

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 96

HON. VICTOR E. CHÁVEZ, JUDGE

JOSEPH HENSON NORRIS, et al.)

Plaintiffs,)

vs.)

AMPCO PITTSBURGH CORP., et al.,)

Defendants.)

No. BC340413

OPENING STATEMENTS

REPORTER'S DAILY PARTIAL TRANSCRIPT OF PROCEEDINGS

FRIDAY, AUGUST 18, 2006

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(Please see next page)

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OFFICIAL REPORTER

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1 CASE NUMBER: BC340413
2 CASE NAME: NORRIS V. AMPCO PITTSBURGH,
3 ET AL.
4 LOS ANGELES, CALIFORNIA FRIDAY, AUGUST 18, 2006
5 DEPARTMENT 96 HON. VICTOR E. CHÁVEZ, JUDGE
6 APPEARANCES: (AS HERETOFORE NOTED.)
7 REPORTER: NAREN JANSEN, CSR NO. 3827
8 TIME: 1:45 P.M.
9 ---0---

10
11 (The following proceedings
12 were held in open court in
13 the presence of the jury:)

14
15 THE COURT: Ladies and gentlemen, you're about to
16 hear opening statement. Once again, I remind you that
17 what the attorneys say is not evidence.

18 So what they say is their view what the
19 evidence will be. It's here to help you to evaluate the
20 evidence and from their perspective. Each perspective.

21 It's often likened to a road map or the
22 picture on a jigsaw puzzle -- the picture on the box of
23 the jigsaw puzzle, just so you have some notion to where
24 this thing the leading. That's the purpose of it.
25 Recognize, it's not evidence. That's why you have not
26 been given notebooks yet. I prefer you don't take notes
27 because you might confuse it with that which is evidence.

28 You may address the jury.

1 MR. PANATIER: Thank you, Your Honor.
2 May it please the court.
3 Good afternoon, ladies and gentlemen.
4 It's a pleasure to have everybody here. We
5 put in some long hours so far during voir dire, jury
6 selection. We are going to make every effort to move this
7 case along and get you done, get you back to your lives.
8 But you understand and we understand it's a
9 very big and important case. And as a result, there's a
10 lot of evidence we have to put on to make our case. You
11 heard us say throughout voir dire that we have the burden
12 of proof. So I'm going to apologize ahead of time right
13 now if we take a little while putting on our case.
14 I don't want you at the end of this trial to
15 say to yourself, gee, if he'd just done this. So I'm
16 going to make every effort to cover every possible base I
17 can while trying to move as quickly as possible.
18 My name is Chris Panatier and I was
19 introduced before. This is Patrick DeBlase and this is
20 John Langdoc. We are not brothers. I don't even like him
21 that much. John will be putting on some of the witnesses
22 as well.
23 I'm going to get right to -- we've limited
24 our openings to 45 minutes, I'm going to hopefully be a
25 little quicker than that.
26 This case is about Joseph and Peggy Norris.
27 It's also about their three daughters, Kerry, Kathy, and
28 Trisha, versus Crane Co.

1 That's a picture of Joseph and Peggy right
2 there.

3 You will see Joseph's testimony in this case
4 because we took it by videotape. We knew he was very
5 sick. And we knew he may not make it to trial. And as
6 you've learned, he just missed it.

7 So you'll see his testimony by video.

8 Peggy, because she's dealing with the death
9 of her husband, she may be here or we may call her by
10 satellite or you may see her on video. That hasn't been
11 decided yet because of what's just happened.

12 What is this case about?

13 I think the main question that this case is
14 going to be about was were the workers safe to think they
15 were safe.

16 I told you that this was a case about
17 consumer expectations.

18 And that's really what this means. Were
19 they safe to think that they were safe when they were
20 working with and around these products.

21 And there's really three chapters to this.

22 There's expectations, what they expected;
23 there's exposures, exposures to asbestos.

24 And then, of course, there's the death of
25 Mr. Norris.

26 And these are the three things that I'm
27 going to talk to you about during opening.

28 We have the burden of proof.

1 We have to prove our case is true by a
2 preponderance of the evidence.

3 And you've heard us use different terms.
4 You heard us say 51 percent, 49 percent. That's just an
5 example. You heard us say more likely true than not true.

6 We do not have a burden like in a criminal
7 case. This is a civil case. It's a lot different. We
8 have to tip those scales. And if the credible evidence,
9 we meet that burden, the credible evidence supports that,
10 we've tipped those scales, then that's good enough in this
11 court of law.

12 Let's talk a little about Crane Co. I want
13 you to learn something about them, who they are.

14 Crane Co.'s been around for a while.
15 Founded in 1855. That's a picture of their headquarters.

16 In 1868, they started selling asbestos-
17 containing valves.

18 That's just some pictures of some valves
19 that they made. And you'll learn a lot about valves.
20 Mr. Petereit, who represents Crane Co. over here, is a
21 valve expert and he's going to tell you all about that.

22 These valves had areas where asbestos was
23 used.

24 Here, this is just an excerpt from one of
25 their advertisements. They've got an area where asbestos
26 packing is packed in these valves. And then, of course,
27 the reason people get exposed to it down the road is it's
28 maintained, it's replaced and it gets airborne and it

1 causes exposure. But that's later.

2 Here's a picture of their Chicago plant.

3 This is one of their advertisements. They
4 say that there are some valves that Crane doesn't make,
5 but they make more valves than anyone else. And they've
6 been doing it for a long time.

7 Now, for some of their products, they came
8 with asbestos. But this is a little bit different.

9 Crane had manufactured for them their own
10 asbestos gasketing material. It was called Cranite. They
11 had another company manufacture it and then they sold it
12 as their own.

13 It's a -- it's called sheet packing. You
14 can see that that's in a sheet. And what sheet packing is
15 it's -- goes back and forth. Packing or gasketing
16 materials.

17 This is what is used to help seal between
18 two pieces of metal. It prevents leakage from occurring.
19 So you seal the two pieces of metal using an asbestos
20 gasket. And some of the gaskets on the BREMERTON were
21 where Mr. Norris served were asbestos, some weren't.

22 But in the case of asbestos gaskets, this is
23 the asbestos that Crane had manufactured for them.

24 What the workers would do is they would take
25 this sheet and they would cut it out into the shape of a
26 pipe and then they would pop it on that pipe, put the
27 valve together with it, and they'd have their seal.

28 Here's a picture of what it actually looks

1 like. As you can see, it's an orangish-yellow product.
2 Says "Cranite" on it and then it says just "Crane."

3 75 to 85 percent asbestos.

4 Talk a little bit about expectations.
5 Really why is Crane responsible.

6 The reason that they're responsible is the
7 product was more dangerous than would be expected by a
8 normal person. Consumer expectations.

9 They also failed to warn of the dangers.

10 The evidence will show that they were
11 negligent. And that they also had punitive conduct, which
12 is evidence of oppression, fraud, and malice. And we'll
13 get to that.

14 But really what's the bottom line? When
15 someone is working with or around valves, metal pieces of
16 equipment, do they expect that at any time this is going
17 to cause them to get cancer?

18 And I think that the evidence in this case
19 will be the answer to that question is, no, they don't
20 expect that. And that's the main question that the ladies
21 and gentlemen of the jury have to answer.

22 We're going to call several witnesses. The
23 first witness I think that you're going to hear from that
24 we're going to call is Dr. Richard Lemen. He's a former
25 assistant surgeon general for the United States. He was a
26 rear admiral in the United States Public Health Service.
27 That's not like admiral in the Navy, but the United States
28 Public Health Service is a uniformed branch of our

1 government.

2 Dr. Lemen was asked by the United States
3 Public Health Service to research the history of what was
4 known or knowable in the scientific or industry literature
5 on asbestos diseases and hazards over the last thousands
6 of years. He's done that and he's going to talk to you
7 about that.

8 There's a few more of his qualifications.
9 He's been asked to testify in front of our Congress.
10 There he is right there testifying with Senator Murray on
11 the dangers of asbestos. This was just a few years ago, I
12 believe in 2001 or 2002.

13 And he's going to be here to talk to you.

14 But's also an epidemiologist. So Dr. Lemen
15 isn't going to just tell you what was known about asbestos
16 hazards, because a lot of people had questions about that.
17 Did Crane know? Did anybody know? And we're going to
18 answer those questions for you. Dr. Lemen is going to be
19 part of that equation. But he's also going to talk to you
20 about the issue of causation. Because, like I said, we
21 can't come in here and just tell you that Crane made a
22 product that contained asbestos and necessitated asbestos.

23 We have to show that exposure to their
24 products that contained asbestos caused the disease. And
25 one of the ways we do that is with epidemiology. And
26 that's what Dr. Lemen will talk to you about in addition
27 to the state of what was known in the medical and
28 scientific literature.

1 He'll give you a little bit of information
2 on this, and this is just a preview.

3 But Dr. Lemen will talk to you about just
4 how early the dangers of asbestos were actually being
5 published.

6 In 1898, asbestos was recognized as a danger
7 to workers. That was in Great Britain. Published over
8 here.

9 1906 was the first proven death from
10 asbestos exposure. Now, keep in mind, the evidence in
11 this case will be that Mr. Norris's exposure to asbestos
12 doesn't even start until 1955.

13 1912, people start studying asbestos and
14 doing animal experimentation. Shows it causes fibrosis.
15 Fibrosis is a scarring of the lungs. And that's a disease
16 that in 1928 was labeled asbestosis by a man named
17 Dr. Cook.

18 In the 1930s, early 1930s, there were some
19 very important epidemiological studies and case report
20 studies that were being done. It was published in Great
21 Britain and here in the United States. That asbestos was
22 an occupational risk to workers.

23 And at that time -- and I think you're going
24 to hear a great debate about this -- at that time these
25 studies were primarily of people who were making asbestos
26 products, not the people working with them. But what
27 these studies showed was that, one, asbestos was a danger.
28 It caused disease.

1 Two, they talked about how to prevent
2 asbestos exposure.

3 And, three, they said, educate the worker.
4 Educate the worker. And that's how you prevent exposure.

5 Also in 1930, they published that a high
6 percentage of asbestos workers were developing asbestosis.
7 That is the scaring that I talked about.

8 It starts to become associated with cancer
9 in the early 1930s. In fact, the types of cancer that
10 they're seeing, they are seeing lung cancers and they are
11 seeing cancers of the pleura of the lung.

12 The pleura of the lung is the outside
13 wrapping of your lung. Your lung is basically a giant
14 sponge. And it has a couple layers of Saran Wrap on it.
15 That Saran Wrap is called a pleura. And when you see
16 cancer there, you're going to see later on. That's what's
17 later named mesothelioma. 1930s.

18 I put this up here JAMA, Journal of the
19 American Medical Association. Biggest and widest read
20 journal in the United States.

21 1945. They state, asbestos is a known cause
22 of cancer and that lung cancer is a common complication of
23 asbestosis.

24 Then in 1955, a gentleman named Sir Richard
25 Doll from Brittain published a study that was looked at as
26 conclusive proof that asbestos exposure caused lung
27 cancer.

28 This is the first year that Mr. Norris is

1 exposed to asbestos from Crane products.

2 So this was all out there. And the evidence
3 in the case is going to be that there were hundreds of
4 articles by 1955 on asbestos dangers. And Dr. Lemen is
5 not going to read you all those articles, but he's going
6 to talk to you about what was available if a company
7 wanted to go look.

8 Let's talk about exposures.

9 This is Joseph Norris. That's him in front
10 of gun turret number one on the BREMERTON. He's a young
11 man here. We've got some blowups of those for you if you
12 want to look at them a little closer later on.

13 That's the U.S.S. BREMERTON. It's got a
14 number on the front, that was its identification number.
15 It was CA 130. It was a heavy cruiser. It actually had
16 more guns than a battleship.

17 Let's talk a little about exposure to
18 asbestos. Because like I told you during voir dire, he
19 wasn't just exposed to Crane Co. products. And at no
20 point are we going to stand up and say it was only Crane
21 Co. We're not going to do that.

22 He was born in 1936. He served on the
23 BREMERTON from '55 to '57. And then he put in some time
24 on the Coast Guard. And he did potentially have some
25 exposure in the Coast Guard. I say that because he served
26 just a short time each year once he was in the Coast
27 Guard. Wasn't really around much of the maintenance for
28 the valves or pipe covering that was on these ships, but

1 he probably did have some exposure on the Coast Guard and
2 that's why I put that there.

3 And then he was diagnosed with mesothelioma
4 just a little while ago in 2005.

5 There's the BREMERTON in Pearl Harbor. And
6 actually when this picture was taken, Mr. Norris was
7 sitting on that boat. This was in 1957.

8 There it is in what's called dry dock. I'm
9 going to talk to you a little about dry dock. This is
10 where they pull a ship out of the ocean and they do a
11 complete overhaul.

12 That's important because during the
13 overhaul, they change out insulation, they change out
14 equipment.

15 And the gentlemen who served aboard these
16 ships stay on the ships during that period of time. And
17 you're going to hear about equipment being maintained,
18 repaired, and replaced. During this period of time,
19 you'll hear Mr. Norris testify in his video deposition
20 that while he never worked hands-on with these materials,
21 he was gunner's mate. He hung out in the turret. But he
22 had to help everybody else do their job. He helped clean
23 up. He helped maintain his area.

24 But he constantly saw people pulling down
25 the valves, he saw people grinding the gaskets off of the
26 valves. Because once they'd been there for a long time,
27 those gaskets don't usually fall out. You've got to grind
28 them off. When you do that, the evidence in the case will

1 be that that sprays asbestos directly into the air. Also,
2 they were maintaining the pipes. There was thermal
3 insulation on pipes. That also exposed him to asbestos.

4 But they also, when they maintained these
5 valves, they pulled apart the valves and they pulled out
6 asbestos packing which helped lubricate the valves that
7 helped prevent leakage on the valves. By the time they
8 pulled it out, it was incredibly dry. When it went in, it
9 was greasy. When they pulled out, it was dry, caused
10 exposure, caused asbestos to go into the air.

11 There were Crane valves all over the ship.
12 In fact, we're going to play some videos and you might
13 even see one or two gentleman live who were co-workers of
14 Mr. Norris who served on the BREMERTON as well, folks who
15 actually worked on these products. And the one product
16 that every single witness remembers from 50 years ago is
17 Crane valves.

18 Mr. Norris didn't do much hands-on work on
19 asbestos products. But in spite of that, what he
20 remembered were Crane valves.

21 And his co-workers: Crane valves. They
22 were the main valve that's identified on this boat. There
23 were other types of valves, but Crane was the main.

24 This is a picture -- this is not from the
25 BREMERTON, and both sides have some demonstrative
26 pictures.

27 This is a picture of a valve that is a Crane
28 valve. And you can see there's pipe insulation all the

1 way up to it. That was the case in some cases. There
2 were pipe insulation they had to pull off to maintain the
3 valves.

4 In some cases, here's another picture, there
5 wasn't pipe insulation on the valve. And you can see that
6 that's a Crane valve as well.

7 So really there's two different types,
8 sometimes to maintain them you had to pull off the
9 insulation and sometimes you didn't.

10 And I said that on board, while the valves
11 were being maintained, repaired and replaced, he was
12 around others grinding off gaskets and pull off packing.

13 This is a picture, it's kind of a rough
14 picture. This is from a Crane catalog that they had. And
15 you can see at the bottom, and I put it in quotations,
16 Crane valves for marine service are used extensively in
17 piping installations aboard ship.

18 And these things are handles that you can
19 see, those are valves.

20 There's different types of valves. Lots of
21 different types of valves. And several of these different
22 types of valves were aboard the BREMERTON. And different
23 types include gate valves, globe valves, angle valves,
24 check valves.

25 This is a closeup picture of a gate valve.
26 Reason I'm showing this to you is just so you can
27 understand a little about it.

28 It will connect to the pipe down at the

1 bottom. And where it would connect to the pipe, it would
2 necessitate that gaskets be there to prevent leakage. So
3 you have two gaskets there.

4 Then you have a gasket in the middle where
5 the two giant pieces of the metal for the valves come
6 together. And then one in a stuffing box. I've
7 highlighted those for you. Right there.

8 Those are the main two areas we're talking
9 about. But where the valves connected to the piping
10 walls, you also had gasket.

11 And many of these were shipped with the
12 asbestos in them. Some weren't. But some were.

13 But they didn't just make valves for the
14 Navy. You've heard about the fact that Crane was one of
15 the main manufactures of valves for the Navy. But they
16 made valves for everybody.

17 This is from their catalog. (Reading:)

18 Today the Crane line of valves,
19 fittings, plumbing, heating and pumps total
20 more than 40,000 items. Described in this
21 catalog are piping materials which make up by
22 far the greatest part of the complete Crane
23 line. They include equipment of brass, iron,
24 steel, and many alloys for services up to 25
25 pounds pressure and thousand degrees
26 Fahrenheit.

27 Five big plants in the United States
28 make Crane products. In Chicago, Bridgeport,

1 Chattanooga, Trenton, North Tonawanda. The
2 largest is the main works in Chicago. On 160
3 acres of ground, this plant embodies 47
4 buildings having 3,133,440 square feet of
5 floor space. Here is the greatest array of
6 machinery and equipment especially adapted to
7 the manufacture of valves and fittings in the
8 world.

9 Here's some other examples.

10 They made valves for metering stations,
11 sanitation water lines, water pumping stations, diesel
12 plants, manufactured gas plants, metal working plant,
13 rubber plants, textile mill, hospitals, office buildings,
14 wood treatment plants, glass manufacturing plant. Put on
15 river boats, breweries. And they made a special line of
16 marine valves just for use on boats.

17 I want to talk to you a little bit about
18 what asbestos is. You've heard us go "asbestos, asbestos,
19 asbestos, asbestos," and no one's really explained it to
20 you. We've all heard about asbestos obviously now because
21 we've been talking about it.

22 But asbestos is a rock. Asbestos is
23 underground. And companies have to mine it. And then
24 they put it into products. And then they're used in
25 products. And people use those products.

26 There's three main commercially available
27 types of asbestos. There's what's called chrysotile,
28 amosite, and crocidolite.

1 There's also some other types of asbestos.
2 But for our purposes in trial, whether or not asbestos is
3 dangerous, they're all the same.

4 We're going to call a gentleman called
5 Richard Hatfield. He's a specialist in industrial
6 hygiene. And the reason we're calling Mr. Hatfield, he's
7 going to talk to you about how people can be exposed
8 without even working on the product.

9 I think that the testimony in this case is
10 going to be that Mr. Norris was 3 to 5 feet away. Within
11 a matter of right next to people who were working with
12 these products using these gaskets and using the packing
13 on these Crane valves.

14 And Mr. Hatfield is going to come in and
15 explain how someone close by can be exposed to these
16 products and inhale asbestos into their lungs.

17 But the main reason I've asked Mr. Hatfield
18 to come testify is for two reasons. One, he's published
19 in the peer-reviewed literature on fiber, asbestos fiber
20 release from gaskets and, two, and he's actually tested
21 asbestos gaskets and packing to measure the levels of
22 asbestos that go into the air.

23 But why is asbestos so dangerous.

24 Yesterday, we heard the example of natural
25 gas. Without the smell added to it.

26 If it doesn't have the smell, you don't know
27 you're being exposed.

28 The evidence in this case, and I don't think

1 anybody will disagree, that asbestos itself doesn't have
2 what I call onion properties. When you're cutting an
3 onion, you know you're cutting an onion because that onion
4 makes your eyes tear up. At least mine.

5 Asbestos isn't like an onion. You can't see
6 the little fibers that get into your lungs, you can't
7 smell them, you can't feel them, they don't make your skin
8 itch.

9 The problem with asbestos is you can be
10 exposed to deadly levels of asbestos without even seeing
11 it in the air.

12 I want to talk to you a little about
13 asbestos disease. Because that's what we're here about.
14 We're here about the disease mesothelioma.

15 We're going to call an individual named
16 Dr. James Robb, and Dr. Robb is going to be here, I
17 expect, Tuesday. To talk to you about his confirmation
18 that this is mesothelioma.

19 He's a pathologist. He's board certified in
20 anatomic pathology, dermatopathology, cytopathology --
21 that's the study of cells -- and clinical pathology. In
22 fact, he'd like to have more boards, but he'll tell you
23 they only let you have four.

24 And what Dr. Robb has done, he has looked at
25 the studies that have been done of Mr. Norris's tumor.
26 Because they went in and pulled out some samples. And
27 what they do is they stain those samples. They put
28 different chemical stains on those samples.

1 And those stains, whether they turn a
2 certain color in certain areas, say mesothelioma, not
3 mesothelioma.

4 And Dr. Robb will say that he actually
5 concurs with Mr. Norris's treating physicians. And you'll
6 be able to see their records, because we have their
7 medical records. He concurs with their decision that this
8 is mesothelioma.

9 How did asbestos fibers get into the body.
10 They are breathed in through the nose or mouth. They go
11 down your main windpipe and out into your lung.

12 And then they go over into the little air
13 sacs and they stick there. Most asbestos stays in your
14 body forever. Some of it, the main type of asbestos that
15 was in Crane Co.'s products, they actually go into the
16 body, into the lungs, and then they migrate out to the
17 pleura. And that's where mesothelioma occurs.

18 I put a question here, can the body defend
19 itself against asbestos?

20 And the answer to that question is yes and
21 no.

22 The body does its best. There's several
23 different defense mechanisms that Dr. Robb will talk to
24 you about that the body has.

25 But when the body systems become
26 overwhelmed, they just can't kick out every asbestos fiber
27 and they stay there and they cause disease.

28 These are some analytical drawings done by a

1 fellow named Dr. Frank Netter.

2 And these show the three primary diseases
3 that we're going to be talking about in this case that are
4 related to asbestos. You'll see asbestosis, which is the
5 scarring of the lungs. Lung cancer. And you can see that
6 lung cancer occurred generally in the body of the lungs,
7 the middle of the lung. And then mesothelioma.

8 As I said before, mesothelioma is not lung
9 cancer.

10 It's not caused by smoking.

11 Mr. Norris did smoke for a little while. He
12 wasn't a lifetime smoker, but he did have a smoking
13 history.

14 Nobody is going to come in here and tell you
15 that this mesothelioma came from smoking. It's simply not
16 caused by cigarette smoking. It's a completely different
17 disease that is uniformly caused only by asbestos exposure
18 in the United States.

19 I put those three types of asbestos here and
20 I've said all asbestos kills.

21 Because there is not one regulatory or
22 scientific body in the United States or in the world that
23 has said there's some safe asbestos. I will tell you
24 right now there is no such thing as a safe asbestos.

25 The evidence in the case will be that
26 chrysotile is not as potent as crocidolite or amosite.
27 It's less potent. But it causes disease. It causes
28 asbestosis, lung cancer, and mesothelioma.

1 But I also wrote, there's no safe level.
2 And that's the consensus of the
3 International Agency For Research and Cancer. The World
4 Health Organization. The World Trade Organization. EPA.
5 Occupational Safety and Health Administration. The
6 National Institute For Occupational Safety and Health, and
7 so on and so on and so on.

8 There is no safe level of exposure to
9 asbestos.

10 That's Joseph when he was in the Navy.
11 Looks younger than I do. Maybe.

12 Here's what happened.

13 In late 2004, early 2005, Joseph started to
14 have some side pain. He was helping one of his daughters
15 move a dresser. And his doctors just thought he had
16 pulled some muscles. They gave him some muscle relaxers
17 and some pain medication. But it kept coming back.

18 Then April 28th, 2005 he was diagnosed with
19 mesothelioma. And I believe that this diagnosis is
20 undisputed. I don't believe that Crane Co.'s going to
21 tell you this wasn't mesothelioma. That's what it is.

22 And then of course he died this Monday, we
23 found out yesterday from his wife when she called us and
24 said that he passed away.

25 I told you we have to prove cause in this
26 case.

27 And cause, just paraphrased, we have to
28 prove that exposure to Crane Co. asbestos was a

1 substantial factor in causing the harm. And that if there
2 is a reasonable medical probability that exposure
3 contributed to his risk of cancer, we've proven our case
4 on cause.

5 And I believe that the evidence in this case
6 is going to be that each and every exposure to asbestos is
7 a significant contributing factor. The reason is because
8 the more asbestos you breathe into your lungs, the more
9 your total dose of asbestos. And the bigger your dose,
10 the bigger the risk.

11 The evidence is going to show that the
12 answer to this question is yes for Crane Co. products,
13 even though there were other exposures.

14 And I also told you that there may be more
15 than one cause of an injury. And we talked about the
16 valves, the Crane Co. valves, the gaskets and packing.

17 We've talked about the thermal insulation.
18 And then there's some asbestos cements which were also
19 used on the boat. He had other exposures. He did.

20 And at the end of this case, you will have
21 the opportunity, like I said yesterday, to apportion that
22 out.

23 You decide when you consider exposure, when
24 you consider liability, things like corporate conduct, you
25 get to decide who is responsible and apportion out a
26 percentage out of a hundred percent.

27 We all know that this is a civil case and
28 the only thing that we can do for the Norris family is to

1 award money damages. And these are the types of money
2 damages that you can award in this case: Medical bills,
3 funeral and burial expenses, financial support for Miss
4 Norris, household services, loss of companionship, loss of
5 love, care, society, advice. The type of things you have
6 in a relationship where they love each other.

7 I put the word "diversions" up here because
8 I'm going to tell you right now that this case is going to
9 be exposure to Crane Co. and then this case is going to be
10 blame the Navy. Blame the Navy.

11 And when you're asked in this case whether
12 or not Crane Co. made a defective product, you're not
13 going to be asked whether the Navy made a defective
14 product.

15 The Navy is someone you can consider. But
16 you're not asked about their product. You're asked about
17 Crane Co.'s product. And that's what you will keep coming
18 back to and that will be the question you're asked at the
19 end of this case when you deliberate, whether or not it
20 was Crane Co.'s product whether or not it was defective,
21 whether Crane Co. was negligent. Whether they failed to
22 warn, whether there should be punitive damages on Crane
23 Co.

24 The bottom line was were the workers safe to
25 think they were safe.

26 And I'm going to ask all the witnesses in
27 this case that have any experience in exposure to asbestos
28 or medicine if they can answer this question, the workers

1 safe to think they were safe.

2 Ladies and gentlemen, I think the answer to
3 that question is going to be, no, they weren't. And if
4 they weren't, then these products did not perform as
5 safely as one would expect.

6 Thank you very much. We look forward to
7 presenting our case to you. And like I said, we're going
8 to move as quickly as I can.

9 John and I will both be talking. And
10 appreciate your time today. Thank you so much.

11 MR. BUDD: May I have a second, Your Honor, just to
12 switch over?

13 THE COURT: Certainly.

14 MS. LIU: Your Honor, before of the defense
15 proceeds, I'd like to address the court.

16 THE COURT: With the reporter?

17 MS. LIU: Yes.

18 THE COURT: Very well. Counsel.

19

20 (The following proceedings were held at
21 sidebar:)

22

23 THE COURT: Ms. Liu.

24 MS. LIU: Your Honor, at this time, Thorpe
25 Insulation Company makes a motion for nonsuit pursuant to
26 CCP 581c. As you've heard in plaintiffs' opening
27 statement, there have been no mention of the Thorpe
28 Insulation Company. And as you know, it's a road map of

1 the evidence to come. And based upon that, we do not
2 believe plaintiffs will be presenting evidence.

3 THE COURT: Wish to be heard?

4 MR. GILL: No.

5 MR. PANATIER: Your Honor, we haven't even put on
6 our evidence yet.

7 THE COURT: But your statement has to include
8 something. If you don't include it, you're out. You want
9 to reopen?

10 MR. PANATIER: Well, I --

11 THE COURT: You must make -- if you make an opening
12 statement, you have to make some allegation about the
13 other -- about this other defendant. If you don't, the
14 motion is going to be granted.

15 MR. PANATIER: Okay, Your Honor.

16 THE COURT: You want to reopen?

17 MR. PANATIER: Yes.

18 THE COURT: Okay.

19
20 (The following proceedings
21 were held in open court in
22 the presence of the jury:)

23
24 MR. PANATIER: I'll just say one more thing, in
25 case there's any confusion.

26 Thorpe Insulation Company is also in the
27 case. And Thorpe Insulation, they are a company that
28 contracted for insulation aboard both naval vessels,

1 aboard other types of vessels, commercial vessels. And
2 they -- and they actually sold and installed asbestos
3 insulation on various ships in the State of California as
4 well.

5 THE COURT: Mr. Budd.

6 MR. BUDD: Thank you, Your Honor. May it please
7 the court. Ladies and gentlemen of the jury.

8 Everybody have a good stretch, I hope.
9 Probably been a long afternoon.

10 This is a World War II type case. And
11 occurred to me that Winston Churchill had a great line.
12 At one point when they were going through the war,
13 somebody asked whether he thought it was near the end of
14 the war. And somewhat down about it, he said, no, it's
15 not the end and it's not even the beginning of the end,
16 it's the end of the beginning.

17 And I know you all have been here for a week
18 now, or must feel like a week. And good news, bad news is
19 it's sort of the end of the beginning. So if you could be
20 patient with us and go through with us the record that we
21 have here to look at the questions, look at the science,
22 and really keep an open mind.

23 There's no question that this is an
24 important case. There's no question everyone in this room
25 feels great sympathy for Mrs. Norris and her loss.

26 This is an important case. In fact, a
27 member of Crane Co., Mr. Scoreceletti, is here because it
28 is an important case.

1 What I'd like to do is walk you through what
2 is the other side. Remember, we talked about two sides to
3 every story. Keep an open mind.

4 Because you'll see, Crane Co. made valves.
5 Nobody questions that Crane Co. made valves. It made a
6 number of different types of valves.

7 As you look at this case, you will find that
8 the evidence will show you that the Crane Co. valves were
9 safe. And at all times relevant to this case people
10 thought they were safe.

11 You'll find that Crane Co. exercised
12 reasonable care and brought to its valve manufacturing and
13 engineering precisely the level of care that was
14 understood and known for the time periods.

15 Remember, we're talking 50 years ago. '55
16 to '57. I think that's when James Dean died in a car
17 wreck and when Disneyland opened. It's a different time.

18 You'll see that gaskets and packing used
19 with the valves, the Crane Co. valves, were not a
20 substantial contributing factor to Mr. Norris's illness.

21 We'll talk about whether they -- the dose
22 from a valve could ever come or rise to a level that would
23 make it harmful or hazardous.

24 As Mr. Panatier has already acknowledged,
25 there were many other asbestos products on the ships that
26 he worked on. Those products as he also recognized
27 contained types of asbestos that his own experts will
28 admit were much more potent and much more harmful. And

1 much dustier.

2 Crane Co. is a company that's been around
3 for a hundred fifty years. And it was started by two
4 brothers, opened up operations in Chicago.

5 They've done a lot of things over the years
6 and have made a lot of valves. There's no question. And
7 throughout all that time they always believed they were
8 making a good and safe product.

9 They built the valves for different types of
10 systems and to different types of specifications.

11 They particularly built valves that had to
12 do with marine applications and that's why the Navy called
13 upon them to make valves. Because the Navy had a need for
14 valves and it had a need for very specialized valves that
15 had to be made to very detailed and specific Navy
16 specifications.

17 Crane Co. never milled asbestos. It didn't
18 mine it from the ground. It didn't manufacture it.

19 Mr. Panatier said the asbestos in the Crane
20 Co. valves came from another company. That was the
21 asbestos manufacturer, not Crane Co.

22 Crane Co. bought the gaskets and packing to
23 put in its valves or had the gasket and packings made to
24 put this their valves.

25 However, it's important to remember that in
26 putting gaskets and packing in Crane Co. valves, Crane Co.
27 was doing it because the Navy specifications required it
28 for the ships that Mr. Norris was on. And also because in

1 that period of time there was no alternative. There was
2 no good substitute for the valve to make sure that it
3 didn't leak a high-pressure fluid or explode or have any
4 problem that could cause injuries to workers.

5 Crane Co., as I said, made valves. And, in
6 fact, it was part of the Disneyland exhibit when
7 Disneyland opened up back in the mid 1950s. That's Walt
8 Disney in the middle there turning a Crane Co. valve.

9 In the mid '50s if Walt Disney is turning a
10 Crane Co. valve, I submit the evidence will show you that
11 Crane Co. valves were considered safe.

12 The Navy valves that Crane Co. sold were
13 valves that, as I mentioned a second ago, were built to
14 very precise specifications. They were valves put in
15 systems that the Navy designed. Mr. Panatier showed you a
16 slide of all sorts of piping in a Navy system. It's the
17 Navy system. The Navy's engineered the whole system.
18 Crane Co. sold a bare metal valve. A bare metal valve
19 made to very precise Navy specifications.

20 The Navy and its marine engineers are the
21 ones who decided what kind of valve they wanted and what
22 they wanted in that valve.

23 There were many different types of valves on
24 Mr. Norris's ship. And I believe the evidence will show
25 you that not all the valves were from Crane Co.

26 And, importantly, not all the valves
27 contained asbestos.

28 There were other valves from other

1 manufacturers on Mr. Norris's ship. And Crane Co. in the
2 mid 1940s, when the U.S.S. BREMERTON that you saw a
3 picture of earlier was built, was one of the companies
4 that was helping the war effort to build valves.

5 There's ladies and men working in the Crane
6 Co. facility to make valves for the United States Navy.

7 To give you a sense of why people believe
8 the valves to be safe in the time periods relevant to this
9 case and even today, I think important for you to have an
10 understanding of the general mechanics and parts of a
11 valve.

12 Your Honor, may I just step past of the bar?

13 THE COURT: Anywhere you like.

14 MR. BUDD: Thank you so much.

15 You'll see these are not simple products.
16 These are not a simple item that you might be playing with
17 in your workshop at home.

18 These are highly engineered, detailed design
19 pieces of equipment that have a long stem in the middle,
20 they have a top which they call a bonnet that have a
21 special body to them that are made of different metals.
22 And in all of the design of the valve, the gasket and
23 packing material, which again is not in all the valves, on
24 a valve like this like on Mr. Norris's ship, is this
25 little line right here. It's encased within the valve.

26 The packing material is in a packing area
27 that's also encased within the valve.

28 We're talking about asbestos in small

1 amounts that are encased within a product and that, when
2 they're worked on, often will come out of the products
3 without much dust, if at all. And when there is dust,
4 it's really minuscule amounts.

5 And as you'll see later on, minuscule
6 amounts, particularly compared to the dust generated by
7 the insulation products that were on Mr. Norris's ship.

8 Let me give you an example.

9 This is not the size of a gasket,
10 necessarily, on Mr. Norris's ship or a valve on his ship.

11 But this is a gasket. This wafer-thin
12 product is what we're talking about here. This is not
13 asbestos, but this is a type of gasket that is like the
14 gasket that would have been used in valves in the 1950s.

15 And packing. It's not dusty, ladies and
16 gentlemen.

17 This is packing. It bends, it goes in, it
18 creates a seal so the liquid doesn't come out of the
19 valve. So that, for example, some high-temperature liquid
20 doesn't come out of a valve and injure someone.

21 Another example of a different valve. You
22 can see again all the different parts, moving parts and
23 design engineering that goes into a valve.

24 This valve, I believe, doesn't even have any
25 packing in it. So you have valves with gaskets. You have
26 valves that have non-asbestos gaskets. You have valves
27 with packing. You have valves without packing.

28 This I have on the side for you also.

1 This is a drawing for a Crane Co. valve for
2 a Navy ship. And you'll see down here, it's United States
3 Navy approved drawing.

4 And you'll see that, in fact, the cap
5 gasket -- appreciate it's hard to read these old
6 documents -- the cap gasket for this valve doesn't even
7 call for an asbestos material.

8 So here we have valves on Mr. Norris's ship
9 with Navy-specific, detailed drawings telling Crane Co.
10 what they wanted in the valve and how it had to be made
11 and no asbestos in it.

12 Another drawing. Also detailed Navy
13 schematics of what they wanted from Crane Co. in the
14 valves.

15 As I mentioned, we have different types of
16 valves on Mr. Norris's ship. And we have a number of
17 valves that simply do not in any respect cause an exposure
18 for Mr. Norris to asbestos from the Crane Co. valves.

19 Try to jump ahead for you.

20 Let's talk a little about asbestos and what
21 it is.

22 It's a fibrous material, as Mr. Panatier had
23 pointed out that comes from the earth. It was used
24 because it has great strength. It has a little
25 flexibility to it.

26 It was used because it had great stability.
27 It was used because you could weave it. And it was used,
28 as we'll talk about in a little bit, because it prevented

1 fires, it saved lives, and it made the ships a lot
2 lighter. Particularly lighter than the German ships that
3 we're fighting during World War II.

4 "Asbestos" comes from the Greek language.
5 It means inextinguishable. It can't be consumed. It
6 can't burn. It was literally called the magic mineral
7 when it was first discovered and used by people in
8 different societies.

9 King Charlemagne, if any of you are French
10 historians, actually impressed all his guests at a dinner
11 by throwing an asbestos blanket into the fireplace and it
12 didn't light up.

13 Asbestos is in Northern California. The EPA
14 has found there are deposits of it around San Francisco.

15 You'll see, and we'll talk more about later,
16 asbestos is in the air. Right now, when you go outside,
17 the evidence will show there's asbestos in the air. And
18 the evidence will show there's asbestos in everybody's
19 lungs or most everybody's lungs.

20 But, as I said, we'll be talking about
21 whether something is poisonous and whether, in fact,
22 there's a sufficient dose to create something to be
23 harmful.

24 There are different, as Mr. Panatier pointed
25 out, types of asbestos fibers.

26 And that has relevance to the science here.
27 Because this chrysotile fiber, which is what's in the
28 gaskets that we're talking about, or the packing -- see

1 how it's a curly shape, almost snake-like. In fact, the
2 mineralogists, guys who study rocks, call it serpentine in
3 structure. You see on the amosite and crocidolite, they
4 are more like daggers; more like sharp shards of glass.

5 What's significant about that, you'll hear
6 scientific evidence to show that the serpentine chrysotile
7 fibers in the gasket and packing material we'll talk about
8 in this case actually clears from the lungs. It doesn't
9 necessarily stay in the lungs.

10 But these other sharp, dagger objects, in
11 fact, can get into the lungs and cause a disease.

12 Why did the Navy require asbestos?

13 Let me be clear, we are not engaged in
14 diversions, to use a word I think I saw earlier. We are
15 engaged in trying to tell you a full and open story about
16 the time period we're talking about, about Mr. Norris,
17 about Crane Co., and what it was selling to the Navy, per
18 the Navy requirements.

19 The Navy needed valves for ships. The Navy
20 called upon Crane to make sure that it made the special
21 Navy valves that the Navy needed. And so much so that in
22 the mid 1940s when the U.S.S. BREMERTON was laid down and
23 commissioned and set a sail, the Navy gave an award to
24 Crane Co. for stepping up to help the war effort and for
25 providing the Navy with the valve that the Navy specified.

26 As I said, the asbestos was lightweight.
27 You could put -- think about it. Did you see how big that
28 BREMERTON was? It's like a city. It's called a heavy

1 cruiser. It's gargantuan. Take a cruise ship, if
2 anyone's been on a cruise ship. And you think how
3 gargantuan that is? Bigger. This is bigger still.

4 The evidence will show that when you're
5 designing that type of a big, heavy ship, you need to
6 think about weight in every respect. The smallest added
7 pound, ounces, can change the structure of the ship, the
8 agility of the ship, the ship's ability to withstand heavy
9 seas. And certainly the ship's ability to outmaneuver and
10 out-navigate what were then, unfortunately, the enemy
11 forces.

12 As I mentioned, the asbestos was important
13 because it saved lives. It reduced the risk of fire.
14 And, in fact, the evidence will show when fires were
15 aboard a ship, on asbestos-using ships, there were fewer
16 fire injuries and lives lost to fires on the ship than
17 when they stopped using asbestos later on, which the
18 evidence will show was not until the mid 1980s, and in
19 some instances later.

20 The ship's piping systems and other systems,
21 a lot of the equipment was covered with insulation. We'll
22 talk about it in a little bit. But we're not here for the
23 insulation. Mr. Panatier has acknowledged that. We're
24 here for gaskets and packing on valves.

25 The evidence will show that when the Navy
26 was giving us detailed specifications for the valves that
27 we were to make, with asbestos and without asbestos, the
28 Navy already had a full body of knowledge about those

1 insulation products. And about the asbestos.

2 And the Navy knew by 1952 that the asbestos
3 insulation products did present risks to workers. But
4 they did not have that understanding with regard to
5 gaskets and packing or valves.

6 The Navy did not give warnings to its
7 sailors about the risks from asbestos in the insulation
8 products. And it certainly didn't give warnings about
9 gaskets and packing because it didn't think they were
10 harmful.

11 That's what the record will show.

12 But remember the Navy's doing this for good
13 reason. The Navy's trying to make sure we have good,
14 strong, agile ships that are safe for the people, safe for
15 the sailors.

16 The Navy had programs in place in its
17 shipyards. And, candidly, you'll hear from experts that
18 they didn't do perhaps as good of a job as they could
19 have.

20 Does that mean that the Navy is guilty of
21 some murderous conduct? No way. Nobody's trying to
22 suggest that.

23 Does that mean that maybe the Navy could
24 have done a better job to protect its workers?
25 Plaintiffs' own experts, Mr. Norris's own experts will
26 admit, yes, the Navy could have done a better job.

27 The Navy, in the face of its knowledge about
28 the risks of these asbestos insulation products, not

1 gaskets and packing, did not take routine steps to control
2 the dust levels.

3 They didn't have special ventilation for the
4 asbestos workers. And they didn't tell the workers to use
5 a sort of wetting technique to try to suppress the dust.

6 But in some respects that happens when
7 you're in a time of war, when you're in a military
8 setting, and when you've got to make sure that you are
9 putting together the best equipment that, on balance, is
10 going to create the safest, usable equipment that will
11 help you outgun the enemy. Plain and simple.

12 The Navy at all times that we're talking
13 about in this case did not understand gaskets and packing
14 to present a problem. The evidence will show that the
15 Navy believed it to be safe.

16 Mr. Norris's ships, both in his reserve work
17 and in the U.S.S. BREMERTON time, were covered with
18 tons -- were filled with tons of insulation.

19 There are miles and miles of pipes running
20 around the U.S.S. BREMERTON and the other ships he was on.
21 And that collection of miles and miles of pipes had
22 asbestos insulation on it.

23 Their expert, whom you'll hear from or whom
24 they offered for a deposition in this case, Charlie Ay,
25 said that there were 75,000 tons of asbestos insulation on
26 the U.S.S. BREMERTON, alone. That's before he gets into
27 his reserve time and serves on other ships.

28 Okay. 75,000 tons of pipe insulation

1 compared to some gaskets and packing.

2 You could have hundreds of valves and you
3 could never get to a ton, no less 75,000 tons. You could
4 probably never get to hundreds of pounds.

5 Ship insulation would flake. Rough seas,
6 guns firing would cause that insulation from the pipes and
7 on the equipment to flake. Create a snow.

8 In fact, Mr. Panatier spoke about Dr. Lemen.
9 Dr. Lemen did testify in front of Congress. And when
10 Dr. Lemen testified in front of Congress, he testified
11 that the flaking of that insulation on board ships like
12 Mr. Norris served on was by itself enough to cause someone
13 contracting an asbestos disease.

14 Now, remember, the evidence will show he was
15 on the U.S.S. BREMERTON for two about years or so, then a
16 long number of years going on ships with the same pipe
17 insulation specified by the Navy and this same flaking
18 where he had additional asbestos exposures.

19 Workers, he has testified and he'll tell you
20 in his videotape, were working on not just valves, but on
21 the insulation. And creating dust with that insulation.
22 And creating dust with the more harmful, potent asbestos
23 fibers.

24 Please remember this: Crane Co. did not
25 manufacture, it didn't supply, it didn't tell the Navy to
26 use all that pipe insulation. That pipe insulation was
27 there because the Navy wanted it. Because the Navy told
28 somebody else what they wanted, and bought it from

1 somebody else.

2 The evidence will show that no steps by
3 Crane Co. at any time, no less 50 years ago, would have
4 changed the Navy's designs. Would have changed what the
5 Navy ordered Mr. Norris to do in his various work on the
6 ship. Or would have prevented Mr. Norris's exposure to
7 these other very harmful, very dusty products. Nothing
8 Crane Co. could have done would have changed those
9 exposures of his to those other products.

10 Let's talk a second about those other
11 products.

12 And this, again, this isn't diversion. This
13 is the factual record. This is the scientific record that
14 the evidence will show from Mr. Norris's testimony, to the
15 co-workers, the shipmates that have testified.

16 Those products included amosite-containing
17 products. Remember, one of those dagger-like fibers was
18 amosite.

19 Amosite pipe insulation, under the names
20 Kaylo, John Mansville (sic.), and Unibestos. Those are
21 products on the ships that created exposures that were the
22 cause of Mr. Norris's illness.

23 Insulating cements. That's a powder you mix
24 with water. I'll show you a picture in a second that
25 would be cemented, almost like a plaster of Paris, onto
26 equipment on a ship.

27 Eagle Pitcher 66. Quigley, Carey Canada.
28 Quick-set. Products that he was exposed to that the

1 experts in this case, including plaintiffs' experts, will
2 acknowledge caused mesothelioma.

3 Did we install or manufacture or supply that
4 insulation? I told you a second ago, no, and it's
5 important to emphasize that.

6 The manufacturers supplied it to the Navy.
7 These are pictures of bags of types of products that were
8 sold to the Navy and then mixed and turned into
9 insulation. John Mansville. Owens Corning. The Kaylo I
10 mentioned. Owens-Illinois. The Kaylo heat insulation.
11 Carey Canada.

12 Here's a picture of insulation workers.
13 Insulation workers -- not a valve worker. Not a
14 bystander -- insulation workers mixing asbestos materials
15 to make insulating material. And there is dust, ladies
16 and gentlemen. The evidence will show you that's the
17 dusty exposure that caused Mr. Norris's illness.

18 These are further pictures of the types of
19 products that were on board his ship.

20 And manufacturers -- and the manufacturers
21 not only supplied and required those products, but the
22 shipyards used those products too. The shipyards
23 specifically used those insulation asbestos products as
24 part of the work they did on ships and within the shipyard
25 itself.

26 So you have those products being put into
27 Mr. Norris's life by the Navy, by the suppliers of the
28 insulation, not Crane Co., and by the shipyards themselves

1 where he served.

2 What do we know about Mr. Norris and his
3 work with Crane Co. valves?

4 We know he's a bystander. Ladies and
5 gentlemen, listen to the evidence and the evidence will
6 show you he's a bystander who had some exposure, he
7 claims, by walking by other people.

8 He never installed. He never removed. He
9 never worked hands-on on a valve. That's what the
10 evidence will show.

11 He cannot testify to the use of asbestos
12 products with Crane Co. valves.

13 That the valves he says he walked by, Crane
14 Co. or not, actually for sure had asbestos in them. And
15 we've already seen some of the valves had asbestos and
16 some didn't.

17 He remembers passing by others working on
18 Crane Co. valves. He didn't work on them himself.

19 And there was no scientific recognition
20 until about 1964 or so, the evidence and science will
21 show, that a bystander was someone who was even at risk.

22 Remember, we're talking the mid '50s. It's
23 mid '60s before there's anyone thinking about and worrying
24 about whether a bystander could get into exposure to
25 asbestos that would create a risk. And, even then, they
26 weren't thinking about gaskets and packing.

27 I'd like to go through quickly what the
28 expert testimony likely will be in this case.

1 That testimony will include testimony, as
2 Mr. Panatier has said, from Dr. Lemen.

3 Dr. Lemen has some very interesting, well
4 researched conclusions.

5 He concludes that it's an employer who
6 stands or stood in the best place to make sure a worker, a
7 seaman was protected from any sort of a hazard or risk in
8 the workplace.

9 He concludes that it was not until 1998 that
10 he would have ever thought to worry about gasket and
11 packing.

12 Remember, Mr. Panatier said he's the former
13 head of NIOSH. He's the former government top official.
14 They gave him an admiral's rank. Who did extensive
15 research, I think was the phrase, on asbestos and the
16 risks of asbestos.

17 And his testimony has been and will be that
18 it was not until 1998 that he would have ever thought to
19 worry about asbestos gaskets and packing.

20 He also, as I said a little bit before,
21 testified that the ships would flake. And that that
22 flaking created hazardous exposures from those insulation
23 products we saw that to cause Mr. Norris's or other
24 seamen's illness.

25 Experts we will present -- I won't go
26 through them all -- will include Admiral Sargent. He's a
27 rear admiral in the Navy. He's a professional engineer.
28 He has done extensive work over years in the Navy. And

1 Admiral Sargent will help you to see and understand the
2 Navy world and what the Navy knew and did and why it did
3 it and the good reasons it did it.

4 Sam Forman. He's an occupational medicine
5 doctor. Dr. Forman was a Navy doctor. Dr. Forman will
6 tell you that the Navy knew into the 1920's about the
7 risks of asbestos. And particularly the insulation
8 products.

9 Dr. Forman was actually commissioned, he was
10 ordered by the Navy to do a study to look back on the
11 Navy's history of what it was doing with asbestos products
12 and what it knew about the risks. And his conclusion is
13 that the Navy knew as much, if not more than, at times,
14 anybody in the regular private sector or business about
15 the risks of asbestos.

16 Fred Boelter. He's an industrial hygienist.
17 An industrial hygienist is somebody who studies, the
18 evidence will show, a workplace, a setting; whether
19 somebody is exposed to a hazardous dose or poison in the
20 workplace setting.

21 Fred Boelter has studied valves, he has
22 studied gaskets and packing.

23 His studies show that there is no release of
24 asbestos from valves or from gaskets and packing that
25 would ever rise to a level that would be harmful.

26 The phrase "dose is in the poison," like we
27 talked about aspirin, two aspirin versus a hundred
28 aspirin. The evidence will show if you're exposed to

1 asbestos at a low dose, then you will not contract a
2 disease from it or an illness from it. Which is precisely
3 why, the evidence will show, none of us are walking around
4 the street with respirators on, even though there is
5 asbestos in the background of our society, in the air of
6 our society.

7 William Hughson. Who is a doctor and who
8 has done work and as professor at the University of
9 California.

10 He's a treating physician as well as an
11 expert. And in his expertise, he will come here and tell
12 you about the medicine of asbestos and the fact that these
13 low-dose exposures are not going to be the items or the
14 exposures that caused Mr. Norris's illness.

15 I think in one of the days of our talking a
16 few days ago I mentioned that asbestos is not asbestos is
17 not asbestos.

18 What the evidence will show and what I would
19 ask you to keep in mind is that this case isn't just about
20 asbestos or asbestos dust.

21 This case is about different products,
22 different types of asbestos, and different levels of
23 asbestos dust that Mr. Norris was exposed to.

24 The products that he was exposed to, the
25 asbestos in them, the dust generated by them are
26 dramatically different, from the gaskets and packing to
27 the insulation that you saw earlier creating clouds of
28 dust.

1 Mr. Panatier walked you through sort of a
2 time line of what was known, he claims, back into the late
3 1800s. Let's talk a little about a time line.

4 The early asbestos studies and concerns were
5 about miners. Millers of asbestos. People who were
6 mining it out of the ground, who were milling it in a mill
7 to weave it into a fiber. People who were exposed to
8 asbestos in a heavy mining, milling operation.

9 The notion that someone working with the
10 product, like an insulation, from John Mansville, an end
11 user, if you will, of a product like you might buy down at
12 Home Depot, that understanding did not happen until the
13 early 1960s with a gentleman named Dr. Selikoff. And the
14 evidence will show both sides agree he's sort of the
15 grandfather of the science of asbestos.

16 And the evidence will also show that
17 mesothelioma wasn't even recognized as a disease in the
18 medical community until 1960. With a study by Dr. Wagner.
19 And most everyone agrees on that.

20 '64, Dr. Selikoff worried about insulation
21 products. Earlier, the Navy had its own knowledge. '64
22 or thereabouts bystanders are first being worried about.
23 1960 before people are talking about mesothelioma.

24 These are important distinctions that I'd
25 ask you to draw your attention to as the science is
26 presented to you.

27 Gaskets and packing. What do you we know
28 about gaskets and packing? Let's just jump to 1967. When

1 you look at what Dr. Selikoff was doing and saying about
2 the risks of asbestos and about gaskets and packing, the
3 focus was on insulation products. And, in fact,
4 Dr. Selikoff has said that, fortunately, there are many
5 other safe asbestos products out there, or words to that
6 effect, that are very important and serve a vital use in
7 our society.

8 And Dr. Selikoff, in a book he published in
9 1978, actually says that gaskets and packing do not
10 present a risk.

11 1978. 20 years, two decades after
12 Mr. Norris's exposure on the U.S.S. BREMERTON.

13 I watch football. I use the football
14 analogy. If you don't like football, then think of a
15 different one with me, please.

16 The plaintiffs have to, as they acknowledge,
17 meet their burden of proof.

18 THE COURT: Counsel, that's argument.

19 MR. BUDD: I'm sorry, was I in the way, Your Honor?

20 THE COURT: No. That's argument.

21 MR. BUDD: I apologize, Your Honor.

22 This case is going to come down to two
23 issues. Two issues in general. There will be other
24 issues along the way, but two key issues: Whether the
25 Crane valves and that gasket and packing encased in those
26 valves, or even when it was removed, if it caused some
27 dust, which dust would be small compared to the dust
28 exposures from those other insulation products, whether

1 they were -- whether the gaskets and packing were a
2 substantial contributing factor to Mr. Norris's illness.

3 The answer will be no, they weren't.

4 Whether the valves were defective, the
5 answer will be no, they weren't.

6 Again, the case evidence we submit will show
7 you that the Crane Co. valves were safe.

8 That Crane Co. exercised reasonable care at
9 all times.

10 That the gaskets and packing used with the
11 valves were not a substantial contributing factor to
12 Mr. Norris's illness.

13 And that the other more potent, more dusty,
14 more friable insulation products are what really should be
15 looked to medically for having caused his illness.

16 I can't thank you enough for your time and
17 all the attention you've given us this week. We look
18 forward to working with you during the course of this
19 trial. We thank you again.

20 THE COURT: Miss Liu.

21 MS. LIU: Your Honor, Thorpe Insulation Company
22 reserves its opening statement at this time.

23 THE COURT: Very well. Ladies and gentlemen --

24 May I see counsel at sidebar without the
25 reporter, please.

26
27 (Proceedings were held
28 at sidebar not reported)

1 THE COURT: Ladies and gentlemen, as far as you're
2 concerned, we are completed for the day. We will start
3 with evidence on Monday. I have some items to take up
4 with counsel.

5 Please file out quickly and quietly. We'll
6 start at 8:45. Remember, if any one of you are not here,
7 we can't start.

8 Again, remember the admonition. It's a
9 very, very serious admonition. Don't discuss the case,
10 don't discuss any aspect of the case with anyone, please.
11 If you do, it ruins the whole atmosphere we're trying to
12 create. Keep your own counsel, and then when the case is
13 finally submitted to you, then you can discuss the case
14 among yourselves. And afterwards, you can do whatever you
15 want. But when the case is over, not until then

16 Thank you. We'll see you on Monday at 8:45.
17 Please file out.

18
19 (The following proceedings were
20 held in open court outside the
21 presence of the jury.)
22

23 THE COURT: On the record, Counsel.

24 MR. PANATIER: Yes, Your Honor. We've been told
25 that a gentleman named Mr. Scoreceletti is here. I
26 apologize, I don't know his first name.

27 We were not told until today that this
28 gentleman would be here. Mr. Budd made reference to him

1 in opening statement.

2 I believe that I have a right to call him
3 adversely under CCP section 776.

4 This is the -- I'm sorry, this is the
5 Evidence Code. Apologize. California Courtroom Evidence.

6 Section 776(a), this states that, (Reading:)

7 A party to the record of any civil
8 action or a person identified with such a
9 party may be called and examined as if under
10 cross-examination by any adverse party at any
11 time during the presentation of evidence by
12 the party calling the witness. A witness
13 examined by a party under the section may be
14 cross-examined by all other parties to the
15 action --

16 THE COURT: Sir, I don't need you to read the law
17 to me.

18 MR. PANATIER: Your Honor, I just believe that at
19 this time I've requested that I call him adversely so I
20 can begin my evidence with Mr. Scoreceletti.

21 THE COURT: What would you be asking him?

22 MR. PANATIER: I would be asking him, basically,
23 why he's here, who he is, what knowledge he has.

24 THE COURT: This is not a discovery proceeding,
25 Counsel. Your request is denied.

26 MS. LIU: Your Honor, I would like to renew Thorpe
27 Insulation's motion for nonsuit even despite --

28 THE COURT: Speak up, Counsel. It's very difficult

1 to hear you.

2 MS. LIU: Okay. Thorpe Insulation Company would
3 like to renew its motion for nonsuit at this time, even
4 with the reopening of plaintiffs' opening statement.
5 It -- we do not believe that a causal relationship has
6 been established, even in opening statements, between
7 Thorpe Insulation and Mr. Norris.

8 THE COURT: I think there was enough there to keep
9 you for awhile. Let's see what happens. And at the
10 conclusion of the presentation of plaintiffs' case, I'll
11 be glad to hear from you again.

12 MS. LIU: Thank you, Your Honor.

13 THE COURT: Anything else, Counsel?

14 MR. PANATIER: No, Your Honor.

15 THE COURT: All right.

16 MR. BUDD: I think there is one issue, and we'll
17 have to just figure it out.

18 Under the three-two-one rule, they gave us
19 designations two days ago or yesterday, we gave them
20 objections and counter-designations for Mr. Norris's
21 videotape testimony.

22 My concern is if they want to play it
23 Monday, we have to have rulings on the back-and-forth
24 before we put the videotape together over the weekend. If
25 they're not going to play it Monday, then we can do it
26 Monday. Put the videotape together Monday night.

27 MR. PANATIER: Your Honor, I've already told them
28 that I'm not calling Mr. Norris by video until at least

1 Thursday next week.

2 MR. BUDD: Okay.

3 MR. PANATIER: Because we have Dr. Lemen first.

4 THE COURT: Very well.

5 MR. BUDD: Your Honor, have a great weekend.

6 THE COURT: Thank you.

7

8 (At 3:00 p.m., an adjournment was taken
9 until Monday, August 21, 2006 at 8:45 a.m.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 96

HON. VICTOR E. CHÁVEZ, JUDGE

JOSEPH HENSON NORRIS, et al.)

Plaintiffs,)

vs.)

AMPCO PITTSBURGH CORP., et al.,)

Defendants.)

No. BC340413

REPORTER'S CERTIFICATE

I, NAREN JANSEN, Official Reporter of the
Superior Court of the State of California, County of Los
Angeles, do hereby certify that the foregoing PAGES 420
through 469 comprise a full, true, and correct partial
transcript of the proceedings taken in the matter of the
above-entitled cause on August 18th, 2006.

Dated this 21st day of August, 2006.

_____, CSR NO. 3827
OFFICIAL REPORTER