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MEMORANDUM

TO: Lepore File

FROM: SMT

DATE: February 6, 2017

RE: LEPORE / Castleman Dec

The following are the excerpts I wish to use for the Navistar/Castleman Declaration:

14:7-12	Understands that he's representative of Navistar and is talking for the company.
19:6-11; 19:20-25	The last time International Harvester sold a truck that had asbestos in brake linings was about 1990. [Note that he is asked on the same page at line 20-25 when International Harvester last sold a highway-type truck that had asbestos, the witness says he doesn't know and then on page 20 continues to state that it was probably sometime in the early to mid 1980's.]
27:20-23	<u>Started at International in 1955.</u>
48:19-49:2	As he sits in the deposition, he is not aware of International Harvester selling a truck that contains non-asbestos brakes prior to 1984. He doesn't know.
51:6-18	Claims that lighter trucks started using non-asbestos brakes in the mid 1970's. He doesn't know what the material was. Besides it is non-asbestos, he doesn't know what they were made of.
52-53	With respect to tractors/trailers, the first one he has personal knowledge of that contain non-asbestos brakes was 1983-1984, but believes that there was possibly some being sold with non-asbestos brakes before that.
53-54	<u>Tractor/Trailers did use clutches and up until about 1980 or so, the majority of clutches contained asbestos.</u> Suppliers were Rockford, BorgWarner.
55:21-56:7	International knew that over the life of the vehicles, clutches and brakes had to be replaced.
56:8-20	International sold replacement brakes and clutches. The first time International

	made an attempt to find a substitute for asbestos brakes was when they became available to them for testing in the 1970's. As of that date, there was nothing available in brake blocks. He is talking about hydraulic brakes, it appears.
64:25-65:19	For highway-type tractors, suppliers for friction materials included Bendix, Wagner, Rockwell, Eaton, and Grizzly.
67:15-24	He can't think of any reason why International Harvester should be doing air sampling for asbestos during brake changes.
69:8-70:5	International started giving information about asbestos in service manuals and operator manuals at some point after OSHA. They cited to the OSHA Standards. He says he also found an insert in a box of service brakes in 1975, service brakes meaning brakes that are being used to replace a set of brakes in the field. He doesn't remember the exact wording on the insert.
70:21-71:21	Refers to Exhibit 3* This is a copy of the insert which he saw. <u>It says: contains asbestos fibers, avoid creating dust, breathing asbestos dust may cause serious bodily harm. It also states: do not use air hose, do not use without dust collection equipment, do use a vacuum or wet cleaning, do dispose the dust in sealed container, do wear a mask.</u>
72:7-19	International Harvester sold the replacement brakes with this admonition in it. They did not take the admonition out. By 1975, such an admonition was the "generally accepted practice in an overabundance of caution and the OSHA Standard."
73:20-75:16	<u>Witness fights when he is asked whether this was the only set of warnings ever included in boxes sold by International Harvester for replacement brakes. He doesn't know that he ever saw another insert in any of the replacement kits for asbestos-containing components that would've gone into highway tractors. When pinned down, he says the first time he saw such a caution in any of the materials provided by International was in 1981 or 1982, but can't say whether he knows those to be the first or not.*</u>
75:20-76:20	<u>Exhibit 4. It is a manual for foundation-air. It includes a caution.</u>
76:23-77:15	Language of the caution is read under the record. It references the OSHA limits. It goes on to state "Since most automotive friction products normally

BILL

~ OSHA
warning

	contain a sizeable amount of asbestos, it is important that people who handled brake linings be aware of the problem and note the precautions to be taken. OSHA Standards should be consulted with respect to mandatory requirements...”
83:4-84:18	More discussion of Exhibit 4. Though it says precaution should be taken, it does not list what they are. [Contrast the 1975 insert which did describe what they should be.]
85:3-10	More discussion of Exhibit 4. It doesn't say to wet down brake dust. It doesn't say to use a respirator.
87:15-21	Continued discussion of Exhibit 4. It tells people that they need to take precautions, but doesn't list what they are. Rather, it tells them where to go get the answer (OSHA).
92:2-13	The caution does not say to use wet down methods, wear a respirator, don't blow out using compressed air, use a containment drum around the system around the drum or to use local exhaust ventilation.
106:19-108:3	<u>Exhibit 5. Service manual for a clutch. Came out in 1981 or 1982. This is the first one he could find.</u>
108:4-13	Has an asbestos dust warning for servicing.
108:16-109:17	<u>Reads the text. Much more detailed than the brake warning. Again, says most automotive friction products normally contain asbestos. Also specifically cautions against using compressed air and in favor of using HEPA vacuums (extend citation to 109:23).</u>
112:17-113:10	International Harvester became aware of hazards of asbestos in the late 1960's, early 1970's as a result of the Selikoff studies.
115:12-25	Has previously testified that truck brake linings contained between 50-90% asbestos.
116:7-117:2	By the late 1960's, IH knew that there was asbestos in brake linings. They were told that there was chrysotile asbestos in the brakes and they began performance testing as soon as they could find non-asbestos materials. “In an overabundance of caution to eliminate asbestos in the friction material, both brakes and clutches.” He was talking about performance testing.

120:19-120:5	First time he was aware that Selikoff ever expressed concern about asbestos in brakes was in 1975. At that point, they were already in the business of "testing brakes to, in an overabundance, to remove the asbestos from the lining."
122:10-15	Had previously testified that they were aware of hazards of asbestos as a result of the Selikoff studies in the mid 1960's, mid to late.
122:25-123:13	He thought that Dr. Selikoff didn't recognize the issue with respect to friction materials until the <u>early 1970's to mid 1970's, when there was a meeting with some of the automotive industry. Selikoff was not highlighting the danger from friction products until the 1970's. That is their experience.</u>
124:3-8	Lived in the suburbs of Chicago. Subscribed to the Chicago Tribune. Exhibit 6, article from Chicago Tribune, March 2, 1966 (pg. 124:18-22).
125:12-15	Article entitled "Link Asbestos to Cancer of the Lungs," from March 2, 1966 in the Chicago Tribune.
125:16-23	Selikoff cites brake linings as a cancer-related danger to the general public, as well as those who come in contact with it in the industry.
126:18-23	Witness was subscribing during that time and never saw this article that mentions brake linings as a source of asbestos exposure.
136:7-13	IH did not recommend that people purchased unapproved parts which they had not tested. That does not mean that the dealer would not sometime sell something they didn't approve.
141	Refers to Exhibit 11, <u>Illinois Manufacturer's Association</u> , dated 1936. (Also see pages 142-143 which calls out certain relevant quotations showing that this is an occupational disease.
145	The paragraph is read regarding claims for asbestosis.
146	Lists the numbers of the <u>committee that were responsible</u> for preparing the measure which <u>includes J.R. Allen who was from International Harvester</u> in 1936.
148	It calls numbers of the medical committee including JA Britton, supervisor of medical service, at International Harvester Company.

150	Discusses Exhibit 12, which is the <u>Industrial Commission of Wisconsin, Proceedings of Conference Concerning Effects of Dust Upon the Respiratory System, held in Chicago in November 1932.</u> Page 213, Appendix B lists the person who attended and this also includes <u>Dr. Britton of International Harvester.</u> On page 104 of the exhibit and page 152 of the deposition, the section regarding asbestos-related disease is read into the record.
153	References to page 105 of the exhibit where Dr. Gardner speaks about asbestos dust producing a generalized fibrosis of the lungs.
154	Witness admits that Mr. Britton of International Harvester is listed as present and it did have industrial facilities in Chicago, Illinois at the time. And that asbestos was used in those facilities. After reading the document, the witness admits that International Harvester “probably could have been aware that asbestos could have been, given the proper—given enough exposure, could have been a hazard.”
157	Deals with <u>American Society of Mechanical Engineers.</u> Doesn’t dispute that International Harvester probably had members of ASME from the 1920s through the 1950s. References made to Exhibit 13 which is a membership list from <u>1928.</u> There is a <u>person listed from International Harvester from San Francisco office.</u>
158-159	Witness admits that in 1928, there were several employees of International Harvester who remembers of ASME.
159-160	Deals with Exhibit 14 which is the membership list from the mid 1930’s and there are a number of ASME members that are employees of IH in the 1930’s.
160	References made to Exhibit 15 which is the membership list from 1940, the Chairman of the Materials and Standards Committee was Mr. Cottle from the International Harvester Company. This admits that from the 1920’s to the 1940’s, it appears that there were various individuals employed by International Harvester who are also members of ASME.
161	References Exhibit 16 which is a periodical called Mechanical Engineering from 1933 and another 1935 issue. (1933 states that “Employers should not conclude that they have entirely eliminated the danger of...any type of

	pneumoconiosis simply because the air is seemingly free from dust.”) Refers to the fact that most fibers are invisible and remain long suspended in the air and that particles of one micron requires 6 hours to fall 6ft. in still air. Particles remaining in suspension pose dangers throughout the day and some of the dangers in character are so fine as to remain in suspension indefinitely.
167	The witness is questioned about the paragraph that states that “Most well intentioned employers have used reasonable care in past years and that considering their lack of knowledge, this is their best defense in lawsuits; from now on, because of the available knowledge, only special care will safeguard the interest of employer and workmen alike.”
168	The next page of the document cites asbestos as one of those items that should be handled with special care.
172	References made to the October 1933 Journal, and the article entitled “Control of Industrial Dust, the Problem of Local Dust and General Ventilation.”
173	Asbestos is again listed as the dust that causes fibrosis. Then references made to the February 1935 one by F Robertson Jones, who is an insurance executive.
174	There is reference to a quote that says “Programs for control of occupational disease require the cooperation of industry.”
178-179	Exhibit 17, which is the <u>Brake Caution</u> that he remembers <u>from the brake book</u> in <u>about 1980 or 1981</u> .
179	He admits that those are the only warnings he found when they were searching for warnings in manuals.
205	Exhibit 23. March 23, 1972 Internal Memorandum, Subject: OSHA Target Health Hazard Program. International Harvester document.
206-207	Witness acknowledges they were aware of the new standard.
207	The memo is quoted as stating “Any production operation that is capable of generating airborne asbestos dust, such as machining or grinding of brake linings, is suspect and must be checked.” Memo also states that “All non-production operations, such as drilling, sawing, or ripping out of asbestos insulating materials, must be done only with respiratory protection.”

209	Witness admits that the author was R.J. Black, who was Manager of Employee Environmental Safety Group.
210	Deals with Exhibit 24. International Harvester Memo, dated January 27, 1975. From Mr. Black again. First page entitled "Use of Asbestos."
211	A portion of the memo was quoted and acknowledges that the 1972 standard was not forwarded to sales and distribution operations that subsequent events have caused them to make the decision that sales and distribution operations should now be notified of the requirements for the standards.
212	Third paragraph was quoted. "As an example, brake linings containing asbestos can be received, warehoused and shipped with no hazard, but the grinding of a brake lining containing asbestos can be hazardous."
214	Deals with Exhibit 25. International Harvester memo entitled "Safety Procedures for Asbestos." Paragraph 2 states that all asbestos shall be handled...or otherwise worked with in a wet state." Memo also acknowledges and witness acknowledges that they are members of the International Safety Council. This acknowledges that it was for decades and that they were one of the founding members. Up to 1975, at least.
215	Exhibit 26 is a Memo from Bacci. The witness authenticates the document on page 216. The subject is removal of the asbestos bushings from vehicles. "Based on data collected and personal observations, the following procedure must be strictly followed when removing asbestos bushings from tract frames." It limits the amount of time that an employee can perform the work. The memo also requires that debris must be put in a plastic bag and sealed and labeled as asbestos.
217	Exhibit 27. Memo, dated August 2, 1977 by J.L. Simons, Safety Supervisor. "Special handling procedures are followed by employees working with asbestos bushings and brake linings used on our tractors."
218	He identifies Simons as safety supervisor at Belrose Park.
220	Exhibit 28. October 12, 1977 Industrial Hygiene Survey. Authored by Mr. Bacci.
221	Quotes memo as saying that three of the samples were in excess of the TLVs. Asbestos fibers when inhaled can be a serious health hazard. Notes an

	increased incidents of lung cancer. "Based on the concentrations measured in these three areas, toxicity of asbestos, local exhaust ventilation should be installed to reduce the concentrations of airborne asbestos fibers." The next paragraph goes on to state "Respiratory protection is mandatory for all employees who install new clutch linings and tests new clutch disks."
222	The witness admits that this is the first time he ever saw anything that went out to those in the field regarding preventative measures or precautions that needed to be taken pertaining to clutches that went out of the company, but that the first time such precautions were issued to the public by way of replacement packaging or service manuals was 1982.
223	Witness admits that International Harvester did not have a policy prior to 1982, to affirmatively send out information about the hazards of asbestos to mechanics around the country. [Witness tries to distinguish this by noting that the memo went to renew centers "for rebuilding parts."]
224	Witness acknowledges last paragraph of the document as stating "Industrial Hygiene studies...have demonstrated that new clutch disks must be vacuumed prior to riveting to ensure that the TLV for asbestos is not exceeded."
226	Exhibit 29. Internal Memo from International Harvester, dated November 2, 1978. Written by Janetka, Industrial Hygienist. Copy to the Supervisor of Safety in Illinois.
227	Has a quotation regarding bulk sample of dust taken from the clutch box containing asbestos and in particular amosite and actinolite. Asbestos defined as "appreciable." Again urges workers to engage in precautions and to use substitute materials if possible.
229	Witness states that chrysotile was the main component in clutches. Doesn't know why amosite and actinolite were in the clutch material. No communication with BorgWarner about this.
330	Witness says the last date asbestos was used in manifold gaskets is sometime in the mid 1980's (1984-1986).
232	Witness says the company never warned about asbestos in gaskets.
242	International Harvester never undertook to conduct air monitoring tests for

	asbestos of the replacement and maintenance of brakes, clutches, gaskets and machinery.
246	Only 3 clutch suppliers of which the witness is aware. Borg, Dana and Rockford. Defense counsel asks whether replacement brake shoes in the linings would come from the International supply chain. Witness says that suppliers were independent businessmen and were able to stock the parts that moved for them.
250	He says this means that they had clutches and brakes that did not come from International.
251	Pennitier(sp?) has witness admit that there were International approved products, and witness argues by saying that is not necessarily what the dealers stocked.
252	Witness admits that the International documents suggest replacing with International Harvester parts.