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CAUSE NO. 01-14-0294

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MICKELENE SENATORE,) IN THE DISTRICT COURT OF
et al.,)

4

vs.

) MATAGORDA COUNTY, TEXAS

5

) 23rd JUDICIAL DISTRICT

6

GARLOCK, INC.,
et al.,)

7

CAUSE NO. 21120-BH02

8

BORIS KATZ, et al.,) IN THE DISTRICT COURT OF

9

vs.

) BRAZORIA COUNTY, TEXAS

10

GARLOCK, INC.,) 23rd JUDICIAL DISTRICT
et al.,)

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415 Madison Avenue
New York, New York
November 11, 2002

16

17

10:39 a.m.

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20

Deposition of MATTHEW SWETONIC, held

21

at the offices of Hanly & Conroy,

22

pursuant to Subpoena, before LINDA DEVECKA,

23

a Notary Public of the State of New York.

24

25

□

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A P P E A R A N C E S :

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Attorneys for Halliburton in Katz case only
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BY: WARREN WESTBERG, ESQ.

ALSO PRESENT:

KRISTEN ZARNETSKE, Videographer
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DARA HEGAR, ESQ.
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MATTHEW SWETONIC, called as a
witness, having been duly sworn by a Notary
Public, was examined and testified as
follows:

EXAMINATION BY

MR. LANIER:

Q. I've got your name down as Matthew
swetonic. Is that right?

A. That's correct.

Q. You sign a lot of letters "Matt." Is
that what you typically go by?

A. Yes.

Q. Mr. Swetonic, I met you right before
your deposition started. My name is Mark Lanier.

16 I'm a lawyer. I represent some victims of
17 mesothelioma down in Texas, and I need to take
18 your deposition on some stuff.

19 I apologize to you for the late start.
20 I don't think any of it's our fault. You have
21 been sitting here patiently for an hour waiting
22 and I appreciate that.

23 I need a little bit of your background
24 for the record. It's stuff that I know but I've
25 got to have it in a testimony sense.

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2 Can you tell me where you were born?

3 A. I was born in Brooklyn, New York.
4 October 15, 1942.

5 Q. You just turned 60?

6 A. That's correct.

7 Q. You graduated from high school I guess
8 here in New York?

9 A. No. We moved to Pennsylvania about
10 1946 and I grew up in a town called Easton,
11 Pennsylvania.

12 Q. Can you spell that?

13 A. E-a-s-t-o-n. That's where I went to
14 grade school and high school.

15 Q. You got out of high school I assume
16 somewhere around 1960?

17 A. 1960, correct.

18 Q. Went to Princeton, I believe?

19 A. No. University of Pittsburgh.
20 Q. What did you get your degree in?
21 A. Writing. English writing.
22 Q. I saw it in one place as creative
23 writing. Is that right?
24 A. No. Well, yes, I guess so.
25 Q. That's the way you were introduced when

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1 Swetonic
2 you were giving some presentation at one of these
3 asbestos meetings in the industry.
4 Do you have any fuss with that?
5 A. No.
6 Q. You get a degree in creative writing.
7 What year was that?
8 A. 1964.
9 Q. Then you went to get another journalism
10 type degree from Columbia?
11 A. That's correct.
12 Q. When did you get that degree?
13 A. 1965.
14 Q. That's a Master's degree in writing?
15 A. A Master of Science, yes, in
16 journalism.
17 Q. Do you have any education in -- any
18 degrees I guess I should start out with, in any
19 kind of science area?
20 A. No.

21 MR. GINSBERG: Mr. Swetonic, wait for
22 the question to be finished before you give
23 your answer so there's a complete record and
24 if anyone wants to give an objection, there's
25 time.

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1 Swetonic

2 A. If I may say, I did sort of specialize
3 in science writing in the second term of my year
4 at Columbia.

5 Q. You were in Columbia for a year?

6 A. One year.

7 Q. So you spent six months learning how to
8 write science?

9 A. No, that would be an exaggeration. We
10 were required to do a long feature piece in an
11 area in the specialty and I picked science, and I
12 actually wrote one on global cooling at that time.

13 Q. That's out of trend today, isn't it?

14 A. Yes. It was in trend in those days.

15 Q. Then we were going to freeze the world.
16 Now we are going to melt all the ice caps and
17 flood the world.

18 When we talk about your science
19 training and background, you wrote an article on
20 science when you were in Columbia?

21 A. That's correct. Also I started out in
22 engineering at the University of Pittsburgh, so I
23 had some considerable amount of science in there

24 before I switched into writing.

25 Q. Before you got your creative writing

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1 Swetonic

2 degree you were an engineering student for a
3 while; is that right?

4 A. That's right. Yes.

5 Q. How long were you an engineering major?

6 A. One year.

7 Q. Was that your first year of college?

8 A. Yes.

9 Q. That year mainly you are taking a bunch
10 of preliminary courses, aren't you; basics?

11 A. Basics in science but not in math
12 because I had taken some advanced math courses
13 when I was in high school so I was able to kind of
14 jump into a little higher course.

15 Q. Your scientific training is a piece you
16 wrote in Columbia on global cooling and an
17 advanced science or advanced math class you took
18 your first year in college at Pittsburgh, is that
19 fair to say?

20 A. A couple of advanced math courses, yes.

21 Q. Other than college degrees, tell me
22 what kind of formal training you have in science.

23 A. Formal?

24 Q. Yes, sir.

25 A. None.

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2 Q. Do you have any other schooling besides
3 what you have told us about at Pittsburgh and
4 Columbia?

5 A. No.

6 (Swetonic Exhibit 1, deposition
7 subpoena, marked for identification, as of
8 this date.)

9 Q. Sir, I have put in front of you a
10 document we have marked as Exhibit No. 1. It's
11 the legal document we had to file with the court
12 in Texas and the court here in New York to tell
13 them that we wanted to take your deposition.

14 Have you ever seen this before?

15 A. Yes.

16 Q. It's got a subpoena attached to it to
17 compel you to be here and to bring some documents.
18 Do you see that part?

19 A. Uh-huh.

20 Q. Is that a "yes" answer?

21 A. Yes.

22 Q. I don't mean to be pert but "uh-huh's"
23 and "huh-uh's" read a lot alike when she types
24 them. I want to make sure anybody reading this
25 knows which one that was.

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2 A. I will try to be clear.

3 Q. Did you bring the documents that we
4 subpoenaed you to bring?

5 A. Such as I still had in my possession,
6 which were not very many.

7 MR. LANIER: No, there weren't. I was
8 surprised.

9 (Swetonic Exhibit 2-A, laminated card
10 called "Asbestos and Health Questions and
11 Answers," marked for identification, as of
12 this date.)

13 (Swetonic Exhibit 2-B, brochure
14 entitled "Asbestos in the Atmosphere, a
15 Hazard to Health?", marked for
16 identification, as of this date.)

17 (Swetonic Exhibit 2-C, polyvinyl
18 chloride brochure, marked for identification,
19 as of this date.)

20 (Swetonic Exhibit 2-D, asbestos and
21 health information file, marked for
22 identification, as of this date.)

23 (Swetonic Exhibit 3, Crisis Management
24 book chapter entitled "Death of the Asbestos
25 Industry," marked for identification, as of

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1 Swetonic

2 this date.)

3 Q. I've marked the documents that you've
4 given us. They've got orange Post-It's on them.
5 I added the Post-It's so I wouldn't write on your
6 documents.

7 If you will take a moment and look at
8 these documents, tell me whether or not these are
9 the documents you brought us.

10 A. Yes.

11 Q. Let's identify them for the record so
12 that we know what we've got.

13 Exhibit 1 the court reporter already
14 noted is the deposition subpoena. I have marked
15 the documents you produced as Exhibit No. 2, and I
16 put alphabetical letters next to them to show the
17 different documents within Exhibit 2 that you
18 produced.

19 So Exhibit 2-A, would you tell us what
20 that is, please?

21 A. This is a Xerox copy of what a -- a
22 printed card, laminated card that was produced and
23 it's called "Asbestos and Health Questions and
24 Answers." And this was put out by the Asbestos
25 Information Association and it has a list of the

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2 corporations that were sponsored in that
3 organization at the bottom here.

4 Q. Why is it you kept that document when
Page 13

5 you didn't keep much of anything else?

6 A. The things that I kept were basically
7 all printed materials and I just kept them as
8 examples of the work I had done when I was working
9 for the various -- for the trade association.

10 Q. This Exhibit 2-A is your work?

11 A. I'm not 100 percent sure to be
12 absolutely true whether I wrote the thing or not.
13 It was produced at that time, about the time that
14 I was working for the trade association. whether
15 I actually wrote this or not, I'm not 100 percent
16 sure.

17 Q. Where did you find that before your
18 deposition? Where did you have it?

19 A. Just in a pile of stuff. This thing
20 here (indicating) was a folder and it was all
21 stuck in that folder.

22 Q. You had a folder that said -- what is
23 the title on the folder?

24 A. It's this one right here (indicating).
25 Asbestos and health information file.

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2 Q. That's what we've marked as Exhibit 2-D
3 as in David?

4 A. Right.

5 And this was an accordion folder and
6 these things were all just stuck inside of it.

7 Q. where do you keep this folder?
8 A. I keep it at the office.
9 Q. where is your office?
10 A. The Met Life Building.
11 Q. Do you have anything to do with Met
12 Life?
13 A. No. I work for a consulting firm.
14 Q. Exhibit 2-B, would you tell the folks
15 what that is, please?
16 A. This was a brochure and it's called
17 "Asbestos in the Atmosphere. A Hazard to Health?"
18 and it basically discusses general public exposure
19 as opposed to occupational exposure to asbestos.
20 And this was produced after the trade association
21 moved to Washington which means it was produced
22 after I left them.
23 Q. why is it you kept that?
24 A. Because after I left the trade
25 association in 1973 they retained me in my next

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2 job for approximately a year so that I could train
3 my successor, and I believe I did write this one
4 in that time period, that year period.
5 Q. I show you Exhibit No. 2-C and ask you
6 what that is, please.
7 A. This has nothing to do with asbestos
8 whatsoever. This is a brochure called "PVC,"
9 meaning polyvinyl chloride, it's "Health and

10 Safety. Answers to ten questions most often asked
11 about polyvinyl chloride."

12 This was put out by the Society of the
13 Plastics Industry in the time frame when vinyl
14 chloride was a health issue and a health concern.
15 I see it references studies in '75 and '76 here so
16 this was obviously put out no earlier than 1976.
17 when after that, I don't know.

18 Q. I am going to show you Exhibit 2-D and
19 ask you what that is, please.

20 A. This is a copy of the folder that I
21 mentioned a few seconds ago. It's called
22 "Asbestos and Health Information File." It was
23 produced in April of 1973 and this is essentially
24 what you would refer to as a media kit.

25 This was sent out to approximately

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2 3,000 reporters, science editors, magazine
3 writers; people who basically were covering the
4 asbestos health issue, and it contained six
5 things. Five position papers: Part I, "Asbestos
6 and Health"; Part II, "What Asbestos Is"; III,
7 "Protecting the Asbestos Worker"; Part IV,
8 "Asbestos and the General Public"; and Part V,
9 "Profile of the AIA," meaning the Asbestos
10 Information Association of North America; and Part
11 VI, it contains a number of medical papers. Let

12 me open that up as to what medical papers we sent
13 out to 3,000 reporters.

14 "Regulation of cigarette smoking to
15 risk of death of asbestos-associated disease among
16 insulation workers in the United States."

17 MR. GINSBERG: Just for a second before
18 you go on to who wrote it, I believe you
19 misread it as "regulation." It says
20 "relation."

21 A. Relation, I am sorry.

22 "Relation of cigarette smoking to the
23 risk of death of asbestos-associated disease among
24 insulation workers in the United States" by
25 E. Cuyler Hammond of the American Cancer Society,

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2 and Dr. Irving Selikoff.

3 Second one is "Mortality from Lung
4 Cancer and Other Causes among Workers in an
5 Asbestos Textile Factory." This is by J.F. Knox,
6 S. Holmes, Sir Richard Doll and I.D. Hill.

7 A study called "Brake Lining
8 Decomposition Products" by Jeremiah Lynch of the
9 National Center for Urban and Industrial Health,
10 which I believe was part of the Public Health
11 Service.

12 "The Biological Effects of Asbestos.
13 Report Of The Advisory Committee On Asbestos
14 Cancers To The Director Of The International
Page 17

15 Agency For Research On Cancer, A Division Of The
16 World Health Organization." It's essentially a
17 summary of a meeting that was held in Lyon,
18 France, October 5-6, 1972, which I also attended.

19 A thing called "Biologic Effects of
20 Atmospheric Pollutants. Asbestos. The Need For
21 And Feasibility Of Air Pollution Controls,"
22 prepared by the Committee on Biologic Effects of
23 Atmospheric Pollutants, Division of Medical
24 Sciences, National Research Council, National
25 Academy of Sciences, 1971."

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2 "Mortality in the Chrysotile Asbestos
3 Mines and Mills of Quebec," reprinted from the
4 Archives of Environmental Health, by Corbett
5 McDonald, et al.

6 Then the only other two things are --
7 these were photographs that are included in the
8 media kit. One is of a bag house dust collection
9 system used in plants, and the other one is a
10 picture of protective safety clothing. This would
11 be asbestos covered in some sort of aluminum foil
12 on the outside.

13 And that's what was in there.

14 Q. I appreciate you being so thorough in
15 telling us what Exhibit 2-D is. Why did you keep
16 it?

17 A. Exactly for the same reason. As an
18 example of my work product when I was working in
19 the industry.

20 Q. How do you choose which examples of
21 your work product to keep and which to destroy?

22 A. Basically these were all --

23 MR. GINSBERG: Objection. There wasn't
24 any testimony that he destroyed anything.

25 Q. Which ones you didn't keep, I assume

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1 Swetonic

2 you threw them away. Didn't you?

3 A. In terms of printed documents with one
4 exception, these are the only ones that I worked
5 on.

6 Q. The lawyer brought up an interesting
7 point, though, and that is, what happened to all
8 the other stuff you did? Was it stolen or did you
9 throw it away?

10 A. No. If you take a look at the asbestos
11 situation, the trade association continued in
12 existence after I left it, so all the files, all
13 the documents, remained with the trade
14 association.

15 Q. But I read like this thing that is
16 marked Exhibit No. 3, "Death of the Asbestos
17 Industry." It's got your name on it. It looks to
18 me like something you wrote.

19 A. Yes.

20 MR. DePHILLIPS: Objection, form.

21 A. This was a chapter that I wrote for a
22 book on crisis management on my experience in the
23 asbestos industry. It was not something I
24 produced while I was working for the asbestos
25 industry.

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2 Q. Sir, do you still have a copy of this
3 at home?

4 A. Yes, I think I do.

5 Q. Why didn't you bring this?

6 MR. GINSBERG: I believe I did not
7 think that was responsive to the subpoena,
8 Mr. Lanier.

9 Q. Sir, doesn't this reference work you
10 did while at Hill & Knowlton or while at
11 Johns-Manville?

12 MR. GINSBERG: I don't think that the
13 subpoena has any provision that reads as
14 you've just stated but if you want to go
15 through it, feel free to. You obviously have
16 a copy of the article. I don't believe there
17 was anything else that Mr. Swetonic has that
18 I reviewed. It was this one item that I
19 thought was not responsive.

20 A. There was one other document -- not
21 document, printed material, that for whatever

22 reason I do not have a copy of, and that is --
23 we also did a booklet for workers in
24 the asbestos industry kind of summarizing what the
25 1972 OSHA standards were about and what the

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2 companies were required to do to protect them in
3 terms of medical monitoring and stuff like that.
4 Q. Sir, take the document subpoena that we
5 gave you, please, and look at No. 13 on the
6 document subpoena. It's on page 3.

7 It says, "All documents regarding other
8 tobacco, chemicals or asbestos-related companies,
9 trade associations, insurers or other
10 organizations of which you are or have been
11 associated with which addressed in any way
12 tobacco, chemicals or asbestos, or tobacco,
13 chemicals or asbestos-related diseases, illnesses,
14 claims or coverage." Is that basically what it
15 says?

16 A. Yes.

17 Q. Well, sir, don't you think that your
18 "Death of the Asbestos Industry" is a document
19 regarding asbestos-related companies and trade
20 associations you've been a part of?

21 MR. GINSBERG: Mr. Lanier, as I said,
22 that was my decision not to produce it. I
23 did not read the subpoena as requiring
24 production of that. Mr. Swetonic was not

25 involved in that decision.

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1 Swetonic

2 MR. LANIER: Okay. Well, I still get
3 to ask Mr. Swetonic what his opinion is.

4 Q. Sir, don't you believe that document
5 No. 3 would be responsive to No. 13?

6 DI MR. GINSBERG: I will direct him not to
7 answer. It's protected by attorney-client
8 privilege.

9 Q. Sir, how many other documents did you
10 and your lawyer decide not to produce?

11 MR. GINSBERG: Objection. Abusive. I
12 already told you this was the only document
13 that I reviewed other than those that we
14 produced. There were no other documents in
15 Mr. Swetonic's files.

16 Q. Sir, where do you keep all of your
17 files?

18 A. Generally at the office.

19 Q. When you write a chapter for a book, do
20 you keep a copy of the draft that you wrote from?

21 A. Oh, no.

22 Q. You are a creative writer --

23 A. Besides, I might point out, that was
24 done in 1993. So that's nine years ago.

25 Q. You don't keep a copy of your edits;

1 Swetonic
2 you don't keep a copy of your rough drafts, you
3 don't keep a copy of your earlier papers?
4 A. No.
5 Q. Do you keep a copy of your speeches you
6 give?
7 A. I don't really give very many speeches.
8 It's just kind of a -- it's kind of an
9 off-the-cuff thing. It's mostly for PR people on
10 how you approach managing an issue.
11 Q. Sir, when you give speeches, sometimes
12 you will write your speech out word-for-word and
13 read it?
14 A. I don't.
15 Q. Have you ever?
16 A. No, I don't think so.
17 well, maybe. Maybe I did -- I have on
18 occasion. I don't do it that way any longer.
19 Q. You did back there when you were giving
20 asbestos speeches, didn't you?
21 MR. GINSBERG: There is no testimony
22 that he gave asbestos speeches, Mr. Lanier.
23 MR. LANIER: well, everybody knows it.
24 MR. GINSBERG: If you would like to
25 give the deposition, please do. If you have

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got a question, please limit it to proper

3

questions.

4

MR. LANIER: That's a proper question

5

down in Texas. I mean, heck, I could object

6

to him telling me his name is Matthew

7

Swetonic because that's based on hearsay;

8

someone had to have told him that, he didn't

9

actually do it himself. We can get that

10

nitpicky.

11

Q. Your lawyer may not know it. Didn't

12

you give a speech on asbestos, sir?

13

A. Yes, I have given a speech on asbestos.

14

Q. Okay. Now that your lawyer knows that.

15

Sir, you've given speeches on asbestos

16

where you wrote it out, didn't you?

17

MR. GINSBERG: Objection. You've just

18

said now that he has given speeches and

19

previously you pointed out he gave a speech.

20

So could we just please play straight with

21

him.

22

MR. LANIER: This is like Clinton

23

saying, "Whatever is, is."

24

MR. GINSBERG: Now we are talking about

25

one of your Texas guys.

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MR. LANIER: Clinton is not from Texas.

3 MR. GINSBERG: Close enough.

4 MR. LANIER: I believe his wife is a
5 senator from your state, not mine.

6 Q. I am going to give you a copy of an
7 exhibit we are going to call Swetonic Exhibit
8 No. 4.

9 (Swetonic Exhibit 4, ATI meeting
10 minutes and speaker introduction page, marked
11 for identification, as of this date.)

12 Q. The first page of it is just minutes
13 from an ATI meeting. The second page is an
14 introduction about the speaker, and I would like
15 for you to start on page 2.

16 MR. GINSBERG: Let's give the witness a
17 minute just to look at the entire document,
18 please.

19 MR. LANIER: You look at it. When you
20 are ready to answer questions, you tell me.

21 (Witness reviewed document.)

22 MR. LANIER: That last page is just an
23 affidavit proving up the speech. It's part
24 of the Asbestos Textile Institute minutes.
25 It's not part of the speech.

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1 Swetonic

2 Q. Now that you have had a chance to read
3 the speech, I would like to ask you a couple of
4 questions about it.

5 If you will look initially at page 2,
Page 25

6 which is the "About the Speaker" page, you see
7 that?
8 A. Yes.
9 Q. It calls you a speaker, doesn't it?
10 A. Where does it say that?
11 Q. It says "About the Speaker."
12 A. Yes, okay.
13 Q. And the name of the speaker is
14 Matthew M. Swetonic, right?
15 A. Yes.
16 Q. So you do give speeches, don't you?
17 MR. GINSBERG: Objection. Again, we
18 have been through this before. It's abusive.
19 It's a statement. You didn't ask who wrote
20 this page and it's entitled "About the
21 Speaker."
22 MR. LANIER: Yes, sir.
23 Q. Aren't you the speaker?
24 A. Yes. At this speech, yes.
25 Q. This is a speech you gave, isn't it?

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1 Swetonic
2 A. A speech.
3 Q. If you look at the next page, you will
4 see it even says, "A Presentation Before the
5 Asbestos Textile Institute"; right?
6 A. I'm not disagreeing with that.
7 Q. Your lawyer said there wasn't any

8 evidence you ever gave any speeches.
9 MR. GINSBERG: Objection. Now you are
10 mischaracterizing what I said. So move on,
11 Mr. Lanier. Please.
12 Q. Sir, you have given asbestos speeches
13 before, haven't you?
14 A. I have given one at least that I
15 remember, and that's this one.
16 Q. You presented in front of the
17 government in hearings over a 30-day period in
18 St. Louis and New York --
19 A. That's not speeches. Those aren't
20 speeches.
21 Q. You didn't say anything?
22 A. I spoke at the OSHA hearing.
23 Q. Yes.
24 A. But that's not a speech.
25 Q. What do you think it is?

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1 swetonic
2 A. It's a presentation to a regulatory
3 agency. That's not a speech.
4 Q. You made a speech to the regulatory
5 agency.
6 A. Maybe you refer to those as speeches in
7 Texas. We don't here in the North or in
8 Washington.
9 Q. What makes a speech a speech?
10 A. A speech is to a group of people who

11 are assembled there for some reason.

12 A presentation on your industry's
13 position to a regulatory agency is simply that;
14 it's a presentation to the regulatory agency.

15 Q. Was your presentation written or was it
16 given in the form of speech?

17 A. It was written.

18 I am sorry. It was two things. One,
19 we had to submit our position in advance of the
20 hearing and then we summarized it at the hearing.

21 Q. So, in other words, you did give a
22 presentation in the form of speech at the hearing
23 as well as in the form of writing; is that fair to
24 say?

25 A. Yes.

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1 Swetonic

2 Q. You gave a presentation to a group that
3 was in a speech form but you don't want to call it
4 a speech, and in addition to that, you gave a
5 presentation to this group in a speech form that
6 you do call a speech?

7 A. Yes.

8 Q. The presentation you gave to this group
9 in a speech form that you are willing to call a
10 speech, it's in writing also, isn't it?

11 A. It is.

12 Q. Why didn't you keep a copy of that?

- 13 A. I have no idea. Probably --
- 14 As I said, the things I kept were all
- 15 printed documents. I have no idea why I kept it.
- 16 It just stayed in the files. It wasn't a thing
- 17 that was in that folder.
- 18 Q. Did you throw it away or what did you
- 19 do with it?
- 20 A. No. It probably remained with the
- 21 trade association.
- 22 Q. You think your original speech paper
- 23 that you had, you gave it to them after you read
- 24 it?
- 25 A. To these people (indicating)?

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- 1 Swetonic
- 2 Q. Yes.
- 3 A. I have no idea whether they asked for a
- 4 copy or not.
- 5 Q. I am going to ask you some meat
- 6 information type stuff on that article later but
- 7 right now I am still trying to get at what
- 8 documents you brought and what you haven't.
- 9 Are you telling me that all of the
- 10 documents you brought, 2-A, 2-B, 2-C, 2-D, were
- 11 just documents in one folder, one expandable
- 12 folder?
- 13 A. Yes.
- 14 Q. Why did that expandable folder -- let
- 15 me get these straight for you.

16 why did that expandable folder have a
17 polyvinyl chloride document in it?

18 A. Because that was the one document --
19 when I say "document," in terms of a pamphlet that
20 I produced for those people when I was working on
21 that particular thing.

22 Q. So you have a folder that has got not
23 only three asbestos articles but it has got a
24 polyvinyl chloride article in it?

25 A. It's not an article. It's a question

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1 Swetonic
2 and answer folder, yes. As I recall, that's the
3 only thing in a booklet form that we ever did for
4 SPI on that issue.

5 Q. Some background information on you,
6 please.

7 Can you tell me how your health is?

8 A. Fine. I have high blood pressure which
9 I take medication for.

10 Q. You are not on any kind of medication
11 that would influence your memory or your ability
12 to testify here?

13 A. No.

14 Q. I would like your job history starting
15 out with I guess when you got out of Columbia.

16 A. Okay.

17 I went to work for Johns-Manville

18 Corporation, at first I think like an assistant
19 editor of their employee publication. Then I
20 became editor that -- I don't know, within a year
21 or so. Then finally they approached me in 1968, I
22 believe sometime, I'm not sure exactly when, and
23 said because of that small background on science
24 writing at Columbia, would I be interested in
25 getting involved in the asbestos health issue

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1 Swetonic

2 which they were just really starting to look at
3 from a communications standpoint. So I said,
4 "Yes, I think that would be interesting."

5 So I worked with them on that issue
6 through the end of 1971 when Manville moved all
7 its operations to Denver, Colorado. We were
8 originally here in New York City.

9 Then I took over as executive
10 secretary, I guess it is, not executive director,
11 of the Asbestos Information Association, North
12 America, which had been founded essentially
13 through -- primarily through the instigation and
14 urging of Johns-Manville, I think at the end of
15 1970. Somewhere in that general ballpark.

16 Then I stayed with the trade
17 association from that January through August of
18 1973, when I left to go to Hill & Knowlton, and I
19 stayed at Hill & Knowlton until January of 1991.
20 Left there to join a company called E. Bruce

21 Harrison. I stayed there until October of 1994
22 and then joined the Dilenschneider group where I
23 work today in October of '94.

24 Q. Have you kept track of any of your
25 other documents for work you have done on behalf

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1 Swetonic
2 of the Chemical Manufacturers Association?
3 A. Never worked for them.
4 Q. Never did any CMA work?
5 A. No.
6 Q. Did you ever do any work for tobacco?
7 A. Yes.
8 Q. Who did you do work for in tobacco?
9 A. R.J. Reynolds.
10 Q. When was that?
11 A. I did some work in the early '80s.
12 '83, '84. And then a lot more extensively after
13 1987.
14 Q. Up to when?
15 A. About eight years ago.
16 Q. '94?
17 A. '94, yes.
18 Q. Any other tobacco work other than
19 R.J. Reynolds for those time periods?
20 A. No.
21 Q. '83, '84 would have been while you were
22 at Hill & Knowlton?

23 A. Yes.
24 Q. '87 through '94 would have been Hill &
25 Knowlton and Harrison?

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1 Swetonic
2 A. Correct.
3 Q. You quit working on RJR and tobacco
4 issues when you went to Dilenschneider?
5 A. That's correct.
6 Q. Did you do any lead paint work?
7 A. I am doing lead paint work right now.
8 Q. Did you follow the Rhode Island trial?
9 A. Yes.
10 Q. Did you have any communications with
11 the wall Street Journal about that trial?
12 A. No.
13 Q. Communications with any of the people
14 that work or write for the wall Street Journal?
15 A. Actually we got a call from a reporter
16 at the wall Street Journal wanting to know who to
17 talk to about the trial, and we passed him on to
18 the public relations firm that is representing the
19 industry.
20 Q. Did you do any work for the saccharine
21 industry?
22 A. We did.
23 Q. When was that?
24 A. Whenever that issue came up. I don't
25 remember. In the '70s sometime.

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1 Swetonic
2 Q. Do you remember who you were working
3 for at the time?
4 A. The first company that hired us was the
5 Sweet'N Low people, and then after that we ended
6 up working for essentially the soft drink
7 industry.
8 Q. This was while you were with Hill &
9 Knowlton?
10 A. That's correct.
11 Q. Other than Hill & Knowlton, did you do
12 saccharine work?
13 A. No.
14 Q. How about dioxin?
15 A. Yes.
16 Q. Who did you do work for in dioxin?
17 A. Dow Chemical.
18 Q. When was this?
19 A. 1983, I believe.
20 Q. While you were at Hill & Knowlton?
21 A. Correct.
22 Q. What kind of work did you do for Dow
23 Chemical on dioxin?
24 A. Well, basically, we had been following
25 the dioxin issue for quite a while because we --

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1 Swetonic
2 not me personally -- had done some work with the
3 Saveso explosion in Italy. So we had considerable
4 background files on dioxin, you know, health
5 studies and such.

6 And Dow Chemical approached us and
7 said, "we think we need some serious help on this
8 thing because we think the science basically is on
9 our side and that's not getting out very well."
10 So we worked with them in that regard. We wrote a
11 health background paper for them, for example, and
12 we were to take the doctors from their science
13 labs out there and take them out around the
14 country to talk about the issue.

15 Q. A lot of people may not have even heard
16 of dioxin. Is there another name that we can give
17 to that that a lot of people may realize what we
18 are talking about?

19 A. Sure. Agent Orange.

20 Q. Agent Orange?

21 A. Right.

22 Q. You were one of the guys hired in a PR
23 sense to try to make it look like Agent Orange
24 isn't bad or something?

25 MR. GINSBERG: Objection. Abusive and

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2 not what he testified to.

3 MR. LANIER: I am asking him.

4 Q. Is that true?

5 A. The science behind -- that was
6 available and is still available on Agent Orange
7 indicated it was not a serious problem in Vietnam.

8 Q. Have you seen the science on the other
9 side that indicates it was a serious problem?

10 A. Such science as there was on the other
11 side was purely speculative.

12 Q. Now you are a creative writing talking
13 to me. You don't have a science background,
14 right?

15 A. Sufficient to be able to -- after
16 spending 35 years looking at material like that, I
17 can take a look at it and see what makes sense and
18 what doesn't make sense.

19 Q. So you are sufficiently qualified to
20 say that the medical doctors and scientists who
21 have done studies are just wrong?

22 A. No, I'm not qualified scientifically to
23 say that but I can look at a paper that somebody's
24 produced that is published in a journal and say,
25 "Gee, that makes sense" or "There are parts of it

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1 Swetonic

2 that don't make sense."

3 Q. Did you do the same thing for tobacco?

4 MR. GINSBERG: Objection. Can you be
5 more specific in terms of what specific
6 assignment you are talking about?
7 Q. Did you look at all those studies that
8 said tobacco hurts people and write them off as
9 being no good, back when you were doing work for
10 RJR?
11 A. Didn't deal with that part of the
12 issue.
13 Q. What did you do for RJR?
14 A. Three or four different things. We put
15 together a communications plan for a trial that
16 was about to start in California. That was in
17 the --
18 Q. I am sorry to interrupt you. I
19 apologize.
20 RJR, we haven't told everybody, I think
21 most people know, but that's R.J. Reynolds, the
22 tobacco company. Right?
23 A. Yes.
24 Q. What cigarettes do they put out so
25 people know who we are talking about?

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1 Swetonic
2 MR. GINSBERG: Objection. You're just
3 asking for his general knowledge as a member
4 of the public as opposed to any particular
5 brand or whatever that he had any
6 professional work related to? Is that what
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7 you want, Mr. Lanier?

8 MR. LANIER: Under the Texas rules you
9 are not allowed to do any of that stuff. I
10 am just asking him a question. If he can't
11 answer, he can say, "I can't answer that, I
12 don't know." But I suspect since he was
13 doing their PR work for nearly a decade, he
14 knows which brands they had.

15 MR. GINSBERG: Let me correct the
16 record on that as well with regard to the
17 Texas rules.

18 This deposition may be governed in
19 Texas by its rules as to how he can use it,
20 but we have got a New York witness sitting
21 here in New York protected by New York rules.

22 MR. LANIER: Okay. I will try and give
23 deference to you with your New York rules,
24 but I think this witness can probably answer
25 that question.

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1 Swetonic

2 MR. GINSBERG: You would like this
3 witness to testify as an expert in terms of
4 marketing of Reynolds products that are on
5 the market?

6 MR. LANIER: I am trying to establish
7 this witness's background, experience, what
8 he has done, what he had not done, how he has

9 done it. I want to see if there's a common
10 link between the way it's been done in
11 asbestos and the way it's been done in
12 tobacco and other chemicals. A lot of
13 information I want to ask him.

14 MR. GINSBERG: Then ask the question in
15 terms of any RJR product that he did work
16 related to as opposed to his knowledge of
17 what products RJR makes.

18 Q. Was RJR your client?

19 A. Yes.

20 Q. Do you know what they made?

21 A. Of course.

22 Q. What was the major tobacco brand that
23 they made when they were your client?

24 A. Winstons and Salem, Camel. I think
25 those are three. I guess they had some others

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1 Swetonic

2 that I am not aware of. I think Vantage but I'm
3 not sure.

4 Q. When you were doing work for the
5 company that makes Winstons and Salems and Camels,
6 what kind of work were you doing for them?

7 A. It had nothing to do with any of those
8 specific products. As I was trying to explain to
9 you before, the first thing we did ---one thing we
10 did was put together a communications plan for
11 dealing with a lawsuit that was about to start in

12 California. That was sometime in the early '80s.
13 I couldn't tell you exactly when that was.
14 Q. That lawsuit didn't have anything to do
15 with Winstons, Salems or Camels?
16 A. I don't know specifically which it had
17 to do with because we never went forward and
18 actually handled it.
19 Q. What kind of lawsuit was it?
20 A. Cancer.
21 Q. From smoking?
22 A. Yes.
23 Q. You think they got it from something
24 other than Winstons, Salems and Camels.
25 MR. GINSBERG: Objection. I am

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1 Swetonic
2 familiar with the Texas objection for abusive
3 questioning and that I can instruct him not
4 to answer. If you are going to continue with
5 these kinds of questions, there's going to be
6 a lot of instructions not to answer.
7 MR. LANIER: That's fine. But be
8 careful. You reap what you sow.
9 Q. Sir, when you were putting together a
10 communications plan for the lawsuit, what does
11 that mean?
12 A. Well, in this particular case as I
13 recall -- again, it's at least 20 years ago -- the

14 company's largest concern was -- I think the
15 plaintiff's attorney in that case was Belli --
16 what is his first name?

17 MR. LANIER: Melvin.

18 A. Melvin Belli. I believe that's
19 correct.

20 And that they figured that he would be
21 trying the case on the courthouse steps as was his
22 wont and that sort of thing. So they wanted to
23 have a little plan in place to kind of address
24 that tactic.

25 Q. Did you put such communication plan

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1 Swetonic

2 together?

3 A. Yes.

4 Q. What was your plan?

5 A. I don't remember.

6 Q. What other work have you done for the
7 tobacco companies?

8 A. We helped to introduce their
9 unsuccessful smokeless cigarette, Premiere.

10 Q. When was this work done?

11 A. It started in '87, and the product was
12 pulled from the market I believe in early '89.

13 Q. What work did you do to try and help
14 introduce Premiere cigarettes?

15 A. We put together the entire press
16 conference that started it out, put together some

17 materials that talked about the underlying science
18 and how the new cigarette works, so to speak; then
19 when it came under attack, which was considerable,
20 did our best to help defend it by getting people
21 from the company to sit down with media in various
22 locations and such.

23 Q. What other work have you done for
24 tobacco?

25 A. I did work on environmental tobacco

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1 Swetonic

2 smoke.

3 Q. Explain to me what that is.

4 A. Well, it's the -- either the smoke that
5 comes off the end of a burning cigarette or the
6 exhaled smoke that a smoker exhales.

7 Q. In a confined room like this conference
8 room or courtroom?

9 A. Wherever.

10 Q. What kind of work did you do on that?

11 A. Once again, we put together, for
12 example, a slide presentation on the health
13 effects or lack thereof of environmental tobacco
14 smoke and put out what we call a media tour where
15 we try to get media to sit down and listen to what
16 we had to say; particularly in cities where there
17 was efforts to ban smoking in bars and other
18 places of public accommodation.

19 Q. When you say you put together a slide
20 presentation on the health effects, who did you
21 put that together for?

22 A. R.J. Reynolds. I mean working with
23 them.

24 Q. Who was the slide presentation targeted
25 to?

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1 Swetonic

2 A. Journalists.

3 Q. To journalists. Why journalists?

4 A. So that they could report in their
5 papers, that hopefully they would conclude -- we
6 did a lot of editorial boards, too. That they
7 would conclude that it was unnecessary in that
8 city or state or whatever to ban smoking in public
9 buildings.

10 Q. You say you did a lot of work with
11 editorial boards. What is that?

12 A. Essentially every newspaper has what
13 they call an editorial board which would be some
14 of the editors who write editorials and then just
15 others who are part of this board, and they make
16 the decisions on what is covered editorially in
17 the paper and what bent any particular editorial
18 is going to take, and then they write it, if they
19 are in charge of that part of the newspaper.

20 Q. You worked aggressively at trying to
21 get newspapers and the journalists and the editors

22 who do the editorial work to try and say that
23 "Hey, smoke is fine in public places"?

24 MR. GINSBERG: Objection. It's a
25 mischaracterization of his testimony.

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1 Swetonic

2 A. We presented the material to them on
3 that issue.

4 Q. Which position did you take, that it
5 was good or bad?

6 A. That it was not bad.

7 Q. Secondhand smoke doesn't hurt you?

8 A. Yes.

9 Q. You know that's wrong, don't you?

10 MR. GINSBERG: Objection.

11 Q. Go ahead. You are under oath. You
12 know secondhand smoke can hurt you, don't you?

13 A. I think if you look at the medical
14 data, sir, on that issue, you will find that the
15 vast majority of the papers that are of any
16 decency whatsoever in terms of their statistical
17 strength and all this kind of stuff, say it ain't.

18 Q. They say secondhand smoke doesn't hurt
19 you?

20 A. Yes.

21 Q. Is this more of what you can do as a
22 trained creative writer/journalist turned
23 scientist stuff, where you can look at these

24 studies and you can make that determination?

25 MR. GINSBERG: Objection. Abusive.

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1 Swetonic

2 A. You work with -- PR does not operate by
3 itself, okay.

4 Q. That's what this is, by the way, PR,
5 isn't it?

6 A. This is public relations, yes. That's
7 the type of work that I have been doing for the
8 last umpteen years.

9 You work with, you know, scientists at
10 the companies you are working for, medical
11 experts, outside/inside medical experts, to try
12 and make sure that what you are helping them put
13 together into simpler terms in the English
14 language so that most people can understand what
15 you are trying to say is accurate. I mean, you
16 don't just go out on your own and do it.

17 Q. You don't think there's a problem with
18 secondhand smoke?

19 A. Based on what I have read and my
20 conversations with scientists basically working
21 for the tobacco industry admittedly, the answer is
22 no, I don't think so.

23 Q. Are you married?

24 A. Yes.

25 Q. What is your wife's name?

1 Swetonic

2 A. Well, I don't have grandchildren. My
3 wife doesn't like me to smoke in the house except
4 for one or two rooms. Not because of that, just
5 because she doesn't like the smell.

6 Basically I have testified what I said.
7 My personal opinion is secondhand smoke is not a
8 big problem.

9 Q. You probably don't think chrysotile
10 asbestos can hurt you either, am I right?

11 A. No, that's not true.

12 Q. You believe chrysotile asbestos can
13 cause mesothelioma?

14 A. I don't think so.

15 Q. You don't think it can?

16 A. No. I don't think -- I think the
17 evidence is pretty strong chrysotile by itself is
18 not a cause of mesothelioma. That crocidolite and
19 amosite, absolutely, but chrysotile alone or in
20 combination with amosite or crocidolite certainly
21 can. And I think if you have looked at any of the
22 materials I have written over the years, you will
23 find out that's been consistent for the last 30
24 years.

25 Q. You have done work for asbestos and you

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1 Swetonic

2 don't think chrysotile asbestos causes meso, fair
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3 to say?

4 A. I would say that it is far, far, far
5 less likely to cause it to either crocidolite or
6 amosite, if it causes it at all.

7 Q. You've done work for Agent Orange and
8 you don't think Agent Orange hurt anybody, right?

9 A. I think most people don't believe it
10 hurt anybody.

11 Q. Including you?

12 A. Including me.

13 Q. You have done work for tobacco and you
14 don't think secondhand tobacco smoke hurts
15 anybody, right?

16 A. Correct. I don't think it's proven,
17 let's put it that way.

18 Q. You've done work for the saccharine
19 industry and you don't think saccharine hurts
20 anybody, right?

21 A. I didn't say that. You didn't ask me
22 that question.

23 Q. Do you think saccharine hurts people?

24 A. Probably not.

25 Q. I was guessing. That's a pretty good

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1 Swetonic

2 guess, wasn't it.

3 What industries have you done work for
4 where you are convinced they are out there killing

5 people?

6 A. That's a way of asking it.

7 Lead, for example.

8 Q. You do work for the lead paint
9 industries and yet you think that lead paint is a
10 problem that's hurting people?

11 A. It can if it's not maintained. Don't
12 forget, it's not been produced in this country for
13 almost 25 years. So if you maintain it, keep it
14 covered up, it's not a problem. But if you let it
15 chip and things and kids eat it, sure it's going
16 to be a problem. Everybody understands that.

17 Q. Not even you can deny that one, right?

18 A. Didn't try to, nor does the industry
19 deny it.

20 Q. Let's talk about asbestos for a little
21 bit.

22 I left out vinyl chloride. You have
23 done work for the vinyl chloride industry?

24 A. Yes.

25 Q. You think under the TLV probably vinyl

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1 Swetonic

2 chloride doesn't hurt anybody; is that right?

3 A. Certainly we know it caused liver
4 angiosarcoma in the people who worked in cleaning
5 out the reactors; there is no question about that.
6 It turned out not to kill as many as a lot of
7 people had feared they were going to find out it

8 did; that the number of deaths from that were
9 relatively small.

10 Of course no death is unimportant, but
11 the numbers compared to what -- the epidemic that
12 people were predicting in 1974 just never
13 materialized. So hopefully the standards that
14 were put in effect will get the job done or have
15 gotten the job done. It's been a long time. We
16 should have known by now. I don't know.

17 Q. Are you still doing any of that work?

18 A. No.

19 Q. Did you ever look to see whether or not
20 it caused brain cancers, neoblastoma multiformis?

21 A. No. The only thing in the time that I
22 was working on it that I recall problems with was
23 simply angiosarcoma of the liver.

24 Q. True or false: Asbestos is probably
25 the most hazardous material the industrial world

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2 has ever unleashed on an unsuspecting public.

3 A. Close.

4 Q. Where was I wrong?

5 A. I'm not sure. Is that in my article?

6 Q. That's on page 2 of your article, top
7 paragraph. It says, "Asbestos, probably the most
8 hazardous industrial material ever unleashed on an
9 unsuspecting world. I know, I was there." You

10 see that?

11 A. Yes. If I said it, then obviously
12 that's pretty much what I believe.

13 Q. When do you think the industry knew
14 that asbestos was even remotely as hazardous as it
15 turned out to be?

16 MR. HENDERSON: Objection to form.

17 MR. LANIER: You can go ahead and
18 answer it. They just don't like my question.

19 A. I have no way of knowing. All I know
20 is when I became aware of it.

21 Q. When did you become aware of it?

22 A. When I was asked to take on that
23 responsibility in 1968. And one of the first
24 things as I point out in my article that I did was
25 try and learn everything I could about this thing.

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2 Q. I have seen a lot of your speeches. I
3 have seen your big speech and I have seen your
4 other testimonies and presentations verbally to
5 different people. I have seen your writings.

6 I have never seen you at any time when
7 you were working for the asbestos industry make
8 such a blunt statement that asbestos is probably
9 the most hazardous industrial material ever
10 unleashed on an unsuspecting world. Am I just
11 reading the wrong presentations and speeches or
12 did you say that back then?

13 A. No. I think we admitted certainly to
14 the hazards of asbestos, maybe not in as flowery
15 terms.

16 Q. In fact, it looks to me as I read your
17 stuff like you kept trying to tell everybody and
18 convince everybody it was okay.

19 A. No, such, sir. Not at all.

20 Q. Go back to your OSHA hearings. You
21 were at those OSHA hearings trying to convince
22 OSHA not to adopt as strict a standard as they
23 eventually wound up adopting, right?

24 A. That's correct. I can't remember
25 specifically how I said or what I said but our

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2 position was, just to make for the record, when
3 they put the emergency temporary standard in, the
4 asbestos exposure level was 12. So they
5 immediately reduced it to 5, and then in six
6 months they wanted to reduce it to 2.

7 Basically what we said, "We think 5 is
8 not going to be particularly hazardous but if you
9 are going to go to 2, then give us some time, for
10 Lord's sake, because six weeks ago it was at 12."
11 So that's what we were asking for, was some time.

12 Q. You wanted four years, didn't you?

13 A. I don't remember, to be honest with
14 you.

15 Q. Do you have any clue how many more
16 people died because of that four years?

17 A. It was our belief that people were not
18 going to be dying.

19 Q. Sir, your industry understood that five
20 wasn't a safe protection against mesothelioma,
21 didn't they?

22 A. I don't think so. As you well know
23 that there are mesothelioma cases that occurred in
24 neighborhoods and households. In fact, one of our
25 industrial -- top industrial hygiene people at

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2 Manville, his wife died from mesothelioma. So I
3 take it very seriously. Personally. I was at her
4 funeral. He was one of my closest friends.

5 Q. What year was that?

6 A. Late maybe 1970. I'm not sure. '70,
7 '71. I'm not sure exactly.

8 So, yes, it's a serious problem.

9 Q. When you say "our" position, who is the
10 "our" in your sentence?

11 A. The Asbestos Information Association
12 and its members.

13 Q. Who started the Asbestos Information
14 Association?

15 A. Essentially Manville did. They called
16 in a bunch of companies in the asbestos industry
17 and they said, "Gentlemen, we need to speak with

18 one voice on this issue, and it's a serious issue
19 and we need to both do something about it and to
20 speak out where it's right and correct things when
21 they are wrong."

22 Q. Whose idea was it at Manville?

23 A. Basically Manville I think was sort of
24 convinced of it by Hill & Knowlton. The British
25 industry had hired Hill & Knowlton in the U.K. to

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2 put together something -- I can't remember what it
3 was called, Asbestos Information Council or some
4 such thing, and then they -- and used that as a
5 spokesman. The British companies felt that the
6 United States, we were not doing a very good job
7 of, you know, trying to explain the asbestos
8 health situation so that people understood it in a
9 more balanced viewpoint.

10 So they pressed Manville to do it, and
11 so it was set up. And I guess Hill & Knowlton
12 really didn't press it; it was the British
13 industry really. They pressed it to do it and
14 Hill & Knowlton helped set it up.

15 Q. Hill & Knowlton is a PR firm, isn't it?

16 A. Yes.

17 Q. It's the same PR firm you went to work
18 for after you did your asbestos work, isn't it?

19 A. That's correct.

20 Q. So the PR firm, Hill & Knowlton, comes
21 to JM and gives JM this idea of how to start an
22 Asbestos Information Association?

23 A. Yes.

24 Q. If there's information that needs to be
25 put out, why can't JM just put it out?

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2 A. You're kind of missing the point of why
3 you do that sort of thing, why you do a trade
4 association. And that is in a case like this, it
5 involves health and safety issues. What you are
6 trying to do is say --

7 what we are saying here represents the
8 viewpoint of everybody, and that we are all behind
9 this. But equally as important, and this is just
10 strictly from a PR standpoint, is Manville was the
11 only one speaking out. Okay?

12 And they were getting hammered in the
13 press as a company, even though they had a really
14 good operations in place to protect their workers.
15 So it's also a way just to kind of get your name
16 out of the newspapers and put somebody else's,
17 meaning the trade association.

18 Q. That's why Manville could afford to pay
19 for the trade association the first year?

20 A. Well, they were by far the largest
21 asbestos producer.

22 Q. In the U.S.?

23 A. In the U.S., yes.
24 Q. Manville sets up the trade
25 organization, calls everybody in to it and says --

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2 A. They call people in, and they said --
3 we said, "We think we ought to do it." It wasn't
4 set up. We were making a recommendation to these
5 companies that they ought to do this.

6 Q. I thought Manville paid for the whole
7 thing the first year.

8 A. Yes. But if you don't have any members
9 that doesn't mean anything. The you just got a,
10 you know, a shell.

11 Q. A shell that is allowed to put out
12 material that keeps Johns-Manville's name out of
13 the papers, I guess?

14 A. To the extent that -- I mean, Manville
15 was obviously a sponsor of it. It's on that card
16 I showed you. Nobody was trying to hide this.

17 Q. But it doesn't say that Manville made
18 this so that the word could get out and it
19 wouldn't have Manville's name on it because
20 Manville is getting hammered from all the PR.

21 A. There's nothing wrong with that.

22 Q. In fact, that's something that's been
23 done many times, I guess, hasn't it?

24 A. That's right. A lot of trade

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25 associations exist in that fashion.

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2 Q. You-all even did that on tobacco as far
3 as the secondhand smoke, didn't you?
4 A. No.
5 Q. You didn't set up a TE -- no. What's
6 it called? It's got initials. TIEQ?
7 A. What is that?
8 Q. It doesn't even ring a bell with you,
9 does it?
10 A. No.
11 Q. It stands for the Total Indoor
12 Environmental Quality Coalition.
13 A. No, never heard of it.
14 Q. Did you not know you were a staff
15 member in 1993?
16 A. What?
17 Q. I thought I had you down as a staff
18 member in 1993. It was part of the National
19 Environmental Development Association.
20 A. Oh. Is that what they called that
21 thing?
22 Q. Yes. Did you know you were a staff
23 member of that?
24 A. The trade group was run by the E. Bruce
25 Harrison Company. I had forgotten what it was

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2 called.
3 Q. Yes. It's another one of those groups
4 you-all set up so that you-all could put out PR
5 material and not have it shown as readily that
6 it's just tobacco putting it out?
7 A. That's not true. There were a lot of
8 other companies involved in that.
9 MR. LANIER: This is a good breaking
10 point to take a restroom break. We have been
11 going for a while and we have been in here
12 for a while. So let's take about a
13 ten-minute break so everybody can stretch.
14 (Recess.)
15 Q. Sir, while you were at Manville did you
16 have any interactions with any other asbestos
17 companies?
18 A. Only through the trade association.
19 Q. That's the AIA?
20 A. Yes.
21 Q. Before that period of time did you have
22 any interaction with any of the other asbestos
23 companies?
24 A. No, not to my recollection.
25 Q. How did you find out that the AIA was

1

2 going to be started?

3 A. I assume that Jack Solon, who was the
4 head of advertising and public relations, told us
5 that the pressure from the British to form
6 something like that made sense to the president of
7 the company and that they were going to try and
8 set that up.

9 Q. Did you have any role in the AIA's
10 formation?

11 A. Only to the extent that I wrote a slide
12 presentation or I think it was a slide
13 presentation for Jack Solon to give to the
14 potential members, these other asbestos companies.

15 Q. Who determined what companies were
16 potential members?

17 A. That I don't know.

18 Q. What went together in the slide
19 presentation?

20 A. Well, the basic part of it was to
21 basically say that this is a very serious health
22 problem and that we have got to join together to
23 address it through communications in terms of
24 making sure the people who are concerned about it
25 understand exactly what its nature is, the extent

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2 to which it is a problem, that sort of thing.

3 Q. In fact, the Asbestos Information
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4 Association was more targeted to protect industry,
5 wasn't it?

6 A. It was to provide the ability to get
7 information out on the science.

8 Q. On industry's view of the science,
9 right?

10 A. Yes.

11 Q. I mean, you-all didn't start publishing
12 Selikoff's works, did you?

13 A. We sent it out as you saw from the
14 material.

15 Q. Not all of it.

16 A. Of course not. It was voluminous. But
17 he only really followed basically that same group
18 of insulation workers and he just pretty much
19 updated that. That's why the one on smoking was
20 particularly interesting.

21 Q. But you-all vehemently opposed some of
22 what Selikoff said, didn't you?

23 A. What we opposed was this, and let me
24 explain it to you. His people that he studied had
25 an intolerable health record. Mesothelioma, lung

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2 cancer, asbestosis; clearly a major disaster in
3 terms of health for those people.

4 The problem that we had with what
5 Selikoff was saying was that he was essentially

6 saying to the public that that health record was
7 exactly the same across the board in the industry,
8 and that we did not agree with.

9 Let me just give you an example of why
10 there was a difference. One, I have been on work
11 sites watching his men work on putting insulations
12 up, never tearing them out, but putting them up.
13 It was notoriously dusty. And basically outside
14 of, you know, using some sort of a respirator,
15 there was no mechanical means on those work sites
16 to reduce exposure.

17 If you are in a plant or a mine, you
18 have bag houses, you have all sorts of things that
19 you can have in place. I think there's a picture
20 of a bag house in the materials that we sent out
21 to the media. It's a huge thing.

22 I went up to Manville's mine in Quebec,
23 the Jeffrey mine, and the entire top of the mill
24 was a bag house with 40,000 bags in it for
25 collecting dust out of the air. You can't do that

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2 on a work site. That was a fundamental
3 difference.

4 Q. Sir, in fact, in truth, what the
5 Asbestos Information Association, the AIA,
6 endeavored to do was assume and do whatever was
7 necessary to protect the interest of the asbestos
8 industry?

9 MS. STYPINSKI: Objection to form.

10 A. What we did was, originally it was
11 strictly designed to deal with information, okay,
12 but as time went on, it acquired a lot of other
13 objectives. When it started out, I don't think
14 EPA and OSHA even existed or if they existed, they
15 had just been approved by Congress. So that
16 became something that we had to be involved in,
17 quite obviously. That's not public relations.
18 That's dealing with regulatory agencies.

19 We ended up getting into sponsoring
20 some types of medical research. When the OSHA
21 regulations came out, in addition to putting out
22 as I mentioned before a copy of, which I don't
23 have, a booklet for employees on how to understand
24 the regulations and what the problems were, we
25 also worked on compliance manuals, technical

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2 compliance manuals, for dealing with OSHA, for
3 dealing with EPA standards. Telling companies --
4 because there's a lot of small companies in the
5 asbestos industry that had nothing to do with our
6 trade association but we wanted to make sure that
7 they had technical information on how to deal with
8 those standards.

9 So, yes, we certainly got into an awful
10 lot of stuff other than just, you know, public

11 relations, so to speak. Because there was nobody
12 else to do it, we did it.

13 Q. I'm not sure that really answered my
14 question.

15 would you agree with me or not that the
16 Asbestos Information Association endeavored to
17 assume whatever activities and responsibilities
18 that it deemed necessary to protect the interests
19 of the asbestos manufacturing industry?

20 A. Yes, and I gave you the examples, some
21 examples of how we did that.

22 You are protecting the interest of an
23 industry when you make sure that you can try and
24 help people in that industry comply with
25 standards, run a clean plant, not kill their

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2 workers. I think that's helping the industry.

3 If you are doing research -- one of the
4 pieces of research we were working with was a
5 doctor in New Jersey who was treating a
6 mesothelioma patient from the Manville plant and
7 he had an idea for -- he tried some sort of
8 electronic type treatment and it seemed to be
9 shrinking the tumor, so we gave him money. We
10 looked at ways -- at Harvard School of Public
11 Health, for example, to see if there was a way
12 through chest sounds to determine very early
13 stages of asbestosis even before it would show up

14 on an X-ray.

15 I think we also provided funds as I
16 recall to a study -- you would know in a plant,
17 for example, that there was a problem, whether it
18 was asbestosis or lung cancer or mesothelioma or
19 whatever. But you didn't know where perhaps it
20 might be concentrated, whether certain portions of
21 the work force were more susceptible or more
22 likely to get these diseases.

23 So we got involved in a study in that
24 area. What we found out was that maintenance
25 workers were more likely to have these diseases

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2 than the production workers in an asbestos plant.
3 That helps. That helps you to focus what you want
4 to do to protect people.

5 If that's helping the industry protect
6 the industry of course it is.

7 Q. Sir, that's not at all what you-all
8 were doing.

9 A. Yes, we were.

10 Q. Not with that motive.

11 MS. STYPINSKI: Objection to form.

12 MS. ANTONUCCI: Objection to form.

13 Q. Let's just take, for example, the money
14 you say you gave to try and cure mesothelioma.

15 Don't you know it takes millions and millions of

16 dollars to even remotely begin some type of a good
17 study of how to go about treating and curing such
18 a dreaded disease?

19 A. This doctor thought he had something
20 and we gave him a little bit of seed money.

21 Q. You gave him \$5,000.

22 A. I don't remember what it was.

23 Q. I do. It was \$5,000.

24 A. I will have to take your word for it.

25 Q. Do you know how much you were charging

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2 your members just to be a member of the AIA at the
3 time for one year?

4 A. No. No, I don't.

5 Q. And you-all together, all the asbestos
6 industry, added up together through the AIA gave
7 \$5,000. And you did it so that you could come
8 into depositions and other places and say, "Look
9 how much we're trying to cure the problem."

10 MS. STYPINSKI: Objection to form.

11 A. That's nonsense.

12 MS. ANTONUCCI: Objection to form.

13 A. Let me tell you why it's nonsense.

14 In 1973 when I left the industry, there
15 was nothing like this. To the best of my
16 knowledge, not a single member of my trade
17 association was involved in any litigation
18 whatsoever. So how could we have planned

19 something to defend litigation which did not at
20 that point in time exist?

21 Q. Sir, you specifically in some of your
22 writings have referenced the fact that you-all
23 were putting together things in contemplation of
24 litigation.

25 MR. GINSBERG: Objection. If you have

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2 a document to show the witness, please do.

3 A. Please do.

4 Q. You don't remember that?

5 A. No, I do not. When I left the
6 industry, as far as I know, the only lawsuits were
7 against Pittsburgh Corning down in Texas.

8 Q. Sir, those lawsuits were against
9 Pittsburgh Corning who was buying Johns-Manville
10 asbestos to put in their products, weren't they?

11 A. I don't know where they got their
12 asbestos.

13 Q. They bought it from a number of sources
14 including Johns-Manville; did you know that?

15 A. But they were not a member of my trade
16 association. I don't know where they bought their
17 asbestos.

18 Q. Your trade association had a legal
19 affairs committee, didn't it?

20 A. It was only for the purpose of making

21 sure that we were trying to deal with the
22 regulatory agencies properly. That's all.

23 Q. Sir, that's not all it was because
24 you-all also filed briefs in lawsuits.

25 A. No, no, no, no. You are

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2 misrepresenting that.

3 Q. Sir, it specifically says in your
4 speech, "In the legal affairs area, the
5 association participated in an amicus curiae
6 capacity in the lawsuit brought by the industrial
7 union department of the AFL-CIO against OSHA on
8 asbestos standards. In our brief the association
9 supported OSHA against the industrial union
10 department."

11 You filed a brief in that case, didn't
12 you?

13 MR. GINSBERG: Can you show the witness
14 the document that you are reading from.

15 MR. LANIER: He's got it in front of
16 him. It's his Exhibit No. 4. He read the
17 whole thing. We took a ten-minute break for
18 him to.

19 A. I know precisely what we are talking
20 about.

21 Q. Okay. Well, then answer.

22 A. That was not litigation of the type you
23 are involved in.

24 Let me finish.
25 what happened was when the OSHA

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2 standards came out in 1972, AFL-CIO went to court
3 to say that they were not sufficient. That's
4 different than going after money. It had to do
5 all strictly with the regulation.
6 So we submitted -- because it was the
7 AFL versus the Occupational Safety and Health
8 Administration. That was the lawsuit. It was not
9 a personal injury lawsuit. That's what I am
10 referring to. It was not a liability lawsuit.
11 And we put in an amicus brief. We were not a
12 party of the case because it was them versus them
13 but we put in an amicus briefing saying in our
14 view the OSHA standards were sufficient.
15 Q. This is a case where you-all weren't
16 even involved as a party and you-all were still
17 trying to file briefs trying to influence the
18 court outcome, weren't you?
19 A. Of course, but it was not litigation
20 from a liability standpoint. It's totally
21 different.
22 Q. Sir, you know and everybody knew that
23 litigation from a liability standpoint was started
24 and was going to get bigger, right?
25 A. No. One of the reasons I left the

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2 industry in 1973 was because I was frankly bored.
3 We had gotten our OSHA standards, we had gotten
4 our EPA standards, our booklets were pretty much
5 done. We had a situation -- we dealt with FDA on
6 the use of asbestos in filters for clarifying
7 wines and types of beer, and the horizon frankly
8 looked pretty cheery. So I wanted to try
9 something else.

10 Q. Sir, what happened back then was there
11 was a lot of bad news about all of the hazards of
12 asbestos but you felt that there was good news in
13 that the public by and large didn't know about it
14 and you tried to --

15 MS. STYPINSKI: Objection to form.

16 MR. GINSBERG: Objection.

17 A. No. That's not true. That's not true.

18 Q. Look at your paper.

19 MR. GINSBERG: Let him point to where
20 he wants to have you focus your attention and
21 take a minute and look at it.

22 THE WITNESS: All right.

23 Q. Sir, when you get to page 80, your
24 paper, and you get down to this paragraph, you
25 specifically said, "At this point and now having

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2 heard the bad side of the public relations
3 problems, it's time for some good news."
4 Did I read that right?
5 A. Yes.
6 Q. The very next sentence, "And the good
7 news is that despite all the negative articles on
8 asbestos health that have appeared in the press
9 over the past half dozen years, very few people
10 have been paying attention." Did I read that
11 correctly?
12 A. You read that correctly.
13 Q. So there's bad news of all this PR
14 problem and all of these articles about how
15 asbestos can hurt you and kill you but the good
16 news is people aren't paying attention. That's
17 what you said?
18 A. Why don't I put it in perspective for
19 you so perhaps you will understand a little bit
20 more about it.
21 We were concerned that the general
22 public might think that they were at risk from
23 asbestos. Basically we had been focusing intently
24 on the occupational side of the problem, and so we
25 decided we needed to take a look at this thing to

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2 see if the general public was concerned about its
3 own health in this thing.

4 so we did this general public survey.
5 what we found out was, much to our surprise, and I
6 will explain that in a second as to why I think
7 that happened, that a mere -- and I think the
8 numbers are in here (indicating) -- 3 percent of
9 the people who were aware of the issue thought it
10 was a problem of the general public.

11 The fact of the matter is, it wasn't a
12 problem to the general public so we didn't have to
13 change the focus of our efforts on solving the
14 occupational issue and push it off on to trying to
15 address the issue in terms of what the general
16 public perceived. Okay?

17 Now, the problem -- we were mystified
18 obviously by the fact that so few people seemed to
19 be aware of the issue. And then we thought about
20 it. I think we had our nose a little too close to
21 the mirror, meaning that the association was in
22 New York City. Manville had been in New York City
23 and it just moved to Denver. Selikoff was in
24 New York City. The insulation workers were in
25 New York City that he studied.

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2 The issue of sprayed asbestos was
3 pretty much a New York City issue, and they were
4 finding asbestos fibers in the lungs of people

5 coming to autopsy. So we just thought naturally
6 that the rest of the world was as aware of all
7 this stuff as we were in New York City. We found
8 out that wasn't true.

9 Q. Sir, I appreciate you giving that
10 answer but that's not really telling the whole
11 truth to the jury, is it?

12 MR. GINSBERG: Objection.

13 MS. ANTONUCCI: Objection.

14 A. Why don't you explain to me what you
15 think the whole truth is.

16 Q. Let's look at your paper, first of all.

17 You-all's concern was, and the reason
18 this bad news/good news stuff is being said is,
19 "These results should be reassuring to those
20 industry customers who fear the general public
21 will stop buying their products because they
22 contain asbestos." That's the reason it's good
23 news, is people will keep buying the stuff because
24 they don't know any better, right?

25 A. No, no.

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2 MS. ANTONUCCI: Objection to form.

3 Q. Isn't it also true --

4 MR. GINSBERG: Objection. The witness
5 hadn't finished his answer.

6 MR. LANIER: That was his answer, "No,

7 no." It's a yes/no question.

8 MR. GINSBERG: Did you finish your
9 answer?

10 THE WITNESS: No, I did not finish my
11 answer.

12 Q. I said was it true. Is your answer
13 "no" or "yes"?

14 A. My answer is that what is said here, if
15 those products were a hazard to the general public
16 but they are not a hazard to the general public.

17 Q. Oh, sir, isn't it true you-all were
18 just dreading the day that you were going to get
19 the news that there was going to be a household
20 exposure mesothelioma because you knew it was
21 coming?

22 A. Of course, I say that in my paper. In
23 fact, I mentioned the woman who had it.

24 MS. STYPINSKI: Objection.

25 Q. You knew for a fact not only a

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2 household case of mesothelioma but you were also
3 dreading the inevitable discovery of the first
4 neighborhood case of mesothelioma, right?

5 A. Did I say that?

6 Q. Yes, sir, you did on page 300.

7 A. I don't recall mentioning the
8 neighborhood.

9 Q. Yes. "The first neighborhood." You
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10 even put "neighborhood" in quotation marks, didn't
11 you?

12 A. No, no. I said the first -- you
13 misrepresented it again.

14 We had all been dreading the inevitable
15 discovery of the first neighborhood or household
16 case of mesothelioma in the United States.

17 Q. That's exactly what I said. You were
18 concerned about the discovery of both -- either
19 one or the other?

20 A. And it happened to be a household case.

21 Q. Sir, I'm not talking about which one it
22 happened to be when you first found out. My point
23 was, you-all were concerned about the
24 inevitability of either a neighborhood or a
25 household, and you knew it was coming, you knew it

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2 was inevitable, didn't you?

3 A. The household cases, yes. The
4 neighborhood cases, I don't know still if there
5 have been any. But then again, let's don't forget
6 that I left that industry 28 years ago.

7 Q. Sir, you wrote this article in 1991,
8 didn't you?

9 A. Yes, but --

10 Q. You wrote this as a chapter in a book?

11 A. I wrote this based on what we were

12 thinking in 1970 or '71, which was 20 years before
13 I wrote the article.

14 Q. Were you making it up or was it
15 truthful?

16 MR. GINSBERG: Objection.

17 MS. ANTONUCCI: Objection.

18 DI MR. GINSBERG: It's abusive and I'll
19 instruct you not to answer the question.

20 He already answered the question,
21 Mr. Lanier. He said that he's wrote an
22 article in '90 about his experiences in the
23 '70s.

24 Q. Was it the truth when you wrote it?

25 A. Yes.

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2 Q. So the jury can believe what it says as
3 opposed to what you're saying today?

4 A. I am saying exactly the same thing.

5 Q. You said in your speech about good news
6 and bad news on the same page as "The good news is
7 people aren't paying attention," down at the
8 bottom paragraph: "Before going on to describe
9 our activities in the government relations area, I
10 think it might be interesting at this point to
11 take a very brief look at the manner in which
12 Dr. Selikoff and his supporters have used his
13 research results to dramatize and exaggerate the
14 seriousness of the asbestos problem."

15 You think Dr. Selikoff was exaggerating
16 the seriousness of the problem?

17 A. Not with regard to his workers. I
18 discussed this before. The insulation workers
19 that he studied, those were the only people to the
20 best of my knowledge that he had personal
21 knowledge of their health experience. And as I
22 said before, you cannot translate that work
23 experience. And I gave you a whole bunch of
24 reasons why to everybody in the industry. It just
25 doesn't work that way.

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2 I talked to you about the fact that you
3 couldn't control the dust in the way they handled
4 insulations, which was a world apart from what
5 happens in factories. He just refused to
6 recognize that. He was especially negative on the
7 results that were coming out of the Canadian
8 mining study. He just refused to accept that
9 those were the real results, because he just
10 believed that everybody had the same health
11 experience as the people that he studied, and that
12 just wasn't true.

13 Q. I thought when you left the Asbestos
14 Information Institute you went to Hill & Knowlton.

15 A. That's correct.

16 Q. Did you not know Hill & Knowlton

17 continued to do work for the asbestos industry?

18 A. I said that. I said earlier in the
19 deposition that they followed me to the -- the
20 trade group came to Hill & Knowlton to retain my
21 services so that I could train my successor, and
22 they stayed there with us for roughly a year, I
23 guess.

24 Q. When was it that you truly had nothing
25 else to do with asbestos other than writing

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2 chapters in books?

3 A. With regard to the trade association,
4 it would be sometime in 1974.

5 Q. Period. Anything to do with asbestos,
6 period, not just in regard to the trade
7 association.

8 A. The only thing else that I did that I
9 can recall after that time, after 1974, was for
10 U.S. Gypsum, which was a client in our Chicago
11 office, and they asked me to write a background
12 paper on asbestos in schools which was -- it took
13 me -- it was about a two- or three-week project.
14 That's the -- to the best of my recollection,
15 that's the only other thing on asbestos I did when
16 I was at Hill & Knowlton.

17 Q. When was that?

18 A. I'm not sure. In the early '80s
19 sometime.

20 Q. When you say you got out of asbestos in
21 the '70s, you were doing something in the '80s?

22 A. I said I was no longer working for the
23 trade association as a group in 1974.

24 Q. So you are still doing asbestos work
25 for the asbestos industry in the '80s?

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2 MR. GINSBERG: Objection. That's a
3 mischaracterization.

4 Q. Is that what you are saying?

5 A. No, I'm not saying that. I am saying I
6 did a small project for one company.

7 Q. When?

8 A. In the '80s. But from 1974 to whenever
9 that was, a period of ten years, I did nothing.

10 Q. For you it's a small project to write a
11 paper on asbestos in schools?

12 A. Yes.

13 Q. Why did they come to you instead of to
14 a scientist?

15 A. Because it was supposed to be used with
16 the media.

17 Q. It was a PR paper?

18 A. Yes. I am a PR man.

19 Q. It took you two weeks to write a paper?

20 A. It may have taken me a month. I'm not
21 sure. It's a long time ago.

22 Q. How does it take a month to write a
23 paper? How long was this thing, a few hundred
24 pages?
25 A. Oh, hell, no. Ten, 12 pages.

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2 Q. I'll bet instead of just writing it you
3 did a bunch of research first, didn't you?

4 A. Certainly I looked at what was
5 available. I think they sent me stuff because I
6 had not brought any materials with me from the
7 trade association, so I was not up to date on what
8 was going on at all.

9 Q. So in the 1980s before you wrote this
10 paper you got all up to date on the scientific
11 literature?

12 A. Just on the school side of it.

13 Q. Just enough to write your paper for PR
14 purposes, right?

15 A. That's correct.

16 Q. I'll bet your paper was one that said,
17 "Leave the asbestos in the schools, it's not
18 hurting our kids." Am I right?

19 MR. GINSBERG: Objection. Abusive.

20 A. I think the conclusion was, which I
21 think -- that unless the asbestos in a school or
22 in any public building for that matter is fraying
23 and releasing free asbestos fibers, that if you
24 don't know what the hell you are doing and you rip

25 it out, you can create a greater hazard than

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2 existed before you started.

3 Q. Did your paper say, "Let's get it out
4 of the schools but use only certified asbestos
5 abatement people"?

6 A. No. Again, this was quite a while ago.
7 The conclusion would have been unless it's damaged
8 and unless there's fibers coming from asbestos
9 from whatever source it might be in a school, it's
10 best to leave it alone.

11 Q. You wanted to keep asbestos in our
12 schools back in the '80s when you were writing
13 this PR paper?

14 MR. GINSBERG: Objection. It's a
15 mischaracterization. It's abusive.

16 DI Don't answer the question.

17 You want to move on to your next
18 question, Mr. Lanier? Please do.

19 MS. STYPINSKI: Objection.

20 MR. LANIER: Yes. I think this would
21 be a good time to ask this series of
22 questions.

23 Q. Have you ever been in Texas before?

24 A. Yes.

25 Q. Tell me when.

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2 A. Let me think.

3 I went down to Texas the first time
4 when I was working for Manville. I went down to
5 the Johnson Space Center because this was before I
6 started working on asbestos, and there were -- I
7 don't know if they were asbestos but Manville had
8 insulations on the Mercury spacecraft and I went
9 down there to gather material, take pictures for a
10 story for that employee publication that I
11 mentioned I worked for.

12 The next time that I can recall going
13 to Texas would have been probably again in the
14 1980s, and I went down there with DuPont to travel
15 around and look at their various plants that had
16 deep wells for disposal of hazardous waste. The
17 E. Bruce Harrison company had a Dallas office and
18 I remember I went down there to visit that office
19 a couple of times.

20 Then I was down there a couple of years
21 ago. We had a client, a pharmaceutical client,
22 who was located outside of Houston.

23 Those are the times that I can remember
24 off the top of my head.

25 Q. Ever do any Hill & Knowlton work in

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2 Texas?
3 A. Not that I can remember.
4 Q. Ever visit any asbestos companies in
5 Texas or have any meetings related to asbestos?
6 A. In Texas?
7 Q. Yes.
8 A. I don't think so. The only plants or
9 mines I ever visited were Manville's and they
10 didn't have any mines in Texas. I don't think
11 there were any mines there at all.
12 Q. You didn't do anything at the
13 Certain-Teed, Hillsboro plant or anything like
14 that?
15 A. No.
16 Q. When you were at Hill & Knowlton, were
17 you an office holder?
18 A. You mean in the company?
19 Q. Yes.
20 A. When I left I was a senior
21 vice-president.
22 Q. Did Hill & Knowlton have an office in
23 Texas at the time?
24 A. Yes.
25 Q. What kind of legal structure was the

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2 company Hill & Knowlton?

3 A. I don't understand the question.

4 Q. Was it a corporation, a professional
5 corporation, a partnership?

6 A. I assume it was a corporation.

7 Q. Did you share in the profits of it or
8 were you strictly paid on a salary basis?

9 A. I was paid on a salary basis. They had
10 a profitsharing program but it was a percentage of
11 salary. So secretaries got it as well as
12 everybody else.

13 Q. Are you comfortable working through
14 lunch?

15 A. Sure.

16 MR. GINSBERG: What is your plan there?

17 MR. LANIER: My plan is to finish
18 around 4 o'clock today if we work through
19 lunch.

20 MR. GINSBERG: I don't think I could
21 make it through 4 o'clock without lunch. We
22 are going to need a lunch break then, I
23 think.

24 MR. LANIER: There's a Pax right
25 downstairs. Could we do it in 30 minutes and

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2 do it quickly so I can try to get this
3 deposition over with.

4 MR. GINSBERG: Yes, that's fine.

5 MR. LANIER: Let's take a 30-minute
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6 lunch break then.

7 (Broke for lunch at 12:33 and resumed
8 at 1:20)

9 (Luncheon recess taken at 12:33 p.m.)

10 A F T E R N O O N S E S S I O N

11 (Time noted: 1:20 p.m.)

12 M A T T H E W S W E T O N I C resumed and
13 testified as follows:

14 CONTINUED EXAMINATION

15 BY MR. LANIER:

16 Q. Sir, in the PR work you have done over
17 the last almost 40 years, have you ever done any
18 PR work related to litigation and lawsuits?

19 A. Yes.

20 Q. Fill me in on what you've done in that
21 regard.

22 A. Well, the Agent Orange work for Dow
23 Chemical was related to litigation. I think the
24 next thing would probably be breast implants.
25 After that, litigation related to accusations of

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2 nonpayment of Holocaust insurance policies.

3 There was another Holocaust-related
4 thing with regard to accusations of an American
5 company whose plant was taken over by the Germans
6 and somehow they were tying that to the use of not
7 slave labor but forced labor, so there was a

8 lawsuit on that.

9 And as I think I mentioned earlier,
10 lead paint.

11 Q. Have you ever done any work or have the
12 companies you have been with done any work on
13 campaigns about lawsuit abuse or jury verdicts or
14 things like that?

15 MR. GINSBERG: Objection to the extent
16 that the witness knows what any particular
17 company has done.

18 Q. Within your frame of knowledge,
19 obviously.

20 A. Not really.

21 Q. Why do you say "not really" instead of
22 a flat no?

23 A. Because everybody -- you know, given
24 the opportunity we will, you know, say something
25 about it but you said the word "campaign." That's

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2 something different.

3 Q. There are some organizational groups
4 like Citizens Against Lawsuit Abuse?

5 A. I am familiar with them but I don't
6 know anybody there. I only know the name.

7 Q. Have you or any of the companies you've
8 worked with, to your knowledge, been involved in
9 those organizations?

10 A. No.

11 Q. Been involved in developing the
12 organizations or suggesting them?

13 A. No.

14 Q. Do you know of any links between the
15 tobacco industry and, for example, Citizens
16 Against Lawsuit Abuse?

17 A. No, I don't.

18 Q. As part of the work that you have done,
19 have you ever done or seen to the training of
20 folks who are going to be making media
21 presentations or talking to the media?

22 A. Absolutely.

23 Q. Tell us about that, please.

24 A. Well, I don't personally do training
25 but I think probably every PR firm in the

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2 United States has a relationship with somebody who
3 is a former person with the media who helps people
4 be trained for TV appearances. It's totally
5 different than what they do in their normal lives.

6 If it's a health issue, it could be a
7 doctor. I mentioned that about Agent Orange. Or
8 even somebody at the top of a company, if not a
9 customer talking to the media.

10 Q. What have you seen that you-all have
11 done before?

12 MR. GINSBERG: When you say "you-all,"

13 who are you referring to?

14 Q. You and your co-workers.

15 MR. GINSBERG: Objection to the form.

16 He's testified as to a number of companies

17 he's worked for.

18 Q. You can specify which one. What did
19 you-all do at Hill & Knowlton? What did you do --

20 A. Oh, no. I mean, Hill & Knowlton would
21 do it the same as anybody else. There's no real
22 difference.

23 In other words, obviously if there's an
24 issue at stake, you make sure that the person can
25 discuss the issue in a clear fashion and be able

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2 to do it succinctly. Those are the most important
3 things. Not use jargon that the viewer would not
4 understand. You know, stuff like that. It's
5 pretty standard.

6 Q. Have you had any of that training
7 yourself?

8 A. No.

9 Q. Have you been observing when the
10 training is going on?

11 A. Many times.

12 Q. Something that you obviously absorbed
13 some of?

14 A. I guess. It's not something I would
15 like to do. I was always very uncomfortable when

16 I had to do media stuff when I was working for the
17 trade association.

18 Q. How did you get your job at the AIA?

19 A. Well, as I mentioned or maybe I didn't
20 mention, Hill & Knowlton -- I am sorry.

21 Johns-Manville had approached these other
22 companies in I believe 1970 and asked them to join
23 this group and offered to pay for the first year
24 of the organization to see if they would consider
25 it to be a worthwhile thing they wanted to join,

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2 and then at the end of the first year they were
3 supposed to somehow allocate expenses.

4 So I had been working, as I have
5 testified, I believe, on the issue since about
6 '68. So in addition to the fact that the
7 organization was put together, for all practical
8 purposes, at least from the communication
9 standpoint, Bill Raines, who was my boss, and
10 myself were the staff, so when Manville moved to
11 Denver at the end of '71, which happened to be
12 also the time when the trade association was going
13 to sort of go on its own financially, Raines left
14 to go to a different company.

15 I opted not to go to Denver, and so
16 they offered me the job to take it over at that
17 point in time as an employee of the trade

18 association as opposed to an employee of Manville.

19 Q. who is the "they" in your sentence,

20 "They offered me a job"?

21 A. The trade association.

22 Q. who?

23 A. Specifically?

24 Q. Yes, sir.

25 A. A fellow named Al Fay from National

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2 Gypsum who was president of it at that time.

3 Q. Fay is F-a-y?

4 A. I believe so.

5 Q. When the trade association first
6 started, where did it office out of? Where was it
7 headquartered?

8 A. Basically since most of the staff
9 really at that point was Manville, it was in our
10 offices, really.

11 In fact, I think if you harken back to
12 this thing (indicating), which I believe was put
13 together early on because it's got a much smaller
14 number of members than --

15 Q. I don't mean to interrupt. But when
16 you say harken back to "this" thing, you are
17 talking about Swetonic Exhibit 2-A?

18 A. Right.

19 Q. Thank you. Please continue.

20 A. The address given is 22 East 40th,
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21 which is where Manville was located.

22 Q. Swetonic Exhibit 2-A was actually
23 written during the first year or so?

24 A. Yes. Just based on the number of
25 companies.

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2 Q. Who were the companies that took a
3 leadership role in the early going of the AIA?

4 A. I would say -- I am looking at the list
5 now. GAF, Johns-Manville, National Gypsum and
6 Raybestos-Manhattan. The first president was from
7 Certain-Teed. I don't remember his name. But I
8 don't remember them being frightfully active.

9 Q. There are a couple of other companies
10 that are listed?

11 A. Yes, I know.

12 Q. Who are they?

13 A. Atlas Asbestos, Cement Asbestos
14 Products Company, Flintkote, Panacon. I don't
15 remember them at all. I don't know who the hell
16 they are.

17 Q. Before the AIA would send out a paper,
18 was it approved by any certain board members or
19 people or did they just trust if you wrote it, it
20 had to be right?

21 A. You got to remember I was 29 or 30
22 years old at the time. Nobody was going to trust

23 me to -- you know, on a document that was going
24 out on behalf of the company.

25 I don't truly remember the approval

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2 process but there was one. It would go to the
3 companies. I don't remember whether it would go
4 to all of them. I think probably something like
5 this would have gone to all of them. Then they
6 would run it by their outside consultants, whether
7 they might be medical or technical or inside
8 people, and, you know, so that was sort of the
9 process.

10 Q. New subject.

11 As I was reading through your documents
12 I noticed, for example, the incident with the
13 Italian asbestos coats. Do you remember that?

14 A. Oh, sure.

15 Q. I know historically there were other
16 companies that would -- I don't know if they were
17 a company, but there were other attempts to put
18 asbestos into some products where it was deemed
19 later, "Let's don't do this." I want to ask you
20 about some of those and see if you have any
21 memories of them.

22 A. Okay.

23 Q. First of all, you remember the Italian
24 guy who tried to beat the import tariffs on coats
25 by putting asbestos in the coat and claiming it

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2 was an asbestos product?
3 A. That's the one that's in my paper.
4 Q. A second one, I know from Selikoff's
5 writings that for a year or two there were some
6 paper companies that put asbestos in facial
7 tissues. Do you know anything about that?
8 A. No.
9 Q. I read in your chapter in your book --
10 By the way, who approached you to write
11 that chapter?
12 A. The editor.
13 Q. Who is that?
14 A. Jack Gotschalk, I believe.
15 Q. What is the name of the book?
16 A. I think it's called "Crisis Management
17 Case Histories and Crisis Managers" --
18 "Crisis Response: Case Histories in
19 Crisis Management."
20 Q. "Crisis Response: Case Histories" --
21 A. "In Crisis Management." I believe
22 that's what it is.
23 I can get it for you. I have got a
24 copy of the book.
25 Q. Were you specifically asked to write on

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2 asbestos or is that a topic you chose?

3 A. What happened was, originally I was
4 going to write a chapter on Agent Orange. Then
5 the fellow who was going to write the chapter on
6 asbestos couldn't do it because of litigation, so
7 I found a friend of mine who had worked with me on
8 the Agent Orange thing and I approached him and I
9 said "I can do an early history of the asbestos
10 situation because I'm not," you know --

11 There was no litigation at the time so
12 that's not going to be a problem. If he would do
13 the Agent Orange thing, and he did. But he never
14 finished the chapter so there was never one on
15 Agent Orange in that book.

16 Q. Who was the author originally scheduled
17 to write the asbestos chapter?

18 A. It was a guy who was working for the
19 company in public relations I think at the time.
20 I don't remember his name.

21 Q. When you say "the company," you mean
22 Manville?

23 A. Manville, yes. I don't remember his
24 name.

25 Q. In that article, you make a reference

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2 to the request for industry that sprayed asbestos
3 to try and get into the AIA or at least get
4 you-all's help.

5 A. Get our support, correct.

6 Q. Let's look at that together.

7 A. If you can tell me where it is.

8 Q. I didn't memorize the page numbers.

9 Starting on page 301, bottom right-hand
10 paragraph. It says, "The head of the local
11 asbestos sprayers trade group came to us for
12 assistance."

13 A. Right.

14 Q. As it continues, it says basically you
15 were holding the meeting on 40th Street in
16 New York overlooking Bryant Park.

17 A. Correct.

18 Q. The Grace Building was under
19 construction. From the tarpaulined floor
20 10 stories up there was a virtual snow shower of
21 sprayed asbestos drifting down to the street. You
22 viewed it a visual demonstration of the public
23 relations nightmare that would be faced if you-all
24 lent your support to the asbestos sprayers.

25 You called everyone to the window.

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2 "That," you said pointing across the street, "is
3 why we have to take a walk on those people. we

4 quietly informed Dr. Selikoff, the City of
5 New York and the EPA which was also looking into
6 asbestos spraying that while we wouldn't attack
7 the practice on health grounds, neither would we
8 defend it. The practice was shortly banned by the
9 City and later by the EPA nationally with our
10 concurrence."

11 Is that the way you remember it?

12 A. Yes, basically, I think. I mean, it
13 happened -- you know, I wrote this 20 years after
14 when it happened.

15 Q. A lot of cities and states did wind up
16 banning spraying asbestos?

17 A. I think New York was the first, I
18 believe.

19 Q. But you tried to get the AIA to
20 petition them to change their standards on banning
21 it?

22 A. No, I didn't. That's not what this
23 says.

24 Q. That's not what that says but that's
25 what this says. It's a different document, sir.

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2 we will label it as Exhibit No. 5.

3 (Swetonic Exhibit 5, AIA meeting
4 minutes, marked for identification, as of
5 this date.)

6 Q. If you will look at Exhibit No. 5,
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7 "Minutes of the Board of Directors Meeting" for
8 the AIA, May 10th of 1973. You see that on the
9 front page?
10 A. Yes.
11 Q. If you look at the also presents,
12 you'll see M.M. Swetonic, Executive Secretary.
13 That's you, isn't it?
14 A. Yes.
15 Q. If you will turn to page 328. The page
16 numbers are in the lower right-hand corner.
17 A. Okay.
18 Q. Under the section where it says
19 "Petitions on Spraying," read along with me.
20 "Mr. Swetonic recommended that the AIA
21 petition each city and state which has a universal
22 ban on asbestos spraying to change their standards
23 to conform with the EPA regulations."
24 Did I read that right?
25 A. Yes.

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2 MR. GINSBERG: You read it right. Can
3 we give the witness a minute to look through
4 this document? He hasn't seen it today, yet.
5 (Witness reviewed document.)
6 THE WITNESS: Okay, I have read this.
7 MR. GINSBERG: If you need to look at
8 the document from front to back, take the

9 time. whatever you need.

10 THE WITNESS: The problem is, I don't
11 know what the EPA regulation said anymore, so
12 it's tough to understand -- for me to comment
13 on what we recommended to conform with the
14 Environmental Protection Agency regulations.

15 I have no recollection what those EPA
16 regulations said with regard to spraying. I
17 thought it was a ban. So I am confused by
18 this whole thing.

19 Q. Let's just look at it and see if it
20 doesn't clear up your confusion.

21 First of all, it says that you
22 recommended that any city or state which has a
23 universal ban on asbestos spraying ought to be
24 petitioned to change their standards. That much
25 is clear, isn't it?

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2 MR. GINSBERG: What is clear is you
3 have read half of a sentence.

4 A. To conform with the EPA regulations.

5 Q. I agree. We are going to break it
6 apart statement by statement to make sure you
7 understand each statement so you can't say, "I am
8 confused."

9 The first part is pretty clear: You
10 wanted the AIA, your institute, to petition each
11 city and state which had a universal ban on

12 asbestos spraying to change their standards.
13 Right?

14 MR. GINSBERG: Objection. It's asked
15 and answered.

16 A. You can't break a sentence up into 16
17 parts and ask me to comment on each of them.

18 Q. Why can't I? All I am going to do is
19 get you to agree you wanted them to change their
20 standards.

21 A. To conform with the EPA regulations.

22 Q. That's exactly right. That's how you
23 wanted them to change the standards, right?

24 A. To conform with the EPA regulations,
25 whatever they may have said. I don't know what

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2 they said.

3 Q. Well, if you look at the next paragraph
4 it will set out some information from which you
5 can infer what the EPA regs said: "Mr. Molino
6 reported the Environmental Defense Fund has filed
7 a petition challenging the EPA asbestos standard.
8 The main points are, first, the 1 percent
9 permissible level for asbestos content in spraying
10 materials should be eliminated."

11 A. Okay. So that's what the EPA
12 regulation must have said.

13 Q. It must have said there's a 1 percent

14 permissible level for asbestos content in
15 spraying, right?

16 A. Yes.

17 Q. So what you wanted to do is take these
18 cities and states that had a universal ban on
19 asbestos spraying and petition them to change it
20 to where you were allowed to have 1 percent,
21 right?

22 MR. GINSBERG: You are basing this on
23 the witness's saying he assumes that the EPA
24 regulation must have been what you say it is
25 based on what's in this document? Is that

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2 what you --

3 MR. LANIER: I am basing this on
4 black-and-white of what this document says
5 and what this witness is sworn to under oath
6 and what anybody with common sense
7 understands reading this.

8 A. Frankly, I have no recollection of
9 anything with regard to this here.

10 Q. It sure reads different than what you
11 were telling everybody in that book that got
12 published, doesn't it?

13 A. No. If you would have seen how
14 asbestos was sprayed, as opposed to whatever
15 this is in reference to, the asbestos spraying
16 that I was referring to in my article was like

17 100 percent asbestos.

18 Q. Sir, it was asbestos mixed with
19 concrete that was being sprayed on there, wasn't
20 it?

21 A. However, but it was a lot of asbestos
22 in it, if you had ever seen it done. I have seen
23 it done.

24 Q. They use an Olympic gun to do it?

25 A. Okay. Well, you know a lot about it,

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2 too.

3 Q. Sir, that's not what you said in your
4 book. In your book you said, "The practice was
5 shortly banned by the City with our concurrence."

6 Sir, what you-all were trying to do was
7 take any city that had a universal ban and
8 petition them -- at least your recommendation was
9 that they ought to change their standards to
10 conform with EPA?

11 MS. STYPINSKI: Objection to form.

12 Q. You weren't urging them to ban it,
13 right?

14 MS. STYPINSKI: Objection to form.

15 A. Yes, we were. We did. I don't recall
16 why this -- why if we did this, we did this. I
17 just don't recall.

18 Q. What we've got here in Exhibit No. 5

19 are some minutes to a meeting of the Board of
20 Directors at some private club where you-all had
21 the meeting. The Williams Club, where is that?

22 A. Here in New York City.

23 Q. You-all have this meeting. It's got
24 you there, it's got a number of other companies it
25 looks like. Do you know any of these fellows?

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2 A. I am sure I knew them quite well in the
3 day.

4 Q. William Thurber from Union Carbide, do
5 you know him?

6 A. I do not remember him at all.

7 Q. You knew Solon from Johns-Manville;
8 that was your old boss?

9 A. That's right, yes.

10 Q. You got Flintkote. They had an
11 asbestos mine. Did you know about that?

12 A. No, I did not know they had a mine.
13 Did they?

14 MR. LANIER: Yes.

15 Q. You've got Atlas Asbestos, you've
16 got --

17 A. These are mostly the members of the
18 trade association, I believe.

19 Q. So all of these folks are there and it
20 looks like you were making some kind of
21 recommendations or presentations, doesn't it?

22 A. Yes, but the fact of the matter is, as
23 I say, I don't recall doing this nor could I give
24 you a reason as to, if I did it, why I did it.

25 Q. Looking at this attendance, you got a

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2 Joseph Burnes, Esquire, a counsel, a lawyer. What
3 is a lawyer doing at you-all's meeting of the
4 Board of Directors?

5 A. Lawyers would be -- lawyers would
6 always be at meetings.

7 Q. The trade association's board meetings,
8 you-all had a lawyer always there?

9 A. Sure.

10 Q. Because you-all were worried about
11 claims, weren't you?

12 A. No.

13 Q. Sir --

14 A. No.

15 Q. Sir, I want to show you another AIA
16 executive committee meeting and we will mark this
17 as Exhibit No. 6.

18 (Swetonic Exhibit 6, AIA meeting
19 minutes, marked for identification, as of
20 this date.)

21 Q. See if it doesn't say specifically that
22 you were worried about claims on page 2, the
23 paragraph that starts out --

24 A. Just a second. Just a second.
25 (Witness read document.)

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2 MS. STYPINSKI: Can you identify the
3 exhibit?

4 MR. LANIER: Yes. This is an AIA
5 letter to the executive committee from
6 Mr. Swetonic dated October 24th, 1972. He
7 just turned 30 about a week and a half
8 earlier.

9 MS. STYPINSKI: Thank you.

10 THE WITNESS: What are you referring
11 to?

12 Q. I am referring to the paragraph that
13 says, "I" -- Matthew Swetonic -- "am fully aware
14 one of the major industry fears with regard to
15 providing employees with facts on asbestos health
16 is that this would result in a great increase in
17 workers' compensation claims. While there may be
18 some validity in this argument, think for a moment
19 how many claims there would be if the IUD and
20 Dr. Selikoff were permitted to present their
21 estimate of the health situation to employees
22 without any refutation by the industry."

23 A. Yes. Okay.

24 Q. You-all were concerned about claims?

25 A. Let's back up for a second here.

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2 There's a difference between a
3 workmen's Compensation claim and a lawsuit.
4 workmen's Compensation claim is for -- let's say,
5 Manville, for their employees, saying that they
6 should be compensated for illnesses. It's
7 different than a product liability lawsuit which
8 is what I was referring to earlier.

9 Q. Sir, when you were saying "No, no,
10 no" -- the court reporter can go back and read it,
11 but I specifically said you-all were concerned
12 about claims. You were concerned about claims.

13 A. But not of the type that I thought you
14 were referring to.

15 Q. Well, sir, you understand at least in
16 the state of Texas back then a workers'
17 Compensation claim could result in a lawsuit
18 against the company and if the company were
19 intentionally responsible for the conduct and it
20 resulted in the death, could be punitive damages.
21 It is a lawsuit.

22 MS. STYPINSKI: Objection to form.

23 MS. ANTONUCCI: Objection.

24 A. It might be in the state of Texas but
25 it wasn't in the state of New York or the state of

1 Swetonic

2 New Jersey to the best of my knowledge at those
3 times.

4 Q. You understand a bunch of your clients
5 and a bunch of the AIA executive committee had a
6 bunch of facilities and plants in Texas that they
7 were concerned about?

8 MS. STYPINSKI: Objection to form.

9 A. They never raised an issue along those
10 lines with us.

11 Q. Even still, sir, as you-all were doing
12 this work, you're doing it with a concern that
13 there was going to be a bunch of new Workers' Comp
14 claims that are going to cost you-all money and
15 you are trying to minimize those, aren't you?

16 A. If those claims were based on poor
17 information, I think if you will go through this
18 thing, what this is is a recommendation that they
19 start to put together information for their
20 employees on the asbestos health issue, which I
21 think would be a fine thing to do.

22 Once again, I go back to what I said
23 before, that I do not equate Workmen's
24 Compensation claims --

25 I mean, Manville had many, many

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2 Workmen's Compensation claims that I was aware of
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3 and they were paying compensation to a lot of
4 people at the Manville plant. I was certainly
5 aware of that. That's not in the same category
6 that I was talking about when I talked about
7 product liability claims. I make a distinction
8 between the two.

9 Q. Because you've got to admit when the
10 document's in front of you that you-all were
11 concerned about legal claims. True?

12 MR. GINSBERG: Objection. It's been
13 asked and answered. If there is any problem,
14 it was with the question being ambiguous.

15 MS. STYPINSKI: Objection to form.

16 Q. Answer it, please. That's true, isn't
17 it?

18 DI MR. GINSBERG: Objection. It's been
19 asked and answered. The question is abusive
20 and I am instructing the witness not to
21 answer.

22 MR. LANIER: What you are doing is --
23 okay.

24 sir, I'll bet you I get to ask you that
25 question again one day. In the not far too

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2 distant future.

3 Q. Do you believe there was ever a need
4 for government regulation on asbestos?

5 A. Yes.
6 Q. Why wouldn't the industry do it on its
7 own?
8 A. I think some of the companies had
9 pretty good things in place. Manville did
10 certainly.
11 Q. So why did the government need to
12 intervene?
13 A. The government didn't intervene. It's
14 part of what OSHA was set up to do, was to create
15 regulations on various things.
16 Q. Would the industry have done it on its
17 own without OSHA?
18 A. I can't say.
19 Q. Why not?
20 A. I can't say. How would I know?
21 Manville was doing it.
22 Q. Did you ever do any work with the Jones
23 Day law firm?
24 A. Yes.
25 Q. What kind of work did you do with them?

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1 Swetonic
2 And if they gave you legal counsel, I
3 don't want to know about it, what it was. I just
4 need to know that that's what it was.
5 What kind of work did you do with them?
6 A. Go back on that again. You kind of
7 said two or three things.

8 Q. I'm not allowed to ask you what legal
9 counsel, a lawyer, may have given you, so I'm not
10 looking for that. I want to know what kind of
11 work you did with them because I suspect you-all
12 had a common client that you-all did some work
13 for, and in that regard I would like to know what
14 the work was.

15 But I don't want -- if they came to you
16 and you went to them and said, "Hey, I perjured
17 myself, what should I do?" and they gave you legal
18 counsel, then you shouldn't be telling me that
19 stuff. Okay?

20 A. They were counsel for R.J. Reynolds.

21 Q. How were you involved with Jones Day in
22 that regard?

23 A. Well, very, very seldom.

24 Actually the only time that I can
25 remember is when we were working on Premiere, the

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2 smokeless cigarette, and there would be normally a
3 lot of lawyers there to make sure that as we were
4 preparing for a city council meeting or whatever,
5 that, you know, we were saying the right thing or
6 saying it in a fashion that wasn't going to get us
7 in trouble. Whatever.

8 Q. How would a lawyer need to be there to
9 make sure you were saying something that wouldn't

10 get you in trouble?

11 MR. GINSBERG: Objection. I think in
12 this instance if the lawyers from Jones Day
13 were present representing their client
14 Reynolds and if Mr. Swetonic was also acting
15 as an agent of Reynolds, then those
16 communications would be protected by the
17 attorney-client privilege.

18 DI We don't have anyone here from Reynolds
19 present so I think out of safety here, given
20 Mr. Swetonic's responsibility to any former
21 client, that he shouldn't answer the
22 question.

23 Q. Did you ever see the 400-page paper
24 that Jones Day put out about Reynolds and the
25 tobacco approach being used in PR efforts?

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2 A. No.

3 Q. Beryllium, did you ever do any work
4 with the beryllium industry?

5 A. Not that I recall.

6 MR. LANIER: In Texas we have a rule
7 that says I'm allowed to ask you up to six
8 hours worth of questions.

9 I have made a provision, I understand,
10 through one of the lawyers that I work with
11 that other lawyers obviously in the room can
12 ask you questions, but if it can be arranged

13 with you and your lawyer that those lawyers
14 on the telephone can look at these documents
15 and ask you questions at some point. I am
16 going to reserve the rest of my time in case
17 someone does, and I suspect I will be getting
18 to depose you later anyway. So at this point
19 I will pass the witness.

20 MR. GINSBERG: Mr. Lanier, does that
21 mean you have no further questions at this
22 point?

23 MR. LANIER: At this point I will pass
24 the witness.

25 MR. HENDERSON: I have no questions.

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2 MS. WILLIAMS: I have no questions.

3 MR. GARDNER: I have no questions at
4 this time.

5 MS. STYPINSKI: I have no questions at
6 this time.

7 MR. BART: I have no questions at this
8 time.

9 MR. HARVARD: Me either.

10 MR. LANIER: Anybody on the phone want
11 to ask questions now before they see the
12 documents?

13 MS. STUART: I don't have any
14 questions.

15 MR. WEBB: I have no questions.
16 MR. WHARTON: I have no questions at
17 this time.
18 MS. ZIVKOVIC: I have no questions.
19 MR. DePHILLIPS: No questions at this
20 time.
21 MR. MONAHAN: No questions.
22 MR. HUMPHREY: No questions at this
23 time.
24 MS. LUKE: I have no questions at this
25 time.

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2 MS. WARD: No questions at this time.
3 MS. ANTONUCCI: No questions.
4 MR. WESTBERG: No questions.
5 MR. GINSBERG: I would like to know,
6 Mark, what are you talking about, some
7 agreement with regard to other lawyers here
8 reviewing documents?
9 MR. LANIER: The lawyers -- at least
10 some lawyers who are on the phone said that
11 while they wanted to attend by phone, they
12 specifically want to have a chance to look at
13 the documents to make sure they have no
14 questions before they pass the witness and
15 there's no way for them to do that until they
16 get a copy of the depo, and I assume what
17 they will have to do is come up here and get

18 hold of you two and either do it by agreement
19 or petition a court to allow them to then ask
20 their questions.

21 MR. GINSBERG: Yes, because it wouldn't
22 be subject to --

23 As far as I am concerned, today's
24 proceeding is over.

25 And then also with regard to your

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1 Swetonic
2 procedure for the witness reviewing the
3 transcript, the witness will provide, I
4 guess, what is it, the original to Mr.
5 Swetonic or through me?

6 MR. LANIER: The witness won't but what
7 will happen is the court reporter will
8 provide the original and we'll have an
9 agreement, which exists under the rules
10 anyway, that if for some reason a signed
11 original is not available for time of hearing
12 or trial, then an unsigned copy can be used.

13 Mr. Swetonic, you need to know that you
14 are assured the rights, at least under Texas,
15 to review the transcript and make sure that
16 this young lady has not messed up and changed
17 one of your yes's to no's or something like
18 that. If you perceive that there is an error
19 either because she's messed up, or some

20 witnesses, just because they think they
21 messed up and misunderstood something, that
22 you have an opportunity to correct that and
23 put the reason for your correction and supply
24 that with the deposition transcript.
25 MR. GINSBERG: With regard to the

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2 procedure you just mentioned, something about
3 if there will be a hearing or whatever before
4 Mr. Swetonic can have responded within the
5 period he is allowed by the rules, then you
6 can go ahead and used an unsigned copy?
7 MR. LANIER: Correct.
8 MR. GINSBERG: Your office had told me
9 that the trial in this case was supposed to
10 start this coming Monday. Is that correct?
11 MR. LANIER: I suspect -- well, the
12 answer to your question is yes, it is
13 supposed to. I suspect that it may not start
14 immediately this coming Monday, but I may be
15 wrong.
16 MR. GINSBERG: The witness will be
17 given the opportunity to review the
18 transcript then to respond to it within what
19 is allowed under the Texas rules, correct?
20 MR. LANIER: Yes. We will use an
21 unsigned copy if you have not done so by the
22 time we are needed at trial.

23 MR. GINSBERG: Will the witness get
24 through me notice of that fact?
25 MR. LANIER: No.

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2 MR. GINSBERG: Will a copy of the
3 transcript be provided nevertheless for the
4 witness to review?
5 MR. LANIER: Yes.
6 MR. GINSBERG: Thank you.
7 MR. LANIER: Certainly.
8 As a practical matter, we will try and
9 call you if we are going to do it, but in the
10 heat of battle I may forget. So I don't want
11 to tell you for certain that I will.
12 MR. GINSBERG: But we'll be getting a
13 copy from the reporter regardless?
14 MR. LANIER: Yes.
15 MR. GINSBERG: Thank you.
16 (Time noted: 1:56 p.m.)
17
18

19 MATTHEW SWETONIC

20
21 subscribed and sworn to before me this
22 ____ day of ____, ____.

23
24

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C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

I, LINDA DEVECKA, a Notary Public
within and for the State of New York, do
hereby certify:

That MATTHEW SWETONIC, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such deposition
is a true record of the testimony given by
such witness.

I further certify that I am not related
to any of the parties to this action by blood
or marriage; and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 18th day of November,
2002.

LINDA DEVECKA

1

2 ----- I N D E X -----

3 WITNESS EXAMINATION BY PAGE
4 MATTHEW SWETONIC MR. LANIER 7

5

6 ----- INFORMATION REQUESTS -----

7 DIRECTIONS: 24, 81, 87, 115, 118

8 RULINGS: None

9 TO BE FURNISHED: None

10 REQUESTS: None

11 MOTIONS: None

12

13 ----- EXHIBITS -----

14	SWETONIC EXHIBIT NO.	FOR ID.
15	1 Deposition subpoena	12
16	2-A Laminated card called "Asbestos and Health Questions and Answers"	13
17	2-B Brochure entitled "Asbestos in the Atmosphere, a Hazard to Health?"	13
18	2-C Polyvinyl chloride brochure	13
19	2-D Asbestos and health information file	13
20	3 Crisis Management book chapter entitled "Death of the Asbestos Industry"	13
21	4 ATI meeting minutes and speaker introduction page	27
22	5 AIA meeting minutes	104
23	6 AIA meeting minutes	111

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