

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

WANDA DUNCAN, Individually)
and as Special)
Administrator of the Estate)
of ANDREW DUNCAN, Deceased,)
)
Plaintiffs,)
)
vs.) Case No.06-L-355
)
THE SHERWIN-WILLIAMS)
COMPANY, et al.,)
)
Defendants.)

- - - - -
THE VIDEOTAPED DISCOVERY DEPOSITION OF ELIZABETH A. GILBERT
WEDNESDAY, JANUARY 24, 2007
- - - - -

The videotaped discovery deposition of ELIZABETH A. GILBERT, called by the Plaintiffs for examination pursuant to the Ohio Rules of Civil Procedure, taken before me, the undersigned, Christina A. Raymond, a Court Reporter and Notary Public within and for the State of Ohio, taken at the offices of Gallagher, Sharp, The Bulkley Building, 6th Floor, 1501 Euclid Avenue, Cleveland, Ohio, commencing at 12:01 p.m., the day and date above set forth.

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ALSO PRESENT:

Riley Truitt, Videographer

1 THE VIDEOGRAPHER: This is the
2 videotaped discovery deposition of Elizabeth
3 Gilbert. Today's date is January 24th, 2007,
4 and the time is 12:01 p.m. This is the case
5 of Wanda Duncan, et al. versus The
6 Sherwin-Williams Company, et al. The case
7 number is 06-L-355 in the Third Judicial
8 Circuit Court of Madison County, Illinois.

9 My name is Riley Truitt. I'm a
10 videographer representing Pohlman Reporting
11 Company located on 211 North Broadway, St.
12 Louis, Missouri. All counsel will be
13 reflected on the stenographic record. Will
14 the court reporter please swear in the
15 witness?

16 ELIZABETH A. GILBERT
17 of lawful age, called by the Plaintiffs for
18 examination, pursuant to the Ohio Rules of Civil
19 Procedure, having been first duly sworn, as
20 hereinafter certified, was examined and testified
21 as follows:

22 MR. SERRITELLA: Just one
23 moment. You know, Bill, we are producing her
24 for both Enright and Duncan. That was --

25 MR. KOHLBURN: Yeah, and I

1 think we had indicated it was too short of
2 notice for Enright. So how about if the
3 record just reflects that we disagree on
4 that?

5 MR. SERRITELLA: All right. I
6 hadn't seen your --

7 MR. KOHLBURN: I know that
8 you had -- I think you talked to Ted about
9 that, and I believe he had indicated -- at
10 least he told me he was going to indicate
11 that that was too short of notice for
12 Enright.

13 MR. SERRITELLA: I did not
14 receive any indication. I'm not saying
15 someone else didn't, but I have not received
16 any notification.

17 MR. KOHLBURN: Okay.

18 MR. SERRITELLA: Okay.

19 MR. KOHLBURN: So the record
20 reflects what you and I both understand about
21 what went on.

22 MR. SERRITELLA: The record
23 reflects that we have tendered her for both
24 Enright and Duncan, and you are objecting to
25 the tender on Enright because you say the

1 notice was too short.

2 MR. KOHLBURN: Very good.

3 MR. SERRITELLA: And that's my
4 understanding of where we're at at this
5 moment.

6 MR. KOHLBURN: Okay.

7 - - - - -

8 EXAMINATION OF ELIZABETH A. GILBERT

9 BY MR. KOHLBURN:

10 Q Would you state your name for the record,
11 please?

12 A **Elizabeth Agnes Gilbert.**

13 Q And are you currently employed?

14 A **Yes.**

15 Q And by whom?

16 A **The Sherwin-Williams Company.**

17 Q And what is your position?

18 A **I'm the director of corporate regulatory**
19 **affairs.**

20 Q And how long have you held that particular
21 position?

22 A **Since July of 2000.**

23 Q And how long have you been with The
24 Sherwin-Williams Company?

25 A **Since August of 1995.**

1 Q And you've been offered today as a
2 representative witness for Sherwin-Williams;
3 is that correct?

4 **A Yes.**

5 Q And according to the disclosure I looked at,
6 one of the areas you're prepared to testify
7 about is the corporate history of
8 Sherwin-Williams, correct?

9 **A Yes.**

10 Q And you're also prepared to testify about
11 some of the products that were manufactured
12 and sold by Sherwin-Williams; is that
13 correct?

14 **A Yes.**

15 Q Now, is that products they both made and sold
16 or do you also have knowledge about the
17 products that they sold but did not make?

18 **A I have both, products that were made and**
19 **products that were sold.**

20 Q And you're also prepared to testify as to
21 Sherwin-Williams' knowledge of asbestos
22 exposures and safety issues, correct?

23 **A Yes.**

24 Q Now, according to your understanding, are
25 there any other areas that you are prepared

1 to testify on today as a corporate
2 representative of Sherwin-Williams?

3 **A Well, I was asked to be the most**
4 **knowledgable. So if you have questions that**
5 **I can answer about any other areas, I'll try**
6 **to answer them for you.**

7 Q Okay. Fair enough. Now, given that you
8 started with The Sherwin-Williams Company in
9 1995, do you have direct, personal knowledge
10 as to these areas we've gone over with
11 respect to Sherwin-Williams prior to that
12 date?

13 **A I have the knowledge that I've gained by**
14 **review of documents, history of speaking with**
15 **the man that I used to report to, who now**
16 **works for me, who was around during that**
17 **time, other information that's been gathered.**

18 Q And so basically just to clarify, you don't
19 have direct, personal knowledge, correct?

20 **A No, I do not have direct, personal knowledge.**

21 Q But you've undertaken to inform and educate
22 yourself as to events that occurred prior to
23 1995, correct?

24 **A Yes, I have.**

25 Q And I think you've given us a general outline

1 of what you did. If we could be a little bit
2 more specific, you indicated you reviewed
3 documents, correct?

4 **A Uh-huh, I have reviewed documents. I've**
5 **spoken with our attorneys here, my attorneys,**
6 **for that, looked at some of the history of**
7 **claims that were in the legal department and**
8 **some of the interviews with employees. I**
9 **have looked at old books and literature that**
10 **has been collected and spoken mainly with**
11 **Dwight Cohagan.**

12 Q And when you indicated that you spoke with
13 the person who you used to report to, who now
14 reports to you --

15 **A Yes.**

16 Q -- is that Mr. Cohagan you were referring to?

17 **A That's Mr. Cohagan, yes.**

18 Q And did you personally conduct any kind of an
19 investigation or make any decisions as to
20 what you were going to review or was that
21 provided to you?

22 **A It was provided to me.**

23 Q And by whom?

24 **A By our attorneys and Mr. Cohagan.**

25 Q And when was this provided to you?

1 **A Within the past six months.**

2 Q Prior to today have you ever given a
3 deposition?

4 **A Yes.**

5 Q And on how many occasions?

6 **A I believe six for The Sherwin-Williams**
7 **Company.**

8 Q And what's the earliest occasion you gave a
9 deposition for The Sherwin-Williams Company?

10 **A I don't know the exact date. It's been since**
11 **I was director.**

12 Q Just an approximation is fine.

13 **A Maybe 2001, 2002.**

14 Q And was that an asbestos-related case?

15 **A No.**

16 Q Of the six prior depositions that you've
17 indicated you've given for Sherwin-Williams,
18 have any of those been in asbestos-related
19 cases?

20 **A No, they have not.**

21 Q So this is the first occasion you testified
22 for asbestos?

23 **A Yes.**

24 Q And about how much time did you spend
25 reviewing the documents that were provided to

1 you, your best estimate?

2 **A I've been reviewing the documents for the**
3 **past six months and been working with**
4 **Mr. Cohagan and discussing products and**
5 **formulations since I was first hired.**

6 Q And other than Mr. Cohagan and your
7 attorneys, did you speak with anyone else who
8 had knowledge of events prior to 1995?

9 **A No, I have not.**

10 Q You indicated that you had reviewed some
11 notes of interviews with employees; is that
12 correct?

13 **A Yes.**

14 Q And I've been provided with a couple of
15 volumes of documents that you've looked at.
16 Do you know whether or not the employee
17 interview notes are contained in there?

18 **A I don't know for sure, but I -- I'd have to**
19 **find out for you.**

20 Q And as you sit here right now, can you recall
21 the identity of any of these employees whose
22 interviews you reviewed notes of?

23 **A No, I can't. I'm sorry.**

24 Q Do you know who at Sherwin-Williams was
25 responsible for gathering the information

1 that you reviewed?

2 **A** I believe it was -- one of our paralegals put
3 it together, but I think that call went out
4 to get all the information from several
5 different people. But I don't know who
6 exactly put it together.

7 **Q** Let's go ahead then and just go over your
8 general education and employment history
9 starting with when you graduated from high
10 school. If you can just give me your college
11 education experience?

12 **A** I have a bachelor's degree in biology from
13 the University of Akron. And I did the
14 coursework and thesis work for my master's
15 degree but never defended it, and that was
16 also at the University of Akron.

17 **Q** And what year did you get your bachelor's
18 degree?

19 **A** 1982.

20 **Q** And after you got your bachelor's degree did
21 you immediately begin working on your
22 master's?

23 **A** Yes.

24 **Q** And were you also employed at that time?

25 **A** No, I was a graduate assistant at the

1 **University of Akron.**

2 Q And for how long were you a graduate
3 assistant at the University of Akron?

4 **A Two years.**

5 Q And that takes us up to about 1984. And did
6 you get into the work force in 1984?

7 **A Yes.**

8 Q And for whom did you go to work in 1984?

9 **A For about 18 months I worked for Case Western**
10 **Reserve University.**

11 Q And what position did you hold with Case
12 Western?

13 **A I was a research assistant.**

14 Q And after you were a research assistant at
15 Case Western University, where did you go?

16 **A The City of Orrville Power Plant.**

17 Q And could you spell that, please?

18 **A O R R V I L L E.**

19 Q And how long were you there?

20 **A Five years.**

21 Q And what was your position with the City of
22 Orrville Power Plant?

23 **A I was a chemist.**

24 Q And if you could just briefly describe what
25 your duties as a chemist for the City of

1 Orrville Power Plant were?

2 **A I was responsible for water treatment of the**
3 **boilers. I did waste. I was responsible for**
4 **their -- we had a very small plant that**
5 **accumulated the fly ash and bulked it and**
6 **shipped it out. I did ordering of coal, air**
7 **permitting, water permitting and submissions.**

8 Q That takes us up to I think about '91, '92?

9 **A About 1990, '85 to '90.**

10 Q And where did you go to work in 1990?

11 **A It was GenCorp Polymer Products.**

12 Q And what did you do at GenCorp Polymer
13 Products?

14 **A I was a safety and environmental engineer.**
15 **That was my title.**

16 Q And what were your responsibilities as a
17 safety and environmental engineer with
18 GenCorp?

19 **A I did employee safety meetings, industrial**
20 **hygiene monitoring for the individual raw**
21 **materials that were used there,**
22 **transportation, wrote some labels and MSDSs**
23 **for products that were produced by the pilot**
24 **plant.**

25 Q And when you're talking about labels, you're

1 referring to warning labels?

2 **A They were labels that were applied to**
3 **products, yes.**

4 Q And do you have any certifications or
5 anything of that nature in the area of
6 industrial hygiene or --

7 **A No, I do not.**

8 Q In health and safety or anything of that
9 nature?

10 **A No, I do not.**

11 Q Other than the bachelor's degree and the
12 partly completed work on the master's degree,
13 do you have any certifications, diplomas, in
14 any area?

15 **A No.**

16 Q Have you ever testified at a trial before?

17 **A No.**

18 Q Are you familiar with an entity known as
19 Deshler Products, D E S H L E R?

20 **A Yes.**

21 Q And how are you familiar with Deshler?

22 **A I have looked at some of the labels from**
23 **Deshler and some of the products.**

24 Q And is that an entity that was at one time
25 acquired by Sherwin-Williams?

1 **A I don't recall exactly.**

2 Q Do you have any knowledge or information, as
3 you sit here today, concerning the
4 relationship between Deshler and
5 Sherwin-Williams?

6 **A No, I don't have any.**

7 Q Would you have an estimate as to when that
8 relationship began?

9 **A Not for dates, no.**

10 Q And even if not a specific date, a decade?

11 **A No, I'm sorry. I don't.**

12 Q Are you familiar with any products associated
13 with the Deshler Company or with Deshler?

14 **A I have looked at product labels, but I can't
15 name you names.**

16 Q And do you recall, from looking at any of
17 those product labels, whether or not any of
18 those products contained asbestos?

19 **A No, I would have to look at the labels again.**

20 Q Do you recall what time frame those labels
21 were from?

22 **A No, I do not.**

23 Q And do you know whether or not the labels are
24 reflected in the documents that we've been
25 provided here?

1 **A I believe they are.**

2 Q And other than the labels that you indicated
3 that you've seen, have you taken any other
4 steps to investigate the history of Deshler
5 as it relates to Sherwin-Williams?

6 **A No, I have not.**

7 Q Are you familiar with a company called or an
8 entity called Hadley Adhesives?

9 **A I have seen labels from Hadley.**

10 Q Beyond seeing labels, is there anything you
11 can tell me about Hadley Adhesives and its
12 relationship with Sherwin-Williams?

13 **A No.**

14 Q Do you know whether or not Hadley Adhesives
15 ever made or sold asbestos-containing
16 products?

17 **A I would have to look at the labels again.**

18 Q And do you know whether Hadley Adhesives ever
19 had an industrial hygienist or a medical
20 director?

21 **A That I do not know.**

22 Q Do you have any knowledge or information as
23 to trade associations that Hadley Adhesives
24 may have belonged to?

25 **A I do not know that.**

1 Q Other than the labels, are there any other
2 materials or people that you've talked to
3 relating to Hadley Adhesives?

4 **A No.**

5 Q Are you familiar with an entity called Pratt
6 and Lambert?

7 **A Yes.**

8 Q And what do you know about Pratt and Lambert
9 and its relationship with Sherwin-Williams?

10 **A Pratt and Lambert was one of the companies**
11 **that was acquired by The Sherwin-Williams**
12 **Company.**

13 Q Do you know approximately when
14 Sherwin-Williams acquired Pratt and Lambert?

15 **A No, I'd have to look back through notes.**

16 Q Do you know the nature of the transaction by
17 which Pratt and Lambert was acquired, whether
18 it was an asset purchase or a merger?

19 **A No, I do not know that.**

20 Q Do you know whether or not Pratt and Lambert
21 at any time made or sold asbestos-containing
22 products?

23 **A No, I'd have to go back and review.**

24 Q And do you know whether or not Pratt and
25 Lambert ever had an industrial hygiene

1 department?

2 **A No, I do not know that.**

3 Q Or whether Pratt and Lambert ever had a
4 medical director?

5 **A No, I do not know that.**

6 Q Do you have any knowledge or information as
7 to any trade associations that Pratt and
8 Lambert may have belonged to?

9 **A I believe Pratt and Lambert belonged to the**
10 **National Paint & Coatings Association.**

11 Q And as you sit here today, can you recall in
12 general what materials, documents, you
13 reviewed that relate to Pratt and Lambert?

14 **A I believe they were labels. That's it.**

15 Q Is that it?

16 **A Uh-huh.**

17 Q I don't want to cut you off. Are you
18 familiar with an entity called Martin Senour,
19 S E N O U R?

20 **A Yes.**

21 Q And what do you know about Martin Senour?

22 **A They were a company acquired by The**
23 **Sherwin-Williams Company.**

24 Q And do you have any information as to
25 approximately when Martin Senour was acquired

1 by Sherwin-Williams?

2 **A No, I don't know the year.**

3 Q And do you have any knowledge or information
4 concerning the type of transaction by which
5 Martin Senour was acquired?

6 **A No, I do not know.**

7 Q Do you have any knowledge or information as
8 to the type of products that Martin Senour
9 made or sold at any point in time?

10 **A I know they sold paint.**

11 Q Do you know what type of paint they may have
12 sold?

13 **A No, I'd have to go back and review.**

14 Q And do you know whether or not Martin Senour
15 ever made or sold any products that contained
16 asbestos?

17 **A I don't recall.**

18 Q And do you have any knowledge or information
19 concerning whether or not Martin Senour ever
20 had an industrial hygiene department or a
21 medical director?

22 **A I don't know that.**

23 Q Do you have any knowledge or information
24 concerning Martin Senour's trade associations
25 that they may have belonged to?

1 **A No.**

2 Q Do you have any knowledge or information
3 concerning any relationship between Martin
4 Senour and NAPA?

5 **A No, I do not know.**

6 Q Are you familiar with an entity called Acme
7 Quality Paints?

8 **A Only that I know it was paint.**

9 Q And do you know whether or not that is an
10 entity that Sherwin-Williams acquired at some
11 point in time?

12 **A I believe so, but I'd have to go back and**
13 **look.**

14 Q And would you have any idea of when that was
15 acquired, assuming it was, or the nature of
16 the transaction?

17 **A No, I don't know the year.**

18 Q Other than knowing that it was possibly
19 acquired by Sherwin-Williams and that they
20 made paints, do you have any other knowledge
21 or information at all concerning Acme Quality
22 Paints?

23 **A No.**

24 Q Are you familiar with an entity by the name
25 of Lowe Brothers, Inc.?

1 **A No.**

2 Q Are you familiar with an entity -- well,
3 strike that.

4 I assume then you wouldn't have any
5 knowledge or information as to whether or not
6 Sherwin-Williams ever acquired that
7 particular entity?

8 **A No.**

9 Q Are you familiar with an entity by the name
10 of the John Lucas Company?

11 **A No, I'm not.**

12 Q And, therefore, I assume you wouldn't know
13 whether or not Sherwin-Williams ever acquired
14 that entity?

15 **A No, I would not.**

16 Q Are you familiar with an entity known as the
17 Rogers Paint Company?

18 **A No, I am not.**

19 Q And, therefore, I assume you wouldn't have
20 any knowledge or information as to whether or
21 not Sherwin-Williams ever acquired that
22 company?

23 **A No, I would not.**

24 Q To your knowledge, is there any relationship
25 between Sherwin-Williams and the W.M. Barr &

1 Company?

2 **A The only relationship I know is that they**
3 **have purchased containers or had them fill**
4 **certain products, and that's since I've been**
5 **here.**

6 Q What types of products would they have them
7 fill?

8 **A I believe they were solvents.**

9 Q And when you say had them fill certain types
10 of products, what does that mean?

11 **A The products were actually filled at theirs**
12 **under a Sherwin-Williams-owned brand.**

13 Q So basically they filled the products, and
14 they were sold under the Sherwin-Williams
15 name?

16 **A Under the Sherwin-Williams name or another**
17 **brand of The Sherwin-Williams Company.**

18 Q How many brands does The Sherwin-Williams
19 Company have that you're familiar with?

20 **A Many brands. I don't know exactly how many**
21 **brands they have.**

22 Q If I asked you to just tick off all the ones
23 that you know?

24 **A I'd have to go back. There's Duron, Pratt**
25 **and Lambert. I'm drawing a blank. I'd have**

1 **to go back and look at a list.**

2 Q To your knowledge, is there or has there ever
3 been any relationship between
4 Sherwin-Williams and PPG?

5 **A Not that I'm aware of.**

6 Q Has Sherwin-Williams always been incorporated
7 in the State of Ohio?

8 **A I believe so.**

9 Q And has it always been headquartered here in
10 Cleveland?

11 **A Yes.**

12 Q And what's the earliest time that
13 Sherwin-Williams had a facility outside the
14 State of Ohio?

15 **A I don't know the exact year the first
16 facility was outside.**

17 Q Approximately?

18 **A No, I'm sorry.**

19 Q Do you have any idea of where the first
20 facility outside of the State of Ohio may
21 have been located?

22 **A No.**

23 Q At any point throughout its history has The
24 Sherwin-Williams Company ever been divided up
25 into divisions or product areas or anything

1 of that nature for organizational purposes?

2 **A Yes.**

3 Q And can you tell me when that first came
4 about and what those divisions were, to your
5 knowledge?

6 **A No, I can't tell you when it first came**
7 **about.**

8 Q Can you tell me what the earliest point in
9 time you're familiar with it being divided up
10 in any way is?

11 **A When I first got here it was divided into**
12 **several divisions. There was the stores**
13 **group, diversified brands and consumer**
14 **division.**

15 Q And what is the stores group?

16 **A It's a -- it encompasses all of the stores**
17 **under the Sherwin-Williams name.**

18 Q And the next one was the -- what did you tell
19 me?

20 **A Diversified brands.**

21 Q And what is diversified brands?

22 **A Namely aerosols.**

23 Q And what is the consumer products group?

24 **A Consumer division.**

25 Q Consumer division?

1 **A It was other customer products, not**
2 **Sherwin-Williams branded.**

3 Q And do any of these encompass its main
4 manufacturing and sales of paint or are these
5 sort of collateral divisions?

6 **A I don't think I know what you mean.**

7 Q Well, you sort of indicated stores and then
8 aerosols and then things that aren't sold
9 under the Sherwin-Williams name. I assume
10 they make and sell paint and sell that under
11 their name, and that doesn't seem to be
12 covered by what you've given me.

13 **A Well, the consumer division also makes paint**
14 **for the stores to sell.**

15 Q Does Sherwin-Williams currently have an
16 industrial hygiene department?

17 **A They have an occupational health department**
18 **that has certified industrial hygienists.**

19 Q And how long have they had an occupational
20 health department?

21 **A We have had occupational health since I have**
22 **been here that's been formally called that.**
23 **We have had industrial hygienists employed by**
24 **The Sherwin-Williams Company since the early**
25 **70s, 1974.**

1 Q Prior to the 1970s, did Sherwin-Williams have
2 any version of an occupational health
3 department?

4 A I don't believe there was a formal
5 occupational health department.

6 Q Did they have an informal type of
7 occupational health department?

8 A There was safety.

9 Q And so prior to 1972, '73, any issues of
10 occupational health would have been handled
11 by the safety department; is that correct?

12 A It would have been handled by the corporate
13 group for safety.

14 Q Does Sherwin-Williams currently have a
15 medical director?

16 A No, they do not.

17 Q To your knowledge, has Sherwin-Williams ever
18 had a medical director?

19 A Yes, I believe they did have a medical
20 director.

21 Q Do you know for what period of time
22 Sherwin-Williams had a medical director?

23 A No, I do not recall the dates.

24 Q Do you have any idea of when Sherwin-Williams
25 ceased having a medical director?

1 **A No, I don't remember the date.**

2 **Q Do you know whether the functions that a**
3 **medical director would perform are now**
4 **carried out under some different department**
5 **or different auspices?**

6 **A No, the occupational health department**
7 **carries out the medical monitoring and**
8 **industrial hygiene and the focus for the**
9 **employees for the company now.**

10 **Q Does the occupational health department**
11 **employ any medical doctors?**

12 **A No, they do not. There is one that's a**
13 **consultant.**

14 **Q Does Sherwin-Williams currently have any**
15 **division or area or department that is**
16 **devoted to product safety?**

17 **A My group in regulatory affairs is devoted to**
18 **product compliance.**

19 **Q And what does product compliance entail?**

20 **A It's the compliance of the product with all**
21 **federal, state and local laws regarding**
22 **labeling and warning.**

23 **Q And how long has that department or area**
24 **existed?**

25 **A I believe product compliance has been back to**

1 **the 70s.**

2 Q Is this something that was created in
3 response to OSHA and other regulatory bodies
4 that came into being in the 1970s?

5 A **I don't know. I don't know why it was**
6 **officially created.**

7 Q To your knowledge, prior to the 1970s, did
8 Sherwin-Williams have any department that was
9 devoted to consumer product safety?

10 A **Their corporate safety group was in charge of**
11 **that.**

12 Q So, and just to clarify and make sure I
13 understand, prior to the 1970s the safety
14 department at Sherwin-Williams was
15 responsible not only for safety issues in the
16 plant but also for occupational health issues
17 and also for consumer product safety issues;
18 is that correct?

19 A **I believe so.**

20 Q Do you know how long Sherwin-Williams had a
21 safety department?

22 A **No, I do not.**

23 Q Is there a point in time when you can say I
24 know that they had it at least by this time,
25 even if you don't know entirely how far back

1 it goes?

2 **A I know that there was a safety department**
3 **from documents I've seen from the 70s, but I**
4 **don't know how far back.**

5 Q Do you know if that would have existed in the
6 60s?

7 **A I don't know what it was formally called in**
8 **the 60s.**

9 Q Regardless of what it may have been called,
10 was there a group within Sherwin-Williams
11 that performed that function during the 60s?

12 **A Yes. I have seen documents where they**
13 **discussed those issues, but I don't know what**
14 **the group was formally called.**

15 Q And which of those issues did you see
16 discussed since we talked about both
17 occupational health, occupational safety and
18 consumer product safety?

19 **A All of those issues.**

20 Q And as you sit here today, can you recall the
21 names of anyone from those documents in the
22 60s who would have been affiliated with the
23 group that was discussing or handling these
24 particular issues?

25 **A No, I'd have to go back and review the**

1 **documents.**

2 Q To your knowledge, at any point in its
3 history has Sherwin-Williams undertaken any
4 sort of major restructuring or
5 reorganization?

6 **A They have reorganized and restructured over**
7 **the years, but I don't know dates.**

8 Q What do you know about the reorganizing and
9 restructuring?

10 **A They have reorganized divisions and combined**
11 **like an aerosol division and renamed a**
12 **division.**

13 Q Does Sherwin-Williams currently have any
14 subsidiaries?

15 **A I believe so, yes.**

16 Q Can you identify those for me?

17 **A No. I would have to go back and look at --**

18 Q Does Sherwin-Williams have a parent
19 corporation?

20 **A No, I don't think so.**

21 Q To your knowledge, has Sherwin-Williams ever
22 had a parent corporation?

23 **A Not that I'm aware of.**

24 Q Other than the ones that we went through
25 before, are you aware of any other entities

1 that have been acquired by Sherwin-Williams
2 at any point in time?

3 **A There have been several acquisitions since I**
4 **was hired including the Thompson Minwax**
5 **Company, Con-Lux, Accurate Dispersions.**

6 Q Any others that you recall?

7 **A The most recent one was Dobco.**

8 Q And do you know if those were acquired by
9 asset purchase, by merger or whether those
10 remain as subsidiary entities?

11 **A That I do not know.**

12 Q And I think you've already answered this, but
13 I just want to clarify it. Has
14 Sherwin-Williams ever sold products under
15 names other than Sherwin-Williams?

16 **A Sherwin-Williams sells products under**
17 **their -- under other brand names.**

18 Q And let me clarify that. I'm referring to
19 products that would be manufactured by
20 Sherwin-Williams.

21 **A Yes.**

22 Q And to your knowledge, when did
23 Sherwin-Williams first manufacture a product
24 that contained asbestos?

25 **A I believe there were about two products in**

1 **the 60s, before the 60s.**

2 Q Before the 60s?

3 **A Somewhere in the 50s and 60s there were about**
4 **two products, two or three products.**

5 Q And do you know what those products were?

6 **A No, I don't know their names.**

7 Q Do you know the last occasion on which
8 Sherwin-Williams manufactured a product that
9 contained asbestos?

10 **A Sherwin-Williams stopped manufacturing**
11 **asbestos products in 1980.**

12 Q And from the time of the 1950s and 60s when
13 they started first manufacturing any asbestos
14 product to the 80s when they stopped, during
15 that time frame were they continuously
16 manufacturing at least some product that
17 contained asbestos?

18 **A There was a period of time where there was**
19 **manufacturing of products, yes, through the**
20 **70s.**

21 Q And without regard to which ones may have
22 been manufactured back in the 50s and 60s, as
23 you sit here today are you aware of any of
24 the asbestos-containing products manufactured
25 by Sherwin-Williams?

1 **A What do you mean? I -- what do you mean?**

2 Q You said you couldn't remember the first ones
3 they made back in the 50s or 60s, and I just
4 want to know if you can recall any of the
5 asbestos-containing products that they may
6 have made at any time?

7 **A Oh, there were texture paints, asphalt roof**
8 **coatings, caulks, cement coatings.**

9 Q And to your knowledge, did Sherwin-Williams
10 ever put a warning label of any kind on those
11 products, the products that it made that
12 contained asbestos?

13 **A Yes.**

14 Q And specifically which products did it put a
15 warning on?

16 **A A warning went on asbestos products in 1975.**

17 Q And is that on all of the asbestos products
18 that were being made as of that time?

19 **A I'd have to go back and look at exactly which**
20 **ones, but I do know the warnings began**
21 **appearing on products in 1975.**

22 Q And do you have any knowledge as to the
23 reasons that those warnings began to appear
24 in 1975?

25 **A As the awareness for asbestos increased**

1 beginning in 1972, they started looking at
2 the warnings as they appeared and began
3 placing a warning on them.

4 Q Do you know what those warnings said?

5 A Well, they're available in the books, but it
6 warned of -- that it contained asbestos and
7 for release of fibers for sanding and
8 abrading.

9 Q Do you know whether or not Sherwin-Williams
10 ever tested any of its asbestos-containing
11 products to determine whether or not they
12 posed a health hazard?

13 A Sherwin-Williams did not test any of their
14 products.

15 Q Do you know whether or not Sherwin-Williams
16 had anyone conduct tests on those products
17 for them to determine if they posed any kind
18 of health hazard?

19 A I don't think they did. I know they didn't
20 have anybody else conduct them.

21 Q Did Sherwin-Williams conduct tests on its
22 products for reasons other than to determine
23 whether or not they posed a health hazard?

24 A Not that I'm aware of.

25 Q Now, Sherwin-Williams also sold

1 asbestos-containing products that were
2 manufactured by others and that were sold
3 under the manufacturer's name, correct?

4 **A Yes.**

5 Q And one of the products that we're interested
6 in in that regard are joint compounds,
7 correct?

8 **A Yes.**

9 Q Do you have any knowledge or information as
10 to the earliest occasion on which
11 Sherwin-Williams sold an asbestos-containing
12 joint compound that was made by another and
13 sold under the manufacturer's name?

14 **A Sherwin-Williams sold joint compounds that**
15 **were found to contain asbestos later in the**
16 **60s.**

17 Q Let me reask that a different way then. Do
18 you know the earliest occasion on which
19 Sherwin-Williams sold a joint compound that
20 was made by another under that other entity's
21 name, without regard to whether it contained
22 asbestos or not?

23 **A I recall as far back as the 60s from looking**
24 **at documents.**

25 Q And when you say the 60s, are you referring

1 to the early 60s, the mid 60s?

2 **A The early 60s, I believe.**

3 Q Based upon your review of documents and
4 conversations with Mr. Cohagan, what, as far
5 as you can tell, is the earliest indication
6 that Sherwin-Williams had that asbestos in
7 any circumstances could cause disease?

8 **A There are some historical documents that went**
9 **back to the 40s, 50s. And then there was**
10 **also an industrial hygiene survey of one of**
11 **our plants that was done in 1937 that**
12 **mentioned disease from asbestos. It**
13 **mentioned asbestosis.**

14 Q Do you know which plant was surveyed?

15 **A I believe it was a -- it said it was a survey**
16 **of the Kensington plant.**

17 Q And where is the Kensington Plant located?
18 You'll forgive my ignorance on geography.

19 **A I would have to look at that survey again.**
20 **I'm drawing a mental blank. I don't know**
21 **what occasion --**

22 Q Do you know what state it's in?

23 **A No, I'm just drawing a blank on that one**
24 **right now.**

25 Q That's fine.

1 **A I can see the title. I can't see the state.**

2 Q Is that serving in the materials that were
3 provided, as far as you know?

4 **A Not yet, as far as I know.**

5 MR. SERRITELLA: No, we're
6 going to produce that to you probably by the
7 end of the week.

8 MR. KOHLBURN: Okay.

9 Q And do you recall -- and I don't mean
10 necessarily the name of the individual that
11 did the work. When I say who conducted it,
12 what entity conducted it; was it
13 Sherwin-Williams; was it an outside
14 contractor; was it the government?

15 **A No, I'm failing on that. I believe it was --**
16 **it was written and conducted by an M.D., and**
17 **I don't know who it was under. It was not**
18 **done by Sherwin-Williams. It was done by**
19 **someone else.**

20 Q Do you know if this was part of a broader
21 survey of different types of plants?

22 **A It wasn't different plants. It was a broader**
23 **survey of industrial hygiene at that**
24 **facility.**

25 Q And I guess I asked a bad question there.

1 What I was wondering is whether or not as
2 part of this same survey this group or this
3 doctor looked at plants other than a
4 Sherwin-Williams plant; is this part of a big
5 program or just Sherwin-Williams?

6 **A No, I believe it was just that one facility.**

7 Q What, if anything, did Sherwin-Williams do in
8 response to that survey?

9 **A There were some recommendations in the**
10 **survey, but there was no documentation on**
11 **what was followed up.**

12 Q Can you recall what those recommendations
13 were?

14 **A It was to -- related to dusty conditions and**
15 **providing ventilation and protective**
16 **equipment.**

17 Q And that would be for the employees of
18 Sherwin-Williams working in those plants,
19 correct?

20 **A Yes.**

21 Q And as you sit here today, you didn't see any
22 information, one way or the other, whether or
23 not those recommendations were followed?

24 **A There was just the survey. There was no**
25 **follow-up documentation from that time**

1 **period.**

2 Q You also mentioned some historical materials
3 from the 40s and the 50s. Could you
4 elaborate for me on what you have seen from
5 the 40s and 50s that would give some
6 indication that asbestos can cause disease?

7 **A I believe those documents are in there. And**
8 **there was an Ohio code document for safety**
9 **talking about dusts, and asbestos was**
10 **mentioned as one of the dusts.**

11 Q Anything you recall from the 50s?

12 **A I'd have to go back and look at the documents**
13 **again, but they're in the volumes.**

14 Q And I think you may have already partially
15 answered this, but Sherwin-Williams was
16 aware, at least by the 60s, according to what
17 you've told me, that the joint compounds it
18 was selling but not making contained
19 asbestos, correct?

20 MR. SERRITELLA: I'm going to
21 object. That's not her testimony.

22 **A No, I said that they sold joint compounds**
23 **that later were discovered in the 70s to**
24 **contain asbestos.**

25 Q So based on your review of documents it would

1 be your testimony, as the representative of
2 Sherwin-Williams, that they were unaware that
3 the joint compounds they were selling
4 contained asbestos prior to the 70s?

5 **A Yes.**

6 Q And is there any specific documentation that
7 you rely upon for that?

8 **A There is a memo that is included in the**
9 **documents where the suppliers were queried as**
10 **to their joint compounds and if they**
11 **contained asbestos. And that actual letter**
12 **to the vendors isn't in there but their**
13 **response, an internal response, saying that**
14 **all the vendors had responded and giving how**
15 **many of the joint compounds contained**
16 **asbestos.**

17 Q And do you recall the date of that memo?

18 **A I believe it was July 1975.**

19 Q Is that the first occasion that you're aware
20 of on which Sherwin-Williams undertook to
21 investigate the content of the joint
22 compounds that were being sold in its stores?

23 **A Yes.**

24 Q And do you have any knowledge or information
25 as to whether or not persons employed in

1 management or supervisory positions at
2 Sherwin-Williams knew, that as a general
3 matter, joint compounds manufactured in the
4 60s contained asbestos?

5 **A There's nothing to indicate that anyone had**
6 **any indication that joint compounds would**
7 **have asbestos in them.**

8 Q Is there anything to affirmatively indicate
9 that Sherwin-Williams was completely unaware
10 that joint compounds contained asbestos in
11 the 1960s?

12 **A There's no document that says they are**
13 **unaware.**

14 Q Do you have any knowledge or information as
15 to who or what group would have made the
16 decision to sell joint compounds in
17 Sherwin-Williams' stores?

18 **A As far as I know from the history, corporate**
19 **purchasing prior to 1975 would have**
20 **recommended approved suppliers, and there**
21 **were four approved suppliers of joint**
22 **compounds.**

23 Q And do you know who those approved suppliers
24 were?

25 **A They were USG, National Gypsum, Bondex and**

1 **Proco.**

2 Q Do you know whether or not Sherwin-Williams
3 at any time ever sold Georgia-Pacific joint
4 compound?

5 A **No, I do not.**

6 Q And are you familiar at all with the process
7 by which an entity would become an approved
8 supplier?

9 A **I'm not familiar with the process, only that
10 corporate purchasing would have approved
11 certain suppliers. But prior to 1975 the
12 individual stores and district managers could
13 have purchased other --**

14 Q Do you know how long Sherwin-Williams has had
15 stores that bear the Sherwin-Williams' name?

16 A **Since shortly after they were --
17 Sherwin-Williams became an entity in the late
18 1800s.**

19 Q So they've always had Sherwin-Williams'
20 stores?

21 A **There's been Sherwin-Williams' stores, yes.**

22 Q And prior to 1975 those stores were organized
23 into some sort of districts or areas?

24 A **Stores were organized based on districts with
25 a district manager in charge of them.**

1 Q And as of, say, 1955, do you have any idea
2 how many districts there were in the United
3 States?

4 A No, I do not.

5 Q How about as of 1960?

6 A No. I'm sorry.

7 Q Is there any point in time when you could
8 tell me how many districts there were
9 covering the United States?

10 A No, I don't -- I do not know how many
11 districts there are.

12 Q Even approximately? I mean, is this one
13 where they divided up into like four big
14 districts or 20 smaller ones?

15 A They were geographical locations not bound by
16 states so -- and they have changed. Over
17 time more districts have changed.

18 Q Now, as of 1975 Sherwin-Williams changed
19 their protocols for purchasing these
20 materials, correct?

21 A Everything after that would have been under
22 the direction of The Sherwin-Williams
23 Company. Before 1975 there could have been
24 times where the individual stores or district
25 managers could have purchased things outside

1 of corporate knowing it, but after that
2 corporate would have been aware of what was
3 purchased.

4 Q And did that apply to all sundry type of
5 products that were being sold in
6 Sherwin-Williams' stores or just joint
7 compounds?

8 A **To other products that may have been sold in**
9 **the stores as well.**

10 Q Now, you indicated that prior to 1975 a
11 district manager could purchase outside of
12 corporate knowledge, correct?

13 A **Yes.**

14 Q Even prior to 1975, did corporate make any
15 recommendations or have any kind of approved
16 lists of vendors but it was just that you
17 didn't have to follow them too closely?

18 A **There were approved suppliers, but they were**
19 **not bound by -- there was no one binding them**
20 **to just buy from those suppliers.**

21 Q And do you know what criteria
22 Sherwin-Williams utilized in order to
23 designate an entity as an approved supplier?

24 A **No, I do not know what led to that.**

25 Q Any idea of what kind of factors they would

1 look at at all, even if you don't know the
2 whole list?

3 **A No, I do not know.**

4 Q Did Sherwin-Williams, as far as you know,
5 ever perform any kinds of tests on the
6 products of others that were being sold in
7 its stores?

8 **A No, they did not.**

9 Q And was Sherwin-Williams or anyone at
10 Sherwin-Williams, as far as you know, aware
11 of how joint compound was used?

12 **A Well, after speaking with Dwight, I'm pretty**
13 **sure he knew what joint compound was used**
14 **for. So I'm sure other people must have**
15 **known what joint compound was for.**

16 Q How long did Dwight -- well, strike that.
17 When did Mr. Cohagan first come to
18 work for Sherwin-Williams?

19 **A I believe it was in -- it's either 1962 or**
20 **1965.**

21 Q And as far as you know, Mr. Cohagan, from the
22 time he came to Sherwin-Williams, knew
23 basically what joint compound was used for?

24 **A Yes.**

25 Q And would he have been aware that it was sand

1 that is part of the process of using it?

2 **A Yes.**

3 Q And would he have been aware that in sanding
4 it produced dust?

5 **A I believe so.**

6 Q And to your knowledge, just to clarify, did
7 Sherwin-Williams ever undertake to determine
8 how much dust was produced in sanding or what
9 the content of that dust might be for joint
10 compounds?

11 **A Not that I'm aware of.**

12 Q Did Sherwin-Williams advertise -- strike
13 that.

14 Are you familiar with the term "sundry
15 product?"

16 **A It depends on what you mean. Sundry product**
17 **usually means associated products to us,**
18 **products that are also used during the**
19 **painting process like brushes, rollers,**
20 **sandpaper, other products that may be used.**

21 Q Would that also include the joint compounds?

22 **A Yes, uh-huh.**

23 Q Did Sherwin-Williams advertise the
24 availability of sundry products in its stores
25 in any way back in the 1960s?

1 **A That I am not aware of. I haven't seen any**
2 **sales or --**

3 Q And --

4 **A -- advertisements.**

5 Q I'm sorry. And I'm trying not to, you know
6 --

7 **A I'm sorry. Yeah, I paused and --**

8 Q Well, it happens, you know. Even if you
9 don't know whether or not they advertised
10 particular sundry products, do you know
11 whether or not Sherwin-Williams ever
12 advertised the fact that it was a full-line
13 provider or that everything you need is
14 available at our stores or anything of that
15 nature?

16 **A I know currently that that is part of their**
17 **advertisement, but I don't know how far back**
18 **that may have started.**

19 Q You anticipated my next question. And to
20 your knowledge, sundry products, did
21 Sherwin-Williams sell those at a markup over
22 the cost at which they acquired them?

23 **A I don't know anything about costs or pricing.**

24 Q Do you know whether or not Sherwin-Williams
25 made a profit in the 1960s from selling

1 sundry items or if they just sold them for
2 what they paid for them?

3 **A I've never seen any documentations on the**
4 **purchase or sale of those types of items.**

5 Q Can you identify any person who you're aware
6 of who might have that knowledge?

7 **A It would be someone in -- the only name I'm**
8 **familiar with for purchasing would be Bob**
9 **Ellis and --**

10 Q Could you spell that, please?

11 **A E L L I S.**

12 Q And could you just briefly give me the quick
13 and dirty resume on Mr. Ellis, how long he's
14 been with Sherwin-Williams?

15 **A No, I can't do that. I'm sorry.**

16 Q Is he still with them?

17 **A I believe so, yes.**

18 Q How far back do you remember him going; was
19 he there when you got there?

20 **A Yes.**

21 Q Is he kind of an old-timer or is he sort of a
22 new guy?

23 **A That I don't know either. I don't know how**
24 **long he's been here.**

25 Q Do you have any information as to why

1 Sherwin-Williams sold sundries in its stores?

2 **A No. I only know now that it's to assist the**
3 **consumer in the projects.**

4 Q And does Sherwin-Williams derive some benefit
5 from selling sundries in its stores?

6 **A I don't know what you mean by benefit but --**

7 Q Is there a business reason why they do it, in
8 order to attract more customers, because they
9 can get everything there, in order to make a
10 profit on it; from Sherwin-Williams'
11 perspective, why are they selling sundries?

12 **A I don't know why Sherwin-Williams puts it in**
13 **their stores. I assume it's to attract**
14 **customers who can get all of their project**
15 **requirements at a certain location.**

16 Q And is it correct that it would not be of a
17 benefit to Sherwin-Williams to sell a sundry
18 product that didn't work correctly?

19 MR. SERRITELLA: I'm going to
20 object to that question because I -- do you
21 understand that question?

22 **A I'm not sure what you mean.**

23 Q For example, if Sherwin-Williams had a joint
24 compound that it was selling in its stores
25 and that joint compound turned to mush and

1 fell off when you put it on the wall, would
2 that be a benefit to Sherwin-Williams?

3 **A I don't believe it would be a benefit.**

4 Q Do you think that would be a detriment to
5 Sherwin-Williams?

6 **A I don't know why they would sell a product**
7 **that didn't work.**

8 Q And so as far as you know then, some criteria
9 in terms of product quality went into
10 Sherwin-Williams' selection of the sundry
11 products that they would sell in their
12 stores, correct?

13 **A I don't know what criteria they put into**
14 **their -- I'm just assuming that they wouldn't**
15 **sell products that didn't function in the**
16 **capacity that they intended to sell them in,**
17 **but I don't know what their criteria was for**
18 **stocking associated products or sundries.**

19 Q Basically they didn't just sell any old joint
20 compound; they tried to pick a quality
21 product, correct?

22 **A I don't have the criteria, so I don't know**
23 **what their criteria was for choosing those**
24 **approved suppliers.**

25 Q Being in the business, though, you'd agree,

1 would you not, that selling an inferior
2 quality product at a Sherwin-Williams' store,
3 even with somebody else's name on it, would
4 reflect poorly on Sherwin-Williams, correct?

5 **A I believe they would try not to sell inferior**
6 **quality products if they knew they were**
7 **inferior quality.**

8 Q And I think you've already partially answered
9 this, but I just want to, you know, ask you
10 this specifically. Do you know whether or
11 not they conducted any kind of tests other
12 than health and safety on these products to
13 determine which ones worked better than
14 others, the sundry products?

15 **A I'm not aware of any tests they conducted on**
16 **other people's products.**

17 Q Did the sundry products that Sherwin-Williams
18 sold include masks, paper masks?

19 **A I'm not aware of other products. I didn't**
20 **see documentation on other sundry products**
21 **that were sold at that time.**

22 Q Do you know whether Sherwin-Williams sold
23 protective equipment products of any kind of
24 sundries during the 1960s or 1970s?

25 **A That I am not aware of.**

1 Q Did the joint compounds that Sherwin-Williams
2 sold at its stores that were made by others,
3 had other people's names on them, other
4 company's names on them, at any time contain
5 any health hazard warnings?

6 A That I'm not aware of.

7 Q Do you know whether or not Sherwin-Williams
8 ever undertook to ascertain or review whether
9 or not these products contained any warnings?

10 A No, they did not. Sherwin-Williams relied on
11 the manufacturer to properly characterize and
12 label their products at the time.

13 Q And they relied entirely on the manufacturer,
14 correct?

15 A Yes.

16 Q To the extent that, as far as you know,
17 Sherwin-Williams did not even check to see
18 whether or not these manufacturers were
19 including warnings or not?

20 MR. SERRITELLA: Did you
21 give -- excuse me. Did you give the time
22 frame on that? Because I didn't hear it if
23 you did.

24 MR. KOHLBURN: At any point
25 in time. We haven't narrowed a time frame

1 down yet.

2 **A No, Sherwin-Williams relies on the**
3 **manufacturers to properly characterize and**
4 **label their products based on their knowledge**
5 **of the formula or --**

6 Q When you say "their knowledge of the
7 formula," you mean the manufacturer's?

8 **A The manufacturer's knowledge of the formula**
9 **and components and --**

10 Q And just to clarify, so as far as you know at
11 no point in time does Sherwin-Williams ever
12 check to see whether or not products it sells
13 from another are properly labeled?

14 **A Not that I'm aware of, no.**

15 Q And that would include whether or not they're
16 labeled in compliance with any state, federal
17 or local regulations requiring labels?

18 MR. SERRITELLA: I'm just going
19 to object to the form, because it sort of
20 assumes that Sherwin-Williams even knows what
21 the composition of those products are. You
22 can't know if you're in compliance if you
23 don't know what you're complying with. So
24 I'm going to object to the form.

25 **A Sherwin-Williams relied on the manufacturer**

1 to best know their products and to supply a
2 compliant product when it was offered for
3 sale.

4 Q Prior to the 1972, 1973 time frame, are you
5 able to identify for me any precautions that
6 Sherwin-Williams undertook with regard to
7 protecting its employees in Sherwin-Williams'
8 plants from exposure to asbestos, whether it
9 be engineering controls or warnings or
10 education, any precautions of any kind
11 relating to Sherwin-Williams' employees,
12 pre'72, '73?

13 A I have seen documents where Sherwin-Williams
14 had programs in place to protect from dusts.
15 That would have included asbestos at that
16 time, including respirators and ventilation.

17 Q Do you recall the circumstances under which
18 Sherwin-Williams would have provided its
19 employees with respirators?

20 A That would have been after monitoring for
21 dusts and whatever the conditions were for
22 the raw materials that were being used.

23 Q Again, now keeping with the same time frame,
24 prior to 1972, 1973, are you aware of any
25 actions undertaken by Sherwin-Williams to

1 protect the end users of any product made or
2 sold by Sherwin-Williams from exposure to
3 asbestos?

4 **A Can you repeat the question? I'm sorry.**

5 Q Again, we're talking prior to the 1972, 1973
6 time frame.

7 **A Okay.**

8 Q Are you aware of any actions during that time
9 frame undertaken by Sherwin-Williams to
10 protect the end users of any protect made or
11 sold by Sherwin-Williams from exposure to
12 asbestos?

13 MR. SERRITELLA: Again, I'm
14 just going to make an objection to the form,
15 because to the extent, for example, you're
16 talking about joint compound you're assuming
17 Sherwin-Williams is aware of the presence of
18 asbestos, it seems to me. Subject to the
19 form, you can answer.

20 **A Would this have been Sherwin-Williams'**
21 **products or other --**

22 Q Any product that they sold, whether or not
23 they made it or bought it from somebody else.
24 To your knowledge, prior to '72, '73 did they
25 do anything to warn or otherwise protect

1 consumers of products they sold from exposure
2 to asbestos?

3 **A I'm not aware of that, of specific warnings**
4 **for that.**

5 Q Are you specifically or generally aware of
6 any actions undertaken by Sherwin-Williams
7 prior to '72, '73 to protect consumers of
8 products it sold from exposure to asbestos?

9 **A At that time asbestos wasn't specifically**
10 **regulated, and it was regulated as a nuisance**
11 **dust. So Sherwin-Williams had products that**
12 **were paints where the asbestos may have been**
13 **present. So there would not have been**
14 **warnings for asbestos on those products at**
15 **that time.**

16 Q And I just want to try to make sure I
17 understand your testimony. You indicated
18 that it wasn't regulated except as a nuisance
19 dust.

20 What is the significance of that in
21 terms of any actions that --

22 **A Well, it wasn't called out as a specific**
23 **component to be regulated. It was regulated**
24 **as other dusts such as talcs or silica, other**
25 **mineral dusts.**

1 Q Are you aware of any actions undertaken by
2 Sherwin-Williams prior to the 1972, '73 time
3 frame to warn or otherwise protect consumers
4 of products purchased from Sherwin-Williams
5 from nuisance dusts of any variety?

6 A I would have to go back and look at labels
7 for particular products, but I'm not -- that
8 wasn't something that I looked at.

9 Q And just to clarify here, I believe that I
10 already know this, but 1973, this was the
11 first occasion on which Sherwin-Williams
12 employed certified industrial hygienists,
13 correct?

14 A I believe it was '73 or '74.

15 Q And do you know why Sherwin-Williams
16 undertook to employ or hire certified
17 industrial hygienists as of '73, '74?

18 A I don't know the specific reason why they
19 hired their first certified industrial
20 hygienist.

21 Q Do you know whether or not it had anything to
22 do with the advent of more stringent
23 government regulations of the workplace?

24 A I don't know what the criteria was or why
25 they hired them.

1 Q Do you know whether or not certified
2 industrial hygienists existed as an
3 occupational specialty prior to 1973, '74?

4 A I don't know for sure. I assume it did,
5 because we hired our first industrial
6 hygienist then.

7 Q I guess my question is, there were industrial
8 hygienists, as far as you know, out there for
9 Sherwin-Williams to hire prior to 1973, '74,
10 correct?

11 A I'm making an assumption that there were.

12 Q Do you have any knowledge as to where the
13 facilities are located where Sherwin-Williams
14 has made asbestos-containing products over
15 the years?

16 A There is a list of facilities that's
17 available in there. It started out, I
18 believe, as eight facilities.

19 Q And when you say eight facilities, are these
20 ones where they made asbestos-containing
21 products or where they made any product
22 whatsoever?

23 A Where they made asbestos-containing products.

24 Q And I think you indicated that you didn't
25 know for sure how the divisions were split

1 up. Do you have any idea as of, say, 1960
2 how many Sherwin-Williams stores there were
3 in the United States?

4 **A I don't know how -- no, I do not know how**
5 **many stores there were in 1960.**

6 Q Would you be able to give me even an
7 approximation, like at least a hundred or no
8 more than 50, even a ballpark? As long as
9 it's --

10 **A I'd be guessing. I would be guessing.**
11 **I'm -- I don't know the history of when they**
12 **opened new stores or how many they had.**

13 Q Do you know how many they have right now?

14 **A I believe it's close to 3,000.**

15 Q And I guess you started in 1995. About how
16 many did they have in 1995?

17 **A Going back from memory I think it was over**
18 **2,000, somewhere between 2,000 and 2500**
19 **stores.**

20 Q So they've grown quite a bit in the last --

21 **A Almost 12 years or so.**

22 Q -- ten years or so, ten, 12 years? Even if
23 your knowledge doesn't go back as far as
24 1960, do you have any idea or estimate as to
25 how many stores they may have had in the

1 1970s?

2 **A No, I do not know. There was a time period**
3 **prior to 1975 where there may have been**
4 **independent hardware stores with the**
5 **Sherwin-Williams name on it that may have**
6 **carried and sold Sherwin-Williams labeled**
7 **products. But after 1975 only**
8 **Sherwin-Williams branded stores {sic} were**
9 **carried in Sherwin-Williams stores.**

10 **Q So after 1975 Sherwin-Williams brand is only**
11 **available in a Sherwin-Williams store?**

12 **A Yes.**

13 **Q And prior to 1975 there were independent**
14 **hardware stores that could have called**
15 **themselves a Sherwin-Williams' store,**
16 **correct?**

17 **A They could have had a Sherwin-Williams' sign**
18 **on the front. They may not have called**
19 **themselves a Sherwin-Williams' store, but**
20 **they could have carried -- could have had the**
21 **logo up and carried Sherwin-Williams' branded**
22 **products.**

23 **Q And would there be other outlets for**
24 **Sherwin-Williams' branded products pre'75;**
25 **would there be people who just didn't have**

1 the sign up but who just had some
2 Sherwin-Williams' product in the back?

3 **A There could have been.**

4 Q These independent hardware stores prior to
5 1975, did Sherwin-Williams exercise any
6 control over the sundry products that they
7 would have sold?

8 **A Not that I'm aware of, no.**

9 Q And I think that we were talking about
10 numbers of stores, and you had indicated that
11 1975, again which we already knew, was a
12 cutoff for some big changes. Do you have any
13 idea, as of 1975 or shortly thereafter, when
14 they made the switchover and got themselves a
15 little more organized on the stores, how many
16 there were?

17 **A No, I do not know.**

18 Q As of 1975 when you indicated that, as far as
19 your research shows, that's when
20 Sherwin-Williams undertook to determine which
21 of these joint compounds contained asbestos,
22 correct?

23 **A Yes.**

24 Q What, if any, action did Sherwin-Williams
25 take in 1975 upon learning that some of these

1 joint compounds it was carrying contained
2 asbestos?

3 **A They did ensure that they were properly**
4 **labeled with the asbestos warning on them.**
5 **And the suppliers in that document that I**
6 **reviewed indicated that they -- any**
7 **asbestos-containing products had a warning on**
8 **them in 1975.**

9 Q So as of 1975 they did check to see if there
10 were warning labels on stuff that other
11 people were making and selling in
12 Sherwin-Williams' stores under the
13 manufacturer's name, correct?

14 **A Yes.**

15 Q Do you know who was in charge of that
16 endeavor?

17 **A The memo that I saw was -- I believe the name**
18 **was C.R. Martins, but I'd have to go back and**
19 **review the specific --**

20 Q And do you know what prompted
21 Sherwin-Williams to make this inquiry in 1975
22 about which joint compounds may have
23 contained asbestos?

24 **A After speaking with Dwight and looking at the**
25 **documents, I believe that it was due to the**

1 OSHA regulations that came into effect in
2 1972 and the awareness that was coming out
3 that asbestos may be harmful. And there was
4 some literature in documents in there from
5 the Consumer Product Safety Commission
6 indicating that they may be interested in
7 joint compounds specifically.

8 Q Now, it's true, is it not, though, that
9 asbestos was known to be a health hazard
10 prior to 1975, correct?

11 A Yes.

12 Q And it's true, is it not, that asbestos was
13 known to be a health hazard as far back as
14 the 1930s, correct?

15 MR. SERRITELLA: I'm going to
16 object. That's been asked and answered
17 already.

18 A Yes, there were references in the documents
19 to suggest that asbestos could be a hazard
20 back to the 30s.

21 Q And specifically, what changed in 1975 that
22 prompted Sherwin-Williams to act at that
23 point in time as opposed to a prior point in
24 time?

25 A I believe it was the awareness that the OSHA

1 regulations brought out, the volume of
2 literature and research that was developing
3 and being published and also the focus on the
4 Consumer Product Safety Commission of joint
5 compounds and the sanding that may occur
6 based on that, the literature and
7 publications that came out.

8 Q And I think you've named at least three
9 general categories that I can kind of
10 identify here. One is the OSHA regulation;
11 two would be what you referred to as the
12 volume of research and literature?

13 A There seem to be some other documents that
14 had been published at that time that I saw.

15 Q And then the third area that you mentioned
16 was the focus on consumer product safety at
17 that point in time?

18 A The Consumer Product Safety Commission had a
19 focus.

20 Q In what regard did the OSHA regulations add
21 to the body of knowledge in 1972 to '75 in a
22 way that prompted Sherwin-Williams to take
23 that action; what specifically did they add
24 to the mix that prompted them to take action
25 at that point in time?

1 **A** I don't know what specifically led them. It
2 was just the fact that it was now physically
3 regulated by OSHA, and there was more of a
4 focus on that particular chemical, but I
5 don't know exactly the details of what
6 prompted them.

7 **Q** Would it be fair to say that as of 1972,
8 '73 the federal government required companies
9 to take action with respect to asbestos?

10 **A** After the OSHA regulation came out they were
11 required to take action on the manufacturing
12 side.

13 **Q** Now, you also mentioned a volume of research
14 that was being done at that time. Can you
15 give me some specifics on what you're
16 referring to that came out in the 1970s era?

17 **A** I believe there were some documents that were
18 published, and they're available in there.
19 And one of them was by a doctor named
20 Selikoff who published some information about
21 sanding and abrading of different materials
22 used by consumers.

23 **Q** And are you aware as to whether or not
24 Dr. Selikoff previously published articles in
25 1964, 1965 relating to other uses of

1 asbestos?

2 **A I haven't seen any. I'm not aware of any.**

3 Q Do you have any knowledge or information as
4 to whether or not anyone working at
5 Sherwin-Williams, particularly in the safety
6 department, in the mid 1960s was aware of
7 Dr. Selikoff's publications involving
8 insulators?

9 **A I'm not aware of that, no.**

10 Q You also mentioned the Consumer Product
11 Safety Commission. What specifically about
12 any actions undertaken by the Consumer
13 Product Safety Commission in the 1975 time
14 frame would have prompted Sherwin-Williams to
15 take action at that point in time that it had
16 not previously undertaken?

17 **A There was some documents and some literature**
18 **published where the Consumer Product Safety**
19 **Commission said they were interested in the**
20 **sanding dust that was produced from joint**
21 **compounds.**

22 Q And I think you've already indicated that,
23 based on your discussions with Mr. Cohagan,
24 as far as you know he was aware in the 1960s
25 that sanding joint compound produced dusts,

1 correct?

2 **A Yes.**

3 Q Sherwin-Williams, in making its own
4 asbestos-containing products, would have
5 received shipments of raw asbestos, correct?

6 **A Yes.**

7 Q And they would have received -- one of their
8 suppliers was Johns Manville, correct?

9 **A Yes.**

10 Q Do you know whether or not the bags of raw
11 asbestos received from Johns Manville at any
12 point in time contained warnings as to the
13 hazards of asbestos?

14 **A I have never seen specific bags or labeling**
15 **from there.**

16 Q Even if you haven't seen specific bags or
17 labeling, based on the review of any
18 documents, discussions with anyone, do you
19 have any information whatsoever as to whether
20 or not Sherwin-Williams received bags of
21 asbestos from Johns Manville that contained
22 warnings as early as the 1960s?

23 **A I don't have any information or documents**
24 **that show that.**

25 Q So you just don't know one way or the other?

1 **A No, I do not.**

2 **Q Do you know whether or not Sherwin-Williams**
 3 ever received any sort of written materials
 4 as opposed to a label on a bag, like a memo
 5 or anything like that from one of their
 6 asbestos suppliers, that would have given
 7 some indication that asbestos was a health
 8 hazard?

9 **A There is -- there are documents that were**
 10 supplied by the suppliers, but I do not
 11 recall the time period. I'd have to go back
 12 and look at the time periods.

13 **Q Do you recall the supplier?**

14 **A Most of the documents I reviewed were from**
 15 Johns Manville.

16 THE VIDEOGRAPHER: Sir, just
 17 about five minutes.

18 MR. KOHLBURN: It's probably
 19 a good time to take a break.

20 THE VIDEOGRAPHER: Going off
 21 the record at 1:16.

22 (Brief recess.)

23 THE VIDEOGRAPHER: We're back
 24 on the record at 1:34 p.m.

25 - - - - -

1 EXAMINATION OF ELIZABETH A. GILBERT

2 BY MR. KOHLBURN:

3 Q Sherwin-Williams has had quality control
4 laboratories over the years, correct?

5 **A Yes.**

6 Q And do you know how long they've had quality
7 control laboratories?

8 **A No, I do not.**

9 Q Do you know whether or not they ever
10 conducted any testing in these quality
11 control laboratories on products other than
12 those manufactured by Sherwin-Williams?

13 **A I do not know that.**

14 Q Do you know whether or not they ever
15 conducted any health effect studies in the
16 quality control laboratories?

17 **A I do not believe they did so.**

18 Q Do you have any information as to why they
19 did not conduct any health effect studies in
20 the quality control labs?

21 **A The quality control labs, as far as I**
22 **understand, were geared towards product**
23 **specifications and application and**
24 **performance, not safety and health.**

25 Q Have you reviewed materials from the

1 industrial hygiene library?

2 **A Yes.**

3 Q And did you ever personally visit the closet
4 that its contained in, I'm told, or did you
5 just review things that somebody pulled out
6 and handed you to review?

7 **A The closet is next to my office. It's next**
8 **door to my office.**

9 Q Okay. So I may see you tomorrow morning?

10 **A Yes.**

11 Q So I take it that you have then gone in and
12 independently reviewed the industrial hygiene
13 library?

14 **A Yes.**

15 Q There is an indication, I'll represent to
16 you, in some discovery responses that I've
17 received from Sherwin-Williams in this case
18 that Sherwin-Williams undertook to respond or
19 comply with various state laws over time.
20 With respect to the subject of asbestos, do
21 you have any information as to specific
22 actions undertaken by Sherwin-Williams at any
23 point in time prior to the 1970s to comply
24 with or conform their conduct with a
25 particular state law or regulation?

1 **A** I believe I've seen documents related to a
2 Virginia State statute disclosing composition
3 analysis.

4 **Q** And can you recall the time frame?

5 **A** I believe it was in the 50s.

6 **Q** And can you recall more specifically what
7 that statute or regulation required?

8 **A** I believe it was just disclosing the
9 components, main components, of the paint
10 product.

11 **Q** And do you know to whom these were to be
12 disclosed or how they were to be disclosed?

13 **A** It was a list of ingredients or somehow
14 components were disclosed on the label in the
15 container.

16 **Q** And so just to make sure I understand your
17 testimony correctly, you recall seeing a
18 Virginia law regulation from the 1950s that
19 required the manufacturers to list the
20 ingredients on the container or a label in
21 some fashion, correct?

22 **A** I know the -- I've seen labels and documents
23 where they've listed the components back to
24 the 50s, but I can't tell you the exact date
25 that the statute went into effect. So I

1 **don't know if it was 50s or --**

2 Q Fair enough. And let me reask that then so
3 we can make it clear. What you saw was from
4 the 50s, correct?

5 **A Yes.**

6 Q And you don't know how far back that
7 requirement goes, correct?

8 **A I believe it was compliance with the statute**
9 **as it came out in that time period, but I**
10 **don't know the exact year.**

11 Q And without regard to the time frame now
12 since we've kind of set that, your
13 understanding of what you recall is that this
14 statute or regulation required a listing of
15 ingredients or components on the container or
16 the label in some fashion, correct?

17 **A Yes.**

18 Q Now, you indicated to me that it applied to
19 paint. Was the statute limited to paint in
20 any way?

21 **A I believe it was paint related, yes.**

22 Q So this would not be a general requirement
23 for any manufactured products but just paint,
24 as far as you know?

25 **A For that one.**

1 Q Other than this Virginia statute that you had
2 mentioned, are you familiar with any other
3 instances prior to the 1970s in which
4 Sherwin-Williams undertook to conform its
5 conduct or take any kind of actions to comply
6 with any state law or regulation that related
7 to asbestos or workplace safety or consumer
8 safety?

9 A I'm aware that there were documents in there
10 related to workplace safety in Illinois, and
11 there are some documents and correspondence
12 on how they were going to comply with that or
13 handle their products that were being made in
14 Illinois at that time.

15 Q Do you recall the time frame on that?

16 A I believe it was the 70s, but I'd have to go
17 back and review the document again.

18 Q Are you referring perhaps to some proposed
19 actions by the Illinois Pollution Control
20 Board in about 1971 to ban the use of
21 asbestos in particular applications?

22 A That may have been what it was, but I'd have
23 to go -- I'd have to look at that document
24 again.

25 Q Do you recall having seen anything with

1 regard to the State of Illinois prior to the
2 1970s such as a hazardous materials labeling
3 requirement from the 1950s?

4 **A I don't recall seeing that.**

5 Q Do you know how long -- strike that.

6 It's correct, is it not, that
7 Sherwin-Williams had a manufacturing facility
8 in Chicago, correct?

9 **A Yes.**

10 Q Do you know how long Sherwin-Williams had a
11 facility in Chicago?

12 **A I don't know how -- I don't know how far**
13 **back. I do remember seeing documents from**
14 **1960, but I don't know how much farther back.**

15 Q So you can put it as far back as 1960 at
16 least, but beyond that you don't know?

17 **A Yes.**

18 Q Anything else with regard to state laws
19 relating to asbestos, consumer safety,
20 workers safety, that you recall reviewing in
21 terms of Sherwin-Williams taking steps to
22 comply?

23 **A From what period?**

24 Q Prior to 1970. I'm sorry.

25 **A No, not that I can recall.**

1 Q Have you ever had any specific discussions
2 with Mr. Cohagan concerning warning label
3 requirements?

4 A In general?

5 Q In general.

6 A Yes, that's what our group does is warning
7 labels.

8 Q And so those discussions would relate to
9 current requirements for warning labels,
10 correct?

11 A They're current warnings and warnings that
12 were already in existence when I was hired
13 into The Sherwin-Williams Company.

14 Q And I guess that my poorly-asked question,
15 the point of which is you're referring to
16 instances where you're talking about
17 undertaking to either maintain existing
18 compliance or come into compliance with
19 regard to products that are being sold today
20 or during your tenure with Sherwin-Williams,
21 correct?

22 A And the development and how the label
23 warnings originally were developed that are
24 currently there. And some of them were
25 developed and in existence prior to me

1 **getting here.**

2 Q Have you ever had any discussions with
3 Mr. Cohagan concerning warnings with regard
4 to asbestos products, from a historical
5 standpoint as opposed to a current work
6 standpoint?

7 A **We have talked about the development of the**
8 **warning labels, like I talked about before,**
9 **and when they first went on in 1975.**

10 Q And can you recall when you had that
11 discussion or those discussions with
12 Mr. Cohagan?

13 A **It's been sometime in the past six months.**

14 Q And can you recall in general what you guys
15 discussed in that regard?

16 A **Just mostly what we've already discussed**
17 **here, how the OSHA regulations, the**
18 **development, the awareness, published**
19 **literature, led to the development of the**
20 **warning that was put into the program or the**
21 **book at that time.**

22 Q And would it be fair to say that with regard
23 to that area that we've already discussed,
24 that Mr. Cohagan was your primary source of
25 information as to that subject matter?

1 **A For the warnings?**

2 Q Yes.

3 **A That appeared on our products?**

4 Q Strike that. We talked about how in 1975
5 Sherwin-Williams not only put warnings on its
6 own asbestos-containing products but also
7 undertook to take a look at products it was
8 selling to see if those warning labels
9 complied, correct?

10 **A For joint compounds.**

11 Q Right.

12 **A Yes.**

13 Q And we had quite an extensive discussion
14 about that. And is it fair to say that most
15 of your information that you gave me about
16 those subject areas came from Mr. Cohagan?

17 **A It came from documents and memos and**
18 **Mr. Cohagan.**

19 Q Other than Mr. Cohagan, is there any person
20 that you know of who currently or in the past
21 worked for Sherwin-Williams who would have
22 knowledge of that particular subject area?

23 **A Not that I'm aware of.**

24 Q Do you have any knowledge or information as
25 to when Sherwin-Williams first became aware

1 of the threshold value limits established for
2 asbestos?

3 **A I believe it was with the OSHA regulations**
4 **that were put into effect that were specific**
5 **for asbestos.**

6 Q So that would be in the '72 to '75 time
7 frame?

8 **A Yes.**

9 Q Prior to that time, do you know if
10 Sherwin-Williams had knowledge of threshold
11 limit values as a general concept without
12 regard to their application to a particular
13 material?

14 **A Yes, I believe I have seen documents in the**
15 **discussions with Dwight, that they were aware**
16 **of particulate levels for dusts and exposure**
17 **and protection from the hazards related to**
18 **dusts.**

19 Q And if I say TLV instead of threshold limit
20 value, you know what I'm talking about,
21 right?

22 **A Yes.**

23 Q Very good. So I don't have to say the whole
24 thing. So basically, even prior to '72,
25 Sherwin-Williams knew what a TLV was, right?

1 **A Yes.**

2 Q And do you have any idea as to how far back
3 that awareness goes, how long they were aware
4 of what a TLV was?

5 **A No, I don't have direct knowledge of a date.**

6 Q And without regard to a date, as far back as
7 it will go, do you know if this is something
8 they were aware of throughout the 1960s?

9 **A Just as it relates to the documents,**
10 **historical documents, I saw talking about**
11 **dusts and exposure to dusts but I don't know**
12 **dates or specifically.**

13 Q But you recall some of those discussions from
14 the 1960s about dusts?

15 **A Can you ask that again?**

16 Q You recall that some of those discussions
17 about dusts occurred during the 1960s?

18 **A No, they were discussions that I've had with**
19 **Dwight that were related to the 60s.**

20 Q Okay, very good. Thank you. And do you know
21 what Sherwin-Williams' source of information
22 regarding TLVs was prior to 1972?

23 **A No, I do not.**

24 Q There's also an indication in the
25 interrogatory answers that I received from

1 Sherwin-Williams that they undertook to have
2 their labeling be consistent with NPCA
3 guidelines. And I assume that means the
4 National Paint & Coatings Association?

5 **A Yes.**

6 Q Do you have any knowledge or information as
7 to what those guidelines were, when they may
8 have come into effect and what
9 Sherwin-Williams did to comply?

10 **A NPCA put out a series of guidance documents**
11 **for that, and I guess the earliest one from**
12 **the -- that I recall seeing, nothing was**
13 **mentioned in 1972 about specifically**
14 **regulating asbestos. There's no mention in**
15 **the 1972 version or any previous guidance**
16 **documents for asbestos.**

17 Q So asbestos isn't mentioned in these guidance
18 documents on labeling, at least as of 1972.
19 Do you know how early the NPCA put out
20 guidance documents for labeling at all,
21 without regard to whether they mentioned
22 asbestos?

23 **A I'd have to go back and look at the volume**
24 **dates on old copies.**

25 Q Do you have an estimate; are we talking the

1 30s and 40s, 50s, 60s?

2 **A No, I believe it was -- the 60s would be the**
3 **earliest, but I'd feel more comfortable**
4 **looking at the dates on those.**

5 **Q And Sherwin-Williams was also a member of the**
6 **Chemical Manufacturers Association, was it**
7 **not?**

8 **A I don't know if Sherwin-Williams was a member**
9 **or Dwight Cohagan was a member. I don't**
10 **recall seeing documents or a membership for**
11 **CMA for Sherwin-Williams at any time.**

12 **Q Or any of its predecessors? And when I say**
13 **predecessors I mean of the association, not**
14 **Sherwin-Williams.**

15 I believe they were at one time known
16 as the Manufacturing Chemical Association?

17 **A That I am not aware of. I haven't seen any**
18 **documents related to that. I have seen -- I**
19 **have talked to Dwight and where he has said**
20 **that he was a member of CMA, and I don't know**
21 **if that means globally or if, you know,**
22 **Sherwin-Williams as an entity or one of its**
23 **acquisitions may have been a member.**

24 **Q And so historically you don't know if**
25 **Sherwin-Williams was a member of that**

1 association?

2 **A No, I do not.**

3 Q So is it fair to assume that you would not
4 have any knowledge as to whether or not
5 Sherwin-Williams received guidelines
6 published by that organization in 1945
7 concerning labeling of hazardous materials?

8 **A That I have never seen.**

9 Q Sherwin-Williams has been a member of the
10 National Safety Council, correct?

11 **A I believe so, yes.**

12 Q And do you have any information as to the
13 years during which Sherwin-Williams has been
14 a member of the National Safety Council?

15 **A No, I don't know the years where they were**
16 **members.**

17 Q Do you have any information at all as to any
18 time frames during which they may have been
19 associated with the National Safety Council?

20 **A No, I do not know.**

21 Q We've already talked extensively about
22 Mr. Cohagan, and there's a few other names
23 here of some people that have worked for
24 Sherwin-Williams, I believe, at different
25 points in time that I just want to see if you

1 know anything about. One of them is Pete
2 Sedlak.

3 Do you know Mr. Sedlak?

4 **A Yes, I know him. I've met him a couple of**
5 **times.**

6 Q And do you know what his position with
7 Sherwin-Williams is?

8 **A I don't know his title, but I know he has**
9 **knowledge of stores.**

10 Q And I think I'm deposing him tomorrow.

11 **A Yes.**

12 Q So I can just ask him about him. What about
13 a fellow named David Sarvadi, S A R V A D I?

14 **A David Sarvadi was our first industrial**
15 **hygienist that was hired around 1974.**

16 Q And is he still with Sherwin-Williams?

17 **A No, he is not.**

18 Q Do you know when he left Sherwin-Williams?

19 **A No, I don't know the exact date, but it was**
20 **before I got here.**

21 Q Do you have any idea where he went to work
22 when he left Sherwin-Williams?

23 **A He is, I think at this time, employed for a**
24 **law firm, but I don't know which one.**

25 Q You don't know which one. Do you know if

1 he's in this area still?

2 **A No, I do not believe he's in this area.**

3 Q And do you know whether or not when
4 Mr. Sarvadi came to Sherwin-Williams in 1974,
5 if he was fresh out of college or had been a
6 practicing industrial hygienist for years
7 before that?

8 **A I do not know his background or history prior**
9 **to him being hired.**

10 Q And have you ever met Mr. Sarvadi?

11 **A No, I have not.**

12 Q What about Pat Heard?

13 **A I've heard the name. I don't know in what**
14 **reference to, though.**

15 Q And do you know if Pat Heard is a man or a
16 woman?

17 **A I don't know even know that.**

18 Q So have I exhausted your information
19 concerning Pat Heard?

20 **A That would be probably it. The name has been**
21 **said in reference to something at some time,**
22 **but I don't know to what.**

23 Q What about Karen Heckman?

24 **A There's another one, a girl.**

25 Q Karen is a --

1 **A That I don't know anything beyond that.**

2 Q Karen is a clear name. It's not one of
3 those -- if they'd put Patricia or Patrick
4 we'd know.

5 **A Gender identifiable, and that's about all I**
6 **can tell you.**

7 Q Yes. Barbara "Herns?"

8 **A Barbara Hermes?**

9 Q Hermes.

10 **A Was an industrial hygienist, a certified**
11 **industrial hygienist, who has since retired.**

12 Q And do you know when she retired?

13 **A I think approximately six, six years ago,**
14 **five to six years ago, I think.**

15 Q About 2000?

16 **A It could have been.**

17 Q Did you ever work directly with Ms. Hermes?

18 **A She was in the occupational health group that**
19 **existed when I was first hired in.**

20 Q And do you know how long she had been with
21 Sherwin-Williams?

22 **A No, I do not. But it was many years, from**
23 **what I understand.**

24 Q Do you recall whether or not any of the
25 employee interview notes you may have

1 reviewed, if she was ever interviewed for
2 information concerning asbestos?

3 **A I do not recall seeing Barb's name on**
4 **anything.**

5 Q Let me flip back. I know you don't know
6 anything more about them. But with regard to
7 Pat Heard, do you recall if that's where you
8 saw that name?

9 **A I don't think so. I think it's a name that's**
10 **been mentioned in discussions throughout the**
11 **years.**

12 Q And what about Karen Heckman, do you know if
13 --

14 **A That name doesn't -- I can't place that one**
15 **either to anything specific.**

16 Q And I guess I'll flip back. Do you know if
17 Mr. Sarvadi has ever been interviewed in
18 connection with obtaining information about
19 Sherwin-Williams' use of asbestos or
20 knowledge of asbestos hazards?

21 **A I don't remember seeing it as a formal**
22 **interview.**

23 Q What about James Lawrence?

24 **A Mr. Lawrence was the director of occupational**
25 **health and has since retired.**

1 Q Do you know when he retired?

2 A Shortly after Barb retired, Barb Hermes
3 retired. So it's probably been the same time
4 frame.

5 Q Do you know when he came to work for
6 Sherwin-Williams?

7 A No, I do not.

8 Q What about Susan Avenko?

9 A She was a -- I don't know if she was a -- she
10 wasn't a certified industrial hygienist, but
11 she was employed in the occupational health
12 group.

13 Q Do you know if Mr. Lawrence was ever
14 interviewed; do you recall seeing interview
15 notes from him?

16 A I don't recall seeing his name, no.

17 Q And what about Ms. Avenko?

18 A No.

19 Q Jay Brown?

20 A Jay was a certified industrial hygienist that
21 was employed in the occupational health group
22 for several years.

23 Q Do you know what years those were, roughly?

24 A He came after I was hired so maybe '96, '97.
25 And he has been gone about three years, three

1 **or four years.**

2 Q And a Kathy "Padouski, Paduski?"

3 **A Kathy Padelowski who is now Kathy Cole, C O L**
4 **E. She is the director -- the current**
5 **director of occupational health.**

6 Q And do you know how long she's been with
7 Sherwin-Williams?

8 **A Kathy was hired after Jay left. She became**
9 **director after Jay left. Jay hired Kathy,**
10 **and then Jay left, and Kathy became director**
11 **so --**

12 Q Do you know if she's ever been interviewed in
13 connection with Sherwin-Williams' historical
14 knowledge relating to asbestos?

15 **A I don't believe so, no.**

16 Q Do you know if she's participated at all in
17 that investigation?

18 **A I do not think so.**

19 Q Are you familiar, and I happen to know
20 despite the name that this is a gentleman,
21 Fran Gaugash, G A U G A S H?

22 **A I have seen the name as someone who was in**
23 **charge of the safety group and the**
24 **investigations that were done. It related to**
25 **the documents that I reviewed.**

1 Q And you've seen his name in the documents?

2 A Yes, uh-huh.

3 Q Do you know at what point in time Mr. Gaugash
4 became an employee of Sherwin-Williams?

5 A No, I do -- that was not in any of the
6 documents I reviewed.

7 Q He does go back into the 60s, though,
8 correct?

9 A I'd be guessing. I can't confirm the exact
10 dates on those, but I know I saw his name on
11 70s documents. But I would -- I'd be
12 guessing for anything beyond that.

13 Q So you don't know whether or not he was
14 involved in the safety department that
15 existed before there was a separate
16 occupational health department?

17 A I believe he was in -- from what I've been
18 told by Dwight, that he was in charge of the
19 safety group that was there at corporate.
20 And during what time period, I can't confirm.
21 I'd have to go back and ask or look.

22 Q So Mr. Cohagan would know better than you
23 when Mr. Gaugash came to Sherwin-Williams and
24 what he did when he was there?

25 A He might.

1 Q Are you familiar with a gentleman by the name
2 of Frank Angio, A N G I O?

3 A I believe it's a name I saw on a Workers'
4 Comp list as a claimant.

5 Q Do you know what kind of claimant?

6 A It was in the asbestos documents.

7 Q Do you know what area of the plant or what
8 facility Mr. Angio worked at for
9 Sherwin-Williams?

10 A No, I do not.

11 Q Do you have any information whatsoever
12 concerning Mr. Angio's employment with
13 Sherwin-Williams including, you know, when,
14 where, what he did?

15 A No. All I saw was his synopsis of
16 approximately five or six Workers' Comp
17 claims.

18 Q And as you sit here, would you know what
19 disease Mr. Angio suffered from?

20 A No, I would not. I'd have to go back and
21 look at that list. It was just a list of
22 five or six names, and I think that might
23 have been the first one, which is why I
24 recall it.

25 Q What about Frank D O B R O V O D S K Y, I'm

1 going to guess at Dobrovodsky?

2 **A No, that one's -- I don't recall.**

3 Q And so would you know what facility this
4 gentleman may have worked at?

5 **A No, I would not.**

6 Q Or what his job duties were?

7 **A No.**

8 Q Or his tenure of employment with The
9 Sherwin-Williams Company?

10 **A No, I would not know that.**

11 Q Henry Virgin?

12 **A No, I don't recall seeing that name either.**

13 Q You don't recall seeing that name at all?

14 **A If they're -- no. I did review a list. If**
15 **those were Workers' Comp names, I --**

16 Q I will --

17 **A They have been in the list I saw, but there**
18 **were -- there was a name, a couple of**
19 **sentences related to Workers' Comp, but I did**
20 **not memorize or review those.**

21 Q I'll represent to you that these are names
22 that were provided to me by Sherwin-Williams
23 in discovery as individuals who worked for
24 the company that made Workers' Compensation
25 claims. And I believe at least three of

1 these four suffered from mesothelioma.

2 **A Okay. That -- I don't recall details of any**
3 **of them.**

4 Q And so you don't have any information
5 concerning Mr. Virgin's tenure with
6 Sherwin-Williams, be it job duties, time
7 frames, disease process, anything of that
8 nature?

9 **A No, only what was on those short synopsis**
10 **lists.**

11 Q And the same question for Elden it looks like
12 Cotterman, C O T T E R M A N?

13 **A The same answer. If it was --**

14 Q No information as to work history or anything
15 of that nature?

16 **A No, not beyond what was on that, if that was**
17 **one of the names on the synopsis.**

18 Q Are you familiar with a Dr. Durward Jones?

19 **A No, the name doesn't even sound familiar.**

20 Q So you wouldn't have any information as to
21 Dr. Jones' prior service as a medical
22 director for Sherwin-Williams; is that
23 correct?

24 **A That would be correct.**

25 Q And you wouldn't have any information then,

1 would you, as to any publications that
2 Dr. Jones served as an editor for?

3 **A I haven't seen any or I'm not aware of any.**

4 **Q And you wouldn't have any idea of whether or**
5 not those publications published articles
6 concerning health hazards relating to
7 asbestos then, would you?

8 **A No.**

9 MR. KOHLBURN: I believe
10 that's all I've got.

11 MR. SIBLEY: Okay. Give us
12 a minute. Does anybody on the telephone have
13 questions?

14 MALE SPEAKER: No.

15 MR. SERRITELLA: Anybody there?
16 Okay, no questions.

17 MR. SIBLEY: Okay. Give us
18 one minute.

19 MR. KOHLBURN: Sure.

20 MR. SIBLEY: And then we'll
21 come back. Let's go off the record.

22 THE VIDEOGRAPHER: Going off
23 the record at 2:02 p.m.

24 (Brief recess.)

25 (Discussion held off the record.)

1 THE VIDEOGRAPHER: We're back
2 on the record at 2:07.

3 - - - - -

4 EXAMINATION OF ELIZABETH A. GILBERT

5 BY MR. KOHLBURN:

6 Q Just very briefly, I'm going to hand you a
7 couple of notebooks here. And I don't need
8 you to identify each and every document here,
9 but could you tell me in general what these
10 two binders represent?

11 A **These were the two binders of documents that**
12 **I reviewed prior to the deposition.**

13 Q And for the record, and you can check this
14 just to make sure, volume number one starts
15 with Bates number EAG0001 and goes through to
16 EAG0565?

17 A **That is correct.**

18 Q And volume number two starts at EAG0566 and
19 goes through to EAG1201, correct?

20 A **That's correct.**

21 Q And it's also been represented to me by your
22 counsel that there may be some Bates numbers
23 missing in there that would represent
24 documents as to which Sherwin-Williams is
25 asserting a privilege, correct?

1 **A That's correct.**

2 MR. KOHLBURN: And it's my
3 understanding -- I've already been provided
4 with a log of what's missing, a privileged
5 log, but I've been informed that it's missing
6 a couple of items and I'll be getting an
7 updated one within a day or two.

8 MR. SIBLEY: That's
9 correct.

10 MR. KOHLBURN: Okay. Very
11 good. We're done.

12 THE VIDEOGRAPHER: We're going
13 off record at 2:08.

14 (Thereupon, the deposition concluded at 2:08
15 o'clock p.m.)

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1 THE STATE OF OHIO,) SS:
COUNTY OF CUYAHOGA.)
2

3 I, Christina A. Raymond, a Notary Public
4 within and for the State of Ohio, duly
5 commissioned and qualified, do hereby certify
6 that ELIZABETH A. GILBERT, was first duly sworn
7 to testify the truth, the whole truth and nothing
8 but the truth in the cause aforesaid; that the
9 testimony then given by her was by me reduced to
10 stenotypy in the presence of said witness,
11 afterwards transcribed on a computer/printer, and
12 that the foregoing is a true and correct
13 transcript of the testimony so given by her, as
14 aforesaid.

15 I do further certify that this deposition
16 was taken at the time and place in the foregoing
17 caption specified. I do further certify that I
18 am not a relative, counsel or attorney of either
19 party, or otherwise interested in the event of
20 this action.

21 IN WITNESS WHEREOF, I have hereunto set my
22 hand and affixed my seal of office at Cleveland,
23 Ohio, on this 5th day of February, 2007.

24
25 Christina A. Raymond, Notary Public
within and for the State of Ohio
My Commission expires November 9, 2010.

11 IN TESTIMONY WHEREOF, I have hereunto
12 affixed my name and official seal at
13 _____this _____day of
14 _____, 2007.

ELIZABETH A. GILBERT

Notary Public

My Commission expires: _____

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