page, there was a
20 running-through of the history of reportage in the
21 scientific literature of cancer associated with
22 occupations. So in those -- in the general sense,
23 we're citing that as another example. That's all.
24 Q. Yes, sir.
25 A. Okay.
0092

1 Q. And what you wrote in there, you did write
2 in that article that Lynch and Smith reported a
3 highest incidence of lung cancer in asbestos workers
4 in 1935; correct?

5 A. As a general statement, the cancers occur
6 in occupational exposures. I included that one.
7 That's about it.

8 Q. Do you know the reason why you put that
9 particular Lynch and Smith notation in there?

10 A. For historical reasons, that's all.

11 Q. I believe two sentences later, after you
12 wrote that Lynch and Smith excerpt, you put, "the
13 cancers whose origin has been attributed to
14 occupation." Do you see that, I believe, on the
15 second complete paragraph?

16 A. Second complete paragraph.

17 No. I don't see it there. Can you
18 show me where?

19 Q. Yes. Let me see if I can find that one,
20 Doctor. I think it's there.

21 Oh, it's put in a different way, but
22 it's on Page 1218, the first sentence of the second
23 complete paragraph on the left-hand column, where it
24 says, "These are by no means all of the cancers whose
25 origin has been attributed to occupation"?

0093

1 A. Okay.

2 Q. Did I read that correctly?

3 A. Yes, sir. Uh-huh.

4 Q. Also in this particular article that you
5 co-wrote back in 1959 -- I believe that's on Page
6 1221 and 1222 of the article -- you cite the Doll
7 study with regard to asbestos and cancer; is that
8 correct?

9 A. 1221. Asbestos. Yes --

10 Q. All right.

11 A. -- in that last paragraph on the page.

12 Q. You refer to Doll and his 1955 article --

13 A. Right.

14 Q. -- Bonser, et al, in 1955, with regard to
15 two pleural and four peritoneal cancers plus lung
16 cancers among 72 asbestos cases seen at autopsy; is
17 that correct?

18 A. Yes. In these paragraphs I'm talking about
19 asbestos in specific.

20 Q. Yes, sir.

21 A. The others -- other mention of asbestos was
22 of an historical perspective.

23 Q. And when you say "specific," when you're
24 discussing it there, what do you mean by specific?

25 A. Well, I'm dwelling on the issue of

0094

1 asbestos, in specific. The other one was a
2 historical perspective of when these things popped up
3 in the literature.

4 Q. And when you refer to Doll in that article,
5 you talk about Doll's study linking cancer to
6 asbestos; correct?

7 A. Doll's 1955 historical perspective,
8 epidemiologic study associating exposure to asbestos
9 with the occurrence of lung carcinoma in general.

10 Q. Was the Doll study one of the pieces of
11 general literature that you reviewed to prepare you

12 for this deposition?

13 A. Reviewed specifically? Doll literature --
14 the Doll report of '55, I did not go back to the
15 original paper, but I had summaries of it. And we
16 also had continued reference to it in the literature
17 because it was an important study.

18 Q. But you reviewed those general references
19 prior to today's deposition to prepare you --

20 A. Yes.

21 Q. -- for this deposition?

22 A. Yes, sir.

23 Q. Why did you do that, specifically, with
24 regard to Doll's study?

25 A. Well --

0095

1 MR. COLBERT: Listen to the question.

2 THE WITNESS: Huh?

3 MR. COLBERT: Let Mr. Cappolino ask
4 his question before you start to answer. You're
5 talking over each other right now. So just --

6 MR. CAPPOLINO: Well, object to
7 side-bar. I'm not talking over Dr. Dinman.

8 Q. (By Mr. Cappolino) Go ahead, Doctor.

9 A. Well, because Sir Richard, who I personally
10 know and had worked with, that study was one of the
11 first historical perspective studies which focused on
12 the subject of asbestos and asbestos workers and
13 cancers.

14 Q. Okay.

15 A. And it is a very important study. It
16 helped turn things around as far as our understanding
17 of the relationship between asbestos exposure, as he
18 described it, and the occurrence of lung cancer.

19 Q. In your review of Dr. Doll's study and in
20 your relationship and knowing Dr. Doll, was it your
21 understanding that he linked asbestos exposure to
22 lung cancer?

23 A. Well, that's a general -- that's a general
24 conclusion to come out of the study. It was a rather
25 important one.

0096

1 Q. All right. Did you have any disagreement
2 with his link between asbestos exposure and lung
3 cancer after he wrote that article?

4 A. No, I didn't, because he had a very clear
5 situation as far as exposures were concerned. These
6 were largely exposures in textile workers, that is,
7 asbestos textiles where they took the fibers and then
8 they weaved it into cloth. And these were very heavy
9 exposures. So it was a good study insofar as the
10 dose requirements are met, and it was well designed.
11 So it was an important study.

12 Q. I think you also write in your article --
13 again, talking about your citation to Sir Richard
14 Doll, I think he put in there that the induction
15 period appears to be very long and the tumor is
16 highly malignant.

17 Do you see that in your particular
18 article? And it should be right by the section we
19 just discussed.

20 A. Well, why don't we read this specifically
21 to see what they're saying about his study. It
22 doesn't quite state it as you stated it, but --

23 Q. Okay. Let's go ahead and read it.

24 A. Sure, okay.

25 Q. Let's see if we can find that.

0097

1 Okay. This is on Page 1221, the last
2 column -- I mean, it's the right column, last
3 paragraph, going to Page 1222, top of the page.

4 A. Right.

5 Q. Now let me just start where we talked about
6 Doll.

7 It says, "It has been shown
8 statistically in England, however, that there is a
9 high incidence of lung cancer in asbestos workers
10 known to be suffering from concurrent asbestosis.
11 Doll in 1955 noting in a study of men who had worked
12 20 years or more in the asbestos industry that the
13 incidence of lung carcinoma was ten times that
14 expected, while in the official statistics of the
15 Chief Inspector of Factories and Workshops in 1955,
16 22 percent of 222 men and 12 percent of 143 women
17 showed combined asbestosis and carcinoma. The
18 induction period appears to be very long and the
19 tumor is highly malignant."

20 Now, if you could look at that last
21 paragraph, I want to ask you if I read that
22 correctly.

23 A. Let me get to the last paragraph here.

24 "Induction appears to be very long and the tumor is
25 highly malignant."

0098

1 All right. Now, it's important,
2 again, to note that he's talking about two
3 populations, and this is what we alluded to, first of
4 all, on dose. The two populations they were
5 concerned with were both -- I believe the asbestos
6 textile was quite clear. Another population that was
7 possibly involved, and probably even the Inspector of
8 Factories, were the men who were working in
9 shipbuilding and shipbreaking. And they were working
10 in confined spaces with poor ventilation and working
11 with very friable, easily broken-up asbestos.

12 I think it's important that this is
13 the context of which these statements are made, that
14 these were really heavy exposures. Textiles are well
15 recognized, and the shipbreaking activities are well
16 recognized.

17 MR. CAPPOLINO: Object,
18 nonresponsive.

19 Q. (By Mr. Cappolino) The question I asked
20 you was, did I read that paragraph correctly?

21 A. You read the paragraph correctly, yes, sir.

22 Q. All right. Did you review any of the
23 articles that you wrote -- I think you said you
24 published approximately 150 articles. Did you read
25 any of the articles that you had published that were

0099

1 attached to any of the depositions that have been
2 taken in this particular litigation?

3 A. Did I read the articles which were what?

4 Q. Do you know Barry Castleman?

5 A. Oh, yes, I know Barry Castleman.

6 Q. How do you know Dr. Castleman?

7 A. I know him from his general reputation and

8 from things he's written in literature.

9 Q. All right. Do you have an opinion as to
10 whether or not he has a good reputation in the field
11 of asbestos with regard to state of the art?

12 A. As regard to asbestos, no, I have no
13 opinion as regards asbestos specifically.

14 Q. All right. Did you review the exhibits
15 that were attached to his deposition which was taken
16 a few months ago in this litigation where some of
17 your articles were attached as exhibits?

18 A. No, I didn't.

19 Q. All right. I want to ask you just a few
20 more things, Dr. Dinman, about the duces tecum. We
21 covered a couple of things.

22 The general literature and the texts
23 you reviewed to prepare you for this deposition, I
24 want to ask you about the texts that you reviewed
25 prior to this deposition. What texts specifically

0100 did you review?

1 A. Oh, an old one, Hunter; and more recent
2 ones -- oh, gosh, what were the texts? Again, this
3 treatise on asbestos and its development or knowledge
4 on it by Enterline, and that was much more specific
5 for asbestos rather than a general text.

6 Q. Any other texts you recall, other than
7 Hunter and Enterline?

8 A. Well, Hunter -- Enterline was the
9 treatise. The text was the Hunter.

10 Q. Do you know the name of the text from
11 Hunter?

12 A. Oh, it's "Diseases of Occupation" or
13 something of that sort.

14 Another one was the -- I'm having
15 trouble remembering the specific names because I
16 didn't depend upon them too much because they were
17 too general. I would rather go to the more specific
18 ones, such as the Enterline one, for example.

19 Q. Okay. So Enterline was more specific?

20 A. About asbestos, about asbestos, yes, sir.

21 Q. What did Enterline discuss specifically
22 about asbestos that helped prepare you for this
23 deposition?

24 A. Oh, boy. He went through -- he did this
0101

1 treatise in which he was provided the world's
2 literature in every language. He then worked with
3 two graduate students at the School of Public
4 Health. He got translations for all the articles.
5 He had them reviewed, and reviewed them with these
6 two students who have gone on now to be on the
7 faculty at the School of Public Health, and one is a
8 full professor.

9 And it was essentially an attempt to
10 answer the question how the knowledge developed over
11 the course of history. And I guess it sort of
12 answered to the question that lawyers are always
13 asking, when did you know or have reason to know?
14 And he addressed it from the point of view of
15 science, when did they know or have reason to know?

16 Q. Okay.

17 A. This is a very useful and very specific
18 review of the issue of development of scientific

19 knowledge regarding cancer and asbestos.
20 Q. Okay. Did Enterline cite the Doll study?
21 A. Oh, yes, definitely.
22 Q. Did Enterline cite any particular articles
23 by Dr. Hueper?
24 A. By who?
25 Q. Dr. Hueper. Do you know Dr. Hueper?
0102
1 A. Henry Hueper, yeah, sure, certainly do.
2 Q. Did you have any professional relationship
3 with Dr. Hueper?
4 A. I was a young squirt then, and I didn't
5 know him personally, but I knew from the literature
6 and his involvement in whole area of carcinogenesis,
7 yes, sir.
8 Q. Yes, sir. And I'm sure Enterline cited
9 Dr. Selikoff?
10 A. Of course.
11 Q. You know who Dr. Selikoff was?
12 A. Personally.
13 Q. You were aware of this history of asbestos,
14 scientific history of asbestos, as it relates to any
15 asbestos-related disease -- you knew about this prior
16 to coming on board with ALCOA in 1973, didn't you?
17 A. I knew about what specifically, Enterline?
18 Q. About the prior history of asbestos and any
19 discussions in the scientific literature --
20 A. Uh-huh.
21 Q. -- about whether asbestos exposure caused
22 disease?
23 A. Oh, yes.
24 Q. Would you have any idea, from either your
25 review of Enterline to prepare you for this
0103
1 deposition or from your general knowledge, general
2 background, about how many articles and texts were
3 written about asbestos and its relationship to any
4 type of asbestos-related disease prior to 1973?
5 A. Now, give me your predicated part of that
6 question again.
7 Q. You know what state of the art means?
8 A. Okay, sure.
9 Q. You know Dr. Castleman is published in the
10 area of state of the art?
11 A. Yes.
12 Q. Enterline is published in that?
13 A. Yes.
14 Q. Did Enterline discuss in the publication
15 you read from him --
16 A. Uh-huh.
17 Q. -- how many articles or texts had been
18 written on asbestos exposure and its relationship to
19 disease prior to 1973?
20 A. Did I know it prior to 1973?
21 Q. No, no. Did Enterline discuss how many
22 articles or texts --
23 A. Ah.
24 Q. -- had been published in that area prior to
25 1973?
0104
1 A. Oh, yes. He went back to year one as far
2 as we were aware of.
3 Q. Do you recall in your review of that

4 Enterline --
5 A. Uh-huh.
6 Q. -- publication when day one was that
7 discussed asbestos and its relationship to any
8 disease?
9 A. I'd certainly have to look it up.
10 Q. You didn't bring that book with you today,
11 did you?
12 A. Yes, I did.
13 Q. You did? Okay. I'd like to see it if you
14 have it.
15 A. Specifically to answer your question, I can
16 tell you a number of references he has.
17 Q. Well, could I look at it first --
18 A. Certainly.
19 Q. -- just to see what you reviewed, sir ,
20 because I hadn't seen it until you pulled it out.
21 MR. COLBERT: Objection side-bar.
22 Q. (By Mr. Cappolino) Let me just ask you a
23 little bit about this book or this publication. It's
24 called, Asbestos and Cancer, the First 30 Years by
25 Philip E. Enterline, E-N-T-E-R-L-I-N-E, Ph.D.;
0105
1 correct?
2 A. Uh-huh.
3 Q. Do you know Dr. Enterline personally?
4 A. Yes.
5 Q. How do you know him?
6 A. Oh, I've known him since 19 -- early '60s.
7 Q. Have you ever worked with him in any
8 capacity?
9 A. Yes.
10 Q. In which capacity, sir?
11 A. Well, he was the senior advisor to the
12 author or the director of the study we did in ALCOA
13 on called "Coal Tar Pitch Volatile Exposures and
14 Cancer." And he directed -- not directed -- he was
15 the senior advisor for that study. And I've known
16 him over the years as an authority in epidemiology
17 and biostatistics, back -- starting in the 1960s
18 actually.
19 Q. When you were -- I believe the publication
20 date on this is 1978 --
21 A. Uh-huh.
22 Q. -- is that correct?
23 A. Is that it? Sure.
24 Q. Is that right?
25 A. If you say so, I guess so.
0106
1 Q. well, I saw on the bottom of your --
2 A. Yeah.
3 Q. -- thing you produced to me. Does it say
4 1978?
5 A. '78, yes.
6 Q. Okay.
7 A. There it is.
8 Q. You testified that you, of course, reviewed
9 this prior to the deposition to help prepare you for
10 this deposition?
11 A. Right.
12 Q. Did you review this, ever refer to this or
13 review this publication when you were at ALCOA from
14 '73 to '86 --

15 A. (Witness nods head.)
 16 Q. -- in any of your work at ALCOA?
 17 A. No. I didn't know of its existence then.
 18 Q. And does Dr. Enterline in here discuss -- I
 19 believe he's got dates in here --
 20 A. Yes.
 21 Q. -- talking about the literature?
 22 A. Yes.
 23 Q. He talks about the literature, 1934 through
 24 1964 on asbestos; correct, pre-world War --
 25 A. Well, not just that.
 0107
 1 Q. Okay. But asbestos is part of it?
 2 A. Asbestos is part of what?
 3 Q. The literature of 1934 through 1964,
 4 Page 1.
 5 A. He doesn't go -- he doesn't go earlier than
 6 1934?
 7 Q. Well, that's the first page I see.
 8 A. Well --
 9 Q. And tell me if I'm missing something.
 10 A. He may have alluded -- he may have alluded
 11 to other reports. 1934, 1933, yes. He's talking
 12 about 1879 too.
 13 Q. Okay. But that's under the section of
 14 literature 1933 through 1964?
 15 A. Well, no. He says -- '34. He says
 16 pre-world war II, so I guess -- well, I'd still have
 17 to see specifically what he's saying is the earliest
 18 paper.
 19 Q. Okay.
 20 A. Gloyne since '28. Okay. Well, so it looks
 21 like that the earliest dates he cites in here are
 22 1933, Bert Wood and -- Wood and Gloyne.
 23 Q. Okay. Let me just ask you generally, does
 24 Dr. Enterline discuss any link between asbestos
 25 exposure and cancer in this publication?
 0108
 1 A. Between asbestos exposure and cancer,
 2 certainly does. That's the subject of this.
 3 Q. Does he believe there is a link between the
 4 two, from your review of his publication?
 5 A. As a generalization, as a generalization
 6 subject to the considerations of dose, time of
 7 exposure, etc.
 8 Q. And I think you said he did cite Doll in
 9 1959 --
 10 A. Yes, sir.
 11 Q. -- discussing that link?
 12 A. In --
 13 Q. '55?
 14 A. '55, yeah.
 15 Q. And did he also discuss other literature
 16 that came later on linking cancer and asbestos
 17 exposure, after Dr. Doll?
 18 A. Oh, yes. Oh, yes. He goes up to '65,
 19 '65. Let's look in the body of -- okay. So it
 20 looks like he lists all the publications and
 21 describes them as to their source, going from --
 22 let's go specifically here -- going from, yeah, 1934.
 23 Q. Okay.
 24 A. This is his table here.
 25 Q. Yeah. He's got a table in there showing --

0109

1 A. Right --

2 Q. -- particular articles?

3 A. -- what the articles were and the dates and
4 who published them, yes, sir.

5 Q. He also discusses the link between asbestos
6 and asbestosis, the literature that talks about that;
7 correct?

8 A. The link, yes.

9 Q. He also talks about the link between
10 asbestos exposure and mesothelioma?

11 A. Yes, the link.

12 Q. Does he discuss pleural plaques in here?

13 A. Oh, I'm not too sure about pleural
14 plaques. I'm sure -- I suspect he does. I'd have to
15 specifically look for that.

16 Q. So you were obviously aware when you came
17 on with ALCOA that asbestos exposure could cause lung
18 cancer and other cancers; correct?

19 A. I was aware that the exposure to asbestos
20 had the potential of producing asbestosis, lung
21 cancer and mesothelioma, yes, sir.

22 Q. Okay. And part of your role from '73 to
23 '86 was to help prevent that from occurring in ALCOA
24 employees?

25 A. Yes, sir.

0110

1 Q. Today, do you know whether or not any ALCOA
2 employees at the Rockdale plant ever were diagnosed
3 with asbestosis?

4 A. Any knowledge?

5 Q. Yes, sir.

6 A. I assume that diagnosis was made. On what
7 basis, I'm not aware of, the causes of action.

8 Q. All right. Were you aware of any cases of
9 lung cancer being --

10 A. No --

11 Q. Let me finish. Were you aware of any cases
12 of lung cancer being diagnosed in ALCOA workers from
13 1973 through 1986 when you were there?

14 A. No. I was not aware of that.

15 Q. Did you ever check to see if any
16 individuals were diagnosed with lung cancer during
17 that period of time at ALCOA Rockdale when you were
18 there between '73 and '86?

19 A. Well, first of all, I was not at ALCOA
20 Rockdale.

21 Q. I'm sorry?

22 A. I was not at ALCOA Rockdale.

23 Q. I know that. I'm asking you if you ever
24 became aware of whether or not any employees at ALCOA
25 Rockdale, through documents, conversations, any other

0111

1 source, had been diagnosed with lung cancer during
2 that period of time when you were still at ALCOA?

3 A. I can't recall specifically.

4 Q. All right. Were you ever aware of whether
5 or not any employees were diagnosed with asbestosis
6 between 1973 and 1986 at ALCOA Rockdale when you were
7 at ALCOA?

8 A. I can't specifically recall that, no.

9 Q. Was part of your role to try to determine
10 whether or not any employees --

11 A. Uh-huh.
12 Q. -- had contracted either one of those
13 diseases?
14 A. Yes, sir.
15 Q. How would you find out if they did or
16 didn't?
17 A. From death certificates. And I would
18 presume, but I -- we never saw asbestosis cases there
19 during my period of time, of asbestosis. That's the
20 condition of the -- the malignant condition.
21 Q. You know what a latency period is --
22 A. Yes, sir.
23 Q. Do you know what the latency period is for
24 developing asbestosis in an individual, taking into
25 account individual susceptibility?
0112
1 A. And other factors.
2 Q. And other factors.
3 A. Well, the other factors, of course, again,
4 dose.
5 Q. Right. Do you know what the latency period
6 is --
7 A. Latency period is long --
8 Q. What is it?
9 A. -- cited anywhere from 20 to 30 years,
10 depending upon dose, as a matter of fact.
11 Q. How about lung cancer, the latency period?
12 A. We were talking about mesothelioma before?
13 Q. No. We were talking about asbestosis.
14 A. Oh, asbestosis. Yeah, same question --
15 same answer would apply. And the same answer would
16 apply to lung cancer. Mesothelioma seems to be
17 longer.
18 Q. Okay. What is mesothelioma as far as the
19 latency period that you know of? What is the latency
20 period?
21 A. It's in the general area of asbestosis -- I
22 mean, rather, of lung cancer, but it tends to be --
23 as you look at the distribution reported over time,
24 tends to be longer. That's a generalization. You
25 can't assign a specific number to that.
0113
1 Q. All right. And you, of course, were aware
2 when you came on board at ALCOA of these latency
3 periods?
4 A. Of latency periods, yes, sir.
5 Q. Do you know when the ALCOA Rockdale plant
6 started? When it was constructed and when operation
7 began?
8 A. No, I don't know.
9 Q. Dr. Dinman, what I'd like to do -- and we
10 can do this later -- I wanted to make a copy of this
11 particular Enterline book and have it attached as the
12 next exhibit and give you back the original; is that
13 okay?
14 A. Just so I get the original back.
15 Q. You bet.
16 A. There's very few of them around.
17 MR. CAPPOLINO: So we'll go ahead and
18 have this marked -- I don't know what the next
19 exhibit is.
20 THE REPORTER: 5.
21 MR. CAPPOLINO: 5?

22 Q. (By Mr. Cappolino) I'll have this
23 publication, "Asbestos and Cancer," marked as Exhibit
24 5, a copy of it attached to the deposition and give
25 the original back to you; is that okay?

0114

1 A. I appreciate that, yes.

2 Q. That's fine.

3 (Exhibit Nos. 4-5 marked.)

4 Q. (By Mr. Cappolino) Other than this
5 "Asbestos and Cancer" book, did you bring any other
6 literature with you that you reviewed to prepare you
7 for this deposition --

8 A. No.

9 Q. -- with you today?

10 A. I -- going back to the textbooks I
11 reviewed, as we've been talking, I recall I've used
12 Rom, for one.

13 Q. I'm sorry, Rom?

14 A. Rom.

15 Q. How do you spell that?

16 A. R-O-M.

17 Q. And that's a textbook?

18 A. That is a textbook. It's a general
19 textbook of occupational diseases.

20 Q. Dr. Dinman, do you know the name of that
21 particular text?

22 A. Well, I don't know the name specifically.
23 It's edited by Dr. William Rom of New York.

24 Q. And if you recall, what was the publication
25 date, if you know?

0115

1 A. Well, it's gone through several revisions.
2 I have, I think, the second edition. I think there's
3 a third edition now.

4 Q. One of the other experts that ALCOA has
5 retained in this case, I just want to ask you if you
6 know of him or know who he is. His name is Dr. Gary
7 Friedman. Do you know who Dr. Friedman is? Have you
8 ever heard of him?

9 A. Gary Friedman.

10 Q. Yeah.

11 A. No, I haven't, no. I'm not quite sure who
12 he is, no.

13 Q. Okay.

14 A. Is he in Connecticut?

15 Q. No, he's in Texas, down in Houston.

16 A. Well, I don't know him. Sorry.

17 Q. Okay. I wanted to ask you, I think another
18 document you provided today is you've provided your
19 Curriculum Vitae, haven't you?

20 A. Yes, sir.

21 Q. Do you have a copy of that with you?

22 MR. CAPPOLINO: I want to go ahead and
23 get that marked as attached as Exhibit 6.

24 (Exhibit No. 6 marked.)

25 Q. (By Mr. Cappolino) Dr. Dinman, I'm going

0116

1 to hand you what has been marked by the reporter as
2 Exhibit No. 6, sir, and ask if you can identify what
3 that is?

4 A. Yes, sir.

5 Q. And one of the things I'd asked for in the
6 duces tecum, though you didn't get a chance to see

7 the duces tecum, was No. 2, a copy of your Curriculum
8 Vitae. Is that exhibit a true and correct copy of
9 your Curriculum Vitae?

10 MR. COLBERT: Object to side-bar. You
11 can answer the question.

12 Q. (By Mr. Cappolino) You can answer it.

13 A. Well, I have to look carefully because I
14 continue to revise them.

15 Q. Yes, sir.

16 A. It looks like it is an up-to-date, revised
17 one, yes, sir. It's dated May 2002, which is not
18 exactly up to date, but not much -- not that much has
19 happened since then.

20 Q. Yes, sir. Are you still currently employed
21 in any capacity? Are you still employed?

22 A. No, no. I retired from University of --
23 University of Pittsburgh.

24 Q. And when was that, sir?

25 A. July of this year.

0117 Q. July of 2003?

1 A. Correct.

2 Q. I don't know if that one reflects that, but
3 it should.

4 A. That's interesting. Has to be in here.
5 Okay. Yes. This is wrong though. Professional
6 experience, 1987-'02, University of Pittsburgh
7 Graduate School of Public Health, clinical professor
8 etc., that should be '03. It's just -- that is --
9 this is not up to date.

10 Huh. Says revised 8-2003, and that's
11 not true. That should be -- that thing got by me.

12 Q. Okay. When was the last time you published
13 an article?

14 A. Oh, boy. Let's see. That's not easy. The
15 last time I published, yes, was in 2001. It was a
16 chapter in what used to -- yeah, Patty's Toxicology.

17 Q. What was that? Is that article listed in
18 there?

19 A. Yes, sir.

20 Q. All right. Let me just --

21 A. It's listed under Textbooks and --

22 Q. Oh, okay. All right.

23 A. Do you see that there?

24 Q. Yes, sir. Thanks.

0118 1 A. Sure.

2 Q. Did you publish any articles with regard to
3 asbestos exposure when you were working with ALCOA?

4 A. Not that I remember. It was not a big
5 subject as far as problems we had there.

6 MR. CAPPOLINO: Object,
7 nonresponsive.

8 A. Okay.

9 Q. (By Mr. Cappolino) Let me ask you again.
10 Did you publish any articles in the area of asbestos
11 exposure when you worked with ALCOA from 1973 through
12 1986?

13 A. I would have to review this again, but I
14 don't think so. I still should review it again, I
15 think.

16 Q. Feel free to, Doctor.

17 A. Huh?

18 Q. Go ahead.

19 MR. COLBERT: If we could, while he's
20 reviewing that, let's just take a short break.

21 (Recess from 11:29 to 11:36.)

22 Q. (By Mr. Cappolino) Dr. Dinman, before we
23 took a break, I think you wanted an opportunity to go
24 through your Curriculum Vitae. Did you have a chance
25 to go through it?

0119 1 A. Line by line, no, but I'll sure check --

2 Q. Because it's several pages long?

3 A. Yes, sir.

4 Q. And, of course, it lists your training,
5 your honors, your experience, your publications?

6 A. Yes, sir.

7 Q. Activities you were involved in?

8 A. Yes, sir.

9 Q. I was looking through your C.V. Have you
10 ever put in your C.V. any of the presentations you
11 may have given in the area of occupational medicine
12 or preventative medicine?

13 A. That would be under the category of
14 "Invited Papers."

15 Q. "Invited Papers"?

16 A. Yes, on Page 4 of the list of publications.

17 Q. Oh, okay.

18 A. And those were presentations at various
19 meetings etc.

20 Q. Okay. Let me just turn to that real
21 quickly here. And when you say "Invited Papers and
22 Presentations," do you either author or coauthor a
23 paper on a particular subject and then present it to
24 a group?

25 A. Yes, sir, that's correct.

0120 1 Q. And that's what this would be talking
2 about, and it lists that. And you've got, oh, gosh,
3 let's see, 23 presentations?

4 A. Correct. Yes, sir.

5 Q. Did any of these presentations that you
6 gave to any group involve asbestos exposure and
7 asbestos-related diseases and employees at the ALCOA
8 plant?

9 A. I don't believe so. I can look through
10 these, but I -- let me just see. At the ALCOA plant
11 no, specifically.

12 Q. Let me ask generally, do any of these
13 presentations to a group, "Invited Papers," involve
14 any presentation on asbestos exposure and
15 asbestos-related disease?

16 A. Not primarily, but I want to look through
17 these --

18 Q. That's fine.

19 A. -- to be sure that --

20 Q. You can look through your C.V. Sure, go
21 ahead.

22 A. No. 14, I don't know if you can use that
23 one. That happens to be in German, but --

24 Q. Did you write that in English and then it
25 was translated into German for --

0121 1 A. Yes. I gave it in Nordstrum, was
2 translated in German for this symposium publication.

3 Q. Can you tell whether or not that involved
4 any discussion of asbestos and asbestos-related
5 disease, that No. 14?

6 A. If it did, it was just, again, covering the
7 whole spectrum of occupational disease. It may have
8 been mentioned. That's about it.

9 Q. Okay.

10 A. Let's see what else we have here.

11 Okay, yeah, 9. That went to the
12 Foundrymen's Society, and one of the problems in
13 foundries, potentially, is asbestos exposure. So it
14 may have been mentioned there, yes.

15 Q. That's called, "The Physiological and
16 Psychological Results of Environmental Stress in
17 Foundry Operations"?

18 A. Right.

19 Q. Do you think maybe asbestos was discussed
20 in that presentation?

21 A. Possibly. But again, as one of the
22 multiple potential exposures in that particular
23 industry.

24 Q. Was this particular invited paper published
25 in any peer-review journal?

0122 1 A. What's that, No. 9?

2 Q. Yes, sir.

3 A. Probably -- probably not. That's why we've
4 listed all these differently from the -- separately
5 from the papers that were in the peer-review
6 journals.

7 Q. Do you still have a copy in your possession
8 of No. 9?

9 A. Oh, I doubt that. We didn't put much
10 weight upon papers that were invited because they're
11 not peer reviewed.

12 Q. Any other of these invited presentations
13 you think may have involved asbestos and asbestos
14 exposure?

15 A. May have involved? May have been
16 mentioned?

17 Q. In part, yes.

18 A. May have, in part. Well, let's see what
19 we've got here now.

20 "The Respiratory Condition of Potroom
21 Workers," I think we were concerned mostly there with
22 the question of asthma.

23 Q. That's No. 17?

24 A. That's No. 17.

25 Q. And that's called -- that's one that you

0123 1 authored just yourself, and it's called, "Respiratory
2 Condition of Potroom Workers" --

3 A. Yes.

4 Q. -- "Survey of IPAI Companies Preliminary
5 Report"?

6 A. Preliminary report. That was a preliminary
7 report on a survey we did of -- international survey
8 of aluminum workers which was done through the
9 International Primary Aluminum Institute.

10 Q. Okay. And that was --

11 A. But that was with an asthma issue.

12 Q. All right. I'm sorry for interrupting you,
13 Dr. Dinman.

14 A. That's all right.
15 Q. And that was written or -- was that written
16 in 1977?
17 A. Let's see here. Yes.
18 Q. And that's four years after you joined
19 ALCOA?
20 A. Right, right.
21 Q. It also says, "Health Protection in Primary
22 Aluminum Production," doesn't it?
23 A. That's the name of the volume.
24 Q. Do you recall whether or not there was any
25 discussion in that invited presentation or paper
0124 about asbestos exposure of aluminum workers?
2 A. I'd have to review that paper.
3 Q. Do you have a copy of that paper with
4 you or --
5 A. Not with me, no.
6 Q. -- in your possession?
7 A. Not with me, no.
8 Q. I'm sorry?
9 A. Not with me, no.
10 Q. Do you have it at your house?
11 A. Could be. Could be.
12 Q. Could you make a copy of that and provide
13 that to me through Mr. Colbert?
14 A. I presume so, yes, sir.
15 MR. CAPPOLINO: Is that okay with you,
16 Kevin, if he has it?
17 MR. COLBERT: I'd be more than happy
18 to do that.
19 THE WITNESS: Let me make a note of
20 that. That is No. 17?
21 MR. CAPPOLINO: Yes, sir.
22 A. There's not going to be much in there on
23 asbestos because -- oh, health protection will be
24 mentioned, yes, and other papers contributed by other
25 participants. That could be, okay. Again, it will
0125 be listed as a potential.
2 Q. (By Mr. Cappolino) But it wouldn't be a
3 primary part of that paper?
4 A. No.
5 Q. Why wouldn't it be?
6 A. Because we have a whole range of health
7 problems, or potential health problems, in the
8 aluminum industry which are much more serious and
9 much more exposure, meaning much more potential.
10 Q. Which problems would that be, Doctor?
11 A. Oh, gosh. The major ones were fluorosis,
12 and that is a constant one when aluminum is reduced
13 and smelted.
14 Another one, of course, with aluminum
15 smelter is heat. Temperatures are high. Workers are
16 exposed to high temperatures, and so we're concerned
17 about their physiological and cardiological status.
18 Another one is, potentially, dusts.
19 We're very fortunate in that our dusts are mostly
20 inert dusts like aluminum oxide, which are very
21 high -- common exposures, I should say; but they're
22 apparently inert. We did studies to attempt to
23 define that.
24 We also have problems of, now,

25 micro -- not microwave, non-radiating, nonionizing

0126

1 radiation, that is, the microwave and that sort of
2 thing.

3 We had -- though I'm not too sure it's
4 a problem, but we were concerned about it -- we have
5 problems of, let's see, fluorosis; C.O., not that
6 much; heat; dusts. Those are the major problems, and
7 they are always of concern because of the potential
8 exposure is high on all of them.

9 Q. Do you know if any of those potential
10 problems with the substances you talked about can be
11 measured?

12 A. Oh, yes.

13 Q. In other words, dosage?

14 A. Yes, sir.

15 Q. Generally, how is that done, let's say, on
16 fluoride?

17 A. Fluoride. Usually, a -- let me get this
18 straight now because what's happened is the
19 measurement of exposures over the years have been
20 changing continuously. The most modern approach is
21 to put a midget sampler on the worker so it's right
22 near the breathing zone. And we can -- running off a
23 battery, we can run this for eight hours. So that
24 gives you immediate exposure in the breathing zone.
25 That's the most useful way of measuring exposure to a

0127

1 man.

2 The others are used as general area
3 sampling, but they're not as good as following the
4 man. You have to follow the man around with a
5 sample; whereas, when you have the midget samplers,
6 you hook it on the man and he just wears it all the
7 eight hours of his shift.

8 So those are some of the methods we
9 have.

10 Q. Do you know, Dr. Dinman, if these midget
11 samplers were used at ALCOA Rockdale to determine
12 levels of fluoride prior to 1973?

13 A. Prior to '73? Well, prior to '73, this is
14 about the time these developed. And so you had to
15 depend upon, largely, area sampling, and then attempt
16 to visit the man's exposures during the course of the
17 day as best you could. But I remember about that
18 time that these personal samplers, as they were
19 called, were developing and becoming generally
20 available.

21 Q. Let me ask you this. Do you know if prior
22 to 1973 at ALCOA Rockdale area sampling was
23 instituted to determine levels of fluoride?

24 A. Do I know? Well, I have to presume that;
25 but again, to talk about what happened prior to my

0128

1 coming there is a little difficult to be accurate.

2 Q. Did you consider asbestos exposure to be a
3 low priority at ALCOA from 1973 through 1986?

4 MR. COLBERT: Objection, form.

5 THE WITNESS: Can I answer it?

6 MR. COLBERT: Yes, you can answer it.

7 Q. (By Mr. Cappolino) Yes.

8 A. When you say low priority, I'm not quite
9 sure what you mean by that.

10 Q. Well, Mr. Bonney testified that he
11 considered asbestos to be a low priority at ALCOA
12 when he was there prior to 1973. Do you agree or
13 disagree with his --

14 A. Do I agree?

15 Q. -- testimony?

16 MR. COLBERT: Objection, form.

17 A. Do I agree or disagree?

18 Q. (By Mr. Cappolino) Yes.

19 A. Well, I wouldn't quite put it that way.

20 Q. How would you put it?

21 A. I would say that among the multiple
22 workplace exposures that we had at ALCOA during the
23 time I was there -- certainly, I can speak to that
24 most directly -- that of all the exposures we had,
25 this was not one of the more serious ones in term of

0129 1 the intensity of the exposure.

2 Q. Okay.

3 A. There were others which were much more
4 intense, much more dosage.

5 Q. Well, isn't it true that you have to do
6 measurements, such as area sampling or personal
7 sampling, midget impingement method, to determine
8 levels of asbestos dusts in the area? Isn't that
9 true?

10 A. We have to do it.

11 Q. All right.

12 A. Among the other things, we do, yes.

13 Q. You have to do that to determine how much
14 asbestos is in the air --

15 A. Yes, yes.

16 Q. -- around the workers; correct? Is that
17 correct?

18 A. That's correct. Yes, sir.

19 Q. And, of course, if that's not done, then
20 you have no facts to help you determine what level,
21 what threshold levels of asbestos dusts are in the
22 air; correct?

23 MR. COLBERT: Object to form.

24 You can answer.

25 Q. (By Mr. Cappolino) Is that correct?

0130 1 MR. COLBERT: Same objection.

2 A. Well, I can't answer it yes or not.

3 Q. (By Mr. Cappolino) Well, you have to
4 measure asbestos exposure in a certain way, don't
5 you, through air sampling?

6 A. Yes. Yes, you do it through air sampling
7 primarily, yes.

8 Q. And if it's not done, then does the company
9 know how much asbestos dust is in the air?

10 A. If it's not done at all?

11 Q. Yes, sir.

12 A. Oh, there's no way -- well, you can
13 generally observe, but you can't come up with a
14 number, can you?

15 Q. No.

16 You don't know whether or not ALCOA,
17 prior to 1973, did any sampling for asbestos?

18 A. From their general performance, after I got
19 there, it's hard for me to believe they didn't, but I
20 don't know.

21 MR. CAPPOLINO: Object, nonresponsive.
22 Q. (By Mr. Cappolino) The question I asked
23 you is, you don't know prior to 1973 whether ALCOA at
24 Rockdale did any sampling for asbestos?

25 A. Of my personal knowledge?

0131

1 Q. Yes, sir.

2 A. No, I don't know that.

3 Q. And if they didn't do any sampling for
4 asbestos in the air prior to 1973, then there's no
5 way to determine how much asbestos was in the air?

6 MR. COLBERT: Objection, form. You
7 can answer it.

8 Q. (By Mr. Cappolino) Is that correct?

9 A. Now, you're saying that if I -- if -- you
10 stated if I don't know -- will you restate that
11 question? I want to be very clear about answering
12 it.

13 Q. All right. If ALCOA Rockdale didn't do --

14 A. Yes.

15 Q. -- any air sampling for asbestos --

16 A. Right.

17 Q. -- prior to 1973, if that happened --

18 A. Yes.

19 Q. -- then there's no way for them to
20 determine how much of a dose or how much asbestos was
21 in the air?

22 MR. COLBERT: Objection, form.

23 But you can answer the question.

24 A. well, you said "if."

25 Q. (By Mr. Cappolino) Yes, sir.

0132

1 A. That's --

2 Q. That's a hypothetical.

3 A. Sure, I understand. If they did not --
4 little hard for me to believe, but if they did not,
5 presuming that, then you would have no way of having
6 an exact measurement of how much asbestos was in the
7 air. You could generally estimate it, but that's the
8 best you would be able to do.

9 Q. How would you generally estimate how much
10 asbestos would be in the air if you do not do air
11 sampling?

12 A. If you look at the dusts deposit -- not
13 deposit -- floating in the air.

14 Q. Do you know what the National Safety
15 Council is?

16 A. Yes.

17 Q. What is the National Safety Council?

18 A. I beg your pardon?

19 Q. What is the National Safety Council?

20 A. well, they're an organization which
21 attempts to describe what a safe practice is and what
22 an unsafe practice is. They're not very strong,
23 however, in industrial hygiene.

24 MR. CAPPOLINO: Object, nonresponsive.

25 Q. (By Mr. Cappolino) You know who the

0133

1 National Safety Council is, don't you?

2 A. I know the --

3 Q. Do you know who the National Safety Council
4 is?

5 A. In general.

6 Q. who is the National Safety Council?

7 A. They're a heterogeneous group of people who
8 are safety experts, supposedly, and they also purport
9 to get into the industrial hygiene area and,
10 essentially, try to set standards. But I don't put
11 much credence upon their capabilities in this area.
12 I would rather depend upon the AIHA or American
13 Conference of Governmental Industrial Hygienists. So
14 I really don't give them much credence as far as the
15 standards they set.

16 MR. CAPPOLINO: Object,
17 nonresponsive. Can you, please, mark this?
18 (Exhibit No. 7 marked.)

19 Q. (By Mr. Cappolino) Dr. Dinman, have you
20 ever read any of the National Safety News put out by
21 the National Safety Council?

22 A. Oh, I may have from time to time.

23 Q. Okay. I'm going to hand you what the
24 reporter has marked as Exhibit No. 7, which I
25 represent to you -- and, certainly, you can have a

0134
1 chance to look at it -- is a publication for the
2 National Safety News, September 1935, put out by the
3 National Safety Council?

4 A. Oh, boy. '35?

5 Q. Yeah.

6 A. Okay.

7 Q. Have you ever seen that publication before?

8 A. That's not one of the primary things I
9 read. I guess I've seen it, but --

10 MR. COLBERT: Take your time and look
11 at the whole document?

12 A. Yes. Let me look at this.

13 Q. (By Mr. Cappolino) Sure. Take your time.

14 A. Dust control, okay.

15 Yeah. I see this article in here by
16 Arthur S. Johnson, "No Halfway of Measures in Dust
17 Control." I don't know who Arthur S. Johnson is, but
18 I see that he is "Assistant to the Manager,
19 Engineering Department, American Mutual Liability
20 Insurance Company."

21 Quite frankly, he's not a name I've
22 ever seen before, nor do I recognize him as a writing
23 authoritatively on issues of occupational health.

24 MR. CAPPOLINO: Object,
25 nonresponsive.

0135
1 Q. (By Mr. Cappolino) I want to ask you about
2 one part of that exhibit. Have you had a chance to
3 look through the -- do you want to read the whole
4 thing?

5 A. The whole thing?

6 Q. I mean, I don't know if Mr. Colbert wants
7 to you or not. Do you need to read the whole
8 article?

9 MR. COLBERT: Objection, side-bar.

10 Q. (By Mr. Cappolino) I want to ask you about
11 one specific part of that article, if we could,
12 before we begin again tomorrow, if you don't mind.
13 Let me see if I can point that out to you,
14 Dr. Dinman.

15 A. (Witness points.)

16 Q. No, that's not the part.

17 Okay. This is on Page 18 of this
18 article. I'm going to kind of show you where I'm
19 talking about so you can see it. It's kind of hard
20 to read. It's not real clear, but --

21 A. Yeah. "If you can see the dust" --

22 Q. Do you see that?

23 A. Yeah. "If you can see the dust" --

24 Q. Now --

25 A. Oh, Lord.

0136

1 Q. Let me just ask you a question about it.
2 You appeared to have some consternation about that,
3 but let me ask you a question.

4 A. Yeah.

5 Q. We had a blowup made, and I think we showed
6 it during Dr. Castleman's deposition. I think this
7 is a blowup of what's in that particular National
8 Safety News. And on that page where I just pointed
9 to you, it says, "If you can see the dust, you know
10 it to be a terrific hazard."

11 Did I read that correctly from that?

12 MR. COLBERT: Objection, form.
13 Objection, side-bar.

14 You can answer the question.

15 A. You read it --

16 Q. (By Mr. Cappolino) Let me just ask you,
17 for the record, on that page that you're looking at,
18 do you see a section there that says, "If you can see
19 the dust, you know it to be a terrific hazard"?

20 A. Yes, sir, it says --

21 Q. Did I read that correctly?

22 A. You read it correctly, yes, sir.

23 Q. And I'm showing you a blowup here that was
24 made of that to maybe see it a little clearer. Is
25 that what this blowup says?

0137

1 A. Yes, sir.

2 Q. And do you agree or disagree that if you
3 can see the dust, it's a terrific hazard?

4 A. I can't agree with the statement because
5 it's a pretty loose statement, and it's obviously
6 directed to a general lay audience. I wouldn't say
7 that in a professional journal I would expect to see
8 this type of statement.

9 Q. So you've never seen that in any
10 professional journals, that type of statement?

11 A. You wouldn't see this type of statement in
12 a professional journal.

13 Q. The question I'm asking you is, have you
14 ever seen that kind of statement in any professional
15 journal?

16 A. Not put so, no.

17 Q. Do you know whether or not ALCOA Rockdale
18 ever had any visible dusts in the air around its
19 workers, working around asbestos-containing products,
20 prior to 1973 at ALCOA Rockdale?

21 MR. COLBERT: Objection, form.

22 A. Well, again, prior to 1973, I wouldn't
23 know.

24 Q. (By Mr. Cappolino) Okay.

25 A. I certainly would know afterwards.

0138

1 Q. When you went down there on these between

2 five to ten occasions between '73 and '86, did you
3 actually go into the plant area --

4 A. Yes.

5 Q. -- around the marinite, around the
6 potlining operations --

7 A. Absolutely.

8 Q. -- to see whether or not there was any
9 visible dust in the area when these operations were
10 taking place?

11 A. To look for many things, including dust in
12 the air, that was part of my responsibility.

13 Q. Yes, sir. Did you see dust in the air?

14 A. Oh, I saw dust on the potlines, but this
15 was largely aluminum oxide dust.

16 Q. Now, do they do measurements to determine
17 whether or not it was aluminum oxide?

18 A. During my tenure, yes.

19 Q. Do you know whether or not ALCOA Rockdale,
20 prior to the time you first went down there, did any
21 measurements of that dust you saw during that time to
22 see if it had any asbestos in it?

23 A. Particularly in the marinite areas, yes,
24 they did measurements.

25 Q. Prior to 1973?

0139

1 A. Well, again, we're speaking to what was
2 occurring before I got there.

3 Q. Yes, sir. That's the question I asked. Do
4 you know whether or not they did any measurements
5 prior to 1973 to see if there was any level of
6 asbestos in the dust in those working areas?

7 A. To my personal knowledge, I don't know
8 whether they did or did not.

9 Q. I want to ask you about one more document
10 today. Do you know a person at ALCOA Rockdale
11 named -- or, I'm sorry, the Pittsburgh office named
12 Patrick Atkins?

13 A. Oh, yes.

14 Q. Who was Patrick Atkins?

15 A. Patrick Atkins was the general manager for
16 environmental affairs.

17 Q. What were his duties, if you know?

18 A. He was largely concerned with the general
19 outside-the-plant environment. As a matter of fact,
20 it was totally outside-the-plant environment that his
21 responsibilities covered.

22 Q. What do you mean outside-the-plant
23 environment?

24 A. Beyond the fence line.

25 Q. Beyond the fence line of what?

0140

1 A. Of the plants, all the plants, all the
2 operations.

3 Q. And that would include ALCOA Rockdale?

4 A. That certainly would.

5 Q. Were you hired in 1973 prior to May 16th of
6 '73?

7 A. Was I hired what?

8 Q. Do you know the month you were hired at
9 ALCOA in 1973?

10 A. I think I came on, on July 1.

11 Q. Okay. I'm going to hand you another
12 document that was marked as an exhibit. We skipped

over it, but I want to ask you about it now. It's Dinman Exhibit 4. I want you to have an opportunity to look at that, sir.

A. Ah, E.P.A....marinite...potlining. well, this is another instance of where Pat Atkins is --

MR. COLBERT: Dr. Dinman, there's no question pending.

THE WITNESS: Beg your pardon?

MR. COLBERT: There's no question pending. Let Mr. Cappolino ask you --

Q. (By Mr. Cappolino) Do you want to look some more at that document? You're looking at the

first page?

A. Just looking at the cover page. That's all, sir.

Q. Okay.

A. This goes on and on.

MR. CAPPOLINO: Are we going to 12:00 o'clock today?

MR. COLBERT: Yes, and it's a little after 12:00.

MR. CAPPOLINO: Oh, well, excuse me.

Q. (By Mr. Cappolino) Let me just go ahead and ask you just a couple things. I tell you what we'll do. I can leave that, and you can have a chance to look at that before tomorrow --

A. Good, good.

Q. -- and then I can ask you some questions so you'll have an opportunity; is that fair?

A. Certainly.

Q. Let me just ask you about the duces tecum. We had eight or nine separate documents requests that we made for you to produce, if you had them, today. Let me just ask you if you have any documents responsive to these.

"Copies of all documents that reflect ALCOA's knowledge that asbestos could have negative

effects on health that were produced prior to 1980," do you have any documents responsive to that question?

A. I really -- it's highly improbable without going through my files. The files are pretty minimal now. It's highly improbable that I have any documents from ALCOA. The one I brought here, as a matter of fact, the physical examination, surveillance examination, is about the only thing I brought because those files were not mine at ALCOA.

Q. What files are you talking about?

A. My personal files at the office.

Q. Do you know whether or not any of your personal files in your office contained any documents with regard to ALCOA?

A. Oh, they were all ALCOA.

Q. But you didn't produce any of those today in response to this duces tecum?

A. Well, I didn't know what was in that duces tecum.

Q. Because you didn't see it?

MR. COLBERT: Objection, form.

Dr. Dinman, we discussed these topics

24 on the duces tecum. Listen to the question that
25 Mr. Cappolino is asking you with respect to the duces
0143 tecum.

2 Q. (By Mr. Cappolino) You and Mr. Colbert
3 discussed the documents that were requested in this
4 duces tecum?

5 A. Not that I recall directly.

6 Q. What did you discuss?

7 A. Discussed what my experiences were at ALCOA
8 when I was there, largely, and what -- my C.V. and
9 what I did -- what I've done since and what I did
10 before. But as far as documents that I own, is that
11 responsive -- are we talking about that?

12 Q. This notice of deposition with the duces
13 tecum was filed at the courthouse in Milam County,
14 a copy sent to Mr. Colbert to provide to you, listing
15 nine separate categories of documents requested of
16 you if you had them in your actual or constructive
17 possession. Do you understand that?

18 MR. COLBERT: Objection, form.

19 Objection, side-bar.

20 You can answer the question.

21 Q. (By Mr. Cappolino) Was it your testimony
22 that you have not seen this duces tecum prior to the
23 time I asked you about it today?

24 A. I don't recall it, no.

25 Q. But you discussed the documents that I

0144 requested with Mr. Colbert that are on this duces
1 tecum?

2 A. Without being too sure -- well, I don't
3 think I ever saw that. So I'm not too sure of what
4 documents are in there, obviously.

5 Q. I understand you hadn't seen this, but did
6 you discuss with Mr. Colbert the documents that we
7 requested in this duces tecum?

8 A. I'd have to look at the document again.

9 Q. I tell what you, Doctor. Just so we can
10 finish today, I'm going to ask you if you could look
11 at 1 through 9, the requests there, read through them
12 and then tell me whether or not you have any
13 documents in your files responsive to any of those 9
14 requests.

15 A. Certainly.

16 Q. Is that fair?

17 A. Fair enough.

18 Q. Okay.

19 A. No. 1, no.

20 Q. Okay.

21 A. No. 2, yes. That's the C.V.

22 Q. Yes, sir.

23 A. No. 3, no. No. 4, certainly not. No. 5,
24 again, certainly not. No. 6, certainly not. No. 7,

0145 no. No. 8, no. No. 9, no.

1 Q. Okay.

2 A. Again, because these were the company
3 records, and I didn't take them with me, except in
4 this one case where it could be used for a teaching
5 -- for teaching use.

6 Q. Again, that was which document?

7 A. That's the --

Q. The questionnaire?

A. Yeah, the questionnaire, sure.

MR. CAPPOLINO: Dr. Dinman, I'm going to go ahead and continue my questioning with you tomorrow because we're doing your deposition between 9:00 and 12:00, and we've gone a little over. But I appreciate it, and we'll be back with you tomorrow and I'll continue my questioning. Thank you.

(Deposition in recess at 12:07 p.m.)

0146

		CHANGES AND SIGNATURE	
	PAGE	LINE	CHANGE REASON
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0147

I, BERTRAM D. DINMAN, M.D., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

BERTRAM D. DINMAN, M.D.

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared BERTRAM D. DINMAN, M.D., known to me (or proved to me under oath or through _____) (description of identity card or

other document) to be the person whose name is
subscribed to the foregoing instrument and
acknowledged to me that they executed the same for
the purposes and consideration therein expressed.

Given under my hand and seal of office this
_____ day of _____, 2003.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My Commission Expires: _____

CAUSE NO. 26,496
ANTONIO FLORES, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY TEXAS
ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 26,342
DOROTHY A. LEHMANN, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY TEXAS
ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 26,469
DAVID O. MUSTON, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY TEXAS
ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 26,928
MARIA ALVARADO, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY TEXAS
ABLE SUPPLY COMPANY, et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,118
GEORGE R. YOAKUM, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
ACandS, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 27,629
VICTOR KOCIAN, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
ACandS, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,365
TERRY CORBIN, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
ALCOA, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,472
LADELLA CAFFEY, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,473
NANCY FLEMINGS, et al) IN THE DISTRICT COURT
VS.) MILAM COUNTY, TEXAS
AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,475

Exh 132 pt 1 Dinman.txt
22 OPAL PRAESEL, et al) IN THE DISTRICT COURT
23 VS.) MILAM COUNTY, TEXAS
24 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
25

0150

1 CAUSE NO. 28,474
2 ANITA GARNER, et al) IN THE DISTRICT COURT
3 VS.) MILAM COUNTY, TEXAS
4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
5

6 CAUSE NO. 28,477
7 VIVIAN WILBURN, et al) IN THE DISTRICT COURT
8 VS.) MILAM COUNTY, TEXAS
9 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
10

11 CAUSE NO. 28,503
12 EARLENE CARTER, et al) IN THE DISTRICT COURT
13 VS.) MILAM COUNTY, TEXAS
14 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
15

16 CAUSE NO. 28,502
17 GEORGE SEARS, et al) IN THE DISTRICT COURT
18 VS.) MILAM COUNTY, TEXAS
19 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
20

21 CAUSE NO. 28,505
22 GROVER MORGAN, et al) IN THE DISTRICT COURT
23 VS.) MILAM COUNTY, TEXAS
24 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
25

0151

1 CAUSE NO. 28,506
2 KATHA JONES, et al) IN THE DISTRICT COURT
3 VS.) MILAM COUNTY, TEXAS
4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
5

6 CAUSE NO. 28,493
7 MELBA BRUENING, et al) IN THE DISTRICT COURT
8 VS.) MILAM COUNTY, TEXAS
9 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
10

11 CAUSE NO. 28,504
12 PATRICIA SCHNEIDER, et al) IN THE DISTRICT COURT
13 VS.) MILAM COUNTY, TEXAS
14 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
15

16 CAUSE NO. 28,501
17 RONALD CEPACK, et al) IN THE DISTRICT COURT
18 VS.) MILAM COUNTY, TEXAS
19 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
20

21 CAUSE NO. 28,525
22 MILDRED BUNNS, et al) IN THE DISTRICT COURT
23 VS.) MILAM COUNTY, TEXAS
24 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
25

0152

1 CAUSE NO. 28,522
2 HARRY BEAMAN, et al) IN THE DISTRICT COURT
3 VS.) MILAM COUNTY, TEXAS
4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT
5

6 CAUSE NO. 28,523

7 BERNADETTE BERAN, et al) IN THE DISTRICT COURT
 8 VS.) MILAM COUNTY, TEXAS
 9 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,524

11 LAURA BROOKS, et al) IN THE DISTRICT COURT
 12 VS.) MILAM COUNTY, TEXAS
 13 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,526

16 JEANETTE CLARK, et al) IN THE DISTRICT COURT
 17 VS.) MILAM COUNTY, TEXAS
 18 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,527

21 PAUL TUCKER, et al) IN THE DISTRICT COURT
 22 VS.) MILAM COUNTY, TEXAS
 23 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,528

0153 1 MARY JO WOODS, et al) IN THE DISTRICT COURT
 2 VS.) MILAM COUNTY, TEXAS
 3 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,573

6 VIOLA BARTEK, et al) IN THE DISTRICT COURT
 7 VS.) MILAM COUNTY, TEXAS
 8 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,642

11 CHRISTIAN GERTHE, et al) IN THE DISTRICT COURT
 12 VS.) MILAM COUNTY, TEXAS
 13 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,678

16 FRANK BURROUGH, et al) IN THE DISTRICT COURT
 17 VS.) MILAM COUNTY, TEXAS
 18 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,685

21 DENNIS HARBOUR, et al) IN THE DISTRICT COURT
 22 VS.) MILAM COUNTY, TEXAS
 23 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,807

0154 1 JOHN DUFFY, ET AL) IN THE DISTRICT COURT
 2 VS.) MILAM COUNTY, TEXAS
 3 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,808

6 HENRY DAVIDSON, ET AL) IN THE DISTRICT COURT
 7 VS.) MILAM COUNTY, TEXAS
 8 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,809

11 WILLIAM BROWN, ET AL) IN THE DISTRICT COURT
 12 VS.) MILAM COUNTY, TEXAS
 13 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

CAUSE NO. 28,812

16 BILLY MILLER, ET AL) IN THE DISTRICT COURT

18 VS.)
 19 AMETEK, INC., et al) MILAM COUNTY, TEXAS
 20) 20TH JUDICIAL DISTRICT
 21 CAUSE NO. 28,813
 22 MATTIE MCBRIDE, ET AL) IN THE DISTRICT COURT
 23 VS.) MILAM COUNTY, TEXAS
 24 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

25
 0155
 1 CAUSE NO. 28,814
 2 BARBARA BECKER, ET AL) IN THE DISTRICT COURT
 3 VS.) MILAM COUNTY, TEXAS
 4 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

5
 6 CAUSE NO. 28,815
 7 MARILYN HICKS, ET AL) IN THE DISTRICT COURT
 8 VS.) MILAM COUNTY, TEXAS
 9 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

10
 11 CAUSE NO. 28,816
 12 RAYMOND GREEN, ET AL) IN THE DISTRICT COURT
 13 VS.) MILAM COUNTY, TEXAS
 14 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

15
 16 CAUSE NO. 28,817
 17 MARJORIE FISHER, ET AL) IN THE DISTRICT COURT
 18 VS.) MILAM COUNTY, TEXAS
 19 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

20
 21 CAUSE NO. 28,818
 22 RUTH JOHNSON, ET AL) IN THE DISTRICT COURT
 23 VS.) MILAM COUNTY, TEXAS
 24 AMETEK, INC., et al) 20TH JUDICIAL DISTRICT

25
 0156
 1 REPORTER'S CERTIFICATION
 2 DEPOSITION OF BERTRAM D. DINMAN - VOLUME I
 3 SEPTEMBER 18, 2003
 4 I, MISTY FONDREN CLEMENTS, a Certified Shorthand
 Reporter in and for the State of Texas, hereby
 5 certify to the following:
 6 That the witness, BERTRAM D. DINMAN, was duly
 sworn by the officer and that the transcript or the
 oral deposition is a true record of the testimony
 given by the witness;

7
 8 That the deposition transcript was submitted on
 _____ to the witness or to the attorney
 for the witness for examination signature, and return
 9 to me by _____.

10 That the amount of time used by each party at
 the deposition is as follows:

11 MR. TIMOTHY R. CAPPOLINO: 2 HOURS, 40 MINUTES

12 That pursuant to information made available to
 13 the court reporter, the following includes all
 parties of record:

14 Mr. Timothy R. Cappolino, Attorney for
 15 Plaintiffs
 16 Mr. Kevin Colbert, Mr. Richard O. Faulk and
 Ms. Michelle Schreppel, Attorneys for Defendant,

ALCOA, Inc.

Mr. Kevin B. Brown, Attorney for Defendant, 3M Company

Mr. Randolph L. Burns, Attorney for Defendant, Owens-Illinois

Mr. Frederick J. Wagner, Attorney for Defendant, T.H. Agriculture and Nutrition

Ms. Jill K. Bramlett, Attorney for Defendant, Honeywell, International, Inc.

Ms. Marisa A. Trasatti, Attorney for Defendants, Dana Corporation, Union Carbide Corporation and Certainteed

Mr. Phil Brown, Attorney for Defendant, Guard-Line, Inc.

Ms. Pam Rea, Attorney for Defendant, The Quigley Company

Mr. J. Stevenson Weimer, Attorney for Phillips Electronics

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.

Certified to by me this the _____ day of _____, 2003.

MISTY F. CLEMENTS, TX CSR #4026
Expiration Date: 12-31-03
DSI Reporting Services, Inc.
701 North Post Oak, Suite 425
Houston, Texas 77024
Phone: (713) 554-0080
Fax: (713) 554-0085

FURTHER CERTIFICATION UNDER RULE 203 TRCP
The original deposition was/was not returned to the deposition officer on _____;

If returned, the attached Changes and Signature page contains any changes and the reason(s) therefor;

If returned, the original deposition was delivered to _____, Custodial Attorney;

That \$ _____ is the deposition officer's

charges to the Plaintiffs for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown therein and filed with the Clerk.

Certified to by me this _____ day of _____, 2003.

Misty F. Clements, TX CSR #4026
Expiration Date: 12-31-03
DSI Reporting Services, Inc.
701 North Post Oak, Suite 425
Houston, Texas 77024
Phone: (713) 554-0080
Fax: (713) 554-0085