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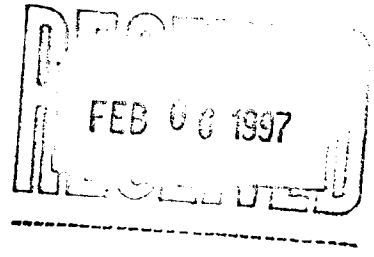
IN THE CIRCUIT COURT OF JACKSON COUNTY
STATE OF MISSISSIPPI

IN RE:
ASBESTOS PERSONAL INJURY CASES ABRAMS NOS.

88-5422(2), 89-5088(2), 89-5121(2), 90-5247(2), 88-5420(2), 89-5252(2), 90-5069(2), 90-5322(2), 89-5153(2), 90-5352(2), 89-5268(2), 90-5045(2), 90-5274(2), 88-5181(2), 91-5187(2), 91-5098(2), 91-5000(2), 90-5387(2), 91-5119(2), 90-5369(2), 91-5135(2), AND 91-5178(2).



DEPOSITION OF

DR. JOHN G. WELLS

April 13, 1993

10:00 a.m.

100 Wagon Yard Plaza
Carrollton, Georgia

Danette L. Holbrook, CCR-B-1355

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DR. JOHN G. WELLS,

having been first duly sworn, was examined and testified as follows:

CROSS-EXAMINATION

BY MR. MCCONNELL:

Q. Dr. Wells, could you state your full name for the record.

A. John G. Wells.

Q. And home address, sir?

A. 6 Woodland Trail, Newnan, Georgia.

Q. Newnan, Georgia?

A. Newnan, Georgia.

Q. How about your business address, if you still maintain one?

A. I'm retired, but I maintain an office in my former business office, that is 41 Jefferson Street.

Q. In Newnan, Georgia?

A. In Newnan, Georgia.

Q. Your date of birth, sir?

A. 29 May, 1921.

Q. Have you received a copy, Dr. Wells, of the deposition notice with the attachment requesting that you bring certain material with you?

A. I did yesterday afternoon.

Q. You received it yesterday afternoon?

A. (Witness nods head affirmatively.)

Q. And in response to that notice, did you bring certain materials with you?

A. I brought the material you see before you.

MR. TISINGER: One thing we didn't bring and we're not going to bring is these patient records. I hope that didn't sound hostile. That's just a privacy thing that I don't feel like we can breach.

MR. MCCONNELL: And there's no need us getting in a fuss on this record about it. We may bring an appropriate motion if need be after we review that which wasn't produced, but I understand your position. And I just didn't want my silence to be considered as acquiescence in that matter.

Q. (By Mr. McConnell) Doctor, can you categorize for us what you did bring with you in some sort of general sense, what you got to look

for, and what did you bring.

A. I have several notebooks, one of which contains various correspondences which I received or sent from 1956 through sometime in the '80s.

MR. MCCONNELL: Why don't we -- while we're going to discuss that notebook for a minute, why don't we, for the record, have that marked as Plaintiff's Exhibit 1.

(Document was marked for identification as Plaintiff's Exhibit 1.)

A. I have another notebook which contains a deposition that I gave in 1983.

Q. We will have that marked as Plaintiff's Exhibit 2, and that's in the case of Lois Hurtt?

A. That is correct.

(Document was marked for identification as Plaintiff's Exhibit 2.)

A. The third notebook has certain information relating to dust counts as obtained historically and at the U.S. Rubber Company plant in Hogansville.

MR. MCCONNELL: We will have

that marked as Plaintiff's Exhibit 3.

(Document was marked for identification as Plaintiff's Exhibit 3.)

A. Another notebook that simply relates to certain documents or reprints that I have or got in asbestos dust.

MR. MCCONNELL: That's Plaintiff's Exhibit 4, and that's contained in a white notebook.

(Document was marked for identification as Plaintiff's Exhibit 4.)

A. Another notebook containing certain letters from Mr. Forman and the service for bringing documents to this deposition.

MR. MCCONNELL: We will have that marked as Plaintiff's Exhibit 5.

(Document was marked for identification as Plaintiff's Exhibit 5.)

A. Another notebook containing certain reprints on asbestosis and a case presentation which I had regarding the chronic -- regarding chronic diffuse interstitial fibrosis of the lungs.

MR. MCCONNELL: I will have that marked Plaintiff's Exhibit 6.

(Document was marked for identification as Plaintiff's Exhibit 6.)

A. There's a book, the Proceedings of the Biological Effects of Asbestos which was held in 1964 in New York.

Q. (By Mr. McConnell) That's your original copy?

A. That's my original copy.

Q. You received that at the conference -- shortly after the conference?

A. Shortly afterwards, yes.

Q. We certainly don't need to make a copy of that. If you give me one second to just leaf through it for a minute.

Doctor, if you'd help me here, it may speed it up. Do you know what page your comments are contained on?

MR. FORMAN: 335 through 337.

MR. MCCONNELL: If we could just have marked as Plaintiff's Exhibit 7 pages 335 through 337 of the book.

MR. TISINGER: Would it satisfy you to let us make a copy of that for you and then put the sticker on that?

MR. MCCONNELL: Absolutely.

MR. TISINGER: And I'm going to refrain from using the next number. Are we going to put a number on -- that's already 1, okay.

MR. MCCONNELL: So the Xerox of those three pages would be Plaintiff's Exhibit 7, 335, 336, and 337; and for the record, we will show that Dr. Wells produced his entire original 1964 Annals.

A. There are two window shades which contain a great deal of evidence regarding patient workers at the U.S. Rubber company.

Q. (By Mr. McConnell) You are going to have to explain that to me.

MR. TISINGER: See those things, you are not going to be able -- I don't know what you are going --

MR. FORMAN: Those are just demonstrative. You asked for that. We don't anticipate offering these into evidence, but we may use them for demonstrative purposes.

(A discussion ensued off the

record.)

Q. (By Mr. McConnell) Doctor, we're looking at two window shades with a graph appearance. It appears on the one that we're looking at there are about 135 names on the left-hand side followed by what would appear to be their age, their race, their sex; followed by a column with their job classification; followed by a column -- by a number of columns with numbers.

MR. FORMAN: That's the best way to do it.

Q. (By Mr. McConnell) Does that best describe what we're looking at?

A. That basically describes each worker-patient at the time this was done -- which I'm not absolutely sure -- between 1963 and 1967; and further describes the clinical symptoms which they expressed to me; the objective signs which I discerned; and certain laboratory information, basically respiratory physiology information that I obtained on them.

Q. What was the purpose of putting this graph together at that time?

A. The purpose was to serve as a collection point, as it were, to -- from which I

could derive information.

Q. Epidemiological type of information?

A. Basically for me it was information that I could use to see it more as a picture rather than individuals as such.

Q. These weren't in your primary patient treatment records, were they?

A. No.

Q. This is an extrapolation from your records and your --

A. This is the extrapolation of what I considered to be the pertinent information on each worker-patient.

Q. And the purpose of doing this was so that you could look at the worker population as a whole instead of from --

A. The purpose of doing this -- really that's probably correct, looking at it as a whole; and also it was -- it was set up so that -- I had ideas at that time of writing a paper on it, and it was to serve as a work source you might say.

Q. Now, you have individual medical records on each of these 135 people or thereabouts whose names appear on this window shade?

A. Yes, I do.

Q. And this was done sometime after 1963?

A. I believe it was.

Q. And there's a second window shade that you brought with you?

A. It has basically work on lung function studies.

Q. For these same 135 people?

A. No. Other people, and some of them are probably the same. I haven't looked at these in years really.

Q. This really was a window shade?

A. Yeah. That's the way I could --

Q. Very ingenious.

A. -- to have something which to tabulate and roll it up and bring it down.

Q. Okay. So we're looking at a second window shade, Dr. Wells, that again contains patients' names on the left-hand side; and then it must be 50-odd columns with numbers to the right of the names; is that correct?

A. That is correct.

Q. And this was a reporting of lung functions?

A. Lung functions.

Q. Did this window shade that we're looking at come after your compilation on the Shade 1 or were they contemporaneous, if you recall?

A. I think they were done more or less contemporaneous, but I can't tell you specifically and exactly.

Q. But sometime after 1963?

A. That is correct.

Q. Or thereabouts.

MR. MCCONNELL: I don't know what to do with these. I've never been given a window shade at a deposition before. Well, why don't we mark the first one as Plaintiff's Exhibit 8 and mark the second one as Plaintiff's Exhibit 9; and why don't we -- if it's agreeable with all counsel -- give them to the custody of Dr. Wells -- keep them in the custody of Dr. Wells should we need to look at them at some future time.

(Documents were marked for identification as Plaintiff's Exhibit Nos. 7, 8,

and 9.)

A. And the last exhibit --

Q. (By Mr. McConnell) Why don't we hold on one second.

MR. TISINGER: Let me say I hope I've got these stickers on the right ones. I'll check in just a minute. Let me see.

MR. MCCONNELL: I think it will be pretty obvious to us. The one with the 135 names should be the lower number, 8.

MR. TISINGER: It's 8.

MR. MCCONNELL: And then the second one would be 9.

Q. (By Mr. McConnell) Dr. Wells, you also brought with you various loose papers?

A. Uh-huh.

Q. Can you describe that somehow?

A. These are basically copies of documents which Mr. Forman either mailed to me or brought to me in the course of asking questions about what went on.

MR. MCCONNELL: Why don't we rubber band that stack and we will call

that Plaintiff's Exhibit 10.

MR. FORMAN: And some of them, Jack, may have come from these other notebooks as well. It's all kind of mixed together.

A. There's quite a bit of duplication in that stack.

MR. MCCONNELL: I've picked up on some of that already, sure.

(Document was marked for identification as Plaintiff's Exhibit 10.)

MR. MCCONNELL: I think the 1984 TLV from the ACGIH was the top piece on the exhibit, so we will put it on that. And just for the record, the stack is about 4 inches high.

A. And the last thing I brought is I guess really for historical interest is the Midget Impinger that was used at Hogansville to make all the dust counts down through the years, from 1942 to 1972.

Q. We will tag the Midget Impinger as Plaintiff's Exhibit 11; and again if it's agreeable with all counsel, just give that to your custody to keep and hold.

A. I would rather have it in my custody, too.

(Document was marked for identification as Plaintiff's Exhibit 11.)

Q. Now, out of historic curiosity, can you show me how this works?

A. Yes, sir, I can.

Q. First of all, let me ask you: Doctor, did you purchase this yourself?

A. No.

Q. Who purchased this?

A. Uniroyal, U.S. Rubber Company did.

Q. Could we, for the sake of the record, could we refer -- because I will have the same problem -- could we refer to the defendant as Uniroyal, realizing that during your period -- a good portion of your time it was known as U.S. Rubber; but when we say Uniroyal --

A. That would be a whole lot simpler.

Q. And for me, too, if that's agreeable with counsel.

MR. FORMAN: Okay.

MR. MCCONNELL: Thank you.

A. All right. This is a device that operated on suction.

MR. TISINGER: Please don't find any asbestos in my office.

A. I don't think there's any asbestos here. And the operator simply went around each station, each worker -- and I never did it myself -- and held this with a little sampling device on the end.

Q. (By Mr. McConnell) End of the rubber tube?

A. At the end of the rubber tubing; and as the worker worked around his loom or whatever he was working on, the sampler walked with him, followed him, lock stepped with him; and moved this thing to create a 10 millimeter mercury of vacuum. And they did it for several minutes and took this collection bottle that was appended to this to the counting room, did certain things with it, put it under the microscope, and counted the dust.

Q. Now, you weren't involved in that process at all, were you?

A. I was not.

Q. How is it that you have possession of the Midget Impinger?

A. I think it came into my possession

simply because in 1972 they had no further use for it and somebody asked me if I wanted it, and I said I sure would like it.

Q. Someone from Uniroyal?

A. Yes. You can see I'm not totally familiar with the use of this thing. It takes time to work it.

Q. I'm impressed so far.

A. But this little thing has quite a history to it.

Q. Now, how many Midget Impingers, do you know, prior to 1972 did Uniroyal own for its Hogansville plant?

A. To my knowledge this is the only one.

Q. There was one.

A. The dust was counted using other Midget Impingers which were supplied by the safety department of Uniroyal operating out of New York, and the Georgia Department of Public Health also came down and checked; and I presume -- I don't know this for a fact -- but I presume they used their own Midget Impinger and counting device and microscope; but as far as the Uniroyal operation was concerned, that is the one that was used for

those 30 years.

Q. In the 1940s and '50s and into the '60s, was the Midget Impinger that we've marked as Exhibit 11 state of the art for dust collection?

A. Yes, it was. It was not only state of the art for Uniroyal but for the entire United States.

Q. Okay. Doctor, let me ask you a few background questions. You have had your deposition taken before in an asbestos related case?

A. Once ten years ago.

Q. Okay. And that's in the Lois Hurtt case?

A. That is correct.

Q. And that's the deposition transcript that you provided to us?

A. That is right.

Q. Was there ever a time that you testified at a trial or a hearing other than that deposition with regard to Lois Hurtt?

A. No, sir.

Q. Have you ever testified in any case involving asbestos in any regard at a deposition,

at a hearing, or at trial other than the Lois Hurtt deposition in 1983?

A. Not to my knowledge. I did talk to various attorneys from various places in the early 1980s. I kept no record of those talks.

MR. TISINGER: But, Doctor, I think he's asking you about actual official proceedings.

A. No, okay.

Q. (By Mr. McConnell) I will be glad to ask you now about the attorneys you spoke to.

A. But as I say, I don't think it ever proceeded any further than that.

Q. Were some of these attorneys that you saw in the early 1980s from Uniroyal?

A. Were some from Uniroyal?

Q. Yes, sir, or representing Uniroyal?

A. With the exception of Gail Sanders, who represented Uniroyal and worked in New York who came down at or around that time, all of the other attorneys were plaintiffs' attorneys.

Q. Do you remember any of their names?

A. No, sir, I don't.

Q. Do you remember what they discussed with you?

A. They were looking for information regarding specific patients. I think they were on fact-finding missions actually.

Q. When was the first time, sir, that you were contacted by any attorney representing Uniroyal in the case that brings us together today?

A. In the case of what?

Q. That brings us here today, the Jackson County, Mississippi case.

A. I think Mr. Forman contacted me sometime in November 1992.

Q. The first letter in a binder that you have marked as -- that we've had marked as Exhibit 5, there's a November '92 letter from Mr. Forman. Would that be at or about the time that you were first contacted by someone representing Uniroyal in the Jackson County, Mississippi case?

A. That is correct. Mr. Forman telephoned me first, and then followed with this letter of the 20th of November.

Q. What did he tell you or ask of you in November of '92 with regard to the Jackson County cases?

A. He introduced himself by

telephone. He said that he was representing Uniroyal in a case that had originated in Pascagoula, Mississippi. He asked if I would be willing to discuss with him the information that I had available regarding my participation in the Uniroyal work. I said yes.

Q. And he then came to visit with you?

A. Then he came to visit.

Q. On how many occasions?

A. I think he's been there six or seven times. I'd say six or seven times.

Q. Did there come a time when he asked you whether you would be willing to testify on behalf of Uniroyal in the Pascagoula cases?

A. I believe there was. I don't recall a specific request, but I'm sure that it was made.

Q. What did he ask you to testify about?

A. The truth as I knew it.

Q. About what?

A. About the Uniroyal -- basically about my experience at Uniroyal.

Q. And did you agree to come to Pascagoula or Jackson County, Mississippi to

testify live at trial?

A. I didn't really until he told me that I would probably. I thought it was only the deposition. But he said you would probably be asked to come to the trial. I said I would probably come, subject to paying my airfare.

Q. I assume he agreed to pay your airfare?

A. I assume he did.

MR. FORMAN: Maybe a bus.

(A discussion ensued off the record.)

Q. (By Mr. McConnell) Doctor, did he tell you who the plaintiffs were that you would be testifying against if you came to Pascagoula?

A. No.

MR. FORMAN: Excuse me. I object for the record, testifying against someone. I'm sorry if I interrupted you.

MR. TISINGER: That was just the same comment, just the form of the question.

A. He did not tell me who the plaintiffs were.

Q. (By Mr. McConnell) Do you know how many plaintiffs there are?

A. I have no idea.

Q. Do you know where they worked?

A. I have an idea. I think I asked him a question that they represented workers of the Pascagoula Shipyard. I think I recall his saying something about Litton Industries in the first conversation I had with him; but it was relating, as I understood it, to shipyard work at Pascagoula Shipyard during World War II.

Q. You don't know the name of any of the plaintiffs?

A. I have no idea.

Q. Do you know the names of any of the other defendants besides Uniroyal?

A. No, sir. I have not asked, and that information was not given to me.

Q. Let's get a little background. I've reviewed your deposition given in the Lois Hurtt case, so maybe we can move through this rather quickly.

You graduated from Duke with a Bachelor of Science in chemistry?

A. That is correct.

Q. You attended John Hopkins Medical School?

A. For the record, that's Johns.

Q. Thank you. Someone who spent last year in Baltimore, I should know that.

You graduated from the Johns Hopkins Medical School?

A. Yes, sir.

Q. What year was that, sir?

A. 1950.

Q. Did you do a residency or internship after the Johns Hopkins Medical School?

A. I did a year of internship and a first year of assistant residency in internal medicine.

Q. Where did you do that?

A. At Barnes Hospital in Saint Louis at Washington University. And I did a senior assistant residency in medicine and became chief resident of medicine for two years at Vanderbilt University Medical School in Nashville, Tennessee.

Q. What year did you complete your residency?

A. 1954.

Q. Dr. Wells, have you ever visited

the Saranac Lake Laboratories?

A. I never have. I know people who have spent time there, and I knew something about Saranac; but I've never been there.

Q. Tell me who you knew spent time there.

A. A man named Dr. Ben Branson who preceded me as resident at Vanderbilt and who subsequently became a resident -- a professor in medicine at the University of Alabama, Birmingham.

Q. Have you ever discussed testimony in asbestos litigation with Dr. Branson?

A. No, I have not.

Q. Did you know Dr. Branson has testified in the past in asbestos litigation?

A. No, I didn't.

Q. You've never visited Saranac Lake or done any work on behalf of --

A. Never have.

Q. Where did life bring you after 1954?

A. To Newnan, Georgia.

Q. How did that happen?

A. I suppose I followed a great circle route and came from Baltimore to St. Louis to

Nashville to Newnan via friends. I was looking to practice. I grew up in a big city, as it were, in Baltimore. I was looking to practice in a small community.

Q. And friends told you about an opportunity in Newnan?

A. That is correct.

Q. And what did you do once you first came to Newnan in 1954, hang a shingle and open up shop?

A. My wife and I agreed on entering the city limits that this looked like the town that we wanted to live in; and we had no reason to think otherwise as we met people, and I think we took a vacation; and I negotiated for space and opened my practice in July 1954.

Q. And you opened up as an internist, general practitioner?

A. No. As an internist.

Q. What states, Dr. Wells, do you hold a license to practice medicine in?

A. Georgia.

Q. Only Georgia?

A. I held a license to practice medicine in Maryland and Georgia in 1954. As time

went by, there was no reason to keep that privilege for any state except Georgia.

Q. Are you board certified in internal medicine?

A. I am in internal medicine.

Q. When did you receive your board certification?

A. 1968.

Q. Is that the only certification that you hold is in internal medicine?

A. That is correct.

Q. You are not a radiologist?

A. No, sir.

Q. You are not an industrial hygienist?

A. No, sir.

Q. You have no specific training, formal training in asbestos related disease?

A. No specific formal training except what I had from Dr. Eugene Pendergrass who was the professor of radiology at the University of Pennsylvania on the interpretation of x-rays of asbestotic patients.

Q. And when did that --

A. That occurred 1956 or -- late 1956

or '7 or early 1957. I'm not sure just when. It was at the very outset of the work that I undertook at Uniroyal

(A break was taken.)

Q. (By Mr. McConnell) Doctor, I'm going to show you what's marked for the trial as Plaintiff's Exhibit 3859. It's on United States Rubber stationary. In fact, we found a copy that you turned over to us today.

I ask you if you've ever seen that document before? It's dated July 25th, 1959.

A. I believe I have.

Q. And you recognize that as United States Rubber stationary from the Hogansville, Georgia plant at that time?

A. Uh-huh.

Q. Why don't you describe what that three page document is as you understand it.

A. I'll have to look at it and read it again. This is a letter from Mr. A. C. Link that I understood was delivered to each Asbeston employee at his home.

MR. MCCONNELL: Just so to record's clear, Asbeston is cap A-s-b-e-s-t-o-n.

A. That was the patented United States Rubber Company for their asbestos operation, and it was a name of a mill in Hogansville that produced asbestos textiles.

Q. (By Mr. McConnell) So this was, as you understand it, delivered to the Asbeston employees in July of 1959 individually to their homes?

A. That is correct; to each Asbeston employee. And in it Mr. Link went on to say that in order to answer certain questions that had arisen regarding asbestosis and the Uniroyal plant operation and that had arisen in the minds of the workers, their families, and the community he was going to meet with them. These meetings -- I don't know whether he said I would be present or not, but he said he would be and certain management personnel -- and I think I was there at just about all of them, if not all of them -- in small groups, explain to them what -- in small groups period.

He went on to say what Uniroyal had done since the inception of the plant in 1942 to safeguard their health, to recognize that there was a dust hazard, to state that they had been

undertaking means of controlling that dust hazard; the dust hazard being something that they knew was there but they did not know how to define it nor did anybody else at the time.

Q. Until you came along?

A. Pardon me?

Q. I said until you came along?

A. I helped define it.

Q. Sure. Well, I don't mean to interrupt you; and we're going to get into that in some detail as we go along. But where I am right now, it does, in fact, refer to you -- and this was what I want to ask you -- in this letter to the Asbeston employees it says that you are outstanding -- and I don't challenge that in the least right now -- it says that you are a chest radiologist. That's not correct, is it?

A. I don't think that that is literally correct.

Q. You are not board certified --

A. I'm not board certified. I believe that he probably said that on the basis of my instruction and indoctrination from Dr. Pendergrass and from what he understood of my overall background.

Q. But you would not have described yourself in 1959 as a chest radiologist, would you?

A. I would not, no.

Q. Doctor, let me turn for a minute to some general medical issues.

A. Do you want this back?

Q. It doesn't matter. Before we get off that because I'm going to forget to ask: What we marked as Plaintiff's Exhibit 1, your correspondence, what exactly is that correspondence of? What caused you to group this series of papers together? Is this everything you received from Uniroyal or sent Uniroyal, is this what makes up that binder?

A. Basically I'm a collector.

Q. I can tell.

A. My wife accuses me of never throwing anything away. And I suppose I've got just about everything somewhere that ever had been done there. This was an effort to put it in one place, the communications to and from me and various other people in an effort to put it chronology order so that I can refer to it.

Q. And you did this contemporaneous

with receiving or sending out a particular document?

A. Correct.

Q. And this isn't something you compiled for this litigation?

A. No, it is not.

(A discussion ensued off the record.)

Q. (By Mr. McConnell) Dr. Wells, do you agree that the clinical course of a person suffering from asbestosis is insidious and it's marked by a slowly progressive loss of strength, pep, and energy and sense of well-being?

MR. FORMAN: For the record, I object to questions of Dr. Wells about current clinical issues. We are not offering him in that area for this case; but you can answer it if you choose to do that, Dr. Wells.

A. Did I write that?

Q. (By Mr. McConnell) Yes, sir.

A. It sounded familiar.

Q. Do you agree with that?

A. Yes, I do.

Q. Do you still agree with that today?

A. Let me say this please, sir: My intermittent, call it that, association with asbestosis has declined over the last ten years. I have no opinions regarding it other than those I formed during the time I was actively involved in the work. I'm not aware -- I have not followed the literature in the last ten years closely. I'm not aware of any basically new information.

Q. When you were practicing in Newnan, Georgia and seeing Uniroyal employees on a regular basis, you described asbestosis as an insidious disease?

A. It is.

Q. And that it has a slowly progressive loss of strength for the worker and their pep and their energy?

A. That was part of the subjective complaints the workers basically gave.

Q. In 1954, Dr. Lonza who came to the Hogansville plant who issued a report as I understand you've reviewed -- and we'll talk about that -- said that the workers were suffering from very serious anxiety concerning asbestosis.

Did you also observe that?

A. To my knowledge, the first patients

operated full blast, 24 hours a day, seven days a week doing government work.

Asbestos was a declared essential material. It was under the -- as I understood and understand, it was under the authority of the war production board.

Q. Doctor, could I interrupt you just for a second? You were not -- you did not come to Uniroyal until 19 --

A. Not until 1956, but I'm trying to explain the background as I understand it to the question that you addressed to me about the anxiety.

Q. But you have no independent knowledge about Uniroyal and who required what in that plant?

A. Only through my reading --

Q. Okay.

A. -- and what evidence I recall, although not being able to state specific conversations with the people who were there.

Q. Okay.

A. Three basic people, being Mr. Link and Mr. Austin and Mr. Alexander. But at any rate, they were exposed to fairly high dust in the

war years; and I put in to it that they got the asbestos to work; and they were told what to do with it, and they weren't given much material to apply the engineering that they wanted to apply.

Q. Let me ask you this: From your reading and your knowledge of that period, do you know whether the workers in the 1940s and 1950s before you got there were ever told of the dangers of asbestos as Uniroyal knew it?

A. I cannot give you a specific conversation or a specific document, but I believe that the workers understood that they were working in a potentially dangerous atmosphere.

Q. What makes you think that?

A. I believe that the patients -- the workers -- the worker-patients thought that the company was attempting through dust control to take care of them. So that when in 1953 the first two patients were diagnosed as having asbestosis, it came as a shock and surprise and a source of concern.

Q. Again, you weren't there?

A. I was not there.

Q. And you had no -- you have no independent knowledge of those --

A. I have no independent knowledge except the physician of one of the patients, Dura Nell Todd, was a friend of mine and a particular -- and I suppose a graduate of Johns Hopkins with whom I had some contact.

Q. Which of the Todds?

A. Dura Nell Todd. I talked subsequently -- in 1956 I had occasion to talk with Dr. Neely. His name was Levron Neely. I had occasion to talk with him and obtain information from him about Dura Nell Todd and even obtained a copy of the postmortem examination that was done on her.

Because there was a level of anxiety that had arisen and was apparently detected by Dr. Lanza's group, the company undertook to make further consultations. Actually Lanza's group in 1954 was an effort -- I think he came after Dura Nell Todd was diagnosed and after -- who was the other one, Mildred Yates? There was another one that was diagnosed at that time.

The company -- let me regress a minute. During the '40s historically they had -- and I cannot tell you the specific time sequence except to say during the '40s they had followed

the advice of all their engineers who attempted to create an atmosphere of dust control. They followed the advice of the safety executive, Mr. Frederick Sands, Mr. Fred Sands of New York, who also came down and looked at them. They followed the advice of the Georgia Public Health section that was involved in industrial processes. They even had the Georgia Public Health people -- whom I tried to track down in 1983, the department and the people involved. And by 1983, I was told that the original department involved with Uniroyal in the 1940s was defunct.

Q. Why did you try and track them down?

A. I was trying to get some information on what the Georgia Department of Public Health required as a minimal allowable -- maximum allowable concentration, the 5 million particles per cubic foot year; and I was trying to get some documentation on that from Georgia. I knew then what had been recommended nationally, but I wanted to get the Georgia experience; and I could not run it down because people who were working were no longer around.

At any rate, they had Georgia

Public Health people reading x-rays from time "x" through 1948. There was a great level of dissatisfaction, as I understand it, with their reading because they simply didn't get the reports back in time or fashion.

So in 1948 they had employed a Dr. Grady who worked in LaGrange and had been the chief of radiology at a major military hospital in Washington. I can't think of the name of it. Anybody recall that name?

MR. FORMAN: I'm sorry?

THE WITNESS: Do you know the name of the place Dr. Grady came from up in Washington?

MR. FORMAN: I think it's in the records. I think it's Walter Reed. I don't remember.

A. Walter Reed. They employed him to read x-rays, and he did so from 1948 to 1956 when I came on board. They also contacted Dr. Eugene Pendergrass who was professor of radiology at the University of Pennsylvania and well-known and recognized and accepted as an expert and authority on the radiographic interpretation of the pneumoconiosis and including asbestosis. And his

apparent job description at that time was to back up and give his interpretation of any x-rays that Dr. Grady felt uncertain about, and he did so on numerous occasions.

In 1950, they had the -- Uniroyal had the Institute of Industrial Hygiene from Pittsburgh come down and make further recommendations of dust control. There were no specific, as I recall the documents, recommendations regarding medical supervision; but there were many recommendations regarding dust control.

Q. Doctor, let me ask you: At the time when you're actively involved with Uniroyal, what did you know about the Industrial Hygiene Foundation and its makeup and purpose, if anything?

A. In the beginning, I really didn't know a great deal about it. It was somewhere along the line my understanding of the Industrial Hygiene Foundation was contributed to or participated in by several different groups or industries, as it were, pooled -- this is my thinking or understanding of it -- as it were, pool the resources to form this thing. And their

basic job was to look into industrial hygiene.

Q. Had you ever heard it referred to as a creature of industry?

A. No, I haven't.

Q. Nobody told you that at the time?

A. No. I have never heard it referred to nor have I ever seen anything in print.

Q. I don't have it with me, but maybe some day I will get a chance to show you.

A. Dr. Paul Gross I think was one of the prominent investigators and has worked there and I think several other places; but he's done a great deal of laboratory work investigating exposure at the workplace. It seemed like -- to me, it seemed to be a legitimate place.

Q. In fact, you referred to it once as an independent agency, didn't you, in your report?

A. I cannot specifically answer your question. If you can show it to me, I can answer you.

Q. You said that checks by independent agencies, such as the state of Georgia Department of Health, the Industrial Hygiene Foundation, and the New York Office of U.S. Rubber Company -- and I will show you Page 1 of Plaintiff's Exhibit

6669, 1957-58 report.

A. That was my impression at the time.

Q. No one at Uniroyal told you anything different than that?

A. I had no feeling or thought that Uniroyal had approached them with anything but the desire for better dust control.

Q. And they never gave you access to any of the internal Industrial Hygiene Foundation material?

A. No, sir.

Q. The question I think we got off on the tangent on was did you --

A. What I was trying to do, Mr. McConnell, was lead up to 1953 again, if you will let me just ramble. I will try not to incriminate myself and also give you what you are asking for.

They got these people the letter from them, which I -- and in part dated sometime later by the people who came back said that they had, in fact, put the controls into being; and I think the Industrial Hygiene Foundation said -- it may have been the Lanza's group -- that their dust control was at the forefront of the -- was as good as any in the industry.

Q. Let me just -- while you mentioned Dr. Lanza's group, let me ask you: At the time what information did Uniroyal give you about Dr. Lanza's background, if any?

A. I have a document, a reprint, that came into my possession at a time that I could not quote. I don't know. But it shows work that Lanza had done in 1935 at the request of certain asbestos textile organizations. And all Dr. Lanza said, Lanza, McConnell, and somebody else had said at that time --

Q. No relation.

A. -- had said in his reprint was that at the request of certain textile producing people, he had been asked to investigate the asbestosis problem in these mills. He did not. I don't know who the people were that asked him. It's not stated.

Q. Were you aware from the 1930s through the 19 -- late '40s or 1950s who Dr. Lanza was employed by?

A. It was my understanding from reading that reprint that he was employed by the Metropolitan Life Insurance Company.

Q. And were you given or were you told

by Uniroyal or anyone else at the time about Dr. Lanza's involvement in editing that 1935 report?

MR. FORMAN: Excuse me. For the record, I want to object to the form of the question. It's assuming Uniroyal may have had some knowledge about any editing. I don't know if that's been established or not.

A. I don't know.

Q. (By Mr. McConnell) Did they tell you -- did anyone at Uniroyal ever tell you about Dr. Lanza's involvement in editing the cancer work done at the Saranac Lab in the 1940s?

MR. FORMAN: Same objection.

A. No.

Q. (By Mr. McConnell) So what was your impression of Dr. Lanza in the 1950s when you began working at Uniroyal knowing that Dr. Lanza's group had come in a few years previous to your arrival there?

A. The New York -- let me look at the reference I have here, please.

Q. Sure. Feel free at any time, Doctor, to make use of the materials you brought

with you. All right.

A. He came in. He represented the Institute of Industrial Medicine of New York University, Bellevue Medical Center. Dr. Lanza at that point in time was an unknown man to me. However, I was aware of New York University. I was aware of the Bellevue Medical Center. They were first rate institutions; and coming from there immediately in my mind, Lanza is first rate, doing first rate work.

So that when this report of his came into my possession, I was perfectly willing to look at it with an eye -- with a feeling that I was regarding somebody who was authoritative on what he was writing.

Q. And no one at Uniroyal told you anything other than that?

A. I never had any pumping by them in that regard.

Q. When did the Lanza report from 1954 that is Plaintiff's Exhibit 3844 come into your possession?

A. Which one is that?

Q. The one that's in front of you.

MR. FORMAN: He's just giving

you his exhibit number.

A. I think it came into my possession sometime early on; and by early on, I mean when I started my work. And that was in late 1956 or early 1957.

Q. (By Mr. McConnell) At the time you first started doing work for Uniroyal, late 1956, early 1957, you had an ongoing private practice in Newnan, Georgia?

A. That is correct.

Q. And there came -- you have previously testified during that period that about 25 percent of your professional time was spent with Uniroyal work and about 75 percent of your time was spent in private practice. Is that still your recollection?

A. That was the impression asked of me ten years ago and that was the top of my head response.

Q. What is the majority of your work?

A. The majority of my work was related to my clinical practice.

Q. Your private practice?

A. Private practice.

Q. Tell me about the first contact you

had from someone and who that was at Uniroyal.

A. In 1956 a Mr. Robert Todd came to my office for a complete examination, and he complained fundamentally of peptic type indigestion. And in the course of working him up, I discovered that he had something going on in his lungs.

As I recall then, and as I tend to recall since, he pretty steadfastly denied any symptoms relating to his lungs; but for some reason, I had a chest x-ray done. And I discovered this activity going on in his lungs. And the lack of any knowledge to the contrary, I suspected that it was due to asbestosis disease.

At that point in time, I knew virtually nothing about asbestosis disease except that it was an occupationally induced injury or sickness.

Q. Where did you learn that, Dr. Wells, that it was -- that asbestosis was an occupationally induced disease?

A. I can't tell you.

Q. But as a general practitioner practicing in a town of less than 5,000 in Newnan, Georgia, you --

A. I'd like to say that --

Q. I'm sorry. As an internist -- my apologies -- practicing in a small town less than 5,000 people in Newnan, Georgia, you were aware --

A. Probably closer to 10,000.

Q. Closer to 10,000. You are not going to let me get the whole question out, are you?

MR. FORMAN: Just let him finish the whole question.

Q. (By Mr. McConnell) As an outstanding internist practicing in a small town in Georgia, Newnan, Georgia, you were aware in the early 1950s of a disease known as asbestosis, correct?

A. I think that I had heard of it.

Q. And you knew that it was caused by breathing in asbestos dust?

A. What I knew or didn't specifically know, I didn't give a lot of thought -- I don't recall giving any thought to it; but in the course of my indoctrination and training over the years of my training, that would become a cause of asbestosis disease.

Q. And that was throughout the 1940s

and early 1950s that training and indoctrination?

A. That's correct.

Q. I'm sorry. So I interrupted you. You did an x-ray on Mr. Todd and you suspected that the changes that you saw in the x-ray were due to asbestosis disease. What happened next?

A. It must be remembered that his wife had been diagnosed as having asbestosis disease in 1953; and in late 1956 was terminally ill. This of course was something very close to Mr. Todd.

Q. Did Mr. Todd tell you that?

A. Yes, he did, in the course -- that was something I learned in the course of a routine examination. I took not only the present illness, as it were; but the past history and the family history and everything else about him.

Q. You never treated prior to that time his wife?

A. I did not. I never treated prior to that time or subsequent to that time.

Q. Okay.

A. But I did get it.

Q. She also worked at the Uniroyal Hogansville plant?

A. Yes.

Q. Go ahead. I'm sorry, again I interrupted you.

A. Okay. With what I found and what I knew of his family situation, I wrote a letter to Uniroyal. I don't know right offhand now whether it was to the personnel director, Mr. Alexander or Mr. Link, the plant manager; but somebody in a responsible position recommending that Mr. Todd be removed from the asbestos dust atmosphere because I thought that he had asbestosis.

In the course of time, apparently many wheels were rutting. This was my initial impression, my initial contact in the course of time I was asked to come to Hogansville and speak and talk rather with Mr. Alexander and Mr. Link and Mr. Fort who was the assistant plant manager and perhaps Mr. Austin.

At that time I learned from them that they had a situation of concern on their part that they had had diagnosed two workers with asbestosis disease, that several others were under a cloud of suspicion; and they wanted me to think about that problem and to make recommendations to them that -- any recommendations that I might make regarding what they should do.

Q. You met with a handful of management people at the Hogansville plant?

A. Correct. I met with the leading management of the plant.

Q. And some of those people told you that they had two workers diagnosed with asbestosis disease and several others under a cloud of suspicion?

A. Yes. That's my recollection. If you have something to the contrary, I'd be glad to read it and amend what I said; but that's my recollection.

Q. I have something to the contrary but not to what you are testifying about. Let me show you -- I'm going to show you, Doctor, what's marked as Plaintiff's Exhibit 7192, and a copy of it appears to be in the material that Mr. Forman sent you that we've marked as Plaintiff's Exhibit 10.

And in that material is two pages. And let me ask you: Prior to meeting with the attorney for Uniroyal, had anyone at Uniroyal ever given you Plaintiff's Exhibit 7192 dated May 10th, 1946?

A. Until Mr. Forman showed that to me

sometime in the last few weeks, that's the first time I ever had any knowledge of it.

Q. You would agree with me that the information that's contained in Exhibit 7192 dated May 10th, 1946 --

A. This is what you are talking about?

Q. Yes, sir. Differs from the information that Uniroyal management told you personally, Dr. Wells, in your first meeting with them in 1956?

A. Yes, it does.

Q. And that's because the document 71 -- I don't mean to lean over you -- but that's because Document 7192 contains a list of 24 workers with first stage asbestosis and 34 workers essentially negative for asbestosis but showing -- and underline the word more -- fibrosis than last x-ray. You nodded your head?

A. What is the question?

Q. What I just reflected is what the Document 7192 reflects for 1946?

A. That's what it reflects.

Q. And the first time you saw that document was --

A. That's not necessarily truly, but that's what it reflects.

Q. The first time you saw that document was 19 --

A. '93.

Q. While we're into family relationship, let me ask you: Are you related to a Mr. Wells who is captioned on 7192?

A. No. I've never even met him.

Q. Do you know who Mr. Wells is or recollect that name from the time?

A. I asked. He had something to do with -- I don't really know that I remember the answer. He either was one of the plant engineers or one of the plant safety men.

Q. And the copy that you gave to us, Dr. Wells, of 71 -- Exhibit 7192 that Mr. Forman had given to you in 1993, there's some handwriting next to the name of Lewin, L-e-w-i-n, Green. Let me show you that, and ask you: First of all, sir, is that your handwriting?

A. That's my handwriting.

Q. When did you make that handwriting?

A. I did that very recently, 1993.

Q. Why did you do that?

A. I was trying to make a connection. First of all, I saw a Buddy Green as an asbestos worker-patient. And I was trying to make the connection with that man, and this is really a memo to myself to identify Lewin Green. That's all.

Q. Could you?

A. I knew his wife. His wife Nellie Pitts was my patient.

MR. TISINGER: Which Green?

Q. (By Mr. McConnell) Lewin Green No. 4 on that exhibit?

A. Yeah, No. 4 four. I knew many of Nellie Pitts' relatives. It was just basically something I put down when I was trying to identify him in my own mind.

Q. The name stuck out?

A. Yeah. But I never knew the man.

Q. Now, you made some notes about I think his date of death. Could you read what you wrote in that --

A. Died 1956 allegedly of asbestosis. Father of Lewis (Buddy) Green, husband of Nellie Pitts.

Q. Ms. Pitts, is that her maiden name,

Pitts; or did she subsequently marry?

A. That was her second husband's name.

Q. Now, how did you know that information, that he died in '56 from asbestosis? Did you look up -- did you look that up?

A. I think that, as I said, Nellie Pitts was a patient of mine; and I think I got her chart out and looked at it. And upon the information I got was that her husband died in 1956 allegedly of asbestosis disease.

Q. You wrote that in your medical record and you wrote that on the document that's before you?

A. I believe that's where the information comes from.

MR. MCCONNELL: I'd like that copy -- or actually it's already marked. Why don't we flag that particular copy and mark that -- we're removing three pages from Plaintiff's Exhibit 10, and we will mark that as Plaintiff's Exhibit 12.

(Document was marked for identification as Plaintiff's Exhibit 12.)

A. Well --

Q. While we're talking about it -- jumping ahead of where I wanted to be -- but do you recognize any of the other names of the 24 people who are listed here in 1946 with first stage asbestosis?

A. I recognize D. R. Burch.

Q. Tell me about Mr. Burch.

A. He was a private patient. I never saw him for Uniroyal.

Q. What do you know about his subsequent --

A. I would have to get his chart out to see. I don't recall whether or not he was an asbestosis patient. Essie V. Burch, I knew as Essie Burch who died of carcinoma of the breast. Lewin Green I did not know.

Q. Was Essie Burch a patient of yours?

A. Yes.

Q. Private?

A. Both private and Uniroyal worker-patient.

Q. Now, D. R. Burch, was he --

A. He was her husband.

Q. Was he an Asbeston employee?

A. He was, but not when I saw him. He

had retired, and I don't recall why.

Q. Okay. Now, how about Mr. Ralph Hornsby?

A. Ralph Hornsby was an Asbeston worker who was also a private patient.

Q. What do you know about --

A. Who as I recall -- and everything I say about these people I have got to say is what I recall, and I have not gotten any of their charts out or scarcely any of their charts out to review. I just simply haven't.

Q. I certainly understand that, Doctor; and I appreciate your best recollection today.

A. Ralph Hornsby I do not think had asbestosis disease. He had basically a variety of atherosclerotic vascular disease, multi- myocardial infarctions and so on.

Lucille Lundsford I never saw as an asbestos patient.

Q. Did you see her as a private patient?

A. I saw her as a private patient. I never could make up my own mind -- I did not make up my own mind during the time I saw her that she

had asbestosis because the x-ray revealed a pattern with which I was not familiar, having developed a type of pattern at Uniroyal.

Put that in another frame, I wrote somewhere that in my experience at Hogansville the advent of asbestosis followed a more or less normal maturation progression. Dr. John Knox had written and disagreed with that, but that was my experience; and Lucille Lundsford did not follow the pattern.

Q. That you saw in other Uniroyal employees?

A. Pardon me?

Q. She did not follow the pattern that you saw --

A. She did not follow the pattern that I had developed.

Q. From Uniroyal employees?

A. From Uniroyal.

Q. Do you know whether Ms. Lundsford, L-u-n-s-f-o-r-d, is still alive?

A. I don't know.

Q. I didn't ask you that. Do you know Alice Johnson, do you know whether Ms. Johnson is alive?

A. I don't know. I never knew her.
Q. And Ralph Hornsby?
A. He's dead.
Q. What did he die from, if you remember?
A. He died from -- I believe he died of a myocardial infarction, a heart attack.
Daner Mills, T. B. Neighbors, I did not know. Bessie Powers I'm not sure that I knew. I did know -- I did not know a Powers. I don't recall knowing a Powers with a first name Bessie.
Q. Okay.
A. Clyde Reynolds I knew. I don't recall whether or not he had asbestosis.
Q. How did you know Mr. Reynolds?
A. As a worker-patient.
Q. How many internists were there, by the way, Doctor, in Newnan in the late '50s, early '60s?
A. In the early '60s?
Q. If it changes, you can tell me when.
A. When I came, I had to educate certain people that I was not an internist wearing

a white suit.

MR. TISINGER: You are asking him that as an internal medicine specialist, aren't you? I mean board certified? You are using an internist meaning somebody trained in internal medicine as opposed to family practitioners?

Q. (By Mr. McConnell) Correct, yeah. How many internists?

A. I was the first internist. The second internist came -- Dr. Earnest Barron came in 1962 I think, and so by then there were two of us.

Q. Okay.

A. Now about ten.

Q. So Clyde Reynolds, did you see him as a private --

A. No. I saw him as a Uniroyal patient.

MR. FORMAN: Let me ask a question for clarification just to make sure we're on the same page.

When you say you do or do not know whether they had asbestosis, are

you talking about at a later time when you saw them and examined them?

THE WITNESS: No. I don't recall right now.

MR. FORMAN: I mean the time frame when you say I don't know, what time frame are you saying?

THE WITNESS: I see what you mean. What I'm saying is I don't recall without specific reference to charts whether or not I ever thought they had asbestosis.

Q. (By Mr. McConnell) You have no recollection?

A. I have no recollection.

Q. Fine, sure.

A. I would like to make a comment regarding some of these now or later on.

Q. Let's go through the list.

MR. TISINGER: Could we have a break just for a few minutes.

(A break was taken.)

Q. (By Mr. McConnell) Dr. Wells, one question I did forget to ask you when we were going through this: Have you ever published any

medical literature about asbestos related diseases?

A. I had hoped to, but I simply never got around to it.

Q. Now, you had made a note on Plaintiff's Exhibit 12 that Mr. Lewin Green died in 1956 allegedly from asbestosis. Did any of the management people at Uniroyal tell you when you first met with them that one of their employees had died from asbestosis?

A. No. I don't recall anybody telling me such a thing, and I don't know that this man died of it. I don't know for a fact that he died of it.

Q. Where did you get the information -- you will agree with me that Mr. Lewin Green is listed on this Uniroyal document as a first stage asbestotic?

A. That's what it says.

Q. Where did you get your note that he died from asbestosis?

A. I believe that as I told you, I believe I got it from the -- looking in her -- his first wife's -- or his wife's at the time chart. When I took the history, I asked about her family;

and I think that she said my husband died in 1956 and probably said I think he had asbestosis disease. That's the source of that information.

Q. And your notes say from Mrs. Green's records that she reported to you that her husband died in 1956 from asbestosis?

A. You are asking me where it all came from, and this is where I think it came from.

Q. We marked as --

A. If on review of my records I find it came from somewhere else, I would have to stand corrected; but that's what I think.

Q. That's fine. Plaintiff's Exhibit 6 is a binder that has a case presentation on diffuse interstitial fibrosis of the lung. Where did you make this case presentation?

A. Medical society probably.

Q. The Medical Society of Georgia?

A. Coweta County Medical Society. It might have been at the Fourth District Medical Society. I don't recall. It was years ago.

Q. So your local group of doctors, your local group of doctors you presented a case to report to them --

A. Yes.

Q. -- on interstitial fibrosis of the lung; and when was this, Doctor, do you remember?

A. I think the patient died in 1967. So I suspect it was at or around that time.

Q. Okay. We were reviewing the list 71 -- Plaintiff's Exhibit 12, in the trial Exhibit 7192, May 10th, 1946; and I think we stopped at Clyde Reynolds, No. 11.

Did you know Andrew Resser, Rosser?

A. I don't recall nor do I recall Houston Walker. James Wright, I might have known. Right now I just don't recall the name.

Q. Okay.

A. Jack Purgason, Robert Christian, I did not know.

Q. Okay.

A. Gordon Cook I did know.

Q. Tell me about Mr. Cook.

A. All right. Gordon Cook did develop asbestosis disease. I cannot specifically tell you when, but I can specifically and categorically tell you that in 1945 he did not have it.

Q. How do you know that?

A. Because I have an x-ray from 1945; and it doesn't show it, not even what I classified

as the earliest form of asbestosis.

Q. When is the last time that you looked at Mr. Cook's x-ray?

A. Within the month.

Q. Okay. What made you go back to look at it?

A. After I got this document.

Q. From Mr. Forman, the attorney for Uniroyal?

A. From Mr. Forman.

Q. Did he ask you to go back and check your records?

A. No, he didn't. I was curious. As a matter of fact, I have taken pictures of several series of x-rays in preparation perhaps to make a paper.

Q. And was Mr. Cook's one of them?

A. Mr. Cook was one of them.

Q. So Mr. Cook progressed from a clear, non-asbestotic lung to an x-ray where you could diagnose advanced asbestosis?

A. Sure.

Q. Over what period of time did that change occur?

A. I'd have to get his chart out and

look, but over a number of years.

Q. But you would agree that in Exhibit 7192 Mr. Cook is listed as first stage asbestosis as No. 17 on this document?

A. Come again.

Q. Mr. Cook is listed under the first stage asbestosis?

A. Yes. On Exhibit 12 he was listed as first stage asbestosis, and I would respectfully disagree.

Q. In parentheses after that one, it does say beginning first; isn't that right?

A. That's what it says.

Q. Okay.

A. But my x-ray doesn't show anything.

Q. As you read it?

A. As I read it.

Q. Somebody at Uniroyal clearly read it different?

MR. FORMAN: I object to the form.

A. Nobody at Uniroyal read it. It was my understanding that the public health doctors at the time these were done was doing the reading.

Q. (By Mr. McConnell) How do you know

that?

A. There is a document in here somewhere going over the -- where is that? It's a one or two page document that relates -- I can't find it immediately, but it relates to who was reading the x-rays; and it was the Georgia Department of Public Health.

Q. I failed to ask you before. Go back to the list. Above the date it says the word "dispensary." Was there a dispensary at the Hogansville plant?

A. There was a dispensary when I began work, and I assume that it had been there previously.

Q. Tell me about the dispensary as you knew it in the mid to late 1950s.

A. It was a small area run by the plant nurse where she took care of minor -- did minor first aid on the workers and referred them to the local physicians if they needed further work. I don't think she gave shots. I don't think she gave any more than an aspirin pill. She did give some medicine under the direction of their physicians, but basically it was just a first aid station.

Q. Could you turn to Page 2 of Exhibit 12 and ask you if you recognize the name of -- the signature at the bottom.

A. I do not know that signature.

Q. Okay.

A. I know who it is, though.

Q. Who is it?

A. And I found out who it is by asking -- by calling up a lady in Hogansville and asking her. She said that was Mr. Jim Guy's first wife. Mr. Jim Guy was the plant safety man.

Q. Who did you call to find that out?

A. The lady who succeeded her as plant nurse, Ms. Grace Hipp.

Q. Is Ms. Hipp -- where does Ms. Hipp live currently?

A. She's retired and living in Hogansville.

Q. Hogansville. How long was Ms. Hipp plant nurse?

A. I think she became plant nurse in 1947, somewhere at or around that time.

Q. Until when?

A. Until she retired sometime in the '80s.

Q. Did you ask Ms. Hipp if she had ever seen this 1946 document?

A. No, I did not.

Q. Did you tell her that this came into your possession?

A. I told her that I had a document in my possession signed by Charlie Mae Guy and asked her who Charlie Mae Guy was.

Q. You didn't tell her about the listing of the asbestotic?

A. No.

Q. Why don't we go back to the list and ask you about Mozelle Cook, if I'm pronouncing the name correctly.

A. Mozelle Cook is Gordon Cook's wife.

Q. Were there a lot of husband-wife teams?

A. Yes; lots of people. She is -- she's still living as far as I know. She not only was somebody whom I saw at Hogansville, but she became a private patient over the years. She had chronic bronchitis. To my knowledge, she never had asbestosis disease.

Q. Have you been given any explanation as to -- by anyone, and particularly Mr. Forman,

or anyone you've spoken to since this document first came into your possession as to how this list was compiled or who compiled this list?

A. It's a mystery to me. I have no knowledge whatsoever.

Q. Where is Mrs. Cook living currently?

A. In Hogansville.

Q. How far is Hogansville from Newnan?

A. About 19 miles.

Q. Okay. How about Clara Casper?

A. That's Cosper.

Q. Cosper?

A. Clara Cosper is a worker-patient whom I also have an x-ray dating back to 1945 of. She did not have asbestosis by my criteria at that time nor I believe did she ever.

Q. Is Ms. Cosper still alive?

A. I don't know.

Q. She's not still a private patient -- was she ever a private patient?

A. She never was.

Q. So you saw her just at the request of Uniroyal?

A. For Uniroyal.

Q. Okay. How about Lucy Daniel?

A. Lucy Daniel is dead. And I do not know what she died of, but she did have asbestosis. It is my recollection that she did not develop evidence of asbestosis until some time in the late '50s or '60s.

Q. That's according to your --

A. My criteria.

Q. Were you seeing Ms. Daniel as a --

A. No -- yeah, I think I was. I'm not sure.

Q. We went the whole gambit, didn't we?

A. Yeah. We covered the water fountain. I saw so many of these people, and it's been some years. I'm not totally clear.

MR. TISINGER: In fairness to all the parties -- and there are a lot of parties I understand to this case -- be careful not to speculate unless you are reasonably comfortable about it; and if you do speculate, make certain that you say that you are speculating.

THE WITNESS: Are you talking to me or him?

MR. TISINGER: You.

MR. MCCONNELL: He tried to talk to me but I wouldn't listen to him.

THE WITNESS: I tried to listen to him.

Q. (By Mr. McConnell) How about Mr. Hammett?

A. I don't know him.

Q. Okay. Or Ms. Hammett, E. D. Hammett.

A. I don't know the name.

Q. How about James Henson?

A. I recall seeing him. I cannot tell you anything about him.

Q. Preston Hornsby?

A. Preston Hornsby I saw for Uniroyal and also over the years as a private patient.

Q. Is he related to Ralph Hornsby?

A. His brother.

Q. Okay. Is Mr. Preston Hornsby still alive?

A. No, sir. He died of a stroke.

Q. How about Lois Jackson?

A. I knew a Jackson by another name. I don't know a Lois Jackson.

Q. How about -- we've now gone through the 24 names under first stage asbestosis. The next one is unclassified, and the name there is the name Lillie S. Walburn.

A. I don't know that person.

Q. Okay. Do you know -- you were deposed in the Lois Hurtt case. Do you know Mrs. Hurtts' maiden name?

A. No, I don't.

Q. You have no reason to disagree if I were to tell you that her maiden name was Jackson?

A. I have no reason to agree or disagree.

Q. You could review your records probably and find her maiden name?

A. I don't know that I could. I didn't normally ask married women what their maiden name was.

Q. You were ahead of your time, weren't you?

A. The second part of that -- and I've got to disagree with my attorneys' rules briefly -- I can't find Lois Hurtt's chart.

Q. You've gone back to look for it and just can't find it?

A. I've gone back to look for it.

Q. I don't remember from reading your deposition, did you have it in 1983 when you were deposed?

A. Sure did. May I say something else?

MR. TISINGER: Go ahead. I don't think I'm going to stop you.

MR. MCCONNELL: He's just a potted palm in the legal profession.

THE WITNESS: I apologize, but there's so much I do recall.

A. In that deposition there was something they referred to as an accordion folder which had a lot of information about Ms. Lois Hurtt; and at the end of that deposition, the information that I had brought to it was submitted for copying. The fact that I don't have it makes me wonder if I ever got it back.

Q. Okay.

A. The fact that I can't find it at any rate.

Q. Let me -- we will make a copy of this afterwards and show you a document and ask you -- forget the writing on it, but ask if you

can describe the form and ask you if that's something that's familiar to you.

MR. MCCONNELL: I will show it to Mr. Forman first.

MR. FORMAN: What's the question?

Q. (By Mr. McConnell) I asked you if you recognize that form.

A. I do not recognize it.

Q. Okay.

A. Lois Jackson is Lois Hurtt?

Q. I'd like for you to tell me that.

A. I don't know.

MR. TISINGER: That's been marked as an exhibit. Maybe you better not write on it.

MR. MCCONNELL: Yeah. You best not.

Q. (By Mr. McConnell) Let's just do this while we're at it. Do you mind if I come around there, Doctor?

A. No.

MR. MCCONNELL: We will have these both marked, Rick. We will mark this as Plaintiff's Exhibit 13.

Q. (By Mr. McConnell) Lois Jackson's name appears as the employee on an x-ray card, x-ray survey record; and her identification number is 258-10-1246; is that correct?

A. That's what it says.

Q. Okay. Let me show you what we will mark as Plaintiff's Exhibit 14.

MR. FORMAN: Can we just mark the whole folder?

MR. MCCONNELL: No; only because this is some of my -- I should have just pulled these. This is my work.

MR. FORMAN: Well, I would object to marking things out of context. I think we ought to mark the whole folder because there may be other documents in there that pertain to those; and it's obvious that these are records pertaining to it.

MR. MCCONNELL: Yeah. As long as I can go through it to make sure none of our notes are in there, sure. Let's mark this as 14; and then we will mark the whole compilation as 15. And 15

will be the material on Lois Jackson Hurtt.

(Documents were marked for identification as Plaintiff's Exhibit Nos. 13, 14, and 15.)

Q. (By Mr. McConnell) Do you recognize the document captioned engagement slip?

A. I do not.

Q. The name on that is Lois J. Hurtt, H-u-r-t-t.

A. I see that.

Q. And is that was your -- Mrs. Hurtt, Lois J. Hurtt, who later became your patient or was referred to you by Uniroyal?

A. No. She was seen almost exclusively for Uniroyal. I saw her on one occasion briefly on an office visit relating to something that had nothing to do with asbestosis.

Q. Mrs. Hurtt suffered from asbestosis when you examined her?

A. Not initially.

Q. At some point in time?

A. At some point in time, yes.

Q. And the number on the document that says Document 14, Lois J. Hurtt is 258-10-1246,

which is the same number as the x-ray card for Lois Jackson as shown on Plaintiff's Exhibit 13?

A. That's correct.

Q. Okay. I show you what's been marked as Exhibit 15 and ask you -- these are very bad reproductions -- but is that the Lois J. Hurtt that you knew in Xeroxed form?

A. I do not recognize her as anybody.

Q. Okay. Doctor, let's see if we can sort of quickly go through the 34 people who are named under the heading essentially negative for asbestosis but showing more -- and more is underlined -- fibrosis than the last x-ray; and my question on each will be: Do you know the person, and are they still alive, and did they suffer when you saw them from asbestosis?

A. The first four I don't recognize. Roy Cornwell I did see for Uniroyal, and he did develop asbestosis. I do not know when he developed it, I don't know. I think he is dead.

Numbers 6 and 7 are names that I do not recognize.

Q. Elmira Creppe and Homer Dodson.

A. That's correct. Roxie Evans, I think Roxie Evans is one of the first two who came

down with asbestosis. I never saw her for Uniroyal. I did see her as a private patient.

Q. I'm a little confused, Doctor. What do you mean was one of the first two who came down with asbestosis? That you examined?

A. No.

Q. That they told you about?

A. We referred earlier to two people who had been diagnosed as having asbestosis in 1953.

Q. That's what the management at Uniroyal told you during your first meeting with them?

A. I think so. I think Roxie Evans was one of them. I know Dura Nell Todd was the other.

Q. So they only told you about Dura Nell Todd and Roxie Evans when you first met with the Uniroyal officials in 1956?

A. I believe Roxie Evans was the second one.

Q. Okay. That's fine. Is Ms. Evans still alive?

A. No, she is not.

Q. Why don't we turn the page and

start at No. 9.

A. W. C. Fuller is a name I don't recognize. Will Gilley I did know. I don't recall whether he developed asbestosis or not.

Q. Do you know if he's alive?

A. I do not know. I don't think he is, but I don't know. He was an older man at the time. So I suspect he's not. Naomi Gray I did not know. Florence Green -- I knew several Greens, but I don't recollect that one.

Grady Higgins, Joe Hyatt, Moreland Kelley, Rufus Lowe I did not know. Cleey Montgomery I believe I saw for Uniroyal. I don't think that I thought she had asbestosis disease. I do not know if she is living.

If I say, Mr. McConnell, I don't think that anybody had it, that's subject to review of the records; but this is my recollection.

Q. That's fine, sir. Thank you. I appreciate that.

A. Erma Lee McDonald was seen by me at Uniroyal. She became a private patient, and she died of coronary thrombosis.

Q. When you say -- and I guess I

should have asked you this before, when you saw someone at the request of Uniroyal, did you see them at your private office or did you go to Hogansville?

A. No. Basically I saw them at Hogansville.

Q. Where did you work out of?

A. In the dispensary.

Q. That's fine. Go ahead. Did you maintain -- let me ask you: Did you maintain files on people that you saw for Uniroyal at your private office?

A. It was in the same file folder.

Q. As you would do a private patient?

A. Yes.

Q. Okay.

A. Vera McKeen, I don't recall that name. Clarence McCambry I don't recall. Frank Ragland I did see. I recall him. I think he had asbestosis. I don't know if he's living.

Trenton Raughton I don't recognize. Davis Reid I don't recognize. Annie Margaret Sanders I did see for Uniroyal. Whether or not she had it, I don't recall. I don't know if she's living.

Emma Ruth Shellnut I recall; and again, I don't recall whether she has asbestosis.

Q. Do you know if she's alive?

A. Nor if she's alive. Alfred Shierling, Etta Shierling, Mildred Sloman, Mattie Stevens, Clastelle Talley, Sally Ruth Thrash, Curtis Turner, and Mildred Stone I do not recall.

Dura Nell Todd I was introduced to by her husband. I did not see her as a patient. I'm trying to understand what this meant when I saw her. I would point out a question regarding the interpreter or the man who dictated these things, I presume would be the man who interpreted the x-rays.

Q. Let me ask you that: You don't know that?

A. Well, the man who -- it would have to be the report of who interpreted -- whoever interpreted the x-rays that was quoted here. Somebody, a doctor, I would assume had to say this patient had asbestosis.

Q. Okay.

A. I raise a question regarding the doctor's ability to interpret asbestosis by the x-ray inasmuch as he's saying in this second group

of 34 people that they were essentially negative for asbestosis but showing more fibrosis; and fibrosis is the disease of asbestosis. I would submit from my standpoint that he didn't really know what he was looking at.

Q. You have never seen a document --

A. I've never seen this before.

Q. You've never seen that?

A. No, sir.

Q. No one at Uniroyal ever gave it to you?

A. No.

Q. Do you wish they had?

MR. FORMAN: Object to the form.

A. I don't know that it would have made any difference to what I did.

Q. (By Mr. McConnell) But they clearly didn't pass this information on to you?

A. It was not passed on to me.

Q. And they gave you information that counters -- is different than the information contained in this document?

A. That's correct.

Q. And you know of no document between

1946 and the time that you first met with them that anyone from Uniroyal has shown you now, currently or in the past, that refutes the information contained in this document?

A. No document.

(The lunch recess was taken.)

Q. (By Mr. McConnell) Dr. Wells, welcome back from lunch.

A. Thank you.

Q. You gave us marked as Plaintiff's Exhibit 6 a case presentation that you made to some medical group in the early 1960s.

A. The interstitial lung disease, yeah.

Q. Yes, sir. The woman that you report on in here is an office worker; is that correct?

A. She had no association at all with asbestos.

Q. She never worked at Hogansville?

A. No.

Q. She had no known asbestos exposure?

A. She was a secretary from Alabama, as I recall.

Q. I have not had a chance to review

this. We just received it this morning. What was your opinion of the cause of interstitial fibrosis?

A. Idiopathic. I had no idea.

Q. How did you rule out asbestos as the cause?

A. You couldn't rule it out. And again, I haven't read that recently; but in order to make the diagnosis of asbestosis, you've got to be certain of exposure to asbestos; and I had no reason for expecting that.

Q. Because she didn't report a history to you of asbestos exposure?

A. As I recall she did not.

Q. You say in here, I think it's consistent with what you said, that it brought a striking resemblance to the type of pulmonary fibrosis secondary to asbestos exposure seen in this area.

A. (Witness nods head affirmatively.)

MR. TISINGER: You have to answer out loud.

A. Yes.

Q. (By Mr. McConnell) You may have -- I apologize, you may have said this: What type of

office setting was it, do you know?

A. I don't know really.

Q. You don't know if it was affixed to a plant?

A. I have no idea. It was -- she was an office secretary; and whether she was close to a plant or in the middle of town, I don't know.

Q. Okay.

A. I don't recall at any rate.

Q. Okay. But she had no relationship at all to Hogansville?

A. As far as I know she did not.

Q. And you produced it today just because it dealt with the topic of fibrosis?

A. That's correct.

Q. Let's turn to your report in 19 -- your review in 1957 and 1958.

(A discussion ensued off the record.)

Q. (By Mr. McConnell) Tell me about what you initially were asked to do by Uniroyal such that this document was produced.

A. They asked me if I would be interested in -- no, they didn't. They asked me what I would recommend they do as regards the

medical program. They said that they had a dust count data bank. They said that they had the x-ray data bank. They had had no formal medical examination program. The examinations had been done by local physicians. There was no correlation therefore between the workers' medical health history and findings and the data that related to their x-ray changes and dust count accumulation.

Q. Let me just stop you for a second, Doctor. In all of your medical training and conversations you had with Uniroyal people before you conducted this or before you put together your report, do you know whether such a correlative study comparing medical condition with dust counts had ever been done before?

A. I didn't at the time.

Q. You had never known that this --

A. I did not at the time.

Q. Okay. I'm sorry, go ahead. And no one at Uniroyal told you that they knew of any that existed?

A. They did not.

Q. Okay. I'm not implying that they did.

A. Yeah.

MR. FORMAN: Let me ask for clarification. Are you talking about other than the Lanza report? I'm not sure what you mean by that.

MR. MCCONNELL: I think I got my answer so I'm --

MR. FORMAN: I'm just not sure if you understood what he was asking because I think he's told you he was aware of the Lanza report.

THE WITNESS: I was aware of it. When I went down to make this recommendation, I was not aware of it.

Q. (By Mr. McConnell) When were you given the Lanza report?

A. I don't know.

Q. Now, you didn't just duplicate what Dr. Lanza did in 1954?

A. I do know this: I was given the Lanza 1953-'4 report after I submitted a recommendation to them. I did not know that, in essence, they said what I said.

Q. Okay. They did not have the correlative data presented in that Lanza report

that you have in your '57-'58 report?

A. No. The Lanza report did tabulate the dust count data, but it made no attempt to correlate the x-rays and the clinical status of the individual workers.

Q. And as far as you know, that was the first time that had been done, to correlate the dust count data with the medical data?

A. That's the first time I saw any record of it.

Q. And to this day, you've never seen any study that precedes your '57-'58 report that correlates dust count with medical data, have you?

A. No.

Q. Okay. And, in fact, doesn't Dr. Lanza -- if you could turn to the Lanza report on Plaintiff's Exhibit 3844 dated January 5th, 1954.

A. I've got it here somewhere.

Q. If you don't, I can gladly give you a copy. I thought it was in this book.

MR. FORMAN: Here it is.

A. New York, oh, okay.

Q. (By Mr. McConnell) If you would turn to Page 2. In the fourth paragraph, it says: The findings however existed largely as

separate facts and had not been brought together. In other words, neither the results of clinical and radiological examination nor of industrial hygiene survey had been assembled in a form where they might be integrated.

That's, in fact, what you did in '57 and '58, isn't it?

A. That's correct.

Q. That's the very information that Dr. Lanza in 1954 said was missing. You did it in '57 and '58?

A. That's right.

Q. Okay. First of all, when did you actually author the '57 and '58 report?

A. It was either in the latter part of 1958 or early part of 1959.

Q. You don't have a specific --

A. I don't have a stamp that gave the specific time.

Q. And just so the record's clear, when we refer to your '57 and '58 report, we're referring to Plaintiff's Exhibit 6669 for the record.

Your '57-'58 report was a form of an epidemiological study, wasn't it?

A. I suppose you could characterize it that way, but it was not meant strictly speaking to be an epidemiological study. It was simply meant to describe what was going on at the Uniroyal plant in Hogansville.

Q. Over --

A. Over a period of time.

Q. On a broad-range basis?

A. Yes.

Q. Including dust counts for over --

A. 15 years.

Q. 15 years, a decade and a half, and over a hundred and a half workers?

A. Yes.

Q. Okay. Let me just show you Plaintiff's Exhibit 6669 and ask you -- it appears to be an 18-page report I will show it to your attorney first, Doctor; and then we will show it to Mr. Forman. I'm merely going to ask you: Is that the report that you authored for Uniroyal in the '58-'59 time frame?

A. This is the report.

Q. This is the report. That's a true and accurate copy of the report that you --

A. I think it is.

Q. -- authored in '58 and '59 for Uniroyal; yes, sir?

A. Yes, sir.

MR. MCCONNELL: Why don't we -- we will have a copy of that marked as Plaintiff's Exhibit 13 -- no, 16.

MR. BUICE: I think David was fulfilling that function, as I recall. He had them dated and everything.

(Document was marked for identification as Plaintiff's Exhibit 16.)

Q. (By Mr. McConnell) Doctor, who did you submit your report to?

A. At Hogansville you mean?

Q. Yes, sir.

A. I believe that they were sent to the personnel man. They were sent to Uniroyal. My secretary addressed them, and I don't believe I ever looked at an envelope that she used to address them; but they were sent to basically the man in charge of industrial relations and Mr. Link.

Q. Who was the man in charge of industrial relations?

A. That was John Alexander.

Q. Who physically typed the report, someone in your office or somebody --

A. Someone in my office.

Q. And who reproduced it, someone in your office or someone at Uniroyal?

A. What do you mean reproduced?

Q. Made a copy of it.

A. For whom?

Q. Okay. That's a good question. You one --

A. I'm not trying to be --

Q. No, no, I understand. You had the original done and typed at your office?

A. She typed it in duplicates. She had a carbon paper.

Q. A little before my time. You didn't just throw it in the word processor.

A. We didn't have one.

Q. Who did you send the original to?

A. I sent the original to Hogansville, and that was -- I think it went to the industrial relations man.

Q. And who did you send the carbon papered copy to?

A. I sent it to my chart. I kept it

as a record.

Q. Okay. And then did you also make another copy for Mr. Link?

A. Oh, no.

Q. So you sent one copy to Uniroyal?

A. I sent one copy to Uniroyal.

Q. You kept one copy?

A. I kept one copy.

Q. And the copy that is in Plaintiff's Exhibit 1 of your notebook that you produced today, is that the original copy of your '57-'58 report?

(A discussion ensued off the record.)

Q. (By Mr. McConnell) Doctor, before we broke I had asked you is that the original carbon copy to your knowledge that's in your book marked Plaintiff's Exhibit 1?

A. I believe it is, but I wouldn't swear to it; but it's -- I think we made only one carbon copy of anything. Sometimes she made two carbons, but this comes through clearly enough to probably be the first carbon.

Q. Okay. You'd agree with me, Doctor, wouldn't you, that your '57-'58 report was a very

significant study?

MR. FORMAN: Object to the form.

A. I would say, yes. It was significant for us; and insofar as for the first time brought U.S. Rubber Company's information together. It was a point reference in the point of departure.

Q. (By Mr. McConnell) You are proud of that study, aren't you?

A. Yes. I have no reason not to be.

Q. Do you know, Doctor, whether --

A. I never looked at it as something I was proud about. But if you asked me am I proud, I am. I thought a good job was done.

Q. I think a lot of people will agree with you.

A. Sure.

Q. Do you know whether Uniroyal considered your report a confidential report?

MR. FORMAN: Object to the form.

MR. BUICE: Doctor, I'll just ask you a question: Do you know what somebody else considered?

THE WITNESS: No, I don't know.

Q. (By Mr. McConnell) Did people at Uniroyal ever tell you that they considered it a confidential report?

A. No. I don't think that I put confidential on it, no. I'm pretty certain without factual knowledge that it had distribution throughout the company to people who should have a need to know.

Q. Do you have any personal knowledge of whether that report was ever distributed outside the company?

A. I do not.

Q. You do not know whether --

A. I do not know whether or not it was distributed.

Q. No one at Uniroyal ever asked you to present that report to anyone outside the company?

A. I think I have to answer you this way: They didn't ask me to present that report, but they did ask me to go to specialists textile institute meetings and tell other physicians from other companies what we were doing.

Q. We will get to that, ATI, in a second.

A. That's the closest I can say that they asked me to do that.

Q. You were never asked permission by anyone at Uniroyal to publish that report?

A. No. I asked and received permission when I originally started doing work for them for the right to publish if I accumulated sufficient knowledge or sufficient information to publish. I did have that right.

Q. Did people at Uniroyal have that right?

A. Well, it was my work. So I presume -- I don't know how to answer that question.

Q. Uniroyal paid for your time in putting that report together?

A. They paid for my time and going down and seeing patients. I presume that the fee that they paid me was compensation for everything I did. But I wasn't asked to get a report like this out to them. I simply did it because it was -- I thought it was something to do that needed being done.

Q. No one from Uniroyal told you that Dr. Lanza in 1954 had recommended this very type study to be done before you did the report?

A. No. I can't exactly tell you what the time sequences are. I can tell you this: That when I made the original presentation to them and told them what I thought should be done and they accepted that as a premise on which to operate, they had not told me that they had that recommendation by Lanza's group before.

I suppose when I subsequently came into possession of Lanza's report that my saying what they had previously recommended corroborated the idea and fortified it in their mind and made a long background of developing events down there resolved to go ahead and do it.

Q. But nobody at Uniroyal asked you to put together this correlative report comparing dust counts with medical records?

A. No. It was my recommendation to them, and I think I've got a letter here somewhere.

THE WITNESS: Do you know where it is, Rick?

MR. FORMAN: I'm not sure which it is.

MR. BUICE: Do you want him to look for that letter, or would you

rather go ahead?

MR. MCCONNELL: He can look for it. That's fine.

A. Dear Mr. Link, I think this is it.

Q. (By Mr. McConnell) Could you give us the date on the letter, Doctor.

A. December 17th, 1956. Mr. Link -- do you have that copy?

Q. I'm going to look. No, I do not personally. That doesn't mean --

A. I would be most happy to initiate a medical program in your asbestos division intended to detect and hopefully to prevent the advent of serious pulmonary disease. It would be of necessity a long-range program with emphasis on careful history and physical examination, basic laboratory studies and serial chest x-rays. Because of the job, quote, unquote, job-threatening implications of this work, it seems especially important in the beginning that time be taken for education and reassurance that these medical examinations are being done at the company's expense for the benefit of the workers.

Q. This is your letter?

A. This is my letter to him.

Q. And this is your recommendation?
A. These are my recommendations.
Q. Doctor, to your knowledge, was your -- has your report ever been published?
A. No.
Q. By anybody?
A. Huh-uh.
Q. At any time?
A. If it has been, I don't know; and I wouldn't think that anybody would publish my work without my knowledge.
Q. Okay. Do you know whether your report has ever been -- was ever provided in the 1950s or the 1960s to the ACGIH?
A. I had several dealings with Dr. Lewis Cralley, several conversations with him I should say. And certain members -- whose names I don't recall -- of the Georgia Department of Public Health started in the early '60s and during the '60s, during that time Dr. Cralley was initiating a program.
Q. Doctor, could I stop you just for a second and maybe I wasn't clear. Dr. Cralley was with the United States Public Health Service?
A. United States Public Health

Service.

Q. In asbestos litigation, we let our alphabet soup get to us and think everyone knows what we're referring to. Let me rephrase it.

Was your 1957-'58 report ever provided to anybody in the American Congress of Governmental and Industrial Hygienist, the ACGIH, or its TLV, Threshold Limit Values Committee?

A. To my specific knowledge, did somebody tell me it was, I don't have that knowledge.

Q. You don't know or you have not seen anything that leads you to believe that anyone at Uniroyal ever provided your '57-'58 report to anyone involved with the TLV committee at the ACGIH; is that correct?

A. I don't know that they did.

Q. I'm sorry. You don't know that they did, is that what you said?

A. I know that Dr. Cralley of the United States Public Health Service wanted Uniroyal to participate in a long-range program that he had that did something similar to what I had been doing and was doing.

For various reasons when they asked

me, I said to Uniroyal, I don't think that Uniroyal -- it would be in Uniroyal's best interest to participate in that. But I do think that everything that we have developed should be made available to Dr. Lewis Cralley and his group. Dr. Lewis Cralley was I think he either was U.S. Governmental Industrial Hygienist or at least he conversed with them.

Q. Do you know whether Uniroyal --

A. I was -- somewhere along the line it came to my awareness that Uniroyal had given U.S. Public Health Service certain data pertaining to the information developed at Hogansville. What data they gave them, I do not know. Exactly when they did it, I don't know; but I think it was around 1970 or thereabouts.

Q. You have no knowledge at all, do you, Doctor, that Uniroyal ever in the 1950s or 1960s gave your report to anyone at the United States Public Health Service, do you?

A. I don't have any definite knowledge.

Q. And you have no knowledge that anyone at Uniroyal ever gave your '57-'58 report to anyone with the ACGIH or its TLV committee?

A. I do not know.

Q. In fact, you have no knowledge at all, do you, Doctor, whether anyone at Uniroyal ever gave your report to anybody outside of the company, do you, your report?

A. I have no knowledge that they gave my specific 16, 20 page, whatever it is, report. I do have knowledge that they asked me to meet with other doctors of other textile -- asbestos textile producing industries and share our experience with them.

Q. The data, the actual physical data that's contained in your report, the numbers, was not shared with anyone outside of the company by anyone from Uniroyal? I don't mean you, sir, right now. By anyone --

A. I do not know.

Q. Okay. You were aware, were you not, sir, in the late 1950s that the ACGIH TLV committee had set a maximum permissible standard for asbestos exposure?

A. I don't know when I became aware of it, but I was aware of the maximum admissable concentration of 5 million particles per cubic foot year.

Q. You clearly knew prior to writing your report that a body had promulgated 5 million particles per cubic foot as the TLV; isn't that correct?

A. I don't even think TLV was in the literature at that time. If it was, I didn't know it. It was called maximum allowable concentration, MAC; but it was the same thing.

Q. You were aware that a body outside of Uniroyal had promulgated or put forth 5 million particles per cubic foot as the maximum allowable concentration of asbestos?

A. Yes. I was aware or became aware. I don't know the specific date.

Q. And you'd agree with me that your report shows instances of disease below the 5 million particles per cubic foot maximum allowable concentration in the late 1950s?

MR. FORMAN: Object to the form. I don't believe it says that.

A. I don't know without going back to this that I would agree with that. It shows incidences of disease -- I will stand corrected on revised reading -- but I don't think that anybody that I reported as having asbestosis disease had

been uniformly and throughout their career subjected to exposure of less than 5 million particles of cubic foot year. I think all the people that I thought had asbestosis disease had been, in fact, exposed to greater doses.

Q. Where did you come up with the addition to the 5 million particles per cubic foot? You've added the term "year". Tell me how that was developed and why you used that.

A. Well, a million particles per cubic foot year, I think I have subsequently read that some of the other people used it; but when I used it, I thought it was original. It was just something that I developed.

It was like a lot of other things, other people thought the same thing at the same time but they were not in communication with each other.

Q. Okay. Doctor, I'm going to show you what's marked as Plaintiff's Exhibit 6666, dated October 3rd, 1957. We will mark it as Plaintiff's Exhibit 17 to the deposition and ask you: Prior to meeting with the attorney for Uniroyal, had you ever seen that document before?

Let me rephrase that: Prior to

meeting with Mr. Forman in November of '92, had you ever seen that document before?

A. No, sir. I can't even read most of this one. What's this say? 1957 asbestos medical and x-ray, what?

Q. Asbeston I think it is. Let me get my copy. 1957 Asbeston medical and x-ray survey summary of findings.

A. Okay. Well, I'm looking at it. I have not -- this is the first time I've ever looked at it.

Q. Why don't you take a look at it.

MR. BUICE: Is yours readable, or is it not?

MR. MCCONNELL: That's probably the best one there is, Kevin, that we've got.

(Document was marked for identification as Plaintiff's Exhibit 17.)

A. I do not remember seeing this document.

Q. (By Mr. McConnell) Okay.

A. I did not compile that information.

Q. And was this information given to you by anyone at Uniroyal before you --

A. This is the first time I remember seeing it.

Q. Okay. Let me just go through this with you, Doctor. How about -- if you don't mind, I hate to hover over people because it's not very polite; but it may be the easiest way to do it.

This report in 1957 says that 118 active employees and eight had been transferred. Is that about the number of employees that you recall in that time period at the Asbeston company?

A. I think 134.

Q. Okay. 63 of them had for five or more years been exposed to greater than 5 million particles per cubic foot. 17 had been exposed for five or more years to dust less than 5 million particles, and 46 had been exposed to less than 5 years -- excuse me. For less than five years of less than 5 million particles, okay.

Part B: Of the 63 employees above in No. 1 above who have been exposed for more than five years to greater than 5 million particles, 43 had normal chest x-rays, 6 had questionable, 9 suspicious, 4 moderate, and 1 advanced; right?

A. That's what it says.

Q. Okay. Of the 17 people who were exposed for more than five years to dust of less than 5 million particles -- so they were exposed to less than the maximum allowable concentration -- of those 17, 6 had suspicious symptoms of early asbestosis and 2 had questionable lung conditions.

BUICE: And your question is is that what the document says?

MR. MCCONNELL: Yes.

A. That's what I read here.

Q. (By Mr. McConnell) And this information was never provided to you by anyone from Uniroyal?

A. No.

Q. Excuse me?

A. No, not to me. I don't even know the origin of that information even now.

Q. Down in the lower corner there's two initials, L. R. Did you know anyone by the initials L. R. at Uniroyal?

A. Where is that?

MR. BUICE: You are speaking of the top writing in the lower left?

MR. MCCONNELL: Yeah.

MR. BUICE: And we will assume that's L. R. You really can't tell from this copy anyway.

MR. MCCONNELL: Yes, it's L. R.

A. At this point in time I can't say who that might have been.

Q. (By Mr. McConnell) Did you know the name of Mr. Alexander's secretary?

A. I might have, but it's long gone.

Q. It doesn't come to you now?

A. No.

Q. And you don't know whether this information was ever shared with anybody outside of Uniroyal?

A. I never knew about that information until this afternoon.

Q. When I showed it to you?

A. When you showed it to me.

Q. Okay. Doctor, to your knowledge in the late '50s who had the power or authority to change the maximum allowable concentration?

MR. FORMAN: Object to the form.

Q. (By Mr. McConnell) What group or

organization or body or --

MR. FORMAN: You are asking him if he knew at that time?

MR. MCCONNELL: Correct.

A. I don't think I knew at that time. Prior to -- somewhere along the line I acquired the impression that the maximum allowable concentration arose from the American Congress of Governmental Industrial Hygientist. After 1972 it was OSHA.

Q. (By Mr. McConnell) Did anyone at Uniroyal ever ask you to present your paper to anyone at the American Congress of Governmental and Industrial Hygienist?

A. No.

Q. Did anyone at Uniroyal ever ask you to present your paper to anyone involved with OSHA?

A. No. I had talked at length with -- again I say with Dr. Lewis Cralley. He knew and understood what I had done. Whether he saw that paper or not, I don't know.

Q. You never have seen a document where Uniroyal gave the United States Public Health Service your report, have you?

A. I have not.

Q. Okay. Doctor, have you ever been provided any information at any time to the present about the Uniroyal workers in the Passaic, New Jersey plant?

A. No.

Q. Did you know that Uniroyal --

A. I did not even know they had a plant there. May I ask you, did they?

Q. Yeah. They seem to have forgotten about it, too.

A. Did they work with asbestos fibers there?

Q. They made fluid, sealing gaskets type materials in Passaic, New Jersey.

A. I know nothing of the Passaic plant.

Q. Nobody at Uniroyal has ever told you about the Passaic, New Jersey plant?

A. I never heard the name except from having lived for three months in New Jersey.

Q. You missed the hot spot in Passaic.

You performed annual exams on all Asbeston employees?

A. We attempted to.

Q. Were you ever asked by Uniroyal to conduct exams on former Asbeston employees?

A. I don't think that I was. I cannot give you the names, but I did do exams on some former employees.

Q. Was that part of your private practice?

A. I think that was probably part of my private practice. We're talking about information that happened 35 years ago, 30, 35 years ago; some that I remember quite clearly, and some of it is lost in the fog of the past.

Q. Sure. Were you ever asked by Uniroyal, Doctor, to do a mortality study on Asbeston employees?

A. As such, no.

Q. Did Uniroyal ever provide to you death certificates to review of its former Asbeston employees?

A. They did not.

Q. What did the annual exam that you conducted for Uniroyal consist of in the early -- the late part of the '50s, early part of the '60s?

A. For the first three or four years,

it consisted of complete internist type exams; which was an examination of history taking in-depth, a complete physical examination, excluding rectal exams on men and breast and pelvic exams on ladies; lest if they were told they were doing fine, they have a false sense of security, they were all advised to see their personal physicians for those omitted parts of the exam.

The x-rays were reviewed. The dust data was applied; complete blood counts, CBC, so-called, were obtained. That's the red count hemoglobin, hematocrit, white blood differential sedimentation rates. The urinalysis was done. Skin tests for histoplasmosis and tuberculosis was done using histoplasmin and PPD. And vital capacities using a rather primitive type instrument called a Preston-Scott apparatus were obtained.

It was on the basis of that kind of information that the window shades were compiled and this report derived. In 1960 or thereabouts, I began doing static lung studies which was an effort to measure the total accessible lung parameters of inspiratory capacity, expiratory

reserve, total lung capacity, total volume, all of the things that could be easily measured.

As time went by I obtained a helium measuring machine, wherein I did derive residual volumes. The residual volume of the lung is that part which we can't measure at the bedside which enabled me to add -- added to the previously described measurements to get the total on the volume. I obtained and purchased myself, as a matter of fact, a nitrogen analyzer which enabled me to make judgments regarding the distribution of gas within the lung. We performed what were called nitrogen washoffs.

In the early '60s, I began using what was called a two level of oxygen method of studying oxygen, of studying diffusion of gas throughout the lung. That was -- it was done using equipment which was prehistoric basically.

I recall calling especially glass makers from New Jersey to California to make this stuff for me so that we could measure using a particular gas method to develop by the man I knew as a professor at Johns Hopkins when he was in the Navy of measuring carbon dioxide and oxygen.

We ultimately obtained an electrode

method of measuring the tensions of carbon dioxide and oxygen; and given the data on the pH which was terribly important in blood gases and an analysis of blood gases and an analysis of the gases inspired and expired air.

I went to Augusta, Georgia and spoke to Dr. Lewis Ellison who was an associate or assistant professor in medicine of physiology who did the blood gas studies for her husband who's a cardiac surgeon and correlated what I was doing with what she was doing so that we were sure we were doing the right thing; and we were.

We then started doing this two level of oxygen method of diffusion which was a very beautiful thing, but it was very time consuming and very difficult. When machines became available, carbon monoxide analyzing, carbon dioxide analyzing machines became available, we went to what is called a steady state method of studying diffusion which was still time consuming but was done because it was my thinking at the time, going back to the original premise of the whole thing, the earlier we get the worker-patient, the sooner we can diagnose and sooner he will be out of the level of danger, if

there is such a thing.

We went to the carbon monoxide diffusion because I thought at the time that probably one of the earliest pre-radiographic, pre-symptomatic changes of people with asbestosis disease was a diffusing effect. I am not absolutely certain what the answer is even now.

By 1970 I had been in practice 16 years. I was devoting a great deal of time to Uniroyal on my spare time, but I also had a practice that was eating me up. I had no associate at the time. I didn't have any time, and I had to start not doing some things I would like to have done with this; as far as documentation, as far as analytical interpretation, as far as going to meetings and talking, as far as printing, writing stuff up for the journals, and what not. I think I say that particularly because a thrust of a lot of the questions have been, why didn't you tell somebody about it.

Q. I've never asked why didn't you tell, Doctor. I actually compliment you on your full report on your '57-'58 report. If I've given you that impression, I apologize.

My question to you is: Why didn't Uniroyal?

A. I don't know why Uniroyal did. I have some thoughts on it, but they're only speculation so there's no point in getting into it; but I can say Uniroyal did do this: They encouraged me to share my knowledge or punitive knowledge with anybody who had a reasonable right to have this information.

The way Uniroyal evidently looked at it was is they're fellow competitors to members of the asbestos textile industry. I shared this information. I didn't read the paper. I wasn't invited to talk, as a matter of fact, at the New York Conference on Biological Effects of Asbestos; but I was asked -- I was allowed to talk I guess I said for three minutes and talked for 15 or longer; and my comments are excerpted in this. They're not all there. I know they're not. I don't know what else --

Q. We will get into that in a minute.

A. But what I'm trying to say is they didn't make me keep what I learned to myself.

Q. They had you share it -- you said the American Textile Industry, are you referring

to the American Textile Institute, the ATI?

A. The members who sent physicians to the ATI, yes.

Q. And have you been shown any internal documents by anyone at Uniroyal from the ATI about --

A. I wasn't in the --

MR. BUICE: Doctor, be sure you let him finish the question.

A. I'm sorry. Did you finish your question?

Q. (By Mr. McConnell) I did.

A. I was not in the loop of receiving reports.

Q. Okay. And you have no knowledge other than what you've discerned from yourself about the purpose of the ATI, its stated purpose within its minutes or its goal of the ATI itself?

A. I'm not sure I understand what you are getting at.

Q. You've never been provided by anyone from Uniroyal information about what the purpose and goals of the ATI, the American Textile Institute, are?

A. I have somewhere here, I think

here, letters of --

THE WITNESS: Where is that thing, do you know, on ATI?

MR. FORMAN: There may be some material over there in that stack.

Q. (By Mr. McConnell) Is that the one?

A. Yeah, uh-huh, that's it.

Q. That's in 1973?

A. Yeah. And I have read it. I can't detail it to you, but I understand it's basically what it was in 1945 or '6 with some amendments that were procedural.

Q. Were you of the impression -- under the impression that you gave annual exams to every Asbeston employee employed at the time?

A. I missed some workers some years. I examined everybody whom the plant got up for me to examine.

Q. You don't independently know whether the plant got everybody up to see you in a given year or not? Did you have any internal check against personnel rosters?

A. I don't think everybody -- I think I missed certain people certain years for various

reasons; sometimes they were sick, sometimes they were out on leave, sometimes they left town and then came back subsequently at a later date.

I think the plant made a good-faith effort to try to get everybody down there.

Q. But you had no internal check on that and it wasn't your responsibility to?

A. It wasn't my responsibility.

Q. You examined who Uniroyal sent to you?

A. That's right.

Q. Okay. Doctor, when I asked you about the mortality, had you ever been requested by Uniroyal to do a mortality study, you said not as such I think. It wasn't quite a definitive no.

A. If I did say that, I gave you a wrong impression. I was never asked to do a mortality study, period.

Q. Okay. You didn't mean to imply anything else by that?

A. No.

Q. Okay. When did you personally, Dr. Wells, become aware of the relationship between asbestos and cancer?

A. It was when Dr. John Knox came to visit me in the plant that I was made part of that visit, and I think that was sometime in the early '60s or late '50s.

Q. There's a letter in 1959 from Dr. Knox, if that's what you are referring to.

A. Yeah. That's what I'm looking for. Here it is. At any rate -- here it is, January 1959.

At or around 1959 or 1960, I saw Dr. Knox personally. He stayed in my home, as a matter of fact. I became aware at that time from Dr. Knox of two studies that had been done in England, one examining the asbestos textile workers who had worked for varying periods of time up to 20 years and longer before 1933. And in that population of people, there was a fairly high incidence of asbestosis and pneumoconiosis, we call asbestosis; and a significant incidence of lung cancer. The percent I can't recall or I don't recall.

Because of the work of Meriwether and Price in 1929, the factory inspectors, or whatever the British call themselves, instituted a series of reforms that were put into place over

the next three or four years, so that by 1933 the dust control had been significantly improved in the textile industry in England.

In 19 -- I think Doll had written the first paper in 1933 regarding the asbestosis and lung cancer incidences prior to then. Either Knox and Doll or just Knox by himself in 1953 wrote a 20 year follow-up. Dr. Knox's comments in that paper and/or to me -- and/or to me were that the incidence of cancer 20 years earlier were less than they were in the population as a whole in Britain and Wales. So the question really was moot at that time in my mind of whether or not there was a significant relationship between cancer and asbestosis.

When Dr. Sullecoff came along in 19 -- several other papers were published I became aware in 1964 in various countries relating to the incidences of cancer and pneumoconiosis of asbestos. Dr. Sullecoff introduced in America the great concept or the new concept of associated cancer.

Q. The new concept to you at the time?

A. To me at the time.

Q. You don't have any knowledge,

independent knowledge about what folks at Uniroyal knew prior to that time about the association, do you?

A. I don't --

Q. Other than yourself?

A. I don't have any independent knowledge. They knew at least by 1959 or '60 what Dr. Knox told me from his experience; but whether they knew anything before then, I don't know.

Q. When is the first time that you personally began to tell Uniroyal employees about the association between asbestos and lung cancer?

MR. BUICE: May I ask for clarification. You said Uniroyal employees. Are you talking about --

MR. MCCONNELL: Asbeston employees. I'm sorry.

MR. BUICE: None-management people?

Q. (By Mr. McConnell) Correct. I mean the people that you were yearly examining.

A. This would have to be a guess.

Q. How about your best effort of an estimation?

A. By the first time having gone to

New York to hear the -- to audit the asbestos conference in late 1964 and having audited that conference which was in considerable degree devoted to the relationship of cancer and asbestos dust exposure and mesothelioma. It was probably around that time, which would be 1965, early 1965, that I made any mention to workers.

Q. Around what, 1965?

A. Yeah. I think that either in the '57-'58 report or in some subsequent report to Uniroyal, I made comment on the fact that we had -- that I had in my examination of workers down there encountered either no cases of lung cancer or subsequently I think one case of lung -- one patient with lung cancer.

My feeling throughout my entire work with that thing was that I was not impressed with the incidences of lung cancer in asbestos patients.

Q. You, in fact, did state in your report, Plaintiff's Exhibit 6669, the '57-'58 report, that so far there's been no suspected or proven cases of pulmonary tuberculosis or bronchogenic carcinoma either in the workers with asbestosis or in those with no evidence of the

disease.

A. That would make one think that I knew about lung cancer earlier, but I don't specifically recall when I knew. But I know I knew when -- I know I can date it at least from Dr. Knox's visit with me because he related his experience.

Q. And that could, in fact, be about the time that you wrote the report?

A. I think his was a little later.

Q. Did Uniroyal receive your report prior to July of 1959, do you know?

A. I'm sure they did. I'm not sure, but I believe they did.

Q. You have I know in the past talked about and we showed you earlier in your deposition the letter that you said went to all employees in July of 1959.

A. Yes, sir.

Q. July 25th, 1959. Would you agree with me that there's no mention at all of cancer or bronchiogenic carcinoma in the letter that went to all employees in 1959?

A. Without specifically reading all three pages again, I couldn't agree with you; but

if you say it's so, I will stipulate it.

Q. Okay. You have no reason to disagree with that, how's that?

A. Yeah.

(A discussion ensued off the record.)

Q. (By Mr. McConnell) Doctor, does asbestosis progress after removal from asbestos exposure?

MR. FORMAN: Again, to the extent you are asking for a current clinical opinion on that, he's not being offered for that purpose.

MR. BUICE: I join in that on form.

A. During the period in which I was actively involved it did in some worker--patients, and it did not seem to in others.

Q. (By Mr. McConnell) Showing you again the letter that -- hold on one second, Doctor.

I'm going to show you Plaintiff's Exhibit 3846. It's a letter from Dr. Pendergrass dated March 26th, 1957 and ask you: Is that addressed to Mr. Sands?

A. It's addressed to Mr. Sands.

Q. It's one of the management people at Uniroyal?

A. Uh-huh.

Q. Were you provided a copy of that letter from Dr. Pendergrass, do you recall?

A. Well, I wish I had known what he thought of me in 1957. I was provided with a copy of this within the month.

Q. In 1993?

A. I was very pleased to see what Dr. Pendergrass said.

Q. Well, besides saying nice things about you, Dr. Wells, and I assume most people that know you do, besides saying nice things about you, Dr. Pendergrass in there says, if you agree with me on Page 2: We still do not have any good data to justify the statement following: Asbestosis may not progress if the patient is taken out of a harmful atmosphere and placed in a clean atmosphere.

A. Yes. And I think had I at the time, I could go back to several references and cite words or the thoughts of the authorities of the day that once you're removed -- the thoughts

being that once you removed the workers from asbestos exposure, there was no further development.

Q. But now the national expert that you referred to that Uniroyal hired, Dr. Pendergrass, to read the asbestos x-ray did tell management at U.S. Rubber in March 25th, 1957 that there was no good evidence to deny progression after exposure had ceased.

A. I think that's what it said.

Q. And then in 1959 --

MR. FORMAN: Did you have something else you wanted to add?

A. Yeah. I would simply say that still I think Dr. Lanza's report said, noting those two patients who had -- two worker-patients who had asbestosis that if any further asbestosis were to -- any more asbestosis were to appear in other workers, that it would probably come from the same area of era of exposure as those two people came from. And that once I think the comment was made in his report that the dust level having been gotten down to a fairly safe level, they could anticipate very little subsequent trouble.

Q. After reviewing Dr. Lanza's 1954, can you tell me whether Dr. Lanza makes any reference to the 1946 internal Uniroyal memo showing 24 first stage asbestosis?

A. I don't think he did.

Q. In fact, what Dr. Lanza reports is -- what Dr. Lanza reports is different than the information that's contained on this 1946 --

A. There's a letter copy that I have, not addressed to me from, Dr. Pendergrass. Is that the Pendergrass letter you were just showing me?

Q. Yeah, for 1957.

A. No. This is -- I don't think this is it. I think this letter -- I think I'm telling you accurately. Dr. Pendergrass came on board down there about 1948. I think that he came on board -- among other many reasons, the reason that I feel that he came on board is that the company was dissatisfied with the radiographic interpretations to that point. They were dissatisfied with communications with the Georgia Public Health Service.

Dr. Pendergrass wrote to somebody in Hogansville, presumably Mr. Link, that the

films that they were using were inadequate and that the machine they were using was inadequate, did not have sufficient power; and that he inferred that they ought to improve on that situation.

That's the closest they come to any kind -- that's the closest that anybody comes to any kind of even peripheral reference to this kind of stuff. I don't know where it came from.

Q. But you do know you were never shown it?

A. I was never shown it.

Q. And you were given information that is not in conformity with the information contained in that document?

A. That is correct. I'd like to say something right here if I may. I don't know if it's germane or not, but I think I should say it.

Q. I think probably you should wait for a question.

A. Well, it's --

MR. BUICE: Is it responsive to something you've been asked?

THE WITNESS: It's in response to the inference I think that Uniroyal

management was hiding things, from my impression.

All the contacts I had with the management, the high management, at Uniroyal -- this is Mr. Link; Mr. Fort; Mr. Alexander; Mr. Austin, who is in charge of the Asbeston factory -- gave me the feeling that I was dealing with high-class people. They were not only -- well, I've had just a brief exposure to you this morning and afternoon; but I have the same kind of feeling of dealing with somebody who's a thoroughbred.

I thought that of these men. They never were devious, to my knowledge, with me in any respect. They supplied me with everything I ever asked. They were willing to deal openly and aboveboard with the workers. Which my initial stipulation was, we do deal with the workers that way; and they were in support of that the whole way.

That may not be totally germane, but I think that it should be said because I do get the feeling that

the plaintiffs are trying to bring out the point that they were hiding stuff from me and from everybody else. If they were, I didn't know it.

Q. (By Mr. McConnell) So they were successful if they were?

A. Well, they were successful; and I have no explanation of this information you've shown me. But I do have certain exceptions to what was shown that I can document or at least demonstrate on my own book.

Q. So you've made reference to a couple of those. But even you'd agree with me that you noted more than two of those people on that list had asbestosis which is different from the information you were given in 1956?

A. I didn't say when they had asbestosis. I'd have to go back to my records to find out when they were diagnosed that; but in this original paper, I think -- yeah, on Page 10 there is a list of six patients with III-plus asbestosis, and they're so and so and so and so.

Column 2 is the date -- if I'm right, is the date at which x-ray changes were first discerned by me in review of their x-rays.

I attempted -- I had an x-ray view box of 12 screens. My whole idea -- and I think probably Dr. Pendergrass gave me that idea -- was get them up and review them serially forward and backward. If there were 12 x-rays, let us say, with No. 1 being the earliest and No. 12 being the latest, I could see asbestosis if it was there on 12. And going back 11, 10, 9, 8, 7, 6 and so on, you can see the asbestosis in lessening degrees so that maybe when you got to 1, you couldn't see anything; or maybe in No. 2, you could begin to see looking backward but not forward that that was the earliest changes.

Q. You'd agree with me, Doctor, that there are a number of people on that 1946 list that you never heard of?

A. Yes.

Q. And you never examined?

A. Right.

Q. So you have no information about them except that we know in 1946 someone at Uniroyal thought they had asbestosis?

A. I was told regarding those people, those absentee workers -- not absentee but absent workers, that many had left the employ of the

plant, many moved. There virtually was no other work in Hogansville except the Uniroyal work. It was the only major plant there.

Q. Who told you that?

A. I don't know, but any one of a number of people.

Q. They didn't tell you -- nobody told you specifically about these people?

A. No.

Q. Because you just saw this document a few months ago?

A. You just said the people who weren't there were people who had left. It never occurred to me to inquire, oh, why did they leave or anything. The answer was if they didn't have work at Hogansville -- after 1945, the 24 hour day business I think kind of slowed down. That's one reason they left.

Q. Doctor, did there come a time when you were of the opinion personally that asbestosis was a progressive disease, that is, that it continued to worsen after removal from dust exposure?

MR. FORMAN: Object to the form. He's already answered I think

that he saw it in some incidences and some he didn't.

A. That's what I think I said earlier. As an example, the man who got me into the whole thing, Robert Todd, to my knowledge is still living. I have seen --

Q. (By Mr. McConnell) When's the last time you saw Robert Todd?

A. About two years ago, just before I retired. I have seen changes that I thought were early asbestosis revert on subsequent x-rays. I've seen patients that I put in their impression question mark, asbestosis. I've seen comments I've made on subsequent reports saying on the review of these things there is nothing there.

Q. What happened with Robert Todd?

A. Robert Todd worked out his lifetime and is in retirement.

Q. It's been your position from everything I've read that it was Uniroyal's policy that once a worker was diagnosed with asbestosis by you they were removed from the Asbeston facility?

A. They were seen in conference and removed.

Q. And, in fact, in 1983 in the Lois Hurtt deposition, you said, quote, it would be reprehensible to transfer a sick employee back into the Asbeston dust exposure. Do you still agree with that?

A. I still agree with that, although -- I still agree with it, period.

Q. In fact, that transfer back would be -- would have been against company policy?

A. No. It would have been against my recommendations.

Q. Against your recommendations. Robert Todd was one of the workers who had Grade III-plus asbestosis in your '57-'58 report; isn't that right?

A. (Witness nods head affirmatively.)

Q. And Grade I --

A. And he seems not to have progressed.

Q. Grade I is the lowest?

A. Yes.

Q. Grade II is the --

A. By the criteria that I established -- I want to say to you that initially the premise was that I would take on the job to learn

all that I could learn about asbestosis as it occurred in the Hogansville Uniroyal plant.

As I showed Mr. Forman, all that was known in my standard textbook of medicine Harrison's Textbook of Medicine printed 1950, Cecil's Textbook of Medicine printed 1947 -- these are major textbooks that are revised every so often. In Cecil's, it was nothing at all except two words in connection with psittacosis. Harrison, on a page with two columns on it, it was about 2 inches on one column of asbestosis which basically said asbestosis is a disease of the lungs brought about by exposure to asbestos dust.

Q. You could have figured that out yourself.

A. Yeah. I could have figured that out. As a matter of fact, I had figured that out. That didn't tell me anything.

My knowledge specifically and basically of asbestosis proceeded from there. And as I pointed out to Uniroyal to the management, I conceived of my job as learning what could be learned about it in order to remove the patient-worker from asbestos exposure once the disease was diagnosed.

I did not tell a worker-patient that he had the disease if I had not diagnosed it. I did diagnose it on the basis of all the information I got. It was a judgment call. There were no ironclad, hard and fast rules. There may be now, but they're still set up on the basis of best judgment of the people setting them up.

Q. Doctor, in light of all the asbestosis disease you saw come out of the plant, did you ever recommend to Uniroyal management that it get out of the asbestos business?

A. No, I didn't.

Q. You didn't?

A. I didn't because for one simple reason: These are graphs showing the effects of dust control at Uniroyal in Hogansville, and these are on different stations. These are bar graphs showing the results of effected -- of the efforts at dust control.

I thought at the time -- I'm not so sure that it's still not true -- that if the dust exposure could be brought sufficiently low, then this minimum threshold value would come into reality and the patients could work a lifetime at work and retire and fish and live their life out.

Q. What did you believe that level to be?

A. I did not know. The level that I was -- was the lowest obtainable level.

Q. What did you --

A. Or possible.

Q. What did you report to the New York Academy of Science in 1964?

A. I went overboard a little bit there, but I think philosophically I was correct.

Q. I think a lot of people agree with you.

A. But I would say also that we could avoid a lot of deaths in automobiles if we take up the horse and buggy. We have a certain risk in life to everything.

Q. Let me ask: You don't deny that you told the international gathering in 1964 that as far as a safe level of asbestos dust is concerned, your only conclusion from Hogansville, Georgia is that there is no safe level. The safe level is nil, n-i-l; and anything above the safe level represents certain risks?

A. I think I would put in --

Q. Well, let me first ask you, Doctor,

do you --

A. I know that's what it says.

Q. You don't deny saying that to the international conference?

A. This is not a total excerpt -- this is not an excerpt -- this is not a quotation of everything I said. The last sentence, the safe level is nil and everything above that safe level represents -- I would interpret a certain risk.

Q. Let me just ask you: You don't deny saying that to the New York Academy of Sciences in 1964, do you?

A. I don't deny saying in essence that, but I'm not sure that I didn't say a certain risk.

Q. Okay. It doesn't say a, the word "a" is missing?

A. But it doesn't say everything else I said either.

Q. And in the sentence before that you said there is no safe level.

A. The safe level is nil.

Q. And you never printed a clarification or a retraction, sent a letter to the New York Academy of Sciences or anything about

that, have you?

A. I did not.

Q. In fact, to your knowledge, do you know whether, in fact, your comments have been relied on and quoted by other physicians throughout the world?

A. Somebody -- I don't know whether they've been -- I think they've only been relied on by those whose ax was convenient to grind with that particular stone.

Q. You've never seen it published or commented upon?

A. Yes. I have seen -- I saw a published comment by somebody in response to it in a presentation to Congress where they quoted me, and I think a Dr. Addingly from England, in fact, that was there.

Q. How about a citation from Dr. Farris or Dr. Murphy in quoting you?

A. I said something I think at New York about 50 to 60 million particles per cubic foot year exposure being the point at which I began to see asbestos workers, asbestos patients.

Dr. Wolfsie said at some meeting he made that comment that that had been a finding.

The meeting was attended by Dr. Murphy and Dr. Farris, is it?

Q. Uh-huh.

A. Who had a somewhat similar experience with shipyard workers I think in New England. I had a brief note from Dr. Farris somewhere along that line saying that -- quoting that and saying that Dr. Wolfsie had said that and that they were interested because their results were essentially the same.

Q. Let me go back to Mr. Todd before we deviated. I'm going to show you what's been marked for the trial as Plaintiff's Exhibit 7308 and ask if you recognize the handwriting on that two page document?

A. May I go back to one thing else regarding the minimum you are talking about?

Q. Sure.

A. The recommendations that I made on Page 17: Pulmonary asbestosis is an industrial health and preventative medicine problem of the first magnitude. This study suggests that the primary and most important factor in acquiring of the disease is the individual workers total accumulative exposure -- total accumulative

exposure to asbestos dust.

Previous safe levels of 5 million particles per cubic foot year must be revised radically downward. The only concession is short of an ideal zero exposure being the minute or maximum relationship between the diminishing returns versus increased exposure to asbestos. And when I came in 1964 and made that statement in New York, I had that particular paragraph in mind.

Q. And you told Uniroyal in 1958-'59 that the current standard of 5 million particles per year -- the 5 million particles per cubic foot had to be revised radically downward?

A. And I submit that they were doing so at the time and subsequently have shown by these graphs of exposure.

Q. You also said that it would be of great interest in value if more extensive studies could be undertaken regarding the nature and degree incapacity in most patients that demonstrated a suspected asbestosis. Was that ever done?

A. May I see that, please?

Q. Yes. It's the same page you are reading from, the second to the last paragraph.

A. To a degree it was done with the diffuse work.

Q. That's the work that you did in your yearly exams?

A. No. I did that supplementary to them in my office where we did -- studied stated diffusion of carbon monoxide in the lungs.

Q. Is that what you said the machine you bought yourself --

A. No. That was helium or nitrogen analyzer.

Q. Was that study ever written up?

A. No.

Q. Do you recognize the handwriting on that document?

A. No.

MR. BUICE: That is, for the record, 7308.

A. This is not my handwriting. I don't know whose it is.

Q. (By Mr. McConnell) Now, some point in time you diagnosed Mr. Todd with asbestosis; is that right?

A. 1956.

Q. Okay. In 1956 you recommended to

management that he be removed from the Asbeston facility to a non-asbestos exposure job?

A. Yes.

Q. And they did that?

A. I'm sure they did that.

Q. And that was the right thing to do?

A. I think it was.

Q. Do you know where Mr. Todd was transferred to?

A. It says here Reid Mill.

Q. What was Reid Mill, do you know?

A. It was a kind of textile mill.

MR. BUICE: You are saying what the document says? Do you know was the question. Do you personally know?

A. Oh, okay. He was transferred -- all I know personally is that he was transferred within the mill out of asbestos.

Q. (By Mr. McConnell) And that would jive that it was sometime in the late 1950s that that occurred?

A. Yes.

Q. The technical legal term "jive".

A. Okay.

MR. BUICE: I'm more

comfortable with that than some of the initials that you used that I'm hoping you are asking the right question.

Q. (By Mr. McConnell) Do you know what happened to Mr. Todd subsequent to his transfer out of the Asbeston department?

A. Work wise or physical wise?

Q. Yes, sir, work wise.

A. He continued to work at Uniroyal until he retired at 65 I believe.

Q. He retired at age 65?

A. Age 65.

Q. Do you know what the initials C&S --

A. C&S?

Q. C ampersand S, C&S.

A. Not without some connecting information.

Q. Do you know what C&S would stand for in the context of a textile operation?

A. No, I don't. I can't think of what it would stand for.

Q. How about the initials ASB?

A. Same response.

Q. In the context of an asbestos

textile operation, do you know what ASB would stand for?

A. Asbestos, that's what it might be related to.

Q. Do you know the term card and spinning?

A. Yes, I do.

Q. Was there a card and spinning division or operation within the Asbeston department?

A. Yes, there was.

Q. And the carding and spinning, aren't they, in fact, some of the highest dust count levels that you saw prior to your -- or within your report in the carding and spinning department?

A. I'm pretty sure the carding was. They varied. They were among -- they all trended down. There were discrepancies between the levels of various divisions, but all of them trended down.

Q. In the early 1960s, the carding and spinning was some of the highest?

A. Early 1960s, the highest of any of them were 3 million particles per cubic foot year

in the '60s; and mostly it was less than 2.

Q. So the people in the carding and spinning department were still being exposed to asbestos?

A. People working anywhere in the mill would be exposed to asbestos.

Q. In the Asbeston mill?

A. In the Asbeston mill.

Q. Doctor, let me again hand you 7308; and would you read the entry on this document for April 18th, 1963.

A. Where do you want me to --

Q. The entry for April 18th, I believe it is, 1963 for Robert Todd.

A. Transferred to ASB C&S.

Q. So that would be seven years after you diagnosed him with asbestosis disease and recommended that he be removed from asbestos exposure?

A. There was a machine outside of the plant floor -- of the plant production floor.

Q. Doctor, I apologize. Can you first -- the question is just pretty simple.

A. Yes or no?

Q. Yeah. Mr. Todd was transferred to

the Asbeston carding and spinning department seven and a half years or seven plus years after you diagnosed him with Grade III-plus asbestosis?

BUICE: And he can assume the accuracy of the statement on the record?

MR. MCCONNELL: It's a document produced by Uniroyal.

MR. BUICE: What I'm saying is he said he didn't have personal knowledge of that, and --

A. Yes. I don't have personal knowledge. My personal impression, my personal thought was that he never went back in the asbestos floor. I don't know whose handwriting this is. I know that he begged me to recommend to Mr. Link and others to let him go back in. I know it came up with Mr. Link. I think that somewhere I said it would go against everything we were trying to do to let him back in.

Irregardless of what it says, I'd have to ask Mr. Todd if he ever went back in to verify that.

Q. Let me show you -- I'm you showing 7308 again, the entry on October 17th, 1966,

transferred to lead man finishing.

A. Finishing.

Q. Exposure to asbestos dust ceased in what date, October 1966?

A. That's what it says.

Q. That's ten years after you diagnosed him with asbestosis. Is that a correct reading of 7308?

A. That's what that says. I have no disagreement with reading that.

Q. If that, in fact, were the case with Mr. Todd, would that fit your definition of reprehensible behavior?

A. If, in fact, it were true, it would. I do not know it's true.

Q. But you have no reason to challenge the document that I showed you?

MR. BUICE: I believe you were commenting on something that bothered you about it.

A. I have reason to challenge that against what I said -- what I thought I knew of Mr. Todd's exposure of my personal contacts with Mr. Todd were he begged me to go back to Asbeston because he said he was feeling fine, and where I

steadfastly said I can't make that recommendation, Robert. I don't know that he went back.

It certainly looks like he did from that reference you gave me, but I would question it. I would question the legitimacy of the record.

Q. (By Mr. McConnell) Because you would have -- because that would have been reprehensible behavior?

A. Well, no. It would have gone against the policy.

Q. Doctor, did you -- you saw a document that we showed you dated 1946 where Uniroyal listed various people who were diagnosed in the 1940s with asbestosis; is that right?

A. I did.

Q. I just showed you that. And you personally diagnosed and know that there were people diagnosed with asbestosis in the 1950s; is that right?

A. I'm sorry. I didn't follow that.

Q. You personally diagnosed some people and know that other people from the Uniroyal plant were diagnosed with asbestosis in the 1950s; is that right?

A. I know that two people were diagnosed in 1953, and 1957 and '8 I diagnosed several others. I also know that of those people who were diagnosed in 1946, I saw x-rays of three of them I think who I would say by my criteria, which were judged by others to be too advanced, I would say they did not have asbestosis.

Q. Some of them did?

A. Well, the ones that I was able to review.

Q. And some you just don't know because you just saw this document?

A. I don't know. That's right.

Q. Okay. Did you diagnose people from the Uniroyal Asbeston plant in the 1960s with asbestosis?

A. Lois Hurtt is one I can think of.

Q. Any others? I'm not looking for the name; but you did, in fact, diagnose people in the 1960s?

A. I can't tell you. I think I probably did, but I can't tell you.

Q. How about in the 1970s?

A. I have never gotten up my information to answer those questions. I'd have

to go back over all the charts and see. I'm sorry, but I just don't have it.

Q. But you know at least you can recall Lois Hurtt in the 1960s?

A. Very well.

Q. And you believe there may be others, you just don't know it right now?

A. I think there may be, but I'm not sure. I think we got -- in this original group, we've got the large bulk of the people who were exposed to large -- relatively large amounts of asbestos dust, and they're all in the early '40s.

Q. And, in fact, after your report, you saw dust -- you believe that Uniroyal got a good handle on its dust control problem?

A. I thought they had an excellent handle on it.

Q. And that was sometime at the end of the 1950s?

A. Right.

Q. I'm going to show you 7359, Plaintiff's Exhibit for the trial, and ask you as best you can -- let me just first show it to, Rick.

A. I said I thought they had an

excellent handle and --

Q. Why don't you just wait a second so Rick can --

MR. BUICE: Are you completing your prior response?

THE WITNESS: Yes.

MR. BUICE: May he be allowed to do that?

MR. MCCONNELL: Rick's just preoccupied, that's all.

MR. BUICE: I'm sorry. Now go ahead so he can listen to you now.

A. But to my knowledge at that time, we were the only company who were correlating literal dust counts to total exposure and what had happened to the patients.

By looking at the graphs and seeing the downward trend made me feel like they had a good handle.

Q. (By Mr. McConnell) That's fine. I'm showing you Plaintiff's Exhibit 7359 which is also Uniroyal Exhibit U-43 for this trial. And it is a citation to Uniroyal dated 1974, okay.

I'm going to draw your attention to the last page under comments. Let's see. First

of all, I'm going to put you to the test and make sure I read this correct: Company was very candid and cooperative during the inspection. They've been taking air samples for many years and have developed many control measures. That's what you've told us about today, right?

A. Yes.

Q. Medical controls were impressive. Somebody -- you know when you get these documents, they wipe the reporting person's name out -- so blank informed us that their asbestosis cases occurred several years ago, '40s and early '50s when they had massive exposures. There have been no cases of cancer which attributes -- which blank attributes to asbestos. Blank states that they have not had any -- they have not had asbestosis since controls were implemented.

A. If I'm blank and they had that impression, then that's probably right.

Q. I don't know that you are blank. Are you blank? Did you talk to OSHA in 1974?

A. I'm blank on a lot of questions you are asking me.

MR. BUICE: His question, though, seriously was whether or not you

were the person informing OSHA of that.

A. No. I had contacts with OSHA.

Q. (By Mr. McConnell) Well, thank you; but I sort of thought you told me earlier you had no contact with OSHA.

My question to you first is: Did I read that correctly?

A. As far as I know you did it.

Q. And didn't you previously tell us that in here it states that there have not -- Uniroyal has not had any -- has not had asbestosis since controls were implemented?

A. Controls -- I'm not quite certain what you mean by that question because the controls of some kind were implemented from the word go. Now, what -- can you rephrase that in some way so that I could understand it?

Q. I wish I could rewrite OSHA's citations, but they haven't given me that power yet. This says that somebody states, somebody told OSHA that Uniroyal has not had asbestosis cases -- have not had asbestosis since controls were implemented.

A. What do they mean by that, and when?

Q. I'm asking you that.

A. I don't know.

Q. Is that in conformity with your knowledge of your diagnosis of cases of asbestosis at least in Lois Hurtt's case if not others in the 1960s and perhaps 1970s?

MR. FORMAN: I object to the form since that document doesn't specify when they are talking about controls what controls are they talking about. Are they talking about OSHA controls or what?

MR. BUICE: Join that, please.

A. I want to be helpful, but I don't know how to answer that question because I don't understand the question. I don't know the time frame that they are talking in. I don't know what controls they're talking about.

Q. (By Mr. McConnell) And you have no independent knowledge --

A. And I do not at this point in time. I could get the information, especially if somebody will give me a clerk. I could get the information about who had what and when, but I do

not at this point in time have any specific recollection of later asbestosis patients in the 1970s.

Q. But you do at least of Lois Hurtt in the 1960s?

A. I do of Lois Hurtt in 1964.

Q. 1964.

MR. MCCONNELL: How about we take a five minute break and let me group and talk to my partner.

(A break was taken.)

Q. (By Mr. McConnell) Plaintiff's Exhibit 3845 is a letter from Dr. Pendergrass to a Mr. Sands at Uniroyal dated November 26th, 1955. I'm going to show you that and ask you if you've ever seen that document before.

A. I have not seen this before. I have not seen that before, but I'm very interested in it.

Q. I will make you a copy before you leave if you like. This is the Dr. Pendergrass that --

A. That's Jim Pendergrass.

Q. -- Uniroyal hired as the, so to speak, expert to come down and consult with them

on asbestos. Do you agree with Dr. Pendergrass when he wrote to Uniroyal that when he says, when we can demonstrate x-ray evidence of asbestosis, the disease is well-advanced?

A. I think that's probably right.

Q. And let me show you -- that was Plaintiff's Exhibit 3845. Let me show you Plaintiff's Exhibit 3838, a January 20th, 1959 letter from John Knox in England and ask you if you've seen that letter before.

A. To Mr. Sands, I'm pretty sure I've got this. Let me look in here. I have that.

Q. You do. Doctor, let me ask you: Do you agree with Dr. Knox when he wrote to Uniroyal in 1959 and said at the bottom of the first page, about the middle of the last paragraph: Of course if there is considerable suspicion that fibrosis of the lung may be present, further exposure to dust is highly undesirable?

A. Do I agree with those statements?

Q. Yes, sir.

A. Yes, I do.

Q. Doctor, let me ask you --

A. I've got to disagree with my

statement. To the extent that I can be certain that fibrosis is present, I then think that any further exposure is undesirable.

Q. You have to be certain first?

A. I want to be reasonably certain.

Q. Reasonably certain?

A. And reasonably certain is based on the parameters of my own investigation of Hogansville at the time I was doing it.

Q. When did you stop consulting for Uniroyal? When did the relationship end?

A. Probably the 19th of January 1991.

Q. Probably, that sounds pretty specific to me.

A. That's the day I retired.

Q. Is that right? Did you do the yearlies up until --

A. Yes.

Q. -- up until -- did you ever see a case of mesothelioma --

A. Yes.

Q. -- out of the Hogansville plant?

A. Yes.

Q. Did you see cases of lung cancer?

A. I do not specifically recall -- and

I can't recall the name -- more than one patient with lung cancer.

Q. From the Hogansville plant?

A. (Witness nods head affirmatively.)

Q. When did you see the mesothelioma, about, what year?

A. I think that was around 19 -- either 1970 or 1980. I'm not sure which. She was my patient, and I saw her; and I helped her right to the end, tried to help her.

Q. Did you know a gentleman by the name of Lester Rice?

A. Rice?

Q. Yes, sir. Lester Rice?

A. No, I did not.

Q. You don't recall right now whether --

A. I don't recall that name.

Q. Okay. Did the woman have pleura mesothelioma?

A. She had a pleura mesothelioma.

Q. Doctor, let's turn to the much talked about Hogansville employee, Lois Hurtt.

A. Okay. I'll have to go a lot on recollection with her because, as I say, I could

not -- I tried because I anticipated being asked about her, and I tried to find her chart; and I could not.

Q. Let me see if I can just -- that's your deposition. You had testified that you diagnosed Mrs. Hurtt with asbestosis in 1964 and there upon recommended that she be removed from asbestos exposure.

A. If that's what the record shows, yes, I think that's about right.

Q. And you testified in that deposition as well that you suspected that Mrs. Hurtt had asbestosis sometime in the 1950s?

A. I think that's right.

Q. And if you believed that Mrs. Lois Hurtt, was formerly Ms. Lois Jackson, someone at Uniroyal suspected that she had asbestosis in the 1940s?

A. That's what that indicates.

Q. Okay. Let me hand you portions of Plaintiff's Exhibit 15 which we had marked this morning and what we're referring to as the Lois Hurtt file as we produced it and ask you if these 16 reports are true and accurate copies of medical reports that you generated at the time concerning

your medical evaluation of Lois Hurtt?

A. You got all of what I can't find.

Q. I will say for the record we didn't take them from you.

A. I'm sure these are copies of my records.

Q. Okay.

A. Okay. Since I can't find my chart, may I have copies of these?

MR. MCCONNELL: You are most welcome to these, yes, sir. We pulled that out of Plaintiff's Exhibit 15. Why don't we make -- for future authentication reasons, why don't we make those Plaintiff's Exhibit -- we will make those Exhibit 18 and just reflect that they have come out of 15, Plaintiff's Exhibit 15.

(Document was marked for identification as Plaintiff's Exhibit 18.)

Q. (By Mr. McConnell) Let me ask you a question. Why didn't you tell Mrs. Hurtt that you suspected she had asbestosis before 1964?

A. Why did I not?

Q. Yes, sir.

A. Probably the answer I could give you is a generic answer. I didn't tell anybody they had asbestosis until I was reasonably certain that they had asbestosis; and for me to become reasonably certain is to have a sufficient number of data which encompassed what they told me, how they felt, which encompassed objectively what I found which included x-rays that had developed to a point where I could recognize asbestosis as I had learned to recognize it at Uniroyal, and which encompassed certain physiological studies which we were beginning to do.

When I had -- when I felt that their weight of that evidence pointed towards asbestosis, I would tell a patient-worker that that patient had, in fact, had asbestosis. I did not tell them before because telling them before -- I felt in 1964 and before -- to load information of that kind, a diagnosis of that kind, on a patient was unfair to them until I was certain that they had it. Because in small community -- first of all, it was unfair emotionally and psychologically. Perhaps we were more eternalistic as physicians then as physicians are today; but that was my feeling at that point

in time and still is.

Workers worked in a small community. If they were of any duration and were getting some years, they frequently found as I think as I recall Mrs. Hurtt did that having developed certain work motions, certain muscles to do certain work motions and having been transferred to another section of the mill, none-asbestos exposure, they simply did not measure up to the demands of a new job requiring new muscle action, that meant that they were out of a job essentially unless they could find one elsewhere. In a small community that was a difficult thing to do.

So to impale them with the diagnosis of asbestosis was to put a lot of hardships on them including the mental and emotional aspects, the aspects of not being able to find or having difficulty to find another job. The certainty of never being able to get insurance. All that stuff entered into my reasoning for not doing it.

Q. Shouldn't that have been the patient's choice?

A. I don't know. You might say one

could take the side that it should have been the patient's choice.

I cite you another example more close to home and more contemporaneous: My wife who is 71 years old has been having a great deal of trouble with her right shoulder. I took her to an outstanding sports medicine man, and she was told that he had a total tear of that shoulder of a rotator cuff, that she would have to undergo surgery which would be prolonged which she would have to undergo rehabilitation which would be prolonged. They told me more of this stuff than they told her.

If she had access to all the information that I have, she wouldn't sleep at all at nights. She would worry, and I know it. She's not a worrying kind. She's a very pragmatic person; but she's a human being, and she would worry about this. I'm trying to spare her. She's got to face it. What's the point of drilling her with it.

It was the same way with the patients. They had things to face. If I knew they had it, I told them; but if I only suspected they had it, I didn't tell them. That was my

philosophy of medicine. It is my philosophy of medicine. It's the way I function.

Q. But isn't the difference using your analogy that your wife isn't doing anything by not knowing to further injure herself and the workers in the Asbeston department were continuing harmful exposure and you had information that could have stopped that?

A. That's a reasonable point. I think again 30 years ago at the time -- I'm not sure what I'm about to say to you is really entered as a great, great weight in my thinking, but I thought -- I do recall thinking at the time that the amount of exposure that was being -- which the worker was being exposed was very small. I did not develop the thinking that I expressed in 1964 until that point in time.

I thought at the point at that point in time prior to 1964 that the workers were the -- that the risk had been materially diminished by the engineering in the plant. Again, you've got -- I want to say this: Starting from scratch except for an academic background, this thing, this program as far as I was concerned was created de novo. I started the starting

line. I established for us and for me all the parameters that were established. They weren't anybody else's. They were John G. Wells' work, and I operated by them.

I got such help as I could get it from Dr. Pendergrass, from Dr. Knox, to a certain degree from Dr. Kenneth Smith at Johns-Mansville. Dr. Pendergrass and Knox specifically were very helpful to me. I began to accumulate a library where I did have access to other thinking. That library is expanded considerably after the 1964 conference. But prior to that time, you could say I was working in a vacuum as far as outside information was concerned.

I did what I did based upon my entire training as a physician, as a scientist physician. I applied the best judgment I could. If it's wrong in hindsight, it's wrong in hindsight; but it certainly was not intentionally wrong. It was based upon the best judgement I could apply.

Q. Did you have discussions with anyone at Uniroyal about when you did or did not diagnose somebody with asbestosis?

A. When I did or did not?

Q. Yes, sir.

A. You mean the time to say you have asbestosis as opposed to the time to be quiet?

Q. Yes, sir.

A. I'm not categorically certain that I ever had a specific conversation, which would have been essentially with Mr. Link. Mr. Link was a man that I could talk to. There was no reason why -- the lines of communication with him were very open, both as a plant boss and as a private patient. I saw him also as a physician to a patient over a long period of time, starting sometime after this began, all this work at Uniroyal began.

It is conceivable that I might have said in essence what I said to you just a few minutes ago, but I don't have any documentation; but I think I was fairly open and fairly candid with Mr. Link as far as his work was concerned.

Q. Doctor, did you have any conversations with Dr. Kenneth Smith from Johns-Mansville about his theory about when and how and if to inform the worker about occupational hazards?

A. I have one clear memory and several

hazy memories of Dr. Kenneth Smith. The clear memory is that he showed me x-rays of patients, workers of Johns-Mansville who had asbestosis which he described as early which I described as very late. They were just different. The inference being that they also did not have a program in place for early detection.

My feeling about Johns-Mansville was that thank God I'm working for somebody who's looking out for their people. I really felt that about it. I didn't feel Johns-Mansville, from what I knew about them, was really looking into the problem. Not what I knew about them, what was shown to me by Dr. Kenneth Smith.

Q. You never had discussions with him about when and if and how to --

A. I never had a philosophical discussion.

Q. Nothing about talking to the workers?

A. No.

Q. Let me re-focus back again on Lois Hurtt. In May of 1961 -- and do you have all your reports in front of you, I don't know where they went to. Why don't you pull out May 1st, '61.

In 1961, Doctor, you reported in your medical records that Mrs. Lois Hurtt had suspected asbestosis of Grade I degree.

A. Okay.

Q. Do you see that on Page 2?

A. I see that. You want to ask me some more questions, or do you want me to answer what's already been asked of me ten years ago about this here?

Q. You are going to tell me about the typographical error?

A. Yes.

Q. Why don't you tell me about it.

A. Suspected asbestosis by the criteria that I set up was just exactly what it said. Grade I after it would have been ridiculous. I didn't pick it up. That's all it is. It's not a typographical error. Well, it is. The error is mine for not picking it up.

Q. Now, how do you know that the word "suspected" isn't a typographical error and that it should read asbestosis Grade I?

A. I would get a clue to that just simply from reading what I said about the x-ray. As on all previous occasions, previously renders

an interpretation of lower lung difficulty. Vascular markings do appear fairly distinct. In the absence of lack of distinction, in the absence of blurring the vascular markings, I did not make a diagnosis of asbestosis disease.

Q. But you told her that she had no evidence, no evidence it says at the bottom, of asbestosis disease.

A. In the light of hindsight making a categorical statement like that, it was probably not the right thing to do. But it was the best effort I could make at the time. It was consistent with what I told you a few moments ago. If I had opened the door and said what's this, and said things in such a way as this lady would say, what's this fellow hiding from me? Then it just seems I would have shot myself in the foot.

She didn't have any clear-cut evidence of asbestosis disease that I thought at the time.

Q. You did tell me earlier that you agreed with Dr. Pendergrass where he said that when you can demonstrate x-ray evidence of asbestosis the disease is well-advanced.

A. That's what he said.

Q. You told me earlier you agreed with that.

A. I may have said -- I may have agreed with you. I may have been too obliging. I'm not certain that I absolutely knew it was well-advanced.

Let me put that in another way. Dr. Pendergrass did not recognize the radiographic changes that he could state categorically were asbestosis until the disease was far advanced. And it may be that that's what he meant by that statement. I tried to push back to an early time on the radiographic changes the point of diagnosis.

Q. Well, with Lois Hurtt you also didn't follow Dr. Knox's recommendation in his January 20th, 1959 letter, Exhibit 3838, where he says that if there's considerable suspicions -- underlying the word "suspicions" -- that fibrosis of the lung may be present, further exposure to dust is highly undesirable, did you, in Lois Hurtt's case nor from what I understand was your practice with the other workers?

MR. FORMAN: I'm going to

object to form. I don't think he said considerable --

A. I think I answered your question with my statement a few moments ago. I obviously didn't think there was considerable enough suspicion to make the diagnosis. If I had, I would have stated it.

Q. (By Mr. McConnell) But Dr. Knox, just for the record, doesn't refer to diagnosis, he says suspicion that fibrosis is present.

A. Yes. I think I can also tell you that somewhere else in Dr. Knox's writing is that they didn't begin to suspect it until it was very, very late, traditionally and customary. He also said the pneumoconiosis panel in England were very, very conservative and required pretty far advanced information on that patient on which to base the diagnosis.

So that when you are quoting me there, you are not quoting the whole body of information from which he's coming.

Q. But I'm quoting the information on January 20th, 1959 he sent to management at Uniroyal.

A. Again, you are not quoting -- you

are quoting me one fish out of the lake. You are not showing me the lake.

Q. I will be glad to show you the lake that he sent to Uniroyal at the time to see if -- I just want the record clear because there's no smoke or mirrors or tricks here. There's nothing in that letter that he sent to Uniroyal on January 20th, 1959 that counters that statement, is there?

A. That counters what statement?

Q. That when there is considerable suspicion of fibrosis of the lung one should be removed from dust exposure.

A. No. There's nothing in it; but I've got to say to you that when they got suspicious, they were like Kenneth Smith's x-rays at Johns-Mansville, they were far advanced. For them to be suspicious, they had to have -- and his x-rays also, Dr. Kenneth Smith's and Dr. John Knox's x-rays of asbestosis early were what I called late.

Q. Dr. Knox -- and I don't think we've said it in this deposition -- so the record's clear was a medical consultant to Turner Brothers, an asbestos company in England?

A. I think so. He was a medical

director.

Q. And Kenneth Smith was a medical director for the Johns-Mansville, an asbestos company in the United States?

A. Yeah.

Q. Do you know whether Dr. Pendergrass had any connection with an asbestos company other than to serve as a consultant to Uniroyal?

A. I don't know for a fact. I know that he had access to x-rays of patients; but whether or not he had an association with the company, I don't know.

Q. If you give me one minute, I think I'm about done, Doctor.

A. But for the record -- and I think it's important to emphasize from my point of view that the point in time of diagnosis for Dr. John Knox was at a point considerably later when they were reasonably certain of asbestosis. As I said, Dr. Knox showed me x-rays of reasonable certainty of x-rays that were far advanced from what I saw for early asbestosis.

Q. Let me ask you this: Is your philosophy about -- that you discussed about when to tell the patient they had asbestosis or not to

tell the patient if they had asbestosis, is that the same for any diagnosis that you've seen in your general internist practice, or was that special to people with asbestosis disease?

A. I might tell in my office somebody who came in complaining of chest pain, I would know that almost -- you work a lot, just as you do, by intuition. I would know almost intuitively that they were concerned about heart disease. I would say, let's check this out.

There's a little bit of difference. They knew between that and a Uniroyal patient, who many instances were my private patients -- unsolicited I might add. They knew I was there looking for asbestosis disease. That was the whole purpose of my being there; hoping not to find it but looking for it.

With what I thought I knew at the time when I learned how to diagnose it, the purpose was to learn how to diagnose it as early as possible and remove them. But the purpose again was not to remove them until I had a diagnosis. They knew what I was there for.

MR. MCCONNELL: I don't have anything further. Dr. Wells, thank

you.

MR. FORMAN: I have just a couple follow-up questions, Dr. Wells.

DIRECT EXAMINATION

BY MR. FORMAN:

Q. You were just asked about a letter dated January 20th, 1959 from Dr. Knox to Mr. Sands. Can you find that.

A. On January 20th?

Q. Yes, sir, 1959.

A. Yes, sir.

Q. I believe that was marked to be Plaintiff's Exhibit 3838, and you were asked about the statement if there is considerable suspicion that fibrosis of the lung may be present, further exposure to dust is highly undesirable.

Now, let me ask you to turn to the end of the letter, if you will, please, to Page 3; and look in the last paragraph. And did Dr. Knox also report with respect to the opinions of Dr. Pendergrass and an x-ray diagnosis of asbestosis that with regard to the radiologic classification of asbestosis I should include only two states, asbestosis moderately advanced and asbestosis markedly advanced. Do you see that?

A. Yes, I see that.

Q. And does he also further say, I feel certain that the roentgenographic diagnosis of the clinically early stage of asbestosis is not entirely reliable. His recent pronouncements on this subject suggest that his views have not altered significantly from this. When we are considering the early case, I think that is a most important matter to bear in mind. In fact, I occasionally find radiological appearances and new entrance to the industry subjective of early asbestosis, although they have never been exposed. Did he also report that, Dr. Wells?

A. Did Dr. Knox report that?

Q. Yes.

A. Yes. He said that; and essentially in paraphrase he said to me, as I attempted to say earlier that -- and as he showed me, his diagnostic entry was at a stage that was pretty far advanced in comparison with ours. And again I say I made comment of this to Mr. Link, and I think I've got something in here that says so, that both he and Kenneth Smith, John Knox and Kenneth Smith, showed me x-rays of early asbestosis which were comparable to what we

diagnosed as late asbestosis.

So when we say -- when you quote what he says about suspicion of fibrosis, when they're talking about suspicion of fibrosis, they've got pretty good evidence that patient, in fact, has got fibrosis because the x-ray -- if we had waited on the Uniroyal patients to develop the changes that they had that they determined as earlier, then I think everybody would have been comfortable. I'm sure they would have been.

Q. Dr. Wells, did you try to find a way to diagnose asbestosis as early as you possibly could in the patients?

A. Yes, I did.

Q. Was there ever a time in your experience at the Uniroyal plant when you ever intentionally withheld telling a patient they had a diagnosis if you believed they did?

A. No, absolutely not.

Q. Was there ever an occasion when anyone at the plant, any official, ever asked you to withhold making the diagnosis?

A. Absolutely not.

Q. Or to withhold telling a patient that they had a diagnosis of asbestosis --

A. No.

Q. -- if you had made a diagnosis?

A. No.

Q. Were you ever asked to shade any finding you made in any way of a patient in favor of the company when you made these examinations?

A. I wasn't; not in any way, form, or fashion.

Q. Did the plant ever refuse to give you any equipment that you asked for to carry out your examinations?

A. They not only didn't refuse, I felt a little bit reluctant to ask them for everything I wanted; and I bought some of it myself.

Q. Did anyone at the plant ever suggest to you that you should not publish any of the findings that you made at the plant?

A. No.

Q. Did they indicate to you whether they would ever have any objection to your publishing any of your findings?

A. No.

Q. And did you indicate to them that you wanted to publish the findings?

A. I had indicated that to them on

more than one occasion.

Q. And was there ever any objection raised to that?

A. No.

Q. Was there ever an occasion, Dr. Wells, in which you used anything other than your best absolute good-faith clinical judgment in determining whether a patient had asbestosis?

A. I could not tell you a specific occasion.

Q. Was there any instances you found in your dealing with any of the officials of the plant where you felt they ever acted in anything other than in good faith with respect to the workers at the plant?

A. No. I thought they were open and aboveboard with me throughout the entirety of my dealings with them. Mr. Link and his successor -- although I did not cover the successors as intimately as I did with Mr. Link, but I thought they were all open and aboveboard with me.

They didn't discuss with me the business side of the process. I didn't bring it up with them. It wasn't what I considered my purview, but they did answer any questions that I

asked them; and they supplied as much help to me as I felt I could receive.

Q. Did you ever have any experience, Dr. Wells, of examining a patient and having a question of whether there was asbestosis present and later examination concluded that, in fact, it was not present?

A. Yes, sir. I can't -- again, I cannot quote you specific a reference at this time; but I can clearly recall the chart of one individual who had had a diagnosis of asbestosis suspected at a particular date wherein I said in my notes at a subsequent date on review of everything available, I just simply had revised my opinion this patient does not have asbestosis disease.

Q. Are you aware of any instance in your dealings with the company in which, to your knowledge, the company ever deliberately failed to advise any employee of a diagnosis of asbestosis and of the information that was available?

A. No. Every patient that -- on whom I made the diagnosis, I personally saw. There was never any equivocation or questioning that they wouldn't be.

Q. And were you ever asked not to tell a patient you had made a diagnosis?

A. No.

Q. You need to speak up for the record.

A. Never.

Q. Did you come to know the men at the plant that you talked about today, like Mr. Link and Mr. Alexander, Mr. Austin, Mr. Fort, people like that?

A. Did I come to know them?

Q. Yes. Did you have occasion to see them a number of times over the years that you were there?

A. Yes, I did.

Q. And do you think you had enough contact with them to determine whether they were dealing in good faith with you there?

A. I felt that they always --

MR. MCCONNELL: I'm going to object to the form of the question, but go ahead.

A. Well, in essence I think I had answered that question early on by saying I thought they were men of high character and

integrity. I never had any doubt.

MR. FORMAN: That's all I have.

RECROSS-EXAMINATION

BY MR. MCCONNELL:

Q. As far as you knew, Doctor?

A. As far I knew.

Q. Let me ask you this: Were you ever consulted in the 19 -- late 1950s by anyone at Uniroyal where they attempted to devise a cost -- the cost per pound of cloth for exposing their workers to asbestosis?

A. No, sir.

Q. And as to the 1959 letter that you said was sent to the employees, you thought -- you believed it was delivered to their homes, the July '59 letter?

A. I believe it was delivered to their homes, yes.

Q. Were you shown a copy of that letter for input prior to being sent out?

A. No, sir. I was not shown a copy. I did not participate in the production of that letter.

MR. MCCONNELL: Thank yqu.

MR. FORMAN: Just one follow-up on

that.

REDIRECT EXAMINATION

BY MR. FORMAN:

Q. Dr. Wells, did any officials at the plant ever complain to you about the cost of occupational disease at the plant with respect to diagnosing the cases of asbestosis that you made?

A. No, they did not.

Q. In other words, did they ever say anything like, well, you are costing us money by making a diagnosis of asbestosis?

A. No, sir.

Q. Did they ever complain to you in any way about making a diagnosis?

A. They did not.

MR. MCCONNELL: I'm also done, Dr. Wells. Let me just state for the record that you have been kind enough to provide us with tremendous amounts of paper this morning in response to a notice that I know you just received in the last day or two. So rather than conclude the deposition, I'm going to reserve my right to have the pleasure of questioning you again -- I won't assume

anything -- after we have a chance to get copies of these that your personal attorney has been so kind to agree to make copies for us or have copies made. So I just want the record to reflect that at end of your deposition, and I want to thank you for your time. I sure appreciate it.

MR. FORMAN: Let me state for the record we do not agree to hold the deposition open. Any questions you want to ask of Dr. Wells can be asked at this time, and we don't want to impose any further imposition on him by asking him to reappear for another deposition.

MR. MCCONNELL: Just so the record's clear, I have not had the chance -- and I think folks can probably testify to this -- to in any way, shape, or form even look at let alone study the volumes of documents that you've produced today; and that was my reason for holding it, not for anything that I could have asked you prior to that time. But I'm sure we will battle that

at a future time before different people; and again, I thank you, Doctor, for your time and thank your attorneys for that time.

(A discussion ensued off the record.)

MR. MCCONNELL: The exhibits 1 through 18 are not being attached to this deposition but will be sent to both counsel for Uniroyal.

MR. FORMAN: That's fine.

MR. MCCONNELL: And counsel for plaintiffs as soon as Dr. Wells' personal counsel can have the copies made.

MR. BUICE: Except Exhibit 11.

MR. MCCONNELL: Dr. Wells just said he would like to read and sign the deposition if that's procedure in Georgia.

MR. BUICE: Very good.

(Deposition concluded at 4:00 p.m.)

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 191 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 14th day of April 1993.

Danette L. Holbrook

DANETTE L. HOLBROOK, CCR-B-1355
My commission expires on the
26th day of November 1993.

DEPOSITION OF DR. JOHN G. WELLS/DLH

I do hereby certify that I have read all questions propounded to me and all answers given by me on April 13, 1993, taken before Danette L. Holbrook, and that:

____ 1) There are no changes noted.
____ 2) The following changes are noted:

Pursuant to Rule 30 (7)(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below:

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DEPOSITION OF DR. JOHN G. WELLS/DLH

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If supplemental or additional pages are necessary, please furnish same in typewriting annexed to this deposition.

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DR. JOHN G. WELLS

Sworn to and subscribed before me,
this the ___ day of _____ 1993.

_____

Notary Public.
My commission expires: _____

IN THE CIRCUIT COURT OF JACKSON COUNTY
STATE OF MISSISSIPPI

IN RE:
ASBESTOS PERSONAL INJURY CASES ABRAMS NOS.

88-5422(2), 89-5088(2), 89-5121(2), 90-5247(2), 88-5420(2), 89-5252(2), 90-5069(2), 90-5322(2), 89-5153(2), 90-5352(2), 89-5268(2), 90-5045(2), 90-5274(2), 88-5181(2), 91-5187(2), 91-5098(2), 91-5000(2), 90-5387(2), 91-5119(2), 90-5369(2), 91-5135(2), AND 91-5178(2).

CORRECTIONS ONLY

DEPOSITION OF

DR. JOHN G. WELLS

April 13, 1993

10:00 a.m.

100 Wagon Yard Plaza
Carrollton, Georgia

Danette L. Holbrook, CCR-B-1355

DEPOSITION OF DR. JOHN G. WELLS/DLH

I do hereby certify that I have read all questions propounded to me and all answers given by me on April 13, 1993, taken before Danette L. Holbrook, and that:

____ 1) There are no changes noted.
__✓__ 2) The following changes are noted:

Pursuant to Rule 30 (7)(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below:

Page No. 34 Line No. 23-24 should read:
- in an effort to put them in chronological order so that I can refer to them more easily

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Page No. 36 Line No. 15 should read:
Dr. LANZA

And the reason for the change is: Spelling

Page No. 40 Line No. 9 should read:
LEVERING NEELY

And the reason for the change is: Spelling

Page No. 53 Line No. 12 should read:
"MANY WHEELS WERE TURNING

And the reason for the change is: Wrong word

Page No. 56 Line No. 1 should read:
True (instead of Truly)

DEPOSITION OF DR. JOHN G. WELLS/DLH
And the reason for the change is: elective instead patient

Page No. 62 Line No. 24 should read:
was not an interpreter wearing -

And the reason for the change is: word correction

Page No. 74 Line No. 14-15 should read:
Yes instead of Yeah
Front instead of fountain

And the reason for the change is: clarity

Page No. 116 Line No. 18 should read:
McPherson Scott instead of Preston-Scott

And the reason for the change is: spelling

Page No. 117 Line No. 13 should read:
nitrogen washouts instead of washoffs

And the reason for the change is: spelling

Page No. 120 Line No. 7 should read:
putative instead of punitive

And the reason for the change is: spelling

Page No. 140 Line No. 9 should read:

silicosis instead of pittacosis

And the reason for the change is:

Page No. 146 Line No. 4-7 should read:
~~the only concession short of an ideal gas exposure being the minimum relationship of transmission returns versus increasing effort and expense~~

Reason - inaccurate quotation

Page # 147 line 2
should read "diffusion work" instead of diffuse
Reason - spelling

page 147 line 6
should read - steady state diffusion
Reason - word correction

page 167 line 24
should read paternalistic instead of clannalistic
Reason - word correction

page 175 line 6
should read - difficult
Reason - clarity

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If supplemental or additional pages are necessary, please furnish same in typewriting annexed to this deposition.

_____
DR. JOHN G. WELLS

Sworn to and subscribed before me,
this the 6th day of May 1993.

_____
Notary Public.
My commission expires: MY COMMISSION EXPIRES FEBRUARY 15, 1997