

NO. 91-1760-H

H. WALLY SHIPLEY AND FAYE * IN THE DISTRICT COURT OF
SHIPLEY; WELDON COOK AND *
BILLYE COOK; VIRGEL LEON *
ZIMMERMAN AND RUTH *
ZIMMERMAN; HERBERT *
WILLIAMS AND INEZ WILLIAMS; *
ARTHUR JAMES DAVIS; and * DALLAS COUNTY, TEXAS
J.R. GENTLE *
VS. *
ARMSTRONG WORLD INDUSTRIES, *
INC., ET AL. * 160TH JUDICIAL DISTRICT

ORAL DEPOSITION

OF

STEPHEN J. SHEERAN

ANSWERS AND DEPOSITION OF STEPHEN J. SHEERAN,
produced as a witness at the instance of the
Plaintiffs, taken in the above-styled and -numbered
cause on the 4th day of October, 1991, at 10:00
a.m., before Denise M. Mallia, a Certified Shorthand
Reporter in and for the State of Texas, at the
offices of Silber, Pearlman & Worthington, 4514 Cole
Avenue, Suite 1000, in the City of Dallas, County of
Dallas, State of Texas, in accordance with the
Notice and with the agreement hereinafter set forth.



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FOR THE DEFENDANT,
PROKO INDUSTRIES, INC.

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original and copy transcripts)

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A G R E E M E N T S

MR. WORTHINGTON: Before we swear the witness in, let me propose a few agreements. This deposition is being taken pursuant to notice under the Texas Rules of Civil Procedure. I propose that all objections except as to the form of the question and responsiveness of the answer are reserved until trial or other judicial use of this deposition transcript. An objection by one counsel is good for all.

What are the other standard agreements that I don't know about?

MS. CLARK: I wasn't paying attention. Did you already do form of the question and all that jazz?

MR. WORTHINGTON: Yeah. Mr. Sheeran, do you wish to read the deposition transcript or do you wish to waive signature on the deposition transcript, or do you even know what that means?

THE WITNESS: I really don't.

1 have any use for the transcript of the
2 deposition.

3 MR. WORTHINGTON: Then you would
4 agree to waive signature on this
5 transcript?

6 THE WITNESS: Yes.

7 MR. WORTHINGTON: Let's go off
8 the record a second.

9 (Discussion off the record.)

10 MR. WORTHINGTON: I'd like to
11 attach to the transcript as Plaintiff's
12 Exhibit No. 1 the notice of intention
13 to take oral deposition duces tecum
14 that was served by certified mail on
15 Mr. Sheeran in this case.
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1 STEPHEN J. SHEERAN,
2 the witness hereinbefore named, being first duly
3 cautioned and sworn to testify the truth, the whole
4 truth and nothing but the truth, testified on his
5 oath as follows:

6 EXAMINATION

7 BY MR. WORTHINGTON:

8 Q. State your name, please.

9 A. Stephen John Sheeran.

10 Q. Mr. Sheeran, my name is Roger
11 Worthington. Have we met before?

12 A. No, sir.

13 Q. Mr. Sheeran, I represent a number of
14 persons who have filed lawsuits in Dallas County
15 claiming that they have sustained asbestos-related
16 injuries as a consequence of working around various
17 asbestos materials. I'd like to ask you some
18 questions today, but before I get to my line of
19 questioning, I'd like to focus your attention on
20 Exhibit 1, the deposition notice, and ask you if you
21 had a chance to read that document before today?

22 A. I have.

23 Q. Okay. In the notice I have asked you
24 to bring with you certain documents, to wit: On
25 exhibit C, I have a request for production. There

1 are, I count, eight separate categories of documents
2 which I requested that you produce here today.

3 Did you have a chance to read Exhibit
4 C?

5 A. Yes, sir.

6 Q. In response to those requests for
7 production, did you bring with you today any
8 documents that you believe are responsive?

9 A. One.

10 Q. One. Can you show me what that one
11 document is?

12 A. It was a list of -- this is a list of
13 projects that were built in the Dallas/Fort Worth
14 area dating back to -- at what point in time I'm not
15 sure. It was originally done in '71 and updated in
16 '78, and I have highlighted some of these with
17 yellow that indicate that they are -- a nonasbestos
18 material was used to the best of my knowledge.

19 Q. Okay. Can I see the documents?

20 A. Uh-huh.

21 Q. I count five pages of typewritten
22 documents; is that correct?

23 A. Yes.

24 Q. And where did you find these documents?

25 A. It was in a file that originally was

1 compiled by the president of Texas Vermiculite
2 Company, Mike Moran, and was used in part of an
3 actual promotion piece to highlight a laundry list
4 of successful projects.

5 Q. Okay. Did you keep a copy of these
6 documents in your own home in your own possession,
7 or did you go down to the company files to retrieve
8 these documents?

9 A. Those were in my possession for years.

10 Q. Do you recall when these documents were
11 generated? When were they first typed up and
12 delivered?

13 A. I believe 1971 was the first time --

14 Q. Do you know who --

15 A. -- some of the material was typed.

16 Q. Okay.

17 A. On the front copy it indicates '72 to
18 '78, so it's as new as '78.

19 Q. Do you know who typed this page up,
20 this page that says Grace on it, Major Monokote
21 Fireproofing Job, City of Dallas?

22 A. Probably one of the ladies of the
23 office --

24 Q. Okay.

25 A. -- at Grace.

1 Q. Do you know who provided the
2 typewritten information on the list?

3 A. The job names specifically?

4 Q. Yes, sir.

5 A. I think we all just sat down and
6 thought them, recalled them.

7 Q. When you say we, who are you referring
8 to?

9 A. Various people in the sales
10 organization.

11 Q. Do you recall any names of those folks?

12 A. At that time probably myself, Bob
13 Junker, probably Curtis Gibson. Ralph McCloud would
14 have been one.

15 Q. And also on page one there are various
16 handwritten figures in black ink and blue ink. Who
17 wrote those in, do you know?

18 A. I believe those are, in fact, by myself
19 and Ralph McCloud.

20 Q. Okay. Does the same hold true for the
21 penciled in numbers on page two?

22 A. Those appear to be Ralph McCloud's.

23 Q. And on page three next to a building it
24 says 25,000?

25 A. Again, that looks like his handwriting.

1 Q. Is that Ralph McCloud's handwriting, to
2 your knowledge, on page four as well?

3 A. It looks like it also, yes.

4 Q. Okay. I'm going to ask you some
5 questions later on about these documents. Mr.
6 Sheeran, I'm going to ask you why you generated them
7 and what these number signify, but first I'd like to
8 ask you some other background questions. Okay?

9 A. Fine.

10 Q. Before I get onto that, Mr. Sheeran,
11 have you produced today any other materials or
12 documents which I requested in Exhibit C?

13 A. No, I have not.

14 Q. Did you confine your search for
15 documents to your own home and your own property?

16 A. Yes.

17 Q. Okay. Did you ask anyone down at the
18 plant here on Manilla Road for any documents?

19 A. No.

20 Q. Did you ask any other present or former
21 employees of W.R. Grace for any materials?

22 A. No.

23 Q. Do you have in your possession at your
24 home a file in which you keep various documents that
25 you originally received while working at W.R. Grace?

1 A. No.

2 Q. I have in my hand the sum total of
3 documents which you have in your possession?

4 A. That's it. I had the bonfire in June.

5 Q. Pardon me?

6 A. Had the bonfire in June.

7 Q. Your house burned down?

8 A. No, I got rid of all my --

9 Q. Oh, you burned all the other documents?

10 A. Trashed it in one form or another.

11 Q. That saves a lot of money from the
12 shredding costs, doesn't it, just go ahead and burn
13 it?

14 A. No, I no longer work for Grace. I had
15 no use for it.

16 Q. When did you stop working for Grace?

17 A. June 14th, 1991.

18 Q. What is your address?

19 A. 2315 Westbrook Drive, Carrollton,
20 Texas.

21 Q. How long have you lived in Carrollton,
22 Texas?

23 A. Since 1974.

24 Q. Had you lived anywhere else in Dallas?

25 A. Farmers Branch.

1 Q. When did you first move to Farmers
2 Branch?

3 A. 1970, July 1.

4 Q. When did you first move to the
5 Dallas/Fort Worth area?

6 A. July of 1970.

7 Q. Okay. Prior to July 1970, where did
8 you live?

9 A. Outside of Detroit, Michigan.

10 Q. Okay. How old are you?

11 A. 52.

12 Q. What is your date of birth?

13 A. July 9, 1939.

14 Q. I take it before July 1970, you were
15 employed in Detroit, Michigan?

16 A. Correct.

17 Q. Okay. What was your position in
18 Detroit, Michigan?

19 A. Architectural sales representative for
20 W.R. Grace.

21 Q. What year did you first go to work for
22 W.R. Grace?

23 A. 1966, May 1.

24 Q. Was that in Detroit, Michigan?

25 A. Correct.

1 Q. Okay. And when you first were employed
2 by W.R. Grace, what was your position?

3 A. Territory sales rep.

4 Q. And then at some point, did you get a
5 promotion to architectural sales rep?

6 A. Yes.

7 Q. When did you get that promotion?

8 A. I'd guess 1968.

9 Q. 1968?

10 A. (Witness nods head.)

11 Q. Okay. Could you briefly tell me your
12 educational background?

13 A. 12 years of elementary and high school.
14 Two years full time attendance University of
15 Detroit. Various courses relating to
16 construction-related matters, sales schools, over a
17 period of years. No degree.

18 Q. Did you ever take any formal training
19 in the study of architecture?

20 A. Yes.

21 Q. What types of courses did you take
22 relating to architecture or design?

23 A. Again, over the years, various courses
24 offered by, primarily, the Construction
25 Specifications Institute, which I've been a member

1 since '66.

2 Q. The Construction Members Institute?

3 A. Construction Specifications Institute.
4 CSI for short.

5 Q. What types of courses did you take for
6 Construction Specifications Institute?

7 A. All technical related as far as
8 materials and the specification of materials.

9 Q. In any of these courses that you took
10 -- were these courses that you took back in the
11 '60s?

12 A. No, it was as recent as this year.

13 Q. Did you take any of these courses in
14 the '60s while you were working for Grace or prior
15 to working for Grace?

16 A. Yes.

17 Q. At any of these courses, did you ever
18 discuss any hazards -- any health hazards relating
19 to any materials that were used in the construction
20 business?

21 A. Yes.

22 Q. What types of materials did you learn
23 were hazardous in the construction trade?

24 A. I couldn't name them all but
25 combustibility of various materials was always a hot

1 button with professional designers. Those which
2 would produce toxic fumes, et cetera.

3 Q. When you're talking about materials --
4 construction materials, are you talking about
5 plasters and joint compounds and millboards and wall
6 boards and fireproofing and acoustical plaster?

7 A. Insulation products.

8 Q. Insulation materials?

9 A. Right.

10 Q. Do you draw a distinction between an
11 insulation material and a construction product?

12 A. No.

13 Q. Do you believe joint compound is an
14 insulation material, for example?

15 A. No.

16 Q. In any of these courses that you took
17 prior to 1970, did any of your instructors ever
18 advise you as to the potential health hazards
19 associated with asbestos-containing materials?

20 A. No.

21 Q. Okay. When was the first time you ever
22 heard the word "asbestos"?

23 A. As related to what?

24 Q. Well, in any of these courses, for
25 example, did you ever talk about asbestos-containing

1 products and their economic and engineering utility
2 or thermal utility benefit?

3 A. Yes. Yes. Again, it would be 1968
4 probably.

5 Q. Okay. When you first went to work in
6 Detroit for W.R. Grace as a territory sales rep,
7 what types of products were you selling at that
8 time? What types of W.R. Grace products were you
9 selling at that time?

10 A. All of their insulation materials,
11 which were Vermiculite based. They also marketed a
12 line of glass fiber insulation blankets.

13 Q. Can you recall off the top of your head
14 any of the brand names of any of the insulation
15 materials manufactured by W.R. Grace that you were
16 selling up in Detroit?

17 A. They all carried a Zonolite trademark,
18 and they were Zonolite attic insulation, Zonolite
19 masonry insulation and the glass fiber was just a
20 Zonolite glass fiber home insulation. Also handled
21 Monokote fireproofing materials.

22 Q. Did you believe at that time that
23 Monokote fireproofing material was a Vermiculite
24 based product?

25 A. Yes, it was.

1 Q. Did you also understand that it
2 contained asbestos fibers?

3 A. Yes, I did.

4 Q. Okay. Who informed you of that, do you
5 remember?

6 A. The fellow was my immediate superior at
7 the time. His name was Ed Kerr, K-e-r-r.

8 Q. Did Mr. Kerr or anyone else explain to
9 you the reason why asbestos was mixed into these
10 various fireproofing products manufactured by W.R.
11 Grace?

12 A. I would say yes, and the reason being
13 it added workability and re-enforcement to the
14 product.

15 Q. I'm sorry, Mr. Sheeran, I didn't hear
16 the first word.

17 A. Workability.

18 Q. Workability.

19 A. Plasterers use different terms, and the
20 workability of a material has to do with how well it
21 sticks and trowels and...

22 Q. And what benefit did it provide as a
23 re-enforcing agent?

24 A. Well, strictly re-enforcing to give it
25 increased strength within its own thickness,

1 cohesive strength.

2 Q. Did Mr. Kerr or anyone else discuss
3 with you the availability of substitute materials
4 for asbestos?

5 A. Not at that time.

6 Q. Okay. Did you ever have that
7 discussion?

8 A. Later.

9 Q. How much later?

10 A. With other folks. Mr. Kerr left Grace
11 about 1969.

12 Q. Do you remember when you first
13 understood that there were available substitute
14 materials for asbestos in these fireproofing
15 materials?

16 A. The first I heard was in 1973. Well,
17 I'll take that back. It would be late '72.

18 Q. What were your job duties as a sales
19 representative?

20 A. At what time?

21 Q. In the 1960s while working up in
22 Detroit, Michigan?

23 A. I would call upon hard material
24 dealers, as they were known, lumber dealers and
25 plastering contractors.

1 Q. Who were your chief competitors? Who
2 were W.R. Grace's chief competitors?

3 A. In different product lines, there were
4 different competitors.

5 Q. Let's say in the fireproofing product
6 line.

7 A. The market at that time had products
8 made by United States Gypsum and National Gypsum
9 which were similar to the Grace product. The other
10 competitors were mineral fiber and sprayed asbestos
11 fiber.

12 Q. In the '60s up in Detroit, did you sell
13 Zonolite Monokote MK-1?

14 A. No.

15 Q. Did you sell Zonolite Monokote MK-2?

16 A. No, I did not.

17 Q. How about MK-3?

18 A. Correct. MK-3 was the only product I
19 was aware of at that time.

20 Q. And you understood that that product
21 contained asbestos?

22 A. Yes.

23 Q. Have you ever heard the word
24 "chrysotile"?

25 A. Yes.

1 Q. Did you understand what type of fiber
2 the MK-3 product contained?

3 A. Yes.

4 Q. What was it?

5 A. Chrysotile.

6 Q. Have you ever heard of tremolite
7 asbestos?

8 A. Yes.

9 Q. What did you understand tremolite
10 asbestos to be?

11 A. An asbestos form.

12 Q. Do you know that vermiculite ore
13 contains tremolite asbestos form?

14 A. Some does.

15 Q. Okay. Do you know that the vermiculite
16 ore mined from the Libby, Montana plant contains
17 tremolite asbestos form as a contaminant in the
18 rock?

19 A. Yes.

20 Q. How did you learn that, by the way?

21 A. Good question. I would have to say
22 that the issue was originally raised by competitive
23 manufacturers or manufacturers who made a product
24 competitive to Monokote.

25 Q. Do you remember what time period that

1 was? Are we still up in Detroit?

2 A. No, this would be a later date. The
3 tremolite was a word I never heard, probably, until
4 1980, 1981 or 2, in that range.

5 Q. Had you heard that vermiculite was
6 contaminated with asbestos, whether tremolite or any
7 other word?

8 A. That phrase appeared in competitors'
9 literature.

10 Q. Okay. That's what I want to know.
11 When did you first see this literature by your
12 competition?

13 A. Mid-'80s.

14 Q. Mid-'80s. Okay. Do you remember the
15 names of your competition who were publicizing this?

16 A. One would have been United States
17 Mineral Products Company in a piece of literature
18 that they used to promote a product called Cafco,
19 C-a-f-c-o, sprayed mineral fiber.

20 Q. Do you remember the context in which
21 U.S. Mineral was publicizing the fact that
22 vermiculite had asbestos in it? Was it in a trade
23 brochure? Was it in a seminar? How did they convey
24 that?

25 A. It appeared in their regular glossy

1 Sweet's catalog that was used in an architectural
2 insert.

3 Q. What types of companies subscribed to
4 Sweet's catalog?

5 A. Most every architect and engineer firm
6 subscribes to Sweet's catalog.

7 Q. Is it updated every year?

8 A. Every year.

9 Q. Do you have knowledge whether Cafco
10 contained vermiculite?

11 A. One of their obscure products, I think,
12 did. Their Cafco Blazeshield spray applied mineral
13 fiber fireproofing did not.

14 Q. Did you ever speak with any
15 representative of U.S. Mineral Products about why
16 they were publicizing the fact that vermiculite had
17 asbestos in it?

18 A. Yes.

19 Q. Who did you talk to about that?

20 A. Their independent sales agent.

21 Q. Do you remember his name?

22 A. Hobson Harel.

23 Q. Hobson Harel?

24 A. Uh-huh.

25 Q. Did he explain to you why they were

1 doing that?

2 A. Tried to get some business.

3 Q. Would it --

4 A. It was a sales technique, okay, a tool?

5 Q. What do you believe his motivation was
6 after talking to him?

7 A. Money.

8 Q. Did he think that by telling all
9 potential customers that W.R. Grace products
10 contained asbestos contaminated vermiculite that
11 those customers would be less willing to buy W.R.
12 Grace products?

13 A. Yes.

14 Q. And then they would be more willing to
15 buy nonasbestos contaminated Cafco Blazeshield and
16 other fireproofing materials?

17 A. Yes.

18 Q. Did you think that was fair?

19 A. All is fair in love and war.

20 Q. Business is a species of warfare,
21 wouldn't you agree?

22 A. Yes.

23 Q. This was in the 1980s?

24 A. Yes.

25 Q. And you were still selling

1 vermiculite-based fireproofing products?

2 A. Correct.

3 Q. Were those Monokote products?

4 A. Yes.

5 Q. Was that Monokote MK-6?

6 A. No, at that point it was MK-4, MK-5.

7 Q. Okay. Did your company ever retaliate
8 in any way?

9 A. Yes.

10 Q. What did W.R. Grace do about that?

11 A. Stated a bunch of figures such as the
12 occurrence or the volume of tremolite in its -- in
13 the finished product and the fact that the mineral
14 wool fibers are suspect themselves.

15 Q. Did Hobson Harel and U.S. Mineral
16 advocate to potential customers that asbestos was a
17 known health hazard?

18 A. Sure.

19 Q. Did W.R. Grace, to your knowledge, ever
20 attempt to refute that assertion?

21 A. As I stated, they would cite that, in
22 the case of the tremolite, that as associated with
23 the vermiculite ore that the occurrence or the
24 volume in the finished product was a minuscule
25 amount, five to ten parts per million.

1 Q. Do you know whether W.R. Grace ever
2 conducted any independent research to reach that
3 conclusion?

4 A. Oh, absolutely.

5 Q. Do you know when they began conducting
6 this research?

7 A. No, I don't.

8 Q. Do you think it was in the '80s?

9 A. I think it was.

10 Q. When you were working for W.R. Grace in
11 Detroit, do you have knowledge whether MK-3 was sold
12 to customers who used the product inside schools?

13 A. Yes.

14 Q. Do you know whether the MK-3 was
15 purchased by customers who used the product inside
16 hospitals?

17 A. Yes.

18 Q. How about daycare centers?

19 A. I don't recall.

20 Q. How about commercial buildings?

21 A. Commercial buildings, very many.

22 Q. Skyscrapers?

23 A. Yes.

24 Q. How about churches?

25 A. Most likely.

1 Q. Okay. How about court houses?

2 A. I'm sure there's a couple of those up
3 there, too.

4 Q. Did W.R. Grace at that time also market
5 and sell Zono-Coustic?

6 A. Yes.

7 Q. To your knowledge that's an
8 asbestos-containing product?

9 A. Yes.

10 Q. What was Zono-Coustic used for?

11 A. Textured ceilings for noise reduction.

12 Q. Didn't have any thermal properties to
13 your knowledge?

14 A. To some degree but that was not one of
15 its advertised benefits.

16 Q. So to your knowledge, asbestos was not
17 put in the product -- the Zono-Coustic product in
18 order to provide heat resistance?

19 A. Originally it was, from a fire
20 standpoint.

21 Q. But then later it wasn't?

22 A. No, it always was. Asbestos had all
23 sorts of properties that were assumed to be
24 beneficial.

25 Q. Not proven but assumed to be

1 beneficial?

2 A. Well, I think that there was enough
3 fire tests run with the material that proved that it
4 was beneficial as a fire resistant material.

5 Q. Did you understand back in the '60s
6 when you were marketing and selling MK-3 and
7 Zono-Coustic that there were substitutes available
8 for asbestos which also provided for heat
9 resistance?

10 A. No.

11 Q. You were not aware of that?

12 A. Correct. All of the competitor
13 products had asbestos in them at that time.

14 Q. When did you move to Dallas, Texas?

15 A. July of 1970.

16 Q. Why did you move to our great city?

17 A. I liked it.

18 Q. Tell me about why you were transferred,
19 or was it your decision to move down here, or did
20 the company transfer you?

21 A. Well, let's just say I put my name in
22 the hat to live someplace warmer than Michigan.

23 Q. Okay. Got tired of the cold winters?

24 A. Absolutely.

25 Q. Where did you office here in Dallas?

1 A. At 2651 Manilla Road.

2 Q. Is that on the same compound where the
3 manufacturing plant is located?

4 A. Yes, it is.

5 Q. Is that inside the building?

6 A. The office is a separate building.

7 Q. It's a separate building?

8 A. From the manufacturing facility.

9 Q. You're going to hate me, but I'm going
10 to ask you to just kind of diagram for me how that
11 worked. Can you just diagram for me your office in
12 relationship to the manufacturing plant on Manilla
13 Road?

14 A. I'll give you some other landmarks
15 there, okay?

16 Q. Where were the railroad tracks located
17 in relation, say, to the plant?

18 A. The spur came alongside the plant. The
19 circles are silos containing raw materials.

20 Q. Did you ever see the raw materials
21 being transferred from the box cars into the silos?

22 A. No, because it was done by an automated
23 system through the bottoms.

24 Q. Who was your superior, if that's the
25 right word, at W.R. Grace here in Dallas?

1 A. At what time?

2 Q. When you first got here in 1970.

3 A. The facility was known as Texas
4 Vermiculite Company. It was a subsidiary of W.R.
5 Grace. The local ownership was 25 percent, and it
6 was Mr. Mike Moran, 24 percent, one or the other.

7 Q. Mike Moran was the president of Texas
8 Vermiculite Company?

9 A. Yes.

10 Q. You understood that Texas Vermiculite
11 was a wholly owned subsidiary of W.R. Grace?

12 A. Partially owned.

13 MS. CLARK: He gave us --

14 Q. Partially owned.

15 MR. CLARK: I thought he just
16 said Mike Moran owned 25 or so percent.

17 THE WITNESS: That's correct.

18 Q. You received a paycheck on a weekly or
19 monthly basis; is that correct?

20 A. Right.

21 Q. Was the check printed out by W.R. Grace
22 or by Texas Vermiculite?

23 A. Texas Vermiculite Company.

24 Q. What was your position when you came to
25 Dallas in 1970?

1 A. Salesman. Mike kept it simple.

2 Q. You were the salesman. Who were the
3 other salesmen who shared the same office with you?

4 A. At the time, Tom Cheatham.

5 Q. Have you spoken to Tom Cheatham lately?

6 A. Yes.

7 Q. When was the last time you spoke to
8 Tom?

9 A. Monday or Tuesday.

10 Q. Is he still working for True
11 Fireproofing?

12 A. No.

13 Q. Where is he working now?

14 A. He's not.

15 Q. Did he explain to you why he's no
16 longer working for True Fireproofing?

17 A. They agreed to disagree, apparently.

18 Q. Okay. How long had Tom been there
19 before you got there, do you know?

20 A. I'm not real sure. I believe it was
21 either two or four years.

22 Q. Okay. Did you and Tom divide up the
23 territory?

24 A. Yes.

25 Q. What was your territory?

1 A. Basically Dallas east and north, and he
2 went Dallas west and south exclusive of Austin.

3 Q. Did you confine your activities to the
4 Dallas/Fort Worth area alone or did you branch out
5 throughout the State of Texas?

6 A. I never went any farther than the
7 eastern border of Texas, Louisiana. I never went to
8 -- further south to any other major cities such as
9 Austin. I went to Tyler, Longview, Wichita Falls,
10 occasionally Fort Worth but mostly Dallas.

11 Q. As a salesman for W.R. Grace, how did
12 you develop client contacts?

13 A. Everybody that sells construction
14 materials subscribes to reporting services such as
15 F.W. Dodge division of McGraw Hill's Dodge reports.

16 Q. Who were your customers principally in
17 the early '70s?

18 A. Buyers of goods?

19 Q. Yes.

20 A. Some material dealers, some roof deck
21 applicators and plastering contractors, and some
22 were masonry supply houses and/or masonry
23 contractors.

24 Q. Did you ever negotiate the sale of
25 material directly with a building owner or Dallas

1 Independent School District or a hospital district?

2 A. No.

3 Q. Was there always a contractor in
4 between that you dealt with?

5 A. At least one.

6 Q. Okay. Do you remember the names of the
7 material dealers with whom you dealt in the early
8 1970s?

9 A. Blue Diamond Company here in Dallas.

10 Q. Are they still in existence?

11 A. Yes. Builders Supply in Fort Worth.
12 Good question. I'm trying to remember some other
13 names. I can't -- just don't come to mind right
14 now.

15 Q. Did you ever hear of a company called
16 Macatee?

17 A. That was before my time.

18 Q. You also mentioned roof deckers; is
19 that correct?

20 A. Roof deck applicators, people who were
21 subcontractors in the business of applying
22 lightweight insulating concrete roof decks.

23 Q. Do you remember any company names?

24 A. Burn and Treadwell, now defunct. E.R.
25 Keagy Company, now defunct. Hayes Miller Roofing

1 and Sheet Metal, now defunct. Tyler Roofing and
2 Sheet Metal, no longer in the business.

3 Q. I hope you didn't invest any money in
4 these companies that went out of business.

5 MS. CLARK: Object to the form
6 of the question.

7 A. I did not.

8 Q. Now, you also mentioned plastering
9 contractors, and, of course, I have a particular
10 interest in that as I represent a number of
11 plasterers.

12 Could you please tell me, if you
13 recall, the names of any plastering companies to
14 whom you told sold W.R. Grace products in the early
15 '70s?

16 A. Okay. Storbeck, Gregory & Dillard,
17 McCrory & Company, Triangle Plastering, Fort Worth
18 Plastering, Fred Richards Plastering, Estes & Stout,
19 Carpenter Plastering. That would have been 90
20 percent of them.

21 Q. There may have been a few others but
22 those were the major ones?

23 A. There were some smaller ones in other
24 communities. Cooper Plastering in Tyler would be
25 one.

1 Q. Prior to 1975, Mr. Sheeran, do you
2 remember the estimators or any of the other persons
3 with whom you dealt at Storbeck & Gregory?

4 A. A man named Brook Shirley. He's
5 retired. Jack Dillard, one of the principals.
6 Dutch Storbeck, Louey Gregory, Al Stenzle. One of
7 the other people that I would occasionally deal with
8 was Lawrence Smith at Storbeck & Gregory.

9 Q. Mr. Sheeran, I'm going to confess that
10 I don't know a whole lot about how you did your
11 business, and I want to ask you when you met with
12 these folks, how did you go about persuading them to
13 buy your material?

14 A. The easiest way and the most effective
15 way was to have the design professionals specify it
16 by name in their project documents which they would
17 put together prior to taking bids for the owner.

18 Q. Does that require you to actually meet
19 with the architects?

20 A. Yes.

21 Q. And did you meet with architects more
22 often than you did with the actual plastering
23 companies?

24 A. Absolutely.

25 Q. Do you remember the names of major

1 architectural firms with whom you dealt in the early
2 '70s in an effort to sell your material?

3 A. I could name some.

4 Q. A couple.

5 A. Some are still in business; some are
6 gone. Harwood K. Smith and Partners. Still here
7 now. George Dahl, D-a-h-l, and Associates, Tom
8 Stanley & Associates, Rosco D. Whitt & Associates.
9 If you'd look at the list of architects in the
10 Dallas 1972 yellow pages, every one of them was our
11 contact.

12 Q. Sure. In the architectural plan or
13 specification, your mission was to have them
14 actually enumerate or set forth a Zonolite Monokote
15 product or Zonolite acoustic product; is that
16 correct?

17 A. Correct.

18 Q. In the building design and
19 specifications, were there generally standard
20 language that Monokote material can be used or
21 something equivalent?

22 A. Architects always like to put in
23 something to the effect that, Or architect approved
24 equal.

25 Q. Okay.

1 A. They can control it better that way.
2 If they say or equal, it's very ambiguous.

3 Q. Who were -- let me see if I can word
4 this right. What equivalent fireproofing products
5 were available in the Dallas/Fort Worth area in the
6 1970s?

7 A. The Cafco product was available by the
8 same name, Blazeshield.

9 Q. How about Heat Shield?

10 A. I believe that was primarily an
11 insulating product.

12 Q. Okay. I'm sorry to interrupt.

13 A. A good one that was available was
14 Asbestos Spray.

15 Q. When you say a good one, why did your
16 eyes light up?

17 A. People just flip out when they hear
18 that name.

19 Q. Asbestos Spray?

20 A. Uh-huh.

21 Q. They didn't flip out then? Well, did
22 they flip out in the early '70s when they heard
23 Asbestos Spray?

24 A. No, those people sold a lot of product.

25 Q. Okay. Did United States Gypsum also

1 manufacture and market an equivalent fireproofing
2 material?

3 A. I believe they ceased around 1970, '69,
4 '70.

5 Q. How about United States Gypsum?

6 A. You just mentioned that. National
7 Gypsum is the other one.

8 Q. I'm sorry. How about National Gypsum?

9 A. I think they got out of the business
10 about the same time.

11 Q. Did U.S. Mineral have an office here in
12 Dallas?

13 A. No.

14 Q. Their office was in Houston?

15 A. I believe that's correct.

16 Q. How about Asbestos Spray, did they have
17 an office here in Dallas?

18 A. No.

19 Q. As far as you know, is W.R. Grace the
20 only company who had an office in Dallas?

21 A. At what time?

22 Q. During the early 1970s.

23 A. No, United States Gypsum always had an
24 office.

25 Q. Are you aware of any other

1 manufacturing plants besides W.R. Grace which
2 produced asbestos-containing acoustical plasters or
3 fireproofing materials?

4 A. There were several licensee
5 corporations around the company that produced
6 Monokote under license.

7 Q. How about in the Dallas area, were
8 there any other competitors?

9 A. Not producing.

10 Q. Okay. Were you aware that there were
11 other manufacturing plants that W.R. Grace owned or
12 operated in Texas during that time period?

13 A. No.

14 Q. Did you know they had a plant in San
15 Antonio?

16 A. There was a Texas Vermiculite plant in
17 Austin, but it did not produce fireproofing
18 products.

19 Q. What did they produce, do you know?

20 A. Strictly lightweight aggregate
21 vermiculite for insulating concrete roof decks and
22 for masonry insulation.

23 Q. Was there also a plant in Houston?

24 A. A licensee plant.

25 Q. When you say a licensee plant, is that

1 where the actual manufacturing plant has one name
2 but they're bagging the material using the Zonolite
3 trade name?

4 A. Correct.

5 Q. So the plant in San Antonio and Houston
6 and Dallas, to your knowledge, produced a product
7 that was packaged in bags which bore the trade name
8 or logo Zonolite?

9 A. Correct.

10 Q. Okay. Did the bag also have W.R. Grace
11 on the bottom of it written on it?

12 A. I don't recall.

13 Q. Okay. Do you know what was
14 manufactured down in Houston at that plant in the
15 early '70s?

16 A. Monokote 3 was produced in Houston.
17 The company is still there. It's Vermiculite
18 Products Company, Inc.

19 Q. Do you know the relationship -- the
20 corporate or business relationship between
21 Vermiculite Company and W.R. Grace in Houston?

22 A. Grace has no ownership. It's locally
23 owned.

24 Q. At present?

25 A. Always was.

1 Q. On what facts or information do you
2 base that?

3 A. I've seen their license agreement.

4 Q. You've seen it?

5 A. (Witness nods head.)

6 Q. Now, you said you dealt with folks like
7 Al Stenzle and Lawrence Smith. How did you deal
8 with these people?

9 A. Al Stenzle was an estimator, and he
10 would want to know the intricate details of the
11 assembly of the building, everything that was
12 germane to making a proper estimate of the volume of
13 materials required to accomplish the fireproofing.

14 Q. Okay. Do you recall that the Storbeck,
15 Gregory & Dillard Company had a warehouse on site?

16 A. Yes.

17 Q. Did you actually sell MK-3 to them,
18 bags of it that came on a truck?

19 A. Yes.

20 Q. Did they store the MK-3 in their
21 warehouses?

22 A. Usually not.

23 Q. Why didn't they, do you know?

24 A. It would usually be shipped to a
25 jobsite.

1 Q. Okay. How frequently do you think you
2 met with people over at Storbeck & Gregory in the
3 early '70s in your effort to sell MK-3?

4 A. Weekly.

5 Q. Would the same be true for McCrory &
6 Company?

7 A. Yes.

8 Q. Triangle?

9 A. Not as frequently.

10 Q. Estes & Stout?

11 A. Probably a couple of times a month.

12 Q. How about Carpenter, Joe Carpenter?

13 A. Probably weekly.

14 Q. Now, could you explain to me why you
15 would meet with these people on a weekly basis if
16 they knew you and knew your phone? Couldn't they
17 just call you up and ask for you to deliver
18 material? Why did you have to go out there?

19 A. Almost every time to go over the
20 details of the particular project that we're bidding
21 for that week. They were all different. No two
22 were alike.

23 Q. So when the company like Storbeck &
24 Gregory submitted a bid, you wanted them to put in
25 their specification a Monokote or Zonolite product?

1 A. Well, it wasn't their specification.
2 The specifications are written by the design
3 professional. They were merely bidding it as a
4 subcontractor to a prime contractor.

5 Q. Okay. What was your dream come true
6 when you met with these people? What was your final
7 objective as a sales person for W.R. Grace?

8 A. Storbeck & Gregory and the other firms
9 I named were competitors, and, of course, my object
10 was to get the order from that firm which wound up
11 with the subcontract that involved fireproofing
12 materials.

13 Q. At that time when Storbeck & Gregory
14 was submitting a bid on, let's say, fireproofing for
15 a downtown skyscraper down here in Dallas, what
16 fireproofing products were available to that
17 company, do you know?

18 A. At one point in time, the product from
19 National Gypsum and U.S. Gypsum was available as
20 well as the Monokote product and also the Cafco
21 product was available and another manufacturer or
22 two of sprayed mineral fiber thing which had no
23 representation locally.

24 Q. Do you know the names of any of the
25 sales reps for Cafco or Asbestos Spray?

1 A. Asbestos Spray was represented by a
2 gentleman named Burt Levine who came to town a
3 couple times a year from New Jersey. I don't know
4 if he's still alive.

5 Q. He came in from New Jersey?

6 A. (Witness nods head.)

7 Q. Did he fair any better than you did
8 with the local boys?

9 A. He got some work.

10 Q. Was there ever an occasion when you
11 were walking in the hallway at Storbeck & Gregory
12 and he was walking out?

13 A. I don't think so.

14 Q. How about any other rep from any other
15 company?

16 A. Hobson Harel for Cafco. At one time
17 Bill Dunn -- the Dunn Company represented Cafco.

18 Q. Did you ever get in any arguments with
19 any of these other reps over your territory or any,
20 what you perceived to be, shady dealings?

21 A. No, just argue about who was going to
22 pay the dinner bill.

23 Q. You guys went to lunch a lot?

24 A. Sure.

25 Q. Pretty good friends?

1 A. Reasonably so.

2 Q. Did you take these estimators and other
3 people working for the various plastering
4 contractors like Storbeck & Gregory, did you take
5 them out to lunch?

6 A. Regularly.

7 Q. Was that a method that you employed in
8 order to keep relations and rapport between yourself
9 and the plastering contractors?

10 A. Well, that and it was a good time to
11 catch up on what was going on.

12 Q. Did you feel like you really had any
13 serious competition in the early 1970s from any
14 other company?

15 A. Yes, from the Cafco product.

16 Q. Their rep was down in Houston; is that
17 right?

18 A. I think he still is.

19 Q. Would he have to fly up or drive up in
20 order to meet with the customer?

21 A. They would have an independent sales
22 rep in Dallas at that time. One was Dunn and later
23 was Hobson Harel, and they had a company agent in
24 most recent years, an employee.

25 Q. What was the price of a bag of MK-3 in

1 the early '70s?

2 A. I don't swear to it but I would say
3 anywhere from \$2.50 to \$4.

4 Q. Did you give a volume discount?

5 A. No.

6 Q. Do you know what the bag of an
7 equivalent Cafco product cost at the same time?

8 A. Very competitive on a volumetric basis,
9 probably identical per board foot or cubic foot,
10 however you want to measure it.

11 Q. How about Asbestos Spray?

12 A. The same.

13 Q. What, in your mind, was the biggest
14 motivating factor for the customer in purchasing a
15 W.R. Grace versus a Cafco or Asbestos Spray product?

16 A. Service.

17 Q. What would fall into the category of
18 service?

19 A. I'll give you a scenario. A project
20 would be under design by a local architect, who
21 usually didn't know enough to be any more than
22 dangerous as far as writing the specifications to
23 fit the details of a building, those details as
24 designed by the structural engineer for steel framed
25 buildings. So we'd provide the architect with free

1 consulting, in effect, help him select design
2 numbers as published by Underwriters Laboratories,
3 which were the most cost effective for his project,
4 and I would relay -- or relate these details as they
5 applied to that particular project to the
6 subcontractor, plastering contractors who were
7 bidding it. Like I said, everyone was different.

8 Q. As far as you know, the fact that these
9 materials had asbestos in them, that in itself
10 wasn't the prime motivation for customers wanting to
11 buy the product?

12 A. No.

13 Q. Do you have any knowledge whether MK-3
14 contained any less or any more asbestos in it than
15 Cafco Blazeshield or Asbestos Spray?

16 A. I'm certain that it was considerably
17 less.

18 Q. What makes you so certain about that?

19 A. I've seen analyses performed by
20 qualified laboratories many, many times in the last
21 20 years.

22 Q. In the early 1970s, did you see any
23 reports from laboratories which measured the
24 asbestos content in Cafco?

25 A. No.

1 Q. Did you see anything like that for
2 Asbestos Spray?

3 A. More recently.

4 Q. Not in the early '70s?

5 A. No.

6 Q. When do you understand that asbestos
7 was ordered by the federal government to be removed
8 from these fireproofing products?

9 A. Mid to late '72.

10 Q. Did you ever see any reports from W.R.
11 Grace in which they assessed the percentage of
12 asbestos by volume or by weight in bags of MK-3?

13 A. At what time?

14 Q. Well, obviously, before they took the
15 asbestos out.

16 A. No.

17 Q. Did you see anything like that after
18 they took the asbestos out?

19 A. Not published by Grace.

20 Q. What did you understand to be the
21 asbestos content in the bags of MK-3?

22 A. Ten to 12 percent.

23 Q. What's that based on?

24 A. Volume.

25 Q. Where did you find that information?

1 A. Again, fairly recently from different
2 laboratories that would analyze it in regard to
3 abatement.

4 Q. Okay. So prior to 1972, you didn't
5 appreciate the full asbestos percentage in the bags
6 of MK-3?

7 A. I would say I was not sure, but I knew
8 there were some in there.

9 Q. You knew that the material was an
10 asbestos-containing material, but you didn't know
11 what the allocation was?

12 A. I was aware it was not a major
13 ingredient.

14 Q. I'm going to ask you about this plant.

15 MS. CLARK: Roger, can we take a
16 little break here?

17 MR. WORTHINGTON: Sure.

18 (Recess taken.)

19 MR. WORTHINGTON: For the
20 record, we'll mark as Plaintiff's
21 Exhibit No. 1 the deposition notice and
22 all the attachments, and we'll mark as
23 Plaintiffs Exhibit No. 2 the documents
24 produced by Mr. Sheeran.

25 (Deposition Exhibit 2 marked
for identification.)

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Q. Mr. Sheeran, would you report every morning to your office on Manilla Road before going out?

A. Not every morning.

Q. How often, on a weekly basis, would you report to your office in the early 1970s?

A. At that time, probably three out of five days.

Q. Okay. Would you generally stay there all day or were you making a lot of customer calls?

A. No, I would stay very little.

Q. When you parked your car there at the parking lot, did you ever see any boxcars over here at the plant?

A. Usually every time.

Q. How frequently would boxcars be present at the plant?

A. All the time.

Q. Do you know --

A. They were not boxcars but hopper cars for carrying bulk goods.

Q. What was being carried in the hopper cars in the early '70s?

A. The vermiculite ore from the mine

1 sites.

2 Q. Did you understand that inside the
3 plant in the manufacturing process raw asbestos
4 fibers were added to the expanded vermiculite ore?

5 A. Yes.

6 Q. Do you know where the company purchased
7 the raw asbestos fiber?

8 A. I believe it was from Thetford Mines
9 Ontario -- or Quebec, excuse me.

10 Q. Did they also purchase raw asbestos
11 fiber from Johns-Manville?

12 A. I believe so.

13 Q. Who was in charge of purchasing the raw
14 asbestos?

15 A. At that time, Bob Junker.

16 Q. Bob Junker. Did you ever talk to him
17 in the early '70s about why he bought the asbestos
18 and what he did with it?

19 A. No, not really.

20 Q. For example, did you ever walk inside
21 the plant and actually feel the fibers in your own
22 hands?

23 A. Sure.

24 Q. What did it feel like?

25 A. Slippery, like talcum.

1 Q. Were you curious about it? Was it
2 interesting to you?

3 A. No more than any of the other
4 materials.

5 Q. Did you see where they stored the
6 asbestos inside the plant?

7 A. I couldn't state where it was stored.

8 Q. Did you see the asbestos in the bags?

9 A. Yes.

10 Q. Did you ever see a mixer man pour the
11 asbestos from the bags into the blender?

12 A. Probably.

13 Q. Doesn't stand out as something that you
14 remember?

15 A. No, no, no. It's not my favorite
16 place. It was noisy and hot and dusty.

17 Q. Did you walk in there with your suit
18 and tie on?

19 A. Not if I could help it.

20 Q. How frequently would you walk inside
21 the plant?

22 A. Quite infrequently.

23 Q. Why would you go in there anyway?

24 A. To discuss some upcoming demands with
25 the plant manager most likely.

1 Q. Now, you said it was dusty. Where
2 inside the plant was it most dusty?

3 A. Everything was dusty inside the plant.
4 It's hard to say which would be the most dusty area.

5 Q. Well, for example, the blender area
6 where the raw asbestos was dumped into the blender,
7 was it dusty in that area?

8 A. Yes, because gypsum was dumped at some
9 point.

10 Q. Gypsum was a pinkish color, wasn't it?

11 A. White to pink. It would vary.

12 Q. It was white to pink, and asbestos was
13 white?

14 A. Gray.

15 Q. Gray?

16 A. To white.

17 Q. And the gypsum dust or pellets or what
18 have you, they were heavier than the asbestos fiber;
19 is that right?

20 A. Yes.

21 Q. So the gypsum material would fall to
22 the ground a lot sooner than the asbestos fiber?

23 A. I would have to say yes.

24 Q. Could you ever see the asbestos fibers
25 floating up in the air?

1 A. I don't recall specifically seeing
2 that.

3 Q. Did you ever see any asbestos fibers
4 hanging from the rafters or the ceiling or the roof?

5 A. I couldn't identify that it was
6 asbestos fibers.

7 Q. Could you see any dirt or grit?

8 A. Sure.

9 Q. Did they ever do any vacuuming up on
10 the ceilings that you remember in the early '70s?

11 A. Somebody was always vacuuming
12 something.

13 Q. The floor or the ceiling?

14 A. Both.

15 Q. Do you know who was doing that?

16 A. Somebody directed by the plant manager,
17 one of the employees.

18 Q. Who was the plant manager in the early
19 '70s?

20 A. Curtis Gibson.

21 Q. What were his responsibilities?

22 A. Curtis did just about everything.

23 Q. Who was in charge of maintaining a safe
24 work place?

25 A. I would say Curt.

1 Q. Do you know if the company implemented
2 any kind of medical safety screening program where
3 they took annual chest x-rays or anything like that
4 in the early '70s?

5 A. I don't recall.

6 Q. Is that something you would have known?

7 A. Probably.

8 Q. How many employees were working inside
9 the W.R. Grace plant on Manilla Road before 1973?

10 A. Just take a guess and say less than 20.

11 Q. Okay. How many workers were on the
12 assembly line?

13 A. Well, there was no assembly line, per
14 se.

15 Q. It was a bad word. On the
16 manufacturing train, or whatever, how many people
17 were working directly with the bagging and
18 processing of the vermiculite into a final product?

19 A. As far as the fireproofing Monokote
20 product is concerned, probably a total of four or
21 five. Different, more automated equipment was added
22 from time to time.

23 Q. Before 1973, did the ventilation system
24 in that plant consist of a very large fan up in the
25 ceiling or up in the roof or were there anything

1 else?

2 A. I can't say. Doors were always open.

3 Q. Okay. From the floor, let's say, where
4 the blender was to the top of the roof, could you
5 approximate how many feet that was?

6 A. 20 to 25 feet.

7 Q. Where you parked your car, did you ever
8 look over at the plant when they were making
9 Monokote and see any dust coming out of the ceiling,
10 out of the roof tops?

11 A. There would be dust from time to time
12 when they were unloading boxcars, or as I recall, it
13 was an indicator that they needed to change bags in
14 the baghouse apparatus.

15 Q. The baghouse wasn't put in until after
16 '73, wasn't it?

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

18 Q. Do you recall that there were homes
19 adjacent to the plant, residential homes?

20 A. Yes.

21 Q. Did you ever see children playing in
22 the streets?

23 A. I'm sure I have.

24 Q. Children on bicycles?

25 A. Yes.

1 Q. Pulling pigtails, doing children-type
2 things?

3 A. Uh-huh, yes.

4 Q. Do you believe that they were also
5 exposed to dust coming from the plant?

6 MS. CLARK: I object to the form
7 of the question. I think that would
8 call for speculation from this witness,
9 and there's been no foundation to
10 establish that he would be able to make
11 that determination.

12 Q. How far was your car from the plant
13 when you parked it at the office?

14 A. Usually on the east side of the
15 building.

16 Q. On this side (indicating)?

17 A. Yes.

18 Q. Did you ever get a film of dust on your
19 window?

20 A. Usually when they were manufacturing
21 perlite aggregate for various purposes, it tended to
22 produce a lot of dust.

23 Q. How about the Zono-Cooustic, when they
24 were making the Zono-Cooustic?

25 A. I don't know.

1 Q. Okay.

2 A. I could identify the perlite dust
3 because it was the whitest material.

4 Q. To your knowledge, did they add
5 asbestos to the perlite materials?

6 A. I don't believe so.

7 Q. But you could be wrong, right?

8 A. Yes.

9 Q. The perlite materials, would that
10 include Perlcoustic, Perltext Fog, Perltext Poly,
11 Perltext Super-40, anything like that?

12 A. I'm not familiar with any of the
13 perlite products. They were of little or no
14 consequence.

15 Q. Okay.

16 A. Except for aggregate for insulating
17 concrete roof decks.

18 Q. In the early '70s when you had occasion
19 to walk inside the plant and see the men
20 manufacturing MK-3, did you ever see anyone wearing
21 dust masks?

22 A. I don't recall.

23 Q. Did you ever see Curtis Gibson wearing
24 a dust mask?

25 A. I doubt it in those days.

1 Q. In the early '70s, do you know if the
2 plant ever had any regular safety meetings?

3 A. I don't know.

4 Q. Do you know whether the plant ever
5 posted bulletins in the work room or lunch room
6 notifying people to beware of asbestos?

7 A. I don't recall.

8 Q. Did you have authority to ask Gibson to
9 cease making one product and start making another
10 product because you had a big order?

11 A. That's the kind of thing we would talk
12 about, yes.

13 Q. Could the plant simultaneously
14 manufacture Zono-Coustic and MK-3?

15 A. I don't believe it could.

16 Q. Okay. What types of products could the
17 plant simultaneously manufacture?

18 A. It could manufacture Monokote
19 fireproofing materials, the aggregate for roof deck
20 for the customers and I believe they could also
21 produce some of the soil products simultaneously.

22 Q. To your knowledge, did they add
23 asbestos to the soil products?

24 A. I don't know.

25 Q. Okay. Now, where inside the plant was

1 the material actually emptied into a bag?

2 A. On this plan, it would be the northwest
3 corner of the building.

4 Q. How was the material actually emptied
5 into the bag? Can you describe that for me, please?

6 A. There was a platform where the batching
7 took place, and a man or two would introduce the
8 gypsum, a couple of other insignificant products for
9 air entraining. At that point, the asbestos was put
10 in. The vermiculite was fed through an overhead
11 pipe system. So the stuff in the bags was primarily
12 gypsum.

13 Q. Did a man, by hand, shovel the material
14 into the bag or was that done automatically?

15 A. That was done by a bagging machine --

16 Q. Okay.

17 A. -- which was a series of screws and
18 scales and...

19 Q. Did you ever see the bags of MK-3 in
20 the early '70s?

21 A. Yes.

22 Q. How long were the bags? Do you
23 remember how many feet?

24 A. They were approximately two and a half
25 cubic feet in volume and still are. The height was

1 30 inches, thereabouts.

2 Q. Did you ever hoist one of those bags
3 filled with product over your shoulder?

4 A. Many times.

5 Q. How much did it weigh?

6 A. 48 to 50 pounds, as high as 52 pounds
7 in those days.

8 Q. Why would you have done this many
9 times?

10 A. Spot-check the weight of the bags on
11 the jobsite, check the production numbers.

12 Q. Did one of those bags ever burst while
13 you were carrying it?

14 A. Probably.

15 Q. Did it get dust all your clothing?

16 A. It's one of those products where if you
17 have to be associated with you can't avoid getting
18 covered with the stuff.

19 Q. Was there a man whose job was to
20 operate the bagging equipment?

21 A. Probably several.

22 Q. Okay. During the process of emptying
23 the material or filling up the bags, did that
24 process generate dust?

25 A. Yes, it had to to some degree.

1 Q. In the course of your employment at
2 Grace, did you ever have occasion to visit jobsites
3 where you actually saw the MK-3 being applied or
4 mixed or prepared?

5 A. Usually one day a week.

6 Q. Okay. Do you remember any of the names
7 of any of the laborers or plasterers who actually
8 applied the material?

9 A. A few.

10 Q. For example, Lawrence Smith --

11 A. Lawrence --

12 Q. -- did you ever see him use it?

13 A. -- would be one, yes.

14 Q. How about Larry Gibson?

15 A. Yes.

16 Q. How about Al Stenzle?

17 A. Al was never on site, very rarely.

18 Q. In the later years, in the '70s, you
19 didn't see him before 1970 because that's when you
20 came to work?

21 A. Uh-huh, correct.

22 Q. Did you ever have occasion to witness
23 any of these folks actually emptying the bags of 48,
24 50 pound bags of MK-3 into a hopper?

25 A. Yes.

1 Q. Did that process generate clouds of
2 dust?

3 A. Yes, it would.

4 Q. And the dust was visible to your eyes?

5 A. Absolutely.

6 Q. Did the quantity of dust, according to
7 your recollection, differ between the man in the
8 field emptying the bags and the man in the mill who
9 was pouring the asbestos contaminated materials into
10 the bags?

11 MS. CLARK: I object to the form
12 of the question. It calls for
13 speculation of this witness, and
14 there's insufficient predicate
15 foundation to establish that he could
16 judge the amount of dust that might be
17 created in different work sites.

18 A. I had spent more time on jobsites than
19 in the plant, and the man who emptied the bags into
20 the mixer hopper was usually pretty dusty.

21 Q. Okay. Well, you've testified that
22 walking around the plant was pretty dusty, and you
23 did your best to avoid the dust in the plant; is
24 that right?

25 A. Sure. Just didn't want to sit on

1 anything.

2 Q. Do you believe that the man who was
3 emptying the bags of MK-3 into a hopper was exposed
4 to more dust than the people working inside the
5 plant?

6 MS. CLARK: Same objection that
7 I made before.

8 Q. Based on your knowledge and your
9 recollection.

10 A. I'd say that the odds are pretty good
11 that he was in a dustier environment than the people
12 in the plant, unless the wind was blowing the other
13 way.

14 Q. A lot of times the MK-3 was mixed
15 indoors; isn't that correct?

16 A. No, it was always out of doors.

17 Q. I want to ask you about the bag. You
18 said that the plant was Texas Vermiculite plant yet
19 the bags themselves bore the logo Zonolite Monokote;
20 isn't that correct?

21 A. Correct.

22 Q. And at the very bottom of the bag there
23 was a little emblem that said W.R. Grace?

24 A. That I don't recall, but remembering
25 how Mike Moran was about those type of things,

1 chances are there was no Grace name on the bag if he
2 had anything to do with it.

3 Q. Now, why would Mike Moran not want to
4 have W.R. Grace logo on the product, do you know?

5 A. It was an ego trip for him. That's
6 all.

7 Q. Did he have his own name on there?

8 A. No, but he started the company.

9 Q. He wanted more than the 25-percent cut
10 Grace was giving him?

11 A. Oh, yes.

12 Q. Was that plant pretty much operating
13 around the clock in the early '70s?

14 A. Sometimes.

15 Q. More often than not?

16 A. In the early '70s, I would say more not
17 than often.

18 Q. Okay. There was a warehouse on the
19 premises, was there not?

20 A. Yes.

21 Q. Do you recall whether that warehouse
22 was ever stacked to the ceiling with MK-3?

23 MS. CLARK: I object to the form
24 of the question. It's leading.

25 A. The product was normally sent right out

1 to a jobsite on a trailer loaded at the bagging
2 point.

3 Q. Okay. So, basically, you had enough
4 contracts, enough business where you never really
5 had to store the MK-3 on the plant very long; isn't
6 that right?

7 A. Correct. It also has a shelf life.

8 Q. Okay. On those bags in the early '70s,
9 you never saw any warning label on there, did you?

10 A. I don't recall it.

11 Q. Okay. And inside the plant, you never
12 saw a notice that advised workers that asbestos
13 exposure could be hazardous to one's health?

14 A. I don't recall seeing that.

15 Q. And you never saw any notice that
16 exposure to asbestos could cause lung cancer?

17 A. I don't remember.

18 Q. You never saw anything, any notice or
19 bulletin that exposure to asbestos could cause
20 mesothelioma?

21 A. I don't recall seeing that word on a
22 sign.

23 Q. Do you recall whether Grace ever sent
24 notice to any of the persons who lived around the
25 plant in the homes adjacent to the plant that they

1 ought to avoid the inhalation of dust from the
2 plant?

3 A. Moran would never do that.

4 Q. Why wouldn't he ever notify the people
5 about a health hazard?

6 A. He was a person that would never rock
7 the boat, so to speak.

8 Q. He didn't want to invite public
9 scrutiny or --

10 MS. CLARK: Object to the
11 form --

12 Q. -- controversy?

13 MS. CLARK: Object to the form
14 of the question. That calls for
15 speculation from this witness about
16 what a different person might have
17 thought or wanted to do.

18 Q. Moran's a friend of yours, isn't he?

19 A. After a fashion. He'd fire me
20 regularly.

21 Q. But he'd hire you back, wouldn't he?

22 A. Oh, yeah. He'd always give you a bonus
23 and hire you back.

24 Q. Did you get to know the man pretty
25 well?

1 A. Sure.

2 Q. Kind of knew what made him tick?

3 MS. CLARK: Object. I think
4 that calls for speculation of what
5 made the person tick. I don't think
6 this man is a psychiatrist or
7 psychologist or probably would want to
8 give an opinion about what makes
9 somebody tick.

10 Q. I think you know what I mean, don't
11 you, Mr. Sheeran?

12 A. I knew his witticisms or his traits
13 fairly well, yeah.

14 Q. Based on your friendship and your
15 professional relationship with Mr. Moran, do you
16 believe that if he had known that asbestos did pose
17 a health hazard to persons exposed to dust that he
18 still wouldn't have warned the people living next to
19 the plant?

20 MS. CLARK: I object to the form
21 of that question. I think that's sheer
22 speculation about what a person would
23 have done had he known certain facts,
24 and I don't think that this individual
25 witness is qualified to give that

1 opinion.

2 A. I believe he would have done something.

3 Q. Okay. The plant did not have a
4 full-time or even a part-time safety inspector;
5 isn't that right?

6 A. Not by that name.

7 Q. Did they hire an industrial hygienist?

8 A. I don't know.

9 Q. When you were working for W.R. Grace in
10 the early '70s, do you have any knowledge that they
11 ever hired a consultant to come into the plant to
12 take measurements of the dust in the air?

13 A. I don't know.

14 Q. Did you ever see any memoranda or any
15 reports generated by W.R. Grace regarding the level
16 of asbestos contamination inside the plant?

17 A. I never saw that.

18 Q. Did you receive correspondence from
19 W.R. Grace, the headquarters, regarding material
20 safety?

21 A. Prior to '73, I don't recall.

22 Q. Who are your contact men or people at
23 headquarters for W.R. Grace?

24 A. An occasional visitor would come who
25 would give -- a technical guy who gives assistance

1 on equipment for either the furnaces or -- most
2 normally the furnace operations for expanding
3 vermiculite. A fellow named Fred Eton would come
4 once in awhile.

5 Q. Fred Eton?

6 A. Uh-huh. Once in awhile a vice
7 president would come, and we'd all visit about our
8 business. His name was Bruce Williams.

9 Q. How about a Mr. Peter Kostick?

10 A. I don't know him.

11 Q. How about a Mr. Taggart?

12 A. Probably met him once or twice.

13 Q. Do you know what his job was for W.R.
14 Grace?

15 A. No.

16 Q. Do you know when you met him?

17 A. No.

18 Q. How about Mr. Dugan?

19 A. Doesn't sound familiar.

20 Q. Did you mention W.L. Taggart?

21 A. I believe I met him.

22 Q. You met him? Do you know what his job
23 title was, or do you know what his job duties were?

24 A. I don't recall.

25 Q. How about Mr. R.W. Sterrett, did you

1 know him?

2 A. Yes.

3 Q. When did you first meet Mr. Sterrett?

4 A. 1966.

5 Q. What was your relationship with Mr.
6 Sterrett?

7 A. It was very rare and usually just at a
8 sales meeting of some kind.

9 Q. How often would you attend sales
10 meetings?

11 A. A couple times a year.

12 Q. Where would these meetings be held?

13 A. All over the U.S.

14 Q. Did you attend these every year since
15 1966?

16 A. Yes.

17 Q. I'm going to ask you about those
18 meetings in 1966 and onward in a few minutes, but I
19 want to finish up with this, okay?

20 By the way, do you have knowledge of
21 how many employees at the W.R. Grace plant on
22 Manilla Road have worked at the plant for at least
23 20 years?

24 A. Yes. Curt Gibson would be one and
25 James Bennett would be another.

1 Q. Does Mr. Bennett live in Dallas, do you
2 know?

3 A. I believe he lives in Duncanville.

4 Q. How old is Mr. Bennett?

5 A. I'm quite sure he's 52.

6 Q. He's 52 years old?

7 A. Yeah.

8 Q. Why are you quite sure about that?

9 A. I think our birthdays are a week apart
10 or something like that.

11 Q. When was the last time you spoke to Mr.
12 Bennett?

13 A. Most likely April or May this year.

14 Q. Did you and Mr. Bennett ever visit
15 about any asbestos-related health problems he may be
16 having?

17 A. I don't think so.

18 Q. Did he ever tell you that he'd been
19 diagnosed with any kind of lung disease?

20 A. I believe his wife told me that.

21 Q. Did you ever go through a medical
22 examination that W.R. Grace paid for to determine
23 whether or not you had any disease?

24 A. No.

25 Q. Do you know anyone who has gone through

1 that process besides Curt Gibson?

2 A. I would have to assume James Bennett
3 has.

4 Q. What was James Bennett's job at W.R.
5 Grace?

6 A. Probably maintenance.

7 Q. Do you know when he started working
8 there at that plant?

9 A. No, I don't.

10 Q. Was it in the '60s do you think?

11 A. I think it was.

12 Q. Has he retired?

13 A. I don't know.

14 Q. Do you know if he's disabled?

15 A. I don't --

16 MS. CLARK: Object to the form
17 of the question. That would call for
18 speculation from this individual. I
19 don't think he can give a medical
20 opinion.

21 Q. Do you know whether he's able to work?

22 A. I believe so. I believe he is working.

23 Q. Mr. Sheeran, in the deposition notice
24 which I sent to you I attached as Exhibit A a list
25 of products manufactured by W.R. Grace & Company.

1 What I'd like for you to do, please, is
2 go through this list and put an X next to each
3 product that was manufactured here in Dallas, Texas.

4 A. I can name the ones with which I am
5 familiar real quickly. I don't understand. There's
6 two listed as Zonolite Monokote 5 back and Zonolite
7 Monokote 5 front. There was only one Monokote 5
8 that I was aware, so I'll put a big X there. That's
9 about it.

10 Q. So you've marked on Exhibit A of the
11 deposition notice Zonolite Acoustical
12 Plastic/Plaster, Zonolite Monokote MK-3, Zonolite
13 Monokote 5 and Zonolite Plaster?

14 A. Correct.

15 Q. Also on this list there are various
16 Zono-Cooustic materials. Do you recall whether
17 those --

18 A. They were pretty well out of the
19 picture when I came.

20 Q. But you are aware of Zono-Cooustic?

21 A. Yes.

22 Q. And you've sold that before?

23 A. No, I never sold any of it.

24 Q. You never sold any in Detroit?

25 A. About one project here in town.

1 Q. But you sold Zono-Cooustic in Detroit,
2 so you're familiar with the material?

3 A. I'm familiar with it. Again, it was on
4 the way out, and I didn't have but very little, if
5 anything, to do with it.

6 Q. This list was generated by a company
7 called Owens-Corning Fiberglas, and they've
8 represented that they obtained the information from
9 interrogatories and various other sources to verify
10 the information on this list. On this list for
11 Zonolite Acoustical Plaster, they've indicated that
12 the product was made from 1945 to 1972 and that it
13 contained 20 percent asbestos and it was chrysotile.

14 Do you have any reason to dispute the
15 asbestos percentage of that product?

16 MS. CLARK: Pardon me. I want
17 to object to the form of the question.
18 I think that the basis is insufficient
19 to support this document. The fact
20 that it was done by third parties from
21 even farther removed documents, I don't
22 think that the authenticity of the
23 document has been proved up or that the
24 information contained is of such
25 quality, from what you've said, to be

1 relied upon by this witness or anyone
2 else.

3 Q. You can go ahead and answer.

4 MS. CLARK: I think it would
5 call for speculation on the part of
6 this witness.

7 A. Only in recent years have I seen as a
8 result of laboratory checking materials suspicious,
9 you know, abatement projects have I seen any numbers
10 about asbestos content of acoustical plaster.

11 Q. All right. Just so I understand what
12 you've said. You believe and you have knowledge
13 that the W.R. Grace plant here in Dallas from 1970
14 to some date manufactured Zonolite Acoustical
15 Plaster, Zonolite Monokote MK-3, Zonolite Monokote 5
16 and Zonolite Plaster; is that right?

17 A. Correct.

18 Q. Do you know when the company ceased
19 manufacturing Zonolite Acoustical Plaster here at
20 the Dallas plant?

21 A. I would say sometime in '72.

22 Q. How about Zonolite MK-3?

23 A. In June of '73.

24 Q. Are they still making Zonolite MK-5?

25 A. No.

1 Q. When did they stop making that?

2 A. Phased it out beginning in '88.

3 Q. Do you know why they did that?

4 A. They committed to producing an MK-6
5 product with a different technology.

6 Q. Okay. Generally, how was business in
7 the early '70s? Were you staying busy?

8 A. Yes, business was good.

9 Q. Was it booming?

10 MS. CLARK: Object to the form
11 of the question. That's a vague term.

12 Q. Was it booming?

13 MR. WORTHINGTON: You can
14 object.

15 MS. CLARK: Same objection.

16 A. No, it was steady.

17 Q. Well, was there a lot of construction
18 going on downtown?

19 A. Not like later years.

20 Q. Looking downtown from where you're
21 sitting here, there's a large cluster of buildings.
22 Can you, from where you're sitting right now,
23 identify any of the buildings that were being
24 erected in the early '70s?

25 A. Yes.

1 Q. What are those buildings?

2 A. One that is now known as Renaissance
3 Tower began in '71. 2001 Bryan Street which is
4 1972. One called Main Tower across the street from
5 One Main Place. Two Turtle Creek. Business was
6 steady but it wasn't what I would call booming.
7 There were probably a major building or two per year
8 at that time.

9 Q. There was enough business to keep two
10 W.R. Grace salesmen employed full time, you and Tom
11 Cheatham?

12 A. Yeah, but we spent a lot of time with
13 our roof deck business, too.

14 Q. I'd like to ask you about Deposition
15 Exhibit No. 2, the documents which you brought with
16 you to the deposition this morning.

17 Could you describe generally what the
18 significance of this document is, what it means?

19 A. It's a list of projects that have
20 Monokote fireproofing incorporated in them by one
21 name and number designation or another.

22 Q. Could you please go through this list,
23 and we can go off the record if you'd like so you
24 can take your time, and put an X next to every
25 building to which Monokote MK-3 was applied?

1 A. On the front page, all those that are
2 not highlighted in yellow.

3 Q. Unfortunately, this is not highlighted,
4 so could you go ahead and do that? Why don't you go
5 ahead and do it with your own X.

6 A. Actually the ones I've highlighted,
7 these are the ones that I'm aware are not asbestos
8 on this list.

9 Q. Okay.

10 MS. CLARK: So you're marking
11 the ones that on your list are
12 highlighted?

13 THE WITNESS: Correct.

14 MS. CLARK: And the ones that
15 are highlighted do not contain asbestos
16 to the best of your knowledge?

17 THE WITNESS: That's correct.

18 Q. Okay. Let's talk about your personal
19 knowledge before I ask you about what the
20 designation is, whether it's asbestos or nonasbestos
21 to your knowledge.

22 First of all, with respect to all of
23 the buildings on this list, did you personally sell
24 Monokote products to the architect firm that
25 designed the building?

1 A. Yes.

2 Q. You personally, not Tom Cheatham but
3 you?

4 A. Probably fifty-fifty.

5 Q. Okay. Now, are all these buildings on
6 the first page, were they erected between 1972 and
7 '78?

8 A. Best of my knowledge, yes.

9 Q. Okay. And have you made an X on
10 Exhibit No. 2 next to the buildings that you believe
11 did not contain MK-3?

12 A. Correct.

13 Q. Okay. But what product -- what
14 Monokote product did you sell for use in the
15 buildings which you have marked with an X?

16 A. It would have been either MK-4 or MK-5.

17 Q. Okay. Do you have any knowledge
18 whether MK-4 contained asbestos or not?

19 A. It did not.

20 Q. It did contain tremolite asbestos,
21 though, would you agree with that?

22 MS. CLARK: Object to the form
23 of the question. It calls for
24 speculation on the part of this
25 witness.

1 A. It had vermiculite aggregate.

2 Q. Okay. I believe you testified earlier
3 that vermiculite ore was contaminated with tremolite
4 asbestos; is that right?

5 A. I believe that's a true statement.

6 Q. So even though raw asbestos fiber was
7 not added to MK-4 or MK-5 as it was with MK-3, these
8 products still contained vermiculite which you
9 believe was contaminated with asbestos; is that
10 right?

11 MS. CLARK: I object to the form
12 of the question that the vermiculite --
13 whether he would have information that
14 the vermiculite that was actually used
15 in the product would have been
16 contaminated with tremolite as opposed
17 to the ore, I think, that you
18 questioned him about earlier.

19 A. I'll answer by saying that the
20 occurrence of tremolite is extremely small in MK-4
21 and 5 products.

22 Q. But you attended conferences and
23 meetings in the early '70s and mid-'70s where you
24 and other representatives of W.R. Grace discussed
25 whether or not vermiculite was contaminated with

1 small amounts of asbestos form tremolite; is that
2 right?

3 A. Not in the early '70s.

4 Q. Was it in the late '70s?

5 A. More like '80.

6 Q. Okay. In the 1980s, did you understand
7 that the MK-4 and 5 that you were selling back in
8 the early '70s or mid-'70s contained small amounts
9 of tremolite asbestos?

10 A. Yes.

11 Q. Okay. So even though you put an X next
12 to these buildings, all the X indicates is you're
13 not aware that the building contained MK-3 which was
14 contaminated with chrysotile asbestos fiber?

15 A. Well, just like I said, those that are
16 indicated were MK-4 or 5.

17 Q. All right. Let's talk about the
18 buildings which you have not put an X next to. Can
19 we do that?

20 A. Sure.

21 Q. Okay. Do you have personal knowledge
22 that MK-3 was applied in each of the buildings that
23 are unmarked with the X?

24 A. Yes.

25 Q. Okay. What is that personal knowledge

1 based upon?

2 A. Being on the jobsite.

3 Q. Okay. Did you actually sell the
4 material to the architect?

5 A. We actually sold the material to the
6 applicators who installed it.

7 Q. I'm sorry. Now, next to each of these
8 building names, for example, The Apparel Mart,
9 there's a number. Next to The Apparel Mart it says
10 20,000.

11 What does the 20,000 indicate?

12 A. That would be the approximate number of
13 bags of material.

14 Q. 20,000 bags. In a tractor trailer when
15 you've got the cab of the truck and the trailer, how
16 many of those trailers would it required to haul
17 20,000 bags of MK-3?

18 A. As few as 20 as many as 25.

19 Q. 25 truck loads?

20 A. Correct.

21 Q. How about 85,000 bags?

22 A. Given that the trailer would hold
23 anywhere from 800 to 1,000, it would be 85 to 100
24 and some or over 100 truck loads.

25 Q. How many tractor trailers were owned or

1 operated by W.R. Grace here in Dallas?

2 A. At no time were there more than three,
3 I believe.

4 Q. Did they ever collect much dust parked
5 at the parking lot or were they pretty much on the
6 road?

7 A. They had high utilization.

8 Q. Were the bags of MK-3 removed directly
9 from the conveyer belt or storage area onto the back
10 of these trucks?

11 A. Yes.

12 Q. Could you please read into the record
13 the names of every building to which Monokote MK-3
14 was applied?

15 A. On page one: The Apparel Mart, First
16 International Building now known as Renaissance
17 Tower, Main Tower, 2001 Bryan Tower, Dallas Federal
18 Savings & Loan, 4226 Douglas Tower, Mockingbird
19 Towers, Stemmons Twin Towers, D/FW Airport
20 Terminals, Empire Stemmons Tower, Dallas North Plaza
21 Tower, Dallas North Bank & Trust.

22 Q. On page two you've also listed a number
23 of building names; Denton, Fort Worth, Dallas
24 County, Corpus Christi. We'll turn the machine off,
25 and I'd like for you to do the same thing which you

1 did on page one, and that is, tell us which
2 buildings you recall having MK-3 applied in, okay?
3 Can you do that for us?

4 A. Very difficult to do it. Some of them
5 I have knowledge of; some I just don't recall. But
6 I would say since they're on this list that if they
7 were, in fact, completed prior to July of '73 that
8 they have MK-3 on them.

9 Q. Which buildings were completed prior to
10 1973, can you tell us that?

11 A. On page two it looks like all of them.

12 Q. How about page three?

13 A. The same.

14 Q. Page four?

15 A. I would say also completed prior to
16 '73.

17 Q. What makes you say that? What makes
18 you believe that these buildings were listed prior
19 to 1973?

20 A. Page three says dated 2/1/71.

21 Q. Page four says that?

22 A. Page three. Whoops. It is page four.
23 Excuse me.

24 Q. Do you recall receiving page two, three
25 and four and five in 1971?

1 A. Yes, that's a fair statement.

2 Q. We've got a housekeeping problem here
3 in that I've mark as Deposition Exhibit No. 2 all
4 five pages. What I'd like to do now is tear off
5 Deposition Exhibit No. 2 and mark as a separate
6 exhibit pages one, two, three, four. At the top of
7 page one it states Texas and Oklahoma Vermiculite
8 Companies Representative Monokote Fireproofing Job
9 List, Master List dated 2-1-71. We'll mark this as
10 Plaintiff's Exhibit No. 3, and I'd like to go ahead
11 and staple that.

12 MR. WORTHINGTON: Why don't we
13 go ahead and take a short break.

14 (Discussion off the record.)

15 (Deposition Exhibit 3 marked
16 for identification.)

17 Q. Mr. Sheeran, I'd like to ask you about
18 Deposition Exhibit No. 3, the Texas and Oklahoma
19 Monokote job list.

20 When did you first receive a copy of
21 this particular document?

22 A. I would have to say in 1971 or 2.

23 Q. And do you remember who gave you the
24 list?

25 A. I believe it was compiled by Mike

1 Moran.

2 Q. Did you have anything to do with
3 providing any of the information or building names
4 on this list?

5 A. I'm sure I did.

6 Q. Okay. What is the significance of this
7 list? What is it for? What does it mean?

8 A. Originally I think I previously stated
9 that it was used as a list just to show in a piece
10 of promotional literature the wide acceptance of
11 this wonderful product.

12 Q. When you say wonderful product, you're
13 referring to MK-3?

14 A. Yes.

15 Q. Do you have any knowledge whether some
16 of these buildings had MK-1 or MK-2 in them?

17 A. I don't know.

18 Q. But because the list was compiled in
19 1971 and MK-4 didn't come along until later, you
20 believe that each one of these buildings contains
21 some asbestos containing form of Monokote; is that
22 right?

23 A. Yes.

24 Q. Going through that list, Mr. Sheeran,
25 could you please mark with an X the buildings to

1 which Monokote MK-3 were applied according to your
2 personal knowledge; in other words, which buildings
3 that you have some involvement in selling the MK-3
4 to?

5 A. Yes, I can do that.

6 Q. Okay. You want to go off the record
7 and take your time?

8 A. Okay. It won't take long. It's not
9 all of them.

10 (Discussion off the record.)

11 Q. Mr. Sheeran, have you gone through
12 Deposition Exhibit No. 3 and tried, to the best of
13 your recollection and best of your ability, to mark
14 each building to which W.R. Grace applied its or
15 somebody applied W.R. Grace Monokote MK-3
16 asbestos-containing products?

17 A. That's correct.

18 Q. Would you please, so that the record's
19 clear, identify each of those buildings? Just read
20 them out for us.

21 A. Mercantile Bank Addition, Dallas;
22 Dallas North Plaza; Twin Towers Building; Sears
23 Regional Office Building; Bruton Park Office
24 Buildings, I believe that should be building
25 singular; Dallas Federal Savings & Loan; Sanger

1 Harris, Six Flags Mall; Tarrant County Savings &
2 Loan; and Fort Worth -- excuse me. In Longview,
3 Good Shepherd Hospital. In San Antonio, USAA
4 Insurance Office Building. Tyler, East Texas TB
5 Hospital, and that's it.

6 Q. Mr. Sheeran, also in Deposition Exhibit
7 No. 1, which is the notice of deposition, there was
8 an Exhibit B which was a list of various buildings
9 in Dallas and Fort Worth.

10 Did you go through that list and
11 indicate the buildings that had Monokote MK-3
12 applied in them?

13 A. Best of my ability. Some were very
14 hard to identify by that name.

15 Q. Could you please --

16 A. Some are duplications as well.

17 Q. I realize there may be some
18 duplications, but could you please identify on the
19 record the buildings on this list to which MK-3 was
20 applied?

21 A. Yes. Let me clarify something. Those
22 that I have highlighted are those that I have
23 personal knowledge of with the MK-4 or 5 product on
24 your Exhibit B.

25 Q. Okay. Do you have any personal

1 knowledge of having MK-3 applied in any of those
2 buildings?

3 A. Yes.

4 Q. Those are the ones I'm interested in
5 right now. Could you just identify those?

6 A. If you want to take a minute, I'll mark
7 them.

8 Q. Take a minute; take two minutes.

9 MR. WORTHINGTON: We'll go off
10 the record.

11 (Discussion off the record.)

12 A. I've marked the ones I can say I know
13 contained the MK-3 product.

14 Q. Have you gone through the exhibit and
15 tried to mark each building which you believe,
16 according to your knowledge and experience and work
17 history, you believe those buildings contain MK-3?

18 A. Yes.

19 Q. Okay. Could you read into the record
20 those buildings, please?

21 A. Renaissance Tower in Dallas, Mercantile
22 Bank in Dallas, Dallas Apparel Mart, Dallas/Fort
23 Worth Airport and that's it. I'm sorry, but all
24 schools look alike to me.

25 Q. And your knowledge of the sale of MK-3

1 in Dallas is limited between 1970 and 1973; isn't
2 that right?

3 A. Correct.

4 Q. And you don't have perfect knowledge of
5 all of the buildings to which MK-3 was applied in
6 which Tom Cheatham negotiated the deal?

7 A. That's a pretty true statement, yes.

8 Q. Tom Cheatham may have been working on
9 some deals where he sold MK-3 that you don't know
10 anything about?

11 A. Yes.

12 Q. I'd have to ask Tom Cheatham about
13 those buildings?

14 A. Correct.

15 (Deposition Exhibit 1 marked
16 for identification.)

17 Q. The other buildings which you've
18 highlighted, what does the highlight indicate?

19 A. That indicates that I have personal
20 knowledge that they are incorporating MK-4 or 5.

21 MR. WORTHINGTON: We need to
22 mark this map as Exhibit 4.

23 (Deposition Exhibit 4 marked
24 for identification.)

25 A. Your exhibit names some buildings that

1 I don't know by that name that, you know, I may or
2 may not have been there.

3 Q. Okay.

4 MR. WORTHINGTON: At this stage,
5 I would like to take a lunch break.
6 It's 12:30. Can we be back here around
7 1:00 o'clock or so?

8 MS. CLARK: Sure.

9 (Lunch recess taken.)

10 Q. Mr. Gibson, who has knowledge of the
11 existence of Deposition Exhibit No. 2 within the
12 W.R. Grace Corporation?

13 A. Ralph McCloud would know of it, and
14 John Daniker is aware of it. Joel Hortenstein in
15 Atlanta was aware of it.

16 Q. Who was Mr. Daniker?

17 A. Daniker is a vice president in
18 Cambridge, Massachusetts.

19 Q. Vice president of what?

20 A. Construction products division I
21 believe.

22 Q. The Zonolite products division of W.R.
23 Grace?

24 A. Uh-huh.

25 Q. Do you know Mr. Daniker?

1 A. Yes.

2 Q. Have you spoken with him about this
3 particular document?

4 A. He asked for it the last time I saw
5 him, which was probably a couple of years ago.

6 Q. A couple of years ago he asked for it?

7 A. Yeah.

8 Q. Did he tell you why he wanted it?

9 A. No, he just said, Please send it to me.

10 Q. How do you believe he knew about the
11 existence of this document?

12 A. I mentioned it at a meeting.

13 Q. How long ago was that meeting?

14 A. It was in August of 1989.

15 Q. Was asbestos abatement discussed at
16 that meeting?

17 A. No, but there was some discussion about
18 the abatement market and what it looked like for
19 refireproofing of abated buildings.

20 Q. What do you mean by refireproofing?

21 A. In a building where somebody has made
22 the decision to take out the asbestos-containing
23 materials, in order to get a certificate of
24 occupancy that building has to be provided with
25 appropriate fire resistance ratings to meet the

1 code, so somebody has to go in and reapply new
2 fireproofing material where the old was removed
3 because the code does not change. If anything, it's
4 more stringent.

5 Q. Did you or any other salesmen for Grace
6 ever notify any owners of buildings that their
7 building had asbestos in it and therefore would be
8 subject to an abatement?

9 A. No.

10 Q. Do you know if anyone ever did that?

11 A. Not to my knowledge.

12 Q. When was this document actually
13 compiled or typed up?

14 A. I believe it's in '78.

15 Q. '78?

16 A. Yeah.

17 Q. Of what interest was it to you and the
18 other persons who helped put this document together
19 in 1978 to identify the buildings with asbestos in
20 them in Dallas?

21 A. I was asked to do a survey on the
22 subject to identify what the market potential was
23 for product sales of a replacement fireproofing
24 material.

25 Q. Who asked you to do that survey?

1 A. Ralph McCloud.

2 Q. Was he employed here in Dallas by
3 Grace?

4 A. Right, at the time.

5 Q. Okay. Did the company make a business
6 decision that they would try to sell asbestos-free
7 Monokote to the owners of buildings who had to
8 remove the asbestos-containing Monokote?

9 A. Yes, once the decision had been made to
10 remove that which contained asbestos.

11 Q. Do you know who was responsible for
12 that decision to undertake an abatement at these
13 various buildings?

14 A. Normally the owner.

15 Q. Okay. Did you ever have any
16 communications with the owners in which you advised
17 them that their building did have asbestos in it and
18 therefore would be subject to an abatement?

19 A. If asked.

20 Q. Did the company, and yourself included,
21 essentially see a business opportunity to go back
22 into these buildings and refireproof them with
23 asbestos-free --

24 MS. CLARK: I'm going to object
25 to the extent that it calls for the

1 company's -- what the company might
2 have seen and extends beyond what his
3 personal knowledge would be.

4 Q. Ralph McCloud asked you to put this
5 list together, right?

6 A. To put some numbers on a potential
7 market.

8 Q. Did you see a potential market or
9 business opportunity?

10 A. Yes.

11 Q. And what was that business opportunity?

12 A. To sell a product for replacement
13 fireproofing.

14 Q. And when did Mr. Daniker become aware
15 of this?

16 A. I believe it was at a meeting in August
17 about '90.

18 Q. When did --

19 A. Excuse me, '89.

20 Q. When did Mr. Daniker, to your
21 knowledge, become aware of Deposition Exhibit No. 3,
22 which is that list that was compiled in '71, if
23 ever?

24 A. Same time.

25 Q. Okay. Did he specifically ask you for

1 these documents?

2 A. Yes.

3 Q. Did he tell you why he wanted you to
4 send them to him?

5 A. No, he didn't.

6 Q. What was your understanding?

7 A. I would usually comply with his wishes.

8 Q. What was his motivation, in your
9 opinion, as to why he wanted these things?

10 MS. CLARK: I object to the form
11 of the question. It calls for the
12 witness to speculate.

13 A. I don't really know.

14 Q. Did he ask you to send him these copies
15 and not send them to anyone else?

16 A. Yes.

17 Q. Did he ask you to refrain from showing
18 these to any lawyers?

19 A. No.

20 Q. Did he ask you to shred or burn the
21 originals?

22 A. No, he said he wanted them.

23 Q. He wanted the originals?

24 A. Yes.

25 Q. Did he advised you not to make copies?

1 A. I don't recall.

2 Q. Did you get the impression that this
3 was confidential between you and Mr. Daniker, these
4 documents?

5 A. Yes.

6 Q. Did you ever show these to anyone
7 outside of Mr. Daniker?

8 A. Yes.

9 Q. Who else did you show these to?

10 A. Tom Cheatham has seen them. Joel
11 Hortenstein has a copy of them.

12 Q. Joel Hortenstein is in Atlanta?

13 A. Yes.

14 Q. Who does he work for?

15 A. Mike Ragan, R-a-g-a-n.

16 Q. What kind of company is that?

17 A. He works for Grace. Ragan is his boss.

18 Q. What's his position, Hortenstein?

19 A. Southeast district manager.

20 Q. Do you know why he was privy to these
21 documents?

22 A. I think he asked to see them, too.

23 Q. Did you feel like either Mr.
24 Hortenstein or Mr. Daniker was putting any pressure
25 on you to avoid publicizing or circulating these

1 documents?

2 A. No. Again, they just said that they
3 wanted to get them, wanted to see them.

4 Q. Did he ever tell why he wanted them?

5 A. Not really.

6 Q. Have you ever had any communications
7 with any building owners in Dallas in which you
8 discussed the need for any potential asbestos
9 abatement?

10 A. No, I have not.

11 Q. Do you know which, if any, of these
12 buildings have undertaken an asbestos abatement?

13 A. I could name a few of them.

14 Q. Can you do that for me, please?

15 A. The Stemmons Twin Towers, The 1111
16 Mockingbird Tower, The First International Building
17 now known as Renaissance Tower. The Empire Stemmons
18 Tower has been surveyed several times. Nothing's
19 been done. The Southland Center has been surveyed
20 extensively. Nothing's been done.

21 Q. What is your understanding of the
22 purpose of an abatement?

23 A. To remove asbestos-containing materials
24 or materials that contain other regulated materials.

25 Q. Have you had any conversations with

1 owners of buildings who complain that they're unable
2 to sell their building because it has asbestos in
3 it?

4 A. I have not.

5 Q. Have you ever discussed the presence of
6 asbestos inside the Southland Center Building with
7 anybody?

8 A. Yes.

9 Q. Who have you talked to about that?

10 A. DCM Engineers here in Dallas.

11 Q. What did you talk to them about?

12 A. We, in fact, walked a building from top
13 to bottom to identify what was where. There were
14 several different types of fireproofing systems used
15 in the building.

16 Q. Do you know what friable asbestos is?

17 A. Yes.

18 Q. Is Monokote MK-3, once in place for at
19 least 15 years, friable?

20 A. Usually not.

21 Q. When do you understand that OSHA came
22 into existence?

23 A. I'm not sure. I'd just have to guess,
24 15 years ago.

25 Q. When did you understand that W.R. Grace

1 shifted from MK-3 to MK-4?

2 A. In order to comply with the law which,
3 I believe, took effect the first week in July of
4 '73.

5 Q. How long had you known prior to July of
6 '73 that the government was promulgating regulations
7 to eliminate asbestos contamination?

8 A. Less than two years. Closer to one
9 year.

10 Q. You first understood as a salesman for
11 W.R. Grace that OSHA or any other federal agency was
12 preparing rules and regulations to control the level
13 of asbestos dust in manufacturing plants and on
14 jobsites; is that right?

15 A. Did I know at what time?

16 Q. In 1971. Is that the year that you
17 understood that was happening?

18 A. At the earliest.

19 Q. Okay. And did you discuss the future
20 regulatory horizon with Mr. Moran?

21 A. Yes.

22 Q. And did you understand that the death
23 knell was sounding for the asbestos industry and
24 their continued ability to use asbestos in their
25 products?

1 A. Yes.

2 MS. CLARK: Object to the form
3 of the question of using the term
4 "death knell." It's a vague term
5 subject to interpretation.

6 Q. At the time, did you understand that
7 W.R. Grace was investing any money into the research
8 of or development of alternatives to asbestos in
9 their fireproofing products?

10 A. Yes, I was aware of it.

11 Q. What types of substitute materials were
12 available at that time?

13 A. Glass fibers.

14 Q. How about cellulose or wood pulp or
15 paper?

16 A. I believe the material, all the
17 Monokote products as I knew, always did have some
18 content of cellulose in them, and the glass fiber
19 was first introduced after July of '73.

20 Q. How long, to your knowledge, had the
21 glass fiber and cellulose and other alternative or
22 substitute materials for asbestos been available to
23 W.R. Grace and any other company making asbestos
24 containing fiber?

25 A. That I can't truthfully answer. Glass

1 fiber has been around for a long, long time.

2 Q. Did you understand that glass fiber had
3 inherent fireproofing or fire resistant properties?

4 A. None that I'm aware of.

5 Q. Was it your understanding in the early
6 '70s that asbestos was included in the MK-3 and
7 other W.R. Grace products for the dual purpose of
8 preventing cracking or disintegration in the final
9 product and also to act as a re-enforcing agent in
10 the material?

11 A. Yes, that and as I mentioned before,
12 it's workability.

13 Q. When you say workability, is that,
14 like, pumpability through a hose or something?

15 A. Specifically, it was very good for the
16 pumping quality of the material.

17 Q. It made the material slicker
18 essentially?

19 A. Correct.

20 Q. Is it true, then, that you did not
21 understand that asbestos was put in the product for
22 the sole reason of providing for thermal insulation?

23 A. No, I never believed that was its
24 purpose.

25 Q. Now, let's talk about what happened

1 when the government finally enacted regulations
2 which required companies to either curtail the use
3 of asbestos or warn consumers as to the potential
4 health hazards of asbestos.

5 In 1971 and '72, did you discuss with
6 Mike Moran what the economic and marketing and
7 manufacturing repercussions would be if the
8 government banned or limited the use of asbestos?

9 A. Not specifically for those reasons.
10 More for application problems.

11 Q. What do you mean by that?

12 A. With the pumpability of a product.

13 Q. Did you and Moran discuss what the
14 company would need to do in order to retrofit their
15 equipment to manufacture an asbestos-free product?

16 A. Not really.

17 Q. Was any mechanical or engineering
18 retrofitting required to manufacture an
19 asbestos-free product?

20 A. Not that I know of.

21 Q. Did the company have to invest any
22 money in any equipment or machinery in order to
23 produce an asbestos-free product right here in
24 Dallas?

25 A. They originally did. The suppliers

1 eventually provided them a product that didn't
2 require any further processing.

3 Q. Do you know how much money was invested
4 in order to retrofit for an asbestos-free product?

5 A. No, I don't.

6 Q. Was it less than \$10,000?

7 MS. CLARK: Object to the form
8 of the question. He's already said he
9 doesn't know how much was spent.

10 Q. Can you give me a ballpark figure?

11 A. I really can't.

12 Q. Did you understand that there was a
13 date certain when the W.R. Grace plant on Manilla
14 Road could no longer manufacture asbestos-containing
15 products?

16 A. It was my understanding that the ban or
17 the law that went into effect did not regulate the
18 manufacture but the application of those products.

19 Q. Okay. Did you understand that there
20 was a date certain when W.R. Grace was going to
21 cease using chrysotile asbestos in their Monokote
22 products?

23 A. Yes.

24 Q. What was that date?

25 A. I believed it to be around the 1st of

1 July of 1973.

2 Q. Who set that date?

3 A. I believe that was in the federal
4 regulation by OSHA.

5 Q. Was that the date that the federal
6 regulation was promulgated or came into effect, to
7 your knowledge?

8 A. It had to be July of '73. That was the
9 deadline at which time no products or -- no products
10 could be applied, so Moran arranged for all the MK-3
11 product to be shipped in June for the last time.

12 Q. As a salesman, did you and Mr. Cheatham
13 or Mr. Moran or any other salesman ever voice any
14 concern about the potential increase cost of an
15 asbestos-free Monokote?

16 A. No, not really.

17 Q. Did the switch over to an asbestos-free
18 Monokote fireproofing cause an increase in the price
19 of the bag of material?

20 A. I believe there was a price increase
21 for it.

22 Q. Do you know how much a bag of MK-3 cost
23 in 1973 versus a bag of MK-4 in 1973?

24 A. The MK-4 was higher. Just how much
25 more, I don't recall at this time.

1 Q. Do you believe it was less than 50
2 cents higher?

3 A. That's in the ballpark.

4 Q. Less than a dollar anyway?

5 A. Under a dollar.

6 Q. Okay. When the plant on Manilla Road
7 in Dallas ceased applying chrysotile asbestos in
8 their MK-3 product, did the plant shut down?

9 A. I really don't know. I can't remember.

10 Q. And in 1973, did you remain employed?

11 A. Yes.

12 Q. Did you continue to sell Monokote?

13 A. Yes.

14 Q. And the phone kept ringing where people
15 wanted to buy Monokote?

16 A. Yes.

17 Q. You don't, in your mind, today remember
18 any slow down in the manufacture of Monokote?

19 A. Oh, yes.

20 Q. Was there a slow down?

21 A. There was tremendous field problems.
22 Quit making it every other day.

23 Q. Could you tell me what kind of field
24 problems you had?

25 A. Going back to the pumpability of the

1 material. It didn't pump.

2 Q. It didn't pump as well? The
3 asbestos-free didn't pump as well?

4 A. No, it was really a nightmare.

5 Q. But the company was continuing to sell
6 a product -- an asbestos-free product, and the
7 company did not have to shut down when it switched
8 over to an asbestos-free product?

9 A. Yes, basically. It did not have to
10 shut down.

11 Q. Pardon me?

12 A. It did not have to shut down.

13 Q. What was the date that W.R. Grace
14 stopped putting asbestos in their Monokote?

15 A. Here in Dallas, the last
16 asbestos-containing MK-3 was sent to jobsites
17 somewhere mid-June --

18 Q. Okay.

19 A. -- in order that it would be consumed
20 prior to the law which penalized the applicator on a
21 per day basis.

22 Q. So prior to mid-June, you and Mr. Moran
23 understood that asbestos was going to be regulated
24 in a matter of time?

25 A. Yes.

1 Q. And you understood that the reason for
2 the regulation was that asbestos posed a serious
3 health hazard?

4 A. Yes.

5 Q. And that health hazard was posed to
6 workers in the mills, applicators in the field,
7 bystanders, neighbors who lived around manufacturing
8 plants?

9 MS. CLARK: Object to the form
10 of the question. I think it's a
11 multiple question, and it would require
12 -- each segment would require a
13 different answer, and I think it also
14 calls for speculation on the part of
15 this witness. I don't think he's shown
16 that he has the expertise sufficient to
17 discuss potential health hazards to
18 every segment that you mention in your
19 question.

20 A. I don't know how to answer except that
21 they were complying with the regulation to be within
22 the law.

23 Q. Prior to the date the law took effect,
24 though, you and Mr. Moran understood that asbestos
25 did pose a health hazard to plasterers and

1 applicators of asbestos-containing MK-3; is that
2 right?

3 MS. CLARK: I'm going to object
4 to the form of the question, especially
5 to the extent that it calls for what
6 Mr. Moran might have understood, since
7 Mr. Moran's not testifying and that
8 would be speculation on the part of
9 this witness as to what another person
10 understood or didn't understand.

11 A. At that point, we realized that it was
12 harmful, yes.

13 Q. Okay. And you didn't just realize that
14 on your own. People from Grace talked to you about
15 that; is that right?

16 MS. CLARK: Object to the
17 leading form of the question.

18 A. I believe everybody had a lot of
19 information available from different sources as to
20 the potential hazards of exposure.

21 Q. And in the early '70s, Mr. Sheeran, you
22 didn't subscribe to the Code of Federal Regulations
23 or the Federal Register of the United States
24 Government, did you?

25 A. No, I did not.

1 Q. You didn't read proposed rules and
2 promulgated rules?

3 A. No.

4 Q. Did you attend meetings sponsored by
5 W.R. Grace in the early '70s where asbestos was
6 discussed?

7 A. No.

8 Q. How did you first learn in the '70s
9 that asbestos posed a health hazard?

10 A. By reading industry journals mostly.

11 Q. Did you ever get any memoranda or
12 correspondence from Mr. Vining or Mr. Sterrett or
13 Mr. Kostick or any other employee of the Zonolite
14 Company or W.R. Grace regarding asbestos health
15 hazards?

16 A. None that I can recall.

17 Q. You said you first learned about
18 asbestos being harmful in a medical journal?

19 A. In industry journals, there were
20 several articles that got wide circulation in the
21 late '60s.

22 Q. What industrial journal are you
23 referring to?

24 A. That's a good question. I would say
25 that the Construction Specifications Institute

1 monthly publication was always a good source of new
2 and/or controversial topics.

3 Q. Was that journal available to all the
4 salesmen at W.R. Grace?

5 A. Yes.

6 Q. Was it available to the management of
7 the construction division --

8 A. Certainly.

9 Q. -- of W.R. Grace?

10 A. Yes.

11 Q. How long had Grace been subscribing to
12 that, if you know?

13 A. I took a membership in the CSI
14 organization first month I went to work for Grace.
15 It was something that everybody belonged to.

16 Q. That was as early as 1966?

17 A. Yes.

18 Q. Did the articles you read discuss the
19 potential for asbestos to cause asbestosis --

20 A. Yes.

21 Q. -- and the potential for asbestos to
22 cause lung cancer --

23 A. Yes.

24 Q. -- in applicators as well as plant
25 workers?

1 A. Yes.

2 Q. Did you ever talk to anyone at W.R.
3 Grace about that, about those medical articles or
4 journals?

5 A. I can't say that I was the one to bring
6 up the subject.

7 Q. Did anyone ever bring that subject up
8 with you?

9 A. Eventually.

10 Q. Was that later in the '70s?

11 A. No, early in the '70s before the change
12 was made to take out the asbestos. Nobody knew,
13 really, how it would work. It was a trial and error
14 situation.

15 Q. Did you talk to Mr. Moran about how the
16 company was able to adjust to an asbestos-free
17 Monokote product?

18 A. A whole lot.

19 Q. Did you talk to Mr. Moran about even
20 the need to remove asbestos from the product?

21 A. I don't believe so.

22 Q. Did Mr. Moran ever tell you whether he
23 thought asbestos should be removed or not from the
24 product?

25 A. If he had his way, it would still be in

1 it.

2 Q. What makes you say that?

3 A. He was just a very hard-nosed person.

4 Q. Where do you think he picked up that
5 hard-nosed attitude about the dangers of the
6 products?

7 MS. CLARK: Object to the form
8 of the question. That would call for
9 speculation on the part of this
10 witness, and he didn't say that he had
11 a hard-nosed attitude about the
12 products. He said he was a hard-nosed
13 individual, and plus it would be, I
14 think, beyond this witness's ability to
15 testify about where he picked up an
16 attitude.

17 A. Mike --

18 Q. Let me ask the question. What is Mr.
19 Moran's educational background, do you know?

20 A. I believe a degree in business
21 administration.

22 Q. What was his business background?

23 A. Various construction products from a
24 supplier side.

25 Q. Did he ever serve in the military?

1 A. Mike was a colonel in the Army during
2 World War II.

3 Q. I've never met Mr. Moran, and he's
4 died, hasn't he?

5 A. Yes, he has.

6 Q. Could you describe for me what his
7 personality was like?

8 A. To quote him, it's my way or the
9 highway, and he was a rather explosive guy.

10 Q. Did he ever explode in any meetings you
11 had with him where the topic of removing asbestos
12 from Monokote was discussed?

13 A. I wouldn't say he exploded over the
14 subject, but he didn't like it because it meant
15 problems.

16 Q. What kind of problems did it mean?

17 A. Spending time and effort in the field
18 to make the stuff work.

19 Q. Basically, it presented a problem to
20 the bottom line of the company; is that right?

21 MS. CLARK: Object to the form
22 of the question. That's a
23 misrepresentation of what his testimony
24 was, and it's a leading question.

25 A. There were a lot of buildings that were

1 half done and had to be finished, and it was just
2 extremely difficult to get them finished on schedule
3 with the new product.

4 Q. So Mr. Moran voiced to you concerns
5 about the ability to finish contracts that had
6 already been entered and finish buildings that were
7 already under construction with MK-3?

8 A. Yes, sir. Our customers were having
9 fits with it, and if they couldn't finish on time,
10 they were going to have penalties and snowball
11 effect.

12 Q. Would you agree that Mr. Moran's
13 concerns were primarily limited to the profitability
14 of the company?

15 MS. CLARK: I object to the form
16 of the question. I think that would
17 call for speculation on the part of
18 this witness of what another
19 individual's concerns were.

20 A. Well, I would say he was quite
21 concerned about survivability of our customers, too.

22 Q. Did he ever express to you any concerns
23 about the potential for asbestos to kill applicators
24 or workers?

25 A. No.

1 Q. Do you think he was concerned about
2 that?

3 MS. CLARK: I object to the form
4 of the question. I think that calls
5 for speculation.

6 A. I believe he was concerned.

7 Q. Did he ever advise his plant workers to
8 wear respirators?

9 A. I really can't answer that.

10 Q. Did he ever submit a memo that ever
11 came across your desk advising you to not walk
12 through the plant when they're making
13 asbestos-containing products?

14 A. No, never.

15 Q. Did he ever advise you not to wear a
16 dust mask when walking through the plant here in
17 Dallas when they were making asbestos-containing
18 products?

19 MS. CLARK: Can you wait just a
20 second. Let me just tell this guy I'm
21 not going to be ready to go.

22 A. He never advised me to wear one.

23 (Discussion off the record.)

24 Q. Mr. Sheeran, in the early 1970s, do you
25 know how much a disposable dust mask cost here in

1 the Dallas area?

2 A. No, I don't.

3 Q. Less than 50 cents?

4 MS. CLARK: Object to the form
5 of the question. He's already said he
6 didn't know how much they cost.

7 Q. Could you give me a ballpark figure,
8 Mr. Sheeran?

9 A. The last time I bought any, they were
10 about a dollar, and that was probably ten years ago.

11 Q. So in 1980 they cost a buck?

12 A. Yeah.

13 Q. You had been involved in the
14 construction business and you dealt with a lot of
15 suppliers, isn't that true, throughout your career?

16 A. Yes.

17 Q. In the 1960s, were dust masks and
18 respirators on the shelves at the Blue Diamond
19 Company and various other building suppliers here in
20 Dallas?

21 A. I'm sure they were.

22 Q. Prior to 1973, had you ever seen any of
23 the mixers or operators or machinists or laborers
24 inside the plant here in Dallas wearing any type of
25 dust protection?

1 A. I'd have to say that I must have seen
2 somebody wearing something.

3 Q. But you don't have any specific
4 recollection of seeing that?

5 A. No.

6 Q. Did you ever see a skull and crossbones
7 on any of the bags of MK-3?

8 A. No.

9 Q. What does a skull and crossbones mean
10 to you?

11 A. Poison.

12 Q. Did you ever see a skull and crossbones
13 on any notices on the bulletin board or in the lunch
14 room at the plant here in Dallas?

15 A. I don't believe so.

16 Q. Do you think, generally, a skull and
17 crossbones is a pretty good way of notifying people
18 of potential dangers?

19 A. I do.

20 Q. How many years did you serve W.R. Grace
21 as one of their employees?

22 A. All in all, counting the time with
23 Texas Vermiculite which was credited as being part
24 of a subsidiary company, 23 years. If that doesn't
25 add up, it's because I left two years in '81, '82

1 and came back in '83.

2 Q. Okay. Did they give you any kind of
3 watch, gold watch or anything when you left?

4 A. Nope.

5 Q. Did they give you a pat on the back?
6 What did they give you when you left?

7 A. Severance under the policy established
8 for severance.

9 Q. Were you fired from the company?

10 A. Yes.

11 Q. Did they explain to you why?

12 A. Not really.

13 Q. Did you feel like you did a pretty good
14 job for W.R. Grace for 23 years?

15 A. Uh-huh, I believe I did.

16 Q. During your 23 years, did you attend
17 regular meetings with corporate officials?

18 A. Yes.

19 Q. Did you talk about the sales of
20 Monokote and the productivity of your various
21 plants?

22 A. Yes.

23 Q. Did you ever talk about the
24 productivity of the plant in Libby, Montana?

25 A. Yes.

1 Q. Did you and the other W.R. Grace
2 employees ever discuss any health hazards posed by
3 asbestos in the Libby, Montana plant?

4 A. Not in the plant.

5 Q. How about outside the plant?

6 A. Oh, I think eventually everybody got
7 personally concerned to some degree.

8 Q. Did you ever see any kind of memoranda
9 in which a concern was expressed that workers in
10 various expanding plants were exposed to a definite
11 health hazard from asbestos?

12 A. No. The sales people were really not
13 brought in on the function of the plants very much.

14 Q. Did you ever hear of Dr. Irving
15 Selikoff?

16 A. Yes.

17 Q. Did you know that he wrote various
18 articles in which he discussed the health hazards
19 associated with asbestos to fireproofers and
20 applicators and various other construction workers?

21 A. Yes, I've read some of his work.

22 Q. Do you remember when you first read
23 some of his work?

24 A. I would have to say in 1968.

25 Q. Did that make an impression on you?

1 A. It was very interesting reading.

2 Q. Did you ever read any of his material
3 in which he opined that asbestos workers and
4 fireproofers, in particular, would have a shortened
5 lifespan due to their occupational exposure to
6 asbestos?

7 A. I've read some of his studies about
8 mortality rates that were higher among
9 asbestos-related trades.

10 Q. Did you ever discuss this with Mr.
11 Vining for W.R. Grace?

12 A. I don't believe so.

13 Q. Did you ever discuss asbestos health
14 hazards with Mr. Sterrett?

15 A. The topic invariably came up at
16 meetings in regard to competition statements for the
17 most part.

18 Q. Did you ever feel any pressure to
19 continue to sell asbestos-containing Monokote
20 products simply because your competition, such as
21 Cafco, were also selling asbestos-containing
22 product?

23 A. No.

24 Q. When did you learn that asbestos was a
25 carcinogen?

1 A. Again, probably in 1968 when the first
2 publications -- or the first articles made national
3 publications.

4 Q. In 1968, had you ever seen any
5 memoranda or any other correspondence from W.R.
6 Grace in which corporate officials acknowledge that
7 asbestos was a carcinogen?

8 A. No.

9 Q. Mr. Sheeran, do you know what a TLV is?

10 A. Yes.

11 Q. What is a TLV?

12 A. Threshold limit value.

13 Q. When do you think you first heard that
14 term?

15 A. Probably 1969 or '70s.

16 Q. Did you ever hear that term used in
17 connection with exposure levels to asbestos?

18 A. Yes.

19 Q. Did you ever see any memoranda or
20 letters or correspondence from W.R. Grace advising
21 salesmen to advise customers that applicators are to
22 maintain their exposure to asbestos below the
23 threshold limit value?

24 A. At what time? At what point in time?

25 Q. Before 1970.

1 A. No.

2 Q. You've been on some jobsites before,
3 haven't you?

4 A. Yes.

5 Q. Had you been on jobsites here in Dallas
6 before 1973?

7 A. Yes.

8 Q. How many jobsites do you think you had
9 been on where asbestos-containing MK-3 was being
10 applied?

11 A. Every one of them identified on those
12 lists.

13 Q. And I believe you testified earlier
14 that there was dust in the air when the MK-3 was
15 being mixed and applied; is that right?

16 A. Normally, yes.

17 Q. Did you ever see an official of the
18 W.R. Grace Corporation take any kind of dust
19 measurement or dust count to measure the level of
20 ambient asbestos?

21 A. I have in the last ten years.

22 Q. The first time you ever saw anyone from
23 W.R. Grace taking dust counts in Dallas was sometime
24 after 1980?

25 A. I take that back. It was earlier than

1 that. Probably in '74.

2 Q. Was that on a jobsite --

3 A. Yes.

4 Q. -- or was that in your plant?

5 A. On a jobsite.

6 Q. Who was that person?

7 A. I don't remember.

8 Q. What did you understand the purpose for
9 conducting an asbestos dust count on a jobsite?

10 A. To just monitor how much was ingested.

11 Q. Did you ever advise Lawrence Smith or
12 Mr. Stenzle or any of the people at Storbeck &
13 Gregory that they ought to advise their applicators
14 to keep their exposure to asbestos dust below the
15 threshold limit value?

16 A. Not in those words.

17 Q. Did anyone ever tell you before 1973
18 that the threshold limit value for asbestos as
19 written at that time was probably too high and
20 should be lower?

21 A. I don't believe so.

22 Q. Did anyone tell you that the threshold
23 limit value should not be interpreted as a fine line
24 between safe and unsafe but is merely a guideline?

25 A. I believe I was aware of that.

1 Q. Do you believe that asbestos dust,
2 based upon your knowledge and experience, remains
3 airborne for a long period of time?

4 MS. CLARK: I'm going to object
5 to the form of the question that it
6 lacks foundation and it calls for
7 speculation and it's beyond the scope
8 of a fact witness to be able to testify
9 about.

10 A. In answering you, all I can recall is
11 what I've read on the subject that asbestos fibers
12 are aerodynamic, can remain airborne.

13 Q. You understand that they're very light
14 and they can widely disperse?

15 MS. CLARK: I object to the form
16 of the question. It's a leading
17 question.

18 Q. Have you read articles in which the
19 lightness and migratory properties of asbestos were
20 discussed?

21 A. Yes.

22 Q. On these jobsites here in Dallas when
23 you saw plasterers applying MK-3, were there other
24 workers in the area?

25 A. Normally.

1 Q. What other kinds of workers or crafts
2 would be in the area?

3 A. A lot of electricians, plumbers, steel
4 workers, sometimes concrete finishers. If they're
5 out of proper sequencing, it could be anybody.

6 Q. Did you ever read any literature
7 published by Dr. Selikoff in which he warned of
8 asbestos snow drifting from fireproofing projects in
9 downtown Manhattan?

10 A. I believe I saw that alluded to, yes.

11 Q. Did you see that in the actual journal
12 or is that something that you learned from
13 conversations with other W.R. Grace employees?

14 A. I've seen films.

15 Q. Did W.R. Grace create and disseminate a
16 film depicting the proper use of MK-3?

17 A. Not that I recall.

18 Q. Did you ever see any films that were
19 made by W.R. Grace involving the application of
20 fireproofing materials?

21 A. Yes.

22 Q. In those films, did you see applicators
23 applying MK-3 and other materials?

24 A. Yes.

25 Q. Were any of those applicators wearing a

1 respirator?

2 A. Most of the time.

3 Q. Have you ever seen a man who just spent
4 six hours applying MK-3 in a building?

5 A. I've done it.

6 Q. You've actually applied it yourself?

7 A. Yes.

8 Q. Could you describe in the most
9 descriptive words you can, what did you look like
10 after spraying MK-3 for awhile?

11 A. Basically frosted like a cake. It just
12 gets all over the particular man who is applying it.

13 Q. Would it get in your nose?

14 A. If you're not wearing a mask, it would.

15 Q. Did it stick to your clothing or did it
16 fall right off?

17 A. It'll stick to your clothing until it
18 dries, at which time it falls off.

19 Q. When it dries, does it flake off or
20 does it just fall off by itself?

21 A. It'll brush off. If it's heavy enough,
22 it'll flake off by itself.

23 Q. Did you know a Mr. Egan?

24 A. Tom Egan was a Grace employee when I
25 went to work in Detroit. He was in Pittsburgh.

1 Q. Did he ever send you any letters or any
2 correspondence or any literature about Monokote?

3 A. We had correspondence about Monokote.

4 Q. What kind of information did he relate
5 to you about Monokote?

6 A. Always something in the application or
7 sales items, just product information.

8 Q. Did Mr. Egan ever notify you that W.R.
9 Grace had been notified by the Montana State Board
10 of Health in the '50s that tremolite asbestos posed
11 a serious health hazard?

12 A. No.

13 MS. CLARK: I object to that
14 question. W.R. Grace was not notified
15 in the '50s by anybody. They were not
16 involved in the Libby -- as you well
17 know, in the Libby business in the
18 '50s. They wouldn't have had any means
19 to have been notified or any reason to
20 be notified.

21 Q. Did Mr. Egan ever tell you that W.R.
22 Grace had been notified that asbestos was a serious
23 health hazard?

24 A. No.

25 Q. Do you know what the plant here in

1 Dallas did with the raw asbestos fibers after Mr.
2 Moran advised you no longer to use it?

3 A. I do not.

4 Q. Do you know if they disposed of it in
5 accordance with federal hazardous waste regulations?

6 A. I don't know what became of it.

7 Q. Did W.R. Grace, to your knowledge, ever
8 advise any schools, hospitals, churches, buildings
9 or any other structures in which asbestos
10 fireproofing had been applied that the asbestos
11 fireproofing should be removed?

12 A. No.

13 Q. Do you know what a recall letter is?

14 A. Yes.

15 Q. To your knowledge, did Grace ever send
16 out a recall letter to any of its customers?

17 A. No.

18 Q. What is the purpose of a recall letter?

19 A. To get a product off the street to
20 remedy it or replace it.

21 Q. Does the phrase "out of sight, out of
22 mind" mean anything to you?

23 A. Sure. It's applied to lots of things.

24 Q. Do you believe workers in America have
25 a right to know when they're being exposed to poison

1 or hazardous chemicals?

2 A. Yes.

3 Q. Do you believe that if Grace had
4 received notice that asbestos was dangerous before
5 1965, that they should have warned workers about the
6 potential health hazards from asbestos?

7 A. Yes.

8 MS. CLARK: I object to the form
9 of the question.

10 Q. Was your answer yes?

11 A. Yes.

12 MR. WORTHINGTON: That's all I
13 have. Thank you very much for your
14 time.

15 EXAMINATION

16 BY MS. CLARK:

17 Q. Mr. Sheeran, I want to ask you a few
18 questions. I'm Sandra Clark, and I represent Grace.

19 Would you like to take a break now?

20 This is not going to take me very long.

21 A. No, go ahead.

22 Q. You were asked about the fireproofing
23 and about the substitute products and the
24 substitution of products in the fireproofing.

25 What was your experience with the

1 fireproofing once substitute for asbestos was
2 attempted to be introduced?

3 A. It created some very difficult
4 application problems.

5 Q. What kinds of problems were there?

6 A. In a multistory building when the
7 fireproofing is being applied to the structural
8 steel, it is pumped with a large, powerful pump
9 through a vertical conduit of rubber and aluminum or
10 steel, and the material would tend to plug the
11 system. In other words, it just wouldn't go through
12 the delivery system to the point of application,
13 which caused them to have to stop. It would cause
14 damage to their pumps, labor cost to tear down the
15 whole delivery system and threatened me with great
16 bodily harm when that happened.

17 Q. You described the experience in the
18 first few, I guess, months or years that this
19 substitution was attempting to take place that it
20 was a nightmare. I think that's the word you used
21 to describe it.

22 What about it was a nightmare as far as
23 you were concerned and as far as the applicators of
24 the fireproofing were concerned?

25 A. Well, everybody had to reeducate

1 themselves or be reeducated as to what to do and
2 what not to do. It was, you know, not, quote,
3 "idiot proof" anymore.

4 Q. It wasn't that you could just -- that
5 one day the MK-3 was sold with asbestos and the next
6 day there was a substitute product in the MK-3 and
7 it would work just as well, was it?

8 MR. WORTHINGTON: Object to
9 leading.

10 A. Well, it was hoped it would work as
11 well. It did not.

12 Q. It did not as far as your experience
13 was concerned?

14 A. That's right.

15 Q. How long did it take to get the product
16 formulated to the point that it worked as well as
17 the people needed it to work so that it was
18 efficient?

19 A. I'd say two years.

20 Q. Okay. Had there been attempts, to your
21 knowledge, prior to 1973 to come up with new
22 formulations to substitute for asbestos?

23 A. I got involved a little bit in 1972.

24 Q. So as far as you know, there were some
25 -- prior to '73, some experimentation on trying to

1 reformulate the product?

2 A. Yes.

3 Q. Why is fireproofing used in a
4 multistory building?

5 A. The building codes are adopted by --
6 let's talk about Dallas or any major city -- by the
7 city counsel as part of the ordinance known as the
8 City Building Code. The major codes are written by
9 code writing authorities. The International
10 Conference of Building Officials writes the Uniform
11 Building Code which has been adopted by the City of
12 Dallas as an ordinance, and it goes in great detail
13 and very thick volumes which would describe
14 conditions of safety for occupants, and fireproofing
15 specifically is a misnomer. It's, in the case of
16 Monokote, a spray-applied, lightweight plaster
17 coating which imparts varying degrees of fire
18 resistance to the steel. Structural steel will fail
19 at elevated temperatures unless it's protected with
20 some kind of insulating material.

21 Q. What do you mean that it would fail?

22 A. Collapse, lose its strength, the way
23 spaghetti does when you put it in boiling water.

24 Q. If there were a fire -- a major fire in
25 a building like I guess we've seen on these

1 different movies and TV shows --

2 A. Yes.

3 Q. -- that then if there's not insulation
4 on the steel, then the whole building could
5 collapse?

6 MR. WORTHINGTON: Object to
7 leading.

8 Q. Is that correct?

9 A. Well, that's the purpose of the
10 material is to provide the building with the ability
11 to withstand elevated temperatures, so yes. Without
12 it, in the presence of elevated temperatures, a
13 steel building and or concrete building can
14 collapse.

15 Q. Okay. Were there certain
16 specifications that were in the fire code that the
17 fireproofing had to meet or certain, I guess,
18 conditions or --

19 A. Okay. The code specifies the hourly
20 performance that will be demonstrated by the
21 building before the certificate of occupancy is
22 given.

23 Q. Now, what does that mean?

24 A. That means the buildings have to
25 withstand either one, two, three or four hours of

1 fire duration as tested in an actual assembly at
2 Underwriters Laboratories, for instance.

3 Q. Did the product that was used in
4 fireproofing, whether it was MK-3, 4 or 5 or whether
5 it was the Cafco product you've mentioned, did that
6 have to have some sort of a certificate by the end
7 of -- what's it called the Underwriters
8 Laboratories?

9 A. Underwriters Laboratories provides a
10 follow-up service. They go into the manufacturer's
11 plant unannounced to see that the material which
12 will bear their label on the product container is
13 being manufactured the same as that which was
14 full-scale tested at their facilities.

15 Q. So the Underwriters Laboratories tested
16 the Monokote product as far as you're concerned or
17 as far as you know?

18 A. Yes.

19 Q. And the product had to produce the
20 fireproofing ability to withstand that one, two,
21 three or four hours of fire that you described?

22 A. Yes.

23 Q. And if it did so, then it received a
24 certificate from the Underwriters Laboratory that
25 said that it would do what it was supposed to do?

1 A. Under a given set of construction
2 details which were illustrated in their publication.
3 In other words, there are lots of ways to build a
4 building, and they would list the details of the
5 construction type which they fire tested.

6 Q. All right. And Monokote 3 received the
7 Underwriters Laboratory certification?

8 A. Underwriter Laboratories doesn't
9 approve or disapprove anything. They test and
10 report the results of their testing, so yes, it
11 passed their fire test for varying time periods for
12 various types of constructions. Theirs is a testing
13 function.

14 Q. Okay. And then you said they would
15 come into the plant unannounced and make sure that
16 the product that was being manufactured was the same
17 product they had tested and certified?

18 A. Correct.

19 Q. Do you know if several different
20 substitute products were tried in the Monokote
21 before the formula was finally settled upon to be
22 the one that was efficient and useful?

23 A. I assume so. I don't know what they
24 were.

25 Q. Were you involved in that particular

1 aspect of the product?

2 A. No.

3 Q. As far as from what you've told us
4 today, Mr. Sheeran, you were in sales; is that
5 correct?

6 A. Correct.

7 Q. And your knowledge and the extent of
8 your work with the company was primarily sales and
9 was not in how the plant was run, per se; is that
10 correct?

11 A. That's correct.

12 Q. And you were, I believe you said, in
13 the plant on routine occasions but you were not
14 there every day?

15 A. That's right.

16 Q. And is it correct that you didn't have
17 any supervisory capacity over the plant operations
18 themselves?

19 A. That's correct.

20 Q. And I believe you stated that when you
21 were in Dallas working for Texas Vermiculite that
22 you were paid through the Texas Vermiculite Company;
23 is that correct?

24 A. That's correct.

25 Q. And Mike Moran was the president and he

1 ran that Texas Vermiculite Company?

2 A. That's right.

3 Q. Was that the case until he no longer
4 was associated with the company?

5 A. Correct.

6 Q. And do you recall when the last year
7 was that he was with the company?

8 A. 1975.

9 Q. I've heard in describing the Monokote
10 product the word "cementitious" used. Can you
11 describe what cementitious means as it relates to
12 the Monokote product?

13 A. The term is slightly misleading.
14 There's no cement in it. It's cementitious because
15 it's a plaster, a wet mix which differentiates it
16 from the spray fibrous types of fireproofing.

17 Q. How is it different from this sprayed
18 fireproofing?

19 A. From the sprayed fireproofing?

20 Q. Right.

21 A. It is a plaster, an oatmeal-like
22 substance which is pneumatically pumped, squeezed
23 through a hose, if you will, and atomized with air
24 at the exit point. The sprayed fibrous materials
25 are not a wet mix. They're slightly lower in

1 density, and they are conveyed pneumatically through
2 large hoses with air pressure. At the point of
3 exit, they're shot with a water and/or glue solution
4 to activate the binder that's coated on the fibers.

5 Q. So if I understand it correctly, the
6 Monokote is wet when it's actually sprayed out of
7 the nozzle and some of the fibrous materials are dry
8 as they come out of the nozzle?

9 A. Right.

10 Q. What are some products that were this
11 sprayed fibrous materials, some of the names of
12 those?

13 A. The Cafco Blazeshield I mentioned.
14 Asbestos Spray I mentioned. Another one was called
15 Spray-Don, S-p-r-a-y dash D-o-n.

16 Q. Spray-Don?

17 A. That's the man's name that owned the
18 company, I guess.

19 Q. Do you know what company manufactured
20 that product?

21 A. I think it went by the name of the
22 Spray-Don Company. They've all changed names, okay,
23 and I don't know what the heck their name is now.

24 Q. So you don't know what that would be,
25 but those were different products -- different type

1 products from the Monokote?

2 A. Yes.

3 Q. In the spraying process, would the
4 fibrous materials -- the sprayed fiber materials
5 have more, I guess, airborne dust and fibers that
6 would be at the nozzle site in comparison to the wet
7 product?

8 A. Yes, very much so.

9 Q. When you heard Mr. Worthington talk
10 about a description of the snow in Manhattan or
11 something, is your understanding that this was not a
12 description of a Monokote product or sprayed
13 Monokote?

14 A. That's my understanding that it was a
15 fibrous product.

16 Q. That that would be a description of a
17 product that was applied differently from the
18 Monokote product?

19 A. Yes.

20 Q. You had talked a little bit about your
21 understanding of TLVs, threshold limit values, and
22 you were asked if you had advised contractors to
23 keep exposure levels under the TLV, and you said, I
24 believe, that you didn't use that particular
25 terminology.

1 Did you advise them or talk to them
2 about exposure levels or dust levels?

3 A. Oh, I'd always tell the men in the
4 jobsite to -- they should wear a mask.

5 Q. And did you do this whenever you went
6 to jobsites and worked either with the contractors
7 or the individual applicators?

8 A. Yes, some of them.

9 Q. You were asked if there was a safety
10 inspector at the plant -- the Dallas plant. You
11 said not someone called that particular title or by
12 that name.

13 Were there individuals who were
14 concerned with the safety and health aspects of the
15 plant workers at the plant site to your knowledge?

16 A. The plant manager's realm included
17 that.

18 Q. You said that you spent a lot of your
19 time in the early '70s with the roof deck business?

20 A. Yes.

21 Q. And I'm not sure exactly what that is
22 in comparison to what we've been talking about
23 today.

24 A. The Texas Vermiculite Company and Grace
25 marketed a Zonolite brand product for roof deck

1 applicators to apply.

2 (At this time, Mr. Dougall left
3 the deposition room.

4 A. And it is a lightweight aggregate,
5 either expanded vermiculite or expanded perlite
6 which is mixed with Portland cement and water --

7 Q. All right.

8 A. -- making a low density insulating
9 concrete.

10 Q. Okay. And how was that used?

11 A. It would be pumped up onto permanent
12 metal forms and leveled off, as concrete is normally
13 finished, and it would make a structural deck of
14 lightweight fire resistant properties.

15 Q. This was not an asbestos product as far
16 as you know; is that correct?

17 A. There never was any asbestos added to
18 any of those products.

19 Q. So in the '70s when you were dealing
20 with -- you said that you were selling Monokote in
21 relationship to some buildings but that you spent a
22 great deal of your time with the roof deck business,
23 then that was a totally separate type of product and
24 a separate usage of products?

25 A. Separate set of customers.

1 Q. In talking about, I believe, what's
2 been marked Exhibit 2, that's the first page that, I
3 believe, that you talked about in this job list --

4 A. Uh-huh.

5 Q. -- the figures that are written on
6 there are not in your handwriting, are they, the
7 figures meaning the ones by the buildings
8 themselves, the 20,000, the 85,000?

9 A. I believe they are.

10 Q. Are they? Do you recall when you put
11 those figures on that piece of paper?

12 A. Yes, I'm going to say it was 1987 or
13 thereabout in creating some kind of an idea of just
14 how much potential market there was for a
15 replacement fireproofing product.

16 Q. Where did you get that figure for The
17 Apparel Mart when you have 20,000 there? What did
18 that represent?

19 A. That would represent number of bags of
20 material that was originally installed as
21 fireproofing.

22 Q. Did you have an invoice or something
23 that you got that from, or was that your estimate?

24 A. No, that was always the terminology,
25 Gee, that was a nice job. It was 40,000 bags.

1 People remember those figures.

2 Q. This is something that you took from
3 your own memory?

4 A. And other people's.

5 Q. Well, I really need to try to figure
6 out where you got the information. That was put on
7 there in 1987, which was not the same time that the
8 document was generated; is that correct?

9 A. That's correct.

10 Q. You had had the document for awhile --

11 A. Right.

12 Q. -- before that?

13 A. That was not its original purpose.

14 Q. So what you did was in 1987 to go back
15 and either from your memory or maybe from talking to
16 somebody else, from somebody else's memory, you
17 attempted to put what you estimated to be the bags
18 that were used in that particular job?

19 A. Right, and Ralph McCloud used to have
20 some fairly accurate records of that just...

21 Q. Did you look at his records when you
22 did this?

23 A. I'm sure I did. One of the reasons was
24 after it was all said and done, the people that
25 didn't do the job would say, How much did XYZ

1 company buy for that. They beat me so bad, I don't
2 know how they could survive. How much did they buy?
3 So we would give that information out to the
4 unsuccessful bidders.

5 Q. Did you sit down and do this all in one
6 day when you put the numbers of bags by the job?

7 A. Probably in the same week.

8 Q. Okay. Do you have any independent
9 memory today of how you particularly picked the
10 number to put at a specific building? In other
11 words, do you know which ones came from your memory
12 or which ones came from the memory of someone else
13 or which one came from a record you might have
14 reviewed?

15 A. No, I couldn't answer that for sure.

16 Q. So what you're saying is that these
17 came from one of those locations, to the best of
18 your memory today?

19 A. Right. I would call people that did
20 the job perhaps, or...

21 Q. But you don't know which -- like, in
22 The Petroleum Tower Addition, for example, that says
23 12,000, you don't know whether you called somebody
24 or whether you remembered it or whether there was a
25 record that said it or whether Ralph McCloud said it

1 or what; is that correct?

2 MR. WORTHINGTON: Object to
3 leading.

4 A. Right. I couldn't testify where that
5 information came from in every case. I might have
6 had -- some people had a lot of records. Storbeck,
7 Gregory & Dillard was big on records.

8 Q. Okay. But the Storbeck, Gregory &
9 Dillard people, as far as you know, did they furnish
10 any of this particular information for you to put
11 down on this piece of paper?

12 A. I'm sure they had to.

13 Q. But do you know which ones?

14 A. No, I don't.

15 Q. Okay. Because you can't testify today
16 specifically which ones of these jobs were Storbeck
17 & Gregory jobs, can you?

18 A. Some of them.

19 Q. Some of them you could --

20 A. Yes.

21 Q. -- and some of them you couldn't?

22 A. Yes.

23 Q. I notice that you don't have numbers by
24 all of these. Just, for example, on page two of the
25 Dallas County -- this is page two now of Exhibit 3

1 -- that you have numbers only by a few of these?

2 A. And those don't appear to be my
3 numbers.

4 Q. Okay. Do you know who wrote that down
5 there?

6 A. That looks like Ralph McCloud's.

7 Q. But do you know that for sure?

8 A. No, I don't.

9 Q. Do you know why the rest of these
10 buildings don't have numbers by them?

11 A. I suspect because nobody really knew at
12 that point in time.

13 Q. But do you really now specifically why?
14 That's your best guess?

15 A. If you take 100 buildings and look at
16 them, multi-story buildings, they all have fairly
17 close numbers per floor. A 20 story building is
18 going to take so much whether it's built here or
19 Detroit or wherever.

20 Q. Well, that's really what I'm getting
21 at. Are these numbers an estimate or are they
22 specific from a record?

23 A. They're estimates.

24 Q. Okay. And some of these estimates are
25 some that you made on that Exhibit 2 and then some

1 are apparently made by someone else because they're
2 in a different handwriting?

3 A. Correct.

4 Q. I believe that you went through what
5 has been marked Exhibit 3 and put some marks on that
6 exhibit; is that correct?

7 A. Yes.

8 Q. And the marks on that exhibit have to
9 do with what you have personal knowledge of?

10 A. That's correct.

11 Q. The rest on this master list, is it
12 correct to say, that you don't know what products
13 were put in these buildings and when they were put
14 in and who sold the products to the contractor for
15 these buildings?

16 MR. WORTHINGTON: Object to
17 leading and compound.

18 A. The best answer I could give you is
19 this started out as a Monokote job list.

20 Q. All right. But that's what you know
21 about it. You don't have any personal knowledge
22 about what was done on these individual jobs, do
23 you?

24 A. Just the ones I marked.

25 Q. Okay. And whoever compiled the list

1 and whatever their criteria was for putting
2 something on the list, you don't have any personal
3 knowledge about that; is that correct?

4 A. Again, this was done as part of a piece
5 that was demonstrating the wide acceptance of the
6 Monokote product.

7 Q. Okay. And the only ones that you know
8 about personally are the ones you've marked? The
9 only jobs you know about personally are the ones
10 you've marked?

11 A. On --

12 Q. On Exhibit 3.

13 A. -- Exhibit 3 and Exhibit 2.

14 Q. You said that Monokote 3 when you would
15 observe it being mixed on the job would generally be
16 mixed in the open; is that correct?

17 A. Yes.

18 Q. Would that be in the outside?

19 A. Outside the building line normally.

20 Q. All right. What sort of container
21 would the mixture be in?

22 A. The bags would be off-loaded from the
23 van, and they would be sliced or broken into a
24 mortar mixer which has turning paddles to mix it
25 with water. That mixer would then be rotated and

1 dumped into a pump.

2 Q. Okay. And by the time the mixture was
3 put into the pump area, it was a wet mixture?

4 A. Yes.

5 Q. And I think you stated that when you
6 had applied Monokote 3, that you -- that people who
7 were the applicators applying the Monokote wore dust
8 masks?

9 MR. WORTHINGTON: Object to
10 form. No personal knowledge. Calls
11 for speculation. Leading.

12 A. Men would wear masks of some kind of
13 their own initiative many, many, many times.

14 Q. Did the applicator contractors, as far
15 as you observed, have dust masks available for their
16 employees?

17 A. I'd have to say yes.

18 Q. Was that throughout the period of time
19 that you were selling Monokote products?

20 A. Yes.

21 Q. I believe you testified that you had
22 worked for W.R. Grace until just a few months ago;
23 is that right?

24 A. Yes.

25 Q. And you sold Monokote products from

1 1970 or so, from the time whenever you started --
2 when did you start selling Monokote products?

3 A. 1966.

4 Q. 1966 through when?

5 A. Up until early '81, at which time I
6 left and became an applicator of Monokote products
7 and through early or spring of 1983.

8 Q. What do you mean you became an
9 applicator?

10 A. I would -- I went into business with a
11 customer and we applied the products.

12 Q. So you had a business yourself where
13 you would apply the Monokote products or some other
14 products --

15 A. Right.

16 Q. -- and fireproofing?

17 A. Yes.

18 Q. And at that time, in 1981 through 1983,
19 you were aware of the Monokote products and you were
20 aware of the kind of formulation that the products
21 had?

22 A. Basically.

23 Q. Because you had sold these products --

24 A. Yes.

25 Q. -- for sometime?

1 A. That's correct.

2 Q. And when you were an applicator, did
3 you work around the products yourself?

4 A. Yes, I did --

5 Q. And you --

6 A. -- from time to time.

7 Q. From time to time. And then you came
8 back in '83 or 4 to sell the products again?

9 A. Yes.

10 Q. For another how many years?

11 A. Eight years.

12 Q. Another eight years. And you did not
13 believe that the products you were selling were a
14 hazard, did you?

15 A. At that point in time?

16 Q. Yes, sir.

17 A. No, I did not believe they were
18 hazardous.

19 Q. Did you wear respirators when you would
20 apply the product in 1981?

21 A. I guess I didn't apply any at that
22 time. I would be around the operation.

23 Q. When you had that application business,
24 would you recommend to the people -- the men that
25 you might have hired to apply the product to wear

1 masks in a dusty situation?

2 A. I would provide them.

3 Q. And you did provide them?

4 A. Yes.

5 Q. And were the applicators, the men who
6 were applying the product, in your opinion, did they
7 wear the dust masks if they were in a dusty
8 situation?

9 A. Yeah, they would.

10 Q. You didn't need to tell them at that
11 point that they should or shouldn't? Would they do
12 it on their own accord?

13 A. Most of them would.

14 Q. Do you think that the applicators, the
15 men who had been working with these products, were
16 familiar with the formulation of the products and
17 what the products contained?

18 MR. WORTHINGTON: I'll object as
19 vague, calls for speculation.

20 Q. If you know.

21 A. I don't think one out of 100 knew.

22 Q. Now?

23 A. Now they do.

24 Q. Knowing what you knew about asbestos
25 from reading the Selikoff articles in 1968 on

1 through to 1973 when asbestos was removed from the
2 products, you continued to work with the company and
3 to sell the products; is that correct?

4 A. Yes.

5 Q. And you didn't believe that you were
6 selling a product that would be injurious to the
7 health of an applicator, did you?

8 MR. WORTHINGTON: Object to
9 leading.

10 A. Not after '73.

11 Q. Or before '73?

12 MR. WORTHINGTON: Object to
13 leading.

14 A. We all had serious concerns before '73.

15 Q. They were attempting to, at that point,
16 after you learned about the Selikoff article, you
17 were -- the company, to your knowledge, was
18 attempting to find substitute products for the
19 asbestos in the Monokote; is that correct?

20 MR. WORTHINGTON: Object to
21 leading.

22 A. Yes.

23 Q. You can go ahead and answer?

24 A. Yes, they were trying to find another
25 way to formulate it.

1 Q. In the plant in Dallas, to the extent
2 that you were in there, were you aware of various
3 dust control measures that were put into practice
4 through the years that you were in that area?

5 A. Yes.

6 MR. WORTHINGTON: Object to lack
7 of foundation as to what is meant by
8 dust control measures.

9 Q. What dust control measures were in the
10 plant?

11 A. I think housecleaning was the most
12 obvious thing.

13 Q. And how was that --

14 A. You could see it taking place with
15 vacuums and different types.

16 Q. What about other ventilation systems
17 that were put into place?

18 A. There was always some sort of baghouse
19 operation. I believe the City of Dallas would
20 monitor some of the emissions from time to time with
21 a camera type device, and so the doors were always
22 open just about year round for ventilation.

23 Q. Were you aware of any other ventilation
24 systems that were put in on the equipment?

25 A. I think there was an obvious fan here

1 or there. I can't recall a system being put in
2 specifically for nuisance dust.

3 Q. Do you know whether any air sampling
4 was done in the plant? Were you aware of it?

5 A. I'm not aware if the city did any. I
6 know that people from the Grace division
7 headquarters in Cambridge would occasionally come by
8 in the most recent years.

9 Q. And do monitoring?

10 A. And do some monitoring.

11 Q. You were asked a question about whether
12 there were -- the W.R. Grace did any research
13 regarding tremolite, and you said that you thought
14 there had been some done, but you don't know when
15 the various research was done on tremolite, do you?

16 A. No, I don't.

17 Q. As far as the dates?

18 A. No, I don't.

19 Q. You were talking about the people you
20 contacted for sales, and you said there were
21 material dealers, and is that Blue Diamond? Would
22 that be an example?

23 A. That would be an example of one, yes.

24 Q. And then you said roof deck
25 applicators, and you would be talking about, at that

1 point, the roof decking material you've described?

2 A. Correct, not Monokote fireproofing.

3 Q. Then you talked about masonry

4 contractors?

5 A. Yes.

6 Q. They would not be people who would
7 purchase Monokote, would they?

8 A. Correct, they would not.

9 Q. And then you talked about plastering
10 contractors, and an example would be the Storbeck &
11 Gregory group?

12 A. Yes.

13 Q. And the plastering contractors, then,
14 would have individuals that were employed by them
15 who would do the job of application of the product?

16 A. Yes.

17 Q. And generally, I mean, I would assume
18 that the plastering contractors were a subcontractor
19 to some larger contractors on a job?

20 A. Almost always.

21 MS. CLARK: I believe that's all
22 the questions I have, Mr. Sheeran.

23 EXAMINATION

24 BY MR. WORTHINGTON:

25 Q. Mr. Sheeran, can you tell me what a K

1 factor is, please?

2 A. It's the value assigned the homogeneous
3 material that measures its heat flow through a one
4 inch thickness of that material.

5 Q. Generally if the K factor is low, that
6 means it's pretty good heat resistance?

7 A. Yes.

8 Q. Is a company who manufactures
9 fireproofing materials always interested in trying
10 to lower the K factor?

11 A. Not necessarily.

12 Q. Is a low K factor generally a good
13 thing to a customer who wants to fireproof the
14 building?

15 A. It's seldom of applicable value.

16 Q. What was the K factor for MK-3?

17 A. As I recall, it was somewhere in the
18 neighborhood of a 0.70. Somewhere from 0.61 to
19 0.81.

20 Q. Did the K factor change for MK-5?

21 A. I don't think so.

22 Q. So the MK-3 and the MK-5 still contain
23 the same fireproofing or heat resistance properties;
24 isn't that right?

25 A. Yes, because Underwriters Laboratory

1 gave them equivalency across the board on all
2 listings.

3 Q. The attorney for W.R. Grace asked you
4 whether the new asbestos-free Monokote would still
5 provide the same heat protection as the asbestos
6 containing product. Did --

7 MS. CLARK: I object to that.

8 Q. Did the products --

9 MS. CLARK: -- that's not the --

10 Q. -- have any --

11 MS. CLARK: -- question I asked.

12 MR. WORTHINGTON: Well, don't
13 interrupt me when I'm asking a
14 question, please.

15 MS. CLARK: I thought you were
16 through, I'm sorry. You paused.

17 MR. WORTHINGTON: I don't do
18 that very often.

19 MS. CLARK: I know. That's why
20 I thought you were through.

21 MR. WORTHINGTON: Let me reask
22 the question.

23 Q. Did the asbestos-free Monokote
24 fireproofing provide the same heat resistance to
25 steel beams and skyscrapers that the

1 asbestos-containing Monokote provided?

2 A. Yes, it did.

3 Q. Did the customers of asbestos-free
4 Monokote experience, to your knowledge, any less
5 protection in the event of a fire with the
6 application of the asbestos-free Monokote
7 fireproofing?

8 A. No, they were quite equivalent.

9 Q. Before W.R. Grace began manufacturing
10 the asbestos-free Monokote, the company had still
11 received complaints from customers regarding the
12 ability of the MK-3 to stick to the steel surface;
13 isn't that right?

14 A. Occasionally, yes.

15 Q. What kind of problems or complaints did
16 you get from customers about the MK-3 product and
17 its use on the job?

18 A. If a customer -- applicator customer
19 had a complaint about the MK-3 product, one of us
20 would go out and see what they were doing right and
21 wrong, and it was usually self-inflicted.

22 Q. You would agree that the MK-3 wasn't a
23 miracle product, that it still generated some
24 problems and your customers occasionally did
25 complain about it?

1 MS. CLARK: I object to the form
2 of the question.

3 A. It could be applied wrong, yes.

4 Q. Okay. Would you also agree that the
5 Underwriters Laboratory did not research the
6 potential health hazards associated with asbestos
7 exposure in humans or any laboratory animals?

8 MS. CLARK: I object to the form
9 of the question. I don't think there's
10 been a proper foundation to all the
11 various testing that Underwriters
12 Laboratory does, and I think that goes
13 beyond this particular witness's
14 information and expertise.

15 A. Well, I'm extremely familiar with
16 Underwriters Laboratories testing and procedures and
17 I have been for a long time, and no, they don't care
18 what's in it.

19 Q. All they're concerned about is what the
20 K factor is and what kind of heat resistance the
21 product will provide under certain conditions?

22 A. They test and report the results.

23 Q. To you knowledge, they don't test any
24 health consequences associated with asbestos or any
25 other material?

1 A. They test flammability of products.

2 Q. Pardon me?

3 A. They test flammability of products.

4 Q. Okay. And to your knowledge, the City
5 of Dallas certainly didn't invest any money to
6 research the potential health hazards associated
7 with Monokote MK-3?

8 A. No.

9 Q. And when the city adopts a building
10 code, don't they just generally adopt wholesale the
11 designs and specs that are recommended by an
12 architectural firm or by a company?

13 MS. CLARK: I object to the form
14 of the question. I don't think there's
15 sufficient foundation for him to say
16 what a city does when they adopt a fire
17 code or adopt other sorts of
18 regulations and codes. I think it's a
19 vague question. It's too general.

20 Q. Would you agree that the private sector
21 has an influence on the city when the city adopts a
22 fire code?

23 MS. CLARK: I object to the form
24 of the question. It's vague. What
25 an influence would be and what the

1 private sector would be are undefined.

2 A. It can be political.

3 Q. And the city generally does not --

4 MS. CLARK: I would object to
5 the responsiveness of the answer to the
6 vague question.

7 Q. To your knowledge, did the City of
8 Dallas perform any independent research or
9 investigations before they adopted the charter and
10 the City Fire Code?

11 A. Not to my knowledge.

12 Q. And to your knowledge, did the City of
13 Dallas and their fire code require that fireproofing
14 materials contain asbestos fiber?

15 A. Did the city require it?

16 Q. Yeah.

17 A. No.

18 Q. The city simply required that
19 fireproofing materials provide a low K factor?

20 A. Well, the city requires that the
21 materials provide a demonstrated ability to perform.
22 Most of the city building officials are members of
23 -- every city of any size has building officials
24 within the building inspection department that
25 belong to one of the code bodies that writes it,

1 such as ICDO, so they're not unfamiliar with what's
2 coming down the pipe.

3 Q. If the company is notified that a
4 product that the company is selling may present
5 health hazards to customers or bystanders, do you
6 think that company ought to, at that stage, begin
7 investing money in the research and development of a
8 substitute material for that product?

9 MS. CLARK: I object to the form
10 of the question. I think it calls for
11 speculation on the part of this
12 witness, and there's lack of
13 foundation.

14 A. I think they should, yes.

15 Q. So if a company is notified, for
16 example, that asbestos poses a health hazard to
17 customers or users or applicators or mill workers,
18 do you think they ought to, at that stage if not
19 before, begin removing the offensive asbestos
20 material and investing money in the research and
21 development of a substitute material?

22 MS. CLARK: I object to the form
23 of the question because it's a multiple
24 part question and you talk about four
25 or five different classifications of

1 people and you've asked for two or
2 three different remedies. I think it's
3 a compound question. Object to the
4 form.

5 A. I believe Grace demonstrated that they
6 wanted to remedy the problem and did.

7 MR. WORTHINGTON: I object to
8 nonresponsive.

9 Q. If a company is notified that a product
10 that they are selling to the public poses a
11 potential health threat, do you believe that that
12 company ought to stop selling that product?

13 MS. CLARK: I object to the form
14 of the question.

15 A. I believe they should stop.

16 Q. Do you believe that if a company is
17 notified of a danger associated with their product,
18 then they ought to also begin investing money into
19 the research and development of a substitute
20 material?

21 A. I believe they should.

22 Q. So if W.R. Grace had been notified that
23 asbestos presented a serious health hazard in the
24 1950s, do you think at that stage they should have
25 begun investing money in the research and

1 development of a substitute material?

2 MS. CLARK: I object to the form
3 of the question. I think it assumes
4 facts that aren't in evidence, that
5 aren't going to be in evidence and
6 it's, I think, a vague question that
7 goes beyond this individual's ability
8 to answer as a fact witness. It calls
9 for a legal conclusion.

10 A. I don't know how to answer that. I'm
11 sorry. It's very similar to your previous question,
12 so in that sense, I think they should do something
13 to rectify a known problem.

14 Q. You mentioned, Mr. Sheeran, that you
15 remember some air sampling tests being conducted
16 here in Dallas at the plant; is that right?

17 A. Yes.

18 Q. Was that in the early '70s?

19 A. I believe I thought it was 1974.

20 Q. Okay. On how many occasions had you
21 seen an official of W.R. Grace at the plant
22 conducting an air sample or dust count?

23 A. I couldn't say.

24 Q. Was it more than once do you think?

25 A. Yes.

1 Q. Do you know who would have custody of
2 those air sampling reports?

3 A. I sure don't.

4 Q. Did you ever learn of the results of
5 the tests?

6 A. I never saw any printed results.

7 Q. Did anyone ever relate to you orally
8 what the results were?

9 A. I don't believe so.

10 MR. WORTHINGTON: I'd like to go
11 ahead and request at this time that
12 W.R. Grace produce all air sampling
13 reports that were performed at the W.R.
14 Grace plant here in Dallas, and I have
15 requested that information in several
16 sets of interrogatories which I had
17 previously served on counsel for Grace.
18 I have specifically requested all
19 industrial hygiene reports, all air
20 sampling, all studies done in Dallas
21 and elsewhere and so far have been
22 stonewalled in seeking that
23 information. So without complaining, I
24 just want to make my request on the
25 record, and I have no more questions.

1 THE WITNESS: I have the feeling
2 that this won't be the last time I'm
3 deposed on this subject, so I would
4 like to get a transcript.

5 MS. CLARK: I do have one other
6 question, and I think that we need to,
7 as far as requests on documents, you
8 need to serve an appropriate request
9 for documents, and, you know, I'll
10 comply with the Rules.

11 MR. WORTHINGTON: I have.

12 MS. CLARK: I'll see what
13 document request you have out there.

14 EXAMINATION

15 BY MS. CLARK:

16 Q. This is my last question I believe. I
17 believe that you have stated in response to one of
18 Mr. Worthington's questions, did I understand you
19 correctly that you said that you believed that Grace
20 wanted to remedy the situation with the Monokote
21 product and that they did remedy it as far as you're
22 concerned?

23 MR. WORTHINGTON: Object to lack
24 of foundation. There's no foundation
25 as to which members of -- officials of

1 Grace you're referring to and the date
2 and time period.

3 A. I believe they did what they did
4 because they were being crucified in the marketplace
5 by the competitors.

6 Q. Do you think that they did remedy the
7 problem and did -- I thought that's what you said in
8 response to the question?

9 A. Okay. Based on what I know about the,
10 quote, "tremolite issue," I believe that the product
11 is a great hazard since the removal of the asbestos
12 because of its characteristics. It's a fairly
13 durable product for one that is as low density as it
14 is.

15 MS. CLARK: I don't have
16 anything further. Thank you.

17 MR. WORTHINGTON: Thank you, Mr.
18 Sheeran.

19 THE WITNESS: You're welcome.

20 (End of proceedings.)

21 (Signature of witness waived by
22 agreement of all parties)

23
24
25

1 COUNTY OF DALLAS *

2 STATE OF TEXAS *

3 I, Denise M. Mallia, Certified
4 Shorthand Reporter in and for the State of Texas, do
5 hereby certify that the foregoing 170 pages are a
6 true, complete and correct transcript of the
7 proceedings had before me on October 4, 1991.

8 Further certification requirements
9 pursuant to Rules 205 and 206 of the Texas Rules of
10 Civil Procedure will be certified to after they have
11 occurred.

12 GIVEN UNDER MY HAND AND SEAL OF OFFICE
13 on this the 11th day of October, 1991.

14

15

16

17

18

19

Denise M. Mallia, CSR #3590
Certified Shorthand Reporter
In and for the State of Texas,
8140 Walnut Hill Lane
Suite 310, LB 15
Dallas, Texas 75231

20 My commission expires: 12-31-92

21

22

23

24

25

CERTIFICATION PURSUANT TO RULES 205 AND 206

NO. 91-1760-H

H. WALLY SHIPLEY AND FAYE * IN THE DISTRICT COURT OF
SHIPLEY; WELDON COOK AND *
BILLYE COOK; VIRGEL LEON *
ZIMMERMAN AND RUTH *
ZIMMERMAN; HERBERT *
WILLIAMS AND INEZ WILLIAMS; *
ARTHUR JAMES DAVIS; and * DALLAS COUNTY, TEXAS
J.R. GENTLE *
VS. *
ARMSTRONG WORLD INDUSTRIES, *
INC., ET AL. * 160TH JUDICIAL DISTRICT

CERTIFICATE TO ORAL DEPOSITION

OF

STEPHEN J. SHEERAN

I, Denise M. Mallia, Certified Shorthand
Reporter in and for the State of Texas and the
deposition officer for the deposition of the
above-named witness, do hereby certify to the
following:

- 1) That the witness was duly sworn by me;
- 2) That the transcript is a true record of
the testimony given by the witness on October 4,
1991;

1 3) That the charge for preparation of the
2 completed deposition transcript and any copies of
3 exhibits is \$_____ and is to be paid by
4 the Plaintiffs;

5 4) That the signature of the witness was
6 waived by agreement of the parties and the witness;

7 5) That the original deposition was
8 transmitted to Mr. Worthington, the person who
9 asked the first question appearing in the deposition
10 transcript for safekeeping or use at trial.

11 6) That pursuant to information obtained
12 at the time said testimony was taken, the following
13 includes all parties of record:

14

15 MR. ROGER G. WORTHINGTON
16 Silber, Pearlman & Worthington
17 1000 Highland Park Place
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18

FOR THE PLAINTIFFS

19

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22

23

FOR THE DEFENDANT,
W.R. GRACE & COMPANY

24

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OWENS-CORNING FIBERGLAS
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FOR THE DEFENDANTS,
GAF CORPORATION, A.P.
GREEN INDUSTRIES, INC.,
NATIONAL GYPSUM COMPANY,
U.S. GYPSUM COMPANY and
ARMSTRONG WORLD
INDUSTRIES, INC.

13 MR. THOMAS F. DOUGALL
14 Bowers Orr & Robertson
15 1401 Main Street, Suite 1100
16 P.O. Box 7307
17 Columbia, South Carolina 29202
18

FOR THE DEFENDANT,
PROKO INDUSTRIES, INC.

19 7) That a copy of this certificate was
20 served on all parties shown herein pursuant to Rule
21 21a of the Texas Rules of Civil Procedure.

22 GIVEN UNDER MY HAND AND SEAL OF OFFICE on
23 this the 11th day of October, 1991.
24
25

Denise M. Mallia, CSR #3590
Certified Shorthand Reporter
In and for the State of Texas,
8140 Walnut Hill Lane
Suite 310 LB 15
Dallas, Texas 75231

My commission expires: 12-31-92

LAWYER'S NOTES

[illegible]

SILBER, PEARLMAN & WORTHINGTON

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Attorneys and Counselors

1000 HIGHLAND PARK PLACE
4514 COLE AVENUE, LB 34
DALLAS, TEXAS 75205

TELEPHONE
(214) 528-2000

TELECOPIER
(214) 522-7400

September 26, 1991

VIA CERTIFIED MAIL, RRR AND U.S. MAIL
(P 553 335 921)

Mr. Steve Sheeran
2315 West Brook Drive
Carrollton, Texas 75007

Re: Your deposition on October 4, 1991 at 10:00 a.m.

Dear Mr. Sheeran:

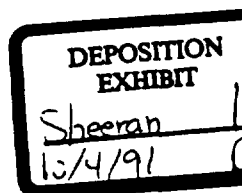
Enclosed please find a Notice of Intention to Take Oral Depositions Duces Tecum. Your deposition will take place at our office which is located at 4514 Cole Avenue, Suite 1000 (Highland Park Place Building), Dallas, Texas 75205 on Friday, October 4, 1991 at 10:00 a.m.

Should you have any questions or comments concerning this matter, please do not hesitate to contact Mr. Worthington.

Sincerely,


Tracy E. Knutson
Legal Assistant

/tk
Encl.
letters.tek\sheeran.lt2



IN RE: ALL ASBESTOS- § IN THE DISTRICT COURTS OF
RELATED PERSONAL INJURY, §
SURVIVAL AND WRONGFUL §
DEATH CASES PENDING § DALLAS COUNTY, TEXAS
OR TO BE FILED IN DISTRICT §
COURTS IN DALLAS COUNTY, §
TEXAS § 162ND JUDICIAL DISTRICT

AMENDED

NOTICE OF INTENTION TO TAKE ORAL DEPOSITIONS DUCES TECUM

TO: Defendant, W.R. GRACE & CO.-CONN., by and through its attorney of record, Sandra F. Clark, MeHaffy & Weber, 2615 Calder Avenue, P. O. Box 16, Beaumont, Texas 77704.

PLEASE TAKE NOTICE that, pursuant to Rule 200 of the Texas Rules of Civil Procedure, present and future Plaintiffs represented by Silber, Pearlman & Worthington in the asbestos personal injury litigation referenced above, will take the oral depositions of the following witnesses listed by Defendant W.R. Grace & Co.-Conn.:

<u>Name</u>	<u>Date</u>	<u>Time</u>
Curtis Gibson	October 3, 1991	10:00 a.m.
Steve Sheeran	October 4, 1991	10:00 a.m.

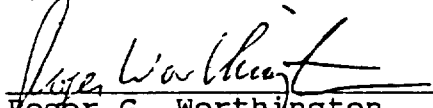
Said depositions will take place at Silber, Pearlman & Worthington, 1000 Highland Park Place, 4514 Cole Avenue, Suite 1000, Dallas, Texas 75205, before Pritchett & Romans, 8140 Walnut Hill Lane, Suite 130, Dallas, Texas 75231. The oral depositions will continue from day to day until completed.

Mr. Gibson and Mr. Sheeran will be asked to testify, among other things, about the sale of products on Exhibit "A", among other asbestos-containing products, for use in the buildings on Exhibit "B", among other places in and around Dallas/Fort Worth, Texas, in addition to other issues relating to the manufacture, distribution, marketing, testing, application, removal, and sales

of asbestos-containing products. The witnesses are asked to bring to the deposition the documents identified in Exhibit "C". This amended notice replaces the notice of September 18, 1991.

Respectfully submitted,

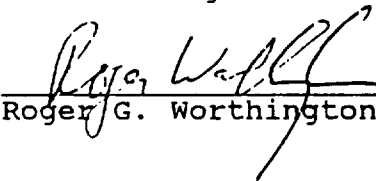
SILBER, PEARLMAN & WORTHINGTON
1000 Highland Park Place
4514 Cole Avenue, LB 34
Dallas, Texas 75205-4185
(214) 528-2000
(214) 522-7400 Fax

By: 
Roger G. Worthington
State Bar No. 22010100

COUNSEL FOR PLAINTIFFS

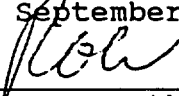
CERTIFICATE OF CONFERENCE

Counsel for W.R. Grace & Co.-Conn. has agreed to attend the above depositions.


Roger G. Worthington

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct of the foregoing document has been served on counsel for W.R. Grace & Co.-Conn. by via telecopy and certified mail, return receipt requested, this 26th day of September, and to all other known counsel of record by U.S. Mail, on the 26th day of September, 1991.


Roger G. Worthington

Grace, W.R. & Co.

Last update 08/21/90

Products manufactured by Grace, W.R. & Co.

Product Name	Mfg. Years	Asbestos Content	Type	Warning Label	Trademark Number	Picture Number
107 Cements, Adhesives, Boiler Coatings						
High Temperature Insulating Cement	1915-1971	10%	CY			
Zonolite High Temperature Cement	1938-1970	20%	CY			
109 Plasters, Protective Coatings, Fireproofing, Compounds, Paints						
Art-Zonolite Texture						
Econo-White 65	1956-1970	15%	CY			
Econo White 70	1956-1970	15%				
Ez-Tex		14%	CY			
Gun Coat Spray Surfacel	1973					
Hi-Sorb Acoustical Plaster	1973		CY			
Pericoustic		17%	CY			
Peritex Fog	1973	7%	CY			
Peritex Poly	1973	5%	CY			
Peritex Polycoarse	1973	5%	CY			
Peritex Spray Surfacel	1973	11%	CY			
Peritex Super-40	1973					
Peritex Super-40 Fog	1973	6%	CY			
Peritex Super-40 Perilite	1973	7%	CY			
Peritex Super-40 Poly	1973	5%	CY			
Peritex Super-40 Polycoarse	1973	5%	CY			
Peritex Super-40 SAV	1973	6%	CY			
Peritex Super-40 Spray Surfacel	1973					
PlasterTex	1973					
Prep Coat No. 3	1973	6%	CY			
Prep Coat No. 4		5%	CY			
Spra-Wyl	1973					
Super 40					993595	AB 22A
Versakote						
Z-Tex		14%	CY			
Z-Tex 2		14%	CY			
Z-Tex 2 Super White		14%	CY			
Zono-Coustic	1959-1973	14%	CY			
Zono-Coustic (MK-2)	1959-1973	14%	CY			
Zono-Coustic 1	1959-1973	14%	CY			
Zono-Coustic 2	1959-1973	13%	CY			
Zono-Coustic 3	1959-1973	14%	CY			
Zono-Coustic Type Z	1959-1973	14%	CY			
Zonolite Acoustical Plastic/Plaster X	1945-1972	20%	CY			
Zonolite Board Of Education Texture	1962	12%	CY			
Zonolite Finish Coat (Decorator's White)	1950-1974	13%	CY			
Zonolite Finish Coat (Extra Hard)	1961-1974	13%	CY			
Zonolite Mono-kote (MK-1)	1958-1969	20%	CY			
Zonolite Mono-kote (MK-3) X	1959-1973	14%	CY			
Zonolite Mono-Kote Fireproofing (MK)					799396	AB 21A
Zonolite Monokote 5(Back) X						149C
Zonolite Monokote 5(Front) X						148C
Zonolite Plaster X						127C
Zonolite Spra-Insulation (MK-2)	1960-1972	12%	CY			
Zonolite Spra-Tex (Extra Hard)	1961-1972	32%	CY			

"Exhibit A"

DALLAS BUILDINGS

DOWNTOWN

San Jacinto Tower
Trammell Crow Center
Plaza of the Americas
Skyway Tower
Southland Center
Hartford Building
Arco Building (Arco Tower Office Bldg.)
Fairmont Hotel
First Interstate Bank Tower (First National Bank)
Foley's
Dallas Times Herald
NCNB Texas Elm Place
Thanksgiving Tower
NCNB Texas Center One, Center Two and Center Three
First City Tower/ First National Bank Tower
Pacific Center
Momentum Place
One Main Place
X Renaissance Tower
Neiman Marcus
Dallas Power and Light
Continental Building
Dallas Public Library
Dallas City Hall
Dallas County Courthouse
Founders Square
Earle Cabell Federal Building
Medical Arts Building
The Republic Bank Building
Sanger Brothers
Mayflower Building (Fidelity Union Life Bldg.)
Dallas Morning News
X Mercantile Bank
Republic Bank
X Dallas Apparel Mart
World Trade Center
Aerospace Building (LTV Corp.)
Blue Cross/Blue Shield
Gibraltar Insurance Company
LTV Building
Exchange Park Shopping Center
Market Hall
LMS Building
Melrose Hotel
Music Hall/Fair Park
Braniff Building
Criswell Building
St. Paul Tower
Sheraton Hotel
Monroe Building

" Exhibit B "

Diamond Shamrock Building
First Allied Bank Bldg
SMU, Dallas
Armstrong Cork
Bank of Dallas Building
Bell Telephone Company
Bishop Baptist College
Bryan Street Tower
Campbell Building
Rio Grande Insurance Building
City of Dallas Municipal Building
Republic Towers
Records Building
Prestonwood Mall
Old Magnolia Building
Oil and Gas Building
Noel Page Building
North Park Shopping Center
Mundet Cork Company
Monroe Building
Mobil Building
Mayfair Building
Lowe's Anatole Hotel
Lockwood Shopping Center
Lincoln Plaza
Lennox Hotel
Hilton Hotel on Mockingbird St.
Gibraltar Savings
Fair Park Auditorium
El Centro College

LIGHT INDUSTRIAL

Dr. Pepper Plant
Lone Star Gas Co.
EDS
Texas Instruments
Proctor & Gamble
Frito Lay
E-Systems/Lufkin Aircraft, Garland
International Harvester
Atlantic Refinery
Eastman Kodak Company
Lone Star Gas Company
Western Electric
Mobil Oil Refinery, Ft. Worth
Phillips Refinery, Phillips, Tx
Owens Corning Fiberglas Plant, Waxahachie
Bomber Plant, Ft. Worth
Certainteed Corporation, Wichita
Certainteed Roofing, Dallas
Coca Cola Bottling Co.
Decker Meats, Garland

General Dynamics, Ft. Worth
Kraft Food Company, Dallas
National Gypsum Warehouse, Dallas
Oscar Meyer Plant
Pollick Paper Company
Texas Industries, Dallas
Thompson Can Company, Grand Prairie
Trinity Portland Cement, Dallas
Braniff Terminal, Love Field
Ruberoid Plant

HOSPITALS

Baylor Hospital
Parkland
Methodist
John Peter Smith
Presbyterian
Harris Hospital, Fort Worth
Flow Memorial Hospital, Denton
Texoma Medical Center, Denison
Veteran's Hospital
Arlington Memorial Hospital
Garland Memorial Hospital, Garland
Dallas Osteopathic Hospital
Doctor's Hospital, Dallas
Medical City Hospital
Southwestern Medical Center
Southwest Medical School
Terrell County Hospital
St. Paul Hospital, Dallas

ARLINGTON/FT. WORTH

GM Paint Plant, Arlington
General Motors, Arlington
Miller Brewery, Fort Worth
X Dallas/Ft. Worth Airport
American Cyanamid, Fort Worth
Star Telegram, Ft. Worth
UTA Library, Arlington
Bell Telephone, Grand Prairie
Carswell Air Force Base, Ft. Worth
T.C.U.
American National Bank
Arlington Memorial Hospital
Center City
Chemsearch Building
City Jail, Ft. Worth
Convention Center, Ft. Worth
East Field College, Ft. Worth
East Handley Elementary School, Ft. Worth
Fort Worth Children's Hospital

POWER HOUSES

Mountain Creek Powerhouse, Grand Prairie
Griffin Street Powerhouse (TU Steam Power Plant)
Lake Ray Hubbard Power Plant
North Lake Powerhouse, Coppell
Handley Powerhouse, Handley (820 & Hwy 80)
Hanley Powerplant, Ft. Worth
Denton Powerhouse
Eagle Mountain Lake Powerhouse
North Main Powerhouse
Lake of the Pines Powerhouse
Graham Powerhouse, Graham
Lake Cherokee Power Plant, Longview
Western Electric, Mesquite
Parkdale Powerhouse, Dallas
Haskell PowerPlant, Haskell
Texas Power & Light Powerhouse, Frisco
Texas Power & Light, Reisel
Dallas Power & Light, Northlake, Dallas
Garland Power & Light, Garland
Western Electric, Dallas
Continental Powerhouse
UTA Powerhouse, Arlington, Texas
Abernathy Power Plant, Lubbock
Abilene Power Plant, Abilene
TP & L Powerhouse, Frisco
Lavon Powerhouse (Lake Lavon)
Newman Power Plant, Garland
SMU Powerhouse, Dallas
North Texas State Powerhouse, Denton
Atlas Refinery, Shreveport
Belton Power Plant, Belton, Texas
Big Spring Refinery, Big Spring
Cason Power Plant, Pittsburg Texas
Colorado City Powerhouse, Colorado City, Texas
Comanche Peak Nuclear Plant, Glen Rose
D.F.W Powerplant
Forney Road Power Plant, Dallas
Fresco Power Plant, Fresco
Glen Rose Power plant, Glen Rose
Graham Power plant, Graham Texas
Missouri Valley Powerhouse, Amarillo
Motorola Plant, Fort Worth
North Dallas Power Plant
North Lake Powerhouse, Carrollton Texas
North Main Powerhouse, Ft. Worth
Parkdale Powerhouse, Dallas
Sterlington Power Station, Sterlington, La
Stricker Creek Power Plant, Troup Texas
Trinity Steel, Ft. Worth

SHIPYARDS & REFINERIES

Brown Shipyard, Baytown
Todd Shipyard, Galveston
American Oil Refinery, Texas City
Arco Refinery, Houston
Bethlehem Steel Shipyard, Beaumont
Consolidated Shipbuilding, Orange
Crystal Refinery, Longview
Gulf Refinery, Houston
Lone Star Steel Mill, Dangerfield
Premier Refinery, Ft. Worth
R.C. Refractories, Ft. Worth
Reynolds Aluminum, Rockdale
Swift Edible Oil Refinery, Denton
Union Carbide, Texas City
Shell Chemical, Deer Park
Exxon Refinery, Baytown

SCHOOLS

ALEX SPENCE SCHOOL, DALLAS
AMELIA FARHARDT SCHOOL, OAK CLIFF
ARLINGTON COLLEGE
ARMSTRONG SCHOOL, HIGHLAND PARK
ATWELL JUNIOR HIGH SCHOOL, DALLAS
BAYLOR DENTAL COLLEGE, DALLAS
BISHOP BAPTIST COLLEGE, DALLAS
BOUDE STORIE JUNIOR HIGH
BROWN JUNIOR HIGH
BRYAN ADAMS HIGH SCHOOL
BURNETT SCHOOL
CABELL SCHOOL, FARMERS BRANCH
CAREY JUNIOR HIGH
CARTER SOUTH OAK CLIFF HIGH
CASA LINDA SCHOOL, DALLAS
CATHOLIC CONVENT, WALNUT HILL, DALLAS
CEDAR VALLEY JUNIOR COLLEGE, DALLAS
CHARLES GILL
CITY PARK ELEMENTARY
CLARA OLIVER
CLINTON R. RUSSELL
COIT ROAD JUNIOR HIGH
COMSTOCK SCHOOL
DALLAS LIBRARY
DANIEL WEBSTER, DALLAS
DAVID CARTER HIGH SCHOOL
DEAN MEMORIAL
DUNBAR SCHOOL
DUNCANVILLE HIGH
EAST FIELD COLLEGE, FT. WORTH
EAST TEXAS STATE COLLEGE
EAST TEXAS STATE UNIVERSITY, GREENVILLE
EDWARD TITCHE ELEMENTARY SCHOOL
FOREST HILL HIGH SCHOOL
FRED FLORENCE MIDDLE SCHOOL
GRADY SPRUCE HIGH SCHOOL
GRAND PRARIE HIGH SCHOOL
GREENVILLE SCHOOL
HAWKADAY SCHOOL FOR WOMEN
HIGHLAND PARK HIGH
HILLCREST JUNIOR HIGH
JAMES BONHAM ELEMENTARY
JOHN HOOD JUNIOR HIGH
JOHN IRELAND ELEMENTARY
JOHN Q. ADAMS ELEMENTARY
JULIA FRAZIER SCHOOL
KIMBALL HIGH SCHOOL
L.D. BELL HIGH
PINKSTON HIGH
L.V. STOCKARD MIDDLE SCHOOL
LEE SCHOOL
LENOIR KIRK SCHOOL

LINCOLN HIGH
LISBON ELEMENTARY
LONGFELLOW SCHOOL
MACARTHUR HIGH SCHOOL
MEADOWBROOK JUNIOR HIGH, FT. WORTH
MOUNTAIN VIEW COLLEGE, DALLAS
NEWMAN SMITH SCHOOL, GARLAND
NORA KIRK SCHOOL, DALLAS
NORTH TEXAS STATE UNIVERSITY
OAK CLIFF HIGH
OLIVER W. HOLMES HIGH SCHOOL
PARK CITY YMCA
PINKSTON HIGH SCHOOL
PLANO HIGH
PRESTON HIGH
RICHARDSON JUNIOR HIGH
RICHARDSON PIERCE HIGH SCHOOL
ROBERT E. LEE ELEMENTARY
ROOSEVELT HIGH
RUFUS BURLESON ELEMENTARY
SARA ZUMWALT ELEMENTARY SCHOOL
SAMUEL HIGH SCHOOL
SKYLINE HIGH
SMU
TCU
THOMAS JEFFERSON HIGH
TEMPLE EMANUEL
TEXAS WOMENS COLLEGE, DENTON
UNIVERSITY OF TEXAS MEDICAL CENTER
UTA
W.H. ADAMSON HIGH
W.T. WHITE HIGH
W.W. SAMUEL HIGH
WOODROW WILSON HIGH SCHOOL

Exhibit "C"

REQUEST FOR PRODUCTION

You are asked to bring with you to the deposition the following documents:

1. All correspondence between W.R. Grace and any contractor or supplier in the Dallas/Fort Worth area regarding the sale of any asbestos-containing products, such as those appearing on Exhibit "A". The contractors or suppliers include, but are not limited to, Storbeck & Gregory, Ray Boyd Plastering, McCrory Company, Estes & Stout, Carpenter Plastering, Fort Worth Plastering, and Blue Diamond.

2. All sales literature and brochures distributed by W.R. Grace to suppliers and contractors in the Dallas/Fort Worth area regarding asbestos products.

3. All documents, including sales receipts and invoices, that reflect the purchase by any supplier or contractor of any asbestos-containing product manufactured by W.R. Grace in the Dallas/Fort Worth area.

4. Any and all documents that identify jobsites or projects in the Dallas/Fort Worth area in which W.R. Grace asbestos-containing products were applied, including work orders, inspection reports, plans, specifications, and/or industrial hygiene surveys.

5. All advertisements or promotional material by W.R. Grace regarding Monokote, Zonolite or other asbestos-containing products prior to 1975.

6. All instruction and/or warning labels regarding potential asbestos health hazards appearing on any containers of the asbestos products listed on Exhibit "A".

7. All industrial hygiene surveys or ambient dust counts performed from 1959 to 1978 at any manufacturing plant in Texas owned or operated by W.R. Grace, The Zonolite Company, and/or Texas Vermiculite Company regarding the presence of ambient concentrations of asbestos dust or others.

8. All government inspection reports regarding compliance with any governmental regulation of occupational exposure to asbestos dust in any plant owned or operated by W.R. Grace, The Zonolite Company, or Texas Vermiculite Company from 1959 to 1978.

W.R. Grace & Co.
P.O. Box 226306
Dallas, TX 75266

(214) 637-0900

MAJOR MONOKOTE FIREPROOFING JOBS
City of Dallas 1972 - 1978

- X Hyatt Regency ReUnion
 X Dallas World Trade Center
 The Apparel Mart 20,000
 First International Building 35,000
 Main Tower 25,000
 2001 Bryan Tower 40,000
 X Campbell Centre Towers ~~20,000~~
 X One Energy Square Tower 16,000
 X Two " " " 15,000
 Dallas Federal Savings & Loan 25,000
 4226 Douglass Tower 15,000
 X Los Colinas Tower
 Mockingbird Towers 24,000
 X 1111 Mockingbird Tower
 ✓ Stemmons Twin Towers 22,000
 D/FW Airport Terminals 45,000
 Empire Stemmons Tower 17,000
 Dallas North Plaza Tower 12,000
 Dallas North Bank & Trust 22,000
 X Valley View Bank
 X Heritage Plaza Tower ?
 X The American Bank ?
- X Park Central Tower
 X Northpark I & II Towers
 X Bent Tree Tower
 [REDACTED]
 X Southland Center Addition
 X Diamond Shamrock Tower
 X Republic Bank Tower Addition
 X Dallas Central Research Library
 X Los Colinas Tower East
- X MK-4 OR MK-5
 OTHERS ARE MK-3

X MK-4 OR MK-5
OTHERS ARE MK-3

**DEPOSITION
EXHIBIT**

Sheeran 2
10/4/91 On

TEXAS AND OKLAHOMA VERMICULITE COMPANIES
REPRESENTATIVE MONO-KOTE FIREPROOFING JOB LIST

Master List

2-1-71

TEXAS- - - - - -

Abilene:

Abilene Civic Center
Boone & Pope

Taylor County Coliseum
BOONE & Pope

Arlington:

Southwestern Bell Telephone
Preston Geren

Arlington Bank & Trust Co.
Preston Geren

Athens:

Henderson County Hospital
Harper & Kemp

Austin:

City National Bank
Page, Southerland & Page

Texas State Bank
Merle Simpson & Assoc.

University of Texas-LBJ Library Complex
Skidmore,Owing & Merrill--Brooks, Barr, Graeber & White

East Campus Library & Research Buildings
Skidmore,Owing & Merrill--Brooks, Barr, Graeber & White

State Finance Office Building
Golemon & Rolfe

Veterans Administration Region Office
David Barrow

I.R.S. Regional Office Building Addn.
Barrow & Stahl

Highland Mall (Austin Mall Project)
Katzmann & Assoc.

Office Building No.1-Chevy Chase Center
Neuhaus & Taylor

State Farm Insurance
Ellerbe Associates

Joske's of Texas
Harrell & Hamilton

Carthage:

Panola General Hospital
Roscoe De Witt



Corpus Christi:

Corpus Christi State National Bank 10000
Kipp & Winston

Spohn Hospital
Martin & Solka

Petroleum Tower Addition 12000
Berretta & Greenslade

600 Upper Broadway Building 16000
Jenkins & Hoff ~~Hausman~~

Dallas County:

Republic National Bank Tower 40,000
Harrell & Hamilton; Thomas, Jameson &
Merrill; Grayson Gill, Inc.
Great American Reserve Insurance 15000
Harper & Kemp

Southwestern Life Insurance Co. 20,000
Geo. H. Dahl

Southwestern Bell Telephone(A&E) 20,000
Thomas, Jameson & Merrill

Neiman-Marcus Addition
~~John/Mullen/III~~ Roscoe DeWitt

South Oak Cliff Library
~~Ray Smith~~ Harper & Kemp

Casa View Library
Wm. H. Hidell

Gardner-Denver Company
Wm. H. Hidell

Lakeside Baptist Church
~~H.K. Smith~~ Harwood K. Smith

Republic National Life Addition
Geo. H. Dahl

X Mercantile Bank Addition
Broad & Nelson

Great National Life
Grayson Gill

Expressway Tower
Welton Becket

X Dallas North Plaza 12000
Paul Haberman

Turtle Creek Plaza Building
George L. Dahl

Preston State Bank
Wood & Associates

Dallas County (Continued)

X Twin Towers Buildings
Neuhaus & Taylor

X Sears Regional Office Building
Gordon Sibeck

Mountain View College
Ensle Oglesby

X Bruton Park Office Buildings
Neuhaus & Taylor

Lakewood Bank
Wood & Associates

Eastfield College
Harwood K. Smith

K.R.L.D. Building
Harwood K. Smith & Partners

Sanger-Harris Department Store
Thomas E. Stanley

511 North Akard Building
Thomas, Jameson & Merrill

Fidelity Union Tower Building
Wyatt C. Hedrick

X Dallas Federal Savings & Loan
George L. Dahl

Southland Center-Sheraton
Welton Beckett & Associates

Mercantile Dallas Building
Broad & Nelson

Mercantile Continental Building
Broad & Nelson

Federal Reserve Bank of Dallas
Grayson Gill, Inc.

Exchange Bank Building
Lane-Gamble & Associates

Braniff Airways Building
Lane-Gamble & Associates

Love Field Airport Terminal
Jack Corgan & Broad & Nelson

Blue Cross-Blue Shield Building
Thomas, Jameson & Merrill

Irving National Bank Building
Grogan & Scoggins

Dallas County (Continued)

Titches 183
Harrell & Hamilton

Midway National Bank
Smith & Warder

X Sanger Harris(Six Flags Mall)
H.K. Smith & Assoc.

Six Flags Mall
Harrell & Hamilton

Garland Memorial Hospital
Broad & Nelson

J.J. Pierce High School
Fred Buford

Denton:

Texas State University-Science Bldg.
Page, Sutherland, & Page

Fort Worth:

Texas-Sheraton Hotel
Preston Geren

National Farm Life Insurance Bldg.
Al Komatsu

All Saints Hospital
George King

Baker Building
Lawrence White

General Dynamics,Carswell A.F.B.
Thomas Stanley

All Church Home Library
Al Komatsu

Federal Building
Preston Geren

St. Joseph Hospital
Joseph R. Pelich

Montgomery Ward
Horace Maples

Baptist Radio & Television Center
Hueppelhauser & White

Edison Dial Building
Preston Geren

Lone Star Gas Company
Lawrence White

Fort Worth (Continued)

University Christian Church
Preston Geren

Fort Worth Star Telegraph Bldg.
Lawrence White

First National Bank 25000
Preston A. Geren

Neiman-Marcus
Preston A. Geren

Equitable Savings & Loan
Olin Boese

Union Bank & Trust
Preston A. Geren

X Tarrant County Savings & Loan
Preston A. Geren

Convention Center
Joint Venture-Architects

Rowan Building
Joseph Pelich

Meacham Field Administration Building
Parker Croston

Hondo:

Hondo School Project
Harvey P. Smith & Associates

Longview:

X Good Shepherd Hospital
Wilson,Morris,Crain & Anderson(Houston).

First National Bank
Allen & Guinn

Port Lavaca:

First State Bank
Christopher DiStefano

San Angelo:

San Angelo National Bank
Harwood K. Smith

Angelo State University-Dorm #1
Chakos & Zentner

Angelo State University-Dorm #2
Chakos & Zentner

San Angelo(Continued)

Angelo State University Student Center
Chakos & Zentner

San Antonio:

USAA Insurance Office Bldg. Addn.
Ayres & Ayres

Viewpoint Office Building
H.B. Zachry Properties(Engr.Dept.)

Baptist Memorial Hospital-N.E.
Turner & Geyer

Santa Rosa Children's Hospital
Phelps & Simmons & Associates

Palacio Del Rio Hotel
H.B.Zachry-Cerna & Garza

H.B.Zachry Office Building
H.B.Zachry Properties-Engineered

Hemisfair
Various Architectual Firms

Sherman:

Austin College Science Building
Peyton Cooper

Tyler:

Tyler Junior College
Shirley Simons & Assoc.

East Texas TB Hospital
Harper & Kemp

Uvalde:

Uvalde High School
Harvey P. Smith & Assoc.

Vernon:

Vernon Geriatrics Center
Killebrew,Cupit & Rucker(Wichita Falls)

Vernon Hospital
Killebrew,Cupit & Rucker(Wichita Falls)

Victoria:

Victoria Bank & Trust
Christopher DI Stefano

Waco:

Providence Hospital
Bennett, Carnahan, Hearn & Thomas
Masonic Building
Bush & Dudley

Wichita Falls:

McClerkan Department Store
Woodward & Cape(Dallas)

Wichita Falls(Continued)

Bethania Hospital
Harper & Martin

City National Bank
George L. Dahl

OKLAHOMA-Bartlesville:

Phillips Buildings (2) 12000
Welton Beckett(Los Angeles)

Norman:

Norman Library
Sorey-Hill-Binnicker & Associates 1700

Oklahoma City:

Southwestern Bell Telephone 500
Noftsgier-Lawrence & Flesher

Kermac Building
Frankfurt-Short-Emery & McKinley 12000

Physicians & Surgeons Building
Frankfurt-Short-Emery & McKinley 8000

Medical Tower Building 2100
Fritzler & Knoblock

Liberty Bank Tower
Stanley & Associates(Dallas)

First National Bank & Trust
Hudgins-Thompson-Ball & Associates

Fidelity National Bank
Sorey-Hill & Binnicker

Vascular Medical Clinic
Fritzler & Knoblock

Midwest City Hospital
Bishop & Quinn

Stillwater:

Oklahoma State University Library
Okla. State University Architects

Tulsa:

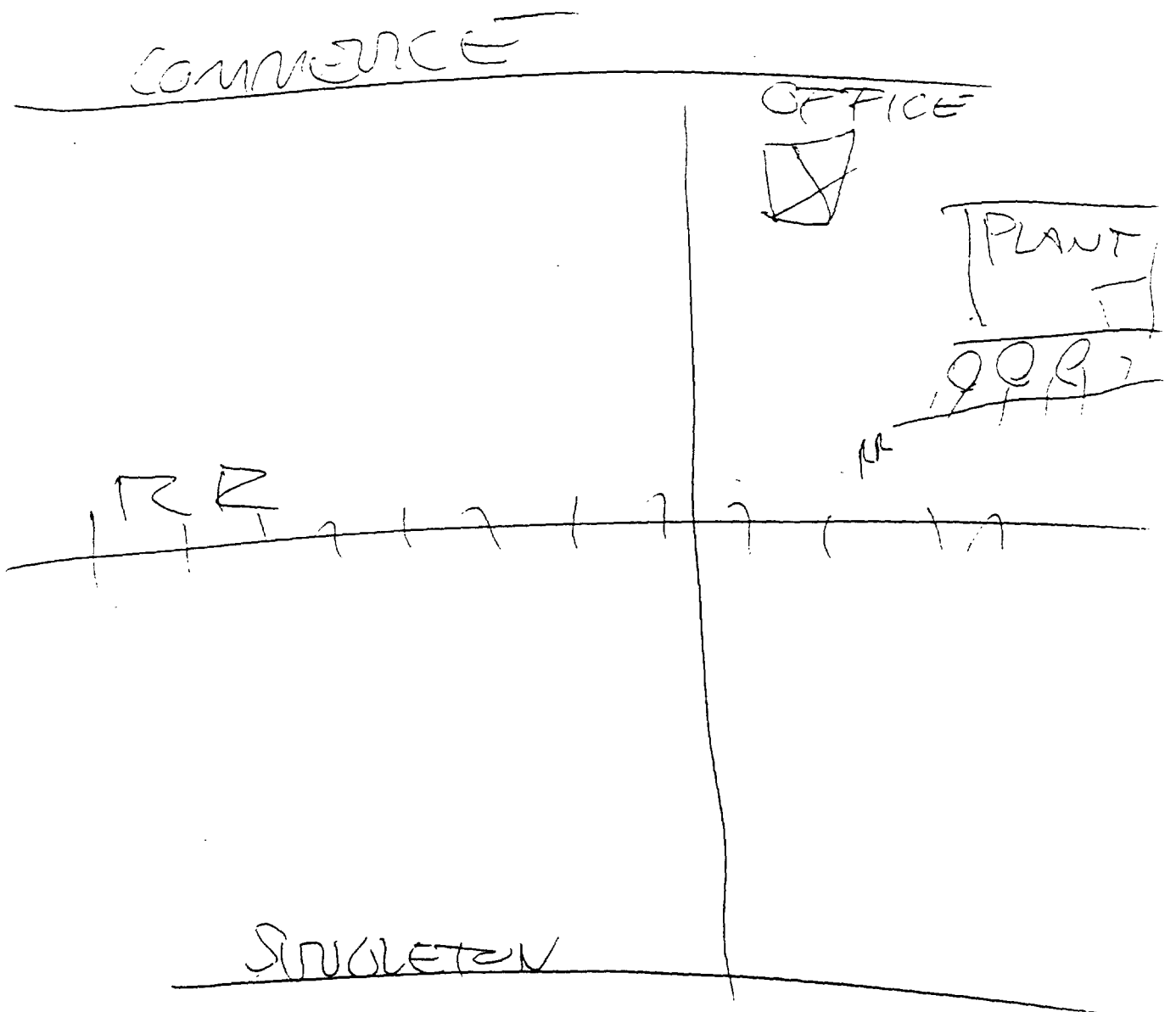
Farmers & Merchants Bank
St. Louis Bank Architects 3000

Pan American Building
Black, West & Wozencraft

Public Service Warehouse
Murray, Jones & Murray

Tulsa Airport 12,000
Murray, Jones & Murray

[Handwritten signatures and scribbles]



Pritchett & Romans

8140 WALNUT HILL LANE
SUITE 310 LB 15
DALLAS TEXAS 75231
(214) 373-4977
FAX (214) 363-7758

October 15, 1991

Mr. Bill Long
District Clerk
Dallas County Courthouse
600 Commerce Street
Dallas, Texas 75202

Re: No. 91-01760-H
H. Wally Shipley and Faye
Shipley, et al. vs. Armstrong
World Industries Inc., et al.

Dear Mr. Long:

Enclosed for filing, please find a copy of the court reporter's certificate for the deposition of STEPHEN J. SHEERAN taken in connection with the captioned matter.

Please file same with the proper court pursuant to Rule 206 of the Texas Rules of Civil Procedure, signature of the witness having been waived by agreement of the parties. By copy of this letter, I am forwarding the sealed original deposition to the attorney or party who asked the first question appearing in the transcript and notifying all parties of said filing.

Thank you for your kind attention to this matter.

Sincerely,

Denise M. Mallia, CSR

DMM/yt
Enc.

Legal Communications

cc: Mr. Roger G. Worthington ✓
Ms. Sandra F. Clark
Mr. T. Griffin Vincent
Mr. Thomas Evans
Mr. Thomas F. Dougall
Ms. Donna Breedlove

CERTIFICATION PURSUANT TO RULES 205 AND 206

NO. 91-1760-H

H. WALLY SHIPLEY AND FAYE * IN THE DISTRICT COURT OF
SHIPLEY; WELDON COOK AND *
BILLYE COOK; VIRGEL LEON *
ZIMMERMAN AND RUTH *
ZIMMERMAN; HERBERT *
WILLIAMS AND INEZ WILLIAMS; *
ARTHUR JAMES DAVIS; and * DALLAS COUNTY, TEXAS
J.R. GENTLE *
VS. *
ARMSTRONG WORLD INDUSTRIES, *
INC., ET AL. * 160TH JUDICIAL DISTRICT

CERTIFICATE TO ORAL DEPOSITION

OF

STEPHEN J. SHEERAN

I, Denise M. Mallia, Certified Shorthand
Reporter in and for the State of Texas and the
deposition officer for the deposition of the
above-named witness, do hereby certify to the
following:

- 1) That the witness was duly sworn by me;
- 2) That the transcript is a true record of
the testimony given by the witness on October 4,
1991;

1 3) That the charge for preparation of the
2 completed deposition transcript and any copies of
3 exhibits is \$ 737.65 and is to be paid by
4 the Plaintiffs;

5 4) That the signature of the witness was
6 waived by agreement of the parties and the witness;

7 5) That the original deposition was
8 transmitted to Mr. Worthington, the person who
9 asked the first question appearing in the deposition
10 transcript for safekeeping or use at trial.

11 6) That pursuant to information obtained
12 at the time said testimony was taken, the following
13 includes all parties of record:
14

15 MR. ROGER G. WORTHINGTON
16 Silber, Pearlman & Worthington
17 1000 Highland Park Place
4514 Cole Avenue, LB 34
Dallas, Texas 75205

18 FOR THE PLAINTIFFS

19 MS. SANDRA F. CLARK
20 Mehaffy & Weber
21 2615 Calder Avenue
P.O. Box 16
22 Beaumont, Texas 77704

23 FOR THE DEFENDANT,
24 W.R. GRACE & COMPANY
25

1 MS. ELIZABETH M. THOMPSON
2 Butler & Binion
3 1500 First Interstate Bank Plaza
4 Houston, Texas 77002

5
6 FOR THE DEFENDANT,
7 OWENS-CORNING FIBERGLAS
8 CORPORATION

9
10 MR. GARY D. ELLISTON
11 DeHay & Blanchard
12 Plaza of the Americas
13 600 North Pearl Street
14 2500 South Tower, LB 201
15 Dallas, Texas 75201-2880

16
17 FOR THE DEFENDANTS,
18 GAF CORPORATION, A.P.
19 GREEN INDUSTRIES, INC.,
20 NATIONAL GYPSUM COMPANY,
21 U.S. GYPSUM COMPANY and
22 ARMSTRONG WORLD
23 INDUSTRIES, INC.

24
25 MR. THOMAS F. DOUGALL
Bowers Orr & Robertson
1401 Main Street, Suite 1100
P.O. Box 7307
Columbia, South Carolina 29202

FOR THE DEFENDANT,
PROKO INDUSTRIES, INC.

7) That a copy of this certificate was
served on all parties shown herein pursuant to Rule
21a of the Texas Rules of Civil Procedure.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on
this the 11th day of October, 1991.

Denise M. Mallia

Denise M. Mallia, CSR #3590
Certified Shorthand Reporter
In and for the State of Texas,
8140 Walnut Hill Lane
Suite 310 LB 15
Dallas, Texas 75231

My commission expires: 12-31-92