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Cause No. 2005-35201-A

VICTOR GRUETZNER,) IN THE DISTRICT COURT OF
 Plaintiff)
)
VS.) HARRIS COUNTY, TEXAS
)
ABCO INDUSTRIES, INC.)
ET AL.) 11TH JUDICIAL DISTRICT

Transferred from

NO. 03-CV-0572-E

VICTOR GRUETZNER,) IN THE DISTRICT COURT OF
 Plaintiff)
)
VS.) GALVESTON COUNTY, TEXAS
)
ABCO INDUSTRIES, INC.)
ET AL.) 212th JUDICIAL DISTRICT

ORAL/VIDEOTAPED DEPOSITION OF:

PAUL VANDERBILT

APRIL 5, 2006

Stratos Legal Services, LP

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ORAL/VIDEOTAPED DEPOSITION OF

PAUL VANDERBILT, produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on the 5th of April, 2006, from 9:03 a.m. to 3:08 p.m., before Jill M. Phillips, CSR in and for the State of Texas, reported by machine shorthand, at the offices of Spain Hastings & Ward, 3900 Two Houston Center, 909 Fannin Street, Houston, Texas 77010, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

* * * *

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Mr. Doug Overstreet, Videographer

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THE VIDEOGRAPHER: We're on the record, April, 5th, 2006. It's 9:03 a.m., beginning of Tape 1.

Would the court reporter please swear in the witness.

(Witness sworn.)

MR. McLEOD: Just before we get started, I'd like for everybody here present at the deposition today to go ahead and make announcements as to who you are, your full name and who you are here representing today in this deposition and in this lawsuit; and I'll start.

I'm Matt McLeod. I represent the plaintiff.

MR. PICKERING: Wayne Pickering here for defendant, R.T. Vanderbilt.

MR. YORK: Peter York on behalf of R.T. Vanderbilt.

MR. FARRELL: William Farrell for Guard-Line.

MR. JAMES: Mark James for Fluor, Trinity and W.S. Bellows.

MS. BERNER: Heather Berner for DaimlerChrysler.

MR. WAGNER: Frederick Wagner for

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T.H. Agriculture & Nutrition.

MR. WALDEN: T. Lynn Walden for Bondex International and RMP.

MR. STOMEL: Ross Stomel for the plaintiff.

MR. McLEOD: Agreements?

MR. PICKERING: We'd like to read and sign. Agree that if the original's not available, a copy can be used at hearings or at trial.

MR. McLEOD: Okay. Even without saying, we're taking this pursuant to the Texas Rules today.

MR. PICKERING: Right, pursuant to the Texas Rules.

MR. McLEOD: So as to cut down on duplicitous objections, all agree one objection's good for everybody present; and are all defendants present and announced for, that is.

We've got one more. We're making announcements right now. Just tell us who you are and who you represent.

MS. BARAHONA: Monika Barahona and I represent Bechtel.

MR. McLEOD: Thank you, Monika.

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Is that all?

MR. PICKERING: Just for the record, Mr. Vanderbilt's here pursuant to the notice; and we've responded to the subpoena duces tecum you'd sent. And by his appearing today, we're not waiving a right to preserve and pursue the objections that we made to the duces tecum.

MR. McLEOD: Okay. Does the witness have a copy of his current CV? Because I haven't been provided with one up to today's date.

THE WITNESS: No, I don't.

MR. McLEOD: Okay. Do you have a CV at all?

THE WITNESS: Actually, no.

MR. McLEOD: Not even a resume?

THE WITNESS: No.

MR. McLEOD: Okay.

And just for the record, in response to my subpoena duces tecum, no documents have been provided by this witness in response to any of those requests; is that correct?

MR. PICKERING: For the reasons set forth in the response and the objections that we filed, that is correct.

MR. McLEOD: Okay.

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1 PAUL VANDERBILT,
 2 after being first duly sworn, testified as follows:
 3 EXAMINATION
 4 BY MR. McLEOD:
 5 Q. Mr. Vanderbilt, we met just a second ago.
 6 I introduced myself; but just for the benefit of the
 7 jury who didn't hear us then, I'm Matt McLeod. I
 8 represent a man named Victor Gruetznier. You know
 9 that, right?
 10 A. Yes.
 11 Q. You understand, sir, I'm not your lawyer,
 12 right?
 13 A. Excuse me?
 14 Q. You understand that I am not your lawyer,
 15 don't you?
 16 A. Yes.
 17 Q. Okay. Are you represented by counsel
 18 personally here today?
 19 A. No.
 20 Q. Are you testifying as a fact witness or as
 21 a corporate representative of the R.T. Vanderbilt
 22 Company today?
 23 A. The latter.
 24 Q. Okay. Corporate representative?
 25 A. Yes.

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1 Q. Okay. You have no personal knowledge
 2 about the facts of Victor Gruetznier's individual
 3 lawsuit at all, do you?
 4 MR. PICKERING: Objection, form.
 5 A. Only as to Vanderbilt's involvement in it.
 6 Q. (By Mr. McLeod) Okay. Well, we'll get
 7 into that.
 8 Sir, as corporate representative,
 9 you're not only testifying as -- as yourself; but
 10 you're testifying on behalf of R.T. Vanderbilt, the
 11 whole company today. You understand that, right?
 12 A. Yes.
 13 Q. We can't bring everybody from Norwalk down
 14 here to testify. As far as R.T. Vanderbilt goes,
 15 you're it. You understand that?
 16 A. Yes.
 17 Q. And you speak on behalf of R.T. Vanderbilt
 18 when you answer my questions today, right?
 19 A. Yes.
 20 Q. Do -- do you believe that you and R.T.
 21 Vanderbilt's two lawyers here today, do you believe
 22 that you have some kind of an attorney/client
 23 privilege with them?
 24 A. Yes.
 25 Q. You do?

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1 A. Yes.
 2 Q. Okay. I'm just having trouble hearing
 3 you.
 4 A. Yes.
 5 Q. Okay. Have they told you that what you
 6 say with them is -- is privileged information? Your
 7 discussions with R.T. Vanderbilt's lawyers, have
 8 they said that that information is privileged?
 9 A. Yes.
 10 Q. Okay. You do understand, sir, that the
 11 testimony you're giving here today has the same
 12 force and effect as if you were sitting in a
 13 courtroom in front of judge and a jury, right?
 14 A. Yes, I do.
 15 Q. Okay. And this is not your first rodeo,
 16 so to speak. You have been deposed before.
 17 A. Yes.
 18 Q. You understand the oath you just took?
 19 A. I do.
 20 Q. You promise to tell us the truth?
 21 A. Yes.
 22 Q. You've been advised by your lawyers what
 23 perjury is, right?
 24 A. I know that, yes.
 25 Q. Okay. If you, in fact, perjure yourself,

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1 you know, you're personally going to have to answer
 2 for that, correct?
 3 A. Yes.
 4 Q. All right. Can you think of any reason
 5 today why you would not be able to testify
 6 accurately?
 7 A. No.
 8 Q. Sir, are you going to come to trial in
 9 this case?
 10 A. I don't know.
 11 Q. Would you be willing to testify live at
 12 trial down in Galveston, Texas if R.T. Vanderbilt's
 13 lawyers asked you to?
 14 A. Yes.
 15 Q. Have you ever done that before?
 16 A. No.
 17 Q. Have you ever been asked to before and
 18 declined?
 19 A. No.
 20 Q. Why is it that you've never been asked to
 21 testify in trial before on behalf of R.T.
 22 Vanderbilt?
 23 MR. PICKERING: Objection, form.
 24 A. I don't know.
 25 Q. (By Mr. McLeod) They just haven't asked

1 you?
 2 A. I think there's been some discussion, but
 3 no.
 4 Q. Okay. Sir, how many depositions have you
 5 given for R.T. Vanderbilt in the past?
 6 A. Oh, I don't know, about six or seven.
 7 Q. Can you tell me how many of those
 8 depositions were given in cases where people are
 9 alleging that they got an asbestos-related injury as
 10 a result of exposure to R.T. Vanderbilt talc
 11 products?
 12 A. Well, they were alleging injury from talc,
 13 not necessarily asbestosis, in all but one -- no,
 14 all but -- actually, all but two or three.
 15 Q. Okay. So how many is that? How many
 16 times have you testified on behalf of --
 17 A. Somewhere in the area of four or five.
 18 Q. Okay. And are you saying that there's
 19 only one or two other depositions that you've given
 20 on behalf of R.T. Vanderbilt that did not involve an
 21 injury related to talc?
 22 A. Yes.
 23 Q. Do you know what those cases were about?
 24 A. One was a dispute between two hazardous
 25 waste companies concerning their own competitive

issues and two related to insurance coverage.
 2 Q. Insurance coverage as it related to what?
 3 A. To the R.T. Vanderbilt Company.
 4 Q. In what respect? What insurance coverage
 5 was it for?
 6 A. Excuse me?
 7 Q. What was the insurance coverage for?
 8 A. For general liability.
 9 Q. Did it have -- it had nothing to do with
 10 asbestos or talc, though?
 11 A. It had to do with coverage of -- insurance
 12 coverage of R.T. Vanderbilt Company.
 13 Q. Okay. Has -- have your insurance carriers
 14 entered into litigation on the issue of whether or
 15 not they owe y'all a duty to defend you in asbestos
 16 cases or talc cases?
 17 A. Have they sued R.T. Vanderbilt Company?
 18 No.
 19 Q. I didn't ask you that. I said: Has there
 20 been any litigation involved in that issue on behalf
 21 of your carriers?
 22 MR. PICKERING: At what time frame,
 23 Matt?
 24 MR. McLEOD: Ever.
 25 A. Between the carriers, yes.

1 Q. (By Mr. McLeod) Okay. And what was the
 2 result of that litigation?
 3 A. I think they reached a settlement.
 4 Q. Okay. Was it CNA? Was that one of the
 5 parties?
 6 A. Yes.
 7 Q. Okay. Was Hartford involved in that?
 8 A. Yes.
 9 Q. Okay. And what was the -- what was the
 10 point of contention in that litigation?
 11 A. The sharing of coverage.
 12 Q. Okay. And was it decided that CNA had the
 13 lion's share of the coverage involved in
 14 talc-related cases?
 15 A. Well, I think the majority, yes.
 16 Q. Okay. We were talking about depositions
 17 and we got sidetracked a little bit there. Can you
 18 tell me the first time you ever gave a deposition in
 19 any case where it was alleged by the plaintiffs in
 20 the case that -- or even R.T. Vanderbilt talc dust
 21 had caused them injury? When did you first give a
 22 deposition in a case like that?
 23 A. Actually, I can't remember specifically
 24 which one.
 25 Q. Can you ballpark me?

1 A. Well, certainly post '84, which is when I
 2 joined the company.
 3 Q. How far past '84 -- how long after you
 4 joined the company --
 5 A. I don't know.
 6 Q. -- was it when you first gave a
 7 deposition?
 8 A. I don't know.
 9 Q. You have no idea?
 10 A. No.
 11 Q. Can you tell me if it was '99 or '85.
 12 A. I don't know.
 13 Q. Okay. I've read some of your deposition
 14 testimony in the past that you have given and I
 15 think you told us that the first deposition you gave
 16 was in a city called Kansas City, Missouri. Do you
 17 remember saying that?
 18 A. I don't think that was the first
 19 deposition I've given.
 20 Q. That wasn't the first one?
 21 A. What? No.
 22 Q. Okay. Well, was it a gentleman by the
 23 name of Steve Craig taking your deposition in that
 24 case, or do you recall?
 25 A. Well, I know -- I -- yes, I know he took a

Page 18 1 deposition of me, yes. 2 Q. Okay. In Kansas City? 3 A. I'm not sure. 4 Q. All right. I heard you had the pleasure 5 of having your deposition taken out in California 6 last week. Is that right? 7 A. No. 8 Q. No? You weren't deposed last week? 9 A. Not in California. 10 Q. Okay. Thanks for clearing that up. 11 Was it by a man named Bill Levan that 12 took your deposition? 13 A. I don't know. 14 Q. All right. Was that a case involving a 15 talc-related injury? 16 A. Yes. 17 Q. You can't tell me who took your 18 deposition? 19 A. I forget the name of the attorney. 20 Q. Okay. Can you tell me where you were when 21 that deposition was taken, sir? 22 A. New York City. 23 Q. Okay. At the law offices of the fine firm 24 Akin & Gump, right? 25 A. Yes.	Page 20 1 your lawyers, who've represented you over the years 2 and -- and -- or represented R.T. Vanderbilt over 3 the years in talc litigation to produce depositions 4 that you've given in the past on that issue? 5 MR. PICKERING: Objection, form. 6 A. I don't know. 7 Q. (By Mr. McLeod) Are you aware that 8 they're required to produce those depositions to me 9 under the master discovery governing asbestos cases 10 here in Texas? 11 A. No. 12 Q. They haven't discussed that with you? 13 A. No. 14 Q. Have you signed any affidavits in 15 conjunction with any of the talc litigation ever -- 16 A. Yes. 17 Q. -- that involved R.T. Vanderbilt? 18 A. Yes. 19 Q. Do your lawyers have those affidavits? 20 A. Yes. 21 Q. Can you tell me why none of those 22 affidavits were produced to me in this case? 23 MR. PICKERING: Objection, form. 24 Argumentative. 25 A. No.
Page 19 1 Q. Sir, the depositions that you give on 2 behalf of R.T. Vanderbilt, do you keep them, copies 3 of them? 4 A. I think my lawyers have. I don't think I 5 have them personally, no. 6 Q. Do you generally get a chance to review 7 those depositions after you give your testimony and 8 make sure everything got typed down correctly? 9 A. Yes. 10 Q. Do you generally sign them and certify 11 that your answers were correct and true? 12 A. Yes. 13 Q. Okay. And you say your lawyers have all 14 those depositions that you've given from the first 15 one through the last one that you gave? 16 MR. PICKERING: Objection, form. 17 A. You have to ask them. 18 Q. (By Mr. McLeod) Do you know how many past 19 depositions were produced to me in this case by your 20 lawyers? 21 A. No. 22 Q. One. 23 Now, can you tell me why that is? 24 A. No. 25 Q. Do you think it would be difficult for	Page 21 1 Q. (By Mr. McLeod) You can't tell me why? 2 A. No. 3 Q. Do you understand the allegations that are 4 being made against R.T. Vanderbilt in this case, 5 sir? 6 A. Generally, yes. 7 Q. Generally, what do you think they are? 8 A. Well, R.T. Vanderbilt Company is being 9 accused of having sold asbestos-containing product 10 to which your plaintiff was exposed. 11 Q. That's correct. And do you have an 12 understanding of how he would have been exposed to 13 R.T. Vanderbilt asbestos-containing products? 14 A. Well, there is no asbestos-containing 15 product from R.T. Vanderbilt. But I think the 16 allegation is in joint compounds or spackling 17 compounds, something like that. 18 Q. We're alleging that Victor Gruetzner was 19 exposed to R.T. Vanderbilt talc, which was a 20 component part of joint compounds and spackling 21 compounds and finishing compounds, basically just 22 wallboard finishing products that he used over his 23 career back in the '50s on through his career. Is 24 that consistent with your understanding? 25 A. Yes.

6 (Pages 18 to 21)

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Q. Okay. How did you arrive at that conclusion that that's what this case was about?

A. Well, because I've seen the complaint and I've discussed it with the company's attorneys.

Q. Okay. Sir, I'm going to go ahead and have one exhibit marked here by our court reporter, is to be Exhibit No. 1. And this has all been provided to defense counsel.

It's a letter I sent to Mr. Pickering, one of R.T. Vanderbilt's lawyers, back in February requesting to take the deposition of a corporate representative or representatives, if more than one nec -- is necessary, who are the most knowledgeable persons on -- on a bunch of categories listed out in this letter. And after we have it marked, I'm going to ask that it be passed over to you so you can look at it.

(Exhibit No. 1 marked.)

Q. (By Mr. McLeod) Now, Mr. Vanderbilt, do you -- do you believe that you've ever seen that document before?

A. No, I don't think so.

Q. They never showed it to you?

A. (No audible response.)

Q. No? You were never shown that document?

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A. Well, I think I've seen some of the -- the elements requested here; but I don't think I've seen this actual letter, but I may have. I don't know.

Q. Well, what I'm asking you, sir, just so we can be real clear on the record: Do you believe that any of the lawyers from R.T. Vanderbilt showed you that specific letter prior to --

A. I don't know.

Q. -- today?

You can't say.

Okay. Let's go over some of these categories that I've asked R.T. Vanderbilt to produce a corporate representative on.

Are you the person most knowledgeable at R.T. Vanderbilt about the connection between talc mined in the Gouverneur Quadrangle and asbestos?

A. Well, I've never heard the term "Gouverneur Quadrangle." I'm not a technical individual, so I can't talk to the technical side of things. But I'm aware of some aspects of that, yes.

Q. Would you be the person most knowledgeable of R.T. Vanderbilt on that topic?

A. Well, subject to what I just said.

Q. Okay. Do you think there's anybody at R.T. Vanderbilt that knows more about the asbestos

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content of Vanderbilt talc mined in the Balmat mine other than you?

A. On the technical side, yes, certainly.

Q. So you're not the person most knowledgeable on that topic, are you?

A. Not on the technical side, not concerning -- I mean that to say the non-asbestos content for talc.

Q. Okay. I understand there's a controversy there. We're going to agree to disagree on that today. I understand you're going to allege that R.T. Vanderbilt talc does not contain asbestos and I am going to continue to alledge that it does. All right? So I don't want to spend a whole lot of time arguing about that.

No. 2: Are you the person most knowledgeable at R.T. Vanderbilt about the health hazards associated with asbestos exposure?

A. No.

Q. No. 3: Are you the person most knowledgeable at R.T. Vanderbilt about the locations of R.T. Vanderbilt talc mining operations, including subsidiaries and related companies?

A. Well, I guess that's what I'm being produced for, yes.

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Q. So you are the person most knowledgeable at R.T. Vanderbilt about that one?

A. Well, among them, yes.

Q. Okay. Well, are you the most knowledgeable person about No. 3 at R.T. Vanderbilt; or is there somebody else that I ought to be talking to that knows more than you?

A. No, I can talk to that.

Q. That's not what I asked you. Are you the most knowledgeable human being at R.T. Vanderbilt on No. 3?

A. Well, there are other people, of course, who are just as knowledgeable as I am about this.

Q. Do you know why you've been produced in response to this question, then?

MR. PICKERING: Objection, form.

A. Well, because I'm the corporate secretary and I'm in the company and I know the subject.

Q. (By Mr. McLeod) Okay. But there are other people that know just as well, if not better than you, right?

A. Well, certainly as well.

Q. Okay. So you very well may not be the person most knowledgeable to No. 3?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) True?

A. I wouldn't consider myself the most knowledgeable person about anything in particular, but I know the subject.

Q. Okay. Do you think you're the person most knowledgeable about anything in my request for a corporate representative here today?

A. Well, I know certain subjects.

Q. Okay. What about OSHA and/or MSHA and/or EPA compliance or non-compliance with threshold limit values for respirable asbestos fiber at R.T. Vanderbilt's manufacturing, mining, milling, packaging, and distributing -- distribution facilities? Are you the person most knowledgeable about that?

A. No, not on the technical side.

Q. You keep saying "no, not on the technical side." What does that mean?

A. Well, I'm not a technical individual. I'm not a scientist or a -- an industrial hygienist, medical doctor or anything like that.

Q. So the short answer would be no, you are not the person --

A. Yes.

Q. -- most knowledgeable?

Q. You weren't -- R.T. Vanderbilt's never been concerned about asbestos at all. Is that your position?

MR. PICKERING: Objection, form.

A. Of course there's been a concern about asbestos when we were accused of having products containing it.

Q. (By Mr. McLeod) What No. 7 asks is when defendant R.T. Vanderbilt first learned of the health hazards of --

A. Well, the answer is that nobody knows that question. It's been asked in discovery and whatever, and the answer is always that we don't know.

Q. Okay.

A. Because we were not producing asbestos products that --

Q. Let me --

A. -- point to a document or a day which indicates when we found out about asbestos.

Q. Okay. So, you -- you wouldn't be the person most knowledgeable on that topic, correct?

A. I'd be as knowledgeable as anyone else.

Q. Okay. And let's just get something out in the open: I'm not going to interrupt you when

Okay. What about worker's compensation claims filed by R.T. Vanderbilt employees alleging asbestos-related diseases?

A. No, I'm not.

Q. What about R.T. Vanderbilt's membership in various industry organizations, trade associations? And there are a few of them listed on there. Are you the person most knowledgeable about membership in those organizations?

A. Yes, I am.

Q. Okay. No. 7: Are you the person most knowledgeable about when R.T. Vanderbilt first learned of the health hazards associated with the inhalation of asbestos fibers?

A. Yes and no.

Q. Explain.

A. Well, as we've agreed to disagree, there is no asbestos in -- in -- in the Vanderbilt talc; and because there isn't, we were not beating the bushes to find information on the subject. And so it's difficult to know when, if at all, we found out about --

Q. Sure.

A. -- asbestos, since we weren't concerned with it.

you're giving your answers. Please give me the courtesy of not interrupting me when I'm asking my questions. Okay?

A. Didn't know I had. I'm sorry.

Q. That's okay.

Are you the person most knowledgeable about Category No. 8, warnings provided by R.T. Vanderbilt to its talc customers about asbestos content of their talc -- their talc products through documents, memos and warning labels or whatever means?

A. No.

Q. Okay. Let's skip down a couple, anyway. No. 11: Are you the person most knowledgeable within the R.T. Vanderbilt Company about sales of R.T. Vanderbilt talc products to the following companies, including products sold, quantities, years, specific talc products sold to the companies listed below A through L?

A. Yes, I am.

Q. No. 12: Are you the person most knowledgeable about specific products manufactured by the companies listed in Request No. 11 above that utilized R.T. Vanderbilt talc?

A. No.

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Q. Who would be the person most knowledgeable about No. 12 within R.T. Vanderbilt?

A. I don't think there is one.

Q. Why do you think that?

A. Well, because talc is a commodity product. We generally weren't aware in detail what our customers were doing with the specific products.

Q. You had no idea what was being done with the talc that y'all sold after it left hands?

A. Oh, in general terms, we did, yes.

Q. Okay. You're not disputing that talc was used as a component in joint compounds in this case, are you?

A. I don't know about particular joint compounds and whether talc was used in them.

Q. You have no idea about that?

A. No.

Q. No. 15: Are you the person most knowledgeable at R.T. Vanderbilt about what year R.T. Vanderbilt started distributing talc?

A. You would have to define the word "distribute."

Q. Okay. Well, let me add to it, then. Selling it, mining it, milling it?

A. Yes.

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Q. You are the person most knowledgeable --

A. Yes.

Q. -- about the year that it started?

A. Yes.

Q. You're not the person most knowledgeable about the chemical and/or mineralogical makeup of R.T. Vanderbilt talc products, are you?

A. No.

Q. You're not the most -- you're not the person most knowledgeable about the toxicology of R.T. Vanderbilt talc, are you?

A. No.

Q. Or the carcinogenicity of talc sold by R.T. Vanderbilt?

A. No.

Q. Are you the person most knowledgeable about the purchase of International Talc Company by R.T. Vanderbilt?

A. At this point, probably, yes.

Q. What does that mean?

A. Well, I wasn't involved at the time; but those who were are deceased.

Q. Is Hugh Vanderbilt still with the company?

A. You'll have to be more specific.

Q. Junior?

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A. Yes.

Q. I understand Hugh, Sr. is deceased.

A. Yes.

Q. Okay. Was he around at the time that purchase happened?

A. Yes, he was. Hugh, Sr.

Q. Would he maybe know more than you do about that topic?

A. Well, cert -- he would have, yes.

Q. Okay. So you are not the person most knowledgeable about that topic, are you?

A. I thought you were referring to Hugh, Sr.

Q. No, I'm talking about junior.

A. No, I'm as knowledgeable or more knowledgeable than Hugh, Jr.

Q. Okay. Are you the person most knowledgeable about attempts, if any, made by R.T. Vanderbilt to warn end-users -- end-users of the hazards associated with using talc products they sold or distributed?

A. Not in detail, no.

Q. So the answer is no?

A. Well, it would depend on the particularities, but...

Q. But what?

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A. Which number are we -- are we on here?

Q. We're on 21, sir.

A. 21? Probably not, no.

Q. Are you the person most knowledgeable about R.T. Vanderbilt's processing of their talc into different formulas?

A. No.

Q. What about distributors of R.T. Vanderbilt talc products, are you the person most knowledgeable about the different distributors that y'all used?

A. No.

MR. PICKERING: Objection, form.

MR. McLEOD: What's the basis?

MR. PICKERING: Just -- I think you're assuming facts not in evidence. I didn't think you laid a foundation to talk about distributors and what his knowledge is about distributors, if any.

Q. (By Mr. McLeod) Do you have any knowledge about the distributors that R.T. Vanderbilt uses for their talc products as in who they are and where they are?

A. Not in detail, no.

Q. Would you be the person most knowledgeable at R.T. Vanderbilt to talk to about OSHA, MSHA

1 and/or EPA violations or citations regarding the use
2 or presence of asbestos in R.T. Vanderbilt talc at
3 their mining, milling or distribution centers?

4 A. No.

5 Q. Who would know about that? Who would be
6 the person most knowledgeable on that topic?

7 A. I think probably John Kelse.

8 MR. PICKERING: Sorry, Matt. Which
9 number was that you --

10 MR. McLEOD: That was 24.

11 MR. PICKERING: Okay.

12 A. J-O-H-N, last name K-E-L-S-E.

13 Q. (By Mr. McLeod) Got it. Thank you.

14 No. 25: The identity of all
15 insurance policies and the name or names of insurers
16 and the amount of coverage in place for liability
17 resulting from persons injured by R.T. Vanderbilt
18 talc products. Are you the person most
19 knowledgeable about that, No. 25?

20 A. 25? No.

21 Q. Who would know more than you about that?
22 Or who would be the person most knowledgeable, I
23 guess?

24 A. Well, there's a number of people. There
25 would be our chief financial officer Joe Denaro,

1 D-E-N-A-R-O, and an individual in his department
2 called Jim McDonald, M-c-D-O-N-A-L-D.

3 Q. Anybody else?

4 A. No.

5 Q. No. 26: Are you the person most
6 knowledgeable about whether or not there are
7 asbestos exclusions in the previously referenced
8 insurance policies?

9 A. Not in detail, no.

10 Q. Who would know more than you about that?
11 Joe Denaro?

12 A. Well, the people I mentioned before and
13 insurance brokers, people like that.

14 Q. Are you knowledgeable about R.T.
15 Vanderbilt's net worth, sir?

16 A. Am I knowledgeable about R.T. Vanderbilt's
17 network?

18 Q. Net worth?

19 A. Net worth?

20 Q. Yes, sir.

21 A. No.

22 Q. Who would know about that?

23 A. The same people I mentioned before.

24 Q. Mr. Denaro and Mr. McDonald?

25 A. Yes.

1 Q. They would be the people most
2 knowledgeable about the net worth?

3 A. Yes.

4 Q. Are you the person at R.T. Vanderbilt that
5 would be the person most knowledgeable about R.T.
6 Vanderbilt's participation in NIOSH, EPA and/or OSHA
7 proceedings regarding the definition and regul --
8 regulation of asbestos fibers?

9 A. No.

10 Q. Who would know that?

11 A. That would be John Kelse again.

12 Q. Would Mr. Kelse also be the person most
13 knowledgeable about any allegations involving paid
14 travel and expenses -- expenses for NIOSH and/or
15 OSHA employees and/or consultants to and from
16 meetings with R.T. Vanderbilt people, or can you
17 say?

18 A. Well, or the lack of them, yes, he would
19 be. Yes.

20 Q. Okay. You don't -- you're not the person
21 most knowledgeable about that topic --

22 A. No.

23 Q. -- are you?

24 What about No. 31, are you the person
25 most knowledgeable about personal or political

1 contributions, whether made by a political action
2 committee or personally or through some other source
3 to United States Senators or House of Representative
4 members from 1965 up till 1987?

5 A. No.

6 Q. Who would know that at R.T. Vanderbilt?

7 A. I guess that would be Hugh, Jr. Hugh
8 Vanderbilt, as in my name, Jr. Or Hugh...

9 Q. Yes.

10 A. Hugh Vanderbilt, Jr.

11 Q. Would you be the person most knowledgeable
12 at R.T. Vanderbilt about the identity of all R.T.
13 Vanderbilt personnel who worked in R.T. Vanderbilt
14 mines or their subsidiaries who have been diagnosed
15 with talcosis, asbestosis, lung cancer or
16 mesothelioma?

17 A. No.

18 Q. Who would know that?

19 A. John Kelse again.

20 Q. And finally, would you be the person most
21 knowledgeable about the identity of former NIOSH
22 and/or OSHA employees who have been hired either as
23 an employee or a consultant by R.T. Vanderbilt after
24 their employment with NIOSH or OSHA?

25 A. No.

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1 Q. Can you think of anybody who would know
2 that?

3 A. That would be John Kelse.

4 Q. Okay. Out of those 33 topics, I count
5 just over a handful that you are the person most
6 knowledgeable about today. Anything that I didn't
7 cover in here that you think you're going to be
8 testifying about as the person most knowledgeable
9 from R.T. Vanderbilt?

10 MR. PICKERING: Objection, form.

11 A. I don't know.

12 Q. (By Mr. McLeod) You don't know?

13 A. No.

14 Q. I'm going to go ahead and mark Exhibit No.
15 2. This is a copy of the notice for this
16 deposition, along with an attached subpoena duces
17 tecum. If I could just get that marked as Exhibit
18 No. 2, I'll have her pass it over to you, sir.
19 (Exhibit No. 2 marked.)

20 MR. McLEOD: Just for the record, at
21 this time, I would like the previous depositions
22 that he's given in talc-related cases produced to my
23 office immediately.

24 MR. PICKERING: I don't have them,
25 I'll make inquiry as to if they're around. I don't

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1 have them and I've not been given any indication by
2 other counsel in this case of them, but I'll -- I'll
3 make inquiry. I've asked for all of them before.
4 You -- I've given you what I have. So, just one
5 that was taken very recently, I've not seen the
6 transcript yet.

7 Certainly you're entitled to that one
8 and we'll -- we'll provide that one. Other than
9 that, I don't even know that others still exist,
10 Matt, so I can't agree to produce them. All I can
11 do is agree to make further inquiry.

12 MR. McLEOD: Well, he said they exist
13 and that his lawyers have them, so...

14 MR. PICKERING: Well, in all due
15 respect and fairness to us, we've not been his
16 lawyers for very long and you know that. I've --
17 I've told you, I've -- I've given you what I have.
18 I will make further inquiry. I've made inquiry
19 before, I'll make further inquiry.

20 Q. (By Mr. McLeod) Have you seen that
21 document before? I just handed it to you, sir.
22 You're holding a copy of --

23 A. Yes, I have.

24 Q. Okay. When did you first see that
25 document?

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1 A. No, I don't know exactly when.

2 Q. Excuse me?

3 A. I don't know exactly when.

4 Q. Can you estimate for me the first time
5 that you laid eyes on that notice, along with the
6 attached subpoena duces tecum?

7 A. Some time ago. I don't know.

8 Q. Are you okay?

9 A. Yeah.

10 Q. Okay. Feeling all right?

11 A. (No response.)

12 Q. Feeling okay?

13 A. Yes.

14 Q. All right. Did you see it before today?

15 A. Yes.

16 Q. Did you see it last week?

17 A. I think so, yes.

18 Q. Were you given an opportunity to review
19 the subpoena duces tecum attached to it?

20 A. Yes.

21 Q. Did you make any effort whatsoever to find
22 any document responsive to any of the requests in
23 the subpoena duces tecum?

24 A. I discussed it with my attorneys, yes.

25 Q. I didn't ask you that. Did you make any

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1 effort to find any document responsive to any of
2 those requests?

3 MR. PICKERING: Objection, form.

4 I'll instruct you not to answer. That's
5 argumentative. He answered the question, Matt. You
6 obviously --

7 MR. McLEOD: What's your -- what's
8 your basis for the instruction not to answer?

9 MR. PICKERING: It's argumentative.

10 You're arguing with him. He answered the question.

11 MR. McLEOD: Well, that's not a basis
12 for an instruction not to answer; and I just want to
13 have it clear on the record. I'm not trying to to
14 be a jerk.

15 Q. (By Mr. McLeod) I know you talked to your
16 lawyers about it. Did you do anything other than
17 talk to your lawyers in response to being served
18 with that subpoena duces tecum?

19 A. No.

20 Q. Do you know what a subpoena duces tecum
21 is?

22 A. Yes.

23 Q. What is it?

24 A. An instruction to produce documents.

25 Q. Responsive to the individual requests that

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are made?
 A. Yes.
 Q. Did your lawyers tell you to disregard it?
 MR. PICKERING: Objection,
 attorney-client privilege. Don't answer that.
 MR. McLEOD: All right.
 MR. PICKERING: In fairness, Matt,
 can we attach a copy of our response at this point
 as Exhibit 3 because we did respond. I don't want
 the record to be -- a big gap in the record here
 where --
 MR. McLEOD: I think you put that all
 on the record in the beginning, but if you'd like to
 mark it and attach it, that's fine with me.
 MR. PICKERING: I would, just so that
 it's -- Exhibit 2 and Exhibit 3 then are -- are
 together in the record. I'll hand the court
 reporter a copy of the responses and objections we
 filed to the subpoena duces tecum prior to the
 deposition.
 (Exhibit No. 3 marked.)
 Q. (By Mr. McLeod) Mr. Vanderbilt, when did
 you find out about this deposition or find out that
 this deposition was going to take place?
 A. A week or two ago.

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Q. And who told you?
 A. My attorneys.
 Q. Do you remember specifically the name of
 the individual that told you that this deposition
 was going to take place?
 A. Well, there was some negotiation about
 dates, so it would have been one of several.
 Q. Who?
 A. The two individuals present.
 Q. Mr. York and Mr. Pickering?
 A. And maybe also Dennis Race.
 Q. And what did they tell you when they told
 you about this deposition? You just need to
 schedule a time and place to do it?
 A. Yes.
 Q. Anything else?
 MR. PICKERING: Objection to the
 extent other than just talking about the -- the
 logistics and scheduling the deposition, I'll
 instruct you not to answer anything about
 substantive things we talked about in preparation
 for the deposition.
 MR. McLEOD: I'm really not trying to
 get at that one.
 MR. PICKERING: Well, that's --

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that's the question --
 Q. (By Mr. McLeod) Let me rephrase my
 question.
 Is the time of day that we scheduled
 this deposition okay with you --
 A. Yes.
 Q. -- 9:00 a.m.?
 And do you have any objections to
 being present here in Houston, Texas for this
 deposition today?
 A. No.
 Q. Is this the first time you've been?
 A. In Houston? No.
 Q. I hear you might have a busy schedule
 later on this month. Is that true?
 A. I don't know.
 Q. You don't know your own schedule for the
 rest of the month?
 A. I don't know whether it's going to be
 particularly busy.
 Q. I hear you might be in trial later on this
 month. Is there any truth to that rumor?
 A. Possibly.
 Q. Where might you be in trial later on this
 month potentially?

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A. In California.
 Q. San Francisco?
 A. Yes.
 Q. What kind of a case is that?
 A. It's a case where an individual alleges
 that -- that he contracted mesothelioma.
 Q. How?
 A. From exposure to asbestos and
 asbestos-containing materials.
 Q. Are they alleging in that mesothelioma
 case in San Francisco that one of the
 asbestos-containing materials that may have induced
 that mesothelioma is R.T. Vanderbilt talc?
 A. Yes.
 Q. And is that the case that you were just
 deposed in up in New York?
 A. Yes.
 Q. At Mr. Race's office?
 A. Yes. No. Correction, no.
 Q. Okay. It was at Akin, Gump in New York,
 right?
 A. No.
 Q. Where?
 A. The offices of Phelan, Reed & Priest.
 Q. Okay. And that's in New York City?

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1 A. Yes. 2 Q. Do you know the name of the case or the 3 name of the individual who -- who contracted 4 mesothelioma? 5 A. Yes. Haanstra. 6 Q. Can you spell that? 7 A. H-double A-N-S-T-R-A. 8 Q. H-A-A-N-S-T-R-A? 9 A. Yes. 10 Q. Do you have a first name? 11 A. No. 12 Q. Do you know the style of that case? 13 Haanstra versus R.T. Vanderbilt? 14 A. No. No, not offhand. 15 Q. Sir, what was the first thing you did when 16 you found out you would have to give this deposition 17 here today? 18 A. I don't know. 19 Q. Did you tell anybody: Hey, I've got to go 20 to Houston and give a deposition for R.T. 21 Vanderbilt? 22 A. Well, I'm sure I did, yes. 23 Q. Who did you tell? 24 A. Probably my secretary. 25 Q. Anybody else?	1 might have had with Mr. York or Mr. Pickering 2 specifically about this deposition testimony that 3 you're here to give today? 4 A. One or two. 5 Q. Well, which is it, one or two? 6 A. Two. 7 Q. And were both Mr. Pickering and Mr. York 8 present at both of those meetings? 9 A. Yes. 10 Q. Or participating in both of those meetings 11 I should say? 12 A. Yes. 13 Q. Were they conference calls? 14 A. No. 15 Q. Was it -- well, when was the first meeting 16 you had with them specifically about this 17 deposition? 18 A. Yesterday. 19 Q. What time did you arrive in Houston 20 yesterday? 21 A. 10:00 o'clock. 22 Q. A.M.? 23 A. Yes. 24 Q. And when was your first meeting with 25 Mr. Pickering or Mr. York yesterday?
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1 A. Well, I discussed it with my attorneys. 2 Q. Anybody else? 3 A. No. 4 Q. Nobody at R.T. Vanderbilt, other than your 5 secretary? 6 A. No. 7 Q. Is that correct? 8 A. Yeah. 9 Q. Prior to the deposition today, have you 10 met with anybody specifically to discuss this 11 deposition? 12 A. Prior to when? 13 Q. Prior to right now. 14 A. Yes. 15 Q. Who? 16 A. My attorneys. 17 Q. And you indicated to your left. Are you 18 talking about Mr. Pickering -- 19 A. Yes. 20 Q. -- and Mr. York? 21 Anybody else? 22 A. No. 23 Q. Either in person or by telephone. 24 A. No. 25 Q. Can you tell me how many meetings you	1 A. Over dinner. 2 Q. Where did y'all go? 3 A. Across the street. 4 Q. Remember the name of the place? 5 A. What was it called? The Strip Room. 6 Q. Strip House. How long did that meeting 7 last? 8 A. Over dinner. I didn't time it. 9 Q. Couple hours? 10 A. Yes. 11 Q. When was the next meeting that you had 12 with Mr. Pickering and Mr. York about this 13 deposition? 14 A. This morning. 15 Q. And we started at 9:00 o'clock. What -- 16 what time did that meeting occur? 17 A. About 10 past 8:00. 18 Q. How long did it last? 19 A. Till the beginning of the deposition. 20 Q. Till you walked in that door? 21 A. Well, you're getting a little bit silly 22 now, aren't you? I mean, I walked down the 23 corridor, I mean before the deposition. 24 Q. I said something silly? 25 A. Well, before I walked in the door, I mean,

13 (Pages 46 to 49)

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come on.

2 Q. Okay. Did you review any documents to
3 prepare for this deposition today, sir?

4 A. Yes.

5 Q. What did you review?

6 A. These exhibits here.

7 Q. Okay. And you're pointing to the notice
8 of the deposition with the attached subpoena duces
9 tecum.

10 A. Yes.

11 Q. And the letter? You didn't review the
12 letter before today, did you? I thought you told me
13 you'd never seen that before?

14 A. Well, I'd said I've seen some of the
15 elements listed in the -- in the letter.

16 Q. Okay. But you did not review the letter
17 itself, did you?

18 A. No.

19 Q. Anything else?

20 A. I think an affidavit of mine.

21 Q. An affidavit? You reviewed an affidavit?

22 A. One of my affidavits, yes.

23 Q. And what was that affidavit pertaining to?

24 A. Pertaining to this case.

25 Q. Could you elaborate on that?

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A. Pertaining to the invoice history.

2 Q. Is it the affidavit that is attached to
3 R.T. Vanderbilt's motion for protection?

4 A. Yes.

5 Q. Did you review anything else other than
6 the notice and your -- your affidavit in preparation
7 for this deposition today? Any other documents?

8 A. I don't recall offhand. I don't think so.

9 Q. Okay. Was that reviewing done after you
10 arrived here in Houston yesterday?

11 A. Yes.

12 Q. You didn't review anything back in
13 Connecticut before you came down?

14 A. No.

15 Q. Do you feel pretty prepared to give your
16 testimony today?

17 A. Yes.

18 Q. When you went to these meetings with
19 Mr. Pickering and Mr. York, did you take any kind of
20 notes?

21 A. No.

22 Q. The affidavit, what was important about
23 the affidavit for you to review it in preparation
24 for this deposition?

25 A. Just remember what was going on in the

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1 case.

2 Q. Okay. You looked at nothing else, no
3 other documents in preparation for this deposition
4 today?

5 A. No.

6 Q. Sir, does R.T. Vanderbilt have a document
7 repository?

8 A. We have documents that are in the custody
9 of our attorneys, yeah.

10 Q. Okay. What documents are those?

11 A. Documents relating to this particular
12 issue and all of the incidents thereto.

13 Q. I'm sorry, I didn't understand that answer
14 at all. Can you..

15 A. Well, relating to the accusation that
16 there's asbestos in R.T. Vanderbilt talc and all of
17 the matters and developments htat have arisen
18 because of that.

19 Q. And you say all these documents in -- are
20 in the possession of your lawyers, right?

21 A. Yes.

22 Q. How many documents are we talking about?

23 A. I don't know.

24 Q. Have you ever seen these documents that
25 are in the possession of your lawyers that relate

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1 to -- to talc litigation?

2 A. Some of them, yes.

3 Q. And if you had to estimate for me, how
4 many boxes of documents would that account for?
5 Like if you looked at a banker's box like I've got
6 sitting on this chair next to me, how many banker's
7 box would that be?

8 A. I don't know.

9 Q. Would it be more or less than 50?

10 A. Probably would be that.

11 Q. It would be at least 50 boxes?

12 A. Yes, give or take.

13 Q. Could it be as many as a hundred boxes
14 that your lawyers have?

15 A. I don't know.

16 Q. At least 50, though?

17 MR. PICKERING: Objection, form.

18 Q. (By Mr. McLeod) Is that fair to say?

19 A. I'm estimating, yes.

20 Q. Okay. And do you know -- with any
21 particularity, do you know what these documents
22 actually are? What they relate to?

23 A. Some of them, yes.

24 Q. Tell me about that.

25 A. I don't understand your question.

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Q. Okay. I'm asking you about the documents that you told me that your lawyers have, these give or take 50 boxes of talc-related documents that you said are in their possession and I want to know with some kind of particularity if you know what they are, what they say, what they relate to.

A. They relate to the -- the issues, the lawsuits, the regulatory history, things like that.

Q. Are these documents that would normally be produced in the course of litigation to lawyers representing plaintiffs such as myself?

MR. PICKERING: Objection, form.

A. Some of them would be, yes.

Q. (By Mr. McLeod) And have these documents that are in possession by your -- are -- are in the possession of your lawyers actually been produced in previous litigation in cases where people are alleging injury as a result of breathing R.T. Vanderbilt talc products?

A. Yes.

Q. And do you have some say in which documents were produced and which are not?

A. Yes.

Q. And is that coordinated with your attorneys?

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A. Yes.

Q. Which attorneys are we talking about? Are we talking about New York, Atlanta or Houston?

A. All of them.

Q. Okay. Well, where are these documents that you -- you've referred to? Where are they located?

A. Well, they're located in Norwalk and they're located in -- on -- electronically.

Q. Are you talking about corporate records?

A. That's part of it.

Q. Are you talking about corporate records and say an invoice history, maybe sales records?

A. Yes.

Q. Is that what you're talking about?

A. That's part of it.

Q. But in any case, there's a large volume of documents out there that are responsive to allegations made by plaintiffs in talc litigation?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) Generally speaking?

MR. PICKERING: Same objection.

A. Related to the talc issue, yes.

Q. (By Mr. McLeod) Okay. Well, what I was asking you about specifically, does R.T. Van -- and

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let me narrow my question down a little bit.

Does R.T. Vanderbilt have any kind of a central location where documents relevant to talc litigation are kept and reviewed by plaintiffs' lawyers such as myself should we be allowed to do so by a court?

A. No.

Q. Have you ever had a plaintiffs firm -- and by "plaintiffs firm," I mean people -- lawyers representing people saying that they were injured by R.T. Vanderbilt's talc products -- actually come to R.T. Vanderbilt and conduct a -- what we call a document review of your documents that you have?

A. No.

Q. That's never been done before?

A. No.

Q. If I told you that I wanted to fly down to Norwalk and have a look around, would you have any objections to that?

A. You'd have to talk to the attorneys.

Q. Well, would you mind?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) I plan on sending a request to your lawyers asking for a document review in this case. Do you have any objections to that

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yourself --

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) -- should they consent?

A. No.

Q. Wouldn't be inconvenient for you?

A. Well, it probably would be inconvenient, yes, but...

Q. Okay. Do you know what a document repository is when I use that -- that term in a traditional sense?

A. Yes.

Q. Like Johns-Manville, you've heard of the Johns-Manville Company before, right?

A. Yes.

Q. They've got a great big document repository where they keep documents relevant to asbestos litigation and probably will do so in perpetuity. Do you understand that?

A. Yes.

Q. Does R.T. Vanderbilt have anything akin to that --

A. No.

Q. -- anywhere?

A. No.

Q. Why not?

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A. Well, probably to begin with because we don't have asbestos in our products. Probably because when requested to produce documents, we produce them.

Q. Okay. Typically when you have a document repository, we have someone that is called a custodian of records. Do you understand that term as I'm using it?

A. Yes.

Q. Would you have anybody out at R.T. Vanderbilt that you would consider to be like a custodian of records?

A. No.

Q. Who is Carol Ruggiero?

A. She's an employee in the -- I think it's the finance department of R.T. Vanderbilt Company.

Q. Finance department?

A. (Nodding head.)

Q. And would she be a person who would have knowledge of all the documents that are kept at R.T. Vanderbilt as they relate to things like sales and marketing of talc products?

A. She's aware of the sales records.

Q. What about marketing?

A. No.

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Q. Who would have that information?

A. Well, it would be various people over time.

Q. Can I have some of their names, please?

A. Well, the current individual who's the vice-president of sales is Ken Kelly, K-E-L-L-Y.

Q. First name?

A. Ken, K-E-N or Kenneth, K-E-N-N-E-T-H.

Q. VP of sales?

A. Vice-president of sales.

Q. Anybody else?

A. Well, there's the global manager of mineral products. His name is Randall, R-A-N-D-A-double L, Johnson.

Q. Global mineral products, right?

A. Global sales manager.

Q. Okay. Because R.T. Vanderbilt talc products did not just sell themselves, did they? You guys had to make some effort to sell your product, didn't you?

A. Yes.

Q. And that was done through aggressive marketing and sales tactics, as would be true at any other company selling products, right?

A. I don't know about aggressive; but

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marketing, yes.

Q. You did have a marketing program?

A. Not under that name, but yes.

Q. Did you have some sort of program that accounted for advertisement of your talc products?

A. Yes.

Q. Did that exist in the '50s and '60s?

A. I don't know.

Q. Who would know?

A. At this stage, certainly nobody would have firsthand knowledge.

Q. Well, who -- who would be the person most knowledgeable about that topic?

A. About advertisements, probably Chris Davis. C-H-R-I-S, D-A-V-I-S, Davis.

Q. And what is Chris Davis' title?

A. I don't know. She's in the advertising department, so I don't know.

Q. Chris is a lady?

A. Yes.

Q. Would Ms. Davis be knowledgeable about advertising to the companies that R.T. Vanderbilt has admitted that they sold talc products to identified in the discovery responses in the Victor Gruetzner case?

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A. No.

Q. Who would be knowledgeable about that?

A. I don't think anybody.

Q. Why is that?

A. Because you say advertising to the companies, I don't know what -- what that is or means.

Q. Well, okay. What does Chris Davis do?

A. She keeps track of the -- our advertising budget and ads and so forth.

Q. And you understand generally what I mean when I'm talking about advertising, right?

A. Yes.

Q. It's -- it's an affirmative effort on behalf of R.T. Vanderbilt to actually sell their talc product to a customer --

MR. PICKERING: Object --

Q. (By Mr. McLeod) -- right?

MR. PICKERING: Objection, form.

A. To the industry, yes.

Q. (By Mr. McLeod) Right.

MR. McLEOD: I'm sorry, Wayne. I just don't understand the objection of that one.

MR. PICKERING: I think it's argumentative. If he accepts your definition, he

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does. But I -- MR. McLEOD: Okay. All right. MR. PICKERING: -- I don't think you asked him that question. Q. (By Mr. McLeod) Let me ask you this: Did -- well, we'll do that later. What is your address, Mr. Vanderbilt? A. 30 Winfield Street, Norwalk, Connecticut. Q. Zip? A. 06855. Q. And what is your telephone number with area code? A. Area code 203. Q. Yeah. A. 853-1400. Q. Do you have a driver's license? A. Yes. Q. Is it a Connecticut driver's license? A. Yes. Q. Do you know the number? A. No. Q. Do you have it with you? A. Yes. Q. Would you mind reading off your number or handing it to your attorney so he can read it into	1 Q. Can you tell me your Social Security number, please. 2 A. I don't know whether I have that offhand. 3 No. 4 Q. You don't know it by heart? 5 A. No. 6 Q. Are you married? 7 A. No. 8 Q. Have you ever been? 9 A. No. 10 Q. Pardon? 11 A. No. 12 Q. Any kids? 13 A. No. 14 Q. Have you ever been arrested? 15 A. No. 16 Q. Were you born on June 1st, 1955? 17 A. Yes. 18 Q. Where? 19 A. New York City. 20 Q. And do you consider yourself to be from New York City? 21 A. No. 22 Q. Pardon? 23 A. No. 24 25
Page 63	Page 65
the record? A. 064822464. Q. Have you ever held a driver's license in any other state other than Connecticut? A. No. Q. Has your driver's license ever been suspended or revoked for any reason ever? A. Yes. Q. Can you tell me how many times? A. Once. Q. Can you tell me why it was revoked? A. Because I hadn't renewed it. Q. Got revoked because it expired? A. Well, I was driving without insurance, valid insurance as well. Q. Did you have -- did you get a ticket? A. Yes. Q. Part of your punishment for that bad behavior was -- was you lost your license? A. Yes. MR. PICKERING: Objection, form. A. Suspended, yeah. Q. (By Mr. McLeod) How long did you lose your license for? A. A month.	1 Q. Where are you from? 2 A. I'm from Connecticut. 3 Q. And did you grow up in Connecticut? 4 A. No. 5 Q. Where did you grow up? 6 A. I grew up in Europe. 7 Q. Any particular locality in Europe? 8 A. Switzerland. Gstaad, Switzerland. That's G-S-T-double A-D. 9 Q. Right. I understand you were schooled in the European system over there. Is that correct? 10 A. Largely, yes. 11 Q. You're not a medical doctor, are you? 12 A. No. 13 Q. You're not going to be able to make any medical conclusions today, are you? 14 A. No. 15 Q. Do you have any training that pertains specifically to asbestos disease? 16 A. Could you repeat the question, please? 17 Q. Do you have any training that pertains specifically to asbestos-related diseases? 18 A. No. 19 Q. Do you know what disease can be caused by asbestos exposure? 20 21 22 23 24 25

17 (Pages 62 to 65)

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A. Generally speaking, yes. Q. What is your understanding of the diseases that can be caused by breathing an asbestos dust, generally speaking? A. Asbestosis, lung cancer and mesothelioma. Q. What was that last one? A. Mesothelioma. Q. And how did you come by that knowledge? A. From -- as a result of my employment. Q. With R.T. Vanderbilt? A. Yes. Q. Now, you're not a mineralogist. A. No. Q. You're not a metallurgist. A. No. Q. Not a chemist. A. No. Q. No formal training in any one of those areas, right? A. No. Q. Okay. I understand you also attended the London School of Economics, right? A. Yes. Q. You got your law degree in London, correct?	Q. You're not a lawyer, are you? A. I'm not called to the bar, no. Q. Have you taken the bar exam? A. Yes. Q. Can you tell me what state you took the bar? A. New York state. Q. And did you pass it? A. Yes. Q. How many times did you take it? A. Twice. Q. So you failed it the first time and you passed it the second time? A. Yes. Q. Any reason that you're not a member of the New York Bar? A. Because I'm not in New York, I'm not practicing in New York. Q. Is that just a personal decision? A. Yes. Q. Sir, do you think a responsible company takes necessary steps to attempt to protect their workers from known workplace hazards? A. Yes. Q. Do you agree with me when I say a
Page 67	Page 69
A. Yes. Q. Can you tell me what year you matriculated from the London School of Economics? A. Oh, 1973 or '4. Q. '73 or '74? A. I don't remember. Q. Okay. Were you a good student? A. Good enough obviously, yeah. Q. Did you have good grades when you were at the LSE? A. Yeah. Q. I understand after that, you got a Masters in law at New York University, correct? A. Yes. Q. Do you remember what year you graduated from NYU? A. '83. Q. How did you wind up deciding to get your Masters in law? A. Could you repeat the question? Q. Why did you decide to get your Masters in law, sir? A. I'm not sure. Q. Are you a member of the bar? A. No.	responsible company that creates a hazard to the public at large has a duty to take steps to control that hazard? A. Yes. Q. Would you agree with me also that a company that knowingly sells dangerous products should be held accountable if people get sick as a result of that product? A. As a general sense, yes. Q. Do you think a responsible company would take -- would correct its mistakes rather than try and cover them up? A. Yes. Q. Sir, my understanding is that you've been an employee of the R.T. Vanderbilt Company since 1984, right? A. Yes. Q. You've worked for them ever since? A. Yes. Q. And you're still, as you sit here today, an employee of R.T. Vanderbilt? A. Yes. Q. Have you ever in your whole life had a job that was not with R.T. Vanderbilt? A. No.

18 (Pages 66 to 69)

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Q. That is the sum total of your employment
 2 over your entire lifetime?
 3 A. Yes.
 4 Q. Never even a summer job in school or
 5 anything like that?
 6 A. Oh, sure. I've been in -- I worked on a
 7 kibbutz in Isreal and I was a volunteer for the -- I
 8 mean, an intern at the Wilderness Society and things
 9 like that.
 10 Q. Okay. But your postgraduate employment
 11 all consists of R.T. Vanderbilt?
 12 A. Yes.
 13 Q. Your current position, is that
 14 vice-president and secretary, correct?
 15 A. Yes.
 16 Q. You are on the board of directors, right?
 17 A. Yes.
 18 Q. When you started at R.T. Vanderbilt in
 19 1984, were you an assistant to the vice-president,
 20 Mr. Fiederlein?
 21 A. Yes.
 22 Q. Okay. And then sometime later after your
 23 first two years in '86, you got appointed to the
 24 position of director of environmental affairs, if
 25 I'm not mistaken. Is that right?

A. Yes.
 2 Q. And in 1989, you became vice-president of
 3 environmental affairs?
 4 A. Yes.
 5 Q. And then at some point, environmental
 6 affairs just kind of fell off and you're now VP,
 7 vice-president and secretary, correct?
 8 A. Yes.
 9 Q. Did I miss anything in there?
 10 A. No.
 11 Q. Is that an accurate portrayal of the
 12 continuum of your employment?
 13 A. Yes.
 14 Q. Have your responsibilities at R.T.
 15 Vanderbilt been the same since you arrived there in
 16 1984?
 17 A. Pretty much, yes.
 18 Q. Can you explain what your responsibilities
 19 are in your employment with the R.T. Vanderbilt
 20 Company as vice-president and secretary?
 21 A. Well, generally managing the product
 22 liability claims at R.T. Vanderbilt Company and a
 23 few other bits and pieces.
 24 Q. Right. When you say "product liability
 25 claims," are you talking about lawsuits filed

1 because of talc exposure?
 2 A. Mostly, yes.
 3 Q. Would you say about 95 percent of those
 4 lawsuits that you are in charge of managing are talc
 5 related?
 6 A. Yes.
 7 Q. Personal injury cases?
 8 A. Yes.
 9 Q. What do you think the other 5 percent
 10 involve?
 11 A. The chemical products.
 12 Q. What kind of chemical lawsuits do y'all
 13 face?
 14 A. Not many. Again, usually personal injury,
 15 I guess.
 16 Q. Sure. I'm just talking about what kind of
 17 chemicals?
 18 A. Specifically, there's been carbon black
 19 and -- and some others. I don't remember them
 20 specifically.
 21 Q. Okay. And I'm correct when I say that
 22 these -- these talc lawsuits, these personal injury
 23 talc lawsuits were going on when you arrived at the
 24 company in 1984? Is that correct?
 25 A. They had started, yes.

1 Q. Do you know exactly when those lawsuits
 2 first started being filed against R.T. Vanderbilt?
 3 A. Somewhere around that period.
 4 Q. Well, was it in the '70s or was it in the
 5 '80s?
 6 A. In the '80s, I think.
 7 Q. Can you tell me how many such lawsuits are
 8 currently pending against R.T. Vanderbilt at least
 9 domestically in the United States?
 10 A. No.
 11 Q. Why not?
 12 A. I don't have the exact number.
 13 Q. Well, you are the manager of litigation
 14 pertaining to product liability lawsuits for R.T.
 15 Vanderbilt and specifically with regard to talc
 16 lawsuits, right?
 17 A. I haven't counted them up.
 18 Q. Can you estimate for me how many there
 19 are?
 20 A. No.
 21 Q. Are there 10,000?
 22 A. No.
 23 Q. Are there 5,000?
 24 A. There may be a couple hundred or so.
 25 Q. A couple hundred is all you think there

Page 74 are? 2 A. Yes. 3 Q. Couple hundred individual plaintiffs 4 bringing claims against R.T. Vanderbilt? 5 A. Couple hundred plaintiffs altogether. 6 Q. Do you remember giving that lawsuit back 7 in November of last year where you said there are 8 probably thousands of such lawsuits pending against 9 R.T. Vanderbilt? 10 A. I don't know whether I said they were 11 pending. Over time, there have been more than are 12 pending. 13 Q. All right. Fair enough. I might be wrong 14 on that. 15 Can you tell me -- can you tell me 16 how many total lawsuits have been filed against R.T. 17 Vanderbilt alleging an asbestos-related injury as a 18 result of talc exposure? 19 A. No. 20 Q. Can you estimate for me? 21 A. Well, certainly thousands of plaintiffs. 22 Q. Beginning sometime in the early 1980s, 23 according to your testimony? 24 A. Yes. 25 Q. Now, how much of your time is spent on	Page 76 1 mineralogists that you've spent time with regard to 2 talc litigation? 3 A. Well, Arthur Langer is one. And one of 4 our retired mineralogists, Slim Thompson, 5 T-H-O-M-P-S-O-N. 6 Q. And those people are both paid consultants 7 of the R.T. Vanderbilt Company? 8 A. They're consultants, yes. 9 Q. And they are paid. They're not doing it 10 gratuitously? 11 A. They are paid. 12 Q. Okay. Can you tell me the name of 13 industrial hygienists that you talk to regularly 14 about talc litigation? 15 A. Well, John Kelse. 16 Q. Other than Kelse? 17 A. No. 18 Q. He's the only one? 19 A. Yes. 20 Q. Okay. Any other experts that you talk to 21 with regard to talc litigation that participate in 22 the defense of R.T. Vanderbilt? 23 A. No. 24 Q. That's it, Kelse, Langer and occasionally 25 Mr. Slim Thompson?
Page 75 these lawsuits, specifically the talc lawsuits, in 2 your employment at R.T. Vanderbilt? 3 A. Most of it. 4 Q. Say 90 percent of your time? 5 A. Yeah. 6 Q. And how does -- 7 A. Between 80 and 90 percent. 8 Q. I'm sorry, I didn't mean to interrupt 9 you. 10 How -- how is that time spent? What 11 do you do? 12 A. Well, receiving the complaints, sending 13 out the complaints, reviewing complaints, documents, 14 et cetera. 15 Q. You accept service at your headquarters in 16 Norwalk? 17 A. Well, we also have agents who receive 18 service around the country. 19 Q. Yeah. Okay. Do you spend time with 20 expert witnesses as a part of your duties? 21 A. Yes. 22 Q. Which experts do you spend time with? 23 A. Well, I've spent time with mineralogists 24 and industrial hygienists and so on. 25 Q. Can you tell me the names of the	Page 77 1 A. Yeah. Or actually Dr. Slim Thompson. 2 Give him his due. 3 Q. Dr. Thompson. 4 Do you talk to your lawyers about 5 these cases? 6 A. Yes. 7 Q. Okay. How much your time do you spend 8 talking to your lawyers about talc litigation? 9 A. Quite a bit. 10 Q. Do you spend quite a bit of time these 11 days traveling around giving depositions like the 12 one you're giving here today? 13 A. Well, I've given one recently, as you 14 know. 15 Q. Okay. Sir, can you tell me how many of 16 these cases where people are alleging 17 asbestos-related injuries as a result of exposure to 18 R.T. Vanderbilt talc products, can you tell me how 19 many of these cases have actually gone to trial? 20 A. One. 21 Q. Are you sure about that? 22 A. No, actually you're right, there were a 23 few others in California. So maybe something like 24 four or five. 25 Q. Did those cases go all the way to

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verdict? Is that what you mean?

2 A. Yes.

3 Q. So four or five total went to verdict?

4 A. Yes.

5 Q. Can you tell me how many cases started

6 trial and settled part of the way through?

7 A. I think there's one that I recall or that

8 I've heard.

9 Q. Okay. So to your -- to -- to the best of

10 your knowledge in your capacity as the manager of

11 product liability litigation for R.T. Vanderbilt,

12 you're only aware of one lawsuit involving R.T.

13 Vanderbilt talc products where an asbestos injury

14 was alleged that settled after trial had commenced;

15 is that correct?

16 A. Yeah.

17 Q. Okay. These four or five cases that have

18 gone all the way to verdict, do you remember any --

19 any of the verdicts in those cases, whether they

20 were good verdicts for R.T. Vanderbilt or bad

21 verdicts?

22 A. Yes, they were good verdicts. They

23 were -- and -- and defense verdicts.

24 Q. R.T. Vanderbilt won all four or five of

25 those cases?

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A. Well, we won the California cases through

2 JNOV.

3 Q. The judge substituted in his opinion for

4 that of the jury, correct?

5 A. He said there was no case to answer.

6 Q. Even though the jury thought otherwise?

7 A. Yes.

8 Q. All right. Any of those cases been in

9 Texas?

10 A. Yes.

11 Q. The tire worker litigation, right?

12 A. No, actually it wasn't the tire worker

13 litigation.

14 Q. Is that not it? It was up in Tyler, Texas

15 as I recall, right?

16 A. Yes.

17 Q. Do you remember who the plaintiff's lawyer

18 was in that case?

19 A. I forget his name.

20 THE VIDEOGRAPHER: Matt, five

21 minutes.

22 MR. McLEOD: Thank you, sir.

23 A. I think actually a name just -- one name

24 just started playing, Nagem, N-A-G-E-M.

25 Q. (By Mr. McLeod) Nejam, N-E-J-A-M?

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1 A. G.

2 Q. N-E-G-A-M?

3 A. Yeah.

4 Q. Okay. And who has been the trial firm for

5 R.T. Vanderbilt in these cases that have gone to

6 trial?

7 A. Well, the one in -- I can't remember the

8 firm that defended us in Tyler, Texas, but Akin,

9 Gump was the supervising firm. The firm in

10 California was Mark Garety of Phelan, Reed &

11 Priest, although he wasn't of that firm then.

12 Q. Do you recall the most recent verdict in

13 an R.T. Vanderbilt case that you're aware of?

14 A. Well, that would be the California cases,

15 and that's...

16 Q. When was that?

17 A. That's back in the '90s.

18 Q. Now, you said there have been thousands of

19 claims brought against R.T. Vanderbilt since the

20 beginning of this litigation, correct?

21 A. Yes.

22 Q. All right. Specifically pertaining to

23 asbestos-related injuries that were being alleged as

24 a results of talc products, right?

25 MR. PICKERING: Objection, form.

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1 A. Well, amongst other things, they were --

2 we weren't the only defendant, obviously.

3 Q. (By Mr. McLeod) And I'm not saying that

4 you were. I'm just limiting my question to that

5 narrow scope of allegations. You understand that,

6 right?

7 A. Yeah.

8 Q. So, just so we're clear here, there have

9 been thousands of asbestos cases brought against

10 R.T. Vanderbilt where that was the allegation,

11 right?

12 A. Yes.

13 Q. What happened to all those other cases

14 that R.T. Vanderbilt had filed against them?

15 A. Most of them were dismissed and some of

16 them were settled for nuisance value, and some of

17 them were settled.

18 Q. Do you have anything to do with the

19 decision as to whether or not a claim ought to be

20 settled by R.T. Vanderbilt?

21 A. Yes.

22 Q. Is that -- you confer with your lawyers on

23 that issue?

24 A. I have a vote, yes.

25 Q. It's a vote situation?

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A. (No verbal response.)

Q. Have you ever heard of a case called the Newton Gandy versus ABCO Industries case?

A. Yes.

Q. What about Donna Allen versus ABCO Industries?

A. No.

Q. What about Lionel Garcia versus ABCO Industries, have you heard of those cases?

A. Not specifically, no.

Q. You have heard of Gandy because that's what Gruetzner was in before got settled out, correct?

A. Yes.

Q. Okay. We talked a little while ago about R.T. Vanderbilt insurance carriers CNA and Hartford?

A. Yes.

Q. Have you seen the policies with your own eyes?

A. Yes.

Q. Do you have pretty easy access to those policies?

A. Yes.

Q. Have you produced those to me in this case?

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A. I don't know.

Q. Well, I'll represent to you that you haven't. Would you mind producing those policies to me?

A. You'd have to talk to the attorneys.

Q. Would it be unduly burdensome for you if I asked your attorneys to go ahead and get me a copy of those cases or those -- those policies?

A. Well, subject to relevance and so on, it would be quite onerous to copy them all, yes.

Q. It would be onerous in the copying of those policies?

A. Well, there are a lot of years involved.

Q. Okay. How much paper are we talking about?

A. Oh, I don't know.

Q. So you have no idea whether it's onerous or not, do you?

A. It's quite a stack.

Q. A foot high?

A. Yes. And probably more than that.

Q. And that's onerous?

A. Well, you have to take everything apart and put everything back together again.

Q. Okay. We mentioned a term called

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"asbestos exclusions" before when we were talking about the policies.

A. Yes.

Q. What does that term mean to you, sir?

A. That asbestos is not covered under the insurance policy.

Q. So if it were determined that R.T. Vanderbilt talc did in fact contain asbestos, R.T. Vanderbilt would be on the hook rather than CNA, correct?

A. Yes.

Q. And that would be bad for R.T. Vanderbilt, wouldn't it?

A. Yes.

Q. How do you spend the rest of your time when you're not managing talc lawsuits?

A. I review documentation, writing, pending approve things, that sort of thing, editing.

Q. Do you edit any studies?

A. No.

Q. Do you edit MSDS documents?

A. I probably have looked at some in the past, but not recently.

Q. Okay. Has that ever been a part of your job, to edit MSDS language that goes into MSDS

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sheets pertaining to R.T. Vanderbilt talc products?

A. To comment on, yes.

Q. The answer is "yes"?

A. In the past, I've done that, yes.

Q. Okay. When's the last time you did something like that?

A. Oh, I can't remember. Over 10 years ago.

Q. Okay.

THE VIDEOGRAPHER: Matt?

MR. McLEOD: Yes. Let's change tapes real quick.

THE VIDEOGRAPHER: We're off record at 10:24, end of Tape 1.

(Recess taken.)

THE VIDEOGRAPHER: We're on record at 10:40, beginning of Tape 2.

Q. (By Mr. McLeod) Mr. Vanderbilt, are you ready to continue on?

A. Yes.

Q. We just had a little short brake, 10, 15 minutes or so. What did you do on the break, Mr. Vanderbilt?

A. Well, I went to the bathroom and I consulted my attorneys.

Q. Did you look at any documents on the

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1 break?
 2 A. No.
 3 Q. Discuss your testimony on the break?
 4 MR. PICKERING: Objection,
 5 attorney-client privilege.
 6 MR. McLEOD: Did you instruct him not
 7 to answer?
 8 MR. PICKERING: Yes.
 9 MR. McLEOD: Okay.
 10 Q. (By Mr. McLeod) Sir, we were -- well,
 11 let's move on. Before the time when you arrived at
 12 the R.T. Vanderbilt Company, was there someone else
 13 working in the position that you now have?
 14 A. No.
 15 Q. So that was a position created for you?
 16 A. Well, in terms of reviewing the cases,
 17 no. In terms of dealing with the talc issue, yes,
 18 there was.
 19 Q. Who was that?
 20 A. Al or Allan, A-double L-A-N, I think,
 21 middle initial M. Harvey, H-A-R-V-E-Y.
 22 Q. Mr. Harvey. And can you briefly outline
 23 what Mr. Harvey's involvement with the -- let's call
 24 it the talc tremolite issue was?
 25 A. Well, his job was basically to work with

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OSHA and NIOSH -- O-S-H-A and N-I-O-S-H -- to
 2 convince them that our talc did not have asbestos in
 3 it.
 4 Q. And how did he go about doing that?
 5 A. Well, he provided them with information.
 6 Q. What type of information?
 7 A. Analysis of our talc and documentation,
 8 and then worked with NIOSH when they did a study of
 9 our talc, and...
 10 Q. Analysis of talc performed by R.T.
 11 Vanderbilt?
 12 A. And its consultants, yes.
 13 Q. And by "consultants," you mean people
 14 hired by R.T. Vanderbilt, correct?
 15 A. Mineralogists and analysts, yes.
 16 Q. Mr. Harvey ever meet with and discuss
 17 with -- did he ever meet with personally OSHA and
 18 NIOSH personnel, to your knowledge?
 19 A. I think he did, yes.
 20 Q. Was that, in fact, a pretty frequent
 21 occurrence for Mr. Harvey when he would do so?
 22 A. I don't know how frequent it was.
 23 Q. You couldn't say one way or the other?
 24 A. I wasn't there.
 25 Q. So, following from that, you can't say one

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1 way or the other, can you?
 2 A. No.
 3 Q. Thank you.
 4 So that was Mr. Harvey's full-time
 5 job, was to convince OSHA and NIOSH that talc did
 6 not contain asbestos as it was mined and distributed
 7 by R.T. Vanderbilt.
 8 MR. PICKERING: Objection, form.
 9 A. I'm not sure whether it was his full-time
 10 job, but it was his primary job.
 11 Q. (By Mr. McLeod) That was the focus of his
 12 employment at R.T. Vanderbilt?
 13 MR. PICKERING: Objection, form.
 14 A. At that point, yes.
 15 Q. (By Mr. McLeod) What did Mr. Harvey do
 16 once you assumed the -- well, scratch that.
 17 Did -- did his job ever change at
 18 R.T. Vanderbilt or was that always his -- the main
 19 focus?
 20 A. No. He's been a -- he was a biochemist by
 21 training and he'd been doing other things.
 22 Q. I mean, after you arrived at the company,
 23 did his job ever change?
 24 A. No.
 25 Q. When did he retire?

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1 A. I think 1986.
 2 Q. Who is your immediate supervisor?
 3 A. Roger Price.
 4 Q. And is he currently president of R.T.
 5 Vanderbilt?
 6 A. Yes.
 7 Q. So the only personal you really answer to
 8 is -- is him, or is that not a fair an -- fair
 9 statement?
 10 A. I answer to a lot of people, but he's my
 11 immediate supervisor.
 12 Q. You report directly to Mr. Price?
 13 A. Yes.
 14 Q. Okay. So you're a pretty high ranking
 15 employee of the R.T. Vanderbilt Company, aren't you?
 16 A. Yes.
 17 Q. You're on salary?
 18 A. Excuse me?
 19 Q. Do you draw a salary --
 20 A. Yes.
 21 Q. -- from R.T. Vanderbilt?
 22 Can you tell us what that is on an
 23 annual basis?
 24 MR. PICKERING: Objection. What's
 25 the relevance of his salary? I mean, it's one thing

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1 to get his driver's license and Social Security, we
 2 all do that. I understand why you do that for
 3 background. But I don't see the relevance of asking
 4 him his salary.
 5 MR. McLEOD: Well...
 6 MR. PICKERING: I'll -- I'll -- I'll
 7 instruct you not to answer that, Paul, if you don't
 8 feel comfortable answering that question.
 9 MR. McLEOD: With all due respect,
 10 Wayne, it's not a proper basis to instruct a witness
 11 not to answer a question based on relevance.
 12 MR. PICKERING: Well --
 13 MR. McLEOD: Now, if that's -- you
 14 can object and that's fine, but --
 15 MR. PICKERING: Well --
 16 MR. McLEOD: -- I don't believe you
 17 have a foundation to instruct him not to answer.
 18 I'm not invading any privilege areas here, nor am I
 19 seeking to.
 20 MR. PICKERING: No, but it's
 21 extremely personal information. He's here as a
 22 corporate representative. I --
 23 MR. McLEOD: Okay.
 24 MR. PICKERING: To ask him how much
 25 money he makes, that is not the best proffer. If

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1 you want to get the judge on the phone, we can stop
 2 and get the judge on the phone and let Judge
 3 Davidson decide if it's something you ought to be
 4 entitled to go into.
 5 MR. McLEOD: Let me ask you
 6 something: If it's proper for defense lawyers in
 7 this litigation to ask my plaintiffs what their
 8 monthly income is, why is it not proper to ask a
 9 corporate representative of the R.T. Vanderbilt
 10 Company what his monthly income is?
 11 MR. PICKERING: Well, that's silly
 12 because your clients are putting at issue their lost
 13 income, their -- their lost wages, things like that,
 14 and measure of damages. He -- Mr. Vanderbilt's not
 15 suing for anything.
 16 MR. McLEOD: I'm not going to argue
 17 with you. You -- you've objected to my question.
 18 Q. (By Mr. McLeod) Mr. Vanderbilt, I don't
 19 mean to make you uncomfortable by asking you that
 20 question. I think it does have some relevant
 21 factors. Are you uncomfortable with disclosing your
 22 salary --
 23 A. I'd rather not.
 24 Q. Okay. Would you mind doing it anyway?
 25 A. It's in the 80 thousands.

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1 Q. Okay. In the \$80,000 range?
 2 A. Yeah.
 3 Q. Less than 90?
 4 A. Yeah.
 5 Q. And that's your base salary?
 6 A. Yeah.
 7 Q. Okay. Thank you.
 8 Do you, from time to time, receive
 9 bonuses from the R.T. Vanderbilt Company?
 10 A. Yes.
 11 Q. And are those performance based?
 12 A. In part, yes.
 13 Q. Are they discretionary?
 14 A. Yes.
 15 Q. To whose discretion are your bonuses?
 16 A. Excuse me?
 17 Q. Who -- who has discretion over what your
 18 bonuses are?
 19 A. The chairman and the president of R.T.
 20 Vanderbilt Company.
 21 Q. When you said chairman and president, are
 22 we talking about Mr. Price?
 23 A. The president is Mr. Price, yes.
 24 Q. Okay. So it's up to him?
 25 A. Yeah.

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1 Q. Can you tell us in relation, in general
 2 terms -- you don't have to give me an exact
 3 number -- how -- how those bonuses compare to your
 4 annual salary when you do receive them?
 5 A. Oh, they're a fraction of it.
 6 Q. Do you receive other than -- well, how
 7 often do you receive bonuses when you do from R.T.
 8 Vanderbilt?
 9 A. It's an end-of-year bonus.
 10 Q. One a year?
 11 A. Yes.
 12 Q. What are these bonuses based on? Are they
 13 based on company profitability?
 14 A. In part, yes.
 15 Q. And what else?
 16 A. Profitability, performance, seniority, I
 17 guess.
 18 Q. Do you have any ownership interest in R.T.
 19 Vanderbilt?
 20 A. No.
 21 Q. Pardon?
 22 A. No.
 23 Q. Do you own any stock in R.T. Vanderbilt?
 24 A. No.
 25 Q. Do you receive, other than your base

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1 salary and any bonuses we've discussed, any other
 2 kind of financial consideration for your employment
 3 at R.T. Vanderbilt?
 4 A. No.
 5 Q. Do you have good feelings towards your
 6 employer?
 7 A. Yes.
 8 Q. You're a pretty proud employee of the R.T.
 9 Vanderbilt Company?
 10 A. Yes.
 11 Q. It is a family company after all, right?
 12 A. Yes.
 13 Q. In the truest sense, it is run by
 14 Vanderbilts and owned by Vanderbilts, correct?
 15 A. Well, it's not run by Vanderbilts, but
 16 it's owned by Vanderbilts.
 17 Q. It's owned by the Vanderbilt family?
 18 A. Yes.
 19 Q. However, you do not have any ownership
 20 interest in R.T. Vanderbilt?
 21 A. No.
 22 Q. Can you tell me: Who does own R.T.
 23 Vanderbilt?
 24 A. Well, my father and Hugh Vanderbilt, Jr.
 25 and a few other family members.

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1 Q. Who would those people be?
 2 A. His sisters.
 3 Q. Whose sisters?
 4 A. Hugh, Jr.'s sisters.
 5 Q. And their names would be what?
 6 A. Linda and Laura.
 7 Q. Linda Vanderbilt?
 8 A. Yes.
 9 Q. Laura Vanderbilt?
 10 A. No, it's Linda Ernst and Laura Allen.
 11 E-R-N-S-T, and Allen, A-double L-E-N.
 12 Q. Thank you.
 13 And what is your father's name?
 14 A. Robert.
 15 Q. Vanderbilt?
 16 A. Yes.
 17 Q. Okay. Are those the only people with any
 18 real ownership interest in R.T. Vanderbilt?
 19 A. Yes.
 20 Q. Nobody else has a piece of the pie?
 21 A. No.
 22 Q. Are you the person most knowledgeable in
 23 the corporate structure and organization of R.T.
 24 Vanderbilt?
 25 A. Yes.

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1 Q. R.T. Vanderbilt is indeed headquartered in
 2 Norwalk, Connecticut, correct?
 3 A. Yes.
 4 Q. Started out in New York City, if I'm not
 5 mistaken?
 6 A. Yes.
 7 Q. Was that in 1916?
 8 A. Yes.
 9 Q. Was it begun by your grandfather Robert
 10 Thurlow Vanderbilt?
 11 A. Yes.
 12 Q. And is it now today, as we sit here, a
 13 worldwide company or an international company at
 14 least?
 15 A. It's an international company, yes.
 16 Q. Can you tell me, sir -- we've already
 17 discussed the ownership of the company and only
 18 Vanderbilt family members are shareholders in the
 19 company. Can you tell me the names of the
 20 Vanderbilt family members that currently work for
 21 R.T. Vanderbilt?
 22 A. That would be my cousin Hugh, Jr. and
 23 myself.
 24 Q. Are there other members of the R.T. -- or
 25 of the Vanderbilt family that have worked for R.T.

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1 Vanderbilt in the past?
 2 A. Yes.
 3 Q. Other than Hugh, Sr. and R.T. Vanderbilt
 4 himself?
 5 A. Yes.
 6 Q. Can you tell me who those individuals are?
 7 A. Well, there's Hugh Vanderbilt, Sr.,
 8 there's Frederick Bedford Vanderbilt, there's his
 9 son Frederick Vanderbilt, and then there's Bucky,
 10 B-U-C-K-Y, Allen, A-double L-E-N.
 11 Q. Did you say A-N?
 12 A. A-double L-E-N.
 13 Q. Thank you. Bucky?
 14 A. Bucky Allen, yes.
 15 Q. How did Mr. Allen come to be involved in
 16 R.T. Vanderbilt Company?
 17 A. He's the husband of Linda Allen.
 18 Q. Now, that makes sense.
 19 How many people are on the board of
 20 directors currently?
 21 A. Currently, about seven.
 22 Q. Can you tell me when Hugh Vanderbilt, Jr.
 23 went to work for the R.T. Vanderbilt Company?
 24 A. Quite a while ago. Certainly before me.
 25 No, I don't know what particular year.

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Q. You can't tell me?
A. No.
Q. Can you tell me if it was in the '50s,
'60s, '70s?
A. Certainly in the '70s. Probably had
summer jobs before that.
Q. How old is Hugh, Jr.
A. 50.
Q. He's 50 years old?
Can you -- can you tell me when Hugh
Vanderbilt, Sr. passed away?
A. Three or four years ago.
Q. And Frederick Bedford Vanderbilt no longer
works for company, I understand.
A. No.
Q. Is he still living?
A. No.
Q. He's deceased. Okay.
What about his son Frederick
Vanderbilt?
A. No, he no -- he's still living, but he no
longer works for the company.
Q. What did Frederick Vanderbilt, the son, do
for R.T. Vanderbilt?
A. I think he was personnel manager.

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Q. How old is he?
A. He's older than I am. I guess he's
somewhere in the range of 10 years older than I am.
Q. Okay. Would he be somebody who was
knowledgeable about people who had held past
positions at R.T. Vanderbilt?
A. Yes.
Q. Is he still -- well, where does he live?
A. Florida.
Q. Do you know where?
A. In the Tampa area.
Q. Do you have his contact information?
A. Yeah.
Q. And you could provide that to your lawyers
if necessary?
A. Yes.
Q. That wouldn't be onerous?
A. No.
Q. Okay. What is the function of R.T.
Vanderbilt's board of directors?
A. To oversee the company.
Q. And what does that entail?
A. Reviewing the activities of the company
and its products, processes, personnel and what have
you.

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Q. Do they keep track of the litigation
pending against R.T. Vanderbilt?
A. They hear about it.
Q. Is that something that the board of
directors is concerned with?
A. Yes.
Q. Is the talc asbestos issues something that
they've been concerned with, in fact, for a long
time?
A. Since it started, yes.
Q. When did it start?
A. Well, the best date is 1972, I guess.
Q. And what happened in 1972?
A. OSHA promulgated an asbestos standard.
Q. That included regulation for all forms of
tremolite, actinolite, anthophyllite and other
commercial forms of asbestos, correct?
A. Well, not exactly. They stated -- they
gave for three -- for the three commercial forms of
asbestos, they provided the specific names; but for
the three others, including tremolite, they just
listed it as an unqualified tremolite.
Q. They just said tremolite, anthophyllite
and actinolite.
A. Yes.

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Q. Right?
A. Yes.
Q. Okay. And that was regulated beginning in
1972, correct?
A. Well, I mean, that's the dispute. If it's
not asbestos, it doesn't come under the asbestos
standard.
Q. In 1972, it came under the asbestos
standard, didn't it?
A. Well, there was a dispute about that.
Q. Was it regulated under the asbestos
standard in 1972 or wasn't it?
MR. PICKERING: Objection, form.
Q. (By Mr. McLeod) Did you not understand my
question?
A. That's what the dispute is about.
Q. Okay. I understand there's a dispute.
But as of the year 1972, when OSHA was promulgated,
tremolite was regulated, right?
A. Well, their intention, as -- as later
became clear, was uncertain and unclear at the time
that they knew difference between asbestiform and
nonasbestiform minerals.
MR. McLEOD: I'm going to object to
the nonresponsiveness of your answer and move to

strike it.

Q. (By Mr. McLeod) If you would just -- you know, I -- I understand your -- your -- your line of thought here. But in 1972, was tremolite regulated under OSHA?

MR. PICKERING: Objection, form.

A. Well, at some point, they thought it was, yes.

Q. (By Mr. McLeod) And did that point start in 1972?

A. I don't know.

Q. You don't know. Is my question not clear?

A. I just explained, they --

Q. I heard what you said, but that's not what I'm asking.

A. Well, that was the issue.

Q. Okay. I'm not going to argue with you.

Can you tell me who is on the Vanderbilt board of directors, the seven individuals?

A. Hugh Vanderbilt, Jr., Roger Price, Joseph Denaro, my father Robert Vanderbilt, Donald Gorman, D-O-N-A-L-D, capital G-O-R-M-A-N, Dennis Race and myself.

Q. Dennis Race is also R.T. Vanderbilt's

lawyer, right?

A. Outside counsel, yes.

Q. Were you agreeing with me or disagreeing with me?

A. He's the outside counsel.

Q. Okay. But he is R.T. Vanderbilt's -- one of R.T. Vanderbilt's lawyers?

A. Yes.

Q. Thank you.

And I asked you -- I touched on it before, I can't remember how you answered. Are you -- are you aware of what R.T. Vanderbilt's net worth is?

A. No, I don't know the specifics.

Q. You have no idea?

A. No.

Q. Who would know that?

A. I think we covered that. Joseph Denaro.

Q. You're right, we did cover that.

Can you tell me what percentage R.T. Vanderbilt's sales currently pertain just to talc?

A. No.

Q. Who would know that?

A. Oh, probably Joseph Denaro again.

Q. Is he the person most knowledgeable with

R.T. Vanderbilt about that subject, in your opinion?

A. Well, in terms of the numbers, yes.

Q. The percentage of total revenue gained by selling talc, he's the guy I need to talk to about that?

A. Yes.

Q. Do you have an opinion on being -- on what being classified as an asbestos-containing product would do to R.T. Vanderbilt's talc sales?

A. It would close them down, obviously.

Q. R.T. Vanderbilt has several wholly-owned subsidiaries, do they not?

A. Yes.

Q. Is Dixie Clay a subsidiary?

A. Dixie Clay Company, yes.

Q. Is Standard Minerals a subsidiary?

A. Standard Mineral Comp -- Corporation, yes.

Q. Thank you.

Is Vanderbilt Minerals a subsidiary?

A. Vanderbilt Minerals Corporation, yes.

Q. How about Vanderbilt Chemical?

A. Vanderbilt Chemical Company is a subsidiary, yes.

Q. Is there a Vanderbilt Export Corporation?

A. Yes.

Q. Is that a wholly-owned subsidiary of R.T. Vanderbilt?

A. Yes.

Q. Vanderbilt World Trade Corporation, is that a wholly-owned subsidiary?

A. Yes.

Q. Gouverneur Talc Company, is that a wholly-owned subsidiary?

A. Yes.

Q. Let's just talk about talc for a while.

When did R.T. Vanderbilt get into the talc business?

A. In 1947 and '48.

Q. Is that when Gouverneur Talc Company was begun?

A. Yes.

Q. And is Gouverneur Talc Company still going strong today?

A. Yes.

Q. Do you have any idea of the annual sales produced just from Gouverneur Talc Company?

A. No.

Q. Don't have any idea about the revenue they generate?

A. No.

Q. Who would know that? Is that Denaro?

A. Yes.
 Q. I'm going to catch on pretty soon.
 And where is Gouverneur Talc Company located?
 A. Outside Gouverneur, New York, near Belmont.
 Q. And it operates on the Gouverneur talc deposit, correct? Do you know what I mean?
 A. Runs talc, yes, in the -- in the area, yes.
 Q. I'm sorry?
 A. Runs talc in the area, yes.
 Q. And I -- I used this term earlier. Are you just completely unfamiliar with geological surveys that refer to the area where Gouverneur talc is situated as the Gouverneur Quadrangle?
 A. Well, I've never heard the name used.
 Q. Never have?
 A. No.
 Q. Never read any documents that refer to that term?
 A. No.
 Q. Is all the talc mined by Gouverneur Talc Company in the same area?
 A. Yes.

Q. Within what, a mile -- well, just how big -- how big in square miles is the area where Gouverneur Talc Company operates?
 A. Well, there are different pits. I'm not sure how many miles they are one from the other, but they -- they are some distance from each other.
 Q. And you mentioned "pits." By "pits," do you mean open pit mining facilities?
 A. Yes.
 Q. That's where you just break through the ground's surface and -- and dig the talc right up off the ground, right?
 A. Well, you have to get through under -- overburden first. But yes.
 Q. Thank you.
 Does Gouverneur Talc also operate mines in the traditional sense that most people think about miners walking around with a little light on their helmet underground?
 A. Not anymore.
 Q. Used to?
 A. Excuse me?
 Q. Did they used to?
 A. They used to have a talc mine that was underground, yes. Now it's only a pyrophyllite

mine.
 Q. Gotcha. Did they -- did they at one time operate more than one underground talc mine?
 A. Not to my knowledge.
 Q. Would you be the person most knowledgeable about that?
 A. About the history? No.
 Q. About the history of Gouverneur Talc Company, you are not the person most knowledgeable about that?
 A. Not about the underground mines, no.
 Q. Okay. Who -- who would be?
 A. Well, I guess it would be the vice-president and general manager of the Gouverneur Talc Company, which is Dana Putman.
 Q. Uh-huh. Is Mr. Putman available for deposition should I require it?
 A. He's available.
 Q. Still employed by R.T. Vanderbilt?
 A. Yes.
 Q. Still working at the mine up in Balmat?
 A. Yes.
 Q. Gouverneur Talc -- do all the pits currently operating at Gouverneur Talc operate on the same deposit of talc?

MR. PICKERING: Objection, form.
 A. I'm not a geologist. I shouldn't get into all...
 Q. (By Mr. McLeod) If you know. If you don't know, that's fine.
 A. No.
 Q. You don't know?
 A. (No verbal response.)
 Q. Have there -- there have been other companies that conducted talc mining operations in areas adjacent to the Gouverneur Talc Company through the years, have there not?
 A. Yes.
 Q. Do you know the names of any of those companies?
 A. Well, the specific one is International Talc Company.
 Q. That's one. Are there others that you're aware of?
 A. Not currently.
 Q. Not currently? What do you mean by that?
 A. Well, at this point, Gouverneur Talc Company is the sole remaining talc mine.
 Q. Right. And I know that. But is it not true that over the years Gouverneur Talc Company

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1 basically acquired, bought and purchased, whatever
 2 you want to call it, all of the other talc mining
 3 operations in that area?
 4 A. No.
 5 Q. What's not true about that?
 6 A. Gouverneur Talc Company purchased the
 7 assets of one particular company, International Talc
 8 Company.
 9 Q. And that is the only company that has been
 10 purchased or acquired or in any other corporate
 11 terminology that you want to use, merged with
 12 Gouverneur Talc?
 13 A. The assets, scheduled assets were
 14 purchased, yes.
 15 Q. Have you ever heard of a company called
 16 St. Joe's, St. Joe Minerals?
 17 A. Yes.
 18 Q. Okay. What did they do?
 19 A. I believe they mine zinc or mined zinc.
 20 Q. Okay. Did Gouverneur ever acquire them?
 21 A. No.
 22 Q. Did R.T. Vanderbilt ever acquire them?
 23 A. No.
 24 Q. They still mining up the zinc?
 25 A. I'm not sure that St. Joe is, but I think

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zinc is being -- is still being mined up there.
 2 Q. Are you familiar with a company called
 3 Lummus Talc?
 4 A. Yes.
 5 Q. Okay. And that's -- what is your
 6 understanding of the current disposition of Lummus
 7 Talc?
 8 A. Well, I don't think they exist. My
 9 understanding is that they were purchased by
 10 International Talc.
 11 Q. Correct. Which, in turn, was purchased by
 12 R.T. Vanderbilt, right?
 13 A. Yes.
 14 Q. Okay. How far away was International Talc
 15 from Gouverneur Talc before they became the same
 16 thing?
 17 MR. PICKERING: Objection, form.
 18 A. I guess we were what I've always heard
 19 referred to as neighbors.
 20 Q. (By Mr. McLeod) Neighbors?
 21 A. In the same area, yes.
 22 Q. Competitors?
 23 A. Yes.
 24 Q. Would that be a better term?
 25 A. Well, they were certainly competitors,

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1 yes.
 2 Q. How is -- how did it come to be that
 3 International Talc was purchased by Gouverneur Talc?
 4 A. Well, I don't know what the original
 5 impetus is, but R.T. Vanderbilt Company wanted to
 6 have the talc reserves of International Talc Company
 7 and I guess we offered to buy them and negotiated
 8 and came to a deal.
 9 Q. To your knowledge, did Gouverneur Talc
 10 indemnify International Talc in any way?
 11 A. No.
 12 Q. Did International Talc liquidate as a
 13 result of that agreement to be purchased?
 14 A. Yes.
 15 Q. What did Gouverneur Talc purchase when
 16 they purchased International Talc?
 17 A. Well, essentially, it was R.T. Vanderbilt
 18 Company that purchased International Talc. We
 19 purchased between -- their assets and not their
 20 liabilities, with few exceptions.
 21 Q. What exceptions would those be?
 22 A. Well, I think they had a mill of some kind
 23 and -- which we didn't purchase. Essentially we
 24 were after their reserves, as I said.
 25 Q. You wanted the talc?

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1 A. Yes.
 2 Q. And less competition, right?
 3 MR. PICKERING: Objection, form.
 4 A. Not so much less competition as to have
 5 broader and more -- more reserves, basically, more
 6 talc reserves.
 7 Q. (By Mr. McLeod) Before Gouverneur Talc
 8 became affiliated with International Talc, were
 9 their products pretty well identical, their talc
 10 products?
 11 A. I don't know.
 12 Q. Okay. Did Gouverneur Talc, once it took
 13 over International Talc's business basically,
 14 continue to sell or continue to mine out of that
 15 deposit?
 16 A. Yes.
 17 Q. Now, New York is not the only state where
 18 R.T. Vanderbilt has ever owned or operated talc
 19 mining or milling operations, is it?
 20 A. No.
 21 Q. Where else?
 22 A. California.
 23 Q. Anywhere other than California?
 24 A. No.
 25 Q. And what was the name of that operation

out in California?
 A. Western Talc Company.
 Q. And was Western Talc Company, that was
 acquired by R.T. Vanderbilt?
 A. Yes.
 Q. That had previously been in operation on
 its own?
 A. Yes.
 Q. Was it acquired in 1973 -- or '63, I'm
 sorry?
 A. Yes.
 Q. And how long did R.T. Vanderbilt operate
 that Int -- or that Western Talc facility?
 A. Ten years.
 Q. Mothballed it in '73, correct?
 A. Yes.
 Q. Why did it get mothballed in '73?
 A. Essentially there was no demand for talc
 in -- on the west coast.
 Q. Industry on the west coast did not require
 talc?
 A. Well, I don't know the details, but I've
 always been told that that was it, there was no --
 or insufficient demand for the available supply.
 Q. It didn't have anything to do with the

tremolite in the talc that Western Talc mined, did
 it?
 A. No.
 Q. And you don't dispute the fact that
 Western Talc did have tremolite in it, do you?
 MR. PICKERING: Objection, form.
 A. No.
 Q. (By Mr. McLeod) You don't dispute that?
 A. I don't.
 Q. Do you remember or can you tell me any of
 the trade names Western Talc sold their tremolitic
 talc under?
 A. Well, Westal and Snow Goose are the names
 that come to mind. Westal, W-E-S-T-A-L and Snow
 Goose, S-N-O-W, G-double O-S-E.
 Q. Thanks.
 Do you know what any of that Snow
 Goose or Westal product was intended to be used for,
 or don't you?
 A. No.
 Q. You have no idea?
 MR. PICKERING: Objection, form.
 Q. (By Mr. McLeod) Is that true?
 A. Yes.
 Q. You've never seen any documents that

1 relate to the use of Snow Goose or Westal talc? Is
 2 that true?
 3 A. Oh, I'm aware of -- of -- of that -- some,
 4 yes.
 5 Q. Okay. And what do those documents say?
 6 A. Well, they said Westal was -- was used by
 7 Firestone Tire Company, for example.
 8 Q. Do you know how it was used?
 9 A. I presume as a dusting agents.
 10 Q. What about Snow Goose?
 11 A. I don't know in detail.
 12 Q. So Westal was a pretty heavy-duty
 13 industrial talc, wasn't it?
 14 A. I don't know.
 15 Q. Fibrous?
 16 A. No.
 17 Q. What?
 18 A. No.
 19 Q. No, it was not fibrous? Is that your
 20 answer?
 21 A. Well, I'm -- I'm not a mineralogist, so I
 22 should be -- shouldn't be getting into those terms.
 23 But, no.
 24 Q. You don't need to be a mineralogist to
 25 know if it was marketed as a fibrous tremolitic

1 talc, do you?
 2 MR. PICKERING: Objection, form.
 3 A. I wasn't around at the time, but I don't
 4 think it was marketed as fibrous talc.
 5 Q. (By Mr. McLeod) Okay. You've never seen
 6 any documentation that would say that?
 7 A. With Western Talc, no.
 8 Q. Westal?
 9 A. No.
 10 Q. Snow Goose?
 11 A. No.
 12 Q. Okay. Are there any other talc mining
 13 operations launched, purchased, leased, acquired or
 14 otherwise handled by R.T. Vanderbilt over the years
 15 that you know of?
 16 A. No.
 17 Q. To your knowledge, did -- did R.T.
 18 Vanderbilt ever try, make an attempt to get into the
 19 asbestos mining business?
 20 A. No.
 21 Q. Are you sure about that?
 22 A. Yes.
 23 Q. Okay. All right. Now, it's my
 24 understanding that mines that R.T. Vanderbilt owned,
 25 operated or leased acted -- R.T. Vanderbilt acted as

the exclusive sales agent for all talc mined by all mines that R.T. Vanderbilt was in control of. Is that true?

A. It was the selling arm -- selling arm of the corporation, yes.

Q. Okay. Western Talc, did it -- it -- it mined its own talc, correct?

A. It mined talc, yes.

Q. Did it mill its own talc?

A. Yes.

Q. And did it produce different grades of talc on its own?

A. Yes.

Q. And then what did it do with that talc?

A. It sold it to the parent company.

Q. R.T. Vanderbilt?

A. Yes.

Q. And R.T. Vanderbilt would then, in turn, sell it and market it to different consumers or customers, right?

A. Yes.

Q. And that's the same thing that happened with Gouverneur Talc Company as well?

A. Yes.

Q. R.T. Vanderbilt always sold -- sold the

talc no matter where it was coming from, what mine it came out of, correct?

A. Yes.

Q. Was all of the talc that R.T. Vanderbilt sold tremolitic talc?

A. No.

Q. Was all of the talc that R.T. Vanderbilt or its subsidiaries mined tremolitic talc?

A. To varying degrees, yes.

Q. What do you mean "to varying degrees"?

A. Well, I'm aware that there were different amounts of tremolite.

Q. Okay. But if -- if R.T. Vanderbilt is -- is -- or one of the subsidiaries is mining talc, then that is tremolitic talc, correct?

A. Well, there was some tremolite in it, yes.

Q. Okay. There will be -- always be tremolite in the talc that R.T. Vanderbilt mined to some degree?

MR. PICKERING: Objection, form.

A. I think so, yes.

MR. McLEOD: What's the basis of that objection?

MR. PICKERING: Just -- I think it's lack of foundation. I think he's established he's

1 not a mineralogist and not qualified to speak as to
2 the mineral content of -- of all the deposits. I'm
3 just not sure there's proper foundation.

4 MR. McLEOD: I just want to know his
5 personal knowledge.

6 Q. (By Mr. McLeod) And, sir, are you aware
7 that you previously testified in deposition under
8 oath in -- in this -- the exact same kind of case
9 that all talc mined by R.T. Vanderbilt is tremolitic
10 talc? Are you aware of that?

11 MR. PICKERING: Objection to form.

12 A. No, but...

13 Q. (By Mr. McLeod) Okay. All right. Any
14 other talc mines that R.T. Vanderbilt operated that
15 we haven't discussed?

16 A. No.

17 Q. Any other talc mines that R.T. Vanderbilt
18 leased or has any interest in that we haven't
19 discussed?

20 A. No.

21 Q. There are several R.T. Vanderbilt sales
22 offices, are there not?

23 A. Sales offices?

24 Q. Yes, sir.

25 A. Yes.

1 Q. Is Norwalk one of them?

2 A. Yes.

3 Q. Norwalk actually sells talc to -- to third
4 parties, right?

5 A. Yes.

6 Q. Do you also have a -- an office in Los
7 Angeles, California that sells talc?

8 A. Yes.

9 Q. Do you have one up in Toronto, north of
10 the border up in Canada?

11 A. Yes.

12 Q. And do you also have a Paris, France
13 office that sells in Europe?

14 A. Yes.

15 Q. And Paris, just to clarify for the record,
16 that office of R.T. Vanderbilt sells talc, right?

17 A. Well, I think it would refer -- refer any
18 customers to R.T. Vanderbilt in, you know, Norwalk.

19 Q. Excuse me?

20 A. Norwalk is the headquarters and -- and the
21 selling arm. But they would -- if they found any
22 customers, they would refer them to Norwalk.

23 Q. Okay. What does the Paris office do?

24 A. It represents Vanderbilt, sells and -- and
25 pushes our products.

Q. How does it push your products?
 A. By representing us to customers and beating the bushes.
 Q. Beating the bushes.
 A. Uh-huh.
 Q. Is that what the LA office does out west of the Rockies?
 A. Yes.
 Q. Okay. And Toronto, that's what the --
 A. Yeah.
 Q. -- Toronto office does up in Canada, right?
 A. Yes. Yeah.
 Q. They beat the bushes, get customers to Norwalk and sell the talc to them, right?
 A. Yes.
 Q. And those sales would be typically in Canada if it's coming out of the Toronto office, right?
 A. Well, the sale would be made out of Norwalk, but...
 Q. To Canada?
 A. But, yeah. But it's the same company.
 Q. And the sales would be product being shipped to locations in Canada, right?

A. Yes.
 Q. Does Norwalk handle all of the sales east of the Rocky Mountain range with regard to talc sold in the United States?
 A. And west, too. I have the global sales.
 Q. Okay. So the Norwalk office -- okay. I understand what you're saying.
 All right. Are all sales of talc ultimately maintained by the accounting department in Norwalk at headquarters?
 A. All sales of all products are recorded, yes.
 Q. Okay. Well, I'm talking just about talc sales right now. So let's skip all the other -- I'm not interested in chemicals or other stuff right now, I'm just talking about talc. Okay?
 A. Yes.
 Q. All right. Where would I find the best record of talc sales that occurred during the 1960s and '70s by R.T. Vanderbilt?
 A. Well, there wouldn't be any records for -- corporate sales records prior to 1974.
 Q. Okay. Where would I find the best record of talc sales made by R.T. Vanderbilt prior to 1974?
 A. Well, there wouldn't be any from --

Q. Nowhere on the face of the earth?
 A. -- from '74. Well, there are a few years of records for 197 -- for Western Talc Company.
 Q. Okay. Did you research those records for Western Talc before you answered my interrogatory responses in this case?
 A. Yes.
 Q. Didn't find anything?
 A. No.
 Q. So the earliest records of R.T. Vanderbilt talc sales would be at the Norwalk corporate offices, and those would begin in 1974. Is that right?
 A. Yes.
 Q. It's my understanding, in looking at some of your previous testimony, there are basically three record systems in existence to account for R.T. Vanderbilt talc sales over the years. Is that accurate? There's corporate or the computer-generated records for the Gouverneur Talc Company.
 A. Yes.
 Q. Is that one source of records?
 A. Yes.
 Q. Are there corporate sales records of all

products sold by R.T. Vanderbilt?
 A. Yes.
 Q. And is there an invoice history as well that would contain talc sales?
 A. Yes.
 Q. Okay. And just so the record is clear here, specifically with regard to domestic talc sales, is it your position that -- that you're unable to account for any sale of any talc product ever sold by R.T. Vanderbilt prior to the year 1974, aside from that -- that Western Talc situation you just mentioned?
 A. Yes.
 Q. Why is that?
 A. Well, because when the sales records were recuperated and isolated, that's as far back as we had them.
 Q. Was there a fire, earthquake, flood? What -- why -- why did they get destroyed?
 MR. PICKERING: Objection, form.
 A. They -- they were destroyed I guess, or disposed of in the regular course of business.
 Q. (By Mr. McLeod) They were disposed of by R.T. Vanderbilt intentionally?
 MR. PICKERING: Objection, form.

A. Yes.
Q. (By Mr. McLeod) Who made the decision to do that?
A. I don't know.
Q. Well, if that decision was going to be made today to go destroy a bunch of records pertaining to sales of products, who would make that decision today with regard to talc sales?
A. Well, it would have to be a lot of people. There's a hold order anyway.
Q. I'm not sure I understand your answer.
A. Well, I mean at the time, I don't know exactly when it was; but when -- when we got involved in these -- in this litigation, we recuperated all of the talc records, all of the sales records that are available and those that were available went back to 1974.
Q. Okay. And the records prior to 1974 were destroyed.
A. In the regular course of business, yes.
Q. Okay. We had a little confusion on this just a second ago, so I'm going to read you something from a deposition you gave back in -- in November, November 15, 2005 in a case called Synette Gandy versus Asbestos Claims Management

1 A. Yes.
2 Q. Did R.T. Vanderbilt talc ever contain
3 an -- anthophyllite?
4 A. Yes.
5 Q. Did R.T. Vanderbilt talc contain
6 actinolite?
7 A. I don't know.
8 Q. Do you know what actinolite is?
9 A. I know, yes.
10 Q. Did R.T. Vanderbilt talc ever contain
11 chrysotile?
12 A. No.
13 Q. Are you sure about that?
14 A. I'm not a geologist or mineralogist.
15 That's what I've been told.
16 Q. Tell me what you're basing that opinion
17 on.
18 A. Essentially the mineralogists, and whether
19 working for the government, privately, consulting,
20 what have you.
21 Q. Are you aware that there are studies that
22 show that R.T. Vanderbilt talc did, in fact, contain
23 actinolite fibers and chrysotile fibers?
24 A. I'm not aware of those studies.
25 Q. You've never seen a study that would

Corporation. Do you remember that -- that case?
A. Yes.
Q. Do you remember the deposition you gave?
A. Yes.
Q. To a lawyer named Robert Palmer?
A. Yes.
Q. And I'm just going to read it out here.
I'll have it marked. You guys can look at it. This was a document produced to me by Mr. Pickering and your other R.T. Vanderbilt lawyers. And I'm reading from the bottom Page 119, Line 22.
"Question: Was there any R.T. Vanderbilt talc that did not have tremolite in it?
Answer: There was no R.T. Vanderbilt talc that did not have tremolite in it. We have sold other people's talc occasionally."
Did I -- do you remember saying that in deposition?
A. If that's what it says, I said it, yes.
MR. McLEOD: Okay. I'm just going to have this marked and attached as whatever exhibit we're on. As No. 4.
(Exhibit No. 4 marked.)
Q. (By Mr. McLeod) Do you agree with your testimony there?

1 indicate those -- those facts?
2 A. Well, as I said, I'm not a mineralogist,
3 so if I've reviewed a study, I may not be the person
4 best placed to interpret it. But I don't remember
5 any study that maintained chrysotile -- I know that
6 there's been a lot of allegations, of course, over
7 the years, but --
8 Q. Right. And don't -- don't take what I'm
9 asking you in the wrong context. I'm not asking you
10 to give me any sort of expert opinion here. Okay?
11 I'm just asking you: Do you know if R.T. Vanderbilt
12 talc ever contained chrysotile or actinolite as a
13 component of it? Do you know?
14 MR. PICKERING: Objection, form.
15 A. Well, I think I answered the questions.
16 I'm not sure about actinolite and I -- and I've
17 always been told that there was no chrysotile in our
18 talc.
19 Q. (By Mr. McLeod) What did you call it?
20 A. Crisso-teal (phonetic).
21 Q. Okay. Is that the same thing as
22 chrysotile?
23 A. Probably.
24 Q. Okay. So you're not sure about actinolite
25 and you dispute the fact that it ever contained

chrysotile?
 1 A. Yes.
 2 Q. Or crisso-teal?
 3 A. Yes.
 4 Q. Okay. How did R.T. Vanderbilt go about
 5 selling its talc to customers?
 6 A. Well, we have salesmen and distributors.
 7 Q. Did R.T. Vanderbilt have a stake, a
 8 financial stake in any of the distributors?
 9 A. No.
 10 Q. These are third parties?
 11 A. Yes.
 12 Q. Their own businesses, right?
 13 A. Yes.
 14 Q. If I asked you to generate me a list of
 15 distributors say in Texas that R.T. Vanderbilt has
 16 supplied talc to, would you be able to do that?
 17 A. To -- yes, to some -- you know, with...
 18 Q. Given the limitations that you have?
 19 A. Given the limitation of history and
 20 people's memories and so on, yes.
 21 Q. Okay. So you had salesmen and you had
 22 distributors. Did you have a marketing department
 23 formally?
 24 A. I think we did for a short term; but

otherwise, not formerly, no.
 2 Q. When did you have a marketing department?
 3 A. At some point before I joined the company.
 4 Q. Back in the '70s?
 5 A. Well, before '84.
 6 Q. Okay. Well, do you have any idea when the
 7 marketing department was in existence with any
 8 more --
 9 A. No.
 10 Q. -- particularity?
 11 A. No.
 12 Q. You can't say when that short time it was
 13 in existence?
 14 MR. PICKERING: Objection, form.
 15 A. No. I think there -- there was an
 16 individual.
 17 Q. (By Mr. McLeod) Who was the individual?
 18 A. I'm not sure of his name.
 19 Q. Who would know?
 20 A. The people I've named previously.
 21 Q. Who? You named a lot of people.
 22 A. All of them -- well, let's say -- let's
 23 try Joseph Denaro, someone who's been there a while.
 24 Q. He would flow who the marketing director
 25 was?

1 A. Yes.
 2 Q. Did y'all have an advertising department
 3 at R.T. Vanderbilt that advertised talc to
 4 customers?
 5 A. Well, we had an outside firm that prepared
 6 ads for us, yes.
 7 Q. Would you have any idea when it was that
 8 R.T. Vanderbilt first started producing
 9 advertisements to send to people, to solicit people
 10 to buy talc? And by "people," I mean customers.
 11 A. I think they were put in things like
 12 industry journals and such. But no, I don't know
 13 exactly when.
 14 Q. Can you tell me what trade organization
 15 journals R.T. Vanderbilt would regularly advertise
 16 in to encourage sales of its talc products?
 17 A. No.
 18 Q. Can't tell me one single trade journal?
 19 A. No.
 20 Q. Do y'all recall keep -- do y'all have a
 21 library that would keep those trade journals?
 22 A. I don't think so.
 23 Q. Who could -- who could answer my questions
 24 about the trade journals?
 25 A. Probably this Chris Davis, whom I referred

1 to previously.
 2 Q. Okay. Would Chris Davis have been the
 3 person that had contact with the outside firms in
 4 charge of advertising R.T. Vanderbilt talcs?
 5 A. Yes.
 6 Q. And I forget if I asked you this, if I
 7 did, I apologize. When did Chris come on board with
 8 R.T. Vanderbilt?
 9 A. I don't know.
 10 Q. Before you did?
 11 A. Yes.
 12 Q. How old is Chris? Well, I don't know if I
 13 should ask you that, but....
 14 A. I think she's --
 15 Q. Can you tell me --
 16 A. -- in the 60 range.
 17 Q. So she might have been there during the
 18 1970s?
 19 A. Yes.
 20 Q. Is it possible she could have been there
 21 during the 1960s for a period of time?
 22 A. Well, during the 1970s, yes.
 23 Q. Is it possible she could have been there
 24 during the 1960s for a period of time?
 25 A. I don't know.

Q. Okay. And you say you do not know whether any advertising documents are still available to review?

A. I know some ads are -- are still available, yes.

Q. And where are those kept?

A. At the company.

Q. When you were answering my interrogatory -- my interrogatories and requests for production in this case, did you review those -- those advertisements?

A. Did I look at them individually? No.

Q. Did you make any effort to attempt -- if there are advertisements responsive to the master interrogatory served on R.T. Vanderbilt in the Victor Gruetzner case?

MR. PICKERING: Objection, form.

A. Well, I know that there are ads.

Q. (By Mr. McLeod) That's not what I asked you. Let me be just real clear: You undertook a diligent search of all corporate records and sales records and those kind of things to -- to fully and completely respond to Judge Davidson's master MDL discovery in this case after we filed a motion to compel and it was granted, correct?

A. Yes.

Q. Okay. Did part of that diligent search include you looking through advertising records?

A. Not at the time, no.

Q. Okay. At any time during the course of this litigation, have you looked -- have you researched sale -- or advertising records as respon -- as potentially responsive documents to our requests for production and interrogatory answers?

A. During the course of? I don't know. During -- I mean, I'm aware of the existence of the -- of ads.

Q. And you haven't looked through those to see if there are any that correspond to the request for production in this case, have you?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) At least that's what I understood you to say.

A. Well, not recently, no.

Q. Because if you have, I have a job. That's my point.

A. Okay.

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) If I wanted you -- and if it -- if it turned out that you were supposed to

1 have done that research and look through the
2 advertising and marketing information available at
3 R.T. Vanderbilt that would be responsive to our
4 discovery request in -- in this case, would that be
5 something that would be onerous to ask of you?

A. No.

Q. You'd be willing to do that for us?

A. Yeah.

Q. And let's just get this: Is -- well, you
10 have different sales divisions at R.T. Vanderbilt,
11 do you not?

A. Yes.

Q. What divisions do you have?

A. Well, we have the rubber sales division,
15 which is currently swallowed up with the plastics
16 sales division; so, it's rubber and plastics. We
17 have the petroleum sales division. We have -- well,
18 we have -- as I said, there is a global manage --
19 global sales manager for minerals, which includes
20 paint and paper.

And we used to have a specialties
22 division, which has also been folded into minerals;
23 and we have the export department.

Q. I think I asked you a really bad question
25 just now. I only want to know about talc sales.

1 Are -- are all of these divisions involved in talc
2 sales, or have they been?

A. Well, minerals would be involved with
4 talc, obviously; and paint and paper specifically;
5 and some of the other divisions would have been
6 involved to a small degree.

Q. Okay. Like ceramics?

A. Yes.

Q. Did y'all have a ceramics sales section?

A. Yes. In fact, Randy Johnson, who's the --
11 the global sales manager, was the ceramics sales
12 manager.

Q. And you-all used to have a refractory
14 sales division, right?

A. No.

Q. No?

Did you not market products towards
18 the refractories industry?

A. I don't think so; but if it -- to the
20 degree that it did, it would come under the ceramics
21 department.

Q. Okay. What did the specialties department
23 market their product towards?

A. Well, primarily it was a product called
25 Veegum, which is a type of clay.

Q. Nothing to do with talc at all, the specialties -- specialty department?

A. Well, there could have been sales of talc here and there.

Q. Okay. Who would the specialties department have been selling talc to in terms of industry or types of industry?

A. I don't know specifically.

Q. The paint and paper division of sales, would that have been the division most likely to be selling to manufacturers of wallboard finishing compounds?

A. Yes.

Q. Would that, in fact, have been the only division that would have been in charge of selling talc to -- to that industry?

A. Probably, yes.

Q. Can you think of any other division that would have?

A. Not logically, no.

Q. I'm not talking logically. I mean, weird things happen, you know.

A. Right. Well -- well, that's what I was saying. That's why I said probably.

Q. Okay. As far as you know, the paint and

paper division would have been it --

A. Yes.

Q. -- for joint compounds, wallboard, and texture industry, as far as sales of talc go?

A. Yes.

Q. Are you the person most knowledgeable about sales in that particular division during the period of time between the 1960s and 1980s?

A. Of the sales records?

Q. Of sales of talc to that particular area of industry, coming out of the paint and paper division of R.T. Vanderbilt?

A. Well, if you mean knowledgeable about the customers, no.

Q. Who is?

A. Randy Johnson.

Q. Is Randy available for deposition should I require it?

A. Yes.

Q. He's still employed by R.T. Vanderbilt?

A. Yes.

Q. Does he live in Norwalk?

A. No.

Q. Where does he live?

A. In Connecticut.

Q. Where in Connecticut?

A. I'm not sure where.

Q. Okay. Randy Johnson would be the person most knowledgeable about all talc sales made out of the paint and paper division of R.T. -- of R.T. Vanderbilt during the time period between, say, 1960 and 1980?

A. Well, I think he was employed after that; so, there would be a -- an issue of history. But that -- we also have a paint and paper sales manager whose name is Verg [sic] Carlson --

Q. Did Verg come before Randy?

A. I think so, yes.

Q. Do you know when Verg -- Verg Carlson?

A. Yes. Vergil, V-E-R-G-I-L, Carlson, C-A-R-L-S-O-N.

Q. When did he become employed by R.T. Vanderbilt?

A. I'm not sure. In the '70s, I think.

Q. When did Randy Johnson become a part of the paint and paper division?

A. In the '80s. Oh, no, he didn't. He became the ceramics sales manager, and now is the global mineral sales manager.

Q. Okay. Well, during the time period -- and

let's just limit to it this right now: During the time period between 1952 and 1980, can you tell me who would be the person most knowledgeable about sales of talc from R.T. Vanderbilt to the industry that manufactured texture paints, joint compounds, plasters, and finishing compounds for wallboard?

A. Well, you have a problem in that most of the individuals employed during that time are deceased; but in terms of knowledgability during the period in which they were employed, the names I have mentioned are the correct ones.

Q. Vergil Carlson and -- and Randy Johnson?

A. Yes.

Q. Would they be most knowledgeable about the sales tactics and marketing techniques that were used to sell talc to these -- to this industry?

A. They would be knowledgeable about the sales to customers, yes.

Q. And the marketing tactics and -- and the sales techniques employed?

A. I guess.

Q. You're the corporate representative. That's why I'm asking.

A. They would be knowledgeable about -- you're putting a slight spin on the -- on the words,

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so --

Q. Well, I'm not trying to trick you.

A. They would be knowledgeable about sales to customers within that industry, yes.

Q. Okay. Do you know what grades or trade names of talc R.T. Vanderbilt sold such customers for use in products like plaster and joint compound, wallboard textures and finishing products?

A. I don't know the specific grades that were sold to -- for particular uses, but I know the trade name.

Q. Mouldene? Was that one that was sold to the -- to the wallboard compound industry?

A. I know that that's a trade name, but -- belonging to R.T. Vanderbilt company. I don't know which products were sold to which -- which particular customer.

Q. You don't?

A. Without looking at the records.

Q. Okay. So, you have no idea whether Mouldene -- as you sit here right now without corporate records in front of you, whether Mouldene was sold to any wallboard or joint compound --

A. Well, I know that --

Q. -- finishing company?

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A. -- it occurs in -- in our sales to the companies you asked for.

Q. Okay. Are you aware of any specific use that Mouldene was intended for?

A. No.

Q. What about Fibertal No. 1?

A. No.

Q. What about Fibertal No. 2?

A. No.

Q. You can't tell me one specific use that Fibertal -- that any Fibertal product sold by R.T. Vanderbilt was ever intended for?

A. Well, I know, generally speaking, what our talcs -- what industries our talcs went to predominantly. I don't know what each individual grade was used for over a period of 50 or 60 years or whenever.

Q. Okay. So, is the answer to my question no?

A. No.

Q. All right. Nyltal -- there's a few grades that y'all have identified selling to some companies I'm interested in -- 100, 200, and 300. Are you familiar with -- with those product names?

A. Yes.

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Q. Are you familiar with the -- the use of those products?

A. No, not in terms of technical purpose.

Q. So, you're not going to come to trial and say, "Well, I know Nyltal was never used in joint compounds," and you're not going to be able to say Fibertal was never used in joint compounds for textures or plasters?

A. No.

Q. What about IT 3X?

A. Same thing.

Q. IT 325?

A. Same thing.

Q. IT FT?

A. Same thing.

Q. Okay. You can't say that those talcs were not used in products that my client was exposed to, can you?

A. No.

Q. Did R.T. Vanderbilt employ people to formulate different grades of talc to fit customer needs?

A. Yes.

Q. And what would the job title of those folks be?

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A. I don't know.

Q. Who would know?

A. Well, we'd have to go to our R&D department, perhaps Dana Putman up in Gouverneur and so on.

Q. Okay. Well, let's talk about your R&D department. Can you tell me when your research and development department came into existence --

A. No.

Q. -- at R.T. Vanderbilt?

A. No.

Q. Was it there long before you arrived?

A. I don't know.

Q. Was it there when you arrived?

A. Yes.

Q. Do you know, when you arrived, who was in charge of the R&D department?

A. No.

Q. No idea?

A. Not when i arrived in '84. I don't remember. I don't want to give you the wrong name and be accused of perjury.

Q. Well, I'm certainly not accusing you of perjury by saying you don't know.

You okay?

1 A. Excuse me?
2 Q. You doing okay?
3 A. Yeah.
4 Q. Okay. What was the purpose of the
5 research and development department at
6 R.T. Vanderbilt as it pertains solely to talc?
7 A. Well, generally speaking, it -- it was
8 there to provide support for our customers.
9 Q. And how did it provide support to your
10 customers?
11 A. By talking to them and getting their input
12 and hearing about their problems with products or
13 their desires for products or their needs, and
14 whatever, and -- and developing products that
15 would -- that would meet those requirements or
16 changing existing products or -- or what have you
17 to -- or solving their problems.
18 Q. Pretty much the same as any other R&D
19 depart -- R&D department for any similar business,
20 right?
21 MR. PICKERING: Objection, form.
22 A. Well, we haven't done much pure research,
23 so far as that would be a part of a --
24 Q. (By Mr. McLeod) Got ya.
25 A. -- an R&D department. I'm not saying we

1 did none; but, generally speaking, we were there to
2 support our customers.
3 Q. With regard to formulations of products
4 and -- and how their products would be used by your
5 customers, you wanted to make the best product you
6 could for your customers to ensure their happiness
7 so they would come back and buy more talc from you,
8 right?
9 A. Yes.
10 Q. And that's a function of the R&D
11 department basically in a nutshell at
12 R.T. Vanderbilt, right?
13 A. Yes.
14 Q. Did they provide insight and -- and -- and
15 support on products that were sold to the joint
16 compound and texture industry?
17 A. I don't know.
18 Q. Who would know that?
19 A. The individuals we've named before.
20 Q. Refresh me. Specifically on this
21 question. I -- I hate to keep having to ask you for
22 names, but they've brought you here to answer my
23 questions.
24 A. Randy Johnson and Verg Carlson.
25 Q. They would be knowledgeable about the R&D

1 department as it pertains to joint compound
2 companies?
3 A. Well, they'd certainly be the most
4 knowledgeable, yes.
5 Q. Is the R&D department still in existence?
6 A. Yes.
7 Q. Do -- does the R&D department maintain its
8 own set of records separate from the sales records
9 we've already talked about?
10 A. Well, the R&D department doesn't maintain
11 sales records; but --
12 Q. That's not what I asked you. Excuse me.
13 The R&D department, they don't sell
14 anything, do they?
15 A. No.
16 Q. So, naturally, they're not maintaining
17 sales records; but they do generate papers in the
18 ordinary care of their business, do they not?
19 A. Yes.
20 Q. And do they keep that paper?
21 A. They keep some of it, yes.
22 Q. Okay. And where are the records for the
23 research and development part -- department kept?
24 A. In Norwalk.
25 Q. And are they kept in the ordinary course

1 of business?
2 A. Yes.
3 Q. Okay. Do you know what form the research
4 and development documents at Norwalk are kept in?
5 A. No.
6 Q. In response to my interrogatories and
7 request for production in this case, did you
8 undertake any examination of the research and
9 development records available to you in Norwalk at
10 your office?
11 A. No.
12 Q. Did that just not occur to you?
13 A. I talked to -- to the people that I
14 thought were knowledgeable, and they told me that
15 there wasn't an issue; so --
16 Q. Okay. Do you know -- do you have any idea
17 when those records begin, like what year they're --
18 they're kept from?
19 A. No.
20 Q. Do you know how late those records go to?
21 A. Well, I know there are current records,
22 yes.
23 Q. Hopefully they're current to 2006 in the
24 year model order, right?
25 A. Yes.

Q. Okay. Who did you ask whether or not research and development records would be pertinent to my discovery response in this case?

A. Randy Johnson and Verg Carlson.

Q. What did they say?

A. They said no.

Q. Okay. And that satisfied you in the course of your --

A. Yeah.

Q. -- diligent research of all available corporate records in response to my request for disclosure?

A. Yes.

Q. Or my re -- my request for production in my interrogatories?

A. Yes.

Q. Do you know how many documents are in the research and -- and development department?

A. No.

Q. Do you -- is there any microfiche that you know of?

A. No.

Q. Do you know of any computer-generated system that keeps traffic of R&D information?

A. No.

department, do you?

MR. PICKERING: Objection, form.

A. As a procedural matter, I'm almost certain that there aren't any documents of the age that you're requesting to begin with --

Q. (By Mr. McLeod) Okay.

A. -- but, no.

Q. So, the short answer is, no, you don't have any idea whether or not there are responsive documents in the R&D department to my master discovery request, do you?

MR. PICKERING: Objection, form.

A. Subject to what I said before about asking Verg Carlson and Randy Johnson about this matter, no.

Q. (By Mr. McLeod) But you didn't look, yourself, did you?

A. No.

Q. You're aware that in those responses that were provided to me by R.T. Vanderbilt that R.T. Vanderbilt responded that they sold talc to many of the companies that manufactured joint compounds, plasters, textures, drywall finishing products used by my client Victor Gruetznier; is that correct?

Q. Basically just be hard copies, to your knowledge?

A. Well, I think we've reached the computer age, too.

Q. Do you know how they're sorted?

A. No.

Q. If I wanted to come take a look at these documents, would you have any objection?

A. Well, subject to the legal procedures.

Q. Sure.

And I don't know if you're aware of this or not, but when I got my Motion to Compel R.T. Vanderbilt to fully and completely answer discovery responses in this case, all of their objections to my -- to the -- to the master of discovery were overruled.

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) Did anybody ever tell that you?

A. I think so, yes.

Q. Okay. So, you have no idea whether or not there are documents that would indicate communications with R.T. Vanderbilt to the -- the manufacturers that I've asked for research on in this case located in the research and development

A. Well, the ones that are listed, yes.

Q. Right. And you understand that the reason why we were interested in those companies is because my client used products manufactured by those companies, right?

MR. PICKERING: Objection, form.

A. Yes.

Q. (By Mr. McLeod) Can you think of any other reason why I'd want to know about them?

MR. PICKERING: Objection, form.

A. I can think of a few, but --

Q. (By Mr. McLeod) Okay. Well, y'all identified sales to a -- to a company called Georgia-Pacific, right?

A. Yes.

Q. And Kaiser Gypsum?

A. If they're listed in the interrogatories, yes.

Q. Okay. Would you like a copy, or you -- will you take my word for it?

A. If they're listed in there.

Q. Okay. Well, I'll just represent to you that y'all listed Georgia-Pacific, Kaiser Gypsum, Bondex International, Flintkote, Gold Bond building products as a -- as a subsidiary of National Gypsum

Company, Rutland products, United States Gypsum, Kelley-Moore Paint Company, and the Cook Paint & Varnish Company.

Do you have any reason to disagree?

A. No.

MR. McLEOD: I have a copy of the discovery responses right here I'm going to have marked as Exhibit No. 5, and I'm going to attach these to the transcript.

(Exhibit Number 5 marked.)

MR. PICKERING: Before you go on, what was marked as 4? I --

MR. McLEOD: That was his deposition -- his deposition that he gave in November, '05.

Q. (By Mr. McLeod) The list of companies that y'all sold is -- is listed on -- it begins on page 21 of these interrogatories; and -- and -- and just so we're clear, did you have a hand in -- in answering these interrogatory responses?

A. Yes.

Q. You verified in them, in fact, correct?

A. Yes.

Q. Okay. There's even a verification page attached to these things that says "Paul Vanderbilt"

A. I don't know.

Q. You can't estimate that at all?

A. No.

Q. Who would know that?

A. Oh, Randy Johnson and Verg Carlson.

Q. How many distributors did R.T. Vanderbilt sell talc to in Texas?

A. Well, I'm aware of three.

Q. Okay. What are those companies?

A. Let me see. One of them was called Crone Chemical, and there were two -- two distributors that we terminated; and we have a current distributor. And I can't remember the other -- the other two names, either the current distributor or the -- or the other one, along with Crone Chemical.

Q. You've been distributing -- or Crone Chemical has been a distributor of R.T. Vanderbilt talc since the '70s; is that right?

A. I'm not sure of the dates. Possibly the '60s. I'm not sure of the dates.

Q. Okay. In your -- in these interrogatory responses that you responded to, you've -- you've identified that there are, in fact, two salespeople employed by R.T. Vanderbilt here in Texas. Who are those people?

on it. Did you sign this?

A. Yes.

Q. In your diligent search of the sales records, sir, did you come across any sales of talc to the Thompson and Hayward [sic] chemical company?

A. No.

Q. Because they indicate that R.T. Vanderbilt sold them talc over the years. If they have a record of it, shouldn't -- shouldn't R.T. Vanderbilt have a record of it as well?

A. Well, if they purchased it either before '74 or through a distributor, we wouldn't have a record of it, no.

Q. So, there are no sales -- no records maintained by R.T. Vanderbilt that indicate sales of tremolitic talc to Thompson Hayward Chemical Company or --

A. Not that I found.

Q. -- T.H. Agriculture & Nutrition?

DEFENSE COUNSEL: Objection, form.

A. Not that I found when I looked for them.

Q. (By Mr. McLeod) Can you estimate how much of R.T. Vanderbilt's domestic talc sales were to distributors rather than just companies that were actually going to use the product?

A. I don't know.

Q. You don't know their names?

A. No.

Q. You don't know --

A. The ones who are resident in Texas.

Q. Pardon?

A. I don't know those who are resident in Texas, no.

Q. Who provided that information to these interrogatories?

A. Probably the personnel manager.

Q. Who's that?

A. Peter Burr, B-U double R.

Q. And those people's job is to sell talc here in Texas?

A. I don't know. Depending on which department they're in.

Q. All right. It says they're talc sales people in the interrogatory responses.

We'll move on.

As a -- just in general terms, is there any way for R.T. Vanderbilt to tell me where their talc will end up once it's sold to a distributor?

A. No.

MR. McLEOD: Let's change tapes.

THE VIDEOGRAPHER: We're off the record at 11:56. This is the end of Tape 2. (Moment off the record.)

THE VIDEOGRAPHER: We're on the record at 11:57. This is the beginning of Tape 3.

Q. (By Mr. McLeod) Mr. Vanderbilt, we just changed tapes. I just asked you a question about distributors, and you answered it.

Sir, there's no way to -- for R.T. Vanderbilt to control what a distributor does with their talc, is that true.

DEFENSE COUNSEL: Objection, form.

A. I presume that we could tell them not to sell to somebody or something like that; but generally speaking, no.

Q. (By Mr. McLeod) Can you think of any time when R.T. Vanderbilt has ever done that?

A. With regard to talc? No.

Q. Okay. Now, you're -- are you aware that the total sales of R.T. Vanderbilt talc to these -- these companies in -- listed in -- in the interrogatory responses here that your lawyers have provided to me during the time periods where my client was using the products manufactured by these

Q. Well, that's fact, isn't it?

MR. PICKERING: Objection, form.

A. I don't know that.

Q. (By Mr. McLeod) You've indicated that R.T. Vanderbilt sold all this talc to these companies listed here in these interrogatory responses on Exhibit No. 5, right?

A. Yes.

Q. You don't dispute that?

A. No.

Q. Okay. I'm asking you: Are you aware of the products he's identified -- Victor Gruetzner has identified using over his career as a drywall carpenter were manufactured at the facilities where the talc was sold to by R.T. Vanderbilt? Are you aware of that?

A. No.

Q. Okay. Let me ask you this: Given the fact that R.T. Vanderbilt supplied millions of pounds of talc to companies that made the products my client testified that he used, do you have any reason to believe Victor Gruetzner was not exposed to R.T. Vanderbilt talc?

MR. PICKERING: Objection, form.

A. I don't know what products the talc went

companies amounts to millions of pounds of talc. Are you aware of that?

MR. PICKERING: Objection, form.

A. I'm aware of the numbers that were -- that were given. It doesn't add up to millions.

Q. (By Mr. McLeod) Pardon? It doesn't add up --

A. I haven't added up the -- the total numbers.

Q. Okay. Are you aware that the products he's identified as having -- having used during the '60s and '70s, both in -- in discovery responses and in deposition testimony, were manufactured at the locations where R.T. Vanderbilt has indicated that they sold this talc over the years?

A. I didn't understand your question.

Q. Okay. Let me rephrase it for you.

My client, Victor Gruetzner, has testified to -- to using, over his career as a drywall carpenter, products manufactured by the companies you've indicated that R.T. Vanderbilt sold talc to, correct?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) Do you understand that?

A. That's the -- that's the allegation, yes.

into, et cetera; so, I -- I can't say.

Q. (By Mr. McLeod) Okay. In response to Interrogatory No. 3 on Exhibit 5, in the product specific interrogatory, it says that R.T. Vanderbilt believes that its talc was used as a component in certain drywall finishing compounds manufactured by these manufacturers.

Now, how do you reconcile those two answers?

A. I don't know any particular brands or brands that were used by your plaintiff or anything like that.

Q. Okay. Have you read Victor Gruetzner's deposition?

A. No.

Q. Have you been shown any of his discovery responses?

A. I don't think so.

Q. Okay. Well, let me ask you this: If Victor Gruetzner used drywall compound products that contained R.T. Vanderbilt talc in such a way that dust was -- was released from those products, he was breathing R.T. Vanderbilt talc dust, wasn't he?

A. I can't answer that question, either.

Q. Why not?

1 A. I'm not competent as to the nature of the
2 products and -- and whether they were liquid or
3 viscous or --
4 Q. Okay.
5 A. -- what have you.
6 Q. Well, do you know what joint compound is?
7 A. Yes.
8 Q. Do you know what it's for?
9 A. In general terms, yes.
10 Q. Have you ever seen any joint compound in
11 the hardware store or anything like that, or do you
12 go into hardware stores?
13 A. I'm not a big do-it-yourselfer.
14 Q. Okay. Well, let's see here. I'm going to
15 have marked Exhibit No. 6, and this is a -- this is
16 an article published in 1975 by the American
17 Association for the Advancement of Science. It's
18 a -- it's a magazine called Science, and there's an
19 article in here written by a gentleman named
20 Dr. Arthur Rohl. Have you ever heard of Dr. Arthur
21 Rohl before?
22 A. I have.
23 Q. Okay. There's also a -- a coauthor here
24 named A.M. Langer. I think you mentioned Arthur
25 Langer before as well, right?

1 A. Yes.
2 Q. Let me ask you: Do you -- do you intend
3 to rely on the testimony of Arthur Langer to -- to
4 support the theory that your talc did not contain
5 asbestos?
6 A. Yes.
7 Q. Okay.
8 MR. McLEOD: If I could get this
9 marked as Exhibit No. 6, and pass it over to you.
10 (Exhibit No. 6 marked.)
11 Q. (By Mr. McLeod) Do you see down there at
12 the -- towards the bottom of the second page that
13 you just flipped past --
14 A. Yes.
15 Q. -- where it says, "Exposure to Asbestos in
16 the Use of Consumer Spackling, Patching, and Taping
17 Compounds"?
18 Do you see that title?
19 A. Yes.
20 Q. That's the title of the article that I'm
21 talking about.
22 And if you move down below the
23 abstract to where the article starts, it says,
24 "Spackling and drywall taping compounds consist of
25 extremely fine grade white powders or premixed

1 pastes."
2 Do you understand that to be
3 consistent with just joint compounds and -- and
4 texture product in general?
5 MR. PICKERING: Objection, form.
6 Q. (By Mr. McLeod) In your own experience.
7 A. In general terms, yes.
8 Q. Okay. If you look down towards the bottom
9 of that same paragraph, it also says, "The presence
10 of amphibole asbestos in some products results from
11 its natural occurrence in talc."
12 Do you see where it said that?
13 A. I see where it says that.
14 Q. Did I read that correctly?
15 A. Yes.
16 Q. All right.
17 A. Although, that's not the whole sentence;
18 but, yes, you read that part correctly.
19 Q. Thanks.
20 If you'll flip over on the last page,
21 about halfway down, the top paragraph, the line
22 beginning with "electron microscopy." Are you
23 there?
24 A. Yes.
25 Q. Okay. The first complete sentence in that

1 line: Air samples were taken at various building
2 jobs and job sites and included such operations as
3 hand-sanding, pole-sanding, and mixing of dry
4 spackle with water, and sweeping after completion of
5 such operations.
6 Did I get that right?
7 A. Well, you added in an extra "and"; but
8 other than that, yes.
9 Q. Okay. If you'll skip to the summary,
10 which is the second full paragraph -- or the
11 second-to-the-last full paragraph, where it says,
12 "In summary." Are you there?
13 A. Yes.
14 Q. It says: In summary, our analysis of 15
15 representative samples of consumer spackling,
16 patching, and taping compounds has shown that five
17 contained appreciable amounts of chrysotile or other
18 asbestos minerals. Many contained substantial
19 amounts of quartz, talc, and other minerals with
20 disease potential.
21 Optical micro -- microscope analys --
22 microscopic analysis and personal air samples
23 contained during the use of asbestos-containing
24 compounds showed concentrations frequently in excess
25 of the current occupational standard of 5 fibers per

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milliliter, longer than 5 microns. Use of these materials in home repair work (for example, mixing, sanding, and cleanup) may expose the user (and other members of the household) to significant concentrations of asbestos.

Did I read that correctly?

A. Yes.

Q. And finally, the very last paragraph: Even more important, none of the 25 found industrial and consumer spackling and taping compounds examined had warning labels or indication that they might contain toxic or hazardous materials.

Did I get that right?

A. Yes.

Q. And if you look up in the top right-hand corner and see who wrote that article down at the bottom -- the bottom, it says A.M. Rohl, A.M. Langer, I.J. Selikoff, and W.J. Nicholson, correct?

A. Yes.

Q. Now, does that clarify to you, as someone who has probably never used joint compound or spackling compounds of this nature, how a person would be exposed to dust from those products?

DEFENSE COUNSEL: Object to form.

MR. PICKERING: Same objection.

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A. In a general sense, yes.

Q. (By Mr. McLeod) Okay. And my question before that I don't think you understood was that if my client, Victor Gruetzner, was indeed using a product like -- like what's described in that article there, a joint compound, either mixing or sanding it or sweeping it up after it's been sanded or mixed, and that creates dust that he breathes, if that product contains R.T. Vanderbilt talc, he is breathing R.T. Vanderbilt talc, is he not?

MR. PICKERING: Objection, form.

A. With several different levels of speculation, yes.

Q. (By Mr. McLeod) I'm not sure I understand.

A. You're saying that if your plaintiff breathed it and if there was Vanderbilt talc in the product and if the product were used and if it were sanded or something a particular way, then something might happen. With all those levels of speculation, then, yes, it's possible.

Q. So, if all those things are true, then yes?

A. Yes.

Q. Okay. And you have not read Victor

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Gruetzner's -- Victor Gruetzner's deposition testimony about how he used joint compounds and spackling compounds over the years?

A. No.

Q. Okay. You certainly cannot sit here under oath today and say that Victor Gruetzner has never been exposed or breathed R.T. Vanderbilt talc, can you?

A. No.

Q. Are you aware, sir, that joint compounds, spackling compounds, and patching compounds, finishing compounds, they've all been shown to produce significant amounts of dust when they're used as intended, as illustrated by that article?

DEFENSE COUNSEL: Object to form.

MR. PICKERING: Same objection.

A. In a general sense, I've -- I'm aware of possibility of dust exposure, yes.

Q. (By Mr. McLeod) Okay. When they're used as they're intended, correct?

MR. PICKERING: Same objection.

A. With the same -- in general, yes.

Q. (By Mr. McLeod) Is your answer "yes"?

A. In general, yes.

Q. Okay. Now, all that being said, it makes

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it sound kind of dangerous to be putting minerals that are disease-causing agents in products like joint compounds, correct?

MR. PICKERING: Objection to form.

DEFENSE COUNSEL: Objection, form.

A. As to the talc, you're speculating as to the danger involved.

Q. (By Mr. McLeod) Okay. That's not what I said.

If -- if -- if you're putting --

A. I'm not here to answer for chrysotile, for example.

Q. You're here to answer my questions, is why you're here.

MR. PICKERING: Objection, argumentative. Come on, now.

MR. McLEOD: Well, I think he's being nonresponsive; and I'm not trying to argue, but --

MR. PICKERING: I think you're asking him to get into what's almost expert opinion. He's not a technical guy --

MR. McLEOD: Thanks, Wayne.

A. I mean, I'm aware you can drown in a puddle.

Q. (By Mr. McLeod) Can you?

1 A. Yes.
2 Q. Okay. Do you think it's dangerous to put
3 asbestos in joint compounds if they're going to be
4 used in the manner that -- that's detailed in that
5 article?
6 A. I'm aware that asbestos is dangerous, yes.
7 Q. And do you think it's dangerous to put
8 them in joint compounds if they're going to be used
9 like they are in that article?
10 DEFENSE COUNSEL: Objection, form.
11 A. I'm generally aware that asbestos is
12 generally dangerous.
13 Q. (By Mr. McLeod) Am I not asking you a
14 clear question? Did I ask you if asbestos was
15 dangerous? Is that what you understood me to ask
16 you?
17 A. I don't know about -- I don't know --
18 Q. Because I'll rephrase it.
19 A. -- I'm not going to answer the use of the
20 product of this because I'm not familiar with the --
21 the use of these products.
22 Q. You're -- you're refusing to answer my
23 question? Is that what you're doing?
24 A. No. I'm answering the questions you asked
25 me, but I can't give you specific technical answers

to things I don't know.
2 Q. So, you don't have an opinion on whether
3 or not putting asbestos in joint compounds that are
4 going to be mixed and sanded is dangerous?
5 A. I said asbestos is dangerous, yes.
6 Q. Okay. Especially when it's used in joint
7 compounds that are going to liberate dust into the
8 air when they're mixed or sanded, right?
9 DEFENSE COUNSEL: Objection, form.
10 A. Again, I don't know about the
11 "especially." I know that asbestos is gen --
12 generally dangerous.
13 Q. (By Mr. McLeod) And it's -- it's
14 dangerous how?
15 A. It can be inspired.
16 Q. If you inhale it, right?
17 A. Inhaled, yes.
18 Q. And if you're sanding joint compound that
19 contains asbestos fibers, and you inhale that --
20 the -- the fibers, then that's dangerous, right?
21 A. Yeah.
22 Q. And if you're mixing a bag of joint
23 compound that contains asbestos fibers, and you
24 breathe dust created by that process, then that has
25 potential to cause fatal disease, doesn't it?

1 A. Yes.
2 DEFENSE COUNSEL: Object, form.
3 MR. PICKERING: Same objection.
4 Q. (By Mr. McLeod) Do you know why it is --
5 well, let me ask you this: What is the last year
6 of -- of sales that you showed any of these
7 companies listed in our interrogatory responses?
8 MR. PICKERING: If you need to look
9 at them.
10 Please let him see the responses
11 because I don't recall myself, Matt.
12 MR. McLEOD: Okay.
13 MR. PICKERING: Do you know what page
14 that is on?
15 MR. McLEOD: Huh?
16 MR. PICKERING: What page is that
17 on?
18 MR. McLEOD: It's on Page No. 21.
19 A. I'm sorry. What was the question? The
20 last -- the most recent year that --
21 Q. (By Mr. McLeod) I'll try to short-circuit
22 this.
23 In the late '70s, did -- did sales
24 of -- of R.T. Vanderbilt talc to manufacturers of
25 joint compounds and wall texture companies see

1 somewhat of a decline, to your knowledge?
2 A. When -- oh, I was still working on the --
3 we've struck that one?
4 Q. Yeah, let's strike that one. I'll
5 start -- that was a bad one.
6 Do you -- do you know of any decline
7 in talc sales to companies that manufactured joint
8 compounds and -- and textures and spackling
9 compounds like the ones listed in the interrogatory
10 response occurring somewhere towards the tail end of
11 the 1970s?
12 A. Yes -- yes.
13 Q. Do you know why that is?
14 A. Well, I know that some of them were
15 concerned about the presence of the word "tremolite"
16 in the asbestos venue.
17 Q. People got scared of R.T. Talc?
18 A. Yes.
19 Q. Okay. And is that your understanding for
20 the reason the decline in sales of talc to companies
21 that manufacturer these products during the late
22 '70s?
23 A. I can't talk to the thought process of
24 these individual companies, but I've had some
25 knowledge that that's what happened.

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Q. That's your understanding of why --
 A. Yes.
 Q. -- why it dried up?
 MR. PICKERING: Objection, form.
 A. It didn't dry up.
 MR. McLEOD: What's the objection?
 MR. PICKERING: I just -- he
 corrected it. I mean, I think you mischaracterized
 his testimony.
 MR. McLEOD: Okay. Well --
 MR. PICKERING: You said it dried up,
 and he dis -- disagreed. I was objecting to your
 characterization.
 MR. McLEOD: Let me -- let me just
 clear that up for the record. I -- that's fair.
 Q. (By Mr. McLeod) Is -- was -- was your
 customers' concern about the tremolitic content
 R.T. Vanderbilt talc, is -- is that your
 understanding for the reason that sales of
 tremolitic talc made by R.T. Vanderbilt to the
 companies in my interrogatory responses there that
 you said sold to, is that the reason for the decline
 in sales? To your knowledge.
 MR. PICKERING: Objection, form.
 A. I know it was a reason for some customers

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to be concerned about our talc. I don't know
 whether or not these particular customers were.
 Q. (By Mr. McLeod) Okay. But you just knew
 as a general proposition that was happening.
 A. That some customers were concerned about
 the tremolite. They also knew we were fighting the
 issue.
 Q. Fighting who?
 A. Excuse me?
 Q. Fighting who?
 A. That we were fighting the issue, fighting
 the allegation that our talc contained tremolite --
 contained asbestos.
 Q. And you would be fighting to the Consumer
 Safety Product Commission [sic]?
 A. To anybody necessary; OSHA, MSHA, NIOSH,
 Consumer Product Safety Commission -- Commission,
 the EPA.
 Q. You fought them?
 A. Yes.
 Q. Okay.
 MR. McLEOD: Let's go off the
 record.
 THE VIDEOGRAPHER: We're off the
 record at 12:15.

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(Lunch recess taken from 12:15 to
 1:14 p.m.)
 THE VIDEOGRAPHER: We're on the
 record at 1:14.
 Q. (By Mr. McLeod) Did you get some lunch,
 Mr. Vanderbilt?
 A. I did.
 Q. Good. Are you ready to go ahead and
 continue on?
 A. Yes. Yes.
 Q. Hopefully we'll get this finished up.
 Now, sir, R.T. Vanderbilt through the
 years has hired many consultants in connection with
 the talc asbestos controversy that has existed with
 regard to R.T. Vanderbilt's tremolitic talc, have
 they not?
 A. Yes.
 Q. And have they -- what -- what kind of
 studies have those experts done on R.T. Vanderbilt
 talc over the years?
 A. Well, there have been analyses of the
 talc; and there have been industrial hygiene studies
 of the -- the group of employees at Gouverneur Talc
 Company; and mortality studies, too.
 Q. Any other types of studies that you are

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personally aware of done by experts hired by
 R.T. Vanderbilt?
 MR. PICKERING: Objection, form.
 A. Well, that would largely be it, although
 I'm not necessarily an expert on all the
 terminology.
 MR. McLEOD: Okay. And just so I'm
 clear, Wayne, what's objectionable?
 MR. PICKERING: Just -- I don't know
 if you intended to or not, you substituted the word
 "expert" for consult -- for "consultants" in your
 second question; and just --
 MR. McLEOD: Okay.
 MR. PICKERING: -- reserve the
 objection in case that meant something different
 from what I thought it meant.
 MR. McLEOD: Okay.
 Q. (By Mr. McLeod) Are you -- do you know a
 man named Steve Lamm, L-A-M-M?
 A. Yes.
 Q. Have you ever met him?
 A. Yes.
 Q. And is that person a consultant of
 R.T. Vanderbilt Company on the talc asbestos
 controversy?

1 A. He has been, yes.
 2 Q. And he's received payment for his work
 3 done in that regard from R.T. Vanderbilt?
 4 A. Yes.
 5 Q. Has that generally been for purposes of --
 6 of litigation or as a result of the litigation
 7 surrounding R.T. Vanderbilt talc and the asbestos
 8 talc controversy?
 9 A. Well, it would be -- the start of the
 10 controversy relates to the -- the OSHA standard and
 11 the NIOSH reports; so, it would be both to answer
 12 the regulatory issues and, of course, also to deal
 13 with the litigation.
 14 Q. Okay. So, both of those, the regulatory
 15 issues involved and litigation?
 16 A. Yes.
 17 Q. Do you know Ann Wylie?
 18 A. Yes.
 19 Q. You've met Ann Wylie before?
 20 A. Yes.
 21 Q. And is Ann Wylie a paid consultant of the
 22 R.T. Vanderbilt company?
 23 A. She has been. I don't know whether she is
 24 now.
 25 Q. Okay. Has she stopped communicating with

1 the R.T. Vanderbilt Company?
 2 A. No.
 3 Q. Has Ann Wylie done studies for
 4 R.T. Vanderbilt on the talc asbestos controversy
 5 that we talked about?
 6 A. Yes.
 7 Q. And she was paid for those studies?
 8 A. Yes.
 9 Q. And were those studies done as a result of
 10 the regular -- regulatory problems and the
 11 litigation problems that R.T. Vanderbilt was facing
 12 because of the talc asbestos controversy surrounding
 13 your talc?
 14 A. Yes.
 15 Q. Okay. Catherine Skinner, is she a paid
 16 consultant with the R.T. Vanderbilt Company?
 17 A. She has been.
 18 Q. Has been in the past?
 19 A. Yes.
 20 Q. Was her connection with R.T. Vanderbilt
 21 the same or similar to that of Ann Wylie?
 22 A. I'm -- I'm not quite sure what exactly her
 23 contribution was, but --
 24 Q. Okay.
 25 A. -- I think she was a mineralogist.

1 Q. Had she been hired to -- to do some work
 2 for R.T. Vanderbilt with regard to the talc asbestos
 3 controversy that's existed?
 4 A. I think so, yes.
 5 Q. Okay. Are you aware of any specific
 6 reports that Catherine Skinner has issued on that
 7 subject?
 8 A. No.
 9 Q. Have you met with her personally?
 10 A. No.
 11 Q. Do you know Richard J. Lee?
 12 A. Not personally, but --
 13 Q. Never met him?
 14 A. No.
 15 Q. He's a paid consultant of R.T. Vanderbilt,
 16 is he not?
 17 A. Yes.
 18 Q. And he performs work for R.T. Vanderbilt
 19 on the talc asbestos controversy issues as needed,
 20 correct?
 21 A. When we ask him to, yes.
 22 Q. Okay. And, again, that work is done
 23 generally for the same purposes we've discussed
 24 that -- it evolved around the regulatory measures
 25 that OSHA and NIOSH were trying to enforce regarding

1 R.T. Vanderbilt's talc, as well as the litigation
 2 filed in civil courts regarding talc and asbestos,
 3 correct?
 4 A. Yes.
 5 Q. Is that -- is all that true about the work
 6 done by Arthur Langer for R.T. Vanderbilt as a paid
 7 consultant?
 8 A. Yes.
 9 Q. John Kelse is actually an employee of
 10 R.T. Vanderbilt, correct?
 11 A. Yes.
 12 Q. Would you say that John Kelse is kind of
 13 the point man on that talc asbestos issue for
 14 R.T. Vanderbilt?
 15 A. Yes, he is.
 16 Q. And he's done a lot of work in trying to
 17 deregulate the talc as an asbestos-containing
 18 material, has he not?
 19 A. I would say he's done a lot of work in
 20 trying to correct the mineralogical definition -- or
 21 misdefinition of the tremolite in our talc.
 22 Q. Did I misstate that when I said it?
 23 A. Well, you said deregulate. I don't know
 24 what the spin on that is.
 25 Q. Okay. Well, because at one point it was

regulated. That's what I meant. Right?
 - A. Well, talc is regulated, too. I mean,
 3 it's -- I mean, it's not as simple as that.
 4 Q. Okay. As an asbestos-containing material
 5 as to its tremolite content, that's what I was
 6 talking about --
 7 A. Yes.
 8 Q. -- with regard to regulation.
 9 Do you know who Irving Tabershaw is?
 10 A. Yes.
 11 Q. Met him?
 12 A. No.
 13 Q. Does he perform studies at the behest of
 14 R.T. Vanderbilt?
 15 A. He did.
 16 Q. What kind of studies?
 17 A. I think he did an industrial hygiene
 18 study, and maybe also a mortality study. I'm not
 19 quite sure.
 20 Q. Okay. When did he do the mortality study?
 21 A. That would have been in the early '80s if
 22 he did that, or whatever -- however you call the
 23 study.
 24 Q. And what was that study done in response
 25 to?

A. To the NIOSH report on our talc.
 2 Q. Okay. Tabershaw was hired to correct
 3 the -- the NIOSH study?
 4 A. To look into it, yes.
 5 Q. Okay. Did I misstate it when I said to
 6 correct it?
 7 A. Well, to -- no, I guess not.
 8 Q. Okay. And -- and he was paid for those
 9 services, was he not?
 10 A. Yes.
 11 Q. As well as the still hygiene surveys he
 12 conducted before at Gouverneur Talc, correct?
 13 A. By Tabershaw?
 14 Q. Yes.
 15 A. I don't know how you break it down into
 16 segments; but he did work, yes.
 17 Q. Okay. Was that in response to litigation
 18 on the issue of the talc tremolite asbestos
 19 controversy?
 20 A. Well, as I recall, that was largely in
 21 response to the 1980 NIOSH report.
 22 Q. Which was a very bad thing for
 23 R.T. Vanderbilt, wasn't it?
 24 A. Well, it was a mistake. Mistakes are
 25 bad.

1 Q. Right.
 2 MR. McLEOD: I'll object as
 3 nonresponsive and move to strike.
 4 Q. (By Mr. McLeod) Help me out with this
 5 last name, B-O-E-H-L-E-C-K-E?
 6 A. Baylick [pronouncing].
 7 Q. Boehlecke. Are you familiar with
 8 Mr. Brian Boehlecke?
 9 A. Yes.
 10 Q. Does he work for R.T. Vanderbilt?
 11 A. No.
 12 Q. Does he consult for R.T. Vanderbilt?
 13 A. He does.
 14 Q. Is he paid for those services?
 15 A. Yes.
 16 Q. What kind of services does he perform for
 17 R.T. Vanderbilt?
 18 A. Well, specifically, he's an expert medical
 19 doctor in pulmonary and occupational pulmonary
 20 disease who used to work at NIOSH and who now
 21 basically oversees the medical -- the medical
 22 monitoring of our employees at Gouverneur.
 23 Q. Is there a certain company name that he
 24 works for, a company that he works for that
 25 R.T. Vanderbilt contracts with?

1 A. I'm -- I'm not familiar with it if he --
 2 if he has a company, or whatever.
 3 Q. Is the data that he produces used in
 4 mortality studies for R.T. Vanderbilt?
 5 A. I'm sure it will have been considered and
 6 factored in, yes, since it's -- he reviews the
 7 X rays and the medical monitoring and -- and deals
 8 with the individual employees and so on.
 9 Q. And you'll agree with me that those are
 10 kind of the building blocks of mortality and -- and
 11 disease studies, correct?
 12 A. Yes.
 13 Q. And his data has been used in that fashion
 14 in the past, right?
 15 A. Yes.
 16 Q. Has it been used to contradict the 1980
 17 study done by NIOSH?
 18 A. Well, I think it contradicts all of the
 19 mistaken assumptions that have been made by various
 20 parties.
 21 Q. Do you know who John Craighead is?
 22 A. Yes.
 23 Q. Have you ever met him?
 24 A. I don't think so.
 25 Q. Okay. He's listed as a testifying expert

in this case. Do you know of any reports he's produced in this case?

A. No.

Q. Have you met or consulted with him regarding this case?

A. No.

Q. Generally, is he paid by R.T. Vanderbilt for the work that he does, or do you know?

A. I would assume so, yes.

Q. Okay. He's not offering it up gratis, is he?

A. No.

Q. Okay. And he's generally only engaged for the purposes of defending R.T. Vanderbilt in lawsuits, and that's it, is it not?

MR. PICKERING: Objection, form.

A. I think so, yes.

Q. (By Mr. McLeod) What I said is true?

A. Huh?

Q. What I said is true? He's only hired to defend R.T. Vanderbilt --

A. Well, I think so. I'm not absolutely certain that he hasn't done something else in the last 20 years, or whatever.

Q. Just for R.T. Vanderbilt, though. That's

A. Well, he's done animal studies with Vanderbilt -- which included Vanderbilt's talc.

Q. Are you sure about that?

A. Yes.

Q. How do you know that it was

R.T. Vanderbilt talc?

A. Well, because he described it as such; and then he -- and he willed the -- he willed the -- the materials he used to Ann Wylie, who confirmed it.

Q. Uh-huh. Okay. And that's the only basis you have for believing that -- that R.T. Vanderbilt talcs were used in Mearle Stanton's --

A. Yes.

Q. -- studies?

A. I believe he's dead. I haven't been able to talk to him about it.

Q. It appears that we've got a little hearsay issue there, doesn't it?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) You did go to law school.

Never mind.

Gary Oehlert, are you familiar with that gentleman?

A. No.

what I'm talking about.

A. I know. That's what I'm saying.

Q. Okay. So, is the answer you don't know, or you think that's what our -- what -- what the situation is?

Let me rephrase that.

As far as you can tell, is -- is

Dr. Craighead only hired by R.T. Vanderbilt when they need an expert to defend them in lawsuits alleging asbestos-related injuries as a result of exposure to R.T. Vanderbilt talc?

A. What was my -- you have to read back my answer. Was it "I think so, yes"? Is that what I said?

Q. Is that your answer?

A. Yes.

Q. Just trying to be clear.

Do you know who Mearle Stanton is?

A. Yes.

Q. Have you ever met Mearle Stanton?

A. No.

Q. Are you aware of Mearle Stanton's work?

A. Yes.

Q. What type of work has Mearle Stanton done regarding R.T. Vanderbilt talc?

Q. You're not familiar with his work at all?

A. I haven't heard the name.

Q. Back to Mr. Stanton. Was Mr. Stanton paid by R.T. Vanderbilt for generating those studies that he did?

A. I don't think he was, no.

Q. Okay. How about William Smith? Do you know him?

A. Yes.

Q. And has William Smith acted in the capacity of a paid consultant to the R.T. Vanderbilt Company before?

A. Yes.

Q. In what regard?

A. Well, he also did an animal study, specifically at our request, which used Vanderbilt talc and whatever to determine its effects.

Q. Did R.T. Vanderbilt supply him with that talc?

A. Yes.

Q. And was Dr. Smith paid for that research by R.T. Vanderbilt?

A. I presume so.

Q. What was -- what were these studies being done in response to?

A. In response to the allegations that there was asbestos in the talc.
 Q. Did it have anything to do with litigation against R.T. Vanderbilt on that issue?
 A. As I've said several times before, it probably was a bit of both --
 Q. Okay.
 A. -- but it -- in the beginning, of course, it was more of the regulation because the important thing was OSHA and NIOSH and so on.
 Q. So, William Smith was hired to consult for R.T. Vanderbilt on these studies both as a result of regulation of their talc as an asbestos-containing material, as well as litigation filed on that same issue?
 A. Yes, although perhaps more of the former issue.
 Q. Do you know Yasushi Honda? Are you familiar with that name?
 A. I think that's the first name on a study out of the University of Alabama, correct?
 Q. Do you know that person?
 A. No.
 Q. Okay. Is that -- has that person ever been hired as a consulting expert by

R.T. Vanderbilt?
 A. Well, if that's the -- the group that did the study, yes.
 Q. Okay. And they were all paid by R.T. Vanderbilt for that study, correct?
 A. Well, the study was paid for.
 Q. Right.
 And the money went to the people performing the study, right?
 MR. PICKERING: Objection, form.
 A. I don't know about who got -- who was paid and --
 Q. (By Mr. McLeod) Was Dr. Honda paid by R.T. Vanderbilt for conducting that study?
 A. I don't know.
 Q. Was that study generated as a response to regulations and as well as litigation regarding R.T. Vanderbilt talc?
 A. Yes.
 Q. What about Elizabeth Delzell? Do you know her?
 A. I certainly have heard of her name, yeah.
 Q. Okay. What kind of a study has she been involved in for R.T. Vanderbilt?
 A. It was the same study, wasn't it?

Q. Correct, it was.
 Do you know whether or not she was paid for participating in that study?
 A. I presume so, yes.
 Q. Okay. And, again, just like all the others, this study was done in preparation for litigation or in -- in contravention of the regulation on R.T. Vanderbilt talc, right?
 MR. PICKERING: Objection, form.
 A. Not in contravention of the regulation but to respond to it, yeah.
 Q. (By Mr. McLeod) Okay. As a response to the regulations?
 A. Well, as I've said, we obviously want to correct the misperceptions and the misdefinitions, wherever they come from.
 Q. Okay. Kent Oestenstad. Are you familiar with that name?
 A. I think I've heard the name go by, but that's about all I know.
 Q. You don't know anything other than that about him?
 A. No.
 Q. Do you know whether or not this person has ever been hired as a paid consultant by

R.T. Vanderbilt?
 A. No.
 Q. What about Phillip Cole? Did Dr. Cole ever worked for R.T. Vanderbilt?
 A. I don't know.
 Q. Do you know if Dr. Cole has ever performed any studies involving R.T. Vanderbilt talc products?
 A. No.
 Q. You have no idea?
 A. No.
 Q. Has he ever been listed as an expert in any lawsuit filed against R.T. Vanderbilt as a result of their talc products making somebody sick, allegedly?
 A. Have I been?
 Q. No, Phillip Cole, has he ever been?
 A. I don't know.
 Q. How about John Gamble? Do you know John Gamble?
 A. Yes, I do.
 Q. Have you met with him yourself?
 A. I don't think so.
 Q. No?
 A. No.
 Q. You don't think so, or you're sure you

haven't?

A. I don't think so.

Q. But you're not sure?

A. I'm not absolutely certain, no.

Q. Who is John Gamble?

A. He's one of those paid consultants of the R.T. Vanderbilt Company.

Q. Was he being paid by R.T. Vanderbilt when he worked for NIOSH?

A. No.

Q. Are you sure about that?

A. I'm sure about that.

Q. How are you sure about that?

A. Well, because aren't there little questions of legality and other things involving that?

Q. Hopefully. Hopefully.

In what capacity does John Gamble serve as a paid consultant for R.T. Vanderbilt?

A. Well, he did a study for us.

Q. What study?

A. Well, I don't know. I know it generically as the Gamble study.

Q. And what was the Gamble study about?

A. It was a review of the mortality data

involving the Gouverneur Talc employees.

Q. And, again, we're talking about the 1980 mortality study, correct?

A. No, that was NIOSH.

Q. Okay. Oh. You're right.

Was John Gamble paid for his service by R.T. Vanderbilt in that regard?

A. After he left NIOSH and was working as a consultant, yes.

Q. Does he continue to consult with R.T. Vanderbilt today?

A. I don't think.

Q. When was the last time you talked to him?

A. I haven't -- I just said I can't recall ever having met him.

Q. That's right. That's right.

Why was he engaged as a -- as a consulting expert for R.T. Vanderbilt?

A. Because of his expertise on issues.

Q. What issues specifically was he engaged for?

A. Well, he's an expert in occupational pulmonary medicine, dust diseases, that sort of thing.

Q. Sure.

But the issues we're talking about, are we still talking about the regulation of R.T. Vanderbilt talc, as well as the litigation pending against R.T. Vanderbilt alleging asbestos-related injuries?

A. Yes.

Q. And that's why he was hired?

A. Yes.

Q. What about Daniel Crain? Do you know Mr. Crain?

A. Yes.

Q. Met him personally?

A. No.

Q. Are you sure?

A. Been in the same room as he was, but I never met him.

Q. Never shook hands with him?

A. No.

Q. Never spoke to him?

A. No.

Q. Who's Daniel Crain?

A. He's the head -- or at least was the head of the OSHA lab in Salt Lake City.

Q. And has he ever been -- visited personally and met with R.T. Vanderbilt personnel, to your

knowledge?

A. I don't know.

Q. Well, you just said you were in the same room with him. Who else was in the room when you were?

A. Well, a whole lot of people. That was a government review committee.

Q. But you can't say one way or the other whether or not anybody from R.T. Vanderbilt ever went down to Salt Lake and met with Daniel Crain?

A. No.

Q. About anything ever?

A. No.

Q. Has Daniel Crain ever been a paid consultant of the R.T. Vanderbilt company?

A. No.

Q. You're sure?

A. Yeah.

Q. Mr. Vanderbilt, can you tell me some studies done on R.T. Vanderbilt talc prior to 1972 that was done by, say, someone not employed directly or indirectly by R.T. Vanderbilt that did not conclude that R.T. Vanderbilt talc contained asbestos?

A. I'm afraid you're going to have to repeat

Page 198 that sentence -- or question. Q. Sure. Can you tell me about some studies conducted prior to 1972 that were done by someone who was not employed by R.T. Vanderbilt, either indirectly or directly, that did not find R.T. Vanderbilt talc contained asbestos fibers? MR. PICKERING: Objection, form. A. I'm still not quite sure about the meaning of that sentence. Can you shorten it a little bit? Studies done prior to '72 -- Q. (By Mr. McLeod) By somebody not working for Vanderbilt that found no asbestos fibers in Vanderbilt talc. A. Well, there weren't many studies that meet that definition; and the answer is, I guess, no. Q. You can't point to any studies prior to '72 -- A. I don't think it was really an issue prior to '72, and even 1980. Q. It was not an issue prior to 1990? Is that what you just said? A. 1980. Q. 1980. Okay. Do you know a gentleman named	Page 200 1 Q. Do you know a gentleman named Allan 2 Harvey? 3 A. Yes. 4 Q. I think we've mentioned him before, right? 5 A. Yes. 6 Q. Is he still working for R.T. Vanderbilt? 7 A. No. 8 Q. Is he retired? 9 A. Yes. 10 Q. What was his job at R.T. Vanderbilt? 11 A. Well, he was a biochemist originally; and 12 then he was detailed to deal with the asbestos 13 allegations with regard to talc. 14 Q. Do you know how he went about dealing with 15 those allegations? 16 A. He developed information that would 17 contradict the assertion. 18 Q. Okay. How -- how did he develop that 19 information? 20 A. Well, I think that he hired people like 21 Tabershaw to respond to -- to respond to the 22 allegations. 23 Q. Did he work directly with people like 24 Tabershaw to d to try to respond to those 25 allegations?
Page 199 R.C. Bacon? MR. PICKERING: I'm sorry. What was the last name? MR. McLEOD: Bacon. MR. PICKERING: B-A-C-O-N? A. I've heard the name Bob Bacon. Q. (By Mr. McLeod) Okay. Do you know Bob Bacon? A. No. Q. Ever met him? A. I don't think so. Q. Was he an employee of R.T. Vanderbilt? A. If it's the Bob Bacon I'm thinking of, yes. Q. Well, let's just assume it is, okay? What was Bob Bacon's job at R.T. Vanderbilt? A. I don't know. Q. In what -- in what context did you hear Bob Bacon's name before? A. Well, that he was an -- an employee and retiree, or whatever, of R.T. Vanderbilt Company. Q. And that's all you know about Bob Bacon? A. Yes. Q. Absolutely nothing else? A. No.	Page 201 1 A. I guess he would have been their contact 2 point, or one of their contact points, at the 3 company, yes. 4 Q. Okay. And, of course -- well, forget 5 that. 6 We've already talked about Hugh 7 Vanderbilt -- you know him well, don't you -- Jr.? 8 A. Yes. 9 Q. How -- how much time do you spend with 10 Hugh Vanderbilt, Jr., these days? 11 A. How much time? 12 Q. Yeah. 13 A. Well, we work in the same building. 14 Q. Y'all go golfing on the weekends? 15 A. No, I'm not a golfer. 16 Q. Okay. Is he ever your lunch date at work? 17 A. I think we're sort of different in those 18 ways. 19 Q. What do you mean? 20 A. Well, I'm -- I'm a Subway man, he's Burger 21 King, things like that. 22 Q. Okay. Got you. 23 Do you have any kind of a social 24 relationship with Hugh Vanderbilt? 25 A. Yes.

Q. Would you consider yourself to be friendly?

A. Yes.

Q. Now, remind me what his position still is at R.T. Vanderbilt today.

A. He's the Chairman, Chief Executive Officer.

Q. And do you know what his job titles have been throughout the years at R.T. Vanderbilt?

A. Well, he's done a little bit of everything. He came up through the company.

Q. Okay. Did he ever spend any time working in the mine?

A. No.

Q. Have you?

A. No.

Q. Has anybody with the last name Vanderbilt worked in the mine, as far as you know?

A. No.

Q. Okay. And I hope you don't mind me asking this: Is your -- your family the Vanderbilt family that used to have a big ownership interest in railroads and such?

A. As far as we know, no.

Q. No? Okay.

A. As I think I said in the Alabama deposition, we haven't hired a genealogist to go back to the 17th, 16th Century to figure out who -- whether we all come from the same root or not.

Q. Fair enough.

Who's Konrad Rieger?

A. Konrad Rieger is a ceramics engineer.

Q. Okay. And do you personally know Mr. Rieger?

A. Yes.

Q. And has Mr. Rieger ever undertaken any work to -- on the talc tremolite asbestos issue for R.T. Vanderbilt?

A. Yes.

Q. And -- and what type of work did he specifically do in that regard?

A. Well, in his job description, his professional qualification is as a ceramics engineer; so, he works with talc on that basis.

And he also is extremely knowledgeable about the -- the talc asbestos issues and the -- the definitional issues relating to the mineralogy and so on; and he's assisted on that as well.

Q. Do you know of him ever having any

meetings with NIOSH personnel to discuss the issue?

A. During the study that they did, they may have met him, yes.

Q. Okay. You said they may have. Do you know, in fact, that he did?

A. No.

Q. How about Allan Harvey? Do you know, in fact, that he did that as well?

A. Well, I know that there was correspondence back and forth.

Q. From who to who?

A. From the NIOSH people to Al Harvey.

Q. What about face-to-face meetings?

A. I presume there were some, but I'm not aware of any in particular.

Q. You're not aware of any documents that reflect any meetings that Allan Harvey or Konrad Rieger had with NIOSH personnel regarding the 1980 mortality study?

A. Beyond the fact that there was correspondence back and forth with Al Harvey, no.

Q. Okay. What about Mr. Dennis Race? Now, we mentioned that he is R.T. Vanderbilt's counsel, right?

A. Outside counsel, yes.

Q. Okay. Do you know if he ever had any face-to-face meetings with NIOSH people regarding the 1980 mortality study that they did?

A. No.

Q. You have no idea --

A. It's very unlikely, since he became our outside counsel around the same time as I joined the company, which was after the NIOSH study had come out.

Q. Absolutely sure about that?

A. Well, of what I just said, I'm sure, yes.

Q. Okay. Well, what I was asking is whether or not he had any meetings with NIOSH people to discuss the 1980 mortality study on Gouverneur Talc workers?

A. And I said it was highly unlikely because the study came out four years before --

Q. Okay.

A. -- four or five years before he and I joined the company.

Q. I assume that as R.T. Vanderbilt counsel that Mr. Race has had -- he's done a great deal of work on the issue of regulation of R.T. Vanderbilt talc as -- as an asbestos-containing material, correct?

A. Yes.

MR. PICKERING: Objection to form.

MR. McLEOD: And the basis would be?

MR. PICKERING: I'm not sure that he has a basis for --

MR. McLEOD: Well, now, you object -- you objected. I'm just asking what your basis was for objecting.

MR. PICKERING: I wasn't sure he had a basis for answering that question. Calling for speculation.

MR. McLEOD: Okay.

Q. (By Mr. McLeod) Has -- is that generally what Mr. Race and his law firm have done for R.T. Vanderbilt over the years, is deal with regulatory problems that they've had?

MR. PICKERING: Objection, form.

A. Well, there's one specific regu -- problem. They've done some other work as well.

Q. (By Mr. McLeod) What other work has Akin, Gump and -- and Mr. Race done for you -- or R.T. Vanderbilt?

A. Coordinated the defense, and in some cases have been the actual defense -- defender of -- in specific -- specific lawsuits; and they've dealt

question --

MR. YORK: Just ask your questions.

MR. McLEOD: -- up or down or left and right; and, you know, I'm just --

MR. YORK: Ask your questions.

MR. McLEOD: Well, I have been.

Q. (By Mr. McLeod) How many times has Mr. Race acted as your defense counsel on personal injury cases where talc was the alleged exposure?

A. Well, once or twice; and other parts of the Akin, Gump law firm have represented Vanderbilt in particular locations, and he's been the -- in effect, the supervisory attorney, and specialist in others.

Q. Who is G.E. Erdman, E-R-D-M-A-N?

A. He's the retired general manager of the Gouverneur Talc Company.

Q. He was the boss of Gouverneur Talc?

A. Yes.

Q. When did he retire?

A. I don't know specifically.

Q. Can you tell me --

A. Some 10 years ago, give or take.

Q. Approximately 95-96, mid '90s?

A. Probably -- probably before then.

with other things relating not to talc but to Department of Transportation matters, things like that.

Q. Your general, all-purpose counsel, then?

A. Yes.

Q. Is that how you would describe him?

Would it -- would -- would it be fair to say that the majority of Mr. Race's time and his law firm's time, as it pertains to R.T. Vanderbilt's talc issues, is spent on regulatory issues?

A. It was. And now it's perhaps more in the lawsuit defense side.

MR. McLEOD: I'll try to do this quietly off the record, but I really want you to stop looking at the witness and nodding your head when I ask him questions. I'm not saying that you're doing it intentionally --

MR. YORK: I have no --

MR. McLEOD: -- but this has been going on the whole deposition; and I want it to stop, please.

MR. YORK: This is your deposition. I am not instructing the witness to do anything.

MR. McLEOD: No, no. You've just been nodding your head every time I ask a

Q. Okay. Early '90s, probably?

A. I don't know more specifically than that.

Q. All right. As general manager of the Gouverneur Talc Company, was he concerned about the tremolite talc issue?

MR. PICKERING: Objection, form.

A. Personally, you mean, or involved as -- as an officer in the company?

Q. (By Mr. McLeod) Both.

A. I suppose so.

Q. Would that be important to a man that was in charge of a mine, that -- that it was being alleged that the ore coming out of that mine contained appreciable amounts of carcinogenic asbestos fibers?

MR. PICKERING: Objection, form.

A. He probably knew that the truth was; so, he was able to counteract that.

Q. (By Mr. McLeod) How was he able to counteract that?

A. Well, he was much more knowledgeable about this than you or I are -- am -- are.

Q. Okay. Have you ever seen any written correspondence that Mr. Erdman might have distributed to employees of Gouverneur Talc?

A. I know that there have been notices that have been put up on the notice board.

Q. Any of them have to do with regulation of talc as an asbestos-containing material?

A. Yes.

Q. Okay. Did any of them say that he was going to do everything he could to -- to fight the regulations, that you're aware of?

MR. PICKERING: Objection, form.

A. I don't -- can't remember the text. I mean, I don't know if I would say he. Maybe the company was fighting the issue, yes.

Q. (By Mr. McLeod) Okay. And the company fought that issue pretty hard over the years, didn't they?

A. Well, we're still fighting the issue.

Q. Apparently.

A. Although, OSHA has changed its mind.

Q. Pardon?

A. I said although OSHA has changed its mind, and a few others.

Q. Who's Slim Thompson?

A. Slim Thompson is a retired Ph.D. mineralogist. He was an employee of the Vanderbilt Company.

Q. Also went by C.S. Thompson, correct?

A. Well, those are his correct initials.

Q. C.S. Thompson, Ph.D., right?

A. Yes.

Q. And what was his job for R.T. Vanderbilt?

A. Mineralogist.

Q. And did he ever participate in any of the regulatory proceedings that went on regarding R.T. Vanderbilt talc being classified as an asbestos-containing product?

A. Yes.

Q. Was it his job to try to convince NIOSH and OSHA and the EPA and other governmental agencies that it, in fact, was not?

A. Well, his job would have been to assist in rectifying the mineralogical error, yes.

Q. Okay. Well, we're going to agree, like I said, to disagree on that; but was -- was it his job to -- to try to counteract the regulations that were being -- that were coming down and trying to enforce standards on Gouverneur Talc?

A. His job was to make sure -- or in part was to make sure that the mineralogical definitions were accurate and to correct any misdefinition.

Q. Let me ask you, sir: Do you believe that

R.T. Vanderbilt personnel ever exerted influence over the methods and manner in which OSHA and/or NIOSH analyzed their top samples for asbestos content?

A. No.

Q. Do you think anybody from R.T. Vanderbilt ever met with anybody from -- from any of those governmental agencies to -- to make suggestions about how they ought to be looking at these samples under microscopes and -- and things like that?

A. Well, there were consultations back and forth going back to -- as I said, during the NIOSH report, there was correspondence back and forth from the NIOSH agency to the Vanderbilt Company and -- relating to ongoing issues relating to the study; and that's only proper.

Q. Lots of correspondence, right?

A. Questions and answers. I don't know -- if you're going to ask me how many pages next, I don't know.

Q. Do you believe any relationships with R.T. Vanderbilt personnel had with members of OSHA or NIOSH ever compromised the integrity of the work done by either one of those agencies?

A. I don't think so.

Q. You feel like R.T. Vanderbilt has clean hands on that matter?

A. Yes.

Q. You are aware of the -- the 1980 cohort mortality study published by NIOSH researchers that concluded that exposures to asbestiform, tremolite, and anthophyllite stand out as the prime suspect ideologic factors associated with an observed increase in bronchogenic cancer and nonmalignant respiratory disease among the study cohort, which was made up of Gouverneur Talc Company employees, are you not?

MR. PICKERING: Objection, form.

Q. (By Mr. McLeod) You're aware of that study, right?

A. I'm aware of the 1989 -- our study -- I don't recall that specific sentence off the top of my head.

Q. Well, do you recall that general idea being a result of a study at the time?

A. They thought that there was tremolite asbestos in the talc.

Q. And anthophyllite asbestos in the talc, corrects?

A. I'm not absolutely sure of that, but the

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tremolite was definitely the main bad actor.

Q. Okay. Do you know how R.T. Vanderbilt reacted to that study?

A. Yes.

Q. Okay. What -- what -- how do you think they reacted?

A. Well, as we discussed, they hired the firm of Tabershaw to begin with to do a similar study and got involved with mineral -- excuse me -- we got involved with mineralogists and started this process that we're in today.

Q. Do you believe that anybody from R.T. Vanderbilt tried to exert any undue influence over NIOSH personnel at any time?

A. Absolutely not.

Q. Okay. I'm going to have --

MR. McLEOD: What exhibit are we up to?

COURT REPORTER: 7.

Q. (By Mr. McLeod) I'm going to have this marked as Exhibit No. 7 and have it passed over to you.

(Exhibit No. 7 marked.)

Q. (By Mr. McLeod) What I'm marking, sir, is this is a summary report of the Division of

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Respiratory Disease Studies performed an ethical and legal investigation. And the document is dated August 11, 1988.

Are you familiar with that -- that report?

A. I was aware of it, yes.

Q. Have you ever read it?

A. No.

Q. Okay. Well, let me read a -- a couple of points to you.

It starts saying, "Attached is the summary report of the requested ethical and legal investigation of NIOSH employees from the Division of Respiratory Disease Studies who were involved with studies of the employees of the R.T. Vanderbilt Company, Inc."

That's the first paragraph, correct?

A. Yes.

Q. Skip down to the third: However, given the circumstances found in the course of the investigation, and despite the fact that no -- that one can never document motivation, the actions of certain employees of the Division of Respiratory Disease study create the appearance of a conflict of interest. Based upon their inappropriate actions in

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1 the course of pursuing the study of workers employed
2 by R.T. Vanderbilt Company, Inc., appropriate
3 disciplinary action is being taken.

Now, did I read that correctly?

A. Yes.

Q. Now would you like to change your answer as to whether or not R.T. Vanderbilt ever exerted undue influence over NIOSH with regard to studies that they were performing?

MR. PICKERING: Objection.

A. No.

Q. (By Mr. McLeod) Okay. Well, let's continue.

On Page 1, the report begins: The National Institute for Occupational Safety & Health (NIOSH) has been conducting an internal investigation based on allegations that the studies and correspondence relating to the issue of the regulation of tremolite, anthophyllite and actinolite initiated by the Division of Respiratory Disease Studies, or the RDS, were influenced by contacts with the R.T. Vanderbilt Company, Inc., which mines and handles such minerals.

Did I read that right? I think I did.

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A. Yes.

Q. In the course of the investigation, it was determined that NIOSH procedures regarding the initiation of research studies were not followed, an unauthorized procurement was committed, there were frequent private visits and contacts between certain of the RDS employees and the company, the company being R.T. Vanderbilt, complimentary travel and meals were provided to certain of the RDS employees by company officials, and there was a failure to communicate through the chain of command information regarding all components of the study as well as plans communicated to the RDS staff by the company to influence actions within the Agency.

Now, did I get that right?

A. Yes.

Q. Now would you like to change your answer?

A. No.

Q. Okay. All right. Let's skip down to the next paragraph.

In 1980 NIOSH published a technical report entitled "Occupational exposure to talc containing asbestos: Morbidity, mortality, and environmental studies of miners and millers. The report concluded that occupational exposures to the

talcs from the Gouverneur Talc district in New York,
tremolite and anthophyllite are associated with an
increased risk of developing lung cancer."

Did I read that correctly?

A. Yes.

Q. Okay. And in the -- in the next
paragraph, it goes on to talk about meetings between
Konrad Rieger and John Gamble of the DRDS.
Mr. Rieger, as we've talked about before, was -- was
an employee of the R.T. Vanderbilt Company, was he
not?

MR. PICKERING: Object to form. If
you're going to ask him to comment on what something
says, please give him an opportunity to read what
you're talking about, Matt.

MR. McLEOD: Well --

MR. PICKERING: You said -- said that
he characterized what something says, and you're
asking him about --

MR. McLEOD: Sure. Sure. Sure.

MR. PICKERING: -- characterization.

MR. McLEOD: I got you. Okay. I
don't want to have to read the whole thing in here.

MR. PICKERING: Give him an
opportunity to read it, whatever you want.

MR. McLEOD: Got you. I'm trying to
decide what I want to -- want to have him read.

Q. (By Mr. McLeod) Skip over to Page 3 at
the bottom.

From 1984 through 1986, there were 14
documented meetings between officials of
R.T. Vanderbilt Company and members of the DRDS
Morgantown staff.

That sounds like that's a -- a pretty
strong effort on behalf of R.T. Vanderbilt to try
and influence studies, does it -- does it not?

MR. PICKERING: Objection, form.

A. What is your question?

Q. (By Mr. McLeod) My -- I'll withdraw the
question.

I think the report speaks for itself,
but your -- your -- your opinion is -- is that no
relationship that R.T. Vanderbilt ever had with any
NIOSH personnel compromised the integrity of their
work or created any kind of a conflict of interest
with that governmental agency?

A. That's true.

Q. Okay.

MR. McLEOD: Let's leave that and
attach it as Exhibit 7.

Q. (By Mr. McLeod) Do -- do you know how
R.T. Vanderbilt reacted to the investigation by the
DRDS regarding their employees and -- and
allegations of inappropriate relationships with
NIOSH personnel?

A. Actually, I wasn't very involved in this
particular issue; so, no, I don't know the details.

Q. But it looks like Mr. Harvey and
Mr. Rieger were, correct?

A. I don't know whether they were interviewed
on the matter.

Q. Well, it says in the -- in the report here
that Mr. Rieger and Mr. Harvey were two of the
people that frequently met with NIOSH folks about
the mortality study and -- in an effort to generate
a new study that would contradict it. Is that your
understanding of what happened?

MR. PICKERING: If you need to refer
to the document, please do.

A. Yes, they petitioned the NIOSH branch to
look into our concerns about mineralogical
definitions.

Q. (By Mr. McLeod) But they didn't follow
procedure -- normal NIOSH procedure to -- to get
that petitioning done, did they?

MR. PICKERING: Objection, form.

A. Well, I can't answer to NIOSH procedure;
but I know that we had a perfect right to --

Q. (By Mr. McLeod) Okay.

A. -- petition the Government, so to speak.
I think it's in the Constitution.

Q. Sure.

And are you aware that Mr. Race is
listed in here as -- as one of the folks that went
ahead and accompanied R.T. Vanderbilt staff to NIOSH
to discuss --

A. No --

Q. -- these issues?

A. -- I haven't read the document; or if I
saw it, it was a long time ago, so I can't talk
to --

Q. Okay.

A. -- these issues. I would have to read the
whole thing.

Q. Okay. Well, I suggest that you do.

MR. PICKERING: Objection to
side-bar. I mean, is that a question or what,
Matt? Come on.

MR. McLEOD: No, it's not. It's just
good reading.

MR. McLEOD: I'd like to have this marked as Exhibit No. 8.
(Exhibit No. 8 marked.)
Q. (By Mr. McLeod) Now -- bear with me just a second.
Now, you say you -- were you involved in -- in communications with NIOSH at all regarding the 1980 mortality study?
A. No.
Q. Because this is dated 1988, and you were with the company by that point in time.
A. Yes.
Q. You had no contact with them at all?
A. No.
Q. Okay. And can you -- can you tell us how the company reacted to that 1980 study after this ethical investigation was performed?
A. No.
Q. Okay. I'm going to hand you Exhibit No. 8 here. And I'm just referring to the -- to the document on the right-hand side, Mr. Vanderbilt. That's -- that's an interoffice memorandum from Mr. Erdman to all employees. It's dated May 27, 1988.
Do you see that?

A. Yes.
Q. Subject -- To: All Employees. It's talc standard status. And it starts off: From time to time, I'm asked about the status of the stay on the regulation of our talc product under the asbestos standard by OSHA.
Did I get that right?
A. Which -- where --
Q. In the first sentence.
A. (Reading to self.) Yes.
Q. Okay. If you skip down to the second paragraph, it says, "Our corporate management is determined to force the issue with NIOSH and OSHA at this time so that the confusion created by the stayed regulation is not perpetuated."
Did I get that right?
A. Yes.
Q. Now, why is that important?
A. Well, from reading this, you'll have to tell me.
Q. Well, I think Mr. Erdman tells us because in the third paragraph it says, "We are certain that the prospect of labeling our product as asbestos as required by OSHA regulations would lead to a rapid loss of our business."

Did I read that right?
A. Yes.
MR. PICKERING: Object to the part of the question characterized the reason for it.
MR. McLEOD: Well -- okay. All right.
Q. (By Mr. McLeod) It looks to me like R.T. Vanderbilt is -- is determined to do whatever is necessary at this point to --
A. At that point --
Q. -- to change the regulations.
A. -- at that point we'd sued OSHA, yes.
MR. PICKERING: Objection to form.
Q. (By Mr. McLeod) Okay. Well, do you know what NI -- do you know what NIOSH's position after it came -- after the -- the ethical investigation came out and their -- their members that had inappropriate relationships with R.T. Vanderbilt folks were disciplined? Did their position -- do you know whether or not their position changed on that 1980 morbidity and mortality study done at Gouverneur Talc?
A. If their position changed with regard to what particular study?
Q. The 1980 study that -- that set this whole

chain of events in motion with regard --
A. I think so. I think they found that there were problems with the mineralogical characterization, too.
Q. Is that right?
A. Yes.
Q. Do you know they followed it up with a 1990 study?
A. Well, I know that there are dueling studies. There are studies from one group, and then there is the studies from the NIOSH group.
Q. Okay. We'll get that -- to that in just a second, but I have a copy of the summary evaluation report which was, as you'll find as you read the ethical investigation paper, something that was requested by -- by R.T. Vanderbilt, in short..
MR. McLEOD: And I'll have this marked as Exhibit No. 10, please.
COURT REPORTER: 9.
MR. PICKERING: 9.
MR. McLEOD: 9. Sorry.
(Exhibit No. 9 marked.)
COURT REPORTER: Do you want me to pass it to him?
MR. McLEOD: Yes, ma'am. Thank you.

Q. (By Mr. McLeod) Have you ever seen that before, to your knowledge?

A. This is the 1990 --

Q. Right.

A. Yes, I have.

Q. Okay. And if you'll open that up to the first page under "Summary" and go down to the bottom-to-the-last paragraph above "Key Words" where it says -- and -- and follow along with me -- "In summary, the results of this updated study support the findings of an excess risk for lung cancer and nonmalignant respiratory disease which was observed in these workers by NIOSH researchers in 1980. The recommendations for control of exposure made in the 1980 report remain appropriate. It is recommended that this cohort be updated and reanalyzed after ten more years of observation."

Did I get that right?

A. Yes.

Q. Does it sound like their position has changed since 1980?

A. No.

Q. What's that?

A. No.

Q. It does not, does it?

Can you tell me NIOSH's position today on excess lung cancers and -- and pneumoconiosis of workers --

A. I don't know what their current position is on it.

Q. Okay. Sir, would you agree with me that asbestos is a harmful substance?

A. Asbestos? Yes.

Q. And -- and when did you first learn, you, yourself, that asbestos was harmful?

MR. PICKERING: Objection, form.

A. Well, I remember reading that Marco Polo supposedly was shown that -- when he was visiting China that women who wove funeral shrouds, or whatever, out of asbestos had a tendency to die fairly quickly; but --

Q. (By Mr. McLeod) So, are you trying to tell me that's the first knowledge that you gained --

A. At some part actually -- well, I mean, you know, I wasn't really particularly concerned with Vanderbilt talc at that time; but I was generally aware that asbestos was a problem.

Q. Okay. My question to you, sir, was: When did you first learn that asbestos can be harmful to

human beings?

MR. PICKERING: Objection, form.

A. Again, I don't know which day or month. I know I became aware when my father would return from board meetings and tell us that OSHA had alleged that there was asbestos in our talc.

Q. (By Mr. McLeod) So, it was after OSHA came out?

A. Yeah, after '72.

Q. All right. Does R.T. Vanderbilt as a company have a position on whether or not there's a safe level about -- of -- of exposure to asbestos for human beings?

MR. PICKERING: Objection, form.

A. We have a position that there's no asbestos in our talc; so, we don't get into that issue.

Q. (By Mr. McLeod) I understand that you claim there's no asbestos in your talcs; but what you're telling me, I guess, is that they have no thoughts on the subject at all?

MR. PICKERING: Objection, form.

A. I think you'd have to talk to John Kelse on that subject.

Q. (By Mr. McLeod) You wouldn't know the

answer to that question?

A. Well, we're not in the habit of putting out press releases on subjects that generally don't concern us.

Q. I'm not asking about press releases. I'm just asking as a -- as a general -- as -- as the -- R.T. Vanderbilt's corporate representative sitting here today testifying in this case, do you know of a position that R.T. Vanderbilt has with regard to safe levels of asbestos exposure for people?

A. No.

Q. Do you have any idea generally when it became well-known in industry that asbestos, in fact, was dangerous in the United States?

A. No.

Q. Or abroad?

A. No.

Q. You have no idea when the medical and industrial literature began to accumulate on that subject?

A. Yes, after the fact, I've -- I've, you know, heard a lot of stuff including, as I say, this thing about Marco Polo. I mean, I heard that there were issues in shipyards and studies in -- by British medical researchers and so on.

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Q. Okay. But you don't have -- you don't have any idea when -- when experts generally agree that -- that it was well-known that asbestos --

A. No.

Q. -- caused disease in people?

You couldn't tell us when that was?

A. No.

Q. Is R.T. Vanderbilt -- strike that.

R.T. Vanderbilt has, from time to time, participated in -- in trade organizations relevant to its business, have they not?

A. Yes.

Q. Okay. And would you be the person most knowledgeable to talk to about those trade organizations within R.T. Vanderbilt?

A. Not with regard to our participation in them, no.

Q. Does R.T. Vanderbilt receive publications from trade organizations?

A. Yes.

Q. Do you know when that first started happening?

A. No.

Q. Does R.T. Vanderbilt maintain a library where those publications are kept?

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A. No.

Q. Does R.T. Vanderbilt maintain any kind of library at all?

A. Not anymore.

Q. They used to have one?

A. Yes.

Q. Why don't they have one anymore?

A. The library was completely out of date and related to products that we no longer manufacture; so, we sold it off to a -- to a company that, I think, had a library of old scientific texts and so on.

Q. Okay. When did that happen?

A. During the '90s, I think.

Q. 1990? Is that what you said?

A. Yeah.

Q. And what kind of a documents were those, exactly, that were in the library?

A. Books.

Q. Pardon?

A. Books.

Q. Okay.

A. Chemistry texts, texts relating to particular industries and, as I say, pro -- products and -- that we no longer sold to and -- for example,

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1 we used to sell a product that was supposed to
2 assist in maintaining banana plants healthy. We
3 haven't done that in a long while; so, we had a
4 shelf full of books about banana plants and such,
5 and we sold off the -- the books.

Q. Anything related to talc sales or
7 promotion of talc products in that library that you
8 sold off in the '90s?

A. No.

Q. Okay. Have you, yourself, ever been a
11 member of any of the trade organizations that
12 R.T. Vanderbilt's a member of?

A. Personally?

Q. Yeah.

A. No.

Q. Have you ever been a -- are you aware of
17 R.T. Vanderbilt being member of the ASTM?

A. Yes, that's not, I don't think, a trade
19 association; but, yes.

Q. Well, we'll call it trade association
21 today.

A. Well, I don't think you ought to because
23 it's not.

Q. Okay. Thanks for the correction.
25 Who -- who -- which R.T. Vanderbilt

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1 employees are members of the ASTM?

A. Well, there have been various employees.
3 Most of the employees, I think, who are members of
4 particular committees are there because of their
5 professional qualifications. And it's mostly in the
6 chemical field; but I think we've had Slim Thompson
7 and Al -- Al Harvey, I think, were on the relevant
8 committee.

Q. And Slim Thompson and Al Harvey are --
10 their -- their main job pertains to -- to talc at
11 R.T. Vanderbilt; is that right?

A. Yes.

Q. Did those two gentlemen receive
14 publications from the ASTM over the years?

A. I don't know.

Q. Do you know when they joined?

A. Excuse me?

Q. Do you know when they joined?

A. No.

Q. What about The Refractories Institute?
21 Has anybody, to your knowledge, from R.T. Vanderbilt
22 been a member of The Refractories Institute?

A. I think that a retired employee was a
24 member of The Refractories Institute about 20 years
25 ago, from what I've been told.

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Q. Who is that?
A. I don't remember his name.
3 Q. Okay. How would I find that out?
4 A. You'd have to ask Randy Johnson, who I
5 previously mentioned.
6 Q. Has R.T. Vanderbilt ever been a member of
7 the National Safety Council?
8 A. No.
9 Q. Never, ever?
10 A. No.
11 Q. American Mining Congress?
12 A. Yes.
13 Q. And who from R.T. Vanderbilt has been a
14 member of the American Mining Congress?
15 A. Well, I think the company was a member;
16 and I think Al Harvey and John Kelse may have been
17 members of their health and safety committee.
18 Q. Do you know whether or not those gentlemen
19 received publications from the American Mining
20 Congress?
21 A. No.
22 Q. Okay. Sir, was there a time when
23 R.T. Vanderbilt was required to stamp their products
24 with asbestos labels -- or asbestos warning labels?
25 Their talc products?

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A. Was there a time when R.T. Vanderbilt was
2 required to? No.
3 Q. Are you sure?
4 A. Yes.
5 Q. Was there a time when R.T. Vanderbilt
6 gratuitously decided to stamp their product with
7 asbestos warnings?
8 A. Well, we didn't do it gratuitously; but,
9 yes --
10 Q. Okay. When was that?
11 A. -- on certain specific products.
12 That was in '74/'75.
13 Q. Okay. And what products are we talking
14 about specifically?
15 A. These were particular talc grades, four or
16 five of them.
17 Q. Fibrous talcs?
18 A. Well, that's exactly what it was, yes, not
19 asbestos but fibrous talc.
20 Q. Okay.
21 A. It was misidentified as asbestos.
22 Q. How did that come to pass that
23 R.T. Vanderbilt decided they were going to start
24 putting asbestos warnings on these bags of so-called
25 fibrous talc?

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1 A. Well, our mineralogist who had joined us
2 from Union Carbide's chrysotile operation and was
3 therefore knowledgeable and used to looking at
4 chrysotile looked down the microscope at these
5 particular talc grades; and he saw fibers. And he
6 presumed that they were chrysotile and reported them
7 as such, and we then put the asbestos label on those
8 particular products.
9 It turned out after further study
10 that this was a mineralogical curiosity. In fact,
11 was fibers, but talc fibers; and talc fibers are not
12 on the asbestos standard. And talc is the softest
13 mineral in the world with a -- on the Moe scale,
14 it's the softest. So that what we had done was
15 perfectly proper, but it was in error.
16 Q. That sounded an awful lot like an answer a
17 mineralogist would give. Did you get some training
18 at the break?
19 A. I don't know whether I should resent what
20 you just said or not, but we'll let it pass.
21 Q. How long did R.T. Vanderbilt bags contain
22 asbestos warnings?
23 A. Those grades concerned them for about four
24 years or so, three or four years.
25 Q. So, what years would that be, '74 --

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1 A. '74 or '75 through -- I -- something like
2 the end of '77.
3 Q. And what specific products carried
4 asbestos warning labels during the '70s?
5 A. Well, there was Fibertal 1 and 2;
6 Mouldene; a product called 6N, or maybe 6N Fiber;
7 and I think there was another one, which I don't
8 recall.
9 THE VIDEOGRAPHER: Matt, four
10 minutes.
11 MR. McLEOD: Okay.
12 THE WITNESS: Can I take a quick
13 break?
14 Q. (By Mr. McLeod) Would the other one be PL
15 Fiber?
16 A. I'm not sure.
17 Q. Okay.
18 MR. McLEOD: Sure, we can take a
19 break.
20 THE VIDEOGRAPHER: Off the record at
21 2:16. This is the end of Tape 3.
22 (Recess taken).
23 THE VIDEOGRAPHER: We're on the
24 record at 2:30. This is the beginning of Tape 4.
25 Q. (By Mr. McLeod) Mr. Vanderbilt, do you

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mind if I take a look at those exhibits you're perusing?

MR. PICKERING: All of them?

MR. McLEOD: Yeah. I just want to make sure I -- thank you -- I've got everything in line here.

Q. (By Mr. McLeod) I'm not sure if we touched on this before, Mr. Vanderbilt, but is Slim Thompson still around?

A. Thankfully, yes.

Q. Thankfully?

He's still guarding R.T. Vanderbilt's interests?

A. Well, I guess he's -- he's -- he's had a few medical problems; but other than that --

Q. Do you know what his age is?

A. No.

Q. Is he getting up there, or is he --

A. He's got to be in his -- he's got to be 80, I think.

Q. Okay. Do you know if he's ever testified in any case where an asbestos-related injury was -- was alleged against R.T. Vanderbilt as a result of talc products they sold?

A. Testified how?

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Q. In deposition or trial.

A. Yes.

Q. He has been deposed before?

A. Yes.

Q. Okay.

MR. McLEOD: I was not provided a copy of that deposition. I'd ask that it be produced.

You're shaking your head.

MR. YORK: I don't have a copy of his deposition.

MR. PICKERING: I'll make inquiries, but I don't --

MR. McLEOD: Okay.

MR. PICKERING: I've given you everything I was given. I'll see if I can find out where it is. I don't know that it still exists, but I'll make inquiry.

MR. McLEOD: Okay.

Q. (By Mr. McLeod) Do you know what he was testifying about specifically?

A. Well, in two depositions, he was sort of my -- my -- I don't know whether you would call it my partner, or whatever. I talked about the corporate issues, and so on; and he talked about the

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technical issues.

Q. Okay. Has Kelse taken over for him pretty well?

A. He has a different professional qualification; but essentially, yes.

Q. Okay. If I needed to take Mr. Thompson's deposition in this case, where would I find him?

A. He lives in Norwalk, Connecticut.

Q. And you have his contact information, I assume?

A. Yes.

Q. And you could pass that along to your attorneys without too much trouble?

A. Yes.

Q. Now I want to go back to this issue. Who is this mineralogist from Union Carbide that decided y'all had chrysotile in your talc?

A. We've just been talking about him.

Q. I know. What's his name?

A. Slim Thompson.

Q. Slim Thompson? Okay. Well, that's interesting.

How did that affect R.T. Vanderbilt's talc business during those years when their Fibertal, Mouldene, and -- and other fibrous talcs

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contained that asbestos warning -- warning labels on the packages? --

A. Well, it didn't do those -- it didn't do those particular products any good.

Q. Did it hurt the sales?

A. Yes.

Q. Because asbestos was being regulated under OSHA at that time, right?

A. Well, yes.

Q. So, really, if y'all -- if you thought there was asbestos fibers in these -- in these talc products, then you were required by OSHA to put that warning labels on the packaging, weren't you?

A. That was our thought process.

Q. Okay. Well, it's not just your thought process, it was the law, correct?

MR. PICKERING: Objection, form.

A. Well, I mean, we could have challenged it if we thought -- the whole issue of talc fibers and so on was -- I don't know whether it can be called a mineralogical curiosity, but the mineralogical education of a lot of people has been progressing.

Q. (By Mr. McLeod) Okay. Well, a little while ago -- and correct me if I'm wrong, I'm sure you will -- but you made it sound like you --

R.T. Vanderbilt just gratuitously decided to stamp
asbestos warning labels on their bags of fibrous
talc --
A. I don't think I used the word
gratuitously. I think I objected to that, if I'm
not mistaken.
Q. Well, your lawyer will object -- object
for you.
A. Obviously, we're not just going to put
asbestos labels on products willy-nilly.
Q. Unless you're required to do so, correct?
A. Well, exactly.
Q. Because that's pretty bad for your
business, isn't it?
A. Well, yes.
Q. Does R.T. Vanderbilt get calls from
customers expressing concern about the possible
asbestos content of their talc products?
A. Yes.
Q. And is that something that you address in
your capacity, working for R.T. Vanderbilt?
A. I have done in the past.
Q. And how did you address those concerns?
A. By explaining the situation.
Q. You would reassure those people that the

products are safe and they have no asbestos in them?
A. Yes. And of the OSHA issues and why it
has arisen and what our position is and so on.
Q. Can you think of the last time when you
handled one of those such calls in that manner?
A. No.
Q. How recent has that been?
A. Well, I've -- I'm sort of out of the
environmental affairs business, and have been for at
least 10 years; so --
Q. Okay. So, what, sometime in the '90s?
A. Sometime during the post-1984 to, say, the
early '90s, yes.
Q. You were handling calls like that from
concerned customers?
A. I have done, yes.
Q. Did you ever handle those concerned calls
in any other way than how you just described?
A. Well, I'm not a technical person; so, if
people ask me what the issue was, I would explain
what the issue was relating to regulations and laws
and -- and so on. If they had technical questions,
that would go further to other people.
Q. Did you provide them with any information
from the -- the experts that y'all consulted with?

A. I'm sure I did.
Q. People like Ann Wylie?
A. I would have provided things like the
mineralogical analyses of talc, yes.
Q. Okay. Is there a policy on how to
responds to those calls when they come in, if they
do?
A. No.
Q. It's just up to whoever picks up the
phone?
A. Well, they're usually sent to John Kelse
at this point.
Q. So, the policy is, let Kelse handle it?
A. Well, he deals with it, although some of
the rest of us obviously will have occasion to have
a look at it occasionally.
Q. Okay. Should companies like
R.T. Vanderbilt be held accountable for violating
the law?
MR. PICKERING: Objection, form.
A. I guess everybody should be.
Q. (By Mr. McLeod) Well, if R.T. Vanderbilt
broke the law, should they be held accountable for
it?
A. Yes.

Q. Whose job is it at R.T. Vanderbilt to stay
abreast of all the laws they need to be following,
at least with regard to talc sales?
A. That would be John Kelse's department.
Q. So, I should ask him about that --
A. Yes.
Q. -- instead of you?
A. Although -- I mean, there are other people
who can become aware; but he's the -- the manager of
the -- what is it he called -- risk -- risk control
department, or whatever.
Q. You're not concerned with things like that
at R.T. Vanderbilt?
MR. PICKERING: Objection, form.
A. Yes, I am.
Q. (By Mr. McLeod) So, do you and Mr. Kelse
work hand-in-hand on those kind of issues?
A. If we have occasion to; but generally
speaking, he's in charge.
Q. Would you agree with me that it is
important to have competent people who pay attention
to medical literature, state laws, governmental
regulation, those kind of things, in charge of, say,
a safety or medical program in a company like
R.T. Vanderbilt?

A. Yes.
 Q. Do you have a medical program at R.T. Vanderbilt right now?
 A. With regard to Gouverneur Talc Company?
 Q. Yes.
 A. Yes.
 Q. And -- and what kind of things does that -- that program do?
 A. Excuse me?
 Q. How does that program function? What do they do?
 A. Well, there's a medical monitoring program which is handled by a local -- a local doctor; but as I said, the -- the main and important person in the program is this Dr. Brian Boehlecke that you mentioned who's, I think, recognized as one of the nationally reknowned pulmonologists and specialists in occupational lung disease.
 Q. Who's the local doctor that y'all rely on?
 A. I don't know his -- the current one.
 Q. Have you used several over the years of your employment at R.T. Vanderbilt?
 A. Yes.
 Q. When did they first establish a medical monitoring for R.T. Vanderbilt for their own

workers?
 A. I don't know.
 Q. '70s? '80s? Was it before or after you came onboard?
 A. I don't know. You'd have to ask John Kelse.
 Q. Have you ever heard of anyone employed by Gouverneur Talc or R.T. Vanderbilt filing a -- a Worker's Compensation claim where they allege an asbestos-related injury?
 A. I'm not aware of -- of actual -- of -- of specific allegations and so on. I know that they've claimed talc disease, yes.
 Q. And I -- I'm aware that they have, too, on talc disease; but what -- are -- are -- you're unable to testify as to having any knowledge about any employee of Gouverneur Talc or the R.T. Vanderbilt Company who's ever brought a claim alleging asbestos-related injury?
 A. Yes.
 Q. Never heard of that before?
 A. No.
 Q. You've never heard of a Gouverneur Talc employee making a Worker's Compensation claim from having contracted mesothelioma?

A. I don't handle the -- the Worker's Compensation issues; so, I don't see the claims as they come in, or the papers.
 Q. And you've never heard of that kind of thing happening, either?
 A. I've heard of claims for things like lung cancer and mesothelioma, yes.
 Q. Okay. And do you know what causes mesothelioma?
 A. I'm told that there are various things that cause it.
 Q. Really. What -- what have you heard causes mesothelioma?
 A. Well, I'm not a medical doctor; but I've heard asbestos is the predominant cause, but there's also idiopathic mesothelioma and other causes.
 Q. Okay. And what's idiopathic mean?
 A. I'm not quite sure, but that -- sort of caused by -- without any known cause --
 Q. All right.
 A. -- running a known route.
 Q. How many -- how many former or current employees of R.T. Vanderbilt or Gouverneur Talc are you aware of having mesothelioma?
 A. I don't know.

Q. Who would know that?
 A. John Kelse.
 Q. Kelse would be the man to ask about that?
 A. Yes.
 Q. Does R.T. Vanderbilt keep track of Worker's Compensation cases?
 A. Yes.
 Q. Do they -- are the plaintiffs in those cases generally deposed, or do you know?
 A. I don't know.
 Q. Have you ever reviewed any deposition testimony wherein a Gouverneur Talc or R.T. Vanderbilt employee was alleging that they had contracted an asbestos-related disease in the course of their employment?
 A. Not with regard to a Worker's Compensation case.
 Q. Just a regular old personal injury case?
 A. Yes. Well, I may have.
 Q. And this -- this is an employee?
 A. Huh?
 Q. This is an employee of Gouverneur Talc?
 A. Yes.
 Q. So, they're able to sue their employers outside of the Worker's Compensation statute that

way?
 A. Well, they attempted to, because they wanted to ride the asbestos bandwagon and were tempted by attorneys to do so; and they filed claims alleging conspiracy and all of that, and -- what is that, willful -- whatever the thing is that gets you around the usual negligence standard and whatever; and those cases were all dismissed.
 Q. Okay. And where are the records of those cases kept?
 A. Well, probably by our then New York attorney.
 Q. What about R.T. Vanderbilt? Do y'all keep records of those cases.
 A. I personally don't. I think Dennis Race might have more records than I do.
 Q. He has the personal injury records?
 A. Yes.
 Q. Okay.
 A. Certainly for those cases.
 Q. And does Mr. Race compile a list of all the asbestos cases that have been brought against R.T. Vanderbilt?
 A. Yes.
 Q. And do you know that to be in his

possession?
 A. Well, there's a spreadsheet, yes.
 Q. Would that be unduly burdensome to produce?
 A. Probably not.
 Q. Can you tell me the kind of information that's contained in that spreadsheet?
 A. Names of -- name of plaintiff or who is lead plaintiff, defendant, courts, date, attorney or resolution, that sort of thing.
 Q. Would it have the disease type that was alleged, like mesothelioma or lung cancer or asbestosis?
 A. To some degree, yes.
 Q. And these are all cases that have been brought against R.T. Vanderbilt alleging asbestos injury as a result of exposure to talc?
 A. Yes.
 Q. Does Mr. Race keep the depositions that are given in those cases?
 A. I don't know.
 Q. Sir, to your knowledge, has R.T. Vanderbilt's Talc been found to be an asbestos-containing mere -- material in any OSHA administrative hearing based on a violation of an

asbestos standard?
 A. Can you repeat the question, please?
 Q. Certainly.
 Has R.T. Vanderbilt's talc ever been found to be an asbestos-containing material in any OSHA administrative hearing based on a violation of an asbestos standard?
 A. Yes, it has been.
 Q. How many times?
 A. I'm not sure. Perhaps -- at least once. I don't know what the -- we've been cited about two or three times. I don't -- or three or four times. I don't know what the result of the appeal process was.
 Q. Do you recall any of the other parties that were in -- involved in any of those cases other than R.T. Vanderbilt?
 A. No.
 Q. Okay. Have you produced those documents in this case?
 A. I guess not.
 Q. Do you still have them?
 A. I haven't seen them in a long time, but --
 Q. Did you look for them when you searched your records?

A. No, because OSHA has overruled the whole issue by rule making and -- by hearings and rule making, anyway.
 Q. Right. But if the -- the master discovery down here in Texas requires that you make those available to me anyway, you'd agree with me that you still need to produce them to me, regardless of the current OSHA standard, wouldn't you?
 MR. PICKERING: Objection, form.
 A. Well, subject to legal requirements, yes.
 Q. (By Mr. McLeod) Would it be unduly burdensome to ask you to produce those?
 A. If we can find them, yes.
 Q. Sir, how much money do you think R.T. Vanderbilt has -- has spent in its struggle to reclassify tremolite in their talc out of the asbestos OSHA standard?
 A. More than that's -- than is good for us, I can tell you that much. I don't have the exact numbers.
 Q. Millions?
 A. A lot of money, yes, over time. Over the years, yes.
 Q. Have you ever heard any allegations that your Uncle Hugh Vanderbilt had bribed members of

Congress to ensure R.T. Vanderbilt would get relief from the OSHA standard?

A. I heard a statement involved with regard to -- with regard to the New York litigation that we were discussing where such an allegation was made, yes.

Q. Okay. What did you hear?

A. I think the statement was that he had -- he was alleged to have said that he had a senator in his back pocket.

Q. Have you ever seen any documents that supported that statement?

A. No.

Q. Do you know where that statement came from?

A. I understand it was a -- an employee at the Gouverneur Company who supposedly said that to their attorney.

Q. All right. And do you know what -- in what context that statement was made?

A. Well, I know it's untruthful; but, I mean, it was as part of this litigation against the company, trying to ride the asbestos bandwagon.

Q. What's the asbestos bandwagon, if you don't mind me asking?

A. No.

Q. Now, it says in your designation -- this was provided to me by your lawyers -- your -- your witness designation that: Mr. Vanderbilt is knowledgeable about the history, business operation, and sales of products made by R.T. Vanderbilt and may be presented as a witness to testify as to those subjects.

Do you think that's an accurate statement?

A. Yes.

Q. Okay. Do you think that should actually read, "Mr. Vanderbilt is only knowledgeable about sales of products made after 1974 that he can retrieve from a computer database in Norwalk"?

A. Well, I guess you should have said '84, from your point view; but -- I mean, I never held myself out to be technically competent, but I know what our products are and to what industries we sell them and so on.

If you mean do I know the chemistry and mineralogy of every individual product, no. I don't think I've been held out as such.

Q. And I don't think I said that when I asked the question just a second ago, did I?

A. Well, I'm sure you're familiar with asbestos litigation; and I'm sure you can understand that we resent being classed as asbestos and being sued and alleged, you know, to have ignored asbestos and that we're in fact killing people.

Q. Do you think people that are injured because -- because of asbestos shouldn't able to sue?

A. No. I don't -- I don't think that they should be able to sue people who don't have asbestos, though.

Q. Okay. Now, you said just a second ago that you heard some former employees of Gouverneur had -- had stated that Mr. Vanderbilt, Hugh, Jr., had -- or was it Hugh, Sr.?

A. Hugh, Sr.

Q. -- Hugh, Sr., had a senator in his hip pocket, right?

A. Back pocket, whatever.

Q. Back pocket. Okay.

Do you know how many former Gouverneur Talc employees have made that statement?

A. As far as I aware -- I'm aware, it was made once.

Q. Okay. Do you know what senator it was?

A. Just in answer to your question.

Q. Well, no, that's not; but what I --

MR. PICKERING: Objection to side-bar.

Q. (By Mr. McLeod) -- do you -- do you have any -- any way of testify about products, where they were sold to, prior to the year 1974? You, yourself.

A. You mean did I accompany every barrel and bag of product to its intended destination? No. But I could look at the sales records and -- and -- and determine the annual sales, or whatever.

Q. Okay. And when we started this deposition, shortly after we started it, you said that you not have any sales records prior to 1974, or did I miss that?

A. Well, with the exception of the western platy talc, yes.

Q. Okay. So, if we're talking about Gouverneur Talc, can't tell me anything prior to '74, can you?

A. No.

Q. Are the records -- complete records, post '74, for all sales of talc products that you have access to?

A. All sales of company products, yes.
 Q. They're totally complete?
 A. Well, I mean, if you mean -- yes, they're intended to be complete; and they are complete.
 Q. Well, they're intended to be complete; but do you have personal knowledge that they are?
 A. Can I say -- can I say that there was never a mistake made somewhere? No.
 Q. Okay.
 A. Was there a wrong zero or a zero added or something like that, I haven't the vaguest idea --
 Q. Okay.
 A. -- but they're intended to be complete; and that's what they're kept for in the ordinary course of business.
 Q. And I tried to get an answer earlier, but I don't know that I did. Why were the sales records, prior to 1974, destroyed by R.T. Vanderbilt regarding talc sales?
 A. My understanding is that having sales records back to '74 is a lot better than in most cases; so, don't make it sound bad. We just when -- when it came -- when the asbestos litigation came out -- came out, we recuperated the records; and that's as far back as we had them available. If

1 apologizing for taste.
 2 Q. (By Mr. McLeod) I don't think anybody
 3 called you a liar, did they?
 4 A. Well, if you're suggesting that I -- that
 5 they were somehow destroyed in order to destroy
 6 evidence.
 7 Q. It wouldn't be the first time.
 8 MR. PICKERING: Objection, form.
 9 A. Well, it would be for the Vanderbilt
 10 Company.
 11 Q. (By Mr. McLeod) Now, these -- these re --
 12 these invoices, the invoice index that you have, can
 13 you tell me a little bit about that?
 14 A. The invoices are, technically speaking, on
 15 a sales record, they're a record of billing to our
 16 customers.
 17 Q. Right. And you were kind enough to
 18 provide me an exemplar of one of those invoices.
 19 A. Yes.
 20 Q. Now, if I understand everything correctly,
 21 the first year that y'all would have any invoices on
 22 talc sales, actual paper invoices, would be the year
 23 1976, right?
 24 MR. PICKERING: Objection, form.
 25 MR. McLEOD: What's wrong with that?

we'd had them available back to 1916, we would have kept those.
 Q. Why were the sales records prior to 1974 destroyed?
 A. As I think I said several times, in the regular course of business.
 Q. Okay. And what does that mean?
 A. It meant that, for whatever reason, I wasn't there, that they either needed the space or they didn't want to keep the records, or whatever. They had no use for them, and they got rid of them.
 Q. Okay.
 A. If you're imputing some sort of evil motivation, well, you know, there's -- that's your taste; but there's none there.
 Q. Did you have a role in the decision to destroy those records?
 A. No, because, as I say, they go back to '74; and I only joined the company 10 years later.
 Q. Well, how do I know they weren't destroyed in '84 when you got there?
 MR. PICKERING: Objection, form.
 A. Well, you're asking me; and I'm telling you they weren't. I'm telling you what happened.
 If you want to tell me I'm a liar, again, there's no

1 MR. PICKERING: I don't think they
 2 have paper invoices. I think what I told you,
 3 they -- they were microfilmed or microfiched.
 4 MR. McLEOD: Okay.
 5 MR. PICKERING: I just object
 6 to "paper invoice." I don't think that's accurate.
 7 Q. (By Mr. McLeod) You can answer the
 8 question.
 9 A. I lost track of the question. Restate it,
 10 please.
 11 Q. Did you not understand it?
 12 A. Well, I lost track of it.
 13 Q. Okay. What's -- what's the first year
 14 that y'all had the -- the invoice records for talc
 15 sales?
 16 A. 1976.
 17 Q. Okay. And -- let's see. It has been
 18 asserted to me that to -- to be forced to produce
 19 those actual invoices would be a very burdensome
 20 task. Is that true?
 21 A. Yes.
 22 Q. Specifically with regard to the -- the
 23 companies that are -- are listed in our discovery
 24 responses, that would be unduly burdensome to you?
 25 A. Well, as I stated in my affidavit, this is

not a system -- the invoices were originally microfiched; and then when that technology became archaic and the materials became too expensive, we switched over to microfilm.

And -- so, the system, as it developed from 1976, was not something that you could type in the name of the customer or the name of a particular product. Each invoice is put in a chronological order for every year; so, you would have to search, on an annual basis, all of the invoices and pick out the relevant customer numbers.

Q. You have to search pane-by-pane on a piece of microfiche to -- to look for a customer number?

A. Well, now it's microfilm; but, yes.

Q. Okay. For the years that you've identified having these -- having records of sales to these companies, how much time do you think that would take y'all to do with?

A. Well, since I guess only one person could really use the microfilm thing at a time, I guess it would take quite a while.

Q. Okay. Do you know when the discovery responses were due in this case originally?

A. No.

Q. Okay. When were you first informed that

A. Yes.

Q. Can you tell me, sir, are you aware of any other cases pending in the country or currently or in the past where this type of allegation was made that someone had gotten sick from your talc by -- by it being part of joint compounds that they were exposed to?

A. Yes.

Q. This is the first time?

A. No. You said am I aware of that; and I said, yes, I am.

Q. Okay. There are other ones?

A. Yes.

Q. How many other such cases have there been over the years?

A. I don't know the exact number.

Q. Okay. Can you roughly ballpark it for me?

A. No, I don't know the number.

Q. Do you know what brands of joint compound were being alleged exposed these people to your talc --

A. No.

Q. -- in these past cases?

Is this the first time you've ever been asked to produce invoices in an asbestos case

you needed to turn over those actual invoices in this case?

A. I don't think I was.

Q. Well, at some point apparently there was an inquiry made into it. When did you first get that inquiry?

A. Not until recently.

Q. Okay. How recently?

A. I don't know. A month ago, something like that.

Q. Okay. Could it have been just a few weeks ago?

A. Huh?

Q. A couple weeks ago?

A. Something like that, maybe. Yeah.

Q. Okay. And this case is supposed to be set for trial in May. Is that your understanding?

A. Is it?

Q. I don't know. I'm asking you.

A. I don't know when this case is.

Q. Okay. And you will be at trial, if asked, in this case when it's tried down in Galveston?

A. If I'm a witness, yes.

Q. Well, you're listed as a witness. If they ask you to come, are you going to come?

like this?

A. No.

Q. Did you ever think it might be a good idea to start assembling these -- these type of invoices in a -- in a readily available format for future cases?

A. No.

Q. Why is that?

A. Well, the invoices, as I said, are not specifically sales records. All they do is duplicate the information that's already available in the other two sets of records. After all, they're not sales records. They merely evidence the billing to customers.

Q. And you can't see how that would be relevant in the litigation to somebody like me?

MR. PICKERING: Objection, form.

A. Actually, probably not. No.

Q. (By Mr. McLeod) Okay.

MR. McLEOD: Well, at this time I'm just going to put on the record that I object to the witness not complying with the subpoena duces tecum in any manner, shape, or form and reserve the right to take his deposition again at a later date after obtaining a ruling on the objection made to the

subpoena duces tecum.

For right now, I don't have any more questions.

MR. PICKERING: Does anybody else have anything before I respond on the record?

I'll respond that he's here. He's been presented to answer questions. I don't believe he's refused to answer any questions relevant to anything. We -- we'll -- I'll state for the record, we will not agree to produce him again to testify.

And as far as the category he has not responded in any form to the subpoena duces tecum, his answer is attached to the record. I'll let it speak for itself.

It wasn't timely. You haven't sought relief from the Court to serve additional discovery on -- on this defendant. I think we're within our rights to object, as we have done.

MR. McLEOD: Okay. However, you -- you do realize, I wasn't given sufficient time to notice the deposition in time to get a subpoena duces tecum out, correct?

MR. PICKERING: And I've been talking to you for a month about this dep -- this deposition.

1 six specific grades of talc with the asbestos label.

2 Q. And that included Fibertal 1 and 2, Mouldene, and at least one or two others that you weren't able to recall?

3 A. Yes, 6N Fiber, or something like that, on another product, yes.

4 Q. And according to my notes, this went on for about three to four years before, I guess, other samples were looked at and -- and a decision was made to -- to remove that?

5 A. Well, actually, the sales of those products dried up, as can be understandable --

6 Q. Okay.

7 A. -- and the -- but the -- the technical issue continued; and it was discovered that, in fact, what we were dealing with was not asbestos, not asbestos fibers but tell that fibers.

8 Q. Let me ask you: During that same period of time that those particular products were voluntarily stamped, were MSDS sheets provided with the sales of those products?

9 A. Yes.

10 Q. And were those MSDS sheets altered or edited to reflect now that -- the warning of asbestos?

MR. McLEOD: Is that a fair statement?

MR. PICKERING: No, I don't think it is a fair statement.

MR. McLEOD: Okay. And -- and if Mr. Vanderbilt would have brought some -- at least attempted to bring some of the documents requested pursuant to the subpoena duces tecum, I may very well have other questions for him about those documents; and if we need to bring it in front of the Judge, then we can do that. I just want to put it on the record.

MR. PICKERING: Understood.

MR. McLEOD: That's it.

EXAMINATION

BY MR. WAGNER:

Q. Good afternoon, Mr. Vanderbilt. My name is Fred Wagner. I represent one of the defendants in this case. I just have a couple of questions for you. I appreciate your patience.

You've testified earlier that starting in about '74 to '75 is when R.T. Vanderbilt voluntarily stamped their product regarding asbestos; is that correct? Is that correct?

A. Not exactly. We stamped four or five or

1 A. Well, I presume that the Material Safety Data Sheets relating to those particular grades would have included the asbestos caution, as required by the asbestos standard.

2 Q. Would -- was it typical practice, if you know, at that time for R.T. Vanderbilt to send out an MSDS with every shipment of product that it sent -- sent to a customer?

3 A. I don't know whether it was the policy back then. That was before the Hazard Communication standard.

4 Q. Okay. When is your understanding that the Hazards Communication standard took effect?

5 A. Somewhere in the mid '80s.

6 Q. Okay. But was R.T. Vanderbilt generating a form of MSDS back in 1974 or '75?

7 A. Yes.

8 Q. Okay. So, am I correct in assuming that that -- whatever was being generated in '74 or '75 would have gone out with the product to the end customer?

9 A. I don't know that.

10 Q. Okay. But needless to say, the -- the actual packages of the product, these particular products you've mentioned, would have gone out with

the stamp regarding the asbestos warning?

A. Well, there would have been a label on the bag, yes, a preprinted label.

Q. And to the extent that the joint compound manufacturers that you've identified or that your company has identified in its discovery responses purchased any of those particular products during that time period, they would, in fact, be receiving bags or packages of talc that would have had an asbestos warning on it; is that right?

A. Yes.

MR. McLEOD: Objection to form.

Q. (By Mr. Wagner) So, is it safe to assume that if there was any question about asbestos products or asbestos being placed in any of these joint compound products -- products by these manufacturers, that they would have been aware that the talc they were buying at least had a warning on it saying it may contain asbestos?

A. If it's one of those grades, yes.

Q. Do you know offhand, during this time period, whether or not RTV had a research and development department in operation at that time?

A. Yes.

Q. Okay. To your knowledge, did the people

that right?

A. Correct.

Q. Okay.

MR. WAGNER: I don't think I have any other questions for you. Thank you very much, sir.

MR. PICKERING: Reserve our questions until the time of trial.

THE VIDEOGRAPHER: We're off the record at 3:08. This is the end of the deposition.

The end of Tape 4.

(Proceedings Adjourned.)

* * *

in R.T. Vanderbilt's research and development department ever actively work with any of these manufacturers that have been identified regarding specific formulations of their products?

A. I don't know that. To my knowledge, no.

Q. Is there a particular person at -- at R.T. Vanderbilt that might know that?

A. Well, from my knowledge of the divisions that we had in the R&D department, I don't see who -- who would have done it. You'd have to talk to the sales manager because essentially the R&D department, as I said, was to basically back up the product for the customers and answer customer problems and so on. And they might well have done that through the sales manager.

Q. Is there any particular point in time that you know of any of these manufacturers coming to R.T. Vanderbilt and -- and asking about alternative forms of talc that would not contain any asbestos?

A. I don't recall any such questions, no.

Q. Okay. And just to be -- just to confirm: Any operations of R.T. Vanderbilt prior to your arrival in 1984, any knowledge you have is obtained either through a document or discussing it with an employee, it's not based on personal knowledge; is

CHANGES AND SIGNATURE

PAGE	LINE	CHANGE	REASON
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I, PAUL VANDERBILT, have read the

foregoing deposition and hereby affix my signature
that same is true and correct, except as noted
above.

PAUL VANDERBILT

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day
personally appeared PAUL VANDERBILT, known to me (or
proved to me under oath or through _____)
(description of identity card or other document)) to
be the person whose name is subscribed to the
foregoing instrument and acknowledged to me that
they executed the same for the purposes and
consideration therein expressed.

Given under my hand and seal of office this
_____ day of _____, _____.

NOTARY PUBLIC IN AND
FOR THE STATE OF TEXAS

attorney for the witness for examination, signature,
and returned to me by _____;

That the amount of time used by each
party at the deposition is as follows:

MS. MATT McLEOD - 4 Hours,
29 Minutes;

MR. FREDERICK J. WAGNER - 5 Minutes;

That pursuant to information given to
the deposition officer at the time said testimony
was taken, the following includes all parties of
record:

Mr. Matt McLeod and Mr. Ross Stomel,
Attorneys for Plaintiff;

Mr. P. Wayne Pickering and Mr. Peter
R. York, Attorneys for Defendant R.T. Vanderbilt;

Mr. Frederick J. Wagner, Attorney for
Defendant TH Agriculture & Nutrition;

Mr. William H. Farrell, Attorney for
Defendant Guard-Line, Inc.;

Ms. Monika Barahona, Attorney for
Defendant Bechtel;

Ms. Heather A. Berner, Attorney for
Defendant Daimler Chrysler;

Mr. Mark C. James, Attorney for
Defendants Fluor Daniels, W.S. Bellows and Trinity.;

Cause No. 2005-35201-A

VICTOR GRUETZNER,) IN THE DISTRICT COURT OF
Plaintiff)

VS.) HARRIS COUNTY, TEXAS

ABCO INDUSTRIES, INC.)
ET AL.) 11TH JUDICIAL DISTRICT

Transferred from

NO. 03-CV-0572-E

VICTOR GRUETZNER,) IN THE DISTRICT COURT OF
Plaintiff)

VS.) GALVESTON COUNTY, TEXAS

ABCO INDUSTRIES, INC.)
ET AL.) 212th JUDICIAL DISTRICT

REPORTER'S CERTIFICATION
ORAL/VIDEOTAPED DEPOSITION OF PAUL VANDERBILT
APRIL 5, 2006

I, Jill Phillips, Certified Shorthand
Reporter in and for the State of Texas, hereby
certify to the following:

That the witness, PAUL VANDERBILT,
was duly sworn by the officer and that the
transcript of the oral deposition is a true record
of the testimony given by the witness;

That the deposition transcript was
submitted on _____ to the witness or to the

Mr. T. Lynn Walden, Attorney for
Defendants Bondex International, Inc. and RPM, Inc.;
Mr. Jerry Kacal, Attorney for
Defendant Coen Company;

I further certify that I am neither
counsel for, related to, nor employed by any of the
parties in the action in which this proceeding was
taken, and further that I am not financially or
otherwise interested in the outcome of the action.

Further certification requirements
pursuant to Rules 203 of TRCP will be certified to
after they have occurred.

Certified to by me this 25th day of
April, 2006.

Jill Phillips, Texas CSR 5966
Expiration Date 12/31/07
Firm Registration 484
1001 West Loop South, Suite 809
Houston, Texas 77027
(713) 481-2180

Stratos Legal Services, LP

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FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not
returned to the deposition officer on _____;

If returned, the attached Changes and
Signature page contains any changes and the reasons
therefor;

If returned, the original deposition was
delivered to _____, Custodial Attorney;

That \$ _____ is the deposition
officer's charges to Plaintiff for preparing the
original deposition transcript and any copies of
exhibits;

That the deposition was delivered in
accordance with Rule 203.3, and that a copy of this
certificate was served on all parties shown herein
on _____ and filed with the Clerk.

Certified to by me this _____ day of
_____, 2006.

Jill Phillips, Texas CSR 5966

Expiration Date: 12/31/07

Firm Registration 484

1001 West Loop South, Suite 809

Houston, Texas 77027

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